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**TITLE 844 MEDICAL LICENSING BOARD OF
INDIANA**

Proposed Rule
LSA Document #03-261

DIGEST

Amends 844 IAC 6-1-4 to incorporate by reference the April 2002 edition of Commission on Accreditation in Physical Therapy Education, Accreditation Handbook. Amends 844 IAC 6-3-1 to revise the requirements for licensure by endorsement for physical therapists and physical therapist's assistants. Amends 844 IAC 6-3-2 to revise the requirements for licensure by examination for physical therapists and physical therapist's assistants. Amends 844 IAC 6-3-4 to revise the application requirements for licensure as a physical therapist and certification for physical therapist's assistants. Amends 844 IAC 6-3-5 to revise the requirements for a temporary permit. Adds 844 IAC 6-3-6 to establish requirements for the collection and use of the Social Security number for applicants who apply for a license, certificate, or permit under IC 25-27-1. Amends 844 IAC 6-4-3 to change registration to certificate. Amends 844 IAC 6-6 to modify the requirements for the reinstatement of a suspended license to practice as a physical therapist and a certificate to act as a physical therapist's assistant. Amends 844 IAC 6-7 to revise the standards of professional conduct and competent practice of physical therapy and practice as a physical therapist's assistant. Repeals 844 IAC 6-6-1 and 844 IAC 6-6-2. Effective 30 days after filing with the secretary of state.

844 IAC 6-1-4	844 IAC 6-4-3
844 IAC 6-3-1	844 IAC 6-6-1
844 IAC 6-3-2	844 IAC 6-6-2
844 IAC 6-3-4	844 IAC 6-6-3
844 IAC 6-3-5	844 IAC 6-6-4
844 IAC 6-3-6	844 IAC 6-7-2

SECTION 1. 844 IAC 6-1-4, AS AMENDED AT 26 IR 377, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

844 IAC 6-1-4 Accreditation of educational programs

Authority: IC 25-27-1-5

Affected: IC 4-22-2-21; IC 25-27-1-1

Sec. 4. (a) The committee shall maintain a list of physical therapy and physical therapist's assistant educational programs ~~which~~ **that** the committee has approved. This list shall be available in written form from the Health Professions Bureau, 402 West Washington Street, Room ~~W041~~, **W066**, Indianapolis, Indiana 46204.

(b) An approved program is one maintaining standards equivalent to those adopted by the Commission on Accreditation in Physical Therapy Education (CAPTE), Accreditation Handbook, ~~August 2000~~ **April 2002** edition. These standards are hereby adopted as those of the committee and are hereby incorporated by reference under IC 4-22-2-21 and do not include any amendments or subsequent editions. A copy of such standards shall be available for public inspection at the office of the Health Professions Bureau, 402 West Washington Street, Room ~~W041~~, **W066**, Indianapolis, Indiana 46204. Copies of such standards are available from the American Physical Therapy Association, 1111 North Fairfax Street, Alexandria, Virginia 22314 or at <http://www.apta.org/Education/accreditation>.

(c) An educational program, or a graduate or candidate for graduation from an educational program, which is not on the list of approved programs maintained by the committee, may apply to the committee for approval by petition demonstrating that the educational program meets the committee's standards for approval.

(d) The committee may remove an educational program from its list of approved programs upon the grounds that the educational program no longer meets its standards for approval. (*Medical Licensing Board of Indiana; 844 IAC 6-1-4; filed Aug 6, 1987, 3:00 p.m.: 10 IR 2732; filed Sep 22, 1994, 4:30 p.m.: 18 IR 263; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325; filed Oct 7, 2002, 11:51 a.m.: 26 IR 377*)

SECTION 2. 844 IAC 6-3-1 IS AMENDED TO READ AS FOLLOWS:

844 IAC 6-3-1 Licensure by endorsement

Authority: IC 25-27-1-5

Affected: IC 4-1-8-1; IC 25-1-9; IC 25-27-1

Sec. 1. The committee may issue a license by endorsement to an applicant who completes the following:

(1) Submits a sworn application in proper form.

(2) Submits the fee specified in ~~844 IAC 6-2-1~~. **844 IAC 6-2-2.**

(3) Presents satisfactory evidence that he or she does not have a conviction for an act, within or outside of this state, ~~which that~~ would constitute a ground for disciplinary sanction under IC 25-1-9.

(4) Has been certified by a written examination provided by the committee. The uniform criterion-referenced passing score on the physical therapy and physical ~~therapy~~ **therapist's** assistant examinations, which has been adopted by the board of directors of the Federation of State Boards of Physical Therapy, is the required passing score. This criterion-referenced passing score shall be ~~equated to a converted scaled~~ score of ~~seventy-five (75):~~ **six hundred (600)**. If the applicant was licensed in a state ~~which that~~ required an examination, other than an examination provided by the committee, the committee shall determine whether the applicant took and passed a postgraduate written examination substantially equivalent in content and difficulty to the examination adopted by the committee.

(5) Submits verification from all states in which the applicant has been or is currently licensed-certified. ~~which statement shall~~ **The verification must include a statement verifying** whether the applicant has ever been disciplined in any manner.

(6) ~~Submits evidence that applicant is a graduate of a physical therapy or a physical therapist's assistant program. If the transcript is not written in English, the applicant must submit a certified copy of an official English translation.~~

~~(7)~~ **(6)** Submits an official transcript of grades from a physical therapy ~~school~~ or physical ~~therapist assistant's~~ **therapist's** ~~assistant~~ **school showing** ~~evidencing that the applicant is a graduate of a physical therapist or physical therapist's assistant entry-level educational program that meets the requirements of 844 IAC 6-1-4 and that a degree has been conferred. If the transcript is not in English, the applicant must submit a certified copy of an official English translation.~~ Graduates of a foreign physical therapy program must submit notarized copies of their transcripts if official transcripts are unavailable.

~~(8)~~ **(7)** Submits one (1) passport-type quality photograph of the applicant taken within the last eight (8) weeks.

(8) Submits the applicant's valid United States Social Security number.

(9) Meets all other minimum requirements as specified in IC 25-27-1.

(*Medical Licensing Board of Indiana; 844 IAC 6-3-1; filed Mar 10, 1983, 3:59 p.m.: 6 IR 774; filed Jun 11, 1984, 1:02 p.m.: 7 IR 1938; filed Aug 6, 1987, 3:00 p.m.: 10 IR 2732; filed Apr 5, 1990, 2:45 p.m.: 13 IR 1413; filed Sep 22, 1994, 4:30 p.m.: 18 IR 263; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

SECTION 3. 844 IAC 6-3-2 IS AMENDED TO READ AS FOLLOWS:

844 IAC 6-3-2 Licensure by examination

Authority: IC 25-27-1-5

Affected: IC 25-1-9; IC 25-27-1-6

Sec. 2. (a) The committee shall issue a license by examination to an applicant who completes the following:

(1) Submits a sworn ~~statement~~ **application** in proper form.

(2) Submits the fee specified in ~~844 IAC 6-2-1~~. **844 IAC 6-2-2.**

(3) Presents satisfactory evidence that he or she does not have a conviction for an act, within or outside of this state, ~~which that~~ would constitute a ground for disciplinary sanction under IC 25-1-9 and has not been the subject of a disciplinary action as stated in IC 25-27-1-6(a)(2).

(4) Successfully completes the examination provided by the committee. The uniform criterion-referenced passing score on the physical therapy or physical ~~therapy assistant's~~ **therapist's assistant** examination, which has been adopted by the board of directors of the Federation of State Boards of Physical Therapy, is the required passing score. This criterion-referenced passing

score shall be equated to a converted scaled score of ~~seventy-five (75)~~; **six hundred (600)**.

~~(5)~~ Submits evidence that the applicant is a graduate of a physical therapy or a physical therapist's assistant program that has been approved by the committee under ~~844 IAC 6-1-4~~.

~~(6)~~ **(5)** Submits one (1) passport-type quality photograph of the applicant taken within the last eight (8) weeks.

~~(7)~~ **(6)** Submits an official transcript of grades from a physical therapy or physical therapist's assistant's **therapist's assistant** school showing **evidence that the applicant is a graduate of a physical therapy or a physical therapist's assistant program that has been approved by the committee under 844 IAC 6-1-4** and that a degree has been conferred.

~~(8)~~ **(7)** Submits a certified copy of an English translation of any document that is not in English.

~~(9)~~ **(8)** Meets all other minimum requirements specified in IC 25-27-1.

(b) The committee may issue a license by examination to an applicant who has been educated as a physical therapist in a foreign country who submits the following:

(1) Information required by subsection (a).

(2) A certified copy of all academic records and an evaluation, from an accredited evaluation service approved by the committee, of all academic records and credentials for the committee's consideration in determining educational equivalence, such equivalence to be determined by the committee.

~~(c) If repeating the examination;~~ **For an applicant who has failed to pass the examination, in this state or any other state, the following apply:**

(1) After the first attempt, the applicant may retake the examination at their first available opportunity.

(2) After the second attempt, the applicant must wait at least ninety (90) days before reapplying to take the licensure examination.

(3) After the third or subsequent attempt, the applicant must wait at least one hundred eighty (180) days before reapplying to take the licensure examination.

(4) The applicant must pay the reexamination fee specified in ~~844 IAC 6-2-1~~; 844 IAC 6-2-2.

(Medical Licensing Board of Indiana; 844 IAC 6-3-2; filed Mar 10, 1983, 3:59 p.m.: 6 IR 774; filed Jun 11, 1984, 1:02 p.m.: 7 IR 1939; filed Aug 6, 1987, 3:00 p.m.: 10 IR 2733; filed Apr 5, 1990, 2:45 p.m.: 13 IR 1414; filed Sep 22, 1994, 4:30 p.m.: 18 IR 264; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325)

SECTION 4. 844 IAC 6-3-4 IS AMENDED TO READ AS FOLLOWS:

844 IAC 6-3-4 Applications for licensure as a physical therapist or certification as a physical therapist's assistant

Authority: IC 25-27-1-5

Affected: IC 25-27-1-6; IC 25-27-1-8

Sec. 4. (a) Persons desiring licensure as a physical therapist or **certification as a physical therapist's assistant** must file a completed application on a form provided by the committee.

(b) ~~All applicants filing to take the examination who are graduates of an approved curriculum for physical therapy or physical therapist's assistants must file a completed application no later than sixty (60) days prior to the examination; except that where such dates are a Saturday, Sunday, or holiday the deadline shall be the next business day immediately following such date. There is no deadline for endorsement applications. Persons submitting a completed application may be issued a temporary permit as provided by ~~IC 25-27-1-8~~; IC 25-27-1-8(d).~~

(c) ~~Students may be approved to sit for the examination if, on or before the filing date, a recognized official of the student's educational institute states that the student is expected to complete the educational requirements prior to the examination. Prior to the examination, the committee must receive notice from a recognized official of the educational institute, confirming satisfactory completion of all educational requirements. If such notice is not received, the student will be disqualified from taking the examination.~~

~~(d)~~ (c) At the time of submitting an original application to the committee, the applicant shall show to a staff member of the bureau, or to a member of the committee, the original physical therapist's or physical therapist's assistant's diploma or a certified copy of the diploma. A photocopy of the diploma may then be made for the files of the committee. In the event that such diploma has been lost or destroyed, the applicant shall submit the following:

(1) A statement under the signature and seal of the dean of the school from which the applicant graduated verifying that the applicant has satisfactorily completed:

- (A) the prescribed course of study;
- (B) the actual degree conferred; and
- (C) the date thereof: **the degree was conferred.**

(2) An affidavit made before a duly authorized official to administer ~~oath~~, **oaths**, fully and clearly stating the circumstances under which the applicant's diploma was lost or destroyed.

~~If a student has not received a diploma, the committee will accept a statement under the signature and seal of the dean of the school or college from which the applicant is expected to receive a diploma. The statement shall verify the date that the applicant is expected to receive a diploma.~~

~~(e)~~ **(d)** The fee for an application as specified in ~~844 IAC 6-2-1~~ **844 IAC 6-2-2** shall be made payable to the health professions bureau. The fee is nonrefundable if the applicant should decide to withdraw the application. *(Medical Licensing Board of Indiana; 844 IAC 6-3-4; filed Mar 10, 1983, 3:59 p.m.: 6 IR 775; filed Oct 17, 1986, 2:00 p.m.: 10 IR 433; filed Aug 6, 1987, 3:00 p.m.: 10 IR 2733; filed Sep 22, 1994, 4:30 p.m.: 18 IR 265; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325)*

SECTION 5. 844 IAC 6-3-5, AS AMENDED AT 26 IR 378, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

844 IAC 6-3-5 Temporary permits

Authority: IC 25-27-1-5

Affected: IC 25-27-1-6

Sec. 5. (a) For applicants for licensure by endorsement, the committee may **not** issue ~~a more than two (2) temporary nonrenewable permit permits~~ **permits** to an applicant for a license as a physical therapist or a certificate as a physical therapist's assistant where the applicant **submits verification of a valid license to practice physical therapy or a valid certificate to act as a physical therapist's assistant from another jurisdiction and** meets the requirements of section ~~1(1) through 1(4) and 1(7)~~ **1(1) through 1(4) and 1(7)** of this rule, except where

~~(1) the applicant has graduated from an educational program in another state, country, or territory, not accredited approved by the committee. or~~

~~(2) the applicant has not successfully completed the test required by section 2(a)(4) of this rule.~~

(b) For recent graduates, the committee may issue ~~a not more than two (2) temporary nonrenewable permit permits~~ **permits** to an applicant for a license as a physical therapist or a certificate as a physical therapist's assistant who is a graduate of an approved physical therapy program or an approved physical therapist's assistant program that meets the standards set by the committee and who has applied for and been approved by the committee to take the examination for which the applicant has applied for licensure or certification.

(c) A candidate for a license as a physical therapist or for a certificate as a physical therapist's assistant holding a temporary permit ~~hereunder under this section~~ shall only work under the direct supervision of a licensed physical therapist ~~or physician~~, and shall report to the committee, on a form provided by the committee, the name of the facility and supervising physical therapists. ~~or physicians.~~

(d) A temporary permit shall expire on the earliest date that any one (1) of the following events occurs:

(1) The applicant is licensed or certified.

(2) The application for licensure or certification is disapproved.

(3) Ninety (90) days has passed since the issuance of the temporary permit.

(Medical Licensing Board of Indiana; 844 IAC 6-3-5; filed Aug 6, 1987, 3:00 p.m.: 10 IR 2734; filed Sep 22, 1994, 4:30 p.m.: 18 IR 265; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325; filed Oct 7, 2002, 12:02 p.m.: 26 IR 378)

SECTION 6. 844 IAC 6-3-6 IS ADDED TO READ AS FOLLOWS:

844 IAC 6-3-6 Social Security numbers

Authority: IC 4-1-8-1; IC 25-27-1-15

Affected: IC 25-27-1-6

Sec. 6. (a) An applicant who applies for a license, certificate, or permit under IC 25-27-1 must submit to the committee the applicant's United States Social Security number.

(b) No application for a license, certificate, or permit will be approved before the Social Security number is submitted to the committee.

(c) The bureau and the committee will release the applicant's Social Security number as provided in state or federal law.

(d) The bureau and the boards may allow access to the Social Security number of each person who holds a license, certificate, or permit issued under IC 25-27-1 or has applied for a license, certificate, or permit under IC 25-27-1 to the following:

(1) A testing service that provides the examination for licensure to the bureau or the boards.

(2) An individual state regulatory board or an organization composed of state regulatory boards for the applicant's or licensee's profession for the purpose of coordinating licensure and disciplinary activities between the individual states.
(Medical Licensing Board of Indiana; 844 IAC 6-3-6)

SECTION 7. 844 IAC 6-4-3 IS AMENDED TO READ AS FOLLOWS:

844 IAC 6-4-3 Reinstatement of delinquent license

Authority: IC 25-27-1-5

Affected: IC 25-27-1-8

Sec. 3. (a) A physical therapist or physical therapist's assistant who is less than three (3) years delinquent in renewing a license or ~~registration certificate~~ shall be reinstated upon receipt of a renewal application, reinstatement fee, and renewal fees.

(b) If more than three (3) years have elapsed since the expiration of a license or ~~registration certificate~~, the applicant shall meet all requirements of 844 IAC 6-3-1 except that, where the applicant has not practiced for more than three (3) years, the committee may, after an appearance before the committee, require the applicant to retake and pass the examination provided by the committee.
(Medical Licensing Board of Indiana; 844 IAC 6-4-3; filed Mar 10, 1983, 3:59 p.m.: 6 IR 775; filed Aug 6, 1987, 3:00 p.m.: 10 IR 2735; filed Apr 5, 1990, 2:45 p.m.: 13 IR 1414; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325)

SECTION 8. 844 IAC 6-6-3 IS AMENDED TO READ AS FOLLOWS:

844 IAC 6-6-3 Duties of suspended licensees, certificate holders

Authority: IC 25-22.5-2-7; IC 25-27-1-5

Affected: IC 25-1-9

Sec. 3. In any case where a person's license or ~~registration certificate~~ has been suspended pursuant to ~~IC 25-27-1-10.1(c)(2); under IC 25-1-9~~, said person shall **do the following**:

(1) Within thirty (30) days from the date of the order of suspension, file with the physical therapy committee an affidavit showing ~~that:~~ **the following**:

(A) All active patients then under the licensee's or ~~registrant's certificate holder's~~ care have been notified in the manner and method specified by the committee of the licensee's or ~~registrant's certificate holder's~~ suspension and consequent inability to act for or on their behalf in a professional capacity. Such notice shall advise all such patients to seek the services of another licensee or ~~registrant certificate holder~~ of good standing of their own choice.

(B) All hospitals **and** medical and health care facilities where such licensee or ~~registrant certificate holder~~ has privileges or staff status have been informed of the suspension order.

(C) Reasonable arrangements were made for the transfer of patient records, radiographic studies, and test results, or copies thereof, to a succeeding licensee or ~~registrant certificate holder~~ employed by the patient or those responsible for the patient's care.

(2) Prove compliance with this section as a condition precedent to reinstatement.

(Medical Licensing Board of Indiana; 844 IAC 6-6-3; filed Aug 6, 1987, 3:00 p.m.: 10 IR 2736; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325)

SECTION 9. 844 IAC 6-6-4 IS AMENDED TO READ AS FOLLOWS:

844 IAC 6-6-4 Protection of patients' interests

Authority: IC 25-22.5-2-7; IC 25-27-1-5

Affected: IC 25-1-9

Sec. 4. Whenever a person's license or ~~registration certificate~~ has been suspended pursuant to ~~IC 25-27-1-10.1(e)(2)~~, **under IC 25-1-9** and said person has not fully complied with the provisions of ~~844 IAC 6-6-3 and 844 IAC 6-6-4~~, **section 3 of this rule and this section** or if said licensee or ~~registrant certificate holder~~ has disappeared, or died, or is otherwise unable to comply with ~~said sections~~, **section 3 of this rule and this section**, the physical therapy committee shall request the health professions bureau or the Indiana chapter of the American Physical Therapy Association to take such action as may be appropriate to protect the interests of that person's patients. (*Medical Licensing Board of Indiana; 844 IAC 6-6-4; filed Aug 6, 1987, 3:00 p.m.: 10 IR 2736; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

SECTION 10. 844 IAC 6-7-2 IS AMENDED TO READ AS FOLLOWS:

844 IAC 6-7-2 Standards of professional conduct and competent practice

Authority: IC 25-27-1-5

Affected: IC 16-39-1-1; IC 25-1-9-9; IC 25-27-1; IC 34-6-2-99; IC 34-30-15-1

Sec. 2. (a) A practitioner when engaging in the practice of physical therapy shall abide by, and comply with, the following standards of professional conduct **in this section**.

(a) (b) A practitioner shall maintain the confidentiality of all knowledge and information regarding a patient, including, but not limited to, the patient's:

- (1) diagnosis;
- (2) treatment; and
- (3) prognosis;

of which the practitioner has knowledge during the course of the patient-practitioner relationship. Information about a patient shall be disclosed by a practitioner when required by law, including, but not limited to, the requirements of ~~IC 34-4-12.6-1~~ **IC 34-30-15-1 et seq.** and ~~IC 16-4-8-1~~ **IC 16-39-1-1 et seq.**, and any amendments thereto, or when authorized by the patient or those responsible for the patient's care.

(b) (c) A practitioner shall give a truthful, candid, and reasonably complete account of the patient's condition to the patient or to those responsible for the patient's care, except where a practitioner reasonably determines that the information is detrimental to the physical or mental health of:

- (1) the patient; or ~~to the physical or mental health of~~
- (2) those persons responsible for the patient's care.

(c) (d) The practitioner shall give reasonable written notice to the patient and to the referring physician, podiatrist, psychologist, chiropractor, or dentist when the practitioner withdraws from a case so that another referral may be made by the referring physician, podiatrist, psychologist, chiropractor, or dentist. A practitioner shall not abandon a patient. A practitioner who withdraws from a case, except in emergency circumstances, shall, upon written request, comply with the provisions of ~~IC 16-4-8-1 through IC 16-4-8-4~~ **IC 16-39-1-1 et seq.**, and of any subsequent amendment or revision thereof, when a patient requests health records.

(d) (e) A practitioner shall exercise reasonable care and diligence in the treatment of patients based upon generally accepted scientific principles, methods, treatments, and current professional theory and practice.

(e) (f) A practitioner shall not:

- (1) represent;
- (2) advertise;
- (3) state or
- (4) indicate;

the possession of any degree recognized as the basis for licensure to practice physical therapy unless the practitioner is actually

licensed on the basis of such degree in the **state or** states in which he **or** she practices.

~~(f)~~ **(g)** A physical therapist shall not delegate to supportive personnel any service ~~which that~~ requires the skill, knowledge, and judgment of the licensed physical therapist.

~~(g)~~ **(h)** A physical therapist's assistant shall not accept a delegation of a service ~~which that~~ exceeds the scope of practice of their ~~registration certificate~~ as defined in ~~844 IAC 6-1-2(3)~~: **844 IAC 6-1-2(g)(3)**.

~~(h)~~ **(i)** A practitioner who has personal knowledge based upon a reasonable belief that another practitioner holding the same license **or certificate** has engaged in illegal, unlawful, incompetent, or fraudulent conduct in the practice of physical therapy shall promptly report such conduct to a peer review or similar body, as defined in ~~IC 34-4-12.6-1(c)~~ **IC 34-6-2-99 and as provided in IC 34-30-15-1 et seq.**, having jurisdiction over the offending practitioner and the matter. This provision does not prohibit a practitioner from promptly reporting said conduct directly to the physical therapy committee. Further, a practitioner who has personal knowledge of any person engaged in, or attempting to engage in, the unauthorized practice of medicine or physical therapy shall promptly report such conduct to the medical licensing board or the physical therapy committee.

~~(2)~~ **(j)** A practitioner who voluntarily submits himself **or** herself to, or is otherwise undergoing a course of treatment for:

(1) addiction;

(2) severe dependency upon alcohol or other drugs or controlled substances; ~~or for~~

(3) psychiatric impairment;

where such treatment is sponsored or supervised by ~~an a committee for impaired physical therapists committee practitioners~~ **practitioners** of a state, regional, or local organization of professional health care providers, or where such treatment is sponsored or supervised by ~~an a committee for impaired physical therapist committee practitioners~~ **practitioners** of a hospital, shall be exempt from reporting to a peer review committee as set forth in subsection ~~(h)(i)~~ **(i)** or to the physical therapy committee so long as

~~(A)~~ the practitioner is complying with the course of treatment

~~(B)~~ ~~the practitioner is and~~ making satisfactory progress.

If the practitioner fails to comply with or is not ~~benefitted~~ **benefitted** by the course of treatment, the practitioner-chief administrative officer, his **or her** designee, or any member of the **committee for impaired physical therapist committee practitioners** shall promptly report such facts and circumstances to the physical therapy committee. **Subsection (i) and** this subsection shall not, in any manner whatsoever, directly or indirectly, be deemed or construed to prohibit, restrict, limit, or otherwise preclude the physical therapy committee from taking such action as it deems appropriate or as may otherwise be provided by law.

~~(i)~~ **(k)** Fees charged by a practitioner for his **or** her professional services shall be reasonable and shall reasonably compensate the practitioner only for services actually rendered.

~~(2)~~ **(l)** A practitioner shall not enter into agreement for, charge, or collect an illegal or clearly excessive fee.

~~(3)~~ **(m)** Factors to be considered in determining the reasonableness of a fee include, but are not limited to, the following:

~~(A)~~ **(1)** The difficulty ~~and/or or~~ uniqueness, **or both**, of the services performed and the time, skill, and experience required.

~~(B)~~ **(2)** The fee customarily charged in the locality for similar practitioner services.

~~(C)~~ **(3)** The amount of the charges involved.

~~(D)~~ **(4)** The quality of performance.

~~(E)~~ **(5)** The nature and length of the professional relationship with the patient. ~~and~~

~~(F)~~ **(6)** The experience, reputation, and ability of the practitioner in performing the kind of services involved.

~~(j)~~ **(n)** A practitioner shall not pay, demand, or receive compensation for referral of a patient except for a patient referral program operated by a professional society or association.

~~(k)~~ **(o)** A practitioner shall be responsible for the conduct of each and every person employed by the practitioner for every action or failure to act by said employee or employees in the course of the employment relationship.

~~(l)~~ **(p)** A practitioner shall not, on behalf of:

(1) himself **or** herself;

(2) a partner;
(3) an associate;
(4) a shareholder in a professional corporation; or
(5) any other practitioner or specific health care provider affiliated with the practitioner;
use, or participate in the use of, any form of public communication containing a false, fraudulent, misleading, deceptive, or unfair statement or claim.

(2) (q) Subject to the requirements of subsection (1)(1) of this section, (p), and in order to facilitate the process of informed selection of a practitioner by the public, a practitioner may advertise services through the public media, provided that the advertisement is dignified and confines itself to the existence, scope, nature, and field of practice of physical therapy.

(3) (r) If the advertisement in subsection (q) is communicated to the public by radio, cable, or television, it shall be prerecorded and approved for broadcast by the practitioner, and a recording and transcript of the actual transmission shall be retained by the practitioner for a period of five (5) years from the last date of broadcast.

(4) (s) If a practitioner advertises a fee for:
(1) a service;
(2) a treatment;
(3) a consultation;
(4) an examination; or
(5) any other procedure;
the practitioner must render that service or procedure for no more than the fee advertised.

(5) (t) Except as otherwise provided in these rules, a practitioner shall not contact or solicit individual members of the public personally or through an agent in order to offer services to such person or persons unless that individual initiated contact with the practitioner for the purpose of engaging that practitioner's professional services.

(m) (u) A practitioner may, whenever the practitioner believes it to be beneficial to the patient, and upon approval of the referring physician, podiatrist, psychologist, chiropractor, or dentist, send or refer a patient to a qualified specific professional health care provider for treatment or health care which that falls within the specific professional health care provider's scope of practice. Prior to any such referral, however, the practitioner shall examine and/or or consult with, or both, the patient and the referring physician, podiatrist, psychologist, chiropractor, or dentist to insure ensure that a condition exists in the patient which that would be within the scope of practice of the specific professional health care provider to whom the patient is referred or sent.

(n) (1) (v) A practitioner, upon:
(1) his or her retirement; or upon
(2) discontinuation of the practice of physical therapy; or upon
(3) leaving or moving from a community;
shall not sell, convey, or transfer for valuable consideration, remuneration, or for anything of value patient records of that practitioner to any other practitioner.

(2) (w) A practitioner, upon:
(1) retiring from private practice; or upon
(2) discontinuation of the private practice of physical therapy; or upon
(3) leaving or moving from a community;
shall notify all of his or her active patients in writing, or by publication once a week for three (3) consecutive weeks in a newspaper of general circulation in the community, that he or she intends to discontinue his or her practice of physical therapy in the community, and shall notify the referring physician, podiatrist, psychologist, chiropractor, or dentist of each active patient. The practitioner discontinuing his or her practice shall make reasonable arrangements with his or her active patients for the transfer of his or her records, or copies thereof, to the referring physician, podiatrist, psychologist, chiropractor, or dentist who shall make the records, or copies thereof, available to the succeeding practitioner or to a program conducted by a professional society or association.

(3) (x) As used herein, "active patient" applies and refers to a person whom the practitioner has:

- (1) examined;
- (2) treated;
- (3) cared for; or
- (4) otherwise consulted with;

during the two (2) year period prior to retirement, discontinuation of the practice of physical therapy, or leaving or moving from a community.

(y) A practitioner shall not base his fee upon the uncertain outcome of a contingency, whether such contingency be the outcome of litigation or any other occurrence or condition ~~which that~~ may or may not develop, occur, or happen.

(z) A practitioner shall not attempt to exonerate himself ~~or herself~~ from or limit his ~~or her~~ liability to a patient for his ~~or her~~ personal malpractice except that a practitioner may enter into agreements ~~which that~~ contain informed, voluntary releases ~~and/or~~ or waivers of liability, ~~or both~~, in settlement of a claim made by a patient or by those responsible for a patient's care.

(aa) A practitioner shall not attempt to preclude, prohibit, or otherwise prevent the filing of a complaint against him ~~or her~~ by a patient or other practitioner for any alleged violation of ~~844 IAC or of any alleged violation of this title~~, IC 25-27-1 et seq., or ~~of~~ any other law.

(bb) A practitioner shall maintain adequate patient records.

(cc) A practitioner shall not interfere with, or refuse to cooperate in, an investigation or disciplinary proceeding by willful misrepresentation of facts or the use of threats or harassment against any patient or witness to prevent them from providing evidence in a disciplinary proceeding or any legal action.

(dd) A practitioner shall not aid or abet a person not licensed or certified in this state who directly or indirectly performs activities requiring a license or certificate.

(ee) A practitioner shall not practice as a physical therapist or work as a physical therapist's assistant when physical or mental abilities are impaired by the use of:

- (1) controlled substances;
- (2) other habit-forming drugs;
- (3) chemicals; or
- (4) alcohol.

(ff) A practitioner shall not engage in the performance of substandard care due to a deliberate or negligent act or failure to act regardless of whether there was actual injury to the patient.

(gg) A practitioner shall not engage in sexual misconduct, including the following:

- (1) Making sexual advances.
- (2) Requesting sexual favors.
- (3) Engaging in verbal conduct or physical contact of a sexual nature with patients, clients, or coworkers.

(hh) A practitioner who has been convicted of a felony, or who has pled no contest or any other finding of guilt as to such felony, in this or any other state, territory, or country, which demonstrates impaired judgment or risk to the public in the practitioner's future provision of physical therapy service, may be deemed to be in violation of this section.

(ii) Failure to comply with the above standards of professional conduct and competent practice of physical therapy may result in disciplinary proceedings against the offending practitioners. Further, all practitioners licensed in Indiana shall be responsible for having knowledge of these standards of conduct and practice. (*Medical Licensing Board of Indiana; 844 IAC 6-7-2; filed Oct 3, 1988, 2:36 p.m.: 12 IR 386; errata filed Oct 11, 1988, 3:00 p.m.: 12 IR 391; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

SECTION 11. THE FOLLOWING ARE REPEALED: 844 IAC 6-6-1; 844 IAC 6-6-2.

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on February 28, 2004 at 9:45 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room C, Indianapolis, Indiana the Medical Licensing Board of Indiana will hold a public hearing on proposed amendments to incorporate by reference the April 2002 edition of Commission on Accreditation in Physical Therapy Education, Accreditation Handbook, to revise the requirements for licensure by endorsement for physical therapists and physical therapist's assistants, to revise the requirements for licensure by examination for physical therapists and physical therapist's assistants, to revise the application requirements for licensure as a physical therapist and certification for physical therapist's assistants, to revise the requirements for a temporary permit, to establish requirements for the collection and use of the Social Security number for applicants who apply for a license, certificate, or permit under IC 25-27-1, to change registration to certificate, to modify the requirements for the reinstatement of a suspended license to practice as a physical therapist and a certificate to act as a physical therapist's assistant, and to revise the standards of professional conduct and competent practice of physical therapy and practice as a physical therapist's assistant. Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W066 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Lisa R. Hayes
Executive Director
Health Professions Bureau