

TITLE 844 MEDICAL LICENSING BOARD OF INDIANA

ARTICLE 1. GENERAL PROVISIONS

Rule 1. Examinations; Podiatrists; Chiropractors; Physicians

844 IAC 1-1-1 Applicants licensed in more than one state; endorsement (Repealed)

Sec. 1. *(Repealed by Medical Licensing Board of Indiana; filed Aug 5, 1987, 4:30 pm: 10 IR 2730)*

844 IAC 1-1-2 Podiatry colleges; recognition (Repealed)

Sec. 2. *(Repealed by Medical Licensing Board of Indiana; filed Apr 12, 1984, 8:28 am: 7 IR 1535)*

844 IAC 1-1-3 Examinations; photograph of applicant; seating (Repealed)

Sec. 3. *(Repealed by Medical Licensing Board of Indiana; filed Apr 12, 1984, 8:28 am: 7 IR 1535)*

844 IAC 1-1-4 Advertising by podiatrists (Repealed)

Sec. 4. *(Repealed by Medical Licensing Board of Indiana; filed Apr 12, 1984, 8:28 am: 7 IR 1535)*

844 IAC 1-1-5 Podiatry endorsement fee (Repealed)

Sec. 5. *(Repealed by Medical Licensing Board of Indiana; filed Aug 5, 1987, 4:30 pm: 10 IR 2730)*

844 IAC 1-1-6 Podiatry schools; classification, recognition and inspection (Repealed)

Sec. 6. *(Repealed by Medical Licensing Board of Indiana; filed Apr 12, 1984, 8:28 am: 7 IR 1535)*

844 IAC 1-1-7 Applicants matriculating in podiatry college (Repealed)

Sec. 7. *(Repealed by Medical Licensing Board of Indiana; filed Apr 12, 1984, 8:28 am: 7 IR 1535)*

844 IAC 1-1-8 Chiropractic schools or colleges; curriculum and degree requirements; request for board approval (Repealed)

Sec. 8. *(Repealed by Medical Licensing Board of Indiana; filed May 3, 1985, 10:44 am: 8 IR 1159)*

844 IAC 1-1-9 Chiropractic license by endorsement (Repealed)

Sec. 9. *(Repealed by Medical Licensing Board of Indiana; filed May 3, 1985, 10:44 am: 8 IR 1159)*

844 IAC 1-1-10 Licenses by endorsement with national board examinations (Repealed)

Sec. 10. *(Repealed by Medical Licensing Board of Indiana; Rule 80, B; filed Nov 5, 1981, 12:50 pm: 4 IR 2850)*

844 IAC 1-1-11 Temporary medical permit (Repealed)

Sec. 11. *(Repealed by Medical Licensing Board of Indiana; Rule 81, A; filed Nov 5, 1981, 12:50 pm: 4 IR 2850)*

844 IAC 1-1-12 Limitation of practice with “temporary medical permit” (Repealed)

Sec. 12. *(Repealed by Medical Licensing Board of Indiana; Rule 81, B; filed Nov 5, 1981, 12:50 pm: 4 IR 2850)*

Rule 2. Fees (Repealed)

(Repealed by Medical Licensing Board of Indiana; Rule 1; filed Nov 5, 1981, 12:50 pm: 4 IR 2850)

ARTICLE 2. PHYSICIANS' ASSISTANTS (REPEALED)

(Repealed by Medical Licensing Board of Indiana; filed Oct 3, 1988, 2:35 p.m.: 12 IR 386)

ARTICLE 2.1. PHYSICIAN'S ASSISTANTS (REPEALED)

(Repealed by Medical Licensing Board of Indiana; filed May 26, 2000, 8:52 a.m.: 23 IR 2502)

ARTICLE 2.2. PHYSICIAN ASSISTANTS

Rule 1. Definitions

844 IAC 2.2-1-1 Applicability

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5-1

Sec. 1. The definitions in this rule apply throughout this title. *(Medical Licensing Board of Indiana; 844 IAC 2.2-1-1; filed May 26, 2000, 8:52 a.m.: 23 IR 2498)*

844 IAC 2.2-1-2 "Board" defined

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5-1

Sec. 2. "Board" refers to the medical licensing board of Indiana. *(Medical Licensing Board of Indiana; 844 IAC 2.2-1-2; filed May 26, 2000, 8:52 a.m.: 23 IR 2498)*

844 IAC 2.2-1-3 "Committee" defined

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5-1; IC 25-27.5-3-1

Sec. 3. "Committee" refers to the physician assistant committee established by IC 25-27.5-3-1. *(Medical Licensing Board of Indiana; 844 IAC 2.2-1-3; filed May 26, 2000, 8:52 a.m.: 23 IR 2498)*

844 IAC 2.2-1-4 "NCCPA" defined

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5-1

Sec. 4. "NCCPA" refers to the National Commission on Certification of Physician Assistants. *(Medical Licensing Board of Indiana; 844 IAC 2.2-1-4; filed May 26, 2000, 8:52 a.m.: 23 IR 2498)*

844 IAC 2.2-1-5 "Physician assistant" defined

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5-1

Sec. 5. "Physician assistant" means an individual who has:

(1) graduated from an approved physician assistant or surgeon assistant program; and

(2) passed the certifying examination and maintains certification by the NCCPA.
(*Medical Licensing Board of Indiana; 844 IAC 2.2-1-5; filed May 26, 2000, 8:52 a.m.: 23 IR 2498*)

Rule 2. General Provisions

844 IAC 2.2-2-1 Applications

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5-1-2

Sec. 1. (a) The application for certification of a physician assistant must be made upon forms supplied by the committee.

(b) Each application for certification as a physician assistant or for a temporary permit while waiting for the next committee meeting shall include all of the following information:

- (1) Complete names, address, and telephone number of the physician assistant.
- (2) Satisfactory evidence of the following:
 - (A) Completion of an educational program approved by the committee.
 - (B) Passage of the Physician Assistant National Certifying Examination administered by the NCCPA.
 - (C) A current NCCPA certificate.
- (3) All names used by the physician assistant, explaining the reason for such name change or use.
- (4) Date and place of birth of the physician assistant, and age at the time of application.
- (5) Citizenship and visa status if applicable.
- (6) Whether the physician assistant has been licensed, certified, or registered in any other jurisdiction and, if so, the dates thereof.
- (7) Whether the physician assistant has had any disciplinary action taken against the license, certificate, or registration by the licensing or regulatory agency of any other state or jurisdiction, and the details and dates thereof.
- (8) A complete listing of all places of employment, including:
 - (A) the name and address of employers;
 - (B) the dates of each employment; and
 - (C) employment responsibilities held or performed;that the applicant has had since becoming a physician assistant in any state or jurisdiction.
- (9) Whether the physician assistant is, or has been, addicted to, or is chemically dependent upon, any narcotic drugs, alcohol, or other drugs, and if so, the details thereof.
- (10) Whether the applicant has been denied a license, certificate, approval, or registration as physician assistant by any other state or jurisdiction, and, if so, the details thereof, including the following:
 - (A) The name and location of the state or jurisdiction denying licensure.
 - (B) Certification, approval, or registration.
 - (C) The date of denial of the certification, approval, or registration.
 - (D) The reasons relating to the denial of certification, approval, or registration.
- (11) Whether the physician assistant has been convicted of, or pleaded guilty to, any violation of federal, state, or local law relating the use, manufacturing, distributing, sale, dispensing, or possession of controlled substances or of drug addiction, and, if so, all of the details relating thereto.
- (12) Whether the physician assistant has been convicted of, or pleaded guilty to, any federal or state criminal offense, felony, or misdemeanor, except for traffic violations that resulted only in fines, and, if so, all of the details thereto.
- (13) Whether the physician assistant was denied privileges in any hospital or health care facility, or had such privileges revoked, suspended, or subjected to any restriction, probation, or other type of discipline or limitation, and, if so, all of the details relating thereto, including the name and address of the hospital or health care facility, the date of such action, and the reasons therefore.
- (14) Whether the physician assistant has ever been admonished, censured, reprimanded, or requested to withdraw, resign, or retire from any hospital or health care facility in which the physician assistant was employed, worked, or held privileges.
- (15) Whether the physician assistant has had any malpractice judgments entered against him or her or settled any malpractice action or cause of action, and, if so, a complete, detailed description of the facts and circumstances relating thereto.
- (16) A statement from the supervising physician that the physician assistant is, or will be, supervised by that physician.

(17) A description of the setting in which the physician assistant shall be working under the physician supervision.

(18) The name, business address, and telephone number of the physician under whose supervision the physician assistant will be supervised.

(19) One (1) passport-type photo taken of the applicant within the last eight (8) weeks.

(c) All information in the application shall be typewritten, except the signature, and submitted under oath or affirmation, subject to the penalties of perjury.

(d) Each applicant for certification as a physician assistant shall submit an executed authorization and release form supplied by the committee that:

(1) authorizes the committee or any of its authorized representatives to inspect, receive, and review;

(2) authorizes and directs any:

(A) person;

(B) corporation;

(C) partnership;

(D) association;

(E) organization;

(F) institute;

(G) forum; or

(H) officer thereof;

to furnish, provide, and supply to the committee all relevant documents, records, or other information pertaining to the applicant; and

(3) releases the committee, or any of its authorized representatives, and any:

(A) person;

(B) corporation;

(C) partnership;

(D) association;

(E) organization;

(F) institute;

(G) forum; or

(H) officer thereof;

from any and all liability regarding such inspection, review, receipt, furnishing, or supply of any such information.

(e) Application forms submitted to the committee must be complete in every detail. All supporting documents required by the application must be submitted with the application.

(f) Applicants for a temporary permit to practice as a physician assistant while waiting to take the examination or waiting for results of the examination must submit all requirements of subsection (b), except for subsection (b)(2)(B) and (b)(2)(C), in order to apply for a temporary permit.

(g) A temporary permit becomes invalid if the temporary permit holder fails to sit or fails to register for the next available examination. (*Medical Licensing Board of Indiana; 844 IAC 2.2-2-1; filed May 26, 2000, 8:52 a.m.: 23 IR 2498; errata filed Sep 21, 2000, 3:21 p.m.: 24 IR 382*)

844 IAC 2.2-2-2 Registration of supervising physician

Authority: IC 25-22.5-2-7

Affected: IC 25-27.5-6-4

Sec. 2. (a) A physician or osteopathic physician licensed under IC 25-22.5 who intends to supervise a physician assistant shall register his or her intent to do so with the board on a form approved by the board prior to commencing supervision of a physician assistant. The supervising physician shall include the following information on the form supplied by the board:

(1) The name, business address, and telephone number of the supervising physician.

(2) The name, business address, telephone number, and certification number of the physician assistant.

(3) The current license number of the physician.

(4) A statement that the physician will be supervising no more than two (2) physician assistants, and the name and certificate numbers of the physician assistants he or she is currently supervising.

(5) A description of the setting in which the physician assistant will practice under the supervising physician, including the specialty, if any, of the supervising physician.

(6) A statement that the supervising physician:

(A) will exercise continuous supervision over the physician assistant in accordance with IC 25-27.5-6 and this article;

(B) shall review all patient encounters maintained by the physician assistant within twenty-four (24) hours after the physician assistant has seen a patient; and

(C) at all times, retain professional and legal responsibility for the care rendered by the physician assistant.

(7) Detailed description of the process maintained by the physician for evaluation of the physician assistant's performance.

(b) The supervising physician shall, within fifteen (15) days, notify the board when the supervising relationship with the physician assistant is terminated, and the reason for such termination. In addition, notification shall be submitted to the committee. *(Medical Licensing Board of Indiana; 844 IAC 2.2-2-2; filed May 26, 2000, 8:52 a.m.: 23 IR 2499; errata filed Sep 21, 2000, 3:21 p.m.: 24 IR 382)*

844 IAC 2.2-2-3 Certification renewal

Authority: IC 25-22.5-2-7

Affected: IC 25-27.5-5-2

Sec. 3. (a) Every physician assistant holding a certificate issued by the committee shall renew his or her certificate every two (2) years, in even-numbered years.

(b) On or before April 30 every two (2) years in even-numbered years, the committee, or its duly authorized agent, shall notify each certificate holder that the certificate holder is required to renew with the committee. The committee, or its agent, shall furnish a certificate holder a form to be completed for renewal.

(c) Applications for all renewals must be made under oath or affirmation.

(d) Each certificate holder shall submit evidence of current NCCPA certification.

(e) Each certificate holder shall submit a fee as determined by the committee, in the form of a check, certified check, cashier's check, or postal money order payable to the order of the "Health Professions Bureau".

(f) Each certificate holder shall inform the committee, in writing, of all changes in address or name within thirty (30) days of the change.

(g) A certificate holder'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 or the health professions bureau, nor shall it exonerate or otherwise excuse the certificate holder from renewing such certificate.

(h) A physician assistant who is less than three (3) years delinquent in renewing a certificate may be reinstated upon receipt of the renewed application, renewal fees, and penalty fee.

(i) If more than three (3) years have elapsed since the expiration of a certificate to practice as a physician assistant, the applicant may be required by the committee to take and pass examination approved by the committee prior to reinstatement. *(Medical Licensing Board of Indiana; 844 IAC 2.2-2-3; filed May 26, 2000, 8:52 a.m.: 23 IR 2500)*

844 IAC 2.2-2-4 Reporting requirements

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5-1-2

Sec. 4. If for any reason a physician assistant discontinues working at the direction and/or under the supervision of the physician under which the physician assistant is registered with the board, such physician assistant shall inform the committee, in writing, within fifteen (15) days of such event. The physician assistant shall not commence practice under a new supervising physician until that physician registers his or her intent to supervise the physician assistant to the board under section 2 of this rule. The physician assistant, in such written report, shall inform the board of the specific reason for the discontinuation of supervision of the physician assistant. In addition, notification shall be submitted to the committee. *(Medical Licensing Board of Indiana; 844 IAC 2.2-2-4; filed May 26, 2000, 8:52 a.m.: 23 IR 2500)*

844 IAC 2.2-2-5 Privileges and duties

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5-1-2

Sec. 5. (a) When engaged in the physician assistant's professional activities, a physician assistant shall wear a name tag identifying the individual as a physician assistant and shall inform patients that he or she is a physician assistant. A physician assistant shall not portray himself or herself as a licensed physician.

(b) A physician assistant shall keep his or her certificate available for inspection at his or her primary place of business.

(c) The physician assistant may perform, under the supervision of the supervising physician, such duties and responsibilities within the scope of the supervising physician's practice. (*Medical Licensing Board of Indiana; 844 IAC 2.2-2-5; filed May 26, 2000, 8:52 a.m.: 23 IR 2500*)

844 IAC 2.2-2-6 Competent practice of physician assistants

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5-1-2; IC 25-22.5-6-2.1; IC 25-27.5; IC 35-48-2

Sec. 6. It shall be deemed willful misconduct or the incompetent practice as a physician assistant under IC 25-27.5 if a physician assistant certified by the committee has committed any of the following acts:

(1) The physician assistant has held himself or herself out or permitted another to represent him or her as a licensed physician.

(2) The physician assistant has, in fact, performed otherwise than under the direction and under the supervision of a physician licensed by the board.

(3) The physician assistant has been delegated a task or performed a task beyond his or her competence unless there may be some mitigating circumstances, such as the physician assistant attending a patient in a life-threatening emergency with no physician immediately available.

(4) The physician assistant has used intoxicants or drugs to such an extent that he or she is unable to perform competently and with safety as a physician assistant.

(5) The physician assistant has been convicted of a felony or other criminal offense involving moral turpitude in this state or any other state, territory, or country. As used in this subdivision, "conviction" includes:

(A) a conviction of an offense that, if committed in this state, would be deemed a felony or other criminal offense without regard to its designation elsewhere; or

(B) a criminal proceeding in which a finding or verdict of guilty is made or returned but the adjudication of guilt is either withheld or not entered thereon.

(6) The physician assistant has been judicially adjudicated as mentally or physically incompetent and/or his or her condition renders him or her unable to safely perform as a physician assistant.

(7) The physician assistant has failed, while on duty, to wear a name tag with a designation of physician assistant thereon, or if he or she has failed to make available for inspection his or her certificate as a physician assistant in the office of his or her primary employment as a physician assistant.

(8) The physician assistant has failed to be of good moral character and to abide by ethical standards.

(9) The physician assistant has engaged in independent practice or has received remuneration for medical services directly from the patient or a third party on his or her behalf, except for provisions as mandated by federal and state law.

(10) The physician assistant has failed to work under the supervision of the supervising physician designee.

(11) The physician assistant has advertised himself or herself in any manner that would tend to mislead the public generally or the patients of the supervising physician as to the physician assistant's role and status.

(12) The physician assistant has failed to maintain certification issued by the NCCPA.

(13) The physician assistant has neglected or failed to keep adequate patient records of services performed by the physician assistant and/or has not submitted those encounters for review by the supervising physician within twenty-four (24) hours of the time services were performed.

(14) The physician assistant has failed to follow the request of a patient to be seen, examined, and/or treated by a physician. In the event a patient makes such a request, the physician assistant and supervising physician shall take all necessary and appropriate actions to comply with the patient's request.

(15) The physician assistant has prescribed the use of a drug or medicine.

(16) The physician assistant has made a diagnosis or has instituted a treatment without the authorization of the supervising physician or physician designee.

(17) The physician assistant has dispensed or prescribed a schedule substance listed under IC 35-48-2.

(Medical Licensing Board of Indiana; 844 IAC 2.2-2-6; filed May 26, 2000, 8:52 a.m.: 23 IR 2501)

844 IAC 2.2-2-7 Discipline of physician assistants

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5-6-2.1; IC 25-27.5

Sec. 7. Disciplinary action may be taken against a physician assistant for violation of any of the following:

(1) Section 5 of this rule.

(2) IC 25-27.5.

(3) Section 6 of this rule.

(Medical Licensing Board of Indiana; 844 IAC 2.2-2-7; filed May 26, 2000, 8:52 a.m.: 23 IR 2501)

844 IAC 2.2-2-8 Registration of physician assistants; fees

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5-1-1.1; IC 25-22.5-1-2

Sec. 8. (a) A nonrefundable fee of thirty dollars (\$30) shall accompany the initial application for registration.

(b) A nonrefundable fee of twenty dollars (\$20) shall accompany an application for changing supervising physicians.

(c) A fee of twenty dollars (\$20) shall accompany each biannual application for renewal of the physician assistant certificate.

All such fees are nonrefundable. *(Medical Licensing Board of Indiana; 844 IAC 2.2-2-8; filed May 26, 2000, 8:52 a.m.: 23 IR 2501)*

ARTICLE 3. NURSE-MIDWIVES (TRANSFERRED)

NOTE: Transferred from the Medical Licensing Board of Indiana (844 IAC 3) to the Indiana State Board of Nursing (848 IAC 3) by P.L.185-1993, SECTION 16, effective July 1, 1993.

ARTICLE 4. MEDICAL DOCTORS; OSTEOPATHIC DOCTORS

Rule 1. General Provisions

844 IAC 4-1-1 Purpose

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5-3

Sec. 1. (a) The purpose for which this article is written is to embrace principles and guidelines not explicit within the law.

(b) Neither a limited license to practice a specialty, nor an unlimited license, on the basis of a specialty board certification, shall be issued unless the physician has fulfilled the licensure requirements listed in IC 25-22.5-3. *(Medical Licensing Board of Indiana; 844 IAC 4-1-1; filed Nov 5, 1981, 12:50 p.m.: 4 IR 2845; filed Apr 26, 1994, 5:00 p.m.: 17 IR 2067)*

Rule 2. Fees

844 IAC 4-2-1 Board fees (Repealed)

Sec. 1. *(Repealed by Medical Licensing Board of Indiana; filed Feb 11, 2002, 4:32 p.m.: 25 IR 2246)*

844 IAC 4-2-2 Board fees

Authority: IC 25-1-8-2; IC 25-22.5-2-7

Affected: IC 25-22.5-1-1.1

MEDICAL LICENSING BOARD OF INDIANA

Sec. 2. (a) Every qualified applicant for licensure to practice as a medical doctor or osteopathic doctor shall pay to the medical licensing board of Indiana the following fees:

Examination	\$250
Endorsement-in	\$250
Endorsement-out	\$10
Renewal fee	\$200 per biennium
Duplicate license	\$10

(b) Every applicant for permits authorized by the medical licensing board of Indiana shall pay to the medical licensing board of Indiana the following fees:

Temporary medical permit, endorsement candidates, teaching permit, postgraduate training	\$100
Renewal fee for a temporary medical permit	\$50
Temporary medical permit (nonrenewable, limited scope)	\$100

(Medical Licensing Board of Indiana; 844 IAC 4-2-2; filed Feb 11, 2002, 4:32 p.m.: 25 IR 2246)

Rule 3. Definitions and Exclusions

844 IAC 4-3-1 Diagnose; diagnosis

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5-1

Sec. 1. It is not necessary that the examination and diagnosis of biopsies, x-rays, or materials produced by a patient's body or substances obtained or removed from a patient's body be made in the presence of the patient. Information supplied either directly or indirectly by the patient may be utilized by the physician in arriving at such a diagnosis. The physician who makes such an examination or diagnosis is required to have a license to practice medicine or osteopathic medicine, although the physician does not see the patient. *(Medical Licensing Board of Indiana; 844 IAC 4-3-1; filed Nov 5, 1981, 12:50 p.m.: 4 IR 2846; filed Oct 29, 1991, 3:00 p.m.: 15 IR 242; readopted and extended filed Dec 10, 2001, 3:48 p.m.: 25 IR 1731)*

844 IAC 4-3-2 Surgical operation

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5-1-1.1

Sec. 2. "Surgical operation", as used in IC 25-22.5-1-1.1(a)(1)(C), includes, but is not limited to, the incising, cutting, or invading of human tissue by laser surgery. *(Medical Licensing Board of Indiana; 844 IAC 4-3-2; filed Oct 29, 1991, 3:00 p.m.: 15 IR 242; readopted and extended filed Dec 10, 2001, 3:48 p.m.: 25 IR 1731)*

Rule 4. Admission to Practice (Repealed)

(Repealed by Medical Licensing Board of Indiana; filed May 3, 1985, 10:44 am: 8 IR 1159)

Rule 4.1. Admission to Practice

844 IAC 4-4.1-1 License by endorsement

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5-3-1; IC 25-22.5-5-2; IC 25-22.5-6

Sec. 1. (a) Subject to the provisions contained in this section, the medical licensing board of Indiana shall issue a license by endorsement to an applicant who submits an application in proper form, together with the nonrefundable fee specified in 844 IAC 4-2-1, meets all other minimum requirements in IC 25-22.5-3-1, and demonstrates the following:

- (1) The applicant has not been convicted of any act or offense within or without this state which would constitute a basis for disciplining a physician under IC 25-22.5-6.
- (2) The applicant is a graduate of a medical school or osteopathic medical college maintaining a standard approved by the

medical licensing board of Indiana under IC 25-22.5-3.

(3) The applicant has been certified by written examination of:

(A) the National Board of Medical Examiners or the National Board of Examiners for Osteopathic Physicians and Surgeons, Inc.;

(B) the Federation of State Medical Boards of the United States, Inc. (FLEX); or

(C) the United States Medical Licensing Examination (USMLE);

as having satisfactorily completed examinations.

(b) The medical licensing board of Indiana may require an interview of any applicant under this section, in which case the applicant must be given adequate notice of the time, place, nature, and scope of, as well as a statement of the reasons for, the interview.

(c) Reciprocity or endorsement from all states requiring the FLEX, the National Boards, or the USMLE for examinations will be honored if the examination was, in the opinion of the medical licensing board of Indiana, equivalent in every respect to Indiana's examination at the time it was taken. License by endorsement may be issued to those applicants who obtained their licenses before the FLEX, the National Boards, or the USMLE were used if they meet all of the other requirements of the medical licensing board of Indiana. (*Medical Licensing Board of Indiana; 844 IAC 4-4.1-1; filed May 3, 1985, 10:44 a.m.: 8 IR 1151; filed Apr 26, 1994, 5:00 p.m.: 17 IR 2068*)

844 IAC 4-4.1-2 Temporary medical permits

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5-3-1; IC 25-22.5-4-1; IC 25-22.5-5-3; IC 25-22.5-6-2.1

Sec. 2. (a) Temporary medical permits, for the purpose of obtaining postgraduate medical education or training, including internship, transitional program, residency training, or other postgraduate medical education, in a medical institution or hospital located in Indiana which has standards for postgraduate medical education and training approved by the medical licensing board of Indiana, may be issued to persons who:

(1) have completed the academic requirements for the degree of doctor of medicine or doctor of osteopathic medicine from a medical school or osteopathic medical school approved by the medical licensing board of Indiana;

(2) have submitted an application for temporary medical permit;

(3) have paid the nonrefundable fee specified in 844 IAC 4-2-1(b); and

(4) have provided documented evidence of acceptance into a postgraduate medical education or training program.

Temporary medical permits issued under this subsection shall remain in force and effect for a period of one (1) year. If the applicant for a temporary medical permit has taken any of the written examinations specified in section 1(a)(3) of this rule, then, in such event, the temporary medical permit shall remain in force and effect for a period of sixty (60) days following receipt by the medical licensing board of Indiana of the results of such examination; provided, however, that a temporary medical permit issued under this subsection may be revoked for failure to comply with, or otherwise satisfy, the provisions of IC 25-22.5-3-1 or IC 25-22.5-4-1. Temporary medical permits issued under this subsection may be reissued for additional one (1) year periods in the discretion of the medical licensing board of Indiana, provided that the applicant submits an application therefor and pays the nonrefundable fee relating thereto. Additionally, temporary medical permits issued under this subsection shall limit the applicant's practice of medicine or osteopathic medicine to the postgraduate medical education or training program in a medical education institution or hospital in Indiana approved by the medical licensing board of Indiana in which the applicant is employed, assigned, or enrolled, which limitation shall be stated on the face of the temporary medical permit. Persons issued a temporary medical permit under this subsection shall not accept, receive, or otherwise be employed or engaged in any employment as a physician unless approved by, or otherwise made a part or adjunct of, the applicant's postgraduate medical education or training program.

(b) Persons holding a valid license to practice medicine or osteopathic medicine in another state or possession of the United States or Canada who seek licensure by endorsement in Indiana may be granted a temporary medical permit which, if issued under this subsection, shall remain in effect for a period of ninety (90) days or until the license by endorsement for which application has been made is processed, and the nonrefundable fee relating thereto is paid at the time application is made. Temporary medical permits issued under this subsection may be revoked for failure to comply with, or otherwise satisfy, the provisions of IC 25-22.5-3-1, IC 25-22.5-5-3, or IC 25-22.5-6-2.1.

(c) Persons licensed to practice medicine or osteopathic medicine by any board or licensing agency of any state or jurisdiction, foreign or domestic, may be issued a temporary medical permit which, if issued under this subsection, shall remain valid for a

nonrenewable period not to exceed thirty (30) days. Persons seeking a temporary medical permit under this subsection shall do the following:

- (1) Complete an application form supplied by the medical licensing board of Indiana, specifying the following:
 - (A) The reasons for seeking a temporary medical permit.
 - (B) The locations where medical services, if any, may be provided by the applicant.
 - (C) The type, extent, and specialization of medical services which the applicant intends to, or may, provide.
 - (D) The activity, organization, function, or event with regard to which medical services may be provided by the applicant.
 - (E) The languages spoken by the applicant.
 - (F) The applicant's residence and office addresses and phone numbers.
- (2) Pay to the medical licensing board of Indiana the nonrefundable fee specified by 844 IAC 4-2-1(b), at the time the application for temporary medical permit is filed.
- (3) Submit an executed authorization and release form supplied by the medical licensing board of Indiana which:
 - (A) authorizes the medical licensing board of Indiana, or any of its authorized representatives, to inspect, receive, and review information received under this subsection;
 - (B) authorizes and directs any person, corporation, partnership, association, organization, institute, forum, or officer thereof, to furnish, provide, and supply to the medical licensing board of Indiana all relevant documents, records, or other information pertaining to the applicant; and
 - (C) releases the medical licensing board of Indiana, or any of its authorized representatives, and any person, corporation, partnership, association, organization, institute, forum, or officer thereof, from any and all liability regarding such inspection, review, receipt, furnishing, or supplying of any such information.
- (4) Submit two (2) recent passport-type photographs of the applicant, taken within eight (8) weeks prior to filing the application, simultaneously with filing the application for a temporary medical permit.

Temporary medical permits issued under this subsection shall be limited to a specific activity, function, series of events, or purpose, and to a specific geographical area within the state, which limitations shall be stated on the face of the temporary medical permit. (*Medical Licensing Board of Indiana; 844 IAC 4-4.1-2; filed May 3, 1985, 10:44 a.m.: 8 IR 1151; filed Apr 26, 1994, 5:00 p.m.: 17 IR 2068*)

844 IAC 4-4.1-3 Examinations (Repealed)

Sec. 3. (*Repealed by Medical Licensing Board of Indiana; filed Apr 26, 1994, 5:00 p.m.: 17 IR 2076*)

844 IAC 4-4.1-3.1 Examinations

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5-3-1; IC 25-22.5-3-2

Sec. 3.1. (a) A license entitling the holder to practice medicine or osteopathic medicine in Indiana shall be issued by the medical licensing board of Indiana only after the applicant successfully passes the written examination. The examination shall be the United States Medical Licensing Examination (USMLE) or the National Board of Medical Examiners for Osteopathic Physicians or Surgeons (NBME).

(b) The deadlines for making application for Step III of the USMLE, which shall be given in June and December of each year, shall be March 15 and September 10, respectively, except that where such dates fall on a Saturday, Sunday, or holiday, the deadline shall be the next business day immediately following such date.

(c) This section does not apply to licensure by endorsement.

(d) Persons may take Step III of the USMLE who do the following:

- (1) Complete the academic requirements for the degree of doctor of medicine or doctor of osteopathy and graduate from a medical school or osteopathic medical school approved by the medical licensing board of Indiana.
- (2) Complete and file an application form supplied by the medical licensing board of Indiana for licensure or for the applicable temporary medical permit.
- (3) Pay to the medical licensing board of Indiana the nonrefundable fees specified in 844 IAC 4-2-1 at the time the application for licensure or for the applicable temporary medical permit is made.

- (4) Submit an executed authorization and release form supplied by the board.
- (5) Submit two (2) recent passport-type photographs of the applicant taken within the eight (8) weeks prior to filing the application for licensure or for temporary medical permit.
- (6) Successfully complete and pass:
 - (A) both Steps I and II of the USMLE;
 - (B) FLEX Component 1;
 - (C) Parts I and II of the NBME;
 - (D) Part I of the NBME and Step II of the USMLE; or
 - (E) Step I of the USMLE and Part II of the NBME.
- (7) If a graduate of a medical school in the United States, its possessions, or Canada submits proof of completion or expected completion within six (6) months, of one (1) year of postgraduate training in a hospital or institution in the United States, its possessions, or Canada which meets the standards approved by the nationally recognized medical or osteopathic accrediting bodies in the United States, for the purpose of graduate training, approved by the medical licensing board of Indiana.
- (8) For foreign medical graduates, if a graduate from a medical school outside the United States, its possessions, or Canada submits proof of completion, or expected completion within six (6) months, of two (2) years of postgraduate training in a hospital or institution in the United States or Canada which meets the standards approved by the nationally recognized medical or osteopathic accrediting bodies in the United States, for the purpose of graduate training.
- (9) For foreign medical graduates, if a graduate from a medical school outside the United States, its possessions, or Canada submits proof of being certified by ECFMG.
- (e) A score of seventy-five (75) is the minimum passing score for Step III of the USMLE. Step III of the USMLE may be taken three (3) times; provided, however, that an applicant must pass Steps I, II, and III within a seven (7) year period and must pass Step III within nineteen (19) months from the date the applicant first takes and fails Step III. This seven (7) year period begins when the applicant passes the first step, either Step I or Step II. In counting the number of attempts regarding USMLE steps, this includes previous attempts on Parts I, II, and III of the NBME and Components 1 and 2 of the FLEX. Temporary medical permits issued under section 2(a) of this rule to persons having passed Steps I and II of the USMLE, Component 1 of the FLEX, or Parts I and II of the NBME, and who have failed Step III of the USMLE, may be renewed and reissued to the applicant, provided that the applicant meets and satisfies the requirements of section 5 of this rule and 844 IAC 4-5-1. A foreign medical graduate must take and pass Step III of the USMLE within three (3) years from the date the applicant takes and passes Steps I and II of the USMLE, Component 1 of the FLEX, or Parts I and II of the NBME, and must be employed, assigned, or enrolled in a postgraduate medical education or training program in a medical education institution or hospital in Indiana approved by the medical licensing board of Indiana. Temporary medical permits, issued under section 2(b) of this rule, shall expire and become invalid without any other action taken by the medical licensing board of Indiana if the applicant fails to pass Step III of the USMLE within three (3) years from the date the applicant passes Steps I and II of the USMLE, Component 1 of the FLEX, or Parts I and II of the NBME. (*Medical Licensing Board of Indiana; 844 IAC 4-4.1-3.1; filed Apr 26, 1994, 5:00 p.m.: 17 IR 2070; errata filed Aug 2, 1994, 5:00 p.m.: 17 IR 2891*)

844 IAC 4-4.1-4 Unlimited licensure by FLEX examination (Repealed)

Sec. 4. (*Repealed by Medical Licensing Board of Indiana; filed Apr 26, 1994, 5:00 p.m.: 17 IR 2076*)

844 IAC 4-4.1-4.1 Unlimited licensure by examination

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5-3-1; IC 25-22.5-3-2

Sec. 4.1. An applicant for unlimited licensure by examination must:

- (1) pass one (1) of the following:
 - (A) Steps I, II, and III of the USMLE;
 - (B) Parts I and II of the NBME and Step III of the USMLE;
 - (C) Component 1 of the FLEX and Step III of the USMLE; or
 - (D) Parts I and II of the NBME and Component 2 of the FLEX.
- (2) meet the requirements of IC 25-22.5-3-1 or IC 25-22.5-3-2 and 844 IAC 4-5-1, if a foreign medical graduate; and
- (3) pay all applicable fees prior to being issued an unlimited license to practice medicine or osteopathic medicine.

Any combination, as listed in this section, other than Steps I, II, and III of the USMLE, will be accepted for medical licensure only if completed prior to the year 2000. Split FLEX scores, for example, Component 1 taken in one (1) state and Component 2 in another state, will be accepted by the medical licensing board of Indiana. (*Medical Licensing Board of Indiana; 844 IAC 4-4.1-4.1; filed Apr 26, 1994, 5:00 p.m.: 17 IR 2070; filed May 1, 1995, 10:45 a.m.: 18 IR 2257*)

844 IAC 4-4.1-5 Applications

Authority: IC 25-22.5-2-7

Affected: IC 25-1-8-2; IC 25-22.5-6-2.1

Sec. 5. (a) Persons seeking a temporary medical permit, temporary medical teaching permit, or unlimited licensure shall file an application therefor on a form to be supplied by the medical licensing board of Indiana.

(b) Persons seeking a temporary medical permit, temporary medical teaching permit, or unlimited licensure shall provide the following information on, or submit such information with, the application for licensure or permit:

- (1) Complete name, resident and office addresses with zip codes, and residence and business telephone numbers with area codes.
- (2) All names used by the applicant, explaining the reason for such name changes or uses.
- (3) Date and place of birth.
- (4) Citizenship and visa status, if applicable.
- (5) A complete statement of all premedical and medical education received, providing the names and locations of all colleges, schools, or universities attended, dates of attendance, degrees obtained or received, and grades received in each course or seminar.
- (6) Whether the applicant has previously taken the FLEX examination, United States Medical Licensing Examination (USMLE), National Boards, Osteopathic National Boards, LMCC, or state constructed examination, and, if so, where, when, and the results thereof.
- (7) Whether the applicant has ever had any disciplinary action taken against the applicant or the applicant's medical license by the medical licensing board of Indiana or by the licensing agency of any other state or jurisdiction, and the details and dates thereof.
- (8) A complete description of all postgraduate medical education and training received, including:
 - (A) internships, residencies, and fellowships; and
 - (B) the name and location where such postgraduate medical education and training were received, and the dates thereof.
- (9) The exact date of issuance of the doctor of medicine degree, or equivalent degree, or the doctor of osteopathy degree, and the name and location of the school conferring or granting such degree.
- (10) A complete list of all places of residence, including dates thereof, where the applicant has lived in the past ten (10) years.
- (11) A complete list of all places of employment, including:
 - (A) the name and address of employers;
 - (B) the dates of each employment; and
 - (C) employment responsibilities held or performed;which the applicant had in the last ten (10) years.
- (12) Whether the applicant is, or has been, addicted to, or is chemically dependent upon, any narcotic drugs, alcohol, or other drugs, and, if so, the details thereof.
- (13) Whether the applicant has been convicted of any violation of law relating to drug abuse, controlled substances, narcotic drugs, or any other drugs.
- (14) Whether the applicant has previously been licensed to practice medicine or osteopathic medicine in any other state or jurisdiction, and, if so:
 - (A) the names of such states or jurisdictions which previously licensed the applicant;
 - (B) the dates of such licensure;
 - (C) the licensure number; and
 - (D) the current status of such licensure.
- (15) Whether the applicant has been denied a license to practice medicine or osteopathic medicine by any state or jurisdiction, and, if so, the details thereof, including:
 - (A) the name and location of the state or jurisdiction denying licensure;

- (B) the date of denial of such licensure; and
 - (C) the reasons relating thereto.
- (16) A notarized or certified copy of original medical school or osteopathic medical school transcripts of subjects and grades, including a certified translation thereof if the transcript is in a language other than English.
- (17) Where the name on any document differs from the applicant's name, a notarized or certified copy of a marriage certificate or legal proof of name change must be submitted with the application.
- (18) A certified statement that the applicant has not been convicted of a criminal offense (excluding minor traffic violations) nor other offenses as specified in IC 25-22.5-6-2.1, or a certified statement listing all criminal offenses (excluding minor traffic violations) and all offenses as specified in IC 25-22.5-6-2.1 of which the applicant has been convicted. This listing must include:
- (A) the offense of which the applicant was convicted;
 - (B) the court in which the applicant was convicted; and
 - (C) the cause number in which the applicant was convicted.
- (19) A notarized copy of ECFMG, VQE, or Foreign Medical Graduate Examination in the medical sciences examination certification.
- (20) All information in the application shall be typewritten, except the signature, and submitted under oath or affirmation, subject to the penalties for perjury.
- (c) Persons seeking a temporary medical permit or unlimited licensure shall, in addition to the information required by subsection (b), provide the following information on, or submit such information with, the application for licensure or permit:
- (1) A list of all states in which the applicant has been licensed, including the license numbers and the dates of issuance and the status of each such license.
 - (2) Whether the applicant has been convicted of, or pleaded guilty to, any violation of federal, state, or local law relating to the use, manufacturing, distributing, sale, dispensing, or possession of controlled substances, or of drug addiction, and, if so, all of the details relating thereto.
 - (3) Whether the applicant has been convicted of, or pleaded guilty to, any federal or state criminal offense, felony, or misdemeanor, except for traffic violations which resulted only in fines, and, if so, all of the details relating thereto.
 - (4) Whether the applicant has ever been denied staff membership or privileges in any hospital or health care facility, or had such membership or privileges revoked, suspended, or subjected to any restriction, probation, or other type of discipline or limitation, and, if so, all of the details relating thereto, including the name and address of the hospital or health care facility, the date of such actions, and the reasons therefor.
 - (5) Whether the applicant has ever been admonished, censured, reprimanded, or requested to withdraw, resign, or retire from any hospital or health care facility in which the applicant was trained, held staff membership or privileges, or acted as a consultant.
 - (6) Whether the applicant has had any malpractice judgments entered against him or her or settled any malpractice action or cause of action, and, if so, a complete, detailed description of the facts and circumstances relating thereto.
 - (7) Submission of FLEX examination, National Board Examination, USMLE, or state board examination scores. If endorsement is based upon examination, the applicant shall obtain verification of such examination, obtain the certification of the other state licensing agency that the applicant's license is current, in good standing, and not encumbered, restricted, or limited in any way, and the applicant is a fit and proper person to receive a license in Indiana.
 - (d) All applicants for temporary medical permits or unlimited licenses to practice medicine, who meet the requirements of section 3.1(a) of this rule (or section 3.1(d)(8) and 3.1(d)(9) of this rule and 844 IAC 4-5-1, if a foreign medical graduate), must file completed applications accompanied by the applicable nonrefundable fees:
 - (1) on or before March 15 in order to be eligible to take Step III of the USMLE examination for the following month of June; and
 - (2) on or before September 10 in order to take Step III of the USMLE examination for the following month of December.Incomplete or late applications will be returned without consideration.
 - (e) Two (2) recent passport-type photographs of the applicant, taken within eight (8) weeks prior to filing, shall be submitted with each application. Such photographs shall be on a semigloss paper, not less than three (3) inches wide and four (4) inches high.
 - (f) The fees for each examination, for temporary medical permit, temporary medical teaching permit, and for unlimited licensure, and for such purposes as specified by 844 IAC 4-2-1, shall be paid in the form as provided under IC 25-1-8-2(d) to the health professions bureau. All such fees are nonrefundable.

(g) Each applicant for a temporary medical permit, a temporary medical teaching permit, or unlimited licensure shall submit an executed authorization and release form supplied by the medical licensing board of Indiana which:

- (1) authorizes the medical licensing board of Indiana, or any of its authorized representatives, to inspect, receive, and review information received under this subsection;
- (2) authorizes and directs any person, corporation, partnership, association, organization, institute, forum, or officer thereof, to furnish, provide, and supply to the medical licensing board of Indiana all relevant documents, records, or other information pertaining to the applicant; and
- (3) releases the medical licensing board of Indiana, or any of its authorized representatives, and any person, corporation, partnership, association, organization, institute, forum, or officer thereof, from any and all liability regarding such inspection, review, receipt, furnishing, or supply of any such information.

(h) At the time of submitting an original application to the medical licensing board of Indiana, the applicant shall provide the medical licensing board of Indiana with the original medical school or osteopathic medical school or college diploma or a certified copy thereof. A photocopy or replica of the diploma may then be made for files of the medical licensing board of Indiana. In the event that such diploma has been lost or destroyed, then in lieu thereof, a statement under the signature and seal of the dean of the medical school or osteopathic medical school or college from which he or she graduated, stating that he or she has satisfactorily completed the prescribed course of study, the actual degree conferred, and the date thereof shall be submitted to the medical licensing board of Indiana. In addition, the applicant shall submit an affidavit fully and clearly stating the circumstances under which his or her diploma was lost or destroyed. In exceptional circumstances, the medical licensing board of Indiana may accept, in lieu of a diploma or certified copy thereof, other types of evidence which establish that the applicant received a medical school or osteopathic medical school or college diploma and completed all academic requirements relating thereto. (*Medical Licensing Board of Indiana; 844 IAC 4-4.1-5; filed May 3, 1985, 10:44 a.m.: 8 IR 1154; filed Apr 26, 1994, 5:00 p.m.: 17 IR 2071*)

844 IAC 4-4.1-6 Examination results

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5-2-7

Sec. 6. Applicants taking Step III of the United State Medical Licensing Examination (USMLE) examination will be notified at the same time of the examination results approximately two (2) months after completion of the examination. Applicants are not permitted to know, or otherwise be informed of, the results of the examination in advance of the official notification. (*Medical Licensing Board of Indiana; 844 IAC 4-4.1-6; filed May 3, 1985, 10:44 a.m.: 8 IR 1156; filed Apr 26, 1994, 5:00 p.m.: 17 IR 2073; errata filed Aug 2, 1994, 5:00 p.m.: 17 IR 2891*)

844 IAC 4-4.1-7 Burden of proof

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5-2-7

Sec. 7. Every applicant for licensure, temporary medical permit, or temporary medical teaching permit shall demonstrate that he or she meets all of the qualifications required by Indiana statutes and by the rules of the medical licensing board of Indiana. In any proceeding before the medical licensing board of Indiana on an application to take Step III of the USMLE examination or for licensure, temporary medical permit, or temporary medical teaching permit, the burden of proof shall be on the applicant. (*Medical Licensing Board of Indiana; 844 IAC 4-4.1-7; filed May 3, 1985, 10:44 a.m.: 8 IR 1156; filed Apr 26, 1994, 5:00 p.m.: 17 IR 2073; errata filed Aug 2, 1994, 5:00 p.m.: 17 IR 2891*)

844 IAC 4-4.1-8 Screening of applications

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5-2-7

Sec. 8. (a) Duties of the Board. It shall be the duty of the board to screen each application for licensure. In doing so the board shall make appropriate inquiry and investigation bearing on an applicant's qualifications. When the board determines that an applicant possesses the necessary qualifications, such applicant's name shall be submitted for approval to take the written examination.

(b) Hearings. An applicant whose application for licensure, temporary medical permit or temporary medical teaching permit, or whose application for examination has been rejected, may petition the board in writing for reconsideration of such application no later than fifteen (15) days after the date of receipt of notice of such rejection. The board, upon hearing such petition for reconsideration, shall enter an order granting or denying such petition, or according such other relief as the board may deem appropriate based upon the evidence presented.

(c) Original Documentation. All documents required by law to be submitted to the board shall be originals or certified copies thereof. (*Medical Licensing Board of Indiana; 844 IAC 4-4.1-8; filed May 3, 1985, 10:44 am: 8 IR 1156*)

844 IAC 4-4.1-9 Approved medical schools

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5-2-7

Sec. 9. (a) An approved medical school or osteopathic medical school or college is one located within the United States or its possessions, Canada, or in any other country maintaining standards equivalent to those adopted by:

(1) the Liaison Committee on Medical Education, 1991, Functions and Structure of a Medical School, Standards for Accreditation of Medical Education Programs Leading to the M.D. Degree, which shall not include any later amendments or editions; or

(2) the Accreditation Standards and Procedures for Colleges of Osteopathic Medicine, as reviewed by the Bureau of Professional Education of the American Osteopathic Association, pages 564 through 572 of the 1986-87 American Osteopathic Association Yearbook and Directory of Osteopathic Physicians, Seventy-eighth Edition, October 1986, which shall not include any amendments or editions;

both of which standards are hereby adopted as those of the medical licensing board of Indiana and incorporated herein by reference.

(b) A copy of such standards shall be available for public inspection at the office of the Health Professions Bureau, 402 West Washington Street, Room 041, Indianapolis, Indiana 46204. Copies of such standards are available from the respective entity originally issuing the incorporated matter as follows:

(1) The American Medical Association, 515 North State Street, Chicago, Illinois 60610.

(2) The American Osteopathic Association, 212 East Ohio Street, Chicago, Illinois 60611.

(*Medical Licensing Board of Indiana; 844 IAC 4-4.1-9; filed May 3, 1985, 10:44 a.m.: 8 IR 1156; filed Mar 17, 1986, 10:00 a.m.: 9 IR 2059; filed May 13, 1987, 2:15 p.m.: 10 IR 2300; filed Apr 26, 1994, 5:00 p.m.: 17 IR 2073*)

844 IAC 4-4.1-10 Approved residency programs

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5-2-7

Sec. 10. (a) An approved residency program is one that meets the requirements and standards of:

(1) the 1991-92 Directory of Graduate Medical Education Programs Accredited by Accreditation Council for Graduate Medical Education of the American Medical Association which shall not include any later amendments or editions; or

(2) the Residency Training Requirements of the American Osteopathic Association, pages 596 through 600 of the 1986-87 American Osteopathic Association Yearbook and Directory of Osteopathic Physicians, Seventy-eighth Edition, October 1986, which shall not include any later amendments or editions.

Such requirements and standards are hereby incorporated herein by reference and made applicable to this section.

(b) A copy of such standards and requirements shall be available for public inspection at the office of the Health Professions Bureau, 402 West Washington Street, Room 041, Indianapolis, Indiana 46204. Copies of such standards are available from the respective entity originally issuing the incorporated matter as follows:

(1) The American Medical Association, 515 North State Street, Chicago, Illinois 60610.

(2) The American Osteopathic Association, 212 East Ohio Street, Chicago, Illinois 60611.

(*Medical Licensing Board of Indiana; 844 IAC 4-4.1-10; filed May 3, 1985, 10:44 a.m.: 8 IR 1157; filed May 13, 1987, 2:15 p.m.: 10 IR 2300; filed Apr 26, 1994, 5:00 p.m.: 17 IR 2074*)

844 IAC 4-4.1-11 Notice of address change

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5-2-7

Sec. 11. Every person issued a temporary medical permit, temporary medical teaching permit, or unlimited licensure shall inform the medical licensing board of Indiana of the following:

(1) Addresses where he or she is practicing medicine or osteopathic medicine within twenty (20) days after commencing such practice.

(2) In writing, all changes of addresses or removals from such addresses within twenty (20) days of each such occurrence.

A licensee's or permittee's failure to receive notification of licensure of permit renewal due to a failure to notify the medical licensing board of Indiana of a change of address shall not constitute an error on the part of the medical licensing board of Indiana nor shall it exonerate or otherwise excuse the licensee or permittee from renewing such license or permit as required by law. (*Medical Licensing Board of Indiana; 844 IAC 4-4.1-11; filed May 3, 1985, 10:44 a.m.: 8 IR 1157; filed Apr 26, 1994, 5:00 p.m.: 17 IR 2074*)

Rule 5. Preceptorships

844 IAC 4-5-1 Examination of foreign medical graduates

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5-3-2

Sec. 1. In addition to the minimum requirements of 844 IAC 4, all applicants who have graduated from a medical school outside the United States, its possessions or Canada, will be required to have taken and passed the V.Q.E. (Visa Qualifying Examination), which is administered by the National Board of Medical Examiners, or its successor or equivalent examination administered by the National Board of Medical Examiners, including, but not limited to, the Foreign Medical Graduate Examination in the Medical Sciences, which examinations may be designated by the Medical Licensing Board; provided however, that an applicant who is a citizen of the United States and has graduated from a medical school outside the United States, its possessions or Canada, is required to take and pass the E.C.F.M.G. (Educational Commission for Foreign Medical Graduates) examination and/or examinations, or its equivalent as designated by the medical licensing board of Indiana, and shall satisfactorily complete two (2) years of postgraduate training in a residency program approved by the Council on Medical Education of the American Medical Association. (*Medical Licensing Board of Indiana; 844 IAC 4-5-1; filed Nov 5, 1981, 12:50 pm: 4 IR 2848; filed Apr 12, 1984, 8:28 am: 7 IR 1522*)

844 IAC 4-5-2 Licensure requirements; foreign medical graduates (Repealed)

Sec. 2. (*Repealed by Medical Licensing Board of Indiana; filed May 3, 1985, 10:44 am: 8 IR 1159*)

Rule 6. Renewal of Physicians' Licenses

844 IAC 4-6-1 Mandatory renewal; time

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5

Sec. 1. Every physician holding a license issued by the medical licensing board of Indiana shall renew such license with the medical licensing board of Indiana biennially. (*Medical Licensing Board of Indiana; 844 IAC 4-6-1; filed Nov 5, 1981, 12:50 p.m.: 4 IR 2849; filed May 13, 1987, 2:15 p.m.: 10 IR 2300; filed Apr 26, 1994, 5:00 p.m.: 17 IR 2074; readopted and extended filed Dec 10, 2001, 3:47 p.m.: 25 IR 1732*)

844 IAC 4-6-2 Mandatory renewal; notice

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5

Sec. 2. On or before April 30, biennially, the medical licensing board of Indiana, or its duly authorized agent, shall notify each licensee that the licensee is required to renew with the medical licensing board of Indiana. The medical licensing board of Indiana, or its agent, shall furnish each licensee a form to be completed for renewal. (*Medical Licensing Board of Indiana; 844 IAC 4-6-2; filed Nov 5, 1981, 12:50 p.m.: 4 IR 2849; filed Apr 26, 1994, 5:00 p.m.: 17 IR 2074*)

844 IAC 4-6-3 Mandatory renewal; oath

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5

Sec. 3. Applications for all renewals must be made under oath or affirmation. (*Medical Licensing Board of Indiana; 844 IAC 4-6-3; filed Nov 5, 1981, 12:50 p.m.: 4 IR 2849; filed Apr 26, 1994, 5:00 p.m.: 17 IR 2074; readopted and extended filed Dec 10, 2001, 3:47 p.m.: 25 IR 1732*)

844 IAC 4-6-4 Mandatory renewal; fees

Authority: IC 25-22.5-2-7

Affected: IC 25-1-8-2; IC 25-22.5-7

Sec. 4. Each licensee shall submit a fee as determined by the medical licensing board of Indiana for each year or fraction thereof, in the form as provided under IC 25-1-8-2(d) payable to the order of the health professions bureau. (*Medical Licensing Board of Indiana; 844 IAC 4-6-4; filed Nov 5, 1981, 12:50 p.m.: 4 IR 2849; filed Apr 26, 1994, 5:00 p.m.: 17 IR 2075; readopted and extended filed Dec 10, 2001, 3:47 p.m.: 25 IR 1732*)

844 IAC 4-6-5 Delinquent renewal

Authority: IC 25-1-8-2; IC 25-22.5-2-7

Affected: IC 25-22.5-7-1

Sec. 5. In the event any licensee fails to submit his or her application for license renewal on or before September 1 of every other year, the licensee shall be required to pay a penalty fee in the amount of two hundred dollars (\$200), in addition to the regular renewal fee. (*Medical Licensing Board of Indiana; 844 IAC 4-6-5; filed Nov 5, 1981, 12:50 p.m.: 4 IR 2849; filed Apr 12, 1984, 8:28 a.m.: 7 IR 1522; filed Apr 26, 1994, 5:00 p.m.: 17 IR 2075*)

844 IAC 4-6-6 Mandatory renewal; failure to register

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5

Sec. 6. Upon the failure of any licensee to renew their license with the medical licensing board of Indiana by September 1 of each biennium, the medical licensing board of Indiana shall forthwith enter an order suspending the physician's license to practice medicine in the state of Indiana. Such order shall become effective ten (10) days from the entry thereof. A copy, thereof, shall be served upon the licensee by certified mail at the last address provided by the licensee to the medical licensing board of Indiana. (*Medical Licensing Board of Indiana; 844 IAC 4-6-6; filed Nov 5, 1981, 12:50 p.m.: 4 IR 2849; filed Apr 26, 1994, 5:00 p.m.: 17 IR 2075; readopted and extended filed Dec 10, 2001, 3:47 p.m.: 25 IR 1732*)

844 IAC 4-6-7 Practice after suspension

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5

Sec. 7. No physician shall engage in the practice of medicine in Indiana after the effective date of an order suspending the physician's license to practice. (*Medical Licensing Board of Indiana; 844 IAC 4-6-7; filed Nov 5, 1981, 12:50 p.m.: 4 IR 2849; filed Apr 26, 1994, 5:00 p.m.: 17 IR 2075; readopted and extended filed Dec 10, 2001, 3:47 p.m.: 25 IR 1732*)

844 IAC 4-6-8 Reinstatement after delinquent renewal of license

Authority: IC 25-1-8-2; IC 25-22.5-2-7
 Affected: IC 25-22.5-7-1

Sec. 8. Every physician who has become delinquent in renewing their license may be reinstated to practice by supplying the information requested by the medical licensing board of Indiana and paying a delinquent license renewal fee for the time accrued. The delinquent penalty fee shall be the sum of two hundred dollars (\$200) in addition to the regular license renewal fee. (*Medical Licensing Board of Indiana; 844 IAC 4-6-8; filed Nov 5, 1981, 12:50 p.m.: 4 IR 2850; filed Apr 12, 1984, 8:28 a.m.: 7 IR 1522; filed Apr 26, 1994, 5:00 p.m.: 17 IR 2075*)

844 IAC 4-6-9 Inactive status

Authority: IC 25-22.5-2-7
 Affected: IC 25-22.5

Sec. 9. Any physician who has retired from practice and wants to retain his or her license may do so for half of the usual registration fee as given in 844 IAC 4-2-1, provided that he or she does not maintain an office for the practice of medicine and does not charge for any medical services that he or she might render. A physician whose license is inactive may submit a written request to the medical licensing board of Indiana to reactivate his or her license by paying the full renewal fee. (*Medical Licensing Board of Indiana; 844 IAC 4-6-9; filed Nov 5, 1981, 12:50 p.m.: 4 IR 2850; filed Apr 26, 1994, 5:00 p.m.: 17 IR 2075; readopted and extended filed Dec 10, 2001, 3:47 p.m.: 25 IR 1732*)

844 IAC 4-6-10 Probation, suspension, or revocation

Authority: IC 25-22.5-2-7
 Affected: IC 25-22.5

Sec. 10. The willful performance of an act likely to deceive or harm the public shall include, but not be limited to, the following acts:

- (1) Aiding or abetting a person to practice medicine without a license.
- (2) Presigning prescriptions.
- (3) Prescribing or administering a drug for other than generally accepted therapeutic purposes.
- (4) Negligence in the practice of medicine.
- (5) False, deceptive, or misleading advertising.
- (6) Fraudulent practice of billing a patient or third party payer for services not rendered.

(*Medical Licensing Board of Indiana; 844 IAC 4-6-10; filed Nov 5, 1981, 12:50 p.m.: 4 IR 2850; filed Apr 26, 1994, 5:00 p.m.: 17 IR 2076; readopted and extended filed Dec 10, 2001, 3:47 p.m.: 25 IR 1732*)

Rule 7. SPEX Examination

844 IAC 4-7-1 "SPEX" defined

Authority: IC 25-22.5-2-7
 Affected: IC 25-1-9-11; IC 25-22.5-3-1; IC 25-22.5-6-1; IC 25-22.5-7-1

Sec. 1. (a) "SPEX" refers to the special purpose examination.

(b) SPEX is an objective and standardized cognitive examination designed to assist the medical licensing board of Indiana in the assessment of general, undifferentiated medical practice by physicians or osteopathic physicians who hold or have held a valid license in a United States or Canadian jurisdiction. (*Medical Licensing Board of Indiana; 844 IAC 4-7-1; filed May 1, 1995, 10:45 a.m.: 18 IR 2258; readopted and extended filed Dec 10, 2001, 3:48 p.m.: 25 IR 1731*)

844 IAC 4-7-2 Purpose of SPEX

Authority: IC 25-22.5-2-7
 Affected: IC 25-1-9-11; IC 25-22.5-3-1; IC 25-22.5-6-1; IC 25-22.5-7-1

Sec. 2. SPEX is offered by the medical licensing board of Indiana for reexamination of selected physicians, designated by the medical licensing board of Indiana, who may need to demonstrate to the medical licensing board of Indiana current medical knowledge due to, but not limited to, the following:

- (1) Physicians or osteopathic physicians seeking licensure reinstatement or reactivation under IC 25-1-9-11, IC 25-22.5-6-1(a), and IC 25-22.5-7-1(c), after some period of professional inactivity.
- (2) Applicants who are some years beyond initial examination and either are applicants by endorsement or are applicants who have not previously been licensed in Indiana.

(Medical Licensing Board of Indiana; 844 IAC 4-7-2; filed May 1, 1995, 10:45 a.m.: 18 IR 2258; readopted and extended filed Dec 10, 2001, 3:48 p.m.: 25 IR 1731)

844 IAC 4-7-3 Requirements to take SPEX

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9-11; IC 25-22.5-3-1; IC 25-22.5-6-1; IC 25-22.5-7-1

Sec. 3. An applicant wishing to take the SPEX examination must:

- (1) complete an application as prescribed by the medical licensing board of Indiana;
- (2) pay the applicant's cost of purchasing the examination payable to the examination service; and
- (3) submit an application to the Federation of State Medical Boards at least forty-two (42) days prior to the administration date of the examination.

(Medical Licensing Board of Indiana; 844 IAC 4-7-3; filed May 1, 1995, 10:45 a.m.: 18 IR 2258; readopted and extended filed Dec 10, 2001, 3:48 p.m.: 25 IR 1731)

844 IAC 4-7-4 SPEX passing score

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9-11; IC 25-22.5-3-1; IC 25-22.5-6-1; IC 25-22.5-7-1

Sec. 4. (a) A score of seventy-five (75) is the minimum passing score on the SPEX.

(b) SPEX scores will be reported directly to the medical licensing board of Indiana. The medical licensing board of Indiana will notify all applicants of their test scores. *(Medical Licensing Board of Indiana; 844 IAC 4-7-4; filed May 1, 1995, 10:45 a.m.: 18 IR 2258; readopted and extended filed Dec 10, 2001, 3:48 p.m.: 25 IR 1731)*

844 IAC 4-7-5 Examination dates

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9-11; IC 25-22.5-3-1; IC 25-22.5-6-1; IC 25-22.5-7-1

Sec. 5. The medical licensing board of Indiana will offer the SPEX examination twice a year, in June and in December, to individuals who have been designated to take it under section 2 of this rule. *(Medical Licensing Board of Indiana; 844 IAC 4-7-5; filed May 1, 1995, 10:45 a.m.: 18 IR 2258)*

ARTICLE 5. STANDARDS OF PROFESSIONAL CONDUCT AND COMPETENT PRACTICE OF MEDICINE

Rule 1. General Provisions

844 IAC 5-1-1 Definitions

Authority: IC 25-22.5-2-7

Affected: IC 25-10; IC 25-13; IC 25-14; IC 25-20; IC 25-22.5-6-2.1; IC 25-23; IC 25-24; IC 25-26; IC 25-27; IC 25-29; IC 25-33; IC 25-35.6; IC 35-48-1; IC 35-48-2

Sec. 1. For purposes of the standards of professional conduct and competent practice of medicine, the following definitions apply: (a) "Professional incompetence" may include, but is not limited to, a pattern or course of repeated conduct by a practitioner

demonstrating a failure to exercise such reasonable care and diligence as is ordinarily exercised by practitioners in the same or similar circumstances in the same or similar locality.

(b) "Practitioner" means a person who holds an unlimited license to practice medicine or osteopathic medicine in Indiana or a limited license or permit as may be issued by the board.

(c) "Specific professional health care provider" means any person who holds a specific license to practice in an area of health care in Indiana, including, but not limited to, the following persons:

- (1) any chiropractor licensed under IC 25-10;
- (2) any dental hygienist licensed under IC 25-13;
- (3) any dentist licensed under IC 25-14;
- (4) any hearing aid dealer licensed under IC 25-20;
- (5) any nurse licensed under IC 25-23;
- (6) any optometrist licensed under IC 25-24;
- (7) any pharmacist licensed under IC 25-26;
- (8) any physical therapist licensed under IC 25-27;
- (9) any podiatrist licensed under IC 25-29;
- (10) any psychologist licensed under IC 25-33;
- (11) any speech pathologist or audiologist licensed under IC 25-35.6.

(d) For purposes of clarifying the terminology used in IC 25-22.5-6-2.1(b)(7), and for purposes of the standards of professional conduct and competent practice of medicine, the following definitions apply:

- (1) "Addict" means a person who is physiologically and/or psychologically dependent upon a drug which is classified as a narcotic, controlled substance or dangerous drug.
- (2) "Habitue" means a person who is physiologically and/or psychologically dependent upon any narcotic, drug classified as a narcotic, dangerous drug or controlled substance under Indiana law; or a person who consumes on a regular basis, and without any medically justifiable purpose, a narcotic drug classified as a narcotic, dangerous drug or controlled substance under Indiana law, whether or not such person has developed a physiological or psychological dependence upon such substance.
- (3) "Classified as a narcotic" means any substance which is designated as a controlled substance under IC 35-48-1, or IC 35-48-2, or so classified in any subsequent amendment or revision of said statutes.
- (4) "Dangerous drug" means any substance which is designated as a controlled substance under IC 35-48-1, or IC 35-48-2, or so classified in any subsequent amendment or revision of said statute.

(Medical Licensing Board of Indiana; 844 IAC 5-1-1; filed Apr 12, 1984, 8:28 am: 7 IR 1522; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325)

844 IAC 5-1-2 Standards of professional conduct_Repealed

Sec. 2. *(Repealed by Medical Licensing Board of Indiana; filed Nov 30, 1990, 4:15 p.m.: 14 IR 755; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325)*

844 IAC 5-1-3 Disciplinary action

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5-2-7

Sec. 3. Failure to comply with section 1 of this rule and 844 IAC 5-2 may result in disciplinary proceedings against the offending practitioners. Further, all practitioners licensed in Indiana shall be responsible for having knowledge of the standards of conduct and practice established by statute and regulation pursuant to IC 25-22.5-2-7. *(Medical Licensing Board of Indiana; 844 IAC 5-1-3; filed Apr 12, 1984, 8:28 a.m.: 7 IR 1526; filed Nov 30, 1990, 4:15 p.m.: 14 IR 750; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325)*

Rule 2. Standards of Professional Conduct

844 IAC 5-2-1 Applicability

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5-1

Sec. 1. A practitioner in the conduct of his/her practice of medicine or osteopathic medicine shall abide by, and comply with, the standards of professional conduct in this rule. (*Medical Licensing Board of Indiana; 844 IAC 5-2-1; filed Nov 30, 1990, 4:15 p.m.: 14 IR 750; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

844 IAC 5-2-2 Confidentiality

Authority: IC 25-22.5-2-7

Affected: IC 16-4-8-1; IC 25-1-9; IC 25-22.5-1

Sec. 2. A practitioner shall maintain the confidentiality of all knowledge and information regarding a patient, including, but not limited to, the patient's diagnosis, treatment, and prognosis, and of all records relating thereto, about which the practitioner may learn or otherwise be informed during the course of, or as a result 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 34-4 was repealed by P.L.1-1998, SECTION 221, effective July 1, 1998.*] and of IC 16-4-8-1, and any amendments thereto, or when authorized by the patient or those responsible for the patient's care. (*Medical Licensing Board of Indiana; 844 IAC 5-2-2; filed Nov 30, 1990, 4:15 p.m.: 14 IR 750; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

844 IAC 5-2-3 Information to patient

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5-1

Sec. 3. 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 or would be detrimental to the physical or mental health of the patient, or in the case of a minor or incompetent person, except where a practitioner reasonably determines that the information is or would be detrimental to the physical or mental health of those persons responsible for the patient's care. (*Medical Licensing Board of Indiana; 844 IAC 5-2-3; filed Nov 30, 1990, 4:15 p.m.: 14 IR 750; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

844 IAC 5-2-4 Case withdrawal

Authority: IC 25-22.5-2-7

Affected: IC 16-4-8; IC 25-1-9; IC 25-22.5-1

Sec. 4. (a) The practitioner shall give reasonable written notice to a patient or to those responsible for the patient's care when the practitioner withdraws from a case so that another practitioner may be employed by the patient or by those responsible for the patient's care. A practitioner shall not abandon a patient.

(b) A practitioner who withdraws from a case, except in emergency circumstances, shall, upon written request and in conformity with the provisions of IC 16-4-8-1 through IC 16-4-8-11 and of any subsequent amendment or revision thereof, make available to his/her patient or to those responsible for the patient's care, and to any other practitioner or specific professional health care provider employed by the patient, or by those responsible for the patient's care, all records, test results, histories, x-rays, radiographic studies, diagnoses, files, and information relating to said patient which are in the practitioner's custody, possession, or control, or copies of such documents hereinbefore described. (*Medical Licensing Board of Indiana; 844 IAC 5-2-4; filed Nov 30, 1990, 4:15 p.m.: 14 IR 751; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

844 IAC 5-2-5 Reasonable care

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5-1

Sec. 5. 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. (*Medical Licensing Board of Indiana; 844 IAC 5-2-5; filed Nov 30, 1990, 4:15 p.m.: 14 IR 751; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

844 IAC 5-2-6 Degree basis for licensing

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5-1

Sec. 6. A practitioner shall not represent, advertise, state, or indicate the possession of any degree recognized as the basis for licensure to practice medicine or osteopathic medicine unless the practitioner is actually licensed on the basis of such degree in the state(s) in which he/she practices. (*Medical Licensing Board of Indiana; 844 IAC 5-2-6; filed Nov 30, 1990, 4:15 p.m.: 14 IR 751; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

844 IAC 5-2-7 Consultations; referrals

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5-1

Sec. 7. A practitioner shall make reasonable efforts to obtain consultation whenever requested to do so by a patient or by those responsible for a patient's care. Further, the practitioner shall refer a patient to another practitioner in any case where the referring practitioner does not consider himself/herself qualified to treat the patient, and may refer the patient to another practitioner where the referring practitioner is unable to diagnose the illness or disease of the patient. (*Medical Licensing Board of Indiana; 844 IAC 5-2-7; filed Nov 30, 1990, 4:15 p.m.: 14 IR 751; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

844 IAC 5-2-8 Peer reviews

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5-1

Sec. 8. (a) A practitioner who has personal knowledge based upon a reasonable belief that another practitioner holding the same licenses has engaged in illegal, unlawful, incompetent, or fraudulent conduct in the practice of medicine or osteopathic medicine shall promptly report such conduct to a peer review or similar body, as defined in IC 34-4-12.6-1(c) [*IC 34-4 was repealed by P.L.1-1998, SECTION 221, effective July 1, 1998.*], having jurisdiction over the offending practitioner and the matter. This provision does not prohibit a practitioner from promptly reporting said conduct directly to the medical licensing board. Further, a practitioner who has personal knowledge of any person engaged in, or attempting to engage in, the unauthorized practice of medicine or osteopathic medicine shall promptly report such conduct to the medical licensing board.

(b) A practitioner who voluntarily submits himself/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 treatment is sponsored or supervised by an impaired physicians' committee of a state, regional, or local organization of professional health care providers, or where such treatment is sponsored or supervised by an impaired physicians' committee of a hospital, shall be exempt from reporting to a peer review committee as set forth in subsection (a) or to the medical licensing board for so 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 benefitted by, the course of treatment, the practitioner-chief administrative officer, his designee, or any member of the impaired physicians' committee shall promptly report such facts and circumstances to the medical licensing board. This section shall not, in any manner whatsoever, directly or indirectly, be deemed or construed to prohibit, restrict, limit, or otherwise preclude the medical licensing board from taking such action as it deems appropriate or as may otherwise be provided by law. (*Medical Licensing Board of Indiana; 844 IAC 5-2-8; filed Nov 30, 1990, 4:15 p.m.: 14 IR 751; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

844 IAC 5-2-9 Fees

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5-1

Sec. 9. (a) Fees charged by a practitioner for his/her professional services shall be reasonable and shall reasonably compensate the practitioner only for services actually rendered.

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

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

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

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

(3) The amount of the charges involved.

(4) The quality of performance.

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

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

(Medical Licensing Board of Indiana; 844 IAC 5-2-9; filed Nov 30, 1990, 4:15 p.m.: 14 IR 752; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325)

844 IAC 5-2-10 Fee division

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5-1

Sec. 10. A practitioner shall not divide a fee for professional services with another practitioner who is not a partner, employee, or shareholder in a professional corporation, unless:

(1) the patient consents to the employment of the other practitioner after a full disclosure that a division of fees will be made; and

(2) the division of fees is made in proportion to actual services performed and responsibility assumed by each practitioner.

(Medical Licensing Board of Indiana; 844 IAC 5-2-10; filed Nov 30, 1990, 4:15 p.m.: 14 IR 752; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325)

844 IAC 5-2-11 Referral fees

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5-1

Sec. 11. A practitioner shall not pay, demand, or receive compensation for referral of a patient, except for a patient referral program operated by a medical society or association which is approved by the medical licensing board. *(Medical Licensing Board of Indiana; 844 IAC 5-2-11; filed Nov 30, 1990, 4:15 p.m.: 14 IR 752; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325)*

844 IAC 5-2-12 Employees

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5-1

Sec. 12. A practitioner shall be responsible for the conduct of each and every person employed by the practitioner (whether such employee is a physician, nurse, physician's assistant, or other specific professional health care provider employed by the practitioner) for every action or failure to act by said employee or employees in the course of said employee's employment relationship with said practitioner, provided, however, that a practitioner shall not be responsible for the actions of persons he/she may employ whose employment by the practitioner does not relate directly to the practitioner's practice of medicine or of osteopathic medicine. *(Medical Licensing Board of Indiana; 844 IAC 5-2-12; filed Nov 30, 1990, 4:15 p.m.: 14 IR 752; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325)*

844 IAC 5-2-13 Advertising

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5-1

Sec. 13. (a) A practitioner shall not, on behalf of himself/herself, a partner, associate, shareholder in a professional corporation, or 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.

(b) Subject to the requirements of subsection (a), 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 including, but not limited to, a telephone directory, physicians' or osteopaths' directory, newspaper or other periodical, radio or television, or through written communication not involving personal contact, provided that the advertisement is dignified and confines itself to the existence, scope, nature, and field of practice of the practitioner.

(c) If the advertisement is communicated to the public by radio, cable, or television, it shall be prerecorded, 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.

(d) If a practitioner advertises a fee for a service, treatment, consultation, examination, radiographic study, or other procedure, the practitioner must render that service or procedure for no more than the fee advertised.

(e) Unless otherwise specified in the advertisement, if a practitioner publishes or communicates any fee information in a publication that is published more frequently than one (1) time per month, the practitioner shall be bound by any representation made therein for a period of thirty (30) days after the publication date. If a practitioner publishes or communicates any fee information in a publication that is published once a month or less frequently, the practitioner shall be bound by any representation made therein until the publication of the succeeding issue. If a practitioner publishes or communicates any fee information in a publication which has no fixed date for publication of a succeeding issue, the practitioner shall be bound by any representation made therein for one (1) year.

(f) Unless otherwise specified, if a practitioner broadcasts any fee information by radio, cable, or television, the practitioner shall be bound by any representation made therein for a period of ninety (90) days after such broadcast.

(g) Except as otherwise specified in this article, 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. (*Medical Licensing Board of Indiana; 844 IAC 5-2-13; filed Nov 30, 1990, 4:15 p.m.: 14 IR 752; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

844 IAC 5-2-14 Referrals

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5-1

Sec. 14. A practitioner may, whenever the practitioner believes it to be beneficial to the patient, send or refer a patient to a qualified specific professional health care provider for treatment or health care which falls within the specific professional health care provider's scope of practice. Prior to any such referral, however, the practitioner shall examine, and/or consult with, the patient to ensure that a condition exists in the patient which would be within the scope of practice of the specific professional health care provider to whom the patient is referred or sent. (*Medical Licensing Board of Indiana; 844 IAC 5-2-14; filed Nov 30, 1990, 4:15 p.m.: 14 IR 753; errata filed Feb 18, 1991, 3:55 p.m.: 14 IR 1457; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

844 IAC 5-2-15 Admitting patients

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5-1

Sec. 15. A practitioner shall not charge a separate and distinct fee for the incidental, administrative, nonmedical service of securing admission of a patient to a hospital or other medical or health care facility. (*Medical Licensing Board of Indiana; 844 IAC 5-2-15; filed Nov 30, 1990, 4:15 p.m.: 14 IR 753; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

844 IAC 5-2-16 Discontinuance of practice

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5-1

Sec. 16. (a) A practitioner, upon his/her retirement, or upon discontinuation of the practice of medicine or osteopathic medicine, or upon 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.

(b) A practitioner, upon his/her retirement, or upon discontinuation of the practice of medicine or osteopathic medicine, or upon leaving or moving from a community, shall notify all of his/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/she intends to discontinue his/her practice of medicine or osteopathic medicine in the community, and shall encourage his/her patients to seek the services of another practitioner, provided, however, that this section shall not apply to practitioners solely engaged in internship, residency, preceptorship, fellowship, teaching, or other postgraduate medical education or training programs. The practitioner discontinuing his/her practice shall make reasonable arrangements with his/her active patients for the transfer of his/her records, or copies thereof, to the succeeding practitioner, or to a program conducted by a medical society or association approved by the medical licensing board.

(c) As used herein, "active patient" applies and refers to a person whom the practitioner has examined, treated, cared for, or otherwise consulted with during the two (2) year period prior to retirement, discontinuation of the practice of medicine or osteopathic medicine, or leaving or moving from a community.

(d) Nothing herein provided shall preclude, prohibit, or prevent a practitioner from conveying or transferring the practitioner's patient records to another practitioner, holding an unlimited license to practice medicine or osteopathic medicine, who is assuming a practice, provided that written notice is furnished to all patients as hereinbefore specified. (*Medical Licensing Board of Indiana; 844 IAC 5-2-16; filed Nov 30, 1990, 4:15 p.m.: 14 IR 753; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

844 IAC 5-2-17 Contingency fees prohibited

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5-1

Sec. 17. 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 may or may not develop, occur, or happen. (*Medical Licensing Board of Indiana; 844 IAC 5-2-17; filed Nov 30, 1990, 4:15 p.m.: 14 IR 754; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

844 IAC 5-2-18 Liability to patients

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5-1

Sec. 18. A practitioner shall not attempt to exonerate himself from or limit his liability to a patient for his/her personal malpractice except that a practitioner may enter into agreements which contain informed, voluntary releases and/or waivers of liability in settlement of a claim made by a patient or by those responsible for a patient's care. (*Medical Licensing Board of Indiana; 844 IAC 5-2-18; filed Nov 30, 1990, 4:15 p.m.: 14 IR 754; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

844 IAC 5-2-19 Patient complaints

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5-1

Sec. 19. A practitioner shall not attempt to preclude, prohibit, or otherwise prevent the filing of a complaint against him/her by a patient or other practitioner for any alleged violation of this title or of any alleged violation of IC 25-22.5-1, or any other law. (*Medical Licensing Board of Indiana; 844 IAC 5-2-19; filed Nov 30, 1990, 4:15 p.m.: 14 IR 754; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

844 IAC 5-2-20 Schedule II controlled substances

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5-1; IC 35-48-2-6

Sec. 20. A physician shall not utilize, prescribe, order, dispense, administer, supply, sell, or give any amphetamine, sympathomimetic amine drug or compound designated as a Schedule II controlled substance pursuant to the provisions of IC 35-48-2-6 to any person for purposes of weight reduction or for control in the treatment of obesity. (*Medical Licensing Board of Indiana; 844 IAC 5-2-20; filed Nov 30, 1990, 4:15 p.m.: 14 IR 754; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

844 IAC 5-2-21 Schedule III or IV controlled substances (Voided)

Sec. 21. *(Voided by P.L.177-1997, SECTION 14, effective July 1, 1997.; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325)*

844 IAC 5-2-22 Use of term, "board certified"

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5-1

Sec. 22. A practitioner shall not represent in any manner that he or she is "board certified" or use any similar words or phrase calculated to convey the same unless the practitioner states by which board he/she is certified and the specific field or area of certification. *(Medical Licensing Board of Indiana; 844 IAC 5-2-22; filed Nov 30, 1990, 4:15 p.m.: 14 IR 755; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325)*

ARTICLE 6. PHYSICAL THERAPISTS AND PHYSICAL THERAPISTS' ASSISTANTS

Rule 1. General Provisions

844 IAC 6-1-1 Abbreviations defined (Repealed)

Sec. 1. *(Repealed by Medical Licensing Board of Indiana; filed Sep 22, 1994, 4:30 p.m.: 18 IR 266)*

844 IAC 6-1-2 Definitions

Authority: IC 25-27-1-5

Affected: IC 25-27-1-2; IC 25-27-1-8

Sec. 2. (a) The definitions in this section apply throughout this article.

(b) "Board" refers to the medical licensing board of Indiana.

(c) "Bureau" refers to the health professions bureau.

(d) "Committee" refers to the Indiana physical therapy committee.

(e) "Direct supervision" means that the supervising physical therapist or physician at all times shall be available and under all circumstances shall be absolutely responsible for the direction and the actions of the person supervised when services are performed by the physical therapist's assistant or holder of a temporary permit issued under IC 25-27-1-8(d). For the holder of a temporary permit issued under IC 25-27-1-8(d), unless the supervising physical therapist or physician is on the premises to provide constant supervision, the holder of a temporary permit shall meet with the physical therapist or physician at least once each working day to review all patients' treatments. This meeting must include the actual presence of the physical therapist or physician and the holder of a temporary permit. The patient's care shall always be the responsibility of the supervising physical therapist or physician. Reports written by the holder of a temporary permit for inclusion in the patients' record shall be countersigned by the physical therapist or physician, who may enter any remarks, revisions, or additions, as the physical therapist or physician deems appropriate. With respect to the supervision of physical therapist's assistants under IC 25-27-1-2(c), unless the supervising physical therapist or physician is on the premises to provide constant supervision, the physical therapist's assistant shall consult with the supervising physical therapist or physician at least once each working day to review all patients' treatments. The supervising physical therapist or physician shall examine each patient not less than:

(1) every fourteen (14) days for inpatients in either a hospital or comprehensive rehabilitation facility;

(2) the earlier of every ninety (90) days or six (6) physical therapy visits for patients in a facility for the mentally retarded (MR) and developmentally disabled (DD) and school system patients; and

(3) the earlier of every thirty (30) days or every fifteen (15) physical therapy visits for all other patients;

to review the patients' treatment and progress. If this daily consultation is not face-to-face, the physical therapist or physician may not supervise more than the equivalent of three (3) full-time physical therapist's assistants. A consultation between a supervising physical therapist or a physician and the physical therapist's assistant may be in person, by telephone, or by a telecommunications device for the deaf (TDD), so long as there is interactive communication concerning patient care.

(f) "Physical therapist's assistant" means a person who is registered by the committee to assist in the practice of physical therapy under the direct supervision of a licensed physical therapist or under the direct supervision of a physician by performing those assigned physical therapy procedures identified in subsection (g)(3), but not those specified in subsection (g)(1) or (g)(2).

(g) "Physical therapy" includes, but is not limited to, such measures as the following:

(1) Performing and interpreting tests and measurements of neuromuscular, musculoskeletal, cardiac, and pulmonary functions as a part of treatment, interpretation of physician referrals, initial patient evaluation, initial and ongoing treatment planning, periodic reevaluation of the patient, and adjustment of the treatment plan.

(2) Planning initial and subsequent treatment programs on the basis of test findings and within the orders of a referring practitioner who is licensed to practice medicine, osteopathic medicine, dentistry, podiatry, or chiropractic in the state of Indiana.

(3) Administering treatment through the use of physical, chemical, or other properties of heat or cold, light, water, electricity, massage, mechanical devices, and therapeutic exercise which includes all types of physical rehabilitative techniques and procedures.

(Medical Licensing Board of Indiana; 844 IAC 6-1-2; filed Mar 10, 1983, 3:59 p.m.: 6 IR 773; filed Jun 11, 1984, 1:02 p.m.: 7 IR 1937; filed Mar 6, 1986, 3:00 p.m.: 9 IR 1662; filed Aug 6, 1987, 3:00 p.m.: 10 IR 2731; filed Apr 14, 1994, 5:00 p.m.: 17 IR 2077; filed Sep 22, 1994, 4:30 p.m.: 18 IR 261; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325)

844 IAC 6-1-3 Standards of practice for physical therapy services

Authority: IC 25-27-1-5

Affected: IC 25-27-1-1

Sec. 3. (a) A physical therapy service shall be under the direction of a licensed physical therapist who is qualified by experience, demonstrated ability, and specialized education.

(b) A physical therapist shall develop a plan of care for each patient referred and shall be responsible for the plan implementation and modification. A physical therapist shall consult with the referring practitioner regarding any contraindicated or unjustified treatment.

(c) The physical plant shall be planned, constructed, and equipped to provide adequate space and proper environment to meet the service needs with safety and efficiency. *(Medical Licensing Board of Indiana; 844 IAC 6-1-3; filed Mar 10, 1983, 3:59 p.m.: 6 IR 773; filed Jun 11, 1984, 1:02 p.m.: 7 IR 1938; filed Sep 22, 1994, 4:30 p.m.: 18 IR 262; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325)*

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 therapists' assistant educational programs which the committee has approved. This list shall be available in written form from the Health Professions Bureau, 402 West Washington Street, Room 041, Indianapolis, Indiana 46204.

(b) An approved program is one maintaining standards equivalent to those adopted by the American Physical Therapy Association, Department of Education, Standards for Accreditation of Education Programs for Physical Therapists, 1978, as published. These standards are hereby adopted as those of the committee and are hereby incorporated by reference under IC 4-22-2-21 and does 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 041, Indianapolis, Indiana 46204. Copies of such standards are available from the American Physical Therapy Association, 1111 North Fairfax Street, Alexandria, Virginia 22314.

(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)*

Rule 2. Fees

844 IAC 6-2-1 Fees for licensed physical therapists and certified physical therapists' assistants (Repealed)

Sec. 1. *(Repealed by Medical Licensing Board of Indiana; filed Feb 11, 2002, 4:35 p.m.: 25 IR 2247)*

844 IAC 6-2-2 Fees

Authority: IC 25-1-8-2; IC 25-27-1-5

Affected: IC 25-27-1-7

Sec. 2. (a) The board shall charge and collect the following fees:

Application for licensure/certification	\$100
Application to repeat national examination	\$50
License/certification renewal	\$100 biennially
Temporary permit	\$50
Verification of licensure/certification	\$10
Duplicate wall license/certification	\$10

(b) Applicants required to take the national examination for licensure shall pay a fee directly to a professional examination service in the amount set by the examination service. *(Medical Licensing Board of Indiana; 844 IAC 6-2-2; filed Feb 11, 2002, 4:35 p.m.: 25 IR 2247)*

Rule 3. Admission to Practice

844 IAC 6-3-1 Licensure by endorsement

Authority: IC 25-27-1-5

Affected: 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.
- (3) Presents satisfactory evidence that he or she does not have a conviction for an act, within or outside of this state, which 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 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 score of seventy-five (75). If the applicant was licensed in a state which 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 include 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) Submits an official transcript of grades from a physical therapy or physical therapist assistant's school showing that a degree has been conferred. Graduates of a foreign physical therapy program must submit notarized copies of their transcripts if official transcripts are unavailable.
- (8) Submits one (1) passport-type quality photograph of the applicant taken within the last eight (8) weeks.
- (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)

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 in proper form.
- (2) Submits the fee specified in 844 IAC 6-2-1.
- (3) Presents satisfactory evidence that he or she does not have a conviction for an act, within or outside of this state, which 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 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 score of seventy-five (75).
- (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) Submits one (1) passport-type quality photograph of the applicant taken within the last eight (8) weeks.
- (7) Submits an official transcript of grades from a physical therapy or physical therapy assistant's school showing that a degree has been conferred.
- (8) Submits a certified copy of an English translation of any document that is not in English.
- (9) 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, the applicant must pay the reexamination fee specified in 844 IAC 6-2-1. (*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)*

844 IAC 6-3-3 Licensure for foreign graduates (Repealed)

Sec. 3. (*Repealed by Medical Licensing Board of Indiana; filed Aug 6, 1987, 3:00 pm: 10 IR 2736)*

844 IAC 6-3-4 Applications for registration as physical therapist or 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 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.

(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) 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.

(2) An affidavit made before a duly authorized official to administer oath, 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) The fee for an application as specified in 844 IAC 6-2-1 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*)

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 issue a temporary, nonrenewable permit to an applicant for a license as a physical therapist or a certificate as a physical therapist's assistant where the applicant meets the requirements of section 1 of this rule except where:

(1) the applicant has graduated from an educational program in another state, country, or territory, not accredited 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 temporary, nonrenewable permit to an applicant for a license as a physical therapist or a certificate as a physical therapist's assistant who is a graduate of a physical therapy program or a physical therapist's assistant program which 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 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. (*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*)

Rule 4. Registration of Licensed Physical Therapists and Physical Therapists' Assistants

844 IAC 6-4-1 Mandatory registration; renewal

Authority: IC 25-27-1-5

Affected: IC 25-27-1-8

Sec. 1. (a) Every physical therapist and physical therapist's assistant holding a license issued by the committee shall renew his or her license biennially on or before July 1 of each even-numbered year. No fee is required for the year in which the physical therapist or physical therapist's assistant is issued his or her first license.

(b) A licensee'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, nor shall it exonerate or otherwise excuse the licensee from renewing such license. (*Medical Licensing Board of Indiana; 844 IAC 6-4-1; filed Mar 10, 1983, 3:59 p.m.: 6 IR 775; filed Aug 6, 1987, 3:00 p.m.: 10 IR 2735; filed Sep 22, 1994, 4:30 p.m.: 18 IR 266; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

844 IAC 6-4-2 Address; change of name

Authority: IC 25-27-1-5

Affected: IC 25-27-1-8

Sec. 2. Each licensee is responsible for providing the committee with a current address, telephone number, and name change as applicable within thirty (30) days of the change. (*Medical Licensing Board of Indiana; 844 IAC 6-4-2; filed Mar 10, 1983, 3:59 p.m.: 6 IR 775; filed Aug 6, 1987, 3:00 p.m.: 10 IR 2735; filed Sep 22, 1994, 4:30 p.m.: 18 IR 266; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

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 shall be reinstated upon receipt of renewal application, reinstatement fee, and renewal fees.

(b) If more than three (3) years have elapsed since the expiration of a license or registration, 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*)

Rule 5. Denial of License

844 IAC 6-5-1 Denial of license; cause (Repealed)

Sec. 1. (*Repealed by Medical Licensing Board of Indiana; filed Aug 6, 1987, 3:00 pm: 10 IR 2736*)

Rule 6. Reinstatement of Suspended License

844 IAC 6-6-1 Evidence for reinstatement

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

Affected: IC 25-27-1-10.1

Sec. 1. No person whose license or registration to practice as a physical therapist, or physical therapist assistant, has been suspended pursuant to IC 25-27-1-10.1(e)(2) shall be eligible for reinstatement unless that person establishes by clear and convincing evidence before the physical therapy committee that:

- (1) the person desires in good faith to obtain restoration of such license or registration;
- (2) the term of suspension prescribed in the order of suspension has elapsed;
- (3) the person has not engaged in the practice of physical therapy or acted as a physical therapist's assistant, in this state or has attempted to do so from the date discipline was imposed;
- (4) the person has complied fully with the terms, if any, of the order for suspension;
- (5) the person's attitude with regard to the misconduct, violation of law or rule, or incompetent practice for which the person was disciplined is one of genuine remorse;
- (6) the person has a proper understanding of, and attitude towards, the standards that are imposed by statute or rule upon persons holding such license or registration as had been suspended and the person can be reasonably expected to conduct himself/herself in conformity with such standards;

- (7) the person is able to practice physical therapy with reasonable skill and safety to patients;
- (8) the disability has been removed, corrected or otherwise brought under control if the suspension or revocation was imposed by reason of physical or mental illness or infirmity, or for use of or addiction to intoxicants or drugs;
- (9) the person has successfully taken and completed such written examinations and tests as may be required by the physical therapy committee, and has completed such professional training or education under a preceptorship as may be required.

(Medical Licensing Board of Indiana; 844 IAC 6-6-1; filed Aug 6, 1987, 3:00 pm: 10 IR 2735; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325)

844 IAC 6-6-2 Petitions for reinstatement

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

Affected: IC 25-27-1-10.1

Sec. 2. Any person whose license or registration has been suspended pursuant to IC 25-27-1-10.1(e)(2) may apply for reinstatement by filing with the physical therapy committee a petition setting forth that the requirements of 844 IAC 6-6-1 have been satisfied or complied with. Seven (7) copies of such petition shall be filed with the committee, together with a filing fee of one hundred dollars (\$100).

Upon the filing of such petition, the physical therapy committee shall schedule a hearing. After the hearing the physical therapy committee shall determine whether the petitioner has met the requirements set forth in 844 IAC 6-6-1, and shall determine whether, as a condition of reinstatement, disciplinary or corrective measures, including, but not limited to, reexamination, additional training or postgraduate education, or a preceptorship, should be imposed. The physical therapy committee shall thereafter, upon satisfactory compliance with the requirements of 844 IAC 6-6-1 and of any and all disciplinary and corrective measures which may be imposed, enter an order continuing the suspension or reinstating a license or registration to the petitioner.

Any person filing for reinstatement shall be responsible for the payment of any and all costs incurred by the physical therapy committee in conducting a hearing upon said petition for reinstatement. Any such costs shall be paid by the petitioner within fifteen (15) days of the receipt of a statement therefor from the physical therapy committee. *(Medical Licensing Board of Indiana; 844 IAC 6-6-2; filed Aug 6, 1987, 3:00 pm: 10 IR 2735; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325)*

844 IAC 6-6-3 Duties of suspended licensees, registrants

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

Affected: IC 25-27-1-10.1

Sec. 3. In any case where a person's license or registration has been suspended pursuant to IC 25-27-1-10.1(e)(2), said person shall:

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

(A) All active patients then under the licensee's or registrant's care have been notified in the manner and method specified by the committee of the licensee's or registrant'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 of good standing of their own choice.

(B) All hospitals, medical and health care facilities where such licensee or registrant 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 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 pm: 10 IR 2736; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325)

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

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

Affected: IC 25-27-1-10.1

Sec. 4. Whenever a person's license or registration has been suspended pursuant to IC 25-27-1-10.1(e)(2), and said person has not fully complied with the provisions of 844 IAC 6-6-3 and 844 IAC 6-6-4, or if said licensee or registrant has disappeared or died or is otherwise unable to comply with said sections, 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 pm: 10 IR 2736; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

Rule 7. Standards of Professional Conduct

844 IAC 6-7-1 Definitions

Authority: IC 25-27-1-5

Affected: IC 25-1-9

Sec. 1. For purposes of the standards of professional conduct and competent practice of physical therapy or practice as a physical therapist assistant, the following definitions apply:

"Practitioner" means a person holding a license to practice physical therapy; a person holding a certificate to practice as a physical therapist assistant; or a person holding a temporary permit issued by the committee.

"Professional incompetence" may include, but is not limited to, a pattern or course of repeated conduct by a practitioner demonstrating a failure to exercise such reasonable care and diligence as is ordinarily exercised by practitioners in the same or similar circumstances in the same or similar locality. (*Medical Licensing Board of Indiana; 844 IAC 6-7-1; filed Oct 3, 1988, 2:36 p.m.: 12 IR 386; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

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

Authority: IC 25-27-1-5

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

Sec. 2. A practitioner when engaging in the practice of physical therapy shall abide by, and comply with, the following standards of professional conduct: (a) A practitioner shall maintain the confidentiality of all knowledge and information regarding a patient, including, but not limited to, the patient's diagnosis, treatment, and 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 34-4 was repealed by P.L.1-1998, SECTION 221, effective July 1, 1998.*] and IC 16-4-8-1 [*IC 16-4 was repealed by P.L.2-1993, SECTION 209, effective July 1, 1993.*], and any amendments thereto, or when authorized by the patient or those responsible for the patient's care.

(b) 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 the patient, or to the physical or mental health of those persons responsible for the patient's care.

(c) 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 16-4-8-11 [*IC 16-4 was repealed by P.L.2-1993, SECTION 209, effective July 1, 1993.*], and of any subsequent amendment or revision thereof, when a patient requests health records.

(d) 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) A practitioner shall not represent, advertise, state, or 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(s) in which he/she practices.

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

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

(h)(1) A practitioner who has personal knowledge based upon a reasonable belief that another practitioner holding the same license 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 34-4 was repealed by P.L. 1-1998, SECTION 221, effective July 1, 1998.]*, 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) A practitioner who voluntarily submits himself/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 treatment is sponsored or supervised by an impaired physical therapists committee of a state, regional, or local organization of professional health care providers, or where such treatment is sponsored or supervised by an impaired physical therapist committee of a hospital, shall be exempt from reporting to a peer review committee as set forth in subsection (h)(1) *[subdivision (1)]* or to the physical therapy committee so long as:

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

(B) the practitioner is making satisfactory progress.

If the practitioner fails to comply with or is not benefitted by, the course of treatment, the practitioner-chief administrative officer, his designee, or any member of, the impaired physical therapist committee shall promptly report such facts and circumstances to the physical therapy committee. 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)(1) Fees charged by a practitioner for his/her professional services shall be reasonable and shall reasonably compensate the practitioner only for services actually rendered.

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

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

(A) the difficulty and/or uniqueness of the services performed and the time, skill, and experience required;

(B) the fee customarily charged in the locality for similar practitioner services;

(C) the amount of the charges involved;

(D) the quality of performance;

(E) the nature and length of the professional relationship with the patient; and

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

(j) 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) 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)(1) A practitioner shall not, on behalf of himself/herself, a partner, associate, shareholder in a professional corporation, or 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) Subject to the requirements of subsection (l)(1) *[subdivision (1)]* of this section, 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) If the advertisement is communicated to the public by radio, cable, or television, it shall be prerecorded, 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) If a practitioner advertises a fee for a service, treatment, consultation, examination, or other procedure, the practitioner must render that service or procedure for no more than the fee advertised.

(5) 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) 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 falls within the specific professional health care provider's scope of practice. Prior to

any such referral, however, the practitioner shall examine, and/or consult with, the patient and the referring physician, podiatrist, psychologist, chiropractor, or dentist, to insure that a condition exists in the patient which would be within the scope of practice of the specific professional health care provider to whom the patient is referred or sent.

(n)(1) A practitioner, upon his/her retirement, or upon discontinuation of the practice of physical therapy, or upon 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) A practitioner upon retiring from private practice, or upon discontinuation of the private practice of physical therapy, or upon leaving or moving from a community, shall notify all of his/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/she intends to discontinue his/her practice of physical therapy in the community, and shall notify the referring physician, podiatrist, psychologist, chiropractor, or dentist. The practitioner discontinuing his/her practice shall make reasonable arrangements with his/her active patients for the transfer of his/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) As used herein, "active patient" applies and refers to a person whom the practitioner has examined, treated, cared for, or 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.

(o) 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 may or may not develop, occur, or happen.

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

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

(r) 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*)

ARTICLE 7. REINSTATEMENT TO PRACTICE

Rule 1. General Provisions

844 IAC 7-1-1 Evidence for reinstatement

Authority: IC 25-22.5-2-7; IC 25-22.5-6-2.1

Affected: IC 25-22.5; IC 25-27; IC 25-29; IC 25-33

Sec. 1. No person whose license to practice medicine or osteopathic medicine, midwifery, or whose license as a podiatrist, physical therapist, physical therapist assistant, or whose registration and approval as a physician's assistant, has been suspended or revoked shall be eligible for reinstatement unless that person establishes by clear and convincing evidence before the medical licensing board that:

- (1) the person desires in good faith to obtain restoration of such license, registration or approval;
- (2) the term of suspension prescribed in the order of suspension has elapsed or seven (7) years have elapsed since the revocation;
- (3) the person has not engaged in that practice for which that person was licensed, registered or approved, in this state or has attempted to do so from the date discipline was imposed;
- (4) the person has complied fully with the terms, if any, of the order for suspension or revocation;
- (5) the person's attitude with regard to the misconduct, violation of law or rule, or incompetent practice for which the person was disciplined is one of genuine remorse;
- (6) the person has a proper understanding of an attitude towards the standards that are imposed by statute or rule upon persons

holding such license, registration or approval as had been suspended or revoked and the person can be reasonably expected to conduct himself/herself in conformity with such standards;

(7) the person can be safely recommended to the public and applicable professions as a person fit to be reinstated and is able to practice his/her profession with reasonable skill and safety to patients;

(8) the disability has been removed, corrected or otherwise brought under control if the suspension or revocation was imposed by reason of physical or mental illness or infirmity, or for use of or addiction to intoxicants or drugs;

(9) the person has successfully taken and completed such written examinations and tests as may be required by the medical licensing board, and has completed such professional training or education under a preceptorship as may be required.

(Medical Licensing Board of Indiana; 844 IAC 7-1-1; filed Apr 12, 1984, 8:28 am: 7 IR 1526; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325)

844 IAC 7-1-2 Petitions for reinstatement

Authority: IC 25-22.5-2-7; IC 25-22.5-6-2.1

Affected: IC 25-22.5; IC 25-27; IC 25-29; IC 25-33

Sec 2. Any person whose license, registration or approval has been suspended or revoked may apply for reinstatement by filing with the medical licensing board a petition setting forth that the requirements of 844 IAC 7-1-1 have been satisfied or complied with. Ten (10) copies of such petition shall be filed with the medical licensing board, together with a filing fee of four hundred dollars (\$400).

Upon the filing of such petition and payment of the filing fee, the medical licensing board shall schedule a hearing. After the hearing the medical licensing board shall determine whether the petitioner has met the requirements set forth in 844 IAC 7-1-1, and shall determine whether, as a condition of reinstatement, disciplinary or corrective measures, including, but not limited to, reexamination, additional training or postgraduate education, or a preceptorship, should be imposed. The medical licensing board shall thereafter, upon satisfactory compliance with the requirements of 844 IAC 7-1-1 and of any and all disciplinary and corrective measures which may be imposed, enter an order continuing the suspension or revocation or reinstating a license, registration or approval to the petitioner.

Any person filing for reinstatement shall be responsible for the payment of any and all costs incurred by the medical licensing board in conducting a hearing upon said petition for reinstatement which exceed the amount of the filing fee. Any such costs shall be paid by the petitioner within fifteen (15) days of the receipt of a statement therefor from the medical licensing board. In no event will there be any refund or rebate of any part of the filing fee.

In the event that a person is unable to pay the filing fee or costs or to give security therefor, the person shall file ten (10) copies of a verified motion requesting waiver of the prepayment of such fees and costs accompanied by an affidavit executed on the person's personal knowledge stating that such person is unable to pay such fees and costs or to give security therefor. The affidavit shall be in the following form:

BEFORE THE MEDICAL LICENSING BOARD

IN THE MATTER OF:

Affidavit in Support of Motion to Proceed[nlel] Without Prepayment of Fees and Costs

I, _____, being first duly sworn, depose and say that I am the petitioner in the above-entitled cases; that in support of my motion to proceed without being required to prepay fees, costs or give security therefor, I state that because of my poverty I am unable to pay the costs of said proceeding or to give security therefor; that I believe I am entitled to redress; and that the issues which I desire to present are the following:

(LIST ISSUES)

I further swear and affirm that the responses which I have made to the questions *[sic.]* and instructions below relating to my ability to pay the cost of prosecuting the case are true.

1. Are you presently employed?

a. If the answer is yes, state the amount of your salary or wages per month and give the name and address of your employer.

b. If the answer is no, state the date of your last employment and the amount of the salary and wages per month which you received.

2. Have you received within the past twelve months any income from a business, profession or other form of self-employment, or in the form of rent payments, interest, dividends, or other source?

a. If the answer is yes, describe each source of income, and state the amount received from each during the past twelve

months.

3. Do you own any cash or checking or savings account?

a. If the answer is yes, state the total value of the items owned.

4. Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)?

a. If the answer is yes, describe the property and state its approximate value.

5. List the persons who are dependent upon you for support and state you *[sic.]* relationship to those persons.

I understand that a false statement or answer to any questions in this affidavit will subject me to penalties for perjury.

(SIGN NAME)

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 19____.

The medical licensing board may conduct such investigations and hearings as it may deem appropriate and necessary in ruling upon motions requesting waiver of the prepayment of fees and costs. Although prepayment of fees and costs may be waived by the medical licensing board, the petitioner shall remain responsible for the payment of fees and costs which payment may be a condition of reinstatement. (*Medical Licensing Board of Indiana; 844 IAC 7-1-2; filed Apr 12, 1984, 8:28 am: 7 IR 1526; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

844 IAC 7-1-3 Duties of revoked licensees and registrants

Authority: IC 25-22.5-2-7; IC 25-22.5-6-2.1

Affected: IC 25-22.5; IC 25-27; IC 25-29; IC 25-33

Sec. 3. In any case where a person's license, registration or approval has been revoked, said person shall:

(1) Promptly notify or cause to be notified by in the manner and method specified by the board, all patients then in the care of the licensee or registrant, or those persons responsible for the patient's care, of the revocation and of the licensee's or registrant's consequent inability to act for or on their behalf in the licensee's or registrant's professional capacity. Such notice shall advise all such patients to seek the services of another licensee in good standing of their own choice.

(2) Promptly notify or cause to be notified all hospitals, medical and health care facilities where such licensee or registrant has privileges or staff status of the revocation accompanied by a list of all patients then in the care of said licensee or registrant.

(3) Notify in writing, by first class mail, the following organizations and governmental agencies of the revocation of licensure, registration or approval:

(A) Indiana department of public welfare;

(B) Social Security Administration;

(C) the medical licensing board(s), or equivalent state agency, of each state in which the person is licensed, registered or approved;

(D) drug enforcement administration;

(E) Indiana hospital association;

(F) Indiana state medical association;

(G) Indiana pharmacists association;

(H) American Medical Association;

(I) American Osteopathic Association;

(J) Federation of State Medical Boards of the United States, Inc.

(4) Make reasonable arrangements with said licensee's or registrant's active patients for the transfer of all patient records, radiographic studies, and test results, or copies thereof, to a succeeding licensee or registrant employed by the patient or by those responsible for the patient's care.

(5) Within thirty (30) days after the date of license or registration revocation, the licensee or registrant shall file an affidavit with the medical licensing board showing compliance with the provisions of the revocation order and with 844 IAC 7 which time may be extended by the board. Such affidavit shall also state all other jurisdictions in which the licensee or registrant is still licensed and/or registered.

(6) Proof of compliance with this section shall be a condition precedent to any petition for reinstatement.

(*Medical Licensing Board of Indiana; 844 IAC 7-1-3; filed Apr 12, 1984, 8:28 am: 7 IR 1528; readopted filed Nov 9, 2001, 3:16*)

p.m.: 25 IR 1325)

844 IAC 7-1-4 Duties of suspended licensees and registrants

Authority: IC 25-22.5-2-7; IC 25-22.5-6-2.1

Affected: IC 25-22.5; IC 25-27; IC 25-29; IC 25-33

Sec. 4. In any case where a person's license or registration has been suspended, said person shall:

(1) Within thirty (30) days from the date of the order of suspension, file with the medical licensing board an affidavit showing that:

(A) All active patients then under the licensee's or registrant's care have been notified in the manner and method specified by the board of the licensee's or registrant'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 of good standing of their own choice.

(B) all hospitals, medical and health care facilities where such licensee or registrant 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 employed by the patient or those responsible for the patient's care.

(2) Proof of compliance with this section shall be a condition precedent to reinstatement.

(Medical Licensing Board of Indiana; 844 IAC 7-1-4; filed Apr 12, 1984, 8:28 am: 7 IR 1528; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325)

844 IAC 7-1-5 Protection of patients' interests

Authority: IC 25-22.5-2-7; IC 25-22.5-6-2.1

Affected: IC 25-22.5; IC 25-27; IC 25-29; IC 25-33

Sec. 5. Whenever a person's license or registration has been revoked or suspended, and said person has not fully complied with the provisions of 844 IAC 7-1-3 and 844 IAC 7-1-4, or if said licensee or registrant has disappeared or died or is otherwise unable to comply with said sections, the medical licensing board shall request the health professions service bureau or any state medical or osteopathic association or any county medical or osteopathic society to take such action as may be appropriate to protect the interest of that person's patients. *(Medical Licensing Board of Indiana; 844 IAC 7-1-5; filed Apr 12, 1984, 8:28 am: 7 IR 1528; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325)*

844 IAC 7-1-6 Surrendered licenses

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5-3-1; IC 25-22.5-6-2.1

Sec. 6. (a) No person who has voluntarily surrendered his license or permit to practice medicine or osteopathic medicine in this state, or who surrenders such license or permit while disciplinary proceedings are pending, with written approval of the medical licensing board, shall be eligible for reinstatement unless that person establishes in a written request and by clear and convincing evidence before the medical licensing board that:

(1) The person satisfies the requirements of IC 25-22.5-3-1.

(2) The person has not engaged in the practice for which the person was licensed in this state or has attempted to do so from the date of surrender of his/her license.

(3) The person can be safely recommended to the public and applicable professions as a person fit to be reinstated, and is able to practice his/her profession with reasonable skill and safety to patients.

(4) The person is not under any physical, mental or medical disability, including addiction to intoxicants or drugs, which precludes or substantially inhibits the person from safely engaging in the practice of medicine or osteopathic medicine.

(5) The person has not violated IC 25-22.5-6-2.1 prior to the surrender of licensure.

(6) The person, during the period in which licensure has been surrendered, has kept abreast of current professional theory and practice.

(b) As a condition precedent or subsequent to reinstatement of a surrendered license, the board may, in its discretion, require

the person seeking reinstatement to:

- (1) obtain a complete physical and/or psychiatric examination at the person's expense;
- (2) participate in, and complete, courses of continuing medical education specified and approved by the board;
- (3) pass an examination specified by the board;
- (4) personally appear before board;
- (5) perform or refrain from performing such acts as the board may deem appropriate.

(c) Any person whose license to practice medicine or osteopathic medicine has been surrendered may apply for reinstatement by filing with the medical licensing board ten (10) copies of a petition setting forth that the requirements of 844 IAC 7-1-6(a) have been satisfied or complied with, together with a nonrefundable filing fee of two hundred dollars (\$200).

Upon the filing as such petition and payment of the filing fee, the medical licensing board shall enter an order therein and, if reinstatement is denied and a request for hearing is filed within fifteen (15) days from the date of such denial, shall schedule a hearing. After the hearing the medical licensing board shall determine whether the petitioner has met the requirement set forth in 844 IAC 7-1-6(a), and shall determine whether, as a condition of reinstatement, disciplinary or corrective measures, including, but not limited to, reexamination, additional training or postgraduate education, or physical or psychiatric examinations should be imposed. The medical licensing board shall thereafter, upon satisfactory compliance with the requirements of 844 IAC 7-1-6 and of any and all disciplinary and corrective measures which may be imposed, enter an order denying or granting reinstatement, accompanied by any and all disciplinary or corrective measures imposed.

Any person filing for reinstatement shall be responsible for the payment of any and all costs incurred by the medical licensing board in conducting a hearing upon said petition for reinstatement which exceed the amount of the filing fee. Any such costs shall be paid by the petitioner within fifteen (15) days of the receipt of a statement therefor from the medical licensing board. In no event will there be any refund or rebate of any part of the filing fee.

In the event that a person is unable to pay the filing fee or costs or to give security therefor, the person shall file the (10) copies of a verified motion requesting waiver of the prepayment of such fees and costs accompanied by an affidavit executed on the person's personal knowledge stating that such person is unable to pay such fees and costs or to give security therefor. The affidavit shall be in the form specified by 844 IAC 7-1-2.

(d) In any case where a person surrenders his/her license to practice medicine or osteopathic medicine, said person shall:

- (1) Promptly notify or cause to be notified in the manner and method specified by the board, all patients then in the care of the licensee, or those persons responsible for the patient's care, of the surrender and of the licensee's consequent inability to act for or on their behalf in the licensee's professional capacity. Such notice shall advise all such patients to seek the services of another licensee in good standing of their own choice.
- (2) Promptly notify or cause to be notified all hospitals, medical and health care facilities where such licensee has privileges or staff status of the surrender, accompanied by a list of all patients then in the care of said licensee.
- (3) Notify in writing, by first class mail, the following organizations and governmental agencies of the surrender licensure:
 - (A) Indiana Department of Public Welfare;
 - (B) Social Security Administration;
 - (C) the medical licensing board(s), or equivalent state agency, of each state in which the person is licensed, registered or approved;
 - (D) Drug Enforcement Administration;
 - (E) Indiana Hospital Association;
 - (F) Indiana State Medical Association;
 - (G) Indiana Pharmacists Association;
 - (H) American Medical Association;
 - (I) American Osteopathic Association;
 - (J) Federation of State Medical Boards of the United States, Inc.
 - (K) Indiana Association of Osteopathic Physicians and Surgeons
- (4) Make reasonable arrangements with said licensee's active patients for the transfer of all patient records, radiographic studies, and test results, or copies *[sic.]* thereof, to a succeeding licensee employed by the patient or by those responsible for the patient's care.
- (5) Within thirty (30) days after the date of license surrender, the licensee shall file an affidavit with the medical licensing board showing compliance with the provisions of 844 IAC 7-1-6(d) which time may be extended by the board. Such affidavit shall also state all other jurisdictions in which the licensee is still licensed.

(6) Proof of compliance with this section shall be a condition precedent to any petition for reinstatement.

(e) The board may, in its discretion, impose any conditions it deems appropriate regarding the acceptance or surrender of any license to practice medicine or osteopathic medicine including, but not limited to, the following, or any combination thereof:

- (1) periodic physical and/or psychiatric examination;
- (2) participation in continuing medical education courses;
- (3) periodic personal appearances before the board;
- (4) surrender of permits for the issuance of prescriptions for controlled substances;
- (5) the performance, or prohibition against performing, such acts as the board deems appropriate in the public interest or for purposes of rehabilitation or treatment, if cause therefor is established.

(f) Whenever a person's license has been surrendered, and said person has not fully complied with the provisions of 844 IAC 7-1-6(d), or if said licensee has disappeared or died or is otherwise unable to comply with said section, the medical licensing board shall request the health professions service bureau or any state medical or osteopathic society to take such actions as may be appropriate to protect the interests of that person's patients. (*Medical Licensing Board of Indiana; 844 IAC 7-1-6; filed May 3, 1985, 10:44 am: 8 IR 1157; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

844 IAC 7-1-7 Costs of disciplinary proceedings

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5-3-1; IC 25-22.5-6-2.1

Sec. 7. Persons who have been subjected to disciplinary sanctions by the medical licensing board shall be responsible for the payment of the costs of such disciplinary proceedings including, but not limited to, costs for:

- (1) court reporters;
- (2) transcriptions;
- (3) certifications, notarizations;
- (4) photoduplication;
- (5) witness attendance and mileage fees;
- (6) postage for mailings required by law;
- (7) expert witnesses;
- (8) depositions.

(*Medical Licensing Board of Indiana; 844 IAC 7-1-7; filed May 3, 1985, 10:44 am: 8 IR 1159; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

ARTICLE 8. PODIATRISTS (TRANSFERRED)

NOTE: Transferred from the Medical Licensing Board of Indiana (844 IAC 8) to the Board of Podiatric Medicine (845 IAC 1) by P.L.33-1993, SECTION 76, effective July 1, 1993.

ARTICLE 9. HEARING AID DEALERS

Rule 1. Fees

844 IAC 9-1-1 Fees

Authority: IC 25-1-8-2; IC 25-20-1-6

Affected: IC 25-20-1

Sec. 1. The medical licensing board of Indiana shall charge and collect the following fees:

- (1) For the examination and/or reexamination of an applicant to practice as a hearing aid dealer, an administrative/issuance fee of sixty dollars (\$60) payable to the Health Professions Bureau, plus the applicant's cost of purchasing the examination payable to the examination service.
- (2) For the renewal of the certificate to practice as a hearing aid dealer, forty dollars (\$40).
- (3) For the issuance of a student hearing aid dealer certificate of registration, twenty dollars (\$20).

(4) For the renewal of a student hearing aid dealer certificate, twenty dollars (\$20).

(5) For verification of hearing aid dealer certificate to another state, ten dollars (\$10).

(6) For a duplicate wall certificate, ten dollars (\$10).

(Medical Licensing Board of Indiana; 844 IAC 9-1-1; filed Nov 22, 1985, 4:37 p.m.: 9 IR 766; filed Jun 28, 1996, 9:45 a.m.: 19 IR 3103; readopted filed Dec 2, 2001, 12:30 p.m.: 25 IR 1317)

Rule 2. Definitions

844 IAC 9-2-1 General

Authority: IC 25-20-1-23

Affected: IC 25-20-1

Sec. 1. The definitions in this rule apply throughout this article. *(Medical Licensing Board of Indiana; 844 IAC 9-2-1; filed Mar 1, 1990, 4:55 p.m.: 13 IR 1177; readopted filed Nov 14, 2001, 2:47 p.m.: 25 IR 1317)*

844 IAC 9-2-2 “Board” defined

Authority: IC 25-20-1-23

Affected: IC 25-20-1

Sec. 2. “Board” refers to the medical licensing board of Indiana. *(Medical Licensing Board of Indiana; 844 IAC 9-2-2; filed Mar 1, 1990, 4:55 p.m.: 13 IR 1177; readopted filed Nov 14, 2001, 2:47 p.m.: 25 IR 1317)*

844 IAC 9-2-3 “Bureau” defined

Authority: IC 25-20-1-23

Affected: IC 25-20-1

Sec. 3. “Bureau” refers to the health professions bureau. *(Medical Licensing Board of Indiana; 844 IAC 9-2-3; filed Mar 1, 1990, 4:55 p.m.: 13 IR 1177; readopted filed Nov 14, 2001, 2:47 p.m.: 25 IR 1317)*

844 IAC 9-2-4 “Committee” defined

Authority: IC 25-20-1-23

Affected: IC 25-20-1

Sec. 4. “Committee” refers to the committee of hearing aid dealer examiners. *(Medical Licensing Board of Indiana; 844 IAC 9-2-4; filed Mar 1, 1990, 4:55 p.m.: 13 IR 1177; readopted filed Nov 14, 2001, 2:47 p.m.: 25 IR 1317)*

844 IAC 9-2-5 “Sponsor” defined

Authority: IC 25-20-1-23

Affected: IC 25-20-1

Sec. 5. “Sponsor” refers to a registered hearing aid dealer in good standing serving as a sponsoring or supervising hearing aid dealer for a person who has been issued a student hearing aid dealer certificate. *(Medical Licensing Board of Indiana; 844 IAC 9-2-5; filed Mar 1, 1990, 4:55 p.m.: 13 IR 1177; readopted filed Dec 2, 2001, 12:30 p.m.: 25 IR 1318)*

844 IAC 9-2-6 “Student” defined

Authority: IC 25-20-1-23

Affected: IC 25-20-1-5

Sec. 6. “Student” refers to a person issued a student hearing aid dealer certificate pursuant to IC 25-20-1-5. *(Medical Licensing Board of Indiana; 844 IAC 9-2-6; filed Mar 1, 1990, 4:55 p.m.: 13 IR 1178; readopted filed Nov 14, 2001, 2:47 p.m.: 25 IR 1317)*

Rule 3. Application

844 IAC 9-3-1 Hearing aid dealer registration

Authority: IC 25-20-1-23

Affected: IC 25-1-9; IC 25-20-1-3

Sec. 1. (a) The board may issue a registration to an applicant submitting an application in proper form, together with the nonrefundable fee, specified in 844 IAC 9-1-1, passing the examination, and meeting all other minimum requirements specified in IC 25-20-1-3.

(b) Persons seeking registration as a hearing aid dealer shall file an application on a form supplied by the bureau.

(c) Persons seeking registration as a hearing aid dealer may be requested to appear before the committee and shall provide the following information on, or submit such information with, the application for licensure or permit:

(1) All names used by the applicant, explaining the reason for the name change(s) or use(s).

(2) Date and place of birth.

(3) Whether the applicant has ever been issued a student hearing aid dealer certificate and, if so, the name of the sponsor for that certificate and date the certificate was issued.

(4) A list of all states, including Indiana, in which the applicant has ever applied for, or held, a certificate to practice as a hearing aid dealer.

(5) Whether the applicant is, or has ever been, addicted to any narcotic drugs, alcohol, or other drugs, and if so, the details of such addiction.

(6) Whether the applicant has ever had any disciplinary action taken against any hearing aid dealer certificate, registration, and/or license held by the applicant, by a licensing agency of this state, or any other state or jurisdiction and the date(s) and details of such action.

(7) Whether the applicant has ever been convicted of any violation of law relating to drug abuse, controlled substances, narcotic drugs, or any other drugs, including the date(s) and details of such conviction.

(8) A statement that the applicant has not been convicted of a criminal offense (excluding minor traffic violations) nor other offenses as specified in IC 25-1-9, or a certified statement listing all criminal offenses (excluding minor traffic violations) of which the applicant has been convicted. This listing must include:

(A) the offense for which the applicant was convicted;

(B) the court in which the applicant was convicted; and

(C) the cause number in which the applicant was convicted.

(9) Two (2) passport-type photographs taken within sixty (60) days of the date of submission of the application.

(d) To be eligible to take the examination, the application must be received no later than forty-five (45) days prior to the date of the examination. (*Medical Licensing Board of Indiana; 844 IAC 9-3-1; filed Mar 1, 1990, 4:55 p.m.: 13 IR 1178; readopted filed Dec 2, 2001, 12:30 p.m.: 25 IR 1318*)

844 IAC 9-3-2 Student hearing aid dealer registration

Authority: IC 25-20-1-23

Affected: IC 25-20-1

Sec. 2. A person applying for registration as a student hearing aid dealer shall:

(1) submit all information required by 844 IAC 9-2-1; and

(2) submit a statement by a hearing aid dealer registered in Indiana certifying that the hearing aid dealer will serve as a sponsor for the student. This statement shall be signed by the applicant and the sponsor and shall state that both parties understand the student/sponsor relationship and have read and understand these duties and responsibilities as set forth in 844 IAC 9-6-1.

(*Medical Licensing Board of Indiana; 844 IAC 9-3-2; filed Mar 1, 1990, 4:55 p.m.: 13 IR 1178; readopted filed Nov 14, 2001, 2:47 p.m.: 25 IR 1317*)

844 IAC 9-3-3 Change of address

Authority: IC 25-20-1-23

Affected: IC 25-20-1

Sec. 3. (a) Each registrant shall inform the board, in writing, of all changes of address for residence and business, within ten (10) days of such change.

(b) A registrant's failure to receive notification of renewal due to failure to notify the board of a change of address shall not constitute an error on the part of the committee, board, or bureau, nor shall it exonerate or otherwise excuse the registrant from renewing such registration. (*Medical Licensing Board of Indiana; 844 IAC 9-3-3; filed Mar 1, 1990, 4:55 p.m.: 13 IR 1178; readopted filed Nov 14, 2001, 2:47 p.m.: 25 IR 1317*)

Rule 4. Certification Renewal

844 IAC 9-4-1 Hearing aid dealer certificate renewal

Authority: IC 25-20-1-23

Affected: IC 25-20-1-25

Sec. 1. (a) Every individual holding a certificate to practice as a hearing aid dealer shall renew that certificate biennially.

(b) An application for renewal shall be on a form provided by the bureau and shall be accompanied by the renewal fee specified in 844 IAC 9-1-1.

(c) Any registrant not renewing the certificate to practice as a hearing aid dealer by June 30 of each even numbered year shall be reinstated upon paying the biennial renewal fee, late fee, completing a renewal form supplied by the board or its duly authorized agent, and submitting proof of meeting the continuing education hour requirements specified in IC 25-20-1-25. (*Medical Licensing Board of Indiana; 844 IAC 9-4-1; filed Mar 1, 1990, 4:55 p.m.: 13 IR 1179; readopted filed Dec 2, 2001, 12:30 p.m.: 25 IR 1318*)

844 IAC 9-4-2 Student hearing aid dealer certificate renewal

Authority: IC 25-20-1-23

Affected: IC 25-20-1-5

Sec. 2. (a) If a student changes sponsors prior to the expiration of the certificate, any subsequent certificate shall be issued for the remaining period of the initial certificate.

(b) Pursuant to IC 25-20-1-5, a student hearing aid dealer certificate may be renewed at the discretion of the board upon recommendation by the committee. Prior to the time of requesting such a renewal, the student and sponsor shall be required to appear before the committee and submit a report outlining the student's training and practical experience.

(c) If such a renewal is granted, the student will be required to reapply and take all parts of the exam. (*Medical Licensing Board of Indiana; 844 IAC 9-4-2; filed Mar 1, 1990, 4:55 p.m.: 13 IR 1179; readopted filed Dec 2, 2001, 12:30 p.m.: 25 IR 1319*)

844 IAC 9-4-3 Application for approval

Authority: IC 25-20-1-25

Affected: IC 25-20-1-25

Sec. 3. (a) The sponsor of the continuing education course must file an application provided by the committee sixty (60) days prior to the date the course is given. The application shall include the following information:

(1) Name of lecturer or course being offered.

(2) Brief summary of content of course.

(3) Date and location of course.

(4) Number of clock hours of continuing education requested.

(5) Any other pertinent information required by the committee.

(b) As a condition for approval of its course, the sponsor must agree to provide participants with a record of attendance and to retain records of attendance by participants for four (4) years from the date of the program. (*Medical Licensing Board of Indiana; 844 IAC 9-4-3; filed Apr 23, 1992, 5:00 p.m.: 15 IR 1955; readopted filed Nov 14, 2001, 2:47 p.m.: 25 IR 1317*)

844 IAC 9-4-4 Standards for approval

Authority: IC 25-20-1-25

Affected: IC 25-20-1-25

Sec. 4. (a) Except for courses approved by the American Speech-Language-Hearing Association or the National Institute for Hearing Instrument Studies, all other courses must be approved by the committee. In order to be approved by the committee, all courses for continuing education shall meet the requirements in subsection (b).

(b) The course will make a substantial contribution to the professional competency of hearing aid dealers who enroll. In determining if a course meets this standard, the committee will consider whether the continuing education course:

- (1) has an acceptable statement of objectives which the program shall achieve for its participants;
- (2) will provide adequate administration, including a responsible person to coordinate and administer the course, and will provide for the maintenance of proper records;
- (3) will employ a variety of educational methods and teaching aids that enhance the learning opportunities;
- (4) is of sufficient length to provide a substantial educational experience; courses of less than one (1) hour will be reviewed carefully to determine if they furnish a substantial educational experience; and
- (5) will provide to the participants a meaningful record of attendance stating the continuing education hours involved.

(Medical Licensing Board of Indiana; 844 IAC 9-4-4; filed Apr 23, 1992, 5:00 p.m.: 15 IR 1955; readopted filed Nov 14, 2001, 2:47 p.m.: 25 IR 1317)

844 IAC 9-4-5 Responsibilities

Authority: IC 25-20-1-25

Affected: IC 25-20-1-25

Sec. 5. (a) Continuing education hours must be obtained within the biennial renewal period and may not be carried over from one (1) certification period to another.

(b) It is the responsibility of the certificate holder to notify the health professions bureau of courses completed to meet the continuing education requirements of IC 25-20-1-25.

(c) It is the responsibility of the certificate holder to prove that courses attended have been approved by the committee, the American Speech-Language-Hearing Association or the National Institute for Hearing Instrument Studies.

(d) The certificate holder shall maintain his or her continuing education records of a given biennium for a period of two (2) years following the end of that biennium. *(Medical Licensing Board of Indiana; 844 IAC 9-4-5; filed Apr 23, 1992, 5:00 p.m.: 15 IR 1955; readopted filed Nov 14, 2001, 2:47 p.m.: 25 IR 1317)*

Rule 5. Examinations

844 IAC 9-5-1 Examination

Authority: IC 25-20-1-23

Affected: IC 25-20-1

Sec. 1. (a) The examination required for registration shall be designed to demonstrate the applicant's adequate technical and practical qualifications, including, but not limited to, the following:

- (1) Written tests of knowledge in areas such as physics of sound, anatomy and physiology of hearing, and the function of hearing aids, as these areas pertain to the fitting or selection and sale of hearing aids.
- (2) Evidence of knowledge of situations in which it is commonly believed that a hearing aid is inappropriate.
- (3) Practical tests of proficiency in the taking of earmold impressions.

(b) Improper conduct during the examination is reason for dismissal and failure of the applicant from the examination.

(c) A student should endeavor to successfully pass all portions of the hearing aid dealer exam within one (1) year. If the student fails the exam two (2) times, he or she may be required to appear before the committee with his or her sponsor before retaking the exam.

(d) If the student has not successfully completed the exam within one (1) year, he or she may reapply for a student hearing aid dealer certification and must retake all portions of the hearing aid dealer exam successfully in that year to become a hearing aid dealer. *(Medical Licensing Board of Indiana; 844 IAC 9-5-1; filed Mar 1, 1990, 4:55 p.m.: 13 IR 1179; readopted filed Dec 2, 2001, 12:30 p.m.: 25 IR 1319)*

844 IAC 9-5-2 Examination; retakes (Repealed)

Sec. 2. *(Repealed by Medical Licensing Board of Indiana; filed Dec 2, 2001, 12:30 p.m.: 25 IR 1320)*

Rule 6. Supervision; Standards of Conduct

844 IAC 9-6-1 Supervision of student hearing aid dealers

Authority: IC 25-20-1-23

Affected: IC 25-1-9; IC 25-20-1

Sec. 1. (a) Supervision means the direct and regular observation and instruction of the student hearing aid dealer by the sponsoring hearing aid dealer and that the sponsor and student shall be present in the same work setting. All tests and fittings performed by the student shall be personally monitored by the sponsor. The student shall meet at least once each working day with the sponsor to review all work performed by the student. This meeting must include the actual presence of the student and sponsor.

(b) It shall be the joint responsibility of the student and the sponsor to see that all testing and sales documents pertinent to each sale, whether or not the sale was consummated, are submitted to and reviewed by the sponsor for the term of the student certificate.

(c) The committee may require a student or sponsor to show proof of the student's training and/or the sponsor's supervision.

(d) A student hearing aid dealer shall clearly identify himself or herself as a student when performing his or her duties prior to any impression taking, testing, or hearing aid fitting.

(e) A student shall prominently display his or her certificate of registration as a student hearing aid dealer in the primary location of his or her employment.

(f) Any violation of these requirements and standards shall subject the student and sponsor to disciplinary action as provided in IC 25-1-9. *(Medical Licensing Board of Indiana; 844 IAC 9-6-1; filed Mar 1, 1990, 4:55 p.m.: 13 IR 1179; readopted filed Dec 2, 2001, 12:30 p.m.: 25 IR 1319)*

844 IAC 9-6-2 Standards of unprofessional conduct

Authority: IC 25-20-1-23

Affected: IC 25-20-1

Sec. 2. The following acts, if performed by a hearing aid dealer or a student hearing aid dealer, shall constitute grounds for disciplinary action:

(1) Aiding and abetting a person to fit and/or dispense hearing aids who does not hold a proper registration or student registration.

(2) Fraudulent billing practices.

(3) Attaching the description "audiologist", "doctor", "physician", or similar terms or abbreviations to a name indicating or inducing others to believe that the person is engaged in the practice of another profession.

(4) Use of any symbol or depiction which connotes the medical or audiological profession.

(5) Use of any terms that could reasonably mislead the public that a private business practice has some relationship to a governmental or nonprofit medical, educational, or research institution or entity.

(6) Use, cause, or promote the use of any advertising media, promotional literature, testimonial, guarantee, warranty, label, brand, insignia, or any other representation, however disseminated or published, which is misleading, deceiving, or untruthful.

Included among the foregoing acts are misrepresentations relating to:

(A) the grade, quality, quantity, origin, novelty, price, dealer cost, terms of sale, use, construction, size, composition, dimensions, type, design, development, visibility, durability, performance, fit, appearance, efficacy, benefits of any hearing aid, or the psychological well-being induced by a hearing aid; or

(B) any service or adjustment offered, promised, or supplied to purchasers of any hearing aid.

(7) Making representations in advertising or otherwise that a hearing aid is "guaranteed", without clear and conspicuous disclosure of:

(A) the nature and extent of the guarantee;

(B) any material conditions or limitations in the guarantee which are imposed by the guarantor;

(C) the manner in which the guarantor will perform thereunder;

(D) the identity, address, and telephone number of the guarantor, with disclosure, where applicable, that any guarantee made by the dealer which is not backed up by the manufacturer is offered by the dealer only; and

(E) the meaning of “life” or “lifetime” to clarify whether it refers to the life of the purchaser, the product, or otherwise, whenever representations are made that a hearing aid is “guaranteed for life” or has a “lifetime guarantee”.

(8) Making guarantees, warranties, or any promises which, under normal conditions, are impractical of fulfillment or which are for such a period of time or are otherwise of such nature as may have the tendency to mislead purchasers into the belief that the hearing aid has a greater degree of serviceability, durability, or performance capability in actual use than is in fact true.

(9) Advertise a particular model, type, or kind of hearing aid for sale when purchasers or prospective purchasers responding to the advertisement cannot purchase or are dissuaded from purchasing the advertised model, type, or kind, where it is established that the purpose of the advertisement is to obtain prospects for the sale of a different model, type, or kind than that advertised.

(Medical Licensing Board of Indiana; 844 IAC 9-6-2; filed Mar 1, 1990, 4:55 p.m.: 13 IR 1180; readopted filed Nov 14, 2001, 2:47 p.m.: 25 IR 1317)

844 IAC 9-6-3 Standards of conduct

Authority: IC 25-20-1-23

Affected: IC 25-20-1

Sec. 3. A hearing aid dealer shall be required, but not be limited to, do the following:

(1) Give a truthful, candid, and complete account of the client’s condition to the client or to those responsible for the client’s care.

(2) Exercise reasonable care and diligence in providing services to clients based upon generally accepted scientific principles, methods, and current professional theory and practice.

(3) Make reasonable efforts to obtain a consultation with a physician or audiologist whenever requested to do so by a client or by those responsible for a client’s care.

(4) Report unlawful activity of any other registrant or student to the committee or medical licensing board.

(5) Maintain appropriate audiometric measurement equipment to assess hearing loss to include air conduction, bone conduction, speech reception thresholds, speech discrimination, MCLs and UCLs, and masking capability. He or she will also have appropriate tools to evaluate the condition of the external auditory canal and visualize the tympanic membrane. All evaluation equipment must be calibrated yearly if indicated.

(6) Maintain an appropriate laboratory for the modification, repair, and/or cleaning of hearing aids and accessories.

(7) Maintain an appropriate filing system, which includes a client’s personal and appropriate medical history, audiometric results, and hearing aid information (including warranties and spec sheets) as well as appropriate medical clearances or medical waivers.

(Medical Licensing Board of Indiana; 844 IAC 9-6-3; filed Mar 1, 1990, 4:55 p.m.: 13 IR 1180; readopted filed Dec 2, 2001, 12:30 p.m.: 25 IR 1319)

844 IAC 9-6-4 Failure to comply

Authority: IC 25-20-1-23

Affected: IC 25-20-1

Sec. 4. Failure to comply with sections 2 through 3 of this rule as a hearing aid dealer shall result in disciplinary proceedings against the offending practitioners. *(Medical Licensing Board of Indiana; 844 IAC 9-6-4; filed Mar 1, 1990, 4:55 p.m.: 13 IR 1181; readopted filed Nov 14, 2001, 2:47 p.m.: 25 IR 1317)*

ARTICLE 10. OCCUPATIONAL THERAPISTS AND OCCUPATIONAL THERAPY ASSISTANTS

Rule 1. Definitions

844 IAC 10-1-1 Applicability

Authority: IC 25-23.5-2-5; IC 25-23.5-2-6

Affected: IC 25-1-5-3; IC 25-23.5

Sec. 1. The definitions in this rule apply throughout this article. (*Medical Licensing Board of Indiana; 844 IAC 10-1-1; filed Dec 28, 1990, 5:00 p.m.: 14 IR 1064; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

844 IAC 10-1-2 “Bureau” defined

Authority: IC 25-23.5-2-5; IC 25-23.5-2-6

Affected: IC 25-1-5-3; IC 25-23.5

Sec. 2. “Bureau” refers to the health professions bureau established under IC 25-1-5-3. (*Medical Licensing Board of Indiana; 844 IAC 10-1-2; filed Dec 28, 1990, 5:00 p.m.: 14 IR 1064; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

844 IAC 10-1-2.5 “Objective tests” defined

Authority: IC 25-23.5-2-5; IC 25-23.5-2-6

Affected: IC 25-1-5-3; IC 25-23.5

Sec. 2.5. “Objective tests” means, but is not limited to, the following:

- (1) Sensation.
- (2) Range of motion.
- (3) Muscle strength.
- (4) Perceptual/visual motor.
- (5) Gross and fine motor coordination.
- (6) Vocational.
- (7) Activities of daily living.
- (8) Other such tests.

(*Medical Licensing Board of Indiana; 844 IAC 10-1-2.5; filed Nov 14, 1991, 3:30 p.m.: 15 IR 581; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

844 IAC 10-1-2.7 “Permanent record” defined

Authority: IC 25-23.5-2-5; IC 25-23.5-2-6

Affected: IC 25-1-5-3; IC 25-23.5

Sec. 2.7. “Permanent record” means medical charts and/or educational files. (*Medical Licensing Board of Indiana; 844 IAC 10-1-2.7; filed Nov 14, 1991, 3:30 p.m.: 15 IR 581; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

844 IAC 10-1-3 “School or program of occupational therapy and program of occupational therapy assistants approved by the board” defined

Authority: IC 25-23.5-2-5; IC 25-23.5-2-6

Affected: IC 25-23.5-5

Sec. 3. (a) “School or program of occupational therapy and program of occupational therapy assistants approved by the board” means a program for the education of occupational therapists and occupational therapy assistants. Content requirements shall include liberal and professional education as follows:

- (1) Liberal arts, sciences, and humanities.
- (2) Biological, behavioral, and health sciences shall include the following:
 - (A) Structure and function of the human body and recognition of normal and abnormal conditions.
 - (B) Human development throughout the life cycle including sensorimotor, cognitive, and psychosocial components.
 - (C) Human behavior in the context of sociocultural systems and beliefs, ethics, and values.
 - (D) Effects of health and illness on person and society.
- (3) Occupational therapy theory and practice shall include the following:
 - (A) Human performance which shall include occupational throughout the life cycle, human interaction, roles, values, and the influence of the nonhuman environment.
 - (B) Activity processes which shall include the following:

- (i) Theories underlying the use of purposeful activity; and the meaning and dynamics of activity including self-care, work, play, and leisure.
 - (ii) Performance of selected life tasks and activities.
 - (iii) Analysis, adaptation, and application of purposeful activity as therapeutic intervention.
 - (iv) Use of self, dyadic, and group interaction.
 - (C) Theoretical approaches including those related to purposeful activity, human performance, and adaptation.
 - (D) Application of occupational therapy theory to practice which shall include the following:
 - (i) Assessment and interpretation, observation, interviews, history, standardized and nonstandardized tests.
 - (ii) Directing, planning, and implementation shall include the following:
 - (AA) Therapeutic intervention related to daily living skills and sensorimotor, cognitive, and psychosocial components.
 - (BB) Therapeutic adaptation including methods of accomplishing daily life tasks, environmental adjustments, orthotics, and assistive devices and equipment.
 - (CC) Health maintenance including energy conservation, joint protection, body mechanics, and positioning.
 - (DD) Prevention programs to foster age-appropriate balance of self-care, work, and play or leisure.
 - (iii) Program termination including reevaluation, determination of discharge, summary of occupational therapy outcome, and appropriate recommendations to maximize treatment gains.
 - (iv) Documentation.
 - (E) Development and implementation of quality assurance.
 - (F) Management of occupational therapy service which shall include the following:
 - (i) Planning services for client groups.
 - (ii) Personnel management including Cota's aides, volunteers, and Level I students.
 - (iii) Departmental operations including budgeting, scheduling, record keeping, safety, and maintenance of supplies and equipment.
 - (4) Research shall include the following:
 - (A) Critique of studies related to occupational therapy.
 - (B) Application of research approaches to occupational therapy practice.
 - (5) Values and attitudes congruent with the following:
 - (A) The profession's standards and ethics.
 - (B) Individual responsibility for continued learning.
 - (C) Participation in the promotion of occupational therapy through professional organizations, governmental bodies, and human service organizations.
 - (D) Documentation and validation of occupational therapy practice through research, publication, and program evaluation.
 - (6) Fieldwork education shall include the following:
 - (A) Supervised fieldwork shall be an integral part of the professional education program and shall include the following:
 - (i) There shall be collaboration between academic and fieldwork educators.
 - (ii) Fieldwork shall be conducted in settings approved by the program as providing experiences appropriate to the learning needs of the student and as meeting the objectives of fieldwork.
 - (B) Level I fieldwork shall be provided and shall include those experiences designed as an integral part of didactic courses for the purpose of directed observation and participation in selected field settings. These experiences are not expected to emphasize independent performance or to be considered substitutes for or part of the sustained Level II fieldwork.
 - (C) Level II fieldwork shall be required and shall include the following:
 - (i) A minimum of six (6) months of practice.
 - (ii) Emphasize the application of an academically acquired body of knowledge.
 - (iii) Experience with a wide range of client ages and a variety of physical and mental health conditions.
- (b) "Program of occupational therapy assistants approved by the board" means a program for the education of occupational therapy assistants. Content requirements shall include the following:

- (1) General education prerequisite to, or concurrent with, technical education are those studies which include the following:
 - (A) Oral and written communication skills.
 - (B) Sociocultural similarities and differences.
- (2) Biological, behavioral, and health sciences shall include the following:
 - (A) Basic structure and function of the normal human body.
 - (B) Basic development of personality traits and learning skills.
 - (C) Environmental and community effects on the individual.
 - (D) Basic influences contributing to health.
 - (E) Disabling conditions commonly referred for occupational therapy.
- (3) Occupational therapy concepts and skills shall include the following:
 - (A) Human performance including life tasks and roles as related to the developmental process from birth to death.
 - (B) Activity processes and skills which shall include the following:
 - (i) Performance of selected life tasks and activities, including self-care, work, play, and leisure.
 - (ii) Analysis and adaptation of activities.
 - (iii) Instruction of individuals and groups in selected life tasks and activities.
 - (C) Concepts related to occupational therapy practice which shall include the following:
 - (i) The importance of human occupation as a health determinant.
 - (ii) The use of self, interpersonal, and communication skills.
 - (D) Use of occupational therapy concepts and skills which shall include the following:
 - (i) Data collection, which shall include structured observation and interviews, history, and structured tests.
 - (ii) Participation in planning and implementation shall include the following:
 - (AA) Therapeutic intervention related to daily living skills and sensorimotor, cognitive, and psychosocial components.
 - (BB) Therapeutic adaptation including methods of accomplishing daily life tasks, environmental adjustments, orthotics, and assistive devices and equipment.
 - (CC) Health maintenance including mental health techniques, energy conservation, joint protection, body mechanics, and positioning.
 - (DD) Prevention programs to foster age-appropriate balance of self-care, work, and play or leisure.
 - (iii) Program termination including assisting in reevaluation, summary of occupational therapy outcome, and appropriate recommendations to maximize treatment gains.
 - (iv) Documentation.
 - (E) Participation in management of occupational therapy service which shall include the following:
 - (i) Departmental operations including scheduling, record keeping, safety, and maintenance of supplies and equipment.
 - (ii) Personnel training and supervision including aides, volunteers, and Level I occupational therapy assistants students.
 - (iii) Management of activity service.
- (4) Values, attitudes, and behaviors congruent with the following:
 - (A) The profession's standards and ethics.
 - (B) Individual responsibility for continued learning.
 - (C) Interdisciplinary and supervisory relationships within the administrative hierarchy.
 - (D) Participation in the promotion of occupational therapy through professional organizations, governmental bodies, and human service organizations.
 - (E) Understanding of the importance of occupational therapy research, publication, program evaluation, and documentation of services.
- (5) Fieldwork education shall include the following:
 - (A) Supervised fieldwork shall be an integral part of the technical education program and shall include the following:
 - (i) There shall be collaboration between academic and fieldwork educators.
 - (ii) Fieldwork shall be conducted in settings approved by the program as providing experiences appropriate to the learning needs of the student and as meeting the objectives of fieldwork.
 - (B) Level I fieldwork shall be provided and include those experiences designed as an integral part of didactic courses

for the purpose of directed observation and participation in selected field settings. These experiences are not expected to emphasize independent performance or to be considered substitutes for or part of the sustained Level II fieldwork.

(C) Level II fieldwork shall be required and shall:

(i) include a minimum of two (2) months of practice; and

(ii) emphasize the application of an academically acquired body of knowledge.

(c) The committee shall maintain a list of occupational therapy and occupational therapy assistant programs which the board has approved. This list shall be available in written form from the Health Professions Bureau, One American Square, Suite 1020, Post Office Box 82067, Indianapolis, Indiana 46282. (*Medical Licensing Board of Indiana; 844 IAC 10-1-3; filed Dec 28, 1990, 5:00 p.m.: 14 IR 1064; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

Rule 2. Fees

844 IAC 10-2-1 Fees (Repealed)

Sec. 1. (*Repealed by Medical Licensing Board of Indiana; filed Feb 11, 2002, 4:40 p.m.: 25 IR 2247*)

844 IAC 10-2-2 Fees

Authority: IC 25-1-8-2; IC 25-23.5-2-5; IC 25-23.5-2-6

Affected: IC 25-23.5-2; IC 25-23.5-5

Sec. 2. (a) The board shall charge and collect the following fees:

Application for certification	\$100
Certification renewal	\$100 biennially
Temporary permit	\$50
Verification of certification	\$10
Duplicate wall certification	\$10

(b) Applicants required to take the national examination for licensure shall pay a fee directly to a professional examination service in the amount set by the examination service. (*Medical Licensing Board of Indiana; 844 IAC 10-2-2; filed Feb 11, 2002, 4:40 p.m.: 25 IR 2247*)

Rule 3. Admission to Practice

844 IAC 10-3-1 Application for certification; deadlines

Authority: IC 25-23.5-2-5; IC 25-23.5-2-6

Affected: IC 25-23.5-5

Sec. 1. All applicants for certification must apply on such form and in such manner as the committee shall prescribe. Complete applications for certification must be submitted at least thirty (30) days prior to the examination date. (*Medical Licensing Board of Indiana; 844 IAC 10-3-1; filed Dec 28, 1990, 5:00 p.m.: 14 IR 1067; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

844 IAC 10-3-2 Certification by examination

Authority: IC 25-23.5-2-5; IC 25-23.5-2-6

Affected: IC 25-23.5-5

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

- (1) Applies in the form and manner prescribed by the committee.
- (2) Submits the fees specified in 844 IAC 10-2-1.
- (3) Successfully completes the examination required by the committee for certification as an occupational therapist.
- (4) Successfully completes the examination required by the committee for certification as an occupational therapy assistant.
- (5) Submits two (2) recent passport-quality photographs of the applicant, approximately two (2) inches by two (2) inches in

size, signed by the applicant, shall be submitted with each application.

(6) Submits an official transcript of grades from which the applicant obtained the applicant's degree which shows that all requirements for graduation have been met.

(7) Submits a certified copy of a diploma to the committee of the applicant's graduation from a school or program of occupational therapy or a program of occupational therapy assistants approved by the board that meets the standards set by the board under 844 IAC 10-1-2.

(8) Otherwise meets the requirements of IC 25-23.5-5.

(Medical Licensing Board of Indiana; 844 IAC 10-3-2; filed Dec 28, 1990, 5:00 p.m.: 14 IR 1067; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325)

844 IAC 10-3-3 Certification by endorsement

Authority: IC 25-23.5-2-6

Affected: IC 25-23.5-5

Sec. 3. The committee may issue a certificate by endorsement to an applicant who completes the following:

(1) Applies to the committee in the form and manner required by the board.

(2) Submits the fees required under 844 IAC 10-2-1.

(3) Submits a diploma to the committee of the applicant's graduation from a school or program of occupational therapy or a program of occupational therapy assistants approved by the board that meets the standards set by the board under 844 IAC 10-1-2.

(4) Submits two (2) recent passport-quality photographs of the applicant, no smaller than two (2) inches by two (2) inches, each signed by the applicant, in black ink.

(5) Submits an official transcript of grades from which the applicant obtained the applicant's degree which shows that all requirements for graduation have been met.

(6) Submits verification of licensure/certification status from the initial state in which the applicant has been or is currently licensed/certified.

(7) Submits verification from all states in which the applicant has been or is currently licensed/certified which statement shall include whether the applicant has ever been disciplined in any manner.

(8) Otherwise meets the requirements of IC 25-23.5-5.

(Medical Licensing Board of Indiana; 844 IAC 10-3-3; filed Dec 28, 1990, 5:00 p.m.: 14 IR 1067; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325)

Rule 4. Certification

844 IAC 10-4-1 Mandatory registration; renewal

Authority: IC 25-23.5-2-6

Affected: IC 25-23.5-5-9; IC 25-23.5-5-12

Sec. 1. Every occupational therapist and occupational therapy assistant holding a certificate issued by the committee shall renew their certificate biennially of each even-numbered year. *(Medical Licensing Board of Indiana; 844 IAC 10-4-1; filed Dec 28, 1990, 5:00 p.m.: 14 IR 1068; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325)*

844 IAC 10-4-2 Address; change of name

Authority: IC 25-23.5-2-5; IC 25-23.5-2-6

Affected: IC 25-23.5-5

Sec. 2. (a) Each certificate holder shall inform the committee, in writing, of all changes of address or name within fifteen (15) days of the change.

(b) A certificate holder's failure to receive notification of renewal due to failure to notify the board of a change of address or name shall not constitute an error on the part of the committee, board, or bureau, nor shall it exonerate or otherwise excuse the certificate holder from renewing such certification. *(Medical Licensing Board of Indiana; 844 IAC 10-4-2; filed Dec 28, 1990, 5:00*

p.m.: 14 IR 1068; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325)

844 IAC 10-4-3 Reinstatement of delinquent certificate

Authority: IC 25-23.5-2-5; IC 25-23.5-2-6

Affected: IC 25-23.5-5-10

Sec. 3. (a) An occupational therapist or occupational therapy assistant who is less than three (3) years delinquent in renewing a license or registration shall be reinstated upon receipt of renewal application, penalty fee, and renewal fees.

(b) If more than three (3) years have elapsed since the expiration of a certificate to practice as an occupational therapist or occupational therapy assistant, the applicant must take and pass an examination approved by the committee prior to reinstatement *[sic.]*. (*Medical Licensing Board of Indiana; 844 IAC 10-4-3; filed Dec 28, 1990, 5:00 p.m.: 14 IR 1068; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

Rule 5. Standards of Competent Practice of Occupational Therapy

844 IAC 10-5-1 Applicability

Authority: IC 25-23.5-2-5; IC 25-23.5-2-6

Affected: IC 25-1-5-3; IC 25-23.5

Sec. 1. An occupational therapist in the conduct of his or her practice of occupational therapy shall abide by, and comply with, the standards of competent practice in this rule. (*Medical Licensing Board of Indiana; 844 IAC 10-5-1; filed Nov 14, 1991, 3:30 p.m.: 15 IR 581; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

844 IAC 10-5-2 Confidentiality

Authority: IC 25-23.5-2-5; IC 25-23.5-2-6

Affected: IC 25-1-5-3; IC 25-23.5

Sec. 2. An occupational therapist shall maintain the confidentiality of all knowledge and information regarding a patient, including, but not limited to, the patient's diagnosis, treatment, and prognosis, and of all records relating thereto, about which the practitioner may learn or otherwise be informed during the course of, or as a result of, the patient-practitioner relationship. Information about a patient shall be disclosed by an occupational therapist when required by law or when authorized by the patient or those responsible for the patient's care. (*Medical Licensing Board of Indiana; 844 IAC 10-5-2; filed Nov 14, 1991, 3:30 p.m.: 15 IR 582; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

844 IAC 10-5-3 Professional practice

Authority: IC 25-23.5-2-5; IC 25-23.5-2-6

Affected: IC 25-1-5-3; IC 25-23.5

Sec. 3. When the occupational therapist refers a patient to another professional or suggests purchase or rental of therapy or rehabilitative equipment, the occupational therapist shall allow the patient a choice of qualified professionals or equipment companies. (*Medical Licensing Board of Indiana; 844 IAC 10-5-3; filed Nov 14, 1991, 3:30 p.m.: 15 IR 582; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

844 IAC 10-5-4 Information to patient

Authority: IC 25-23.5-2-5; IC 25-23.5-2-6

Affected: IC 25-1-5-3; IC 25-23.5

Sec. 4. An occupational therapist 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. (*Medical Licensing Board of Indiana; 844 IAC 10-5-4; filed Nov 14, 1991, 3:30 p.m.: 15 IR 582; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

844 IAC 10-5-5 Supervision of occupational therapy assistant

Authority: IC 25-23.5-2-5; IC 25-23.5-2-6

Affected: IC 25-1-5-3; IC 25-23.5

Sec. 5. Under the supervision of an occupational therapist, an occupational therapy assistant may contribute to the evaluation process by performing objective tests. The occupational therapy assistant may also contribute to the development and implementation of the treatment plan and the monitoring and documentation of progress. The occupational therapy assistant may not independently develop the treatment plan and/or initiate treatment. (*Medical Licensing Board of Indiana; 844 IAC 10-5-5; filed Nov 14, 1991, 3:30 p.m.: 15 IR 582; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

844 IAC 10-5-6 Documentation

Authority: IC 25-23.5-2-5; IC 25-23.5-2-6

Affected: IC 25-1-5-3; IC 25-23.5

Sec. 6. The occupational therapist shall countersign within seven (7) calendar days all documentation written by the occupational therapy assistant, which will become part of the patient's permanent record. (*Medical Licensing Board of Indiana; 844 IAC 10-5-6; filed Nov 14, 1991, 3:30 p.m.: 15 IR 582; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

844 IAC 10-5-7 Fees

Authority: IC 25-23.5-2-5; IC 25-23.5-2-6

Affected: IC 25-1-5-3; IC 25-23.5

Sec. 7. Fees charged by an occupational therapist for his or her professional services shall be reasonable and shall reasonably compensate the practitioner only for services actually rendered. (*Medical Licensing Board of Indiana; 844 IAC 10-5-7; filed Nov 14, 1991, 3:30 p.m.: 15 IR 582; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

844 IAC 10-5-8 Fee division

Authority: IC 25-23.5-2-5; IC 25-23.5-2-6

Affected: IC 25-1-5-3; IC 25-23.5

Sec. 8. An occupational therapist shall not divide a fee for professional services with another practitioner who is not a partner, employee, or shareholder in a professional corporation, unless:

(1) the patient consents to the employment of the other practitioner after a full disclosure that a division of fees will be made; and

(2) the division of fees is made in proportion to actual services performed and responsibility assumed by each practitioner. (*Medical Licensing Board of Indiana; 844 IAC 10-5-8; filed Nov 14, 1991, 3:30 p.m.: 15 IR 582; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

844 IAC 10-5-9 Advertising

Authority: IC 25-23.5-2-5; IC 25-23.5-2-6

Affected: IC 25-1-5-3; IC 25-23.5

Sec. 9. (a) An occupational therapist shall not, on behalf of himself or herself, a partner, an associate, a shareholder in a professional corporation, or 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.

(b) Subject to the requirements of subsection (a), and in order to facilitate the process of informed selection of a practitioner by the public, an occupational therapist 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 occupational therapy.

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

(d) If an occupational therapist advertises a fee for a service, treatment, consultation, examination, or other procedure, the practitioner must render that service or procedure for no more than the fee advertised.

(e) Unless otherwise specified in the advertisement, if an occupational therapist publishes or communicates any fee information in a publication which has no fixed date for publication of a succeeding issue, the occupational therapist shall be bound by any representation made therein for thirty (30) days. (*Medical Licensing Board of Indiana; 844 IAC 10-5-9; filed Nov 14, 1991, 3:30 p.m.: 15 IR 582; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

844 IAC 10-5-10 Contingency fee prohibited

Authority: IC 25-23.5-2-5; IC 25-23.5-2-6

Affected: IC 25-1-5-3; IC 25-23.5

Sec. 10. An occupational therapist shall not base his or her fee upon the uncertain outcome of a contingency, whether such contingency be the outcome of litigation or any other occurrence or condition which may or may not develop, occur, or happen. (*Medical Licensing Board of Indiana; 844 IAC 10-5-10; filed Nov 14, 1991, 3:30 p.m.: 15 IR 583; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

844 IAC 10-5-11 Liability to patients

Authority: IC 25-23.5-2-5; IC 25-23.5-2-6

Affected: IC 25-1-5-3; IC 25-23.5

Sec. 11. An occupational therapist 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 an occupational therapist may enter into agreements which contain informed, voluntary releases and/or waivers of liability in settlement of a claim made by a patient or by those responsible for a patient's care. (*Medical Licensing Board of Indiana; 844 IAC 10-5-11; filed Nov 14, 1991, 3:30 p.m.: 15 IR 583; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

844 IAC 10-5-12 Patient complaints

Authority: IC 25-23.5-2-5; IC 25-23.5-2-6

Affected: IC 25-1-5-3; IC 25-23.5

Sec. 12. An occupational therapist 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 the alleged violation of any law. (*Medical Licensing Board of Indiana; 844 IAC 10-5-12; filed Nov 14, 1991, 3:30 p.m.: 15 IR 583; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

844 IAC 10-5-13 Supervision of a holder of a temporary permit

Authority: IC 25-23.5-2-5; IC 25-23.5-2-6

Affected: IC 25-23.5-5-11

Sec. 13. The supervising occupational therapist shall be reasonably available and responsible at all times for the direction and action of the person supervised when services are performed by the holder of a temporary permit issued under IC 25-23.5-5-11(a)(3). Unless the supervising occupational therapist is on the premises to provide constant supervision, the holder of the temporary permit shall meet once each working day to review all patients' treatments. This meeting must include the actual presence of the occupational therapist or the designated occupational therapist. The patient's care shall always be the responsibility of the supervising occupational therapist. Reports written by the holder of a temporary permit issued under IC 25-23.5-5-11(a)(3) for inclusion in the patient's permanent record shall be countersigned by the supervising occupational therapist who may enter any remarks, revisions, or additions as the occupational therapist deems appropriate. The occupational therapist shall countersign within seven (7) calendar days all documentation written by the holder of the temporary permit issued under IC 25-23.5-5-11(a)(3). (*Medical Licensing Board of Indiana; 844 IAC 10-5-13; filed Apr 22, 1994, 5:00 p.m.: 17 IR 2076; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

844 IAC 10-5-14 Limit on number of temporary permit holders supervised

Authority: IC 25-23.5-2-5; IC 25-23.5-2-6

Affected: IC 25-23.5-5-11

Sec. 14. An occupational therapist may not supervise more than three (3) holders of temporary permits issued under IC 25-23.5-5-11(a)(3) at one (1) time. (*Medical Licensing Board of Indiana; 844 IAC 10-5-14; filed Apr 22, 1994, 5:00 p.m.: 17 IR 2076; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

844 IAC 10-5-15 Limit on number of temporary permit applications

Authority: IC 25-23.5-2-5; IC 25-23.5-2-6

Affected: IC 25-23.5-5-11

Sec. 15. Under IC 25-23.5-5-11, temporary permits of applicants who fail to appear for the scheduled examination will be invalidated. If the applicant shows good cause to the committee in writing for missing the scheduled examination, the committee may allow the applicant to submit a new application for a temporary permit. The applicant may make up to two (2) applications for a temporary permit. (*Medical Licensing Board of Indiana; 844 IAC 10-5-15; filed Apr 22, 1994, 5:00 p.m.: 17 IR 2076; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

Rule 6. Occupational Therapy Aides; Training and Supervision

844 IAC 10-6-1 Training programs

Authority: IC 25-23.5-2-6

Affected: IC 25-23.5-2

Sec. 1. An occupational therapy aide is an unlicensed or uncertified person who assists in the practice of occupational therapy. Therefore, before an occupational therapy aide may be involved in the provision of direct services to patients, the occupational therapy aide shall have received site-specific training that is appropriate and consistent with the role and function of the aide in the facility to which he or she is assigned. Well-defined and documented training programs are required for the occupational therapy aide to ensure the delivery of quality services. (*Medical Licensing Board of Indiana; 844 IAC 10-6-1; filed Sep 1, 2000, 2:04 p.m.: 24 IR 23*)

844 IAC 10-6-2 Indirect and direct patient services

Authority: IC 25-23.5-2-6

Affected: IC 25-23.5-2

Sec. 2. An occupational therapy aide may contribute to indirect patient services through the provision of routine department maintenance, transportation of patients, preparation and setting up of treatment equipment, and performing clerical activities. An aide, with direct on-site supervision of a certified occupational therapist or, when appropriate, a certified occupational therapy assistant, may provide direct patient service. (*Medical Licensing Board of Indiana; 844 IAC 10-6-2; filed Sep 1, 2000, 2:04 p.m.: 24 IR 23*)

844 IAC 10-6-3 Direct supervision

Authority: IC 25-23.5-2-6

Affected: IC 25-23.5-2

Sec. 3. Direct supervision means that the supervising occupational therapist or occupational therapy assistant shall:

(1) be on the premises, immediately available, in person, and responsible at all times whenever an occupational therapy aide is performing direct client services; and

(2) examine each client prior to the treatment session of the purpose of determining whether a portion of the treatment may be delegated to the occupational therapy aide.

(*Medical Licensing Board of Indiana; 844 IAC 10-6-3; filed Sep 1, 2000, 2:04 p.m.: 24 IR 24*)

ARTICLE 11. RESPIRATORY CARE PRACTITIONERS**Rule 1. Definitions****844 IAC 11-1-1 Applicability**

Authority: IC 25-34.5-2-7

Affected: IC 25-34.5

Sec. 1. The definitions in this rule apply throughout this article. (*Medical Licensing Board of Indiana; 844 IAC 11-1-1; filed Oct 26, 1990, 3:05 p.m.: 14 IR 448; readopted filed Sep 28, 2001, 4:00 p.m.: 25 IR 532*)

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, 1248 Harwood Road, Bedford, Texas 76021-4244 or the Health Professions Bureau, Indiana Government Center-South, 402 West Washington Street, Room W041, Indianapolis, Indiana 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*)

844 IAC 11-1-3 "Bureau" defined

Authority: IC 25-34.5-2-7

Affected: IC 25-1-5-3; IC 25-34.5

Sec. 3. "Bureau" refers to the health professions bureau established under IC 25-1-5-3. (*Medical Licensing Board of Indiana; 844 IAC 11-1-3; filed Oct 26, 1990, 3:05 p.m.: 14 IR 448; readopted filed Sep 28, 2001, 4:00 p.m.: 25 IR 532*)

844 IAC 11-1-4 "Direct supervision" defined

Authority: IC 25-34.5-2-7

Affected: IC 25-34.5-1-6

Sec. 4. "Direct supervision" means that the supervising physician shall be reasonably available and responsible at all times for the direction and the actions of the practitioner being supervised when services are being performed by the practitioner. The patient's care shall always be the responsibility of the supervising physician. (*Medical Licensing Board of Indiana; 844 IAC 11-1-4; filed Oct 26, 1990, 3:05 p.m.: 14 IR 448; readopted filed Sep 28, 2001, 4:00 p.m.: 25 IR 532*)

844 IAC 11-1-5 "Physician" defined

Authority: IC 25-34.5-2-7

Affected: IC 25-22.5-1-1.1

Sec. 5. "Physician" refers to a medical doctor or an osteopathic doctor as defined in IC 25-22.5-1-1.1. (*Medical Licensing Board of Indiana; 844 IAC 11-1-5; filed Oct 26, 1990, 3:05 p.m.: 14 IR 448; readopted filed Sep 28, 2001, 4:00 p.m.: 25 IR 532*)

844 IAC 11-1-6 "Professional incompetence" defined

Authority: IC 25-34.5-2-7

Affected: IC 25-22.5-1-1

Sec. 6. "Professional incompetence" means, but is not limited to, a pattern or course of repeated conduct by a practitioner demonstrating a failure to exercise such reasonable care and diligence as is ordinarily exercised by practitioners in the same or similar circumstances in the same or similar locality. (*Medical Licensing Board of Indiana; 844 IAC 11-1-6; filed Nov 14, 1991, 3:30 p.m.: 15 IR 583; readopted filed Sep 28, 2001, 4:00 p.m.: 25 IR 532*)

Rule 2. Fees

844 IAC 11-2-1 Fees (Repealed)

Sec. 1. (*Repealed by Medical Licensing Board of Indiana; filed Jan 7, 2002, 10:08 a.m.: 25 IR 1636*)

844 IAC 11-2-1.1 Fees

Authority: IC 25-1-8-2; IC 25-34.5-2-7

Affected: IC 25-34.5-2

Sec. 1. The board shall charge and collect the following fees:

Application for licensure	\$50
Biennial renewal of licensure	\$50
Verification of licensure	\$10
Duplicate wall license	\$10
Temporary permit	\$25
Renewal of a temporary permit	\$10
Student permit	\$25

(*Medical Licensing Board of Indiana; 844 IAC 11-2-1.1; filed Jan 7, 2002, 10:08 a.m.: 25 IR 1635*)

Rule 3. Admission to Practice

844 IAC 11-3-1 Application for certification; deadlines (Expired)

Sec. 1. (*Expired under IC 4-22-2.5, effective January 1, 2002.*)

844 IAC 11-3-2 Licensure by examination

Authority: IC 25-34.5-2-7

Affected: IC 25-34.5-2-8; IC 25-34.5-2-9

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

- (1) Applies to the committee in the form and manner prescribed by the board.
- (2) Submits the fees specified in 844 IAC 11-2-1.
- (3) Successfully completes and submits an official credential report that verifies passing a respiratory care practitioner examination required by the committee.
- (4) Submits two (2) recent passport-quality photographs of the applicant, approximately two (2) inches by two (2) inches in size, signed in black ink along the bottom.
- (5) Submits an official transcript of grades from the school or program from which the applicant obtained the applicant's degree which shows that all requirements for graduation have been met by the applicant that meets the standards set by the board under 844 IAC 11-1-2.
- (6) Otherwise meets the requirements of IC 25-34.5-2-8.

(*Medical Licensing Board of Indiana; 844 IAC 11-3-2; filed Oct 26, 1990, 3:05 p.m.: 14 IR 449; readopted filed Nov 30, 2001, 10:25 a.m.: 25 IR 1321*)

844 IAC 11-3-3 Licensure by endorsement

Authority: IC 25-34.5-2-7

Affected: IC 25-34.5-2-8; IC 25-34.5-2-11

Sec. 3. The committee may issue a license by endorsement to an applicant who completes the following:

- (1) Applies to the committee in the form and manner required by the board.
- (2) Submits the fees required under 844 IAC 11-2-1.
- (3) Submits two (2) recent passport-quality photographs of the applicant, no smaller than two (2) inches by two (2) inches, each signed by the applicant at the bottom in black ink.
- (4) Submits an official transcript of grades from the school or program from which the applicant obtained the applicant's degree which shows that all requirements for graduation have been met by the applicant that meets the standards set by the board under 844 IAC 11-1-2.
- (5) Submits verification from all states in which the applicant has been or is currently licensed/certified which statement shall include whether the applicant has ever been disciplined in any manner.
- (6) Submits an official credentials report that verifies passing a respiratory care practitioner examination approved by the board.
- (7) Otherwise meets the requirements of IC 25-34.5-2-8.

(Medical Licensing Board of Indiana; 844 IAC 11-3-3; filed Oct 26, 1990, 3:05 p.m.: 14 IR 449; readopted filed Nov 30, 2001, 10:25 a.m.: 25 IR 1321)

844 IAC 11-3-3.1 Licensure by credentials

Authority: IC 25-34.5-2-7

Affected: IC 25-34.5-2-6

Sec. 3.1. The committee may issue a license by credentials to an applicant who completes the following:

- (1) Applies to the committee in the form and manner required by the board.
- (2) Submits the fee required under 844 IAC 11-2-1.
- (3) Submits two (2) recent passport-quality photographs of the applicant, no smaller than two (2) inches by two (2) inches, each signed by the applicant at the bottom in black ink.
- (4) Submits an official transcript of grades from the school or program from which the applicant obtained the applicant's degree, which shows that all requirements for graduation have been met by the applicant, that meets the standards set by the board under 844 IAC 11-1-2.
- (5) Submits an official credentials report, which verifies passing a respiratory care practitioner examination, approved by the board.
- (6) If five (5) years have elapsed since the successful completion of the examination, required by the board, the applicant must take and successfully complete an examination approved by board within six (6) months of the date of application for licensure.
- (7) Otherwise meets the requirements of IC 25-34.5-2.

(Medical Licensing Board of Indiana; 844 IAC 11-3-3.1; filed Jan 7, 2002, 10:07 a.m.: 25 IR 1635)

844 IAC 11-3-4 Temporary permits by endorsement

Authority: IC 25-34.5-2-6; IC 25-34.5-2-7

Affected: IC 25-34.5-2-10.1; IC 25-34.5-2-11

Sec. 4. (a) An applicant for a temporary permit by endorsement under IC 25-34.5-2-10.1(a)(1) who submits proof of current certification or licensure to practice respiratory care from another state may be issued a temporary permit.

(b) An applicant for a temporary permit under IC 25-34.5-2-10.1(a)(2) who submits proof that the state in which the applicant is practicing does not require licensure or certification and proof of current credentials from a national respiratory care association approved by the committee may be issued a temporary permit.

(c) A temporary permit expires the earlier of the date the:

- (1) person holding the permit is issued a license under IC 25-34.5-2-11; or

(2) committee disapproves the person's license application.

(Medical Licensing Board of Indiana; 844 IAC 11-3-4; filed Apr 15, 1994, 5:00 p.m.: 17 IR 2078; readopted filed Nov 30, 2001, 10:25 a.m.: 25 IR 1321)

844 IAC 11-3-4.1 Temporary permits by examination

Authority: IC 25-34.5-2-6; IC 25-34.5-2-7

Affected: IC 25-34.5-2-10.1

Sec. 4.1. (a) An applicant for a temporary permit by examination under IC 25-34.5-2-10.1(a)(3) will be required to take the examination for licensure within six (6) months after graduation.

(b) The temporary permit by examination will expire six (6) months after graduation.

(c) If the applicant fails to take the examination within the six (6) month period and presents an explanation to the committee in writing, which shows good cause for not taking the examination, the committee may allow the applicant to renew their temporary permit.

(d) The committee shall not issue or renew a temporary permit to an applicant who has failed the examination. *(Medical Licensing Board of Indiana; 844 IAC 11-3-4.1; filed Jan 7, 2002, 10:07 a.m.: 25 IR 1635)*

Rule 4. Standards of Competent Practice Under the Direct Supervision of a Physician

844 IAC 11-4-1 Applicability

Authority: IC 25-34.5-2-7

Affected: IC 25-34.5-2

Sec. 1. A respiratory care practitioner in the conduct of his or her practice of respiratory care shall abide by, and comply with, the standards of competent practice under the direct supervision of a physician. *(Medical Licensing Board of Indiana; 844 IAC 11-4-1; filed Nov 14, 1991, 3:30 p.m.: 15 IR 584; readopted filed Sep 28, 2001, 4:00 p.m.: 25 IR 532)*

844 IAC 11-4-2 Confidentiality

Authority: IC 25-34.5-2-7

Affected: IC 25-34.5-2

Sec. 2. A respiratory care practitioner shall maintain the confidentiality of all knowledge and information regarding a patient and all records relating to the patient. Information and records about a patient shall be disclosed by a practitioner when required by law. *(Medical Licensing Board of Indiana; 844 IAC 11-4-2; filed Nov 14, 1991, 3:30 p.m.: 15 IR 584; readopted filed Sep 28, 2001, 4:00 p.m.: 25 IR 532)*

844 IAC 11-4-3 Information to patient

Authority: IC 25-34.5-2-7

Affected: IC 25-34.5-2

Sec. 3. A respiratory care practitioner under the direct supervision of a physician shall give a truthful, candid, and reasonably complete account of the patient's specific treatment of the respiratory care condition to the patient or to those responsible for the patient's care. *(Medical Licensing Board of Indiana; 844 IAC 11-4-3; filed Nov 14, 1991, 3:30 p.m.: 15 IR 584; readopted filed Sep 28, 2001, 4:00 p.m.: 25 IR 532)*

844 IAC 11-4-4 Reasonable care

Authority: IC 25-34.5-2-7

Affected: IC 25-34.5-2

Sec. 4. A respiratory care 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. *(Medical Licensing Board*

of Indiana; 844 IAC 11-4-4; filed Nov 14, 1991, 3:30 p.m.: 15 IR 584; readopted filed Sep 28, 2001, 4:00 p.m.: 25 IR 532)

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 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 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.
- (12) Impersonating or acting as a proxy for an applicant in any examination required for licensure.
- (13) Impersonating another licensed practitioner or permitting another person to use his or her 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 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)

844 IAC 11-4-6 Peer reviews

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) *[IC 34-4 was repealed by P.L.1-1998, SECTION 221, effective July 1, 1998.]*, 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 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 treatment is sponsored or supervised by an impaired respiratory care practitioner committee of a hospital, 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 shall promptly report such 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*)

844 IAC 11-4-7 Referral fees

Authority: IC 25-34.5-2-7

Affected: IC 25-34.5-2

Sec. 7. 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. (*Medical Licensing Board of Indiana; 844 IAC 11-4-7; filed Nov 14, 1991, 3:30 p.m.: 15 IR 585; readopted filed Sep 28, 2001, 4:00 p.m.: 25 IR 532*)

844 IAC 11-4-8 Liability to patients

Authority: IC 25-34.5-2-7

Affected: IC 25-34.5-2

Sec. 8. 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 that contain informed, voluntary releases and/or waivers of liability in settlement of a claim made by a patient or by those responsible for a patient's care. (*Medical Licensing Board of Indiana; 844 IAC 11-4-8; filed Nov 14, 1991, 3:30 p.m.: 15 IR 585; readopted filed Nov 30, 2001, 10:25 a.m.: 25 IR 1323*)

844 IAC 11-4-9 Patient complaints

Authority: IC 25-34.5-2-7

Affected: IC 25-1-9; IC 25-34.5-2

Sec. 9. 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 this article, any alleged violation of IC 25-1-9, or any other law. (*Medical Licensing Board of Indiana; 844 IAC 11-4-9; filed Nov 14, 1991, 3:30 p.m.: 15 IR 585; readopted filed Sep 28, 2001, 4:00 p.m.: 25 IR 532*)

Rule 5. Certification Renewal

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 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, nor shall it exonerate or otherwise excuse the respiratory care practitioner from renewing such 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*)

844 IAC 11-5-2 Reinstatement of delinquent certificate (Expired)

Sec. 2. (*Expired under IC 4-22-2.5, effective January 1, 2002.*)

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 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.

(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 more than five (5) hours of continuing education can be obtained through correspondence courses 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 to teach topics related to patient/family education.

(3) The practice of respiratory care.

(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)

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 that verifies that all continuing education requirements according to section 3 of this rule will have been met by the time of license renewal.

(b) The respiratory care practitioner shall maintain his or her 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. *(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)*

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) 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) The continuing education program shall have qualified faculty members who have demonstrated competence in the subject areas.

(6) The continuing education program shall be held in adequate facilities that allow for an effective program.

(7) Continuing education programs shall employ a variety of educational methods and teaching aids that enhance the learning opportunities.

(8) Appropriate methods of evaluation shall be devised and used to measure the continuing education program's effectiveness.

(9) 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.

(3) American Nurses Association.

(4) Indiana State Nurses Association.

(5) American College of Chest Physicians.

(6) 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) American Heart Association seminar programs.

(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) Society of Critical Care Medicine.

(11) American Association of Critical Care Nurses.

(12) American Society of Anesthesiologists.

(13) American Polysomnographers Technologist.

(14) American Osteopathic Association.

(15) National Society for Cardiopulmonary Technologists.

(16) American Thoracic Society.

(17) 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)

ARTICLE 12. HYPNOTIST COMMITTEE

Rule 1. Definitions

844 IAC 12-1-1 Applicability

Authority: IC 25-20.5-1-9

Affected: IC 25-20.5-1

Sec. 1. The definitions in this rule apply throughout this article. (*Medical Licensing Board of Indiana; 844 IAC 12-1-1; filed Jan 13, 2000, 9:50 a.m.: 23 IR 1381*)

844 IAC 12-1-2 “Board” defined

Authority: IC 25-20.5-1-9

Affected: IC 25-20.5-1

Sec. 2. “Board” refers to the medical licensing board of Indiana. (*Medical Licensing Board of Indiana; 844 IAC 12-1-2; filed Jan 13, 2000, 9:50 a.m.: 23 IR 1381*)

844 IAC 12-1-3 “Bureau” defined

Authority: IC 25-20.5-1-9

Affected: IC 25-1-5-3; IC 25-20.5-1

Sec. 3. “Bureau” refers to the health professions bureau established under IC 25-1-5-3. (*Medical Licensing Board of Indiana; 844 IAC 12-1-3; filed Jan 13, 2000, 9:50 a.m.: 23 IR 1381*)

844 IAC 12-1-4 “Permanent record” defined

Authority: IC 25-20.5-1-9

Affected: IC 25-20.5-1-11

Sec. 4. “Permanent record” means an official document from a state-approved school as established in IC 25-20.5-1-11(c). (*Medical Licensing Board of Indiana; 844 IAC 12-1-4; filed Jan 13, 2000, 9:50 a.m.: 23 IR 1381*)

Rule 2. Fees

844 IAC 12-2-1 Fees (Repealed)

Sec. 1. (*Repealed by Medical Licensing Board of Indiana; filed Feb 11, 2002, 4:37 p.m.: 25 IR 2248*)

844 IAC 12-2-2 Fees

Authority: IC 25-20.5-1-9

Affected: IC 25-20.5-1

Sec. 2. The board shall charge and collect the following fees:

Application for certification	\$100, plus the cost of the examination
Examination	\$75
Application to repeat examination	\$100, plus the cost of the examination
Certification renewal	\$100 biennially
Verification of licensure	\$10
Duplicate wall license	\$10

(*Medical Licensing Board of Indiana; 844 IAC 12-2-2; filed Feb 11, 2002, 4:37 p.m.: 25 IR 2248*)

Rule 3. Admission to Practice

844 IAC 12-3-1 Application for certification

Authority: IC 25-20.5-1-9

Affected: IC 25-20.5-1

Sec. 1. All applicants for certification must apply in such form and manner as the committee shall prescribe. Complete

applications for certification must be submitted at least thirty (30) days prior to the examination date. (*Medical Licensing Board of Indiana; 844 IAC 12-3-1; filed Jan 13, 2000, 9:50 a.m.: 23 IR 1382*)

844 IAC 12-3-2 Certification by examination

Authority: IC 25-20.5-1-9

Affected: IC 25-20.5-1-11

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

- (1) Applies in the form and manner prescribed by the committee.
- (2) Submits the fees specified in 844 IAC 12-2.
- (3) Successfully completes the examination required by the committee for certification as a hypnotist or hypnotherapist.
- (4) Submits two (2) recent passport type quality photographs of the applicant, approximately two (2) inches by two (2) inches in size, signed in black ink along the bottom with each application.
- (5) Submits an official transcript of grades from the state-approved school or program as identified in IC 25-20.5-1-11 from which the applicant obtained his or her degree that shows that the applicant has met all requirements for graduation.
- (6) Submits a notarized copy of a certificate of completion of the applicant's graduation from an approved school or program of hypnosis that meets the standards set by the committee.
- (7) Otherwise meets the requirements of IC 25-20.5-1-11.

(*Medical Licensing Board of Indiana; 844 IAC 12-3-2; filed Jan 13, 2000, 9:50 a.m.: 23 IR 1382*)

Rule 4. Certification

844 IAC 12-4-1 Mandatory registration; renewal

Authority: IC 25-20.5-1-9

Affected: IC 25-20.5-1

Sec. 1. Every hypnotist or hypnotherapist holding a certificate issued by the committee shall renew their certificate biennially of each even-numbered year. If an individual fails to pay a renewal fee on or before the expiration date of a certificate, the certificate becomes invalid. (*Medical Licensing Board of Indiana; 844 IAC 12-4-1; filed Jan 13, 2000, 9:50 a.m.: 23 IR 1382*)

844 IAC 12-4-2 Address; change of name

Authority: IC 25-20.5-1-9

Affected: IC 25-20.5-1

Sec. 2. (a) Each certificate holder shall inform the committee, in writing, of all changes of address or name within thirty (30) days of the change.

(b) A certificate holder's failure to receive notification of renewal due to failure to notify the board of a change of address or name shall not constitute an error on the part of the committee, board, or bureau, nor shall it exonerate or otherwise excuse the certificate holder from renewing such certification. (*Medical Licensing Board of Indiana; 844 IAC 12-4-2; filed Jan 13, 2000, 9:50 a.m.: 23 IR 1382*)

844 IAC 12-4-3 Reinstatement of delinquent certificate

Authority: IC 25-20.5-1-9

Affected: IC 25-20.5-1

Sec. 3. (a) A hypnotist or hypnotherapist who is less than three (3) years delinquent in renewing a certificate shall be reinstated upon receipt of a completed renewal application, penalty fee, and renewal fees.

(b) If more than three (3) years have elapsed since the expiration of a certificate to practice as a hypnotist or hypnotherapist, the applicant must take and pass an examination approved by the committee. (*Medical Licensing Board of Indiana; 844 IAC 12-4-3; filed Jan 13, 2000, 9:50 a.m.: 23 IR 1382*)

Rule 5. Standards of Competent Practice of Hypnotism

844 IAC 12-5-1 Applicability

Authority: IC 25-20.5-1-9

Affected: IC 25-20.5-1

Sec. 1. The hypnotist or hypnotherapist in the conduct of his or her practice of hypnotism shall abide by, and comply with, the standards of competent practice in this rule. (*Medical Licensing Board of Indiana; 844 IAC 12-5-1; filed Jan 13, 2000, 9:50 a.m.: 23 IR 1382*)

844 IAC 12-5-2 Confidentiality

Authority: IC 25-20.5-1-9

Affected: IC 25-20.5-1

Sec. 2. A hypnotist or hypnotherapist shall maintain the confidentiality of all knowledge and information regarding a patient, including, but not limited to, the following:

(1) The patient's diagnosis, treatment, and prognosis.

(2) All records relating to the patient about which the practitioner may learn or otherwise be informed during the course of, or as a result of, the patient-practitioner relationship.

Information about a patient shall be disclosed by a hypnotist or hypnotherapist when required by law or when authorized by the patient or those responsible for the patient's care. (*Medical Licensing Board of Indiana; 844 IAC 12-5-2; filed Jan 13, 2000, 9:50 a.m.: 23 IR 1382*)

844 IAC 12-5-3 Public statements; advertising

Authority: IC 25-20.5-1-9

Affected: IC 25-20.5-1-21

Sec. 3. A hypnotist or hypnotherapist shall not use or participate in the use of any form of public communication containing a false, fraudulent, misleading, deceptive, unfair statement or claim. (*Medical Licensing Board of Indiana; 844 IAC 12-5-3; filed Jan 13, 2000, 9:50 a.m.: 23 IR 1383*)

844 IAC 12-5-4 Professional practice

Authority: IC 25-20.5-1-9

Affected: IC 25-20.5-1

Sec. 4. (a) A hypnotist or hypnotherapist shall accept responsibility for his or her work and ensure his or her services are used appropriately. A hypnotist or hypnotherapist shall make no unsubstantiated claims for his or her work and shall avoid relationships limiting impartiality.

(b) A hypnotist or hypnotherapist shall only provide services and use techniques for which her [*sic.*, *he*] or she is qualified by training and experience.

(c) A hypnotist or hypnotherapist shall not diagnose, treat, or advise on matters outside his or her recognized scope of practice.

(d) A hypnotist or hypnotherapist shall not engage in sexual relationships with a current patient or with a former patient until at least five (5) years after a professional relationship has been terminated.

(e) Hypnotists or hypnotherapists shall fully disclose and not misuse the purpose and nature of an evaluation, treatment, assessment technique, or educational procedure. The patient shall, at any time, discontinue an evaluation, treatment, assessment technique, or educational procedure unless explicitly agreed upon in advance by the practitioner and patient.

(f) Hypnotists or hypnotherapists shall report any known violation of IC 25-20.5-1 or this article. (*Medical Licensing Board of Indiana; 844 IAC 12-5-4; filed Jan 13, 2000, 9:50 a.m.: 23 IR 1383*)

844 IAC 12-5-5 Fees for service

Authority: IC 25-20.5-1-9

Affected: IC 25-20.5-1

Sec. 5. Fees charged by a hypnotist or hypnotherapist for his or her professional services shall be reasonable and shall reasonably compensate the practitioner for services actually rendered. Fee structures shall be disclosed at the onset of treatment. Fees for services shall not be divided with another hypnotist or hypnotherapist who is not a partner, employee, or shareholder in a professional corporation. Gifts or anything of value shall not be accepted for receiving or making referrals. (*Medical Licensing Board of Indiana; 844 IAC 12-5-5; filed Jan 13, 2000, 9:50 a.m.: 23 IR 1383*)

ARTICLE 13. ACUPUNCTURISTS**Rule 1. Definitions****844 IAC 13-1-1 Applicability**

Authority: IC 25-22.5-2-7

Affected: IC 25-2.5-1

Sec. 1. The definitions in this rule apply throughout this article. (*Medical Licensing Board of Indiana; 844 IAC 13-1-1; filed Oct 9, 2001, 2:52 p.m.: 25 IR 803*)

844 IAC 13-1-2 “Acupuncture” defined

Authority: IC 25-22.5-2-7

Affected: IC 25-2.5-1

Sec. 2. (a) “Acupuncture” means the evaluation and treatment of persons affected through a method of stimulation of a certain point or points on or immediately below the surface of the body by the insertion of presterilized, single-use, disposable needles, unless medically contraindicated, with or without the application of heat, electronic stimulation, or manual pressure to prevent or modify the perception of pain to normalize physiological functions, or for the treatment of certain diseases or dysfunctions of the body.

(b) The term does not include:

(1) radiology, electrosurgery, chiropractic technique, physical therapy, use or prescribing of any drugs, medications, serums, or vaccines; or

(2) determination of an allopathic differential diagnosis.

(*Medical Licensing Board of Indiana; 844 IAC 13-1-2; filed Oct 9, 2001, 2:52 p.m.: 25 IR 803*)

844 IAC 13-1-3 “Acupuncturist” defined

Authority: IC 25-22.5-2-7

Affected: IC 25-2.5-1

Sec. 3. “Acupuncturist” means an individual to whom a license has been issued to practice acupuncture in Indiana and includes both a licensed acupuncturist and licensed professional acupuncturist. (*Medical Licensing Board of Indiana; 844 IAC 13-1-3; filed Oct 9, 2001, 2:52 p.m.: 25 IR 804*)

844 IAC 13-1-4 “ADS” defined

Authority: IC 25-22.5-2-7

Affected: IC 25-2.5-1

Sec. 4. (a) “ADS” means acupuncture detoxification specialist.

(b) ADS is:

- (1) limited to the use of five (5) points in accordance with NADA protocol; and
- (2) for the purpose of treating alcoholism, substance abuse, or chemical dependency as defined by IC 25-2.5-2-7.
- (c) An ADS is a person who:
 - (1) has met the minimum requirements as stated in 844 IAC 13-3-1;
 - (2) is functioning in a dependent relationship with a physician licensed by the board or an acupuncturist licensed by the board; and
 - (3) is performing under his or her supervision a task or combination of tasks traditionally performed in a chemical dependency treatment program under the law for the purpose of treating alcoholism, substance abuse, or chemical dependency.

(Medical Licensing Board of Indiana; 844 IAC 13-1-4; filed Oct 9, 2001, 2:52 p.m.: 25 IR 804)

844 IAC 13-1-5 “Board” defined

Authority: IC 25-22.5-2-7

Affected: IC 25-2.5-1

Sec. 5. “Board” refers to the medical licensing board of Indiana. *(Medical Licensing Board of Indiana; 844 IAC 13-1-5; filed Oct 9, 2001, 2:52 p.m.: 25 IR 804)*

844 IAC 13-1-6 “Licensed professional acupuncturist” defined

Authority: IC 25-22.5-2-7

Affected: IC 25-2.5-1; IC 25-2.5-2-3; IC 25-10; IC 25-14; IC 25-29

Sec. 6. (a) “Licensed professional acupuncturist” refers to the holder of a professional’s license under IC 25-2.5-2-3(b).

(b) An licensed professional acupuncturist is a:

- (1) chiropractor licensed under IC 25-10;
- (2) dentist licensed under IC 25-14; or
- (3) podiatrist licensed under IC 25-29;

with at least two hundred (200) hours of acupuncture approved by the board. *(Medical Licensing Board of Indiana; 844 IAC 13-1-6; filed Oct 9, 2001, 2:52 p.m.: 25 IR 804)*

844 IAC 13-1-7 “Licensed acupuncturist” defined

Authority: IC 25-22.5-2-7

Affected: IC 25-2.5-1; IC 25-2.5-2-1; IC 25-2.5-2-3

Sec. 7. “Licensed acupuncturist” refers to the holder of a license under IC 25-2.5-2-1 or IC 25-2.5-2-3(a). *(Medical Licensing Board of Indiana; 844 IAC 13-1-7; filed Oct 9, 2001, 2:52 p.m.: 25 IR 804)*

844 IAC 13-1-8 “NADA” defined

Authority: IC 25-22.5-2-7

Affected: IC 25-2.5-1

Sec. 8. “NADA” refers to the National Acupuncture Detoxification Association. *(Medical Licensing Board of Indiana; 844 IAC 13-1-8; filed Oct 9, 2001, 2:52 p.m.: 25 IR 804)*

844 IAC 13-1-9 “Supervising acupuncturist” defined

Authority: IC 25-22.5-2-7

Affected: IC 25-2.5-1

Sec. 9. “Supervising acupuncturist” means a medical doctor, osteopathic physician, licensed professional acupuncturist, or licensed acupuncturist approved by the board to supervise and be responsible for a particular ADS. The supervisor is not to supervise more than a total of twenty (20) ADS at any one (1) time. *(Medical Licensing Board of Indiana; 844 IAC 13-1-9; filed Oct 9, 2001, 2:52 p.m.: 25 IR 804)*

844 IAC 13-1-10 “Under the direction and supervision of the licensed acupuncturist” defined

Authority: IC 25-22.5-2-7

Affected: IC 25-2.5-1

Sec. 10. “Under the direction and supervision of the licensed acupuncturist”, as referred to in this rule with reference to ADS, means that the supervising physician or affiliate licensed acupuncturist shall be reasonably available and responsible at all times for the direction and the actions of the practitioner being supervised when services are being performed by the practitioner. The patient’s care shall always be the responsibility of the supervising physician or affiliate licensed acupuncturist. (*Medical Licensing Board of Indiana; 844 IAC 13-1-10; filed Oct 9, 2001, 2:52 p.m.: 25 IR 804*)

Rule 2. Licensure

844 IAC 13-2-1 Application

Authority: IC 25-22.5-2-7

Affected: IC 25-2.5-2-1

Sec. 1. An applicant for acupuncture licensure shall submit the following information:

- (1) An application in a form and manner prescribed by the board.
- (2) Two (2) recent passport-quality photographs of the applicant, approximately two (2) inches by two (2) inches in size, signed in black ink along the bottom.
- (3) The fee specified in section 6 of this rule.
- (4) Original or verification of proof of current active status as a diplomate in acupuncture of the National Certification Commission for Acupuncture.
- (5) Transcript from the training program or acupuncture college program of completion of three (3) years of postsecondary training program or acupuncture college that is approved by the National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine.
- (6) A notarized copy of proof of completion of a clean needle technique course approved by the National Certification Commission for Acupuncture and Oriental Medicine.
- (7) Verification from all states in which the applicant has been or is currently licensed, which statement shall include whether the applicant has ever been disciplined in any manner.
- (8) Otherwise meets the requirements of IC 25-2.5-2-1.

(*Medical Licensing Board of Indiana; 844 IAC 13-2-1; filed Oct 9, 2001, 2:52 p.m.: 25 IR 805*)

844 IAC 13-2-2 Licensure in another state or authorized in another country

Authority: IC 25-22.5-2-7

Affected: IC 25-2.5-2-1; IC 25-2.5-2-3

Sec. 2. An applicant who is licensed in another state or authorized in another country to practice acupuncture shall submit the following information:

- (1) An application in a form and manner prescribed by the board.
- (2) Two (2) recent passport-quality photographs of the applicant, approximately two (2) inches by two (2) inches in size, signed in black ink along the bottom.
- (3) The fee specified in section 6 of this rule.
- (4) Evidence from the state or country that the applicant holds or has held a license or is authorized to practice acupuncture in another country to the board that the qualifications are substantially equivalent as those specified in section 1 of this rule.
- (5) A notarized copy or original verification of proof of current active status as a diplomate in acupuncture of the National Certification Commission for Acupuncture.
- (6) A transcript in the original language of issuance and a translation from the training program or acupuncture college program of completion of three (3) years of postsecondary training program or acupuncture college that is approved or substantially equivalent to the National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine.

(7) A notarized copy of proof of completion of a clean needle technique course approved by the National Certification Commission for Acupuncture and Oriental Medicine.

(8) Verification from all states in which the applicant has been or is currently licensed, which statement shall include whether the applicant has ever been disciplined in any manner.

(9) Otherwise meets the requirements of IC 25-2.5-2-1.

(Medical Licensing Board of Indiana; 844 IAC 13-2-2; filed Oct 9, 2001, 2:52 p.m.: 25 IR 805)

844 IAC 13-2-3 Licensure by tutorial program

Authority: IC 25-22.5-2-7

Affected: IC 25-2.5-2-1

Sec. 3. A person who is a student in a tutorial program in Indiana is eligible to apply for licensure as an acupuncturist as specified in section 1 of this rule if they meet the following requirements:

(1) The candidate must meet the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) tutorial requirements and the National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine (NACSCAOM) Syllabus Program of Study. These requirements will be based upon the current standards of NCCAOM and NACSCAOM.

(2) The candidate must present proof of certification.

A candidate who meets these requirements is eligible to apply for licensure as an acupuncturist as specified in section 1 of this rule.

(Medical Licensing Board of Indiana; 844 IAC 13-2-3; filed Oct 9, 2001, 2:52 p.m.: 25 IR 805)

844 IAC 13-2-4 Affiliated professional's license to practice acupuncture

Authority: IC 25-22.5-2-7

Affected: IC 25-2.5-2-1; IC 25-2.5-2-3; IC 25-10; IC 25-14; IC 25-29

Sec. 4. An applicant who is licensed as a chiropractor licensed under IC 25-10, a dentist licensed under IC 25-14, and a podiatrist licensed under IC 25-29 may be granted a professional's license upon submission of the following information:

(1) An application in a form and manner prescribed by the board.

(2) Two (2) recent passport-quality photographs of the applicant, approximately two (2) inches by two (2) inches in size, signed in black ink along the bottom.

(3) The fee specified in section 6 of this rule.

(4) An official certificate from the school or program which is an approved college or university of learning accredited by an accrediting agency that has been approved by the United States Department of Education where the applicant obtained two hundred (200) hours of acupuncture training.

(5) Verification from all states in which the applicant has been or is currently licensed, which statement shall include whether the applicant has ever been disciplined in any manner.

(6) Otherwise submits proof of current licensure in Indiana as a chiropractor, a podiatrist, or a dentist.

(Medical Licensing Board of Indiana; 844 IAC 13-2-4; filed Oct 9, 2001, 2:52 p.m.: 25 IR 805)

844 IAC 13-2-5 List of courses and institutions that provide training for a professional's license

Authority: IC 25-22.5-2-7

Affected: IC 25-2.5-2-1; IC 25-2.5-2-3

Sec. 5. (a) A list of courses and institutions that provide training approved for the purpose of qualifying an individual for an affiliated professional's license shall be available from the board through the health professions bureau.

(b) If a program or course is not listed, the board shall review each program on a case-by-case basis.

(c) The aforementioned information shall be submitted for the board's review. *(Medical Licensing Board of Indiana; 844 IAC 13-2-5; filed Oct 9, 2001, 2:52 p.m.: 25 IR 806)*

844 IAC 13-2-6 Fees

Authority: IC 25-22.5-2-7

Affected: IC 25-2.5-2-1

Sec. 6. The board shall charge and collect the following fees:

Application for licensure	\$150
Affiliated professional's license	\$150
Application for certification as an ADS	\$10
Renewal fee for acupuncturist (does not apply for professional's license)	\$100 per biennium
Renewal fee for professional's license (as an additional fee to be paid upon renewal of the primary license)	\$100
Renewal fee for acupuncture detoxification specialist	\$20 per biennium
Penalty fee for failure to renew	\$150
Duplicate wall license	\$10
Verification for licensure	\$10

(Medical Licensing Board of Indiana; 844 IAC 13-2-6; filed Oct 9, 2001, 2:52 p.m.: 25 IR 806)

Rule 3. Supervision

844 IAC 13-3-1 Acupuncture detoxification specialist; certification

Authority: IC 25-22.5-2-7

Affected: IC 25-2.5-2-7

Sec. 1. (a) An applicant may practice acupuncture detoxification protocol under the supervising acupuncturist within the context of a state, federal, or board approved alcohol, substance abuse, or chemical dependency program upon approval of the board.

(b) The ADS shall provide the board with the following documentation:

- (1) An application in a form and manner prescribed by the board.
- (2) Must be eighteen (18) years or older.
- (3) Two (2) recent passport-quality photographs of the applicant.
- (4) The fee specified in 844 IAC 13-2-6.
- (5) A notarized copy of a high school diploma or general educational development diploma.
- (6) A notarized copy of documentation of successful completion of a board approved training program in acupuncture for the treatment of alcoholism, substance abuse, or chemical dependency that meets or exceeds the standards of training by the National Acupuncture Detoxification Association.
- (7) A notarized copy of proof of completion of a clean needle technique course approved by the National Certification Commission for Acupuncture and Oriental Medicine or National Acupuncture Detoxification Association.
- (8) A list of all supervisors.
- (9) Otherwise meets the requirements of IC 25-2.5-2-7.

(Medical Licensing Board of Indiana; 844 IAC 13-3-1; filed Oct 9, 2001, 2:52 p.m.: 25 IR 806)

844 IAC 13-3-2 Acupuncture detoxification specialist; supervision

Authority: IC 25-22.5-2-7

Affected: IC 25-2.5-2-7; IC 25-27.5-6

Sec. 2. (a) The supervising acupuncturist shall be physically present or readily available at all times that treatment is being administered by the ADS.

(b) A licensed acupuncturist who intends to supervise an ADS shall register his or her intent to do so with the board on a form approved by the board prior to commencing supervision of a ADS. The supervising acupuncturist shall include the following information on the form supplied by the board:

- (1) The name, business address, and telephone number of the supervising acupuncturist or physician.
 - (2) The current license number of the acupuncturist or physician.
 - (3) A description of the setting in which the ADS will practice under the supervising acupuncturist or physician, including the specialty, if any, of the supervising acupuncturist or physician.
 - (4) A statement that the supervising acupuncturist or physician will do the following:
 - (A) Exercise continuous supervision over the ADS in accordance with IC 25-27.5-6 and this article.
 - (B) Review all functions performed by the ADS one (1) time per month and maintain adequate documentation at all times. The supervisor must sign-off on and date the patient chart.
 - (C) At all times, retain professional and legal responsibility for the care rendered by the ADS.
 - (5) Detailed description of the process maintained by the acupuncturist, licensed professional acupuncturist, or physician for evaluation of the ADS's performance.
- (c) The supervising acupuncturist, licensed professional acupuncturist, or physician shall, within fifteen (15) days, notify the board when the supervising relationship with the ADS is terminated, and the reason for such termination.
- (d) If for any reason an ADS discontinues working at the direction and/or under the supervision of the physician, licensed professional acupuncturist, or licensed acupuncturist under which the ADS was registered, such ADS and physician, licensed professional acupuncturist, or licensed acupuncturist shall inform the board, in writing, within fifteen (15) days of such event and his or her approval shall terminate effective the date of the discontinuation of employment under the supervising physician, licensed professional acupuncturist, or licensed acupuncturist, which termination of approval shall remain in effect until such time as a new application is submitted by the same or another physician, licensed professional acupuncturist, or licensed acupuncturist approved by the board. The physician, licensed professional acupuncturist, or licensed acupuncturist and ADS, in such written report, shall inform the board of the specific reason for the discontinuation of employment of the ADS, and/or of the discontinuation of supervision by the physician or licensed to whom the ADS was registered. (*Medical Licensing Board of Indiana; 844 IAC 13-3-2; filed Oct 9, 2001, 2:52 p.m.: 25 IR 806*)

Rule 4. License Renewal

844 IAC 13-4-1 Licensure renewal

Authority: IC 25-22.5-2-7

Affected: IC 25-2.5-2-5

Sec. 1. (a) A renewal application shall be submitted to the bureau on or before September 30 of each even-numbered year on a form provided by the bureau.

(b) The application shall be accompanied by the renewal fee required by 844 IAC 13-2-6.

(c) A licensee must sign the renewal application provided by the bureau that verifies that the applicant holds a current active certification by the National Certification Commission for Acupuncture and Oriental Medicine.

(d) A person who holds a license as an acupuncturist must renew biennially as required by IC 25-2.5-2-5.

(e) A person who fails to renew his or her license within three (3) years after its expiration may not renew it, and it may not be restored, reissued, or reinstated thereafter, but that person may apply for and obtain a new license if he or she meets all of the requirements. (*Medical Licensing Board of Indiana; 844 IAC 13-4-1; filed Oct 9, 2001, 2:52 p.m.: 25 IR 807*)

844 IAC 13-4-2 Licensure renewal for licensed professional acupuncturist

Authority: IC 25-22.5-2-7

Affected: IC 25-2.5-2-5

Sec. 2. (a) A renewal application for chiropractors, dentists, and podiatrists shall be submitted to the bureau on or before the date of the renewal of the primary license. Therefore the renewal of a:

(1) chiropractor's acupuncture license shall be submitted to the bureau on or before July 1 of each even-numbered year simultaneously with the renewal of the chiropractor license;

(2) dentist's acupuncture license shall be submitted to the bureau on or before March 1 of each even-numbered year simultaneously with the renewal of the dental license; and

(3) podiatrist's acupuncture license shall be submitted to the bureau on or before June 30 of the fourth odd-numbered year

simultaneously with the renewal of the podiatrist license.

(b) The renewal fee shall be in addition to the renewal fee of the primary license.

(c) A renewal application must be signed, indicating that the practitioner is currently licensed as a chiropractor, dentist, or podiatrist in Indiana. (*Medical Licensing Board of Indiana; 844 IAC 13-4-2; filed Oct 9, 2001, 2:52 p.m.: 25 IR 807*)

844 IAC 13-4-3 Certification renewal for acupuncture detoxification specialist

Authority: IC 25-22.5-2-7

Affected: IC 25-2.5-2-5

Sec. 3. (a) A renewal application shall be submitted to the bureau on or before September 30 of each even-numbered year on a form provided by the bureau. The application shall be accompanied by the renewal fee required by 844 IAC 13-2-6.

(b) A person who holds a certification as an ADS must renew biennially as required by IC 25-2.5-2-5. (*Medical Licensing Board of Indiana; 844 IAC 13-4-3; filed Oct 9, 2001, 2:52 p.m.: 25 IR 808*)

844 IAC 13-4-4 Address; change of name

Authority: IC 25-22.5-2-7

Affected: IC 25-2.5-2-5

Sec. 4. (a) Each licensed acupuncturist, licensed professional acupuncturist, or certified ADS shall inform the board, in writing, of all changes of address or name within fifteen (15) days of the change.

(b) A licensed acupuncturist, licensed professional acupuncturist, or certified ADS failure to receive notification of renewal due to failure to notify the board of a change of address or name shall not constitute an error on the part of the board or bureau, nor shall it exonerate or otherwise excuse the licensed acupuncturist, licensed professional acupuncturist, or certified ADS from renewing such license. (*Medical Licensing Board of Indiana; 844 IAC 13-4-4; filed Oct 9, 2001, 2:52 p.m.: 25 IR 808*)

Rule 5. Standards of Professional Conduct

844 IAC 13-5-1 Duties of acupuncturist

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5-1

Sec. 1. (a) An acupuncturist in the conduct of his or her practice of acupuncture shall abide by, and comply with, the standards of professional conduct in this rule.

(b) An acupuncturist shall maintain the confidentiality of all knowledge and information regarding a patient, including, but not limited to, the patient's diagnosis, treatment and prognosis, and all records relating thereto, about which the acupuncturist may learn or otherwise be informed during the course of, or as a result of, the patient-acupuncturist relationship. Information about a patient shall be disclosed by an acupuncturist when required by law or when authorized by the patient or those responsible for the patient's care.

(c) An acupuncturist 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 an acupuncturist reasonably determines that the information is or would be detrimental to the physical or mental health of the patient or, in the case of a minor or incompetent person, except where an acupuncturist reasonably determines that the information would be detrimental to the physical or mental health of those responsible for the patient's care.

(d) The acupuncturist shall give reasonable written notice to an active patient or those responsible for the patient's care when the acupuncturist withdraws from a case so that another acupuncturist may be employed by the patient or by those responsible for the patient's care. An acupuncturist shall not abandon a patient. As used in this section, "active patient" means a person whom the acupuncturist has examined, cared for, or otherwise consulted with, during the two (2) year period prior to retirement, discontinuation of practice of acupuncture, or leaving or moving from the community.

(e) An acupuncturist who withdraws from a case, except in emergency circumstances, shall, upon written request, make available to his or her patient all records, test results, histories, diagnoses, files, and information relating to the patient that are in the acupuncturist's custody, possession, or control, or copies of such documents herein before described.

(f) An acupuncturist shall exercise reasonable care and diligence in the diagnosis and treatment of patients based upon approved scientific principles, methods, treatments, professional theory, and practice.

(g) An acupuncturist shall not represent, advertise, state, or indicate the possession of any degree recognized as the basis for licensure to practice acupuncture unless the acupuncturist is actually licensed on the basis of such degree in the state or states in which he or she practices.

(h) An acupuncturist shall obtain consultation whenever requested to do so by a patient or by those responsible for a patient's care.

(i) An acupuncturist who has personal knowledge based upon a reasonable belief that another acupuncturist has engaged in illegal, unlawful, incompetent, or fraudulent conduct in the practice of acupuncture shall promptly report such conduct to the board. Further, an acupuncturist who has personal knowledge of any person engaged in, or attempting to engage in, the unauthorized practice of acupuncture shall promptly report such conduct to the board. (*Medical Licensing Board of Indiana; 844 IAC 13-5-1; filed Oct 9, 2001, 2:52 p.m.: 25 IR 808*)

844 IAC 13-5-2 Fees for services

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5-1

Sec. 2. (a) Fees charged by an acupuncturist for his or her professional services shall compensate the acupuncturist only for the services actually rendered.

(b) An acupuncturist shall not divide a fee for professional services with another practitioner who is not a partner, employee, or shareholder in a professional corporation unless the:

(1) patient consents to the employment of the other practitioner after a full disclosure that a division of fees will be made; and

(2) division of fees is made in proportion to actual services performed and responsibility assumed by each practitioner.

(c) An acupuncturist shall not pay or accept compensation from a practitioner for referral of a patient. (*Medical Licensing Board of Indiana; 844 IAC 13-5-2; filed Oct 9, 2001, 2:52 p.m.: 25 IR 809*)

844 IAC 13-5-3 Responsibility for employees

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5-1

Sec. 3. An acupuncturist shall be responsible for the conduct of each and every person employed by the acupuncturist for every action or failure to act by the employee or employees in the course of the employee's relationship with the acupuncturist, provided, however, that an acupuncturist shall not be responsible for the action of persons he or she may employ whose employment by the acupuncturist does not relate directly to the acupuncturist's practice of acupuncture. (*Medical Licensing Board of Indiana; 844 IAC 13-5-3; filed Oct 9, 2001, 2:52 p.m.: 25 IR 809*)

844 IAC 13-5-4 Referral

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5-1

Sec. 4. (a) A licensed acupuncturist may only provide services upon the referral of a licensed medical doctor or doctor of osteopathic medicine. This subsection does not apply to licensed professional acupuncturist.

(b) An acupuncturist may, whenever the acupuncturist believes it to be beneficial to the patient, send or refer a patient to a qualified specific health care provider. Prior to any such referral, however, the acupuncturist shall examine and/or consult with the patient to reasonably determine that a condition exists in the patient that would be within the scope of practice of the specific health care provider to whom the patient is referred. (*Medical Licensing Board of Indiana; 844 IAC 13-5-4; filed Oct 9, 2001, 2:52 p.m.: 25 IR 809*)

844 IAC 13-5-5 Discontinuation of practice

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5-1

Sec. 5. (a) An acupuncturist, upon his or her retirement, upon discontinuation of the practice of acupuncture, or upon 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 acupuncture in the community and shall encourage his or her patients to seek the services of another licensed practitioner. The acupuncturist 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 succeeding practitioner or an acupuncture association approved by the board.

(b) Nothing provided in this section shall preclude, prohibit, or prevent an acupuncturist from selling, conveying, or transferring for valuable consideration, the acupuncturist's patient records to another licensed practitioner who is assuming his practice, provided that written notice is given to patients as provided in this section. (*Medical Licensing Board of Indiana; 844 IAC 13-5-5; filed Oct 9, 2001, 2:52 p.m.: 25 IR 809*)

844 IAC 13-5-6 Advertising

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5-1

Sec. 6. (a) An acupuncturist shall not, on behalf of himself or herself, a partner, an associate, or any other practitioner or specific health care provider affiliated with the acupuncturist, use, or participate in the use of, any form of public communication containing a false, fraudulent, materially misleading, or deceptive statement or claim.

(b) In order to facilitate the process of informed selection of an acupuncturist by the public, an acupuncturist may advertise services through the public media, including, but not limited to, a telephone directory, acupuncturists' directory, newspaper or other periodical, radio or television, or through a written communication not involving personal contact.

(c) If the advertisement is communicated to the public by radio, cable, or television, it shall be prerecorded, approved for broadcast by the acupuncturist, and a recording and transcript of the actual transmission shall be retained by the acupuncturist for a period of three (3) years from the last date of broadcast.

(d) If the acupuncturist advertises a fee for acupuncture material, service, treatment, consultation, examination, or other procedure, the acupuncturist must provide that material, service, or procedure for no more than the fee advertised.

(e) Unless otherwise conspicuously specified in the advertisement, an acupuncturist who publishes or communicates fee information in a publication that is published more than one (1) time per month shall be bound by any representation made therein for a period of thirty (30) days after the publication date. An acupuncturist who publishes or communicates fee information in a publication that is published once a month or less frequently shall be bound by any representation made therein until the publication of the succeeding issue unless a shorter time is conspicuously specified in the advertisement. An acupuncturist who publishes or communicates fee information in a publication that has no fixed date for publication for a succeeding issue shall be bound by any representation made therein for one (1) year, unless a shorter period of time is conspicuously specified in the advertisement.

(f) Unless otherwise specified in the advertisement, an acupuncturist who broadcasts fee information by radio, cable, or television shall be bound by any representation made therein for a period of ninety (90) days after such broadcast.

(g) An acupuncturist who places an advertisement using a corporation name or trade name is required to identify the location or locations at which the acupuncture service will be provided. The name of the acupuncturist who will provide the acupuncture services must be identified at that location. (*Medical Licensing Board of Indiana; 844 IAC 13-5-6; filed Oct 9, 2001, 2:52 p.m.: 25 IR 809*)

844 IAC 13-5-7 Failure to comply

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5-1

Sec. 7. Failure to comply with the standards of professional conduct and competent practice of acupuncture may result in disciplinary proceedings against the offending acupuncturist. All acupuncturists licensed in Indiana shall be responsible for having knowledge of the standards of conduct and competent practice established by IC 25-2.5. (*Medical Licensing Board of Indiana; 844 IAC 13-5-7; filed Oct 9, 2001, 2:52 p.m.: 25 IR 810*)

Rule 6. Revocation or Suspension of License

844 IAC 13-6-1 License revocation; duties of licensees

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5-1

Sec. 1. In any case where a practitioner's license has been revoked, the person shall do the following:

(1) Promptly notify, or cause to be notified, in the manner and method specified by the board, all patients then in the care of the practitioner, or those persons responsible for the patient's care, of the revocation and of the practitioner's consequent inability to act for or on their behalf in the practitioner's professional capacity. Such notice shall advise all patients to seek the services of another practitioner in good standing of their own choice.

(2) Promptly notify, or cause to be notified, all health care facilities where such practitioner has privileges of the revocation accompanied by a list of all patients then in the care of such practitioner.

(3) Notify, in writing, by first class mail, the following organizations and governmental agencies of the revocation of licensure:

(A) The Indiana department of public welfare.

(B) Social Security Administration.

(C) The board or equivalent agency of each state in which the person is licensed to practice acupuncture.

(D) The National Certification Commission for Acupuncture and Oriental Medicine.

(4) Make reasonable arrangements with the licensee's active patients for the transfer of all patient records, studies, and test results, or copies thereof, to a succeeding practitioner employed by the patient or by those responsible for the patient's care.

(5) Within thirty (30) days after the date of license revocation, the practitioner shall file an affidavit with the board showing compliance with the provisions of the revocation order and with 844 IAC 7, which time may be extended by the board. Such affidavit shall also state all other jurisdictions in which the practitioner is still licensed.

(6) Proof of compliance with this section shall be a condition precedent to any petition for reinstatement.

(Medical Licensing Board of Indiana; 844 IAC 13-6-1; filed Oct 9, 2001, 2:52 p.m.: 25 IR 810)

844 IAC 13-6-2 License suspension; duties of licensees

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5-1

Sec. 2. (a) In any case where a person's license has been suspended, the person shall, within thirty (30) days from the date of the order of suspension, file with the board an affidavit that states the following:

(1) All active patients then under the practitioner's care have been notified in the manner and method specified by the board of the practitioner'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 practitioner of good standing of their own choice.

(2) All health care facilities where such practitioner has privileges have been informed of the suspension order.

(3) Reasonable arrangements were made for the transfer of patient records, studies, and test results, or copies thereof, to a succeeding practitioner employed by the patient or those responsible for the patient's care.

(b) Proof of compliance with this section shall be a condition precedent to reinstatement. *(Medical Licensing Board of Indiana; 844 IAC 13-6-2; filed Oct 9, 2001, 2:52 p.m.: 25 IR 810)*

844 IAC 13-6-3 Reinstatement

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5-1

Sec. 3. No person whose license to practice acupuncture in Indiana has been suspended shall be eligible for reinstatement unless that person establishes by clear and convincing evidence before the board the following:

(1) The person desires in good faith to obtain restoration of such license.

(2) The term of suspension prescribed in the order of suspension has elapsed or seven (7) years have elapsed since the revocation.

(3) The person has not engaged in the practice of acupuncture or has attempted to do so from the date discipline was imposed.

(4) The person has complied fully with the terms, if any, of the order for suspension or revocation.

(5) The person's attitude with regard to the misconduct, violation of law or rule, or incompetent practice for which the person was disciplined is one of genuine remorse.

(6) The person has a proper understanding of an attitude toward the standards that are imposed by statute or rule upon persons holding such license as had been suspended and the person can be reasonably expected to conduct himself in conformity with such standards.

(7) The person can be safely recommended to the public and applicable profession as a person fit to be reinstated and is able to practice his or her profession with reasonable skill and safety to patients.

(8) The disability has been removed, corrected, or otherwise brought under control if the suspension or revocation was imposed by reason of physical or mental illness or infirmity, or for use of or addiction to intoxicants or drugs.

(9) The person has successfully taken and completed such written examinations and tests as may be required by the board and has completed professional training.

(Medical Licensing Board of Indiana; 844 IAC 13-6-3; filed Oct 9, 2001, 2:52 p.m.: 25 IR 811)

844 IAC 13-6-4 Petitions for reinstatement; filing fee

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5-1

Sec. 4. (a) Any person whose license has been suspended may apply for reinstatement by filing with the board a petition stating that the requirements of 844 IAC 7-1-1 have been satisfied or complied with. Ten (10) copies of such petition shall be filed with the board together with a filing fee of four hundred dollars (\$400).

(b) Upon the filing of such petition and payment of the filing fee, the board shall schedule a hearing. After the hearing, the board shall determine whether the petitioner has met the requirements set forth in the disciplinary order and shall determine whether, as a condition to reinstatement, disciplinary or corrective measures, including, but not limited to, reexamination, additional training, or postgraduate education, or a preceptorship, should be imposed. The board shall thereafter, upon satisfactory compliance with 852 IAC 1-12-1 and of any and all disciplinary and corrective measures that may be imposed, enter an order continuing the suspension or reinstating the license to the petitioner.

(c) Any person filing for reinstatement shall be responsible for the payment of any and all costs incurred by the board in conducting a hearing upon the petition for reinstatement that exceed the amount of the filing fee. Any such costs shall be paid by the petitioner within fifteen (15) days of the receipt of a statement therefor from the board. In no event will there be any refund or rebate of any part of the filing fee. *(Medical Licensing Board of Indiana; 844 IAC 13-6-4; filed Oct 9, 2001, 2:52 p.m.: 25 IR 811)*

Rule 7. Notification of Practice Location

844 IAC 13-7-1 Professional sign; notification of public; facility requirements

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5-1

Sec. 1. (a) A practitioner has a duty and responsibility in the establishment of an office for the practice of acupuncture to maintain a sign clearly visible to the public indicating the name or names of all practitioners practicing at that location. The minimum requirements on the sign are the practitioner's name and title.

(b) The practitioner's title may be written as follows:

(1) If a practitioner is licensed under this article, the practitioner may refer to themselves as either an acupuncturist or a licensed acupuncturist.

(2) If the practitioner is a professional, the practitioner may use:

(A) the doctorate initials, such as D.C., D.D.S., or D.P.M.; or

(B) acupuncturist.

(c) A sign may not be misleading to the public.

(d) A practitioner has a duty and responsibility in the establishment of an office for the practice of acupuncture to maintain a safe and hygienic facility adequately equipped to provide acupuncture services. *(Medical Licensing Board of Indiana; 844 IAC 13-7-1; filed Oct 9, 2001, 2:52 p.m.: 25 IR 811)*

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