



PRELIMINARY DRAFT
No. 3365

PREPARED BY
LEGISLATIVE SERVICES AGENCY
2013 GENERAL ASSEMBLY

DIGEST

Citations Affected: IC 12-7-2-135.8; IC 12-23-19; IC 35-48-7-11.1.

Synopsis: Certification of pain control centers. Requires a pain control center to be certified by the division of mental health and addiction. Sets forth requirements for pain control centers. Allows for the release of information from the Indiana scheduled prescription electronic collection and tracking (INSPECT) program to the division of mental health and addiction.

Effective: July 1, 2013.



A BILL FOR AN ACT to amend the Indiana Code concerning human services and to make an appropriation.

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

1 SECTION 1. IC 12-7-2-135.8 IS ADDED TO THE INDIANA
2 CODE AS A NEW SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2013]: **Sec. 135.8. "Pain control center", for**
4 **purposes of IC 12-23-19, has the meaning set forth in**
5 **IC 12-23-19-1.**

6 SECTION 2. IC 12-23-19 IS ADDED TO THE INDIANA CODE
7 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2013]:

9 **Chapter 19. Pain Control Centers**

10 **Sec. 1. (a) As used in this chapter, "pain control center" means**
11 **a facility that:**

12 **(1) has a primary practice component of treating patients for**
13 **pain;**

14 **(2) provides treatment for pain that includes the prescribing,**
15 **dispensing, or administering of controlled substances by any**
16 **of the following:**

17 **(A) A physician who is:**

18 **(i) licensed under IC 25-22.5; and**

19 **(ii) employed by, or acting on behalf of, the center.**

20 **(B) A practitioner who is:**

21 **(i) licensed or certified in Indiana to prescribe, dispense,**
22 **or administer a controlled substance; and**

23 **(ii) employed by, or acting on behalf of, the center; and**

24 **(3) provides treatment to individuals, the majority of whom:**

25 **(A) receive medication or a prescription for a controlled**
26 **substance for more than a three (3) day supply;**

27 **(B) have a history of using a controlled substance for at**
28 **least a thirty (30) day period; and**

29 **(C) have not been referred by the center to another health**
30 **provider not employed by the center licensed to provide**
31 **evaluation of the individual's health status or for**



- 1 alternative therapy.
- 2 **(b) The term does not include the following:**
- 3 **(1) A hospital:**
- 4 **(A) licensed under IC 16-21-2; or**
- 5 **(B) subject to IC 16-22 or IC 16-23.**
- 6 **(2) An ambulatory surgical center licensed under IC 16-21-2.**
- 7 **(3) A hospice program licensed under IC 16-25-3.**
- 8 **(4) A health facility licensed under IC 16-28-2.**
- 9 **(5) A facility operated by the state or federal government.**
- 10 **Sec. 2. (a) A pain control center shall not operate in Indiana**
- 11 **unless:**
- 12 **(1) the pain management treatment program is:**
- 13 **(A) specifically approved by; and**
- 14 **(B) in compliance with;**
- 15 **state and federal law; and**
- 16 **(2) the pain control center is:**
- 17 **(A) owned and operated by a physician licensed under**
- 18 **IC 25-22.5; and**
- 19 **(B) certified by the division.**
- 20 **(b) Separate specific approval and certification under this**
- 21 **chapter is required for each location of a pain control center in**
- 22 **which a pain management treatment program is operated.**
- 23 **Sec. 3. In order to obtain certification and maintain certification**
- 24 **under this chapter, the pain control center must meet the following**
- 25 **requirements:**
- 26 **(1) Be owned by a physician licensed under IC 25-22.5.**
- 27 **(2) Provide each patient of the center with an individualized**
- 28 **medical plan that treats the patient and avoids long term pain**
- 29 **medication addiction.**
- 30 **(3) Have a physician licensed under IC 25-22.5 physically**
- 31 **present at the center at all times that the pain control center**
- 32 **is open.**
- 33 **(4) Before a controlled substance is prescribed for a patient,**
- 34 **use the INSPECT program established by IC 25-1-13-4.**
- 35 **Sec. 4. (a) Consistent with standard medical practices in pain**
- 36 **management treatment, the division shall adopt rules under**
- 37 **IC 4-22-2 to establish and administer a pain control center**
- 38 **oversight program. The rules shall address the following:**
- 39 **(1) Standards for operation of a pain control center, including**
- 40 **the following:**
- 41 **(A) Minimum requirements for a licensed physician's**
- 42 **regular physical evaluation and progress evaluation of**
- 43 **each center patient.**
- 44 **(B) Minimum staffing requirements by licensed and**
- 45 **unlicensed personnel.**
- 46 **(C) Clinical standards for the appropriate tapering of a**



- 1 **patient off of controlled substance medication.**
 2 **(2) Fees to be paid by a pain control center for deposit in the**
 3 **pain control center regulation fund established by section 6 of**
 4 **this chapter for annual certification under this chapter. The**
 5 **fees must be sufficient to pay the cost of implementing this**
 6 **chapter.**
 7 **(b) The division shall conduct an annual onsite visit of each pain**
 8 **control center to assess compliance with this chapter.**
 9 **Sec. 5. (a) The director of the division may take any of the**
 10 **following actions based on any grounds described in subsection (b):**
 11 **(1) Issue a letter of correction.**
 12 **(2) Reinspect a pain control center.**
 13 **(3) Deny renewal of, or revoke certification of a pain control**
 14 **center.**
 15 **(4) Impose a civil penalty in an amount not to exceed ten**
 16 **thousand dollars (\$10,000).**
 17 **(b) The director of the division may take action under**
 18 **subsection (a) based on any of the following grounds:**
 19 **(1) Violation of this chapter or rules adopted under this**
 20 **chapter.**
 21 **(2) Permitting, aiding, or abetting the commission of any**
 22 **illegal act in a pain control center.**
 23 **(3) Conduct or practice found by the director to be**
 24 **detrimental to the welfare of a pain control center patient.**
 25 **(c) IC 4-21.5 applies to an action under this section.**
 26 **Sec. 6. (a) The pain control center regulation fund is established**
 27 **for the purpose of administering this chapter. The fund shall be**
 28 **administered by the division.**
 29 **(b) The expenses of administering the fund shall be paid from**
 30 **money in the fund.**
 31 **(c) The treasurer of state shall invest money in the fund in the**
 32 **same manner as other public money may be invested.**
 33 **(d) Money in the fund at the end of the state fiscal year does not**
 34 **revert to the state general fund.**
 35 **(e) Money in the fund is continually appropriated.**
 36 **SECTION 3. IC 35-48-7-11.1, AS AMENDED BY P.L.84-2010,**
 37 **SECTION 99, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE**
 38 **JULY 1, 2013]: Sec. 11.1. (a) Information received by the INSPECT**
 39 **program under section 8.1 of this chapter is confidential.**
 40 **(b) The board shall carry out a program to protect the confidentiality**
 41 **of the information described in subsection (a). The board may disclose**
 42 **the information to another person only under subsection (c), (d), or (g).**
 43 **(c) The board may disclose confidential information described in**
 44 **subsection (a) to any person who is authorized to engage in receiving,**
 45 **processing, or storing the information.**
 46 **(d) Except as provided in subsections (e) and (f), the board may**



1 release confidential information described in subsection (a) to the
2 following persons:

3 (1) A member of the board or another governing body that
4 licenses practitioners and is engaged in an investigation, an
5 adjudication, or a prosecution of a violation under any state or
6 federal law that involves a controlled substance.

7 (2) An investigator for the consumer protection division of the
8 office of the attorney general, a prosecuting attorney, the attorney
9 general, a deputy attorney general, or an investigator from the
10 office of the attorney general, who is engaged in:

11 (A) an investigation;

12 (B) an adjudication; or

13 (C) a prosecution;

14 of a violation under any state or federal law that involves a
15 controlled substance.

16 (3) A law enforcement officer who is an employee of:

17 (A) a local, state, or federal law enforcement agency; or

18 (B) an entity that regulates controlled substances or enforces
19 controlled substances rules or laws in another state;

20 that is certified to receive information from the INSPECT
21 program.

22 (4) A practitioner or practitioner's agent certified to receive
23 information from the INSPECT program.

24 (5) A controlled substance monitoring program in another state
25 with which Indiana has established an interoperability agreement.

26 (6) The state toxicologist.

27 (7) A certified representative of the Medicaid retrospective and
28 prospective drug utilization review program.

29 (8) A substance abuse assistance program for a licensed health
30 care provider who:

31 (A) has prescriptive authority under IC 25; and

32 (B) is participating in the assistance program.

33 **(9) The division of mental health and addiction.**

34 (e) Information provided to an individual under:

35 (1) subsection (d)(3) is limited to information:

36 (A) concerning an individual or proceeding involving the
37 unlawful diversion or misuse of a schedule II, III, IV, or V
38 controlled substance; and

39 (B) that will assist in an investigation or proceeding; and

40 (2) subsection (d)(4) may be released only for the purpose of:

41 (A) providing medical or pharmaceutical treatment; or

42 (B) evaluating the need for providing medical or
43 pharmaceutical treatment to a patient.

44 (f) Before the board releases confidential information under
45 subsection (d), the applicant must be approved by the INSPECT
46 program in a manner prescribed by the board.



1 (g) The board may release to:

2 (1) a member of the board or another governing body that licenses
3 practitioners;

4 (2) an investigator for the consumer protection division of the
5 office of the attorney general, a prosecuting attorney, the attorney
6 general, a deputy attorney general, or an investigator from the
7 office of the attorney general; or

8 (3) a law enforcement officer who is:

9 (A) authorized by the state police department to receive the
10 type of information released; and

11 (B) approved by the board to receive the type of information
12 released;

13 confidential information generated from computer records that
14 identifies practitioners who are prescribing or dispensing large
15 quantities of a controlled substance.

16 (h) The information described in subsection (g) may not be released
17 until it has been reviewed by:

18 (1) a member of the board who is licensed in the same profession
19 as the prescribing or dispensing practitioner identified by the data;

20 or

21 (2) the board's designee;

22 and until that member or the designee has certified that further
23 investigation is warranted. However, failure to comply with this
24 subsection does not invalidate the use of any evidence that is otherwise
25 admissible in a proceeding described in subsection (i).

26 (i) An investigator or a law enforcement officer receiving
27 confidential information under subsection (c), (d), or (g) may disclose
28 the information to a law enforcement officer or an attorney for the
29 office of the attorney general for use as evidence in the following:

30 (1) A proceeding under IC 16-42-20.

31 (2) A proceeding under any state or federal law that involves a
32 controlled substance.

33 (3) A criminal proceeding or a proceeding in juvenile court that
34 involves a controlled substance.

35 (j) The board may compile statistical reports from the information
36 described in subsection (a). The reports must not include information
37 that identifies any practitioner, ultimate user, or other person
38 administering a controlled substance. Statistical reports compiled under
39 this subsection are public records.

40 (k) This section may not be construed to require a practitioner to
41 obtain information about a patient from the data base.

42 (l) A practitioner is immune from civil liability for an injury, death,
43 or loss to a person solely due to a practitioner seeking or not seeking
44 information from the INSPECT program. The civil immunity described
45 in this subsection does not extend to a practitioner if the practitioner
46 receives information directly from the INSPECT program and then



1 negligently misuses this information. This subsection does not apply to
2 an act or omission that is a result of gross negligence or intentional
3 misconduct.

4 (m) The board may review the records of the INSPECT program. If
5 the board determines that a violation of the law may have occurred, the
6 board shall notify the appropriate law enforcement agency or the
7 relevant government body responsible for the licensure, regulation, or
8 discipline of practitioners authorized by law to prescribe controlled
9 substances.

10 (n) A practitioner who in good faith discloses information based on
11 a report from the INSPECT program to a law enforcement agency is
12 immune from criminal or civil liability. A practitioner that discloses
13 information to a law enforcement agency under this subsection is
14 presumed to have acted in good faith.

