

TITLE 205 INDIANA CRIMINAL JUSTICE INSTITUTE

Proposed Rule LSA Document #17-223

DIGEST

Adds 205 IAC 4 to establish and implement regulations for ignition interlock service centers and installation technicians, the installation of ignition interlock devices, requirements for the removal of an ignition interlock device, and administrative procedures for the denial, suspension, or revocation of a certification. Effective 30 days after filing with the Publisher.

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

205 IAC 4

SECTION 1. 205 IAC 4 IS ADDED TO READ AS FOLLOWS:

ARTICLE 4. GENERAL PROVISIONS

Rule 1. General Provisions

205 IAC 4-1-1 Purpose

Authority: IC 9-30-8-7

Affected: IC 9-30-8

Sec. 1. (a) This rule sets forth the certification requirements and administrative procedures for ignition interlock service providers and technicians, the minimum requirements for the installation and removal of an ignition interlock device, and the administrative procedures for denial, suspension, or revocation of a certification.

(b) The purpose of this rule is to provide a minimum set of standards for the ignition interlock service providers and technicians. (*Indiana Criminal Justice Institute; 205 IAC 4-1-1*)

Rule 2. Definitions

205 IAC 4-2-1 Applicability

Authority: IC 9-30-8-7

Affected: IC 9-30-8

Sec. 1. The definitions in this rule apply throughout this article. (*Indiana Criminal Justice Institute; 205 IAC 4-2-1*)

205 IAC 4-2-2 "Bureau" defined

Authority: IC 9-30-8-7

Affected: IC 9-14-7; IC 9-30-8

Sec. 2. "Bureau" means the Indiana bureau of motor vehicles created by IC 9-14-7. (*Indiana Criminal Justice Institute; 205 IAC 4-2-2*)

205 IAC 4-2-3 "Camera" defined

Authority: IC 9-30-8-7

Affected: IC 9-30-8

Sec. 3. "Camera" means a peripheral device that is electronically tethered to the ignition interlock device and capable of capturing an image of the person driving the vehicle. (*Indiana Criminal Justice Institute; 205 IAC 4-2-3*)

205 IAC 4-2-4 "Certification" defined

Authority: IC 9-30-8-7

Affected: IC 9-30-8

Sec. 4. "Certification" means a status granted by the institute to a provider that indicates the provider has met the standards required by a vendor. (*Indiana Criminal Justice Institute; 205 IAC 4-2-4*)

205 IAC 4-2-5 "Certified ignition interlock device" defined

Authority: IC 9-30-8-7

Affected: IC 9-30-8

Sec. 5. "Certified ignition interlock device" means an ignition interlock device that has been certified by the Indiana state department of toxicology. (*Indiana Criminal Justice Institute; 205 IAC 4-2-5*)

205 IAC 4-2-6 "Ignition interlock device" defined

Authority: IC 9-30-8-7

Affected: IC 9-13-2-76

Sec. 6. "Ignition interlock device" has the same meaning as IC 9-13-2-76, a blood alcohol concentration equivalence measuring device that prevents a motor vehicle from being started without first determining the operator's equivalent breath alcohol concentration through the taking of a deep lung breath sample. (*Indiana Criminal Justice Institute; 205 IAC 4-2-6*)

205 IAC 4-2-7 "Institute" defined

Authority: IC 9-30-8-7

Affected: IC 5-2-6

Sec. 7. "Institute" refers to the Indiana criminal justice institute created by IC 5-2-6. (*Indiana Criminal Justice Institute; 205 IAC 4-2-7*)

205 IAC 4-2-8 "Letter of certification" defined

Authority: IC 9-30-8-7

Affected: IC 9-30-8

Sec. 8. "Letter of certification" means a letter issued by the institute that authorizes a provider or a technician to install, remove, calibrate, monitor, repair, maintain, or inspect a certified ignition interlock device. (*Indiana Criminal Justice Institute; 205 IAC 4-2-8*)

205 IAC 4-2-9 "Manufacturer" defined

Authority: IC 9-30-8-7

Affected: IC 9-30-8

Sec. 9. "Manufacturer" means a person or organization located in the United States who is responsible for the design, construction, or production of the ignition interlock device and has obtained ISO 9001 certification with a U.S.-based registrar. (*Indiana Criminal Justice Institute; 205 IAC 4-2-9*)

205 IAC 4-2-10 "Operator" defined

Authority: IC 9-30-8-7

Affected: IC 9-30-8

Sec. 10. "Operator" means a person required by a court of competent jurisdiction to use an ignition interlock device. (*Indiana Criminal Justice Institute; 205 IAC 4-2-10*)

205 IAC 4-2-11 "Probationary period" defined

Authority: IC 9-30-8-7

Affected: IC 9-30-8

Sec. 11. "Probationary period" refers to the time between when a technician receives training by a vendor and received a letter of certification from the institute. (*Indiana Criminal Justice Institute; 205 IAC 4-2-11*)

205 IAC 4-2-12 "Provider" defined

Authority: IC 9-30-8-7

Affected: IC 9-30-8

Sec. 12. "Provider" means any entity engaged in the business of selling, leasing, servicing, repairing, calibrating, monitoring, or removing a certified ignition interlock device. (*Indiana Criminal Justice Institute; 205 IAC 4-2-12*)

205 IAC 4-2-13 "Service center" defined

Authority: IC 9-30-8-7

Affected: IC 9-30-8

Sec. 13. "Service center" means any person or entity engaged in the business of selling, leasing, servicing, repairing, calibrating, monitoring, or removing a certified ignition interlock device. (*Indiana Criminal Justice Institute; 205 IAC 4-2-13*)

205 IAC 4-2-14 "Standards" defined

Authority: IC 9-30-8-7

Affected: IC 9-30-8

Sec. 14. "Standards" means a base set of requirements established by the vendor that must be met for a provider to be certified as a service center. (*Indiana Criminal Justice Institute; 205 IAC 4-2-14*)

205 IAC 4-2-15 "Technician" defined

Authority: IC 9-30-8-7

Affected: IC 9-30-8

Sec. 15. "Technician" means a person employed by or contracted with a provider to install, remove, maintain, repair, or inspect a certified ignition interlock device. This definition does not apply to individuals that conduct monitoring for the court of jurisdiction. (*Indiana Criminal Justice Institute; 205 IAC 4-2-15*)

205 IAC 4-2-16 "Vendor" defined

Authority: IC 9-30-8-7

Affected: IC 9-30-8

Sec. 16. "Vendor" means an entity designated by the manufacturer to conduct business on behalf of the manufacturer in a state or jurisdiction. (*Indiana Criminal Justice Institute; 205 IAC 4-2-16*)

Rule 3. Standards for Service Centers, Providers, and Inspections

205 IAC 4-3-1 Standards for service centers and providers

Authority: IC 9-30-8-7

Affected: IC 9-30-5; IC 9-30-8; IC 35-42; IC 35-43-2-1; IC 35-43-4; IC 35-43-5; IC 35-43-6.5; IC 35-44.1-2; IC 35-48-1-16.4

Sec. 1. A provider must adhere to the following minimum standards:

- (1) Be registered as a business with the Indiana Secretary of State.
- (2) Have a federal Employer Identification Number.
- (3) Be located at a fixed facility.
- (4) Provide adequate security measures to ensure unauthorized persons do not have or cannot gain access to confidential information.

- (5) Maintain a separate waiting room area from the installation area.
- (6) Ensure operators are not able to watch or witness the installation.
- (7) Have, in the waiting area, audio and visual equipment available to operators to view training presentations provided by the vendor about the ignition interlock device and program.
- (8) Post the following items in the waiting area:
 - (A) Schedule of fees.
 - (B) Information on where to file complaints or address issues related to an installed ignition interlock device.
- (9) Have parking facilities.
- (10) Maintain appropriate garage insurance coverage and liability insurance with minimum limits of one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate total coverage, by an insurer who possesses a certificate of authority or other appropriate authorization to operate in the state.
- (11) Perform limited criminal background checks on all newly hired technicians within thirty (30) days that include the following:
 - (A) Convictions for the following offenses will prevent an installer from receiving a letter of certification:
 - (i) An offense under IC 35-44.1-2 (Interference with General Government Operations).
 - (ii) An offense under IC 35-43-6.5 (Motor Vehicle and Watercraft Fraud).
 - (iii) An offense under IC 35-43-5 (Forgery, Fraud, and Other Deceptions).
 - (iv) More than one (1) offense under IC 9-30-5 (Operating a Vehicle While Intoxicated).
 - (v) More than one (1) offense, as defined by IC 35-48-1-16.4 (Drug offense).
 - (vi) An offense leading to the revocation of probation or parole.
 - (vii) An offense under IC 9-30-5-7 (Ignition interlock device offenses; violation of court order).
 - (viii) An offense under IC 9-30-5-8 (Ignition interlock device offenses; tampering).
 - (ix) An offense under IC 35-43-4 (Theft, Conversion, and Receiving Stolen Property).
 - (x) An offense under IC 35-42-5-1 (Robbery) or IC 35-43-2-1 (Burglary).
 - (xi) Any felony or Class A misdemeanor offense under IC 35-42 (Offenses Against the Person).
 - (B) Only offenses within the previous ten (10) years will be considered as disqualifying offense.
 - (C) Limited criminal history background checks will be completed only for convictions within the state of Indiana.
- (12) Perform biennial limited criminal background checks on all technicians and provide clearances to the vendor and the institute and as follows:
 - (A) In the event a relevant history is discovered the provider will have seven (7) days to remove the technician from any installation, removal, calibration, inspection, maintenance, or monitoring.
 - (B) If the technician is not removed, the institute will immediately suspend the provider's certification.
- (13) Providers may only allow a technician that has been approved by a vendor, whose name has been submitted to the institute for certification, and has received the requisite vendor training to install, remove, calibrate, inspect, or maintain an ignition interlock device.
- (14) Maintain copies of all technician certification and training.
- (15) A provider may not sell, store, or consume alcoholic beverages on the premises.
- (16) Maintain a copy of all technician driver's licenses.
- (17) A provider cannot provide services for more than one (1) vendor.

The vendor contracting for services bears the burden to ensure a provider meets the minimum standards prior to submitting an application for a letter of certification from the institute. (*Indiana Criminal Justice Institute; 205 IAC 4-3-1*)

205 IAC 4-3-2 Inspections

Authority: IC 9-30-8-7

Affected: IC 9-30-8

Sec. 2. (a) The purpose behind a provider inspection is to ensure the providers are following standards developed by the institute and the vendors contracted with to install certified ignition interlock devices. To further this purpose the following standards shall apply to all new provider inspections:

- (1) Must meet all minimum standards outlined in section 1 of this rule.
- (2) Must have on-site and make available written instructions for the installation of the ignition interlock device.
- (3) Have procedures for the inspection of all vehicles prior to installation of an ignition interlock device to

determine the vehicle and all components affected by the ignition interlock device are in acceptable condition.

- (4) Post the letter of certification from the institute.
- (5) Post the letter of certification for all technicians.
- (6) Post a copy of all fees.
- (7) Make available all training records for all certified technicians.
- (8) Provide copies of vendor contracts, training certifications, and approvals as a provider.
- (9) Provide copies of proof of insurance.
- (10) Only a dry gas standard shall be utilized for device calibrations.
- (11) The calibration confirmation test shall verify the accuracy of the device to be within plus or minus 0.005 g/210L of the adjusted alcohol concentration, unless modified by the institute.
- (12) Calibration directions and procedures include the following:
 - (A) The device shall be subjected to a calibration confirmation test pursuant to IC 9-30-8-4. This test shall consist of introducing the device to a dry gas standard with an alcohol concentration adjusted, by the manufacturer's software, for elevation.
 - (B) Only dry gas standards found on the current Conforming Products List of Calibrating Units for Breath Alcohol Testers published by the National Highway Traffic Safety Administration (NHTSA) may be used for calibration.
 - (C) Dry gas standards shall be operated in accordance with the manufacturers recommendations and shall be maintained in proper working order.
- (13) Preparatory documentation (such as a certificate of analysis) stating the ethanol/nitrogen concentration in the dry gas standard in parts per million (ppm) and expressed as a breath alcohol concentration must be available for inspection while the gas standard is being utilized.
- (14) Maintain documentation of current firmware or software applications and inspections.
- (15) Make all tools, connectors, and equipment available for inspection.
- (16) The manufacturer shall provide a 24-hour toll free emergency service telephone number to the customer.
- (17) Ensure proper record keeping for customer complaints to include actions taken to correct the issue.

(b) Upon completion of a provider or service center inspection, the institute will provide a copy of the inspection report to the vendor and manufacturer. If any issues are cited that cannot be cured at the time of the inspection, the vendor has thirty (30) days from receipt of the inspection report to work with the provider to remedy the issue and provide any corrective actions required. If information regarding the clearing of any cited issues is not provided to the institute within forty-five (45) days from receipt of the inspection report, the provider's certification shall be suspended until such information is provided. If corrective actions are not provided to the institute within sixty (60) days from receipt of the inspection report following an inspection, the provider's certification shall be revoked. (*Indiana Criminal Justice Institute; 205 IAC 4-3-2*)

205 IAC 4-3-3 Inspections of ignition interlock devices

Authority: IC 9-30-8-7

Affected: IC 9-30-8

Sec. 3. (a) A Provider must follow all vendor recommendations, policies, and procedures when inspecting an ignition interlock device. The technician shall ensure the device is in good working condition by inspecting the device to ensure no tampering or circumvention has occurred.

(b) If evidence of tampering is found, the vendor must notify the appropriate judicial authority within forty-eight (48) hours, or the following business day in the event of a weekend or holiday. (*Indiana Criminal Justice Institute; 205 IAC 4-3-3*)

Rule 4. Application for Certification

205 IAC 4-4-1 Application for certification

Authority: IC 9-30-8-7

Affected: IC 9-30-8

Sec. 1. A provider must file and receive approval, must have paid all applicable fees, and a letter of certification

must be issued by the institute before a provider may install, remove, maintain, repair, or inspect a certified ignition interlock device. (*Indiana Criminal Justice Institute; 205 IAC 4-4-1*)

205 IAC 4-4-2 Application submission

Authority: IC 9-30-8-7

Affected: IC 9-30-8

Sec. 2. (a) A vendor must submit an application to the institute for a letter of certification for a provider. A vendor may allow a provider to submit an application for a letter of certification.

(b) The application must be submitted on the approved state form and shall disclose the following:

- (1) The legal name of the provider.**
- (2) The physical address of the provider.**
- (3) The type of certified ignition interlock device used by the provider.**
- (4) The type of calibration device used for the ignition interlock devices.**
- (5) Submission of a written statement from the vendor that authorizes the provider to install, remove, maintain, repair, or inspect a certified ignition interlock device.**
- (6) Submission of a list of fees that the provider may charge to install, remove, maintain, repair, or inspect a certified ignition interlock device.**
- (7) A copy of the business entity registration with the Indiana secretary of state.**
- (8) Federal Employer Identification Number.**
- (9) A copy of the business license.**
- (10) Hours of operation.**

(c) The institute shall notify the vendor and provider of certification of a provider or of denial to certify a provider within ten (10) business days of receipt of a completed application pursuant to this section.

(d) If the application for provider certification is denied, the notification from the institute shall include the list of nonconformances the denial was based on. The provider can remedy the list of nonconformances and reapply for certification accordingly

(e) A letter of certification is valid for a period of two (2) years from the date of issuance of a letter. An application for the renewal of a letter of certification must be submitted to the institute not less than thirty (30) days prior to the expiration of the certification. If an application and fee for recertification is not submitted on a timely basis, and the letter of certification expires, the provider is barred from any activity related to an ignition interlock device until which time the application is processed and a new letter of certification is issued by the institute. (*Indiana Criminal Justice Institute; 205 IAC 4-4-2*)

Rule 5. Standards for Ignition Interlock Technicians

205 IAC 4-5-1 Standards for ignition interlock device technicians

Authority: IC 9-30-8-7

Affected: IC 9-30-8

Sec. 1. (a) A vendor or provider must submit an application and application fee within thirty (30) days of hire to the institute requesting a letter of certification for a technician. The application must be submitted on the appropriate form and be accompanied by the following documentation:

- (1) Certification by the provider that the technician does not have a conviction for one (1) of the listed charges in 205 IAC 4-3-1(11).**
- (2) Documentation outlining all required vendor training has been completed and all tasks can be performed to the applicable vendor specifications.**
- (3) Certification that the technician has demonstrated minimum competency under the supervision of an experienced technician, vendor representative, or supervisor.**

(b) The institute shall notify the vendor and provider of certification of a technician or of denial to certify a

technician within ten (10) business days of receipt of a completed application pursuant to this section.

(c) A letter of certification is valid for a period of two (2) years from the date of issuance of a letter. An application for the renewal of a letter of a certification must be submitted to the institute not less than thirty (30) days prior to the expiration of the certification. If an application and fee for recertification is not submitted on a timely basis, and the letter of certification expires, the technician is barred from any activity related to an ignition interlock device until which time the application is processed and a new letter of certification is issued by the institute. (*Indiana Criminal Justice Institute; 205 IAC 4-5-1*)

205 IAC 4-5-2 certified technician standards

Authority: IC 9-30-8-7

Affected: IC 9-30-8

Sec. 2. A certified technician must adhere to the follow standards:

- (1) Be at least eighteen (18) years of age.**
- (2) Complete all vendor training prior to installing, removing, calibrating, monitoring, maintaining, or repairing an ignition interlock device.**
- (3) Install, remove, inspect, calibrate, maintain, repair, or monitor to maintain standards set by the vendor.**
- (4) Complete all tasks according to vendor specifications.**
- (5) Complete any vendor training updates on a timely basis.**

(*Indiana Criminal Justice Institute; 205 IAC 4-5-2*)

Rule 6. Installation of Ignition Interlock Devices

205 IAC 4-6-1 Installation of ignition interlock devices

Authority: IC 9-30-8-7

Affected: IC 9-30-8

Sec. 1. (a) An ignition interlock device shall only be installed by the certified provider and technician in accordance with the vendor instructions.

(b) An ignition interlock device may only be installed when the following actions have taken place:

- (1) The operator has executed the required service contract or lease.**
- (2) The operator has successfully completed all required vendor training and demonstrated an understanding of the interlock program requirements.**
- (3) The technician has verified the vehicle is in acceptable condition for the installation.**
- (4) The technician shall record the following:**
 - (A) The full name, address, and driver's license number of the vehicle operator.**
 - (B) The license plate number of the vehicle.**
 - (c) The unique serial number and model of the ignition interlock device being installed.**
- (5) The technician has ensured the operator is not able to view or witness the installation.**

(c) The technician must install anti-circumvention material as required by the vendor and ensure material does not show evidence of tampering during the required installation period. (*Indiana Criminal Justice Institute; 205 IAC 4-6-1*)

Rule 7. Requirements for the Removal of an Ignition Interlock Device

205 IAC 4-7-1 Requirements for the removal of an ignition interlock device

Authority: IC 9-30-8-7

Affected: IC 9-30-8

Sec. 1. (a) An ignition interlock device may be removed when the provider has verified information provided by the court and the interlock requirement has been removed.

(b) An ignition interlock device may be removed when an operator becomes sixty (60) days or more past due on

their account. If an operator does not appear for removal, the costs of a replacement ignition interlock device may be added to the account.

(c) When removing an ignition interlock device, the provider must return the vehicle to the normal operating conditions.

(d) A provider, after removing an ignition interlock device, must provide all final reports and notice of the removal of the ignition interlock device to the court or court official monitoring the operator. (*Indiana Criminal Justice Institute; 205 IAC 4-7-1*)

Rule 8. Fees

205 IAC 4-8-1 Fees for certification and renewal

Authority: IC 9-30-8-7

Affected: IC 9-30-8

Sec. 1. The vendor or provider are responsible for all fees related to provider or technician applications for letters of certification. The following fees shall apply to the ignition interlock program:

- (1) New application and request for provider certification: seven hundred dollars (\$700).
- (2) New application and request for technician certification: seventy-five dollars (\$75).
- (3) Renewal of provider certification: two hundred fifty dollars (\$250).
- (4) Renewal of technician certification: thirty-five dollars (\$35).
- (5) Penalty for late renewal: ten dollars (\$10) per month past expiration.

(*Indiana Criminal Justice Institute; 205 IAC 4-8-1*)

Rule 9. Review of Denial, Suspension, or Revocation of Certification

205 IAC 4-9-1 Review of denial, suspension or revocation of certification for a provider

Authority: IC 9-30-8-7

Affected: IC 9-30-8

Sec. 1. (a) The executive director of the institute may issue a notice of intent to deny, suspend, or revoke a letter of certification for a provider if there is evidence:

- (1) the provider has failed to meet or maintain the minimum standards outlined in this rule or the minimum standards required by the vendor contracting with the provider;
- (2) the provider allowed an ignition interlock device to be installed by a technician whose letter of certification is currently revoked, denied, or suspended;
- (3) the provider allows an ignition interlock device to be installed by a technician during the technician's probationary period, without supervision by another experienced technician;
- (4) the vendor or the provider has failed to remedy any issues cited during an inspection within the allowable time;
- (5) the provider was convicted for any of the disqualifying crimes listed in this rule;
- (6) the provider failed to provide services within the timeframes specified by the court exercising jurisdiction over the operator;
- (7) the provider failed to provide timely reporting or monitoring of an installed ignition interlock device if requested or required by the court of jurisdiction;
- (8) the provider has not protected confidential information, or allowed the use of confidential information for any purpose other than the administration of the ignition interlock program; or
- (9) the provider has committed an act that, upon review by the institute, would amount to misconduct or be contrary to ethical business practices.

(b) The notice of intent shall contain the reason or reasons for the proposed action. The provider, through the contracting vendor, may submit a written response up to ten (10) business days from receipt of the notice outlining the provider's arguments or relevant facts favoring the provider.

(c) If written response is not received by the institute, the denial, revocation, or suspension shall take effect at the end of the tenth day. (*Indiana Criminal Justice Institute; 205 IAC 4-9-1*)

205 IAC 4-9-2 Review of denial, suspension or revocation of certification for a technician

Authority: IC 9-30-8-7

Affected: IC 9-30-8

Sec. 2. (a) The executive director of the institute may issue a notice of intent to deny, suspend, or revoke a letter of certification for a technician if there is evidence the technician:

- (1) has failed to meet or maintain the minimum standards outlined in this rule or the minimum standards required by the vendor contracting with the provider;
- (2) was convicted for any of the disqualifying crimes listed in this article;
- (3) failed to provide services within the timeframes specified by the court holding jurisdiction;
- (4) allowed an operator watch the installation or provided information on how to circumvent an ignition interlock device;
- (5) has not protected confidential information, or allowed the use of confidential information for any purpose other than the administration of the ignition interlock program; or
- (6) has committed an act that, upon review by the institute, would amount to misconduct or contrary to ethical business practices.

(b) The notice of intent shall contain the reason or reasons for the proposed action. The technician, through the contracting vendor or provider, may submit a written response up to ten (10) business days from receipt of the notice outlining the technician's arguments or relevant facts favoring the technician.

(c) If written response is not received by the institute, the denial, revocation, or suspension shall take effect at the end of the tenth day. (*Indiana Criminal Justice Institute; 205 IAC 4-9-2*)

205 IAC 4-9-3 Notice of denial, suspension or revocation

Authority: IC 9-30-8-7

Affected: IC 9-30-8

Sec. 3. The executive director of the institute shall issue notice for the denial, suspension, or revocation no later than thirty (30) days after receiving information regarding the act or event giving rise to the denial, revocation, or suspension. Notice shall be provided to the manufacturer (if different from the vendor), the vendor, the provider, and the technician where applicable. Notice shall be sent to the address provided on the application for a request for a letter of certification and to the primary address provided for the vendor representative. (*Indiana Criminal Justice Institute; 205 IAC 4-9-3*)

Rule 10. Hearing Procedures

205 IAC 4-10-1 Hearing procedures

Authority: IC 9-30-8-7

Affected: IC 4-21.5-3; IC 9-30-8

Sec. 1. (a) When a hearing is ordered, the appellant, counsel, and all parties deemed necessary by the institute shall receive written notice naming the time, place, and scope of the hearing in accordance with IC 4-21.5-3.

(b) All hearings shall be conducted in an orderly manner. All witnesses shall testify under oath or by affirmation. The entirety of the hearing shall be recorded. The hearing officer shall be bound by statutory or rule of evidence, judicial conduct, or prior administrative precedent.

(c) Hearings shall be open to the public except that the hearing officer may exercise the option to hold the hearing in private when justice requires.

(d) Hearings may be adjourned on the motion of the hearing officer or upon a timely request of an interested

party. The failure of a party to attend a scheduled hearing may result in a dismissal of the party's claim, unless and upon a showing for good cause the hearing officer may continue the hearing.

(e) The vendor, provider, or technician shall present at the hearing and will be allowed to testify, present all relevant evidence, and cross-examine witnesses in person or by counsel.

(f) The vendor, provider, or technician has the burden of proving by a preponderance of the evidence they are entitled to the reinstatement of a letter of certification.

(g) All hearings shall be held at the offices of the institute in Indianapolis, Indiana. If in the interests of the parties, the institute may choose to hold a hearing by telephone, in accordance with all applicable laws and rules. (*Indiana Criminal Justice Institute; 205 IAC 4-10-1*)

205 IAC 4-10-2 Attorneys; representation

Authority: IC 9-30-8-7

Affected: IC 4-21.5; IC 9-30-8

Sec. 2. (a) A vendor, provider, or technician has the right to be represented before the institute, or any representatives thereof, at all stages of the proceeding by an attorney licensed to practice law in the state of Indiana.

(b) The attorney shall file a notice of appearance prior to the first appearance. Such notice shall contain the name or the party represented and the attorney's name, business address, business telephone number, and attorney number.

(c) If an attorney files a notice with the institute in the matter, the notice shall remain in effect until:

- (1) the party represented files with the institute a notice of revocation of the attorney's authority;
- (2) the attorney files a written statement of withdrawal with the institute;
- (3) the attorney states on the record at a hearing the attorney is withdrawing from the case; or
- (4) the institute receives notice of the attorney's death or other disqualification.

(d) After receiving a notice of appearance in accordance with this rule, and as long as in effect, all correspondence shall be sent to the attorney for the party represented. Service on the attorney shall constitute notice to the party. (*Indiana Criminal Justice Institute; 205 IAC 4-10-2*)

Rule 11. Appeal Procedures

205 IAC 4-11-1 Appeal procedures

Authority: IC 9-30-8-7

Affected: IC 4-21.5-3; IC 9-30-8

Sec. 1. (a) A vendor, provider, or technician whose certification has been denied, revoked, or suspended, shall have thirty (30) days from the effective date of the denial, suspension, or revocation to provide a written request to the executive director to reconsider the action. The request must contain any and all information needed to support the reasoning for the reconsideration. A request received without the supporting documentation will not be considered.

(b) If, after the thirty (30) day period has lapsed, and a request is received, the matter will be directed to a hearing in accordance with IC 4-21.5-3. If sixty (60) days after the receipt of the notice of intent, a written request is not submitted to the executive director, the matter shall be considered final and no further action or review will take place. (*Indiana Criminal Justice Institute; 205 IAC 4-11-1*)