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**TITLE 856 INDIANA BOARD OF PHARMACY**

LSA Document #01-298

December 11, 2001

Chairman  
c/o George Angelone  
Administrative Rules Oversight Committee  
302 Statehouse  
Indianapolis, IN 46204

Re: LSA Doc #01-298: 856 IAC 1-28.1, Institutional Pharmacies and Pharmacy Services [*LSA Document #01-298(F) may be found at 25 IR 1676.*]

Dear Mr. Chairman:

The Indiana Board of Pharmacy recently rewrote the Institutional Pharmacies and Pharmacy Services rules. Rules for such pharmacies exist, but there was deemed a need to update these rules. The Board's intention was to amend the current rules.

The Attorney General's office, upon review of the rules has indicated that under IC 4-22-2-19, these rules would technically be new rules that would require adoption within 60 days of the legislature giving statutory authority to the Board to adopt such rules. Amendments of rules are excepted from the requirements of the statute.

IC 4-22-2-19 does seem to limit the options for agencies in how they go about amending a rule. Traditionally, when amending a rule that required significant changes in the existing rule, the Board used the method of repealing the current rule with a new rule rather than striking massive amounts of the current rule and adding large amounts of new text. Apparently, the current IC 4-22-2-19 does not allow for this option because the agency would be adopting a new rule and thus come up against the 60 day requirement.

While the Board believes that the circumstances of the adoption of this rule do not fall within the intent of IC 4-22-2-19, the Board is providing this written notification to the committee explaining why this rule could not be adopted within the timeframe specified in IC 4-22-2-19 under the "amendment" method we traditionally use.

If I can provide any further information, please contact me at [mbina@hpb.state.in.us](mailto:mbina@hpb.state.in.us) or at 233-4403.

Sincerely,

Mark W. Bina  
Director  
Indiana Board of Pharmacy