# CONFERENCE COMMITTEE REPORT
# DIGEST FOR EHB 1280

**Citations Affected:** IC 1-1-2.5; IC 4-3-22; IC 4-21.5-3-1; IC 4-22; IC 8-1-34-24.5; IC 25-26-13; IC 35-48-7-8.1.

**Synopsis:** Regulatory matters. Conference committee report for EHB 1280. Provides that intrastate commerce in Indiana is not subject to the authority of the United States Congress. Permits certain administrative adjudication notices to be delivered by electronic mail or another method approved by the Indiana Rules of Trial Procedure. Requires the division of government efficiency and financial planning in the office of management and budget to advise and assist state agencies and instrumentalities with the implementation of continuous process improvement techniques. Provides that an agency may solicit comments from members of the public who are likely to be affected by a rule because they are the subject of the potential rulemaking or are likely to benefit from the potential rulemaking. Requires that state documents provided to the public must comply with certain document drafting standards. Requires each unit of local government that receives franchise fees paid to a unit from an entity providing video services to submit to the IURC an annual report on the unit's receipt and use of those franchise fees during the calendar year for which the report is submitted. Consolidates six categories of pharmacy licenses into three categories. **(This conference committee report does the following: (1) Deletes the provisions concerning a cost benefit analysis of rules that are in SEA 311-2012. (2) Deletes the provisions concerning administrative hearing officers and administrative law judges. (3) Adds that intrastate commerce in Indiana is not subject to the authority of the United States Congress. Fixes a conflict with SEA 407-2012)**

**Effective:** Upon passage; July 1, 2012.

| Adopted | Rejected |
|---|---|

# CONFERENCE COMMITTEE REPORT

***MR. SPEAKER:***

***Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill No. 1280 respectfully reports that said two committees have conferred and agreed as follows to wit:***

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 1-1-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]:

**Chapter 2.5. Regulation of Intrastate Commerce**

**Sec. 1. This chapter applies to all:**

**(1) goods grown, manufactured, or made; and**

**(2) services performed;**

**in Indiana after July 1, 2012.**

**Sec. 2. The general assembly declares the following:**

**(1) The Tenth Amendment to the Constitution of the United States provides that the only powers that the federal government may exercise are those that have been delegated to the federal government in the Constitution of the United States.**

**(2) The Ninth Amendment to the Constitution of the United States guarantees to the people rights not enumerated in the Constitution and reserves to the people of Indiana those rights.**

**(3) Under Article I, Section 8, Clause 3 of the Constitution of the United States, the federal government is empowered to**

**regulate commerce among the several states.**

**(4) The power to regulate intrastate commerce is reserved to the states or the people under the Ninth and Tenth Amendments to the Constitution of the United States.**

**(5) During the Constitutional Convention, the founders considered a plan that would have authorized the federal government not only to regulate commerce among the several states, but also to regulate any activity having spillover effects across state lines. The founders rejected this latter idea.**

**(6) All:**

**(A) goods grown, manufactured, or made in Indiana; and**

**(B) services performed in Indiana;**

**when the goods or services are sold, maintained, and retained in Indiana are not subject to the authority of the Congress of the United States under the constitutional power of Congress to regulate commerce among the several states.**

SECTION 2. IC 4-3-22-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 1.5. As used in this chapter, "continuous process improvement" means a management methodology that combines tools to improve process speed and reduce waste with data driven project analysis to provide products and services with improved quality at lower cost.**

SECTION 3. IC 4-3-22-6, AS ADDED BY P.L.246-2005, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 6. (a) The division of government efficiency and financial planning is established within the OMB. The director shall appoint, subject to the approval of the governor, a director of the division, who serves at the pleasure of the director of OMB.

(b) The division shall **do the following:**

**(1)** Conduct operational and procedural audits of state government.

**(2)** Perform financial planning **and** design and implement efficiency projects. ~~and~~

**(3) Advise and assist:**

**(A) each instrumentality, agency, authority, board, commission, and officer in the executive department of state government; and**

**(B) each body corporate and politic established as an instrumentality of the state;**

**to identify and implement continuous process improvement in state government.**

**(4)** Carry out such other responsibilities as may be designated by the director.

SECTION 4. IC 4-21.5-3-1, AS AMENDED BY P.L.6-2012, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) This section applies to:

(1) the giving of any notice;

(2) the service of any motion, ruling, order, or other filed item; or

(3) the filing of any document with the ultimate authority;

in an administrative proceeding under this article.

(b) Except as provided in subsection (c) or as otherwise provided by law, a person shall serve papers by:

(1) United States mail;

(2) personal service;

(3) electronic mail; or

(4) any other method approved by the Indiana Rules of Trial Procedure.

(c) The following shall be served by United States mail or personal service:

(1) The initial notice of a determination under section ~~4, 5, or~~ 6 of this chapter.

(2) A petition for review of an agency action under section 7 of this chapter.

(3) A complaint under section 8 of this chapter.

(d) The agency shall keep a record of the time, date, and circumstances of the service under subsection (b) or (c).

(e) Service shall be made on a person or on the person's counsel or other authorized representative of record in the proceeding. Service on an artificial person or a person incompetent to receive service shall be made on a person allowed to receive service under the rules governing civil actions in the courts. If an ultimate authority consists of more than one (1) individual, service on that ultimate authority must be made on the chairperson or secretary of the ultimate authority. A document to be filed with that ultimate authority must be filed with the chairperson or secretary of the ultimate authority.

(f) If the current address of a person is not ascertainable, service shall be mailed to the last known address where the person resides or has a principal place of business. If the identity, address, or existence of a person is not ascertainable, or a law other than a rule allows, service shall be made by a single publication in a newspaper of general circulation in:

(1) the county in which the person resides, has a principal place of business, or has property that is the subject of the proceeding; or

(2) Marion County, if the place described in subdivision (1) is not ascertainable or the place described in subdivision (1) is outside Indiana and the person does not have a resident agent or other representative of record in Indiana.

(g) A notice given by publication must include a statement advising a person how the person may receive written notice of the proceedings.

(h) The filing of a document with an ultimate authority is complete on the earliest of the following dates that apply to the filing:

(1) The date on which the document is delivered to the ultimate authority:

(A) under subsection (b) or (c); and

(B) in compliance with subsection (e).

(2) The date of the postmark on the envelope containing the document, if the document is mailed to the ultimate authority by United States mail.

(3) The date on which the document is deposited with a private

carrier, as shown by a receipt issued by the carrier, if the document is sent to the ultimate authority by private carrier.

SECTION 5. IC 4-22-2-19.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 19.7. An agency, to the extent feasible and permitted by law, shall afford the public a meaningful opportunity to comment on proposed rules through the agency's Internet web site. An agency shall consider providing a comment period that exceeds the minimum required by law.**

SECTION 6. IC 4-22-2-22.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 22.5. (a) This section applies to a rule that an agency intends to adopt under sections 24 through 36 of this chapter.**

**(b) Each agency shall maintain a current rulemaking docket that is indexed.**

**(c) A current rulemaking docket must list each pending rulemaking proceeding. The docket must state or contain:**

**(1) the subject matter of the proposed rule;**

**(2) notices related to the proposed rule;**

**(3) how comments may be made;**

**(4) the time within which comments may be made;**

**(5) where comments may be inspected;**

**(6) requests for a public hearing;**

**(7) appropriate information about a public hearing, if any, including the names of the persons making the request;**

**(8) a description of relevant scientific and technical findings related to the proposed rule; and**

**(9) the timetable for action.**

**(d) The agency shall maintain the rulemaking docket on the agency's Internet web site. The information must be in an open format that can be easily searched and downloaded. Access to the docket shall, to the extent feasible and permitted by law, provide an opportunity for public comment on the pertinent parts of the rulemaking docket, including relevant scientific and technical findings. Upon request, the agency shall provide a written rulemaking docket.**

SECTION 7. IC 4-22-2-23, AS AMENDED BY P.L.215-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 23. (a) This section does not apply to rules adopted under IC 4-22-2-37.1.

(b) At least twenty-eight (28) days before an agency notifies the public of the agency's intention to adopt a rule under section 24 of this chapter, the agency shall notify the public of its intention to adopt a rule by publishing a notice of intent to adopt a rule in the Indiana Register. The publication notice must include an overview of the intent and scope of the proposed rule and the statutory authority for the rule.

(c) The requirement to publish a notice of intent to adopt a rule under subsection (b) does not apply to rulemaking under IC 13-14-9.

(d) In addition to the procedures required by this article, an agency may solicit comments from the public on the need for a rule, the drafting of a rule, or any other subject related to a rulemaking action,

**including members of the public who are likely to be affected because they are the subject of the potential rulemaking or are likely to benefit from the potential rulemaking.** The procedures that the agency may use include the holding of conferences and the inviting of written suggestions, facts, arguments, or views.

(e) The agency shall prepare a written response that contains a summary of the comments received during any part of the rulemaking process. The written response is a public document. The agency shall make the written response available to interested parties upon request.

SECTION 8. IC 4-22-10 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]:

**Chapter 10. Document Drafting Standards**

**Sec. 1. As used in this chapter, "agency" has the meaning set forth in IC 4-22-2-3.**

**Sec. 2. As used in this chapter, "covered document" means any document that:**

**(1) is necessary for obtaining any benefit or service administered or provided by an agency, or for filing taxes with an agency;**

**(2) provides information about any state benefit or service; or**

**(3) explains to the public how to comply with a requirement an agency administers or enforces.**

**The term includes (whether in paper or electronic form) a letter, publication, form, notice, or instruction. The term does not include a rule subject to the format, numbering system, standards, and techniques established under IC 4-22-2-42.**

**Sec. 3. As used in this chapter, "plain writing" means writing that is clear, concise, and well-organized, and follows other best practices appropriate to the subject or field and intended audience.**

**Sec. 4. An agency shall use plain writing in every covered document that the agency issues or substantially revises.**

**Sec. 5. An agency must be fully in compliance with this chapter after September 30, 2013.**

SECTION 9. IC 8-1-34-24.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 24.5. (a) This section applies to any unit that receives franchise fees paid to the unit under:**

**(1) a certificate issued by the commission under this chapter; or**

**(2) an unexpired local franchise issued by the unit before July 1, 2006;**

**with respect to a particular calendar year.**

**(b) For each calendar year, beginning with the calendar year ending December 31, 2012, each unit to which this section applies shall submit to the commission, on a form or in the manner prescribed by the commission, a report that includes the following information for each certificate or local franchise in effect in the unit during the calendar year for which the report is submitted:**

**(1) The amount of franchise fees paid to the unit under the certificate or local franchise.**

**(2) The account of the unit into which the franchise fees identified under subdivision (1) were deposited.**

**(3) The purposes for which any franchise fees received by the unit during:**

**(A) the calendar year for which the report is submitted; or**

**(B) a previous calendar year;**

**were used or spent by the unit during the calendar year for which the report is submitted.**

**(4) Any other information or data concerning the receipt and use of franchise fees that the commission considers appropriate.**

**(c) The commission shall prescribe the form of the report and the process, deadlines, and other requirements for submitting the report required under this section.**

**(d) Upon receiving the annual reports required under this section, the commission shall compile and organize the data and information contained in the reports. The commission shall include a summary of the data and information contained in the reports in the commission's annual report on the communications industry provided to the regulatory flexibility committee established by IC 8-1-2.6-4. However, this subsection does not empower the commission to disclose confidential and proprietary business plans and other confidential information without adequate protection of the information. The commission shall exercise all necessary caution to avoid disclosure of confidential information supplied under this section.**

**(e) The commission may adopt rules under IC 4-22-2, including emergency rules under IC 4-22-2-37.1, to implement this section. An emergency rule adopted by the commission under IC 4-22-2-37.1 expires on the date a rule that supersedes the emergency rule is adopted by the commission under IC 4-22-2-24 through IC 4-22-2-36 and not ninety (90) days after the rule is accepted for filing as provided in IC 4-22-2-37.1(g). However, any emergency rules adopted by the commission under this subsection must take effect by a date that enables a unit subject to this section to comply with this section with respect to the calendar year ending December 31, 2012.**

SECTION 10. IC 25-26-13-17, AS AMENDED BY SEA 407-2012, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 17. (a) The board shall establish classes of pharmacy permits as follows:

~~Type~~ **Category** I. A retail permit for a pharmacy that provides pharmaceutical care to the general public by the dispensing of a drug or device.

~~Type~~ **Category** II. An institutional permit for hospitals, clinics, health care facilities, sanitariums, nursing homes, or dispensaries that offer pharmaceutical care by dispensing a drug product to an inpatient under a drug order or to an outpatient of the institution under a prescription.

~~Type~~ **Category** III. A permit for a pharmacy ~~that is not:~~

~~(A) open to the general public; or~~

~~(B) located in an institution listed under a Type II permit; and provides pharmaceutical care to a patient who is located in an institution or in the patient's home.~~

~~Type IV. A permit for a pharmacy not open to the general public that provides pharmaceutical care by dispensing drugs and devices to patients exclusively through the United States Postal Services or other parcel delivery service.~~

~~Type V. A permit for a pharmacy that engages exclusively in the preparation and dispensing of diagnostic or therapeutic radioactive drugs.~~

~~Type VI. A permit for a pharmacy open to the general public that provides pharmaceutical care by engaging in an activity under a Type I or Type III permit. A pharmacy that obtains a Type VI permit may provide services to:~~

~~(A) a home health care patient;~~

~~(B) a long term care facility; or~~

~~(C) a member of the general public.~~ **that provides closed door, central fill, mail order, or other processing operations that are not open to the general public but include:**

**(A) traditional pharmacy functions; or**

**(B) nontraditional pharmacy functions, such as infusion, nuclear pharmacy, or sterile compounding.**

**(b) The board may approve a remote or mobile location for Category I, II, or III permits. Pharmacy practice in a mobile or remote location may include, but is not limited to, telepharmacy, automated dispensing, or delivery of cognitive services.**

~~(b)~~ **(c)** A hospital **or hospital system** holding a ~~Type~~ **Category** II permit may offer drugs or devices:

(1) to:

(A) an employee, student, or volunteer of the hospital **or hospital system;**

(B) a retiree who is participating in a retirement, pension, or benefit program administered by the hospital **or hospital system;**

(C) an independent contractor who has an exclusive relationship with the hospital **or hospital system;**

(D) a member of the hospital's **or hospital system's** governing board; or

(E) a member of the hospital's **or hospital system's** medical staff; and

(2) to dependents of the individuals listed in subdivision (1);

for their own use.

~~(c) Nothing in this section prohibits a pharmacy holding a permit other than a Type IV permit from delivering drugs or devices through mail, parcel delivery, or hand delivery.~~

(d) Hospitals holding a ~~Type~~ **Category** II permit may operate remote locations within a reasonable distance of the licensed area, as determined by the board, after:

(1) filing an application on a form prepared by the board;

(2) having each location inspected by the board; and

(3) obtaining approval from the board.

(e) Any applicable rule governing the practice of pharmacy in Indiana shall apply to all permits under this section.

**(f) After June 30, 2012, a person with:**

**(1) a Type I permit shall be treated as holding a Category I permit;**

**(2) a Type II permit shall be treated as holding a Category II permit; and**

**(3) a Type III, IV, V, or VI permit shall be treated as holding a Category III permit.**

**The change in the name of the permit does not change the expiration date of the permit.**

**(g) After June 30, 2012, a reference in any rule or other document to:**

**(1) a Type I permit shall be treated as a reference to a Category I permit;**

**(2) a Type II permit shall be treated as a reference to a Category II permit; or**

**(3) a Type III, IV, V, or VI permit shall be treated as a reference to a Category III permit.**

SECTION 11. IC 25-26-13-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 19. (a) A pharmacy holding a ~~Type~~ **Category** I or ~~Type VI~~ **Category III** permit may be open to the general public without a pharmacist on duty if the following conditions are met:

(1) Approval is obtained from the board.

(2) All legend drugs and other merchandise that can only be dispensed by a pharmacist are securely locked or secured by an alternative system approved by the board when the pharmacist is absent.

(3) During the pharmacist's absence, a sign at least twenty (20) inches by thirty (30) inches is prominently displayed in the prescription department stating: "Prescription Department Closed, No Pharmacist on Duty".

(4) Only a pharmacist has access to the secured area.

(b) The board may revoke or limit a pharmacy's privilege under this section after a hearing under IC 4-21.5-3.

SECTION 12. IC 25-26-13-20, AS AMENDED BY P.L.98-2006, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 20. (a) A person desiring to open, establish, operate, or maintain a pharmacy shall apply to the board for a pharmacy permit on a form provided by the board. The applicant shall set forth:

(1) the name and occupation of the persons desiring the permit;

(2) the location, including street address and city, of the pharmacy;

(3) the name of the pharmacist who will qualify the pharmacy by being responsible to the board for the legal operation of the pharmacy under the permit; and

(4) such other information as the board may require.

(b) If the applicant desires to open, establish, operate, or maintain

more than one (1) pharmacy, ~~he~~ **the applicant** must file a separate application for each. Each pharmacy must be qualified by a different pharmacist.

(c) The board shall permit a pharmacist to serve as a qualifying pharmacist for more than one (1) pharmacy holding a ~~Type~~ **Category** II pharmacy permit upon the holder of the ~~Type~~ **Category** II permit showing circumstances establishing that:

(1) the permit holder has made a reasonable effort, without success, to obtain a qualifying pharmacist who is not serving as a qualifying pharmacist at another ~~Type~~ **Category** II pharmacy; and

(2) the single pharmacist could effectively fulfill all duties and responsibilities of the qualifying pharmacist at both locations.

(d) The board shall grant or deny an application for a permit not later than one hundred twenty (120) days after the application and any additional information required by the board are submitted.

(e) The board may not issue a pharmacy permit to a person who desires to operate the pharmacy out of a residence.

SECTION 13. IC 25-26-13-25, AS AMENDED BY P.L.174-2011, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 25. (a) All original prescriptions, whether in written or electronic format, shall be numbered and maintained in numerical and chronological order, or in a manner approved by the board and accessible for at least two (2) years in the pharmacy. A prescription transmitted from a practitioner by means of communication other than writing must immediately be reduced to writing or recorded in an electronic format by the pharmacist. The files shall be open for inspection to any member of the board or ~~its~~ **the board's** duly authorized agent or representative.

(b) A prescription may be electronically transmitted from the practitioner by computer or another electronic device to a pharmacy that is licensed under this article or any other state or territory. An electronic data intermediary that is approved by the board:

(1) may transmit the prescription information between the prescribing practitioner and the pharmacy;

(2) may archive copies of the electronic information related to the transmissions as necessary for auditing and security purposes; and

(3) must maintain patient privacy and confidentiality of all archived information as required by applicable state and federal laws.

(c) Except as provided in subsection (d), a prescription for any drug, the label of which bears either the legend, "Caution: Federal law prohibits dispensing without prescription" or "Rx Only", may not be refilled without written, electronically transmitted, or oral authorization of a licensed practitioner.

(d) A prescription for any drug, the label of which bears either the legend, "Caution: Federal law prohibits dispensing without prescription" or "Rx Only", may be refilled by a pharmacist one (1) time without the written, electronically transmitted, or oral authorization of a licensed practitioner if all of the following conditions

are met:

(1) The pharmacist has made every reasonable effort to contact the original prescribing practitioner or the practitioner's designee for consultation and authorization of the prescription refill.

(2) The pharmacist believes that, under the circumstances, failure to provide a refill would be seriously detrimental to the patient's health.

(3) The original prescription authorized a refill but a refill would otherwise be invalid for either of the following reasons:

(A) All of the authorized refills have been dispensed.

(B) The prescription has expired under subsection (g).

(4) The prescription for which the patient requests the refill was:

(A) originally filled at the pharmacy where the request for a refill is received and the prescription has not been transferred for refills to another pharmacy at any time; or

(B) filled at or transferred to another location of the same pharmacy or its affiliate owned by the same parent corporation if the pharmacy filling the prescription has full access to prescription and patient profile information that is simultaneously and continuously updated on the parent corporation's information system.

(5) The drug is prescribed for continuous and uninterrupted use and the pharmacist determines that the drug is being taken properly in accordance with IC 25-26-16.

(6) The pharmacist shall document the following information regarding the refill:

(A) The information required for any refill dispensed under subsection (e).

(B) The dates and times that the pharmacist attempted to contact the prescribing practitioner or the practitioner's designee for consultation and authorization of the prescription refill.

(C) The fact that the pharmacist dispensed the refill without the authorization of a licensed practitioner.

(7) The pharmacist notifies the original prescribing practitioner of the refill and the reason for the refill by the practitioner's next business day after the refill has been made by the pharmacist.

(8) Any pharmacist initiated refill under this subsection may not be for more than the minimum amount necessary to supply the patient through the prescribing practitioner's next business day. However, a pharmacist may dispense a drug in an amount greater than the minimum amount necessary to supply the patient through the prescribing practitioner's next business day if:

(A) the drug is packaged in a form that requires the pharmacist to dispense the drug in a quantity greater than the minimum amount necessary to supply the patient through the prescribing practitioner's next business day; or

(B) the pharmacist documents in the patient's record the amount of the drug dispensed and a compelling reason for dispensing the drug in a quantity greater than the minimum

amount necessary to supply the patient through the prescribing practitioner's next business day.

(9) Not more than one (1) pharmacist initiated refill is dispensed under this subsection for a single prescription.

(10) The drug prescribed is not a controlled substance.

A pharmacist may not refill a prescription under this subsection if the practitioner has designated on the prescription form the words "No Emergency Refill".

(e) When refilling a prescription, the refill record shall include:

(1) the date of the refill;

(2) the quantity dispensed if other than the original quantity; and

(3) the dispenser's identity on:

(A) the original prescription form; or

(B) another board approved, uniformly maintained, readily retrievable record.

(f) The original prescription form or the other board approved record described in subsection (e) must indicate by the number of the original prescription the following information:

(1) The name and dosage form of the drug.

(2) The date of each refill.

(3) The quantity dispensed.

(4) The identity of the pharmacist who dispensed the refill.

(5) The total number of refills for that prescription.

(g) A prescription is valid for not more than one (1) year after the original date of issue.

(h) A pharmacist may not knowingly dispense a prescription after the demise of the practitioner, unless in the pharmacist's professional judgment it is in the best interest of the patient's health.

(i) A pharmacist may not knowingly dispense a prescription after the demise of the patient.

(j) A pharmacist or a pharmacy shall not resell, reuse, or redistribute a medication that is returned to the pharmacy after being dispensed unless the medication:

(1) was dispensed to an individual:

(A) residing in an institutional facility (as defined in 856 IAC 1-28.1-1(6));

(B) in a hospice program under IC 16-25; or

(C) in a county jail or department of correction facility;

(2) was properly stored and securely maintained according to sound pharmacy practices;

(3) is returned unopened and:

(A) was dispensed in the manufacturer's original:

(i) bulk, multiple dose container with an unbroken tamper resistant seal; or

(ii) unit dose package; or

(B) was packaged by the dispensing pharmacy in a:

(i) multiple dose blister container; or

(ii) unit dose package;

(4) was dispensed by the same pharmacy as the pharmacy accepting the return;

(5) is not expired; and

(6) is not a controlled substance (as defined in IC 35-48-1-9), unless the pharmacy holds a ~~Type~~ **Category** II permit (as described in section 17 of this chapter).

(k) A pharmacist or a pharmacy shall not resell, reuse, or redistribute medical devices or medical supplies used for prescription drug therapy that have been returned to the pharmacy after being dispensed unless the medical devices or medical supplies:

(1) were dispensed to an individual in a county jail or department of correction facility;

(2) are not expired; and

(3) are returned unopened and in the original sealed packaging.

(l) A pharmacist may use the pharmacist's professional judgment as to whether to accept medication for return under this section.

(m) A pharmacist who violates subsection (d) commits a Class A infraction.

SECTION 14. IC 35-48-7-8.1, AS AMENDED BY P.L.42-2011, SECTION 76, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 8.1. (a) The board shall provide for a controlled substance prescription monitoring program that includes the following components:

(1) Each time a controlled substance designated by the board under IC 35-48-2-5 through IC 35-48-2-10 is dispensed, the dispenser shall transmit to the INSPECT program the following information:

(A) The controlled substance recipient's name.

(B) The controlled substance recipient's or the recipient representative's identification number or the identification number or phrase designated by the INSPECT program.

(C) The controlled substance recipient's date of birth.

(D) The national drug code number of the controlled substance dispensed.

(E) The date the controlled substance is dispensed.

(F) The quantity of the controlled substance dispensed.

(G) The number of days of supply dispensed.

(H) The dispenser's United States Drug Enforcement Agency registration number.

(I) The prescriber's United States Drug Enforcement Agency registration number.

(J) An indication as to whether the prescription was transmitted to the pharmacist orally or in writing.

(K) Other data required by the board.

(2) The information required to be transmitted under this section must be transmitted not more than seven (7) days after the date on which a controlled substance is dispensed.

(3) A dispenser shall transmit the information required under this section by:

(A) uploading to the INSPECT web site;

(B) a computer diskette; or

(C) a CD-ROM disk;

that meets specifications prescribed by the board.

(4) The board may require that prescriptions for controlled substances be written on a one (1) part form that cannot be duplicated. However, the board may not apply such a requirement to prescriptions filled at a pharmacy with a ~~Type~~ **Category** II permit (as described in IC 25-26-13-17) and operated by a hospital licensed under IC 16-21, or prescriptions ordered for and dispensed to bona fide enrolled patients in facilities licensed under IC 16-28. The board may not require multiple copy prescription forms for any prescriptions written. The board may not require different prescription forms for any individual drug or group of drugs. Prescription forms required under this subdivision must be approved by the Indiana board of pharmacy established by IC 25-26-13-3.

(5) The costs of the program.

(b) This subsection applies only to a retail pharmacy. A pharmacist, pharmacy technician, or person authorized by a pharmacist to dispense a controlled substance may not dispense a controlled substance to a person who is not personally known to the pharmacist, pharmacy technician, or person authorized by a pharmacist to dispense a controlled substance unless the person taking possession of the controlled substance provides documented proof of the person's identification to the pharmacist, pharmacy technician, or person authorized by a pharmacist to dispense a controlled substance.

SECTION 15. **An emergency is declared for this act.**

(Reference is to EHB 1280 as reprinted February 28, 2012.)

# Conference Committee Report
**on**
# Engrossed House Bill 1280

Signed by:

| | |
|---|---|
| Representative Koch<br>Chairperson | Senator Hershman |
| Representative Torr | Senator Steele |
| **House Conferees** | **Senate Conferees** |