

SENATE BILL No. 456

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-48-2-1.

Synopsis: Mental health. Adds a psychiatrist to the controlled substances advisory committee. Provides that a Medicaid recipient may not be restricted access to a prescription drug for mental illness. Requires the controlled substances advisory committee to review the records maintained by the central repository for controlled substances designated by the state police department regarding the prescribing of stimulant medications to children and report to the legislative council, governor, and the medical licensing board. Requires the office of Medicaid policy and planning to report to the select joint commission on Medicaid oversight by March 1, 2004, regarding the cost effectiveness of statutes allowing Medicaid recipients unrestricted access to prescription drugs that are prescribed for mental illness. (The introduced version of this bill was prepared by the joint commission on Medicaid oversight.)

Effective: Upon passage; July 1, 2002.

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January 14, 2002, read first time and referred to Committee on Health and Provider Services.

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Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

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SENATE BILL No. 456



A BILL FOR AN ACT to amend the Indiana Code concerning Medicaid.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 35-48-2-1, AS AMENDED BY P.L.14-2000,
- 2 SECTION 77, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 UPON PASSAGE]: Sec. 1. (a) The board shall administer this article
- 4 and may recommend to the general assembly the addition, deletion, or
- 5 rescheduling of all substances listed in the schedules in sections 4, 6,
- 6 8, 10, and 12 of this chapter by submitting a report of such
- 7 recommendations to the legislative council. In making a determination
- 8 regarding a substance, the board shall consider the following:
- 9 (1) The actual or relative potential for abuse.
- 10 (2) The scientific evidence of its pharmacological effect, if
- 11 known.
- 12 (3) The state of current scientific knowledge regarding the
- 13 substance.
- 14 (4) The history and current pattern of abuse.
- 15 (5) The scope, duration, and significance of abuse.
- 16 (6) The risk to public health.
- 17 (7) The potential of the substance to produce psychic or



1 physiological dependence liability.

2 (8) Whether the substance is an immediate precursor of a
3 substance already controlled under this article.

4 (b) After considering the factors enumerated in subsection (a), the
5 board shall make findings and recommendations concerning the control
6 of the substance if it finds the substance has a potential for abuse.

7 (c) If the board finds that a substance is an immediate precursor,
8 substances which are precursors of the controlled precursor shall not
9 be subject to control solely because they are precursors of the
10 controlled precursor.

11 (d) If any substance is designated or rescheduled to a more
12 restrictive schedule as a controlled substance under federal law and
13 notice is given to the board, the board shall recommend similar control
14 of the substance under this article in the board's report to the general
15 assembly, unless the board objects to inclusion or rescheduling. In that
16 case, the board shall publish the reasons for objection and afford all
17 interested parties an opportunity to be heard. At the conclusion of the
18 hearing, the board shall publish its findings.

19 (e) If a substance is rescheduled to a less restrictive schedule or
20 deleted as a controlled substance under federal law, the substance is
21 rescheduled or deleted under this article. If the board objects to
22 inclusion, rescheduling, or deletion of the substance, the board shall
23 notify the chairman of the legislative council not more than thirty (30)
24 days after the federal law is changed and the substance may not be
25 rescheduled or deleted until the conclusion of the next complete
26 session of the general assembly. The notice from the board to the
27 chairman of the legislative council must be published.

28 (f) There is established a ~~fifteen (15)~~ **sixteen (16)** member
29 controlled substances advisory committee to serve as a consultative and
30 advising body to the board in all matters relating to the classification,
31 reclassification, addition to, or deletion from of all substances
32 classified as controlled substances in schedules I to IV or substances
33 not controlled or yet to come into being. In addition, the advisory
34 committee shall conduct hearings and make recommendations to the
35 board regarding revocations, suspensions, and restrictions of
36 registrations as provided in IC 35-48-3-4. All hearings shall be
37 conducted in accordance with IC 4-21.5-3. The advisory committee
38 shall be made up of:

39 (1) two (2) physicians licensed under IC 25-22.5, one (1) to be
40 elected by the medical licensing board of Indiana from among its
41 members and one (1) to be appointed by the governor;

42 (2) two (2) pharmacists, one (1) to be elected by the state board

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- 1 of pharmacy from among its members and one (1) to be appointed
 2 by the governor;
- 3 (3) two (2) dentists, one (1) to be elected by the state board of
 4 dentistry from among its members and one (1) to be appointed by
 5 the governor;
- 6 (4) the state toxicologist or the designee of the state toxicologist;
- 7 (5) two (2) veterinarians, one (1) to be elected by the state board
 8 of veterinary medical examiners from among its members and one
 9 (1) to be appointed by the governor;
- 10 (6) one (1) podiatrist to be elected by the board of podiatric
 11 medicine from among its members;
- 12 (7) one (1) advanced practice nurse with authority to prescribe
 13 legend drugs as provided by IC 25-23-1-19.5 who is:
- 14 (A) elected by the state board of nursing from among the
 15 board's members; or
- 16 (B) if a board member does not meet the requirements under
 17 IC 25-23-1-19.5 at the time of the vacancy on the advisory
 18 committee, appointed by the governor;
- 19 (8) the superintendent of the state police department or the
 20 superintendent's designee; ~~and~~
- 21 (9) three (3) members appointed by the governor who have
 22 demonstrated expertise concerning controlled substances; **and**
- 23 **(10) one (1) member appointed by the governor who is a**
 24 **psychiatrist with expertise in adolescent psychiatry.**
- 25 (g) All members of the advisory committee elected by a board shall
 26 serve a term of one (1) year and all members of the advisory committee
 27 appointed by the governor shall serve a term of four (4) years. Any
 28 elected or appointed member of the advisory committee, may be
 29 removed for cause by the authority electing or appointing the member.
 30 If a vacancy occurs on the advisory committee, the authority electing
 31 or appointing the vacating member shall elect or appoint a successor to
 32 serve the unexpired term of the vacating member. The board shall
 33 acquire the recommendations of the advisory committee pursuant to
 34 administration over the controlled substances to be or not to be
 35 included in schedules I to V, especially in the implementation of
 36 scheduled substances changes as provided in subsection (d).
- 37 (h) Authority to control under this section does not extend to
 38 distilled spirits, wine, or malt beverages, as those terms are defined or
 39 used in IC 7.1, or to tobacco.
- 40 (i) The board shall exclude any nonnarcotic substance from a
 41 schedule if that substance may, under the Federal Food, Drug, and
 42 Cosmetic Act or state law, be sold over the counter without a

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1 prescription.

2 SECTION 2. [EFFECTIVE UPON PASSAGE] (a) The office of
3 Medicaid policy and planning established by IC 12-8-6-1 and any
4 entity that provides prescription drugs to a Medicaid recipient
5 shall make available to a Medicaid recipient, without restrictions
6 or limitations, including prior authorization, a prescription drug
7 that:

8 (1) is generally prescribed for the treatment of mental illness;
9 and

10 (2) is prescribed to the Medicaid recipient for the treatment
11 of the Medicaid recipient's mental illness.

12 (b) This SECTION expires December 31, 2003.

13 SECTION 3. [EFFECTIVE JULY 1, 2002] (a) Not later than
14 March 1, 2004, the office of Medicaid policy and planning
15 established by IC 12-8-6-1 shall report to the select joint
16 commission on Medicaid oversight established by IC 2-5-26-3 or
17 another legislative committee that is:

18 (1) studying issues related to mental health; and

19 (2) designated by the legislative council;

20 regarding the cost effectiveness of SECTION 2 of this act.

21 (b) This SECTION expires June 30, 2004.

22 SECTION 4. [EFFECTIVE JULY 1, 2002] (a) As used in this
23 SECTION, "advisory committee" refers to the controlled
24 substances advisory committee established by IC 35-48-2-1(f), as
25 amended by this act.

26 (b) The advisory committee shall review the records maintained
27 by the central repository for controlled substances designated by
28 the state police department under IC 35-48-7-10 regarding the
29 prescribing of stimulant medications to children.

30 (c) Not later than December 1, 2002, the advisory committee
31 shall submit a report to the legislative council, the governor, and
32 the medical licensing board of Indiana established by
33 IC 25-22.5-2-1 regarding the review required under this
34 SECTION.

35 (d) The report required under subsection (c) must include the
36 following:

37 (1) A comparison of the percentage of children receiving
38 prescriptions for stimulant medications:

39 (A) participating in Medicaid (IC 12-15) or the children's
40 health insurance program (IC 12-17.6); and

41 (B) not participating in a program described in clause (A).

42 (2) Scientifically determined estimates of the prevalence of

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- 1 **major disorders in children who are treated with stimulant**
 2 **medications.**
 3 **(3) A statement by the advisory committee regarding whether**
 4 **the information provided under subdivisions (1) and (2)**
 5 **indicates that stimulant medications are being**
 6 **disproportionately prescribed for children described in**
 7 **subdivision (1)(A).**
 8 **(4) Identification of any pattern of prescribing of stimulant**
 9 **medications for children contrary to the most recent**
 10 **guidelines adopted by the American Academy of Pediatrics**
 11 **and the American Academy of Child and Adolescent**
 12 **Psychiatry.**
 13 **(e) The report required under subsection (c) may not contain**
 14 **any information that:**
 15 **(1) may be used to identify a child for whom a stimulant**
 16 **medication was prescribed; or**
 17 **(2) indicates that a particular physician's prescribing of**
 18 **stimulant medications to a child was inappropriate.**
 19 **(f) Any meeting held by the advisory committee to comply with**
 20 **this SECTION is not open to the public.**
 21 **(g) Unless otherwise provided by law, records reviewed by the**
 22 **advisory committee to comply with this SECTION are not public**
 23 **records.**
 24 **(h) This SECTION expires December 31, 2002.**
 25 **SECTION 5. [EFFECTIVE UPON PASSAGE] (a) The governor**
 26 **shall appoint a psychiatrist with expertise in adolescent psychiatry**
 27 **as an additional member of the controlled substances advisory**
 28 **committee under IC 35-48-2-1, as amended by this act, before July**
 29 **1, 2002.**
 30 **(b) This SECTION expires July 1, 2002.**
 31 **SECTION 6. An emergency is declared for this act.**

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