

PROPOSED AMENDMENT

HB 1462 # 2

DIGEST

Exemption. Adds an exemption to INSPECT for a patient enrolled in a hospice program.

- 1 Page 2, after line 37, begin a new paragraph and insert:
2 "SECTION 2. IC 25-26-24-19, AS ADDED BY P.L.51-2019,
3 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2023]: Sec. 19. (a) Information received by the INSPECT
5 program under section 17 of this chapter is confidential.
6 (b) The board shall carry out a program to protect the confidentiality
7 of the information described in subsection (a). The board may disclose
8 the information to another person only under subsection (c), (d), or (g).
9 (c) The board may disclose confidential information described in
10 subsection (a) to any person who is authorized to engage in receiving,
11 processing, or storing the information.
12 (d) Except as provided in subsections (e) and (f), the board may
13 release confidential information described in subsection (a) to the
14 following persons:
15 (1) A member of the board or another governing body that
16 licenses practitioners and is engaged in an investigation, an
17 adjudication, or a prosecution of a violation under any state or
18 federal law that involves ephedrine, pseudoephedrine, or a
19 controlled substance.
20 (2) An investigator for the consumer protection division of the
21 office of the attorney general, a prosecuting attorney, the attorney
22 general, a deputy attorney general, or an investigator from the
23 office of the attorney general, who is engaged in:
24 (A) an investigation;
25 (B) an adjudication; or
26 (C) a prosecution;
27 of a violation under any state or federal law that involves
28 ephedrine, pseudoephedrine, or a controlled substance.

- 1 (3) A law enforcement officer who is an employee of:
 2 (A) a local, state, or federal law enforcement agency; or
 3 (B) an entity that regulates ephedrine, pseudoephedrine, or
 4 controlled substances or enforces ephedrine, pseudoephedrine,
 5 or controlled substances rules or laws in another state;
 6 that is certified to receive ephedrine, pseudoephedrine, or
 7 controlled substance prescription drug information from the
 8 INSPECT program.
- 9 (4) A practitioner or practitioner's agent certified to receive
 10 information from the INSPECT program.
- 11 (5) An ephedrine, pseudoephedrine, or controlled substance
 12 monitoring program in another state with which Indiana has
 13 established an interoperability agreement.
- 14 (6) The state toxicologist.
- 15 (7) A certified representative of the Medicaid retrospective and
 16 prospective drug utilization review program.
- 17 (8) A substance abuse assistance program for a licensed health
 18 care provider who:
 19 (A) has prescriptive authority under this title; and
 20 (B) is participating in the assistance program.
- 21 (9) An individual who holds a valid temporary medical permit
 22 issued under IC 25-22.5-5-4 or a noneducational commission for
 23 foreign medical graduates certified graduate permit issued under
 24 IC 25-22.5-5-4.6.
- 25 (10) A county coroner conducting a medical investigation of the
 26 cause of death.
- 27 (11) The management performance hub established by
 28 IC 4-3-26-8.
- 29 (12) The state epidemiologist under the state department of
 30 health.
- 31 (e) Information provided to a person under:
 32 (1) subsection (d)(3) is limited to information:
 33 (A) concerning an individual or proceeding involving the
 34 unlawful diversion or misuse of a schedule II, III, IV, or V
 35 controlled substance; and
 36 (B) that will assist in an investigation or proceeding;
 37 (2) subsection (d)(4) may be released only for the purpose of:
 38 (A) providing medical or pharmaceutical treatment; or
 39 (B) evaluating the need for providing medical or
 40 pharmaceutical treatment to a patient; and

1 (3) subsection (d)(11) must be released to the extent disclosure of
2 the information is not prohibited by applicable federal law.

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

6 (g) The board may release to:

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

9 (2) an investigator for the consumer protection division of the
10 office of the attorney general, a prosecuting attorney, the attorney
11 general, a deputy attorney general, or an investigator from the
12 office of the attorney general; or

13 (3) a law enforcement officer who is:

14 (A) authorized by the state police department to receive
15 ephedrine, pseudoephedrine, or controlled substance
16 prescription drug information; and

17 (B) approved by the board to receive the type of information
18 released;

19 confidential information generated from computer records that
20 identifies practitioners who are prescribing or dispensing large
21 quantities of a controlled substance.

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

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

27 (2) the board's designee;

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

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

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

37 (2) A proceeding under any state or federal law.

38 (3) A criminal proceeding or a proceeding in juvenile court.

39 (j) The board may compile statistical reports from the information
40 described in subsection (a). The reports must not include information

1 that identifies any practitioner, ultimate user, or other person
 2 administering ephedrine, pseudoephedrine, or a controlled substance.
 3 Statistical reports compiled under this subsection are public records.

4 (k) Except as provided in subsection (q) **and (r)**, and in addition to
 5 any requirements provided in IC 25-22.5-13, the following practitioners
 6 shall obtain information about a patient from the data base either
 7 directly or through the patient's integrated health record before
 8 prescribing an opioid or benzodiazepine to the patient:

9 (1) A practitioner who has had the information from the data base
 10 integrated into the patient's electronic health records.

11 (2) A practitioner who provides services to the patient in:

12 (A) the emergency department of a hospital licensed under
 13 IC 16-21; or

14 (B) a pain management clinic.

15 (3) Beginning January 1, 2020, a practitioner who provides
 16 services to the patient in a hospital licensed under IC 16-21.

17 (4) Beginning January 1, 2021, all practitioners.

18 However, a practitioner is not required to obtain information about a
 19 patient who is subject to a pain management contract from the data
 20 base more than once every ninety (90) days.

21 (l) A practitioner who checks the INSPECT program either directly
 22 through the data base or through the patient's integrated health record
 23 for the available data on a patient is immune from civil liability for an
 24 injury, death, or loss to a person solely due to a practitioner:

25 (1) seeking information from the INSPECT program; and

26 (2) in good faith using the information for the treatment of the
 27 patient.

28 The civil immunity described in this subsection does not extend to a
 29 practitioner if the practitioner receives information directly from the
 30 INSPECT program or through the patient's integrated health record and
 31 then negligently misuses this information. This subsection does not
 32 apply to an act or omission that is a result of gross negligence or
 33 intentional misconduct.

34 (m) The board may review the records of the INSPECT program. If
 35 the board determines that a violation of the law may have occurred, the
 36 board shall notify the appropriate law enforcement agency or the
 37 relevant government body responsible for the licensure, regulation, or
 38 discipline of practitioners authorized by law to prescribe controlled
 39 substances.

40 (n) A practitioner who in good faith discloses information based on

1 a report from the INSPECT program either directly through the data
 2 base or through the patient's integrated health record to a law
 3 enforcement agency is immune from criminal or civil liability. A
 4 practitioner that discloses information to a law enforcement agency
 5 under this subsection is presumed to have acted in good faith.

6 (o) A practitioner's agent may act as a delegate and check INSPECT
 7 program reports on behalf of the practitioner.

8 (p) A patient may access a report from the INSPECT program that
 9 has been included in the patient's medical file by a practitioner.

10 (q) A practitioner is not required under subsection (k) to obtain
 11 information about a patient from the data base or through the patient's
 12 integrated health record before prescribing an opioid or benzodiazepine
 13 if any of the following apply:

14 (1) The practitioner has obtained a waiver from the board because
 15 the practitioner does not have access to the Internet at the
 16 practitioner's place of business.

17 (2) The patient is:

18 (A) recovering; or

19 (B) in the process of completing a prescription that was
 20 prescribed by another practitioner;

21 while still being treated as an inpatient or in observation status.

22 (3) The data base described in section 18 of this chapter is
 23 suspended or is not operational if the practitioner documents in
 24 writing or electronically the date and time in the patient's medical
 25 record that the practitioner, dispenser, or delegate attempted to
 26 use the data base.

27 **(r) A practitioner is not required under subsection (k) to obtain**
 28 **information about a patient from the data base or through the**
 29 **patient's integrated health record before prescribing an opioid or**
 30 **benzodiazepine if the patient is enrolled in a hospice program (as**
 31 **defined in IC 16-25-1.1-4).".**

32 Renumber all SECTIONS consecutively.

(Reference is to HB 1462 as introduced.)