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**TITLE 844 MEDICAL LICENSING BOARD OF INDIANA**

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**Proposed Rule**  
LSA Document #22-326**DIGEST**

Amends [844 IAC 11-1-2](#) concerning an address change. Amends [844 IAC 11-4-5](#) concerning incompetent practice. Amends [844 IAC 11-4-6](#) concerning unprofessional conduct. Amends [844 IAC 11-5-1](#) to replace "bureau" with "agency". Amends [844 IAC 11-5-3](#), [844 IAC 11-5-4](#), and [844 IAC 11-5-5](#) concerning continuing education. Repeals [844 IAC 11-1-5](#), [844 IAC 11-3-2](#), [844 IAC 11-3-3](#), [844 IAC 11-3-3.1](#), and [844 IAC 11-3-4](#). Effective 30 days after filing with the Publisher.

[IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses](#)

[844 IAC 11-1-2](#); [844 IAC 11-1-5](#); [844 IAC 11-3-2](#); [844 IAC 11-3-3](#); [844 IAC 11-3-3.1](#); [844 IAC 11-3-4](#); [844 IAC 11-4-5](#); [844 IAC 11-4-6](#); [844 IAC 11-5-1](#); [844 IAC 11-5-3](#); [844 IAC 11-5-4](#); [844 IAC 11-5-5](#)

SECTION 1. [844 IAC 11-1-2](#) IS AMENDED TO READ AS FOLLOWS:

**[844 IAC 11-1-2](#) "School or program" defined**

**Authority:** [IC 25-34.5-2-7](#)

**Affected:** [IC 25-34.5-2-8](#)

Sec. 2. "School or program", as mentioned in [IC 25-34.5-2-8\(b\)](#), means a program for the education of respiratory care practitioners. The board hereby adopts the standards and guidelines of the Commission on Accreditation of Allied Health Education Programs for the Profession of Respiratory Care adopted in 1962 and revised in 1972, 1977, 1986, and 2000. The standards and guidelines are hereby incorporated by reference and made applicable to this title and specifically to this section. A current copy of the document may be purchased by contacting the Committee on Accreditation for Respiratory Care, ~~4248 Harwood Road, Bedford, Texas 76024-4244 or the Health Professions Bureau, 264 Precision Boulevard, Telford, TN 37690 or the Indiana Professional Licensing Agency, Indiana Government Center South, 402 West Washington Street, Room W044 W072, Indianapolis, Indiana IN 46204.~~

*(Medical Licensing Board of Indiana; [844 IAC 11-1-2](#); filed Oct 26, 1990, 3:05 p.m.: 14 IR 448; readopted filed Nov 30, 2001, 10:25 a.m.: 25 IR 1320; readopted filed Oct 4, 2007, 3:35 p.m.: [20071031-IR-844070054RFA](#); readopted filed Nov 25, 2013, 9:24 a.m.: [20131225-IR-844130307RFA](#); readopted filed Nov 12, 2019, 9:11 a.m.: [20191211-IR-844190074RFA](#))*

SECTION 2. [844 IAC 11-4-5](#) IS AMENDED TO READ AS FOLLOWS:

**[844 IAC 11-4-5](#) Incompetent practice**

**Authority:** [IC 25-34.5-2-7](#)

**Affected:** [IC 25-34.5-2](#)

Sec. 5. The following establishes incompetent practice of a respiratory care practitioner:

- (1) Willful or repeated violation of a rule of the medical licensing board of Indiana or a lawful order of the committee previously entered in a disciplinary hearing.
- (2) Accepting or performing professional responsibilities which the license holder knows, or has reason to know, ~~he or she is~~ **they are** not competent to perform.
- (3) Professional incompetence in the practice of respiratory care.
- (4) Failure to deliver respiratory care services with a level of care, skill, and treatment which is recognized by a reasonably prudent respiratory care practitioner with similar professional training as being acceptable under similar conditions and circumstances.
- (5) Exercising influence on a patient in such a manner as to exploit the patient for financial gain of the certificate holder or a third party, which shall include, but not be limited to, the promoting or selling of services, goods, or appliances.
- (6) Payment or receipt of ~~any~~ **a** commission, bonus, kickback, rebate, or fee splitting arrangement in any form whatsoever with any person or organization. This subdivision shall not be construed to prevent the certificate

holder from receiving a fee for professional consultation services.

(7) Exercising influence within a respiratory care relationship for purposes of engaging a patient in sexual activity.

(8) Inaccurately recording, falsifying, or altering patient records, including, but not limited to, patient charts or medication administration records.

(9) Falsely misrepresenting facts on an application for employment as a respiratory care practitioner.

(10) Leaving a respiratory therapy assignment before properly advising appropriate personnel.

(11) ~~Discriminating on the basis of race, creed, religion, sex, age, or national origin in the rendering of respiratory therapy services as it relates to human rights and the dignity of an individual.~~ **In the rendering of respiratory therapy services, discriminating on the basis of race, color, national origin, religion, sex, age, disability, ancestry, or status as a veteran.**

(12) Impersonating or acting as a proxy for an applicant in ~~any~~ **an** examination required for licensure **or subsequent credentials earned.**

(13) Impersonating another licensed practitioner or permitting another person to use ~~his or her~~ **their** license for the purpose of practicing respiratory therapy for compensation.

(14) Providing false or incorrect information to an employer regarding the status of ~~his or her~~ **their** license.

(15) Abandoning a patient.

(Medical Licensing Board of Indiana; [844 IAC 11-4-5](#); filed Nov 14, 1991, 3:30 p.m.: 15 IR 584; readopted filed Nov 30, 2001, 10:25 a.m.: 25 IR 1322; readopted filed Oct 4, 2007, 3:35 p.m.: [20071031-IR-844070054RFA](#); readopted filed Nov 25, 2013, 9:24 a.m.: [20131225-IR-844130307RFA](#); readopted filed Nov 12, 2019, 9:11 a.m.: [20191211-IR-844190074RFA](#))

SECTION 3. [844 IAC 11-4-6](#) IS AMENDED TO READ AS FOLLOWS:

#### **[844 IAC 11-4-6](#) Reporting unprofessional conduct**

**Authority:** [IC 25-34.5-2-7](#)

**Affected:** [IC 25-34.5-2](#)

Sec. 6. (a) A practitioner who has personal knowledge based upon a reasonable belief that another practitioner holding the same licensure has engaged in illegal, unlawful, incompetent, or fraudulent conduct in the practice of respiratory care shall promptly report such conduct to ~~a peer review or similar body, as defined in [IC 34-4-12-6-1](#)~~ (c), having jurisdiction over the offending practitioner and the matter. ~~This subsection does not prohibit a practitioner from promptly reporting said conduct directly to the respiratory care committee. Further, a practitioner who has personal knowledge of any person engaged in, or attempting to engage in, the unauthorized practice of respiratory care shall promptly report such conduct to the respiratory care committee.~~

(b) A practitioner who voluntarily submits ~~himself or herself~~ to, or is otherwise undergoing a course of treatment for addiction, severe dependency upon alcohol or other drugs or controlled substances, or for psychiatric impairment, where ~~such the~~ treatment is sponsored or supervised by an impaired respiratory care practitioner committee of a state, regional, or local organization of professional health care providers, or where ~~such the~~ treatment is sponsored or supervised by an impaired respiratory care practitioner committee of a hospital; **by an employer**, shall be exempt from reporting to ~~a peer review committee or to the respiratory care committee~~ as long as:

(1) the practitioner is complying with the course of treatment; and

(2) the practitioner is making satisfactory progress.

(c) If the practitioner fails to comply with, or is not benefited by, the course of treatment, the ~~practitioner/chief administrative officer, his designee, or any member of the impaired practitioner committee~~ **practitioner and employer** shall promptly report ~~such~~ **these** facts and circumstances to the respiratory care committee. This subsection shall not, in any manner whatsoever, directly or indirectly, be deemed or construed to prohibit, restrict, limit, or otherwise preclude the respiratory care committee from taking ~~such~~ action as it deems appropriate or as may otherwise be provided by law.

(Medical Licensing Board of Indiana; [844 IAC 11-4-6](#); filed Nov 14, 1991, 3:30 p.m.: 15 IR 584; readopted filed Nov 30, 2001, 10:25 a.m.: 25 IR 1322; readopted filed Oct 4, 2007, 3:35 p.m.: [20071031-IR-844070054RFA](#); readopted filed Nov 25, 2013, 9:24 a.m.: [20131225-IR-844130307RFA](#); readopted filed Nov 12, 2019, 9:11 a.m.: [20191211-IR-844190074RFA](#))

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SECTION 4. [844 IAC 11-5-1](#) IS AMENDED TO READ AS FOLLOWS:

**[844 IAC 11-5-1](#) Address; change of name**

**Authority:** [IC 25-34.5-2-7](#)

**Affected:** [IC 25-34.5-2](#)

Sec. 1. (a) ~~Each~~ **A** respiratory care practitioner shall inform the committee, in writing, of all changes of address or name within fifteen (15) days of the change.

(b) A respiratory care practitioner's failure to receive notification of renewal due to failure to notify the committee of a change of address or name shall not constitute an error on the part of the committee, board, or ~~bureau~~, **agency**, nor shall it exonerate or otherwise excuse the respiratory care practitioner from renewing ~~such a~~ license.

*(Medical Licensing Board of Indiana; [844 IAC 11-5-1](#); filed Sep 29, 1992, 2:00 p.m.: 16 IR 723; readopted filed Nov 30, 2001, 10:25 a.m.: 25 IR 1323; readopted filed Oct 4, 2007, 3:35 p.m.: [20071031-IR-844070054RFA](#); readopted filed Nov 25, 2013, 9:24 a.m.: [20131225-IR-844130307RFA](#); readopted filed Nov 12, 2019, 9:11 a.m.: [20191211-IR-844190074RFA](#))*

SECTION 5. [844 IAC 11-5-3](#) IS AMENDED TO READ AS FOLLOWS:

**[844 IAC 11-5-3](#) Continuing education hours required**

**Authority:** [IC 25-34.5-2-10](#)

**Affected:** [IC 25-34.5-2-10](#)

Sec. 3. (a) ~~Each~~ **A** respiratory care practitioner licensed in Indiana is required to complete an annual average of seven and one-half (7.5) hours of continuing education during each biennium (January 1 of odd-numbered year to December 31 of succeeding even-numbered year) in the area of respiratory care. **A practitioner shall complete a total of fifteen (15) hours each biennium.**

(b) A respiratory care practitioner is not required to complete continuing education requirements for the year in which the initial license was issued.

(c) Continuing education hours must be obtained within the biennial renewal period and may not be carried over from one (1) licensure period to another.

(d) ~~No~~ **Not** more than ~~five (5)~~ **seven and one-half (7.5)** hours of continuing education can be obtained through correspondence courses **or distance learning** during the biennium.

(e) The committee shall accept continuing education courses in the following areas toward fulfillment of the requirements under [IC 25-34.5-2-10\(a\)](#):

- (1) Management of the practice of respiratory care.
- (2) Courses concerning the practice of respiratory care that do the following:
  - (A) Enable individuals to teach continuing education courses for respiratory care practitioners.
  - (B) Enable respiratory care ~~practitioner~~ **practitioners** to teach topics related to patient/family education.
- (3) The practice of respiratory care.

(f) **The practitioner responsible for presenting the approved continuing education program shall be entitled to earn an equivalent number of education credits for which the course is approved. However, the instructor may not:**

- (1) be credited for more than five (5) hours of continuing education for instructing in a two (2) year renewal period; or**
- (2) receive credit for repeated courses.**

*(Medical Licensing Board of Indiana; [844 IAC 11-5-3](#); filed Sep 29, 1992, 2:00 p.m.: 16 IR 723; filed Aug 4, 1994, 5:00 p.m.: 17 IR 2869; readopted filed Nov 30, 2001, 10:25 a.m.: 25 IR 1323; readopted filed Oct 4, 2007, 3:35 p.m.: [20071031-IR-844070054RFA](#); readopted filed Nov 25, 2013, 9:24 a.m.: [20131225-IR-844130307RFA](#);*

SECTION 6. [844 IAC 11-5-4](#) IS AMENDED TO READ AS FOLLOWS:

**[844 IAC 11-5-4](#) Reporting continuing education**

**Authority:** [IC 25-34.5-2-10](#)

**Affected:** [IC 25-34.5-2-10](#)

Sec. 4. (a) A licensee must sign the renewal form provided by the ~~bureau~~ **Indiana professional licensing agency** that verifies that all continuing education requirements according to section 3 of this rule will have been met by the ~~time of license renewal~~ **December 31 or the end of the biennium**.

(b) The respiratory care practitioner shall maintain ~~his or her~~ **their** continuing education records of a given biennium for a period of four (4) years following the end of the biennium.

(c) It is the responsibility of the respiratory care practitioner to verify that courses attended have been approved by the committee. Without approval, as provided under section 5 of this rule, credit will not be given.

**(d) The committee shall, at the end of each biennium, conduct a random audit of continuing education requirements.**

*(Medical Licensing Board of Indiana; [844 IAC 11-5-4](#); filed Sep 29, 1992, 2:00 p.m.: 16 IR 723; readopted filed Nov 30, 2001, 10:25 a.m.: 25 IR 1323; readopted filed Oct 4, 2007, 3:35 p.m.: [20071031-IR-844070054RFA](#); readopted filed Nov 25, 2013, 9:24 a.m.: [20131225-IR-844130307RFA](#); readopted filed Nov 12, 2019, 9:11 a.m.: [20191211-IR-844190074RFA](#))*

SECTION 7. [844 IAC 11-5-5](#) IS AMENDED TO READ AS FOLLOWS:

**[844 IAC 11-5-5](#) Approval of continuing education programs**

**Authority:** [IC 25-34.5-2-10](#)

**Affected:** [IC 25-34.5-2-10](#)

Sec. 5. (a) The following criteria shall be used for approval of continuing education programs for respiratory care practitioners:

- (1) The continuing education program shall have a statement of objectives which the program should achieve for its participants relating to and enhancing the study of respiratory care.
- (2) The sponsor of continuing education programs shall provide adequate administration, including a responsible person to coordinate and administer the program, and shall provide for the maintenance of proper records.
- ~~(3) Sponsors of continuing education programs shall provide adequate funding for the educational programs undertaken.~~
- ~~(4)~~ **(3)** The curriculum of a continuing education program shall be thoughtfully planned and designed to explore in considerable depth one (1) subject or a closely related group of subjects related to the practice of respiratory care.
- ~~(5)~~ **(4)** The continuing education program shall have qualified ~~faculty members~~ **presenters** who have demonstrated competence in the subject areas.
- ~~(6)~~ **(5)** The continuing education program shall be held in adequate facilities that allow for an effective program.
- ~~(7)~~ **(6)** Continuing education programs shall employ a variety of educational methods and teaching aids that enhance the learning opportunities.
- ~~(8)~~ **(7)** Appropriate methods of evaluation shall be devised and used to measure the continuing education program's effectiveness.
- ~~(9)~~ **(8)** The sponsor of the continuing education program shall provide to the participants a meaningful record of attendance stating the continuing education hours involved.

(b) Programs for continuing education may be approved by the committee provided the sponsoring

organization has submitted the proper form at least thirty (30) days prior to presentation of the program.

(c) The sponsor of the program is responsible for monitoring attendance in such a manner that verification of attendance throughout the entire program can be reliably assured.

(d) Notwithstanding subsections (a) and (b), continuing education programs for respiratory care practitioners sponsored by the following organizations are approved as follows:

(1) American Association of Respiratory Care or one (1) of its chartered affiliates.

(2) American Medical Association – **Accreditation Counsel for Continuing Medical Education (ACCME).**

**(3) Indiana State Medical Association.**

**(4) American Hospital Association.**

**(5) Indiana Hospital Association.**

~~(3)~~ **(6) American Nurses Association or one (1) of its chartered affiliates.**

~~(4)~~ **(7) Indiana State Nurses Association.**

~~(5)~~ **(8) American College of Chest Physicians.**

~~(6)~~ **(9) American Academy of Pediatrics.**

~~(7)~~ American Academy of Pediatrics Certification/Recertification, including the following:

~~(A) Pediatric Advanced Life Support (PALS) eight (8) hours.~~

~~(B) Neonatal Resuscitation Certification (NRC) four (4) hours.~~

~~(C) Pediatric Advanced Life Support (PALS) Instructor Course eight (8) hours.~~

~~(D) Neonatal Resuscitation Certification (NRC) Instructor Course four (4) hours.~~

~~(8)~~ **(10) American Heart Association seminar programs, excluding competency-based programs, such as Pediatric Advanced Life Support (PALS), Advanced Cardiac Life Support (ACLS), Basic Life Support (BLS), or Neonatal Resuscitation Program (NRP).**

~~(9)~~ American Heart Association Certification/Recertification, including the following:

~~(A) Advanced Cardiac Life Support (ACLS) eight (8) hours.~~

~~(B) Basic Cardiac Life Support (CPR) two (2) hours.~~

~~(C) Advanced Cardiac Life Support (ACLS) Instructor Course eight (8) hours.~~

~~(D) Basic Cardiac Life Support (CPR) Instructor Course four (4) hours.~~

~~(E) Automated External Defibrillator Certification four (4) hours.~~

~~(F) Automated External Defibrillator Certification Instructor Course four (4) hours.~~

~~(10)~~ **(11) Society of Critical Care Medicine.**

**(12) American Academy of Sleep Medicine.**

~~(11)~~ **(13) American Association of Critical Care Nurses.**

~~(12)~~ **(14) American Society of Anesthesiologists.**

~~(13)~~ **(15) American Polysomnographers Technologist.**

~~(14)~~ **(16) American Osteopathic Association.**

~~(15)~~ **(17) National Society for Cardiopulmonary Technologists.**

~~(16)~~ **(18) American Thoracic Society.**

~~(17)~~ **(19) American Lung Association.**

~~(e) The following programs shall be approved by the committee for the following number of hours:~~

~~(1) Intermediate Electrocardiography (EKG) one (1) hour.~~

~~(2) Atlanta School of Sleep Medicine and Technology, "Seminar on Sleep Study and Technology" two (2) week seminar eight (8) hours.~~

(Medical Licensing Board of Indiana; [844 IAC 11-5-5](#); filed Sep 29, 1992, 2:00 p.m.: 16 IR 723; filed Aug 4, 1994, 5:00 p.m.: 17 IR 2870; readopted filed Nov 30, 2001, 10:25 a.m.: 25 IR 1324; readopted filed Oct 4, 2007, 3:35 p.m.: [20071031-IR-844070054RFA](#); readopted filed Nov 25, 2013, 9:24 a.m.: [20131225-IR-844130307RFA](#); readopted filed Nov 12, 2019, 9:11 a.m.: [20191211-IR-844190074RFA](#))

SECTION 8. THE FOLLOWING ARE REPEALED: [844 IAC 11-1-5](#); [844 IAC 11-3-2](#); [844 IAC 11-3-3](#); [844 IAC 11-3-3.1](#); [844 IAC 11-3-4](#).

[Notice of Public Hearing](#)

Posted: 12/14/2022 by Legislative Services Agency

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