

# Indiana and U.S. Controlled Substances Law

## Indiana Law

### IC 35-48-1-27 "Ultimate user" defined

Sec. 27. "Ultimate user" means a person who lawfully possesses a controlled substance for the person's own use, for the use of a member of the person's household, or for administering to an animal owned by the person or by a member of the person's household.

As added by P.L.5-1988, SEC.207.

### IC 16-42-19-13 Possession or use of legend drug or precursor

Sec. 13. A person may not possess or use a legend drug or a precursor unless the person obtains the drug:

- (1) on the prescription or drug order of a practitioner; or
- (2) in accordance with section 11(2) or 21 of this chapter.

As added by P.L.2-1993, SEC.25.

### IC 35-48-4-7 Possession of a controlled substance; obtaining a schedule V controlled substance

Sec. 7. (a) A person who, without a valid prescription or order of a practitioner acting in the course of his professional practice, knowingly or intentionally possesses a controlled substance (pure or adulterated) classified in schedule I, II, III, or IV, except marijuana or hashish, commits possession of a controlled substance, a Class D felony. However, the offense is a Class C felony if the person in possession of the controlled substance possesses the controlled substance:

- (1) on a school bus; or
- (2) in, on, or within one thousand (1,000) feet of:
  - (A) school property;
  - (B) a public park;
  - (C) a family housing complex; or
  - (D) a youth program center.

(b) A person who, without a valid prescription or order of a practitioner acting in the course of his professional practice, knowingly or intentionally obtains:

- (1) more than four (4) ounces of schedule V controlled substances containing codeine in any given forty-eight (48) hour period unless pursuant to a prescription;
- (2) a schedule V controlled substance pursuant to written or verbal misrepresentation; or
- (3) possession of a schedule V controlled substance other than by means of a prescription or by means of signing an exempt narcotic register maintained by a pharmacy licensed by the Indiana state board of pharmacy; commits a Class D felony.

As added by Acts 1976, P.L.148, SEC.7. Amended by Acts 1977, P.L.340, SEC.102; P.L.138-1983, SEC.4; P.L.327-1985, SEC.4; P.L.296-1987, SEC.10; P.L.296-1995, SEC.8; P.L.65-1996, SEC.16; P.L.17-2001, SEC.25.

**Article 48 Controlled Substances** of the Indiana Pharmacy Statutes and Rules defines all Controlled Substances in the State of Indiana as well as infractions making it illegal for a person (pharmacist) to possess a Controlled Substance without a valid prescription or Drug Order.

## U.S. Law

**Title 21** is the portion of the [Code of Federal Regulations](#) that governs food and drugs within the [United States](#) for the [Food and Drug Administration](#) (FDA), the [Drug Enforcement Administration](#) (DEA), and the [Office of National Drug Control Policy](#) (ONDCP).

The following is an excerpt from U.S. Department of Justice, Drug Enforcement Administration information: <http://www.deadiversion.usdoj.gov>.

Under the CSA, Congress established a "closed system" of distribution designed to prevent the diversion of controlled substances.<sup>1</sup> As part of this closed system, all persons who lawfully handle controlled substances must be registered with DEA or exempt from registration by the CSA or DEA regulations. Another central element of this closed system is that DEA registrants must maintain strict records of all transactions in controlled substances. Consistent with the CSA requirements, current DEA regulations employ a system to account for all controlled substances received, stored, distributed, dispensed, or otherwise disposed of. Under this system, all controlled substances used in legitimate commerce may be transferred only between persons or entities who are DEA registrants or who are exempted from the requirement of registration, until they are dispensed to the ultimate user. Thus, for example, a controlled substance, after being manufactured by a DEA-registered manufacturer, may be transferred to a DEA-registered distributor for subsequent distribution to a DEA-registered retail pharmacy. After a DEA-registered practitioner, such as a physician or a dentist, issues a prescription for a controlled substance to a patient (i.e., the ultimate user), that patient can fill that prescription at a retail pharmacy to obtain that controlled substance. In this system, the manufacturer, the distributor, the practitioner, and the retail pharmacy are all required to be DEA registrants, or to be exempted from the requirement of registration, to participate in the process.

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<sup>1</sup> H.R. Rep. No. 91-1444 at 3 (1970).  
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As set forth in the CSA, an ultimate user is exempt from the requirement of registration--but only to the extent the ultimate user possesses a controlled substance that has been lawfully obtained for his own use or the use of a member of his household or for an animal owned by him or by a member of his household ([21 U.S.C. 822\(c\)\(3\)](#), [802\(27\)](#)). Beyond such circumstances, the CSA and its implementing regulations do not currently contemplate a situation in which an ultimate user would distribute a controlled substance. Thus, such distribution, regardless of the purpose, is illegal.

Under the Controlled Substances Act, specifically [21 U.S.C. 802\(27\)](#), the term "ultimate user" means a person who has lawfully obtained, and who possesses, a controlled substance for his own use or for the use of a member of his household or for an animal owned by him or by a member of his household. Ultimate users are not required to register with DEA to possess controlled substances.