

# MEDICAL LICENSING BOARD

A compilation of the Indiana Code and Indiana Administrative Code

2012 Edition



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NOTICE: This compilation incorporates the most recent revisions of statutes and administrative rules governing the medical profession, as of October 1, 2012. Note that this compilation is not an official version of the Indiana Code or the Indiana Administrative Code. It is distributed as a general guide to Indiana physician laws and regulations. It is not intended to be offered as legal advice, and it may contain typographical errors.

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# MEDICAL LICENSING BOARD

October 2012 Edition

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**ARTICLE 22.5 PHYSICIANS**

**IC 25-22.5 ARTICLE 22.5. PHYSICIANS**

IC 25-22.5-1-1 Repealed  
(Repealed by Acts 1978, P.L.8, SEC.14.)

**Chapter 1. Definitions and Exclusions**

**IC 25-22.5-1-1.1 Definitions**

Sec. 1.1. As used in this article:

(a) "Practice of medicine or osteopathic medicine" means any one (1) or a combination of the following:

- (1) Holding oneself out to the public as being engaged in:
  - (A) the diagnosis, treatment, correction, or prevention of any disease, ailment, defect, injury, infirmity, deformity, pain, or other condition of human beings;
  - (B) the suggestion, recommendation, or prescription or administration of any form of treatment, without limitation;
  - (C) the performing of any kind of surgical operation upon a human being, including tattooing, except for tattooing (as defined in IC 35-42-2-7), in which human tissue is cut, burned, or vaporized by the use of any mechanical means, laser, or ionizing radiation, or the penetration of the skin or body orifice by any means, for the intended palliation, relief, or cure; or
  - (D) the prevention of any physical, mental, or functional ailment or defect of any person.
- (2) The maintenance of an office or a place of business for the reception, examination, or treatment of persons suffering from disease, ailment, defect, injury, infirmity, deformity, pain, or other conditions of body or mind.
- (3) Attaching the designation "doctor of medicine", "M.D.", "doctor of osteopathy", "D.O.", "osteopathic medical physician", "physician", "surgeon", or "physician and surgeon", either alone or in connection with other words, or any other words or abbreviations to a name, indicating or inducing others to believe that the person is engaged in the practice of medicine or osteopathic medicine (as defined in this section).
- (4) Providing diagnostic or treatment services to a person in Indiana when the diagnostic or treatment services:
  - (A) are transmitted through electronic communications; and
  - (B) are on a regular, routine, and nonepisodic basis or under an oral or written agreement to regularly provide medical services.

In addition to the exceptions described in section 2 of this chapter, a nonresident physician who is located outside Indiana does not practice medicine or osteopathy in Indiana by providing a second opinion to a licensee or diagnostic or treatment services to a patient in Indiana following medical care originally provided to the patient while outside Indiana.

- (b) "Board" refers to the medical licensing board of Indiana.
- (c) "Diagnose or diagnosis" means to examine a patient, parts of a patient's body, substances taken or removed from a patient's body, or materials produced by a patient's body to determine the source or nature of a disease or other physical or mental condition, or to hold oneself out or represent that a person is a physician and is so examining a patient. It is not necessary that the examination be made in the presence of the patient; it may be made on information supplied either directly or indirectly by the patient.
- (d) "Drug or medicine" means any medicine, compound, or chemical or biological preparation intended for internal or external use of humans, and all substances intended to be used for the diagnosis, cure, mitigation, or prevention of diseases or abnormalities of humans, which are recognized in the latest editions published of the United States Pharmacopoeia or National Formulary, or otherwise established as a drug or medicine.
- (e) "Licensee" means any individual holding a valid unlimited license issued by the board under this article.
- (f) "Prescribe or prescription" means to direct, order, or designate the use of or manner of using a drug, medicine, or treatment, by spoken or written words or other means.
- (g) "Physician" means any person who holds the degree of doctor of medicine or doctor of osteopathy or its equivalent and who holds a valid unlimited license to practice medicine or osteopathic medicine in Indiana.
- (h) "Medical school" means a nationally accredited college of medicine or of osteopathic medicine approved by the board.
- (i) "Physician assistant" means an individual who:
  - (1) is supervised by a physician;
  - (2) graduated from a physician assistant program accredited by an accrediting agency (as defined in IC 25-27.5-2-4.5);
  - (3) passed the examination administered by the National Commission on Certification of Physician Assistants (NCCPA) and maintains certification; and
  - (4) has been licensed by the physician assistant committee under IC 25-27.5.
- (j) "Agency" refers to the Indiana professional licensing agency under IC 25-1-5.

*As added by Acts 1978, P.L.8, SEC.13. Amended by Acts 1981, P.L.222, SEC.151; P.L.247-1985, SEC.1; P.L.169-1985, SEC.62; P.L.217-1993, SEC.2; P.L.180-1996, SEC.1; P.L.181-1997, SEC.1; P.L.1-2006, SEC.444; P.L.90-2007, SEC.3.*

**IC 25-22.5-1-1.2 Additional definitions**

Sec. 1.2. As used in this article:

"Nursing school" includes a hospital nursing school, a nursing program, and a nursing department of a postsecondary educational institution. This shall include two (2), three (3), and four (4) year programs of nursing education.

"Shortage area" is an area in which there is a less than adequate supply of physicians or nurses relative to the need for nursing or physician services.

*As added by Acts 1981, P.L.227, SEC.1. Amended by P.L.247-1985, SEC.2; P.L.2-2007, SEC.327.*

#### **IC 25-22.5-1-2 Exclusions**

Sec. 2. (a) This article, as it relates to the unlawful or unauthorized practice of medicine or osteopathic medicine, does not apply to any of the following:

(1) A student in training in a medical school approved by the board, or while performing duties as an intern or a resident in a hospital under the supervision of the hospital's staff or in a program approved by the medical school.

(2) A person who renders service in case of emergency where no fee or other consideration is contemplated, charged, or received.

(3) A paramedic (as defined in IC 16-18-2-266), an emergency medical technician-basic advanced (as defined in IC 16-18-2-112.5), an emergency medical technician-intermediate (as defined in IC 16-18-2-112.7), an emergency medical technician (as defined in IC 16-18-2-112), or a person with equivalent certification from another state who renders advanced life support (as defined in IC 16-18-2-7) or basic life support (as defined in IC 16-18-2-33.5):

(A) during a disaster emergency declared by the governor under IC 10-14-3-12 in response to an act that the governor in good faith believes to be an act of terrorism (as defined in IC 35-41-1-26.5); and

(B) in accordance with the rules adopted by the Indiana emergency medical services commission or the disaster emergency declaration of the governor.

(4) Commissioned medical officers or medical service officers of the armed forces of the United States, the United States Public Health Service, and medical officers of the United States Department of Veterans Affairs in the discharge of their official duties in Indiana.

(5) An individual who is not a licensee who resides in another state or country and is authorized to practice medicine or osteopathic medicine there, who is called in for consultation by an individual licensed to practice medicine or osteopathic medicine in Indiana.

(6) A person administering a domestic or family remedy to a member of the person's family.

(7) A member of a church practicing the religious tenets of the church if the member does not make a medical diagnosis, prescribe or administer drugs or medicines, perform surgical or physical operations, or assume the title of or profess to be a physician.

(8) A school corporation and a school employee who acts under IC 34-30-14 (or IC 34-4-16.5-3.5 before its repeal).

(9) A chiropractor practicing the chiropractor's profession under IC 25-10 or to an employee of a chiropractor acting under the direction and supervision of the chiropractor under IC 25-10-1-13.

(10) A dental hygienist practicing the dental hygienists profession under IC 25-13.

(11) A dentist practicing the dentist's profession under IC 25-14.

(12) A hearing aid dealer practicing the hearing aid dealer's profession under IC 25-20.

(13) A nurse practicing the nurse's profession under IC 25-23. However, a certified registered nurse anesthetist (as defined in IC 25-23-1-1.4) may administer anesthesia if the certified registered nurse anesthetist acts under the direction of and in the immediate presence of a physician.

(14) An optometrist practicing the optometrist's profession under IC 25-24.

(15) A pharmacist practicing the pharmacist's profession under IC 25-26.

(16) A physical therapist practicing the physical therapist's profession under IC 25-27.

(17) A podiatrist practicing the podiatrist's profession under IC 25-29.

(18) A psychologist practicing the psychologist's profession under IC 25-33.

(19) A speech-language pathologist or audiologist practicing the pathologist's or audiologist's profession under IC 25-35.6.

(20) An employee of a physician or group of physicians who performs an act, a duty, or a function that is customarily within the specific area of practice of the employing physician or group of physicians, if the act, duty, or function is performed under the direction and supervision of the employing physician or a physician of the employing group within whose area of practice the act, duty, or function falls. An employee may not make a diagnosis or prescribe a treatment and must report the results of an examination of a patient conducted by the employee to the employing physician or the physician of the employing group under whose supervision the employee is working. An employee may not administer medication without the specific order of the employing physician or a physician of the employing group. Unless an employee is licensed or registered to independently practice in a profession described in subdivisions (9) through (18), nothing in this subsection grants the employee independent practitioner status or the authority to perform patient services in an independent practice in a profession.

(21) A hospital licensed under IC 16-21 or IC 12-25.

(22) A health care organization whose members, shareholders, or partners are individuals, partnerships, corporations, facilities, or institutions licensed or legally authorized by this state to provide health care or professional services as:

(A) a physician;

(B) a psychiatric hospital;

(C) a hospital;

(D) a health maintenance organization or limited service health maintenance organization;

(E) a health facility;

(F) a dentist;

(G) a registered or licensed practical nurse;

(H) a midwife;

(I) an optometrist;

(J) a podiatrist;

- (K) a chiropractor;
- (L) a physical therapist; or
- (M) a psychologist.

(23) A physician assistant practicing the physician assistant profession under IC 25-27.5.

(24) A physician providing medical treatment under IC 25-22.5-1-2.1.

(25) An attendant who provides attendant care services (as defined in IC 16-18-2-28.5).

(26) A personal services attendant providing authorized attendant care services under IC 12-10-17.1.

(b) A person described in subsection (a)(9) through (a)(18) is not excluded from the application of this article if:

- (1) the person performs an act that an Indiana statute does not authorize the person to perform; and
- (2) the act qualifies in whole or in part as the practice of medicine or osteopathic medicine.

(c) An employment or other contractual relationship between an entity described in subsection (a)(21) through (a)(22) and a licensed physician does not constitute the unlawful practice of medicine under this article if the entity does not direct or control independent medical acts, decisions, or judgment of the licensed physician. However, if the direction or control is done by the entity under IC 34-30-15 (or IC 34-4-12.6 before its repeal), the entity is excluded from the application of this article as it relates to the unlawful practice of medicine or osteopathic medicine.

(d) This subsection does not apply to a prescription or drug order for a legend drug that is filled or refilled in a pharmacy owned or operated by a hospital licensed under IC 16-21. A physician licensed in Indiana who permits or authorizes a person to fill or refill a prescription or drug order for a legend drug except as authorized in IC 16-42-19-11 through IC 16-42-19-19 is subject to disciplinary action under IC 25-1-9. A person who violates this subsection commits the unlawful practice of medicine under this chapter.

(e) A person described in subsection (a)(8) shall not be authorized to dispense contraceptives or birth control devices.

*(Formerly: Acts 1975, P.L. 271, SEC. 1.) As amended by Acts 1977, P.L. 273, SEC. 2; P.L. 244-1985, SEC. 2; P.L. 149-1987, SEC. 50; P.L. 156-1988, SEC. 1; P.L. 237-1989, SEC. 1; P.L. 1-1990, SEC. 253; P.L. 2-1992, SEC. 776; P.L. 2-1993, SEC. 141; P.L. 227-1993, SEC. 10; P.L. 227-1995, SEC. 1; P.L. 1-1998, SEC. 132; P.L. 44-1998, SEC. 1; P.L. 156-2001, SEC. 6; P.L. 255-2001, SEC. 17; P.L. 2-2003, SEC. 65; P.L. 205-2003, SEC. 37; P.L. 97-2004, SEC. 93; P.L. 212-2005, SEC. 20; P.L. 141-2006, SEC. 106; P.L. 90-2007, SEC. 4; P.L. 177-2009, SEC. 40.*

#### **IC 25-22.5-1-2.1 Experimental or nonconventional treatment; protocols for treatment**

Sec. 2.1. (a) An individual who consents under IC 34-18-12 may receive any experimental or nonconventional medical treatment if:

(1) a licensed physician has personally examined the individual and agrees to treat the individual;

(2) there is no reasonable basis to conclude that the medical treatment, when administered as directed, poses an unreasonable and significant risk of danger to the individual receiving the medical treatment; and

(3) the physician has provided the individual with a written statement and an oral explanation of the medical treatment that the individual has acknowledged by the individual's signature or the signature of the individual's legal representative and that discloses the following:

- (A) That the medical treatment is experimental or nonconventional.
- (B) That the drug or medical device has not been approved by the United States Food and Drug Administration for any indication.
- (C) The material risks generally recognized by a reasonably prudent physician of the medical treatment's side effects.

(b) If the medical treatment is to be provided on an inpatient or outpatient basis at a hospital licensed under IC 16-21, then that type of treatment must have been approved by the governing board of the hospital or by a committee of the hospital authorized by the governing board to approve the types of experimental or nonconventional medical treatments that may be provided at the hospital on an inpatient or outpatient basis.

(c) The medical licensing board shall develop protocols for medical treatments that are provided in a setting other than the inpatient or outpatient hospital setting specified in subsection (b). A physician who fails to comply with a protocol developed under this subsection shall be subject to discipline by the medical licensing board.

(d) This section does not require any person or organization to provide an individual with access to a medical treatment not otherwise commercially available to that individual.

(e) This section does not require:

- (1) an insurer;
- (2) a fraternal benefit society;
- (3) a nonprofit corporation;
- (4) a health maintenance organization (as defined in IC 27-13-1-19);
- (5) a preferred provider arrangement under IC 27-8-11; or
- (6) a limited service health maintenance organization (as defined in IC 27-13-34-4);

to provide coverage or make payment beyond the terms and conditions of the contract for medical treatment authorized under this section.

*As added by P.L. 44-1998, SEC. 2. Amended by P.L. 49-1999, SEC. 1.*

#### **IC 25-22.5-2 Chapter 2. Creation of Medical Licensing Board**

##### **IC 25-22.5-2-1 Creation and membership**

Sec. 1. The medical licensing board of Indiana is created. It shall consist of seven (7) members, not more than four (4) of whom shall be members of the same political party. The members shall be appointed by the governor, and all vacancies occurring on the board shall be filled by the governor. The membership of the board shall consist of the following:

- (1) Five (5) reputable physicians who:
  - (A) are graduates of a medical school;
  - (B) hold the degree of doctor of medicine or its equivalent; and
  - (C) hold valid unlimited licenses to practice medicine in Indiana;

shall serve for terms of four (4) years each.

(2) One (1) reputable osteopathic physician who:

- (A) is a graduate of an accredited osteopathic medical school;
- (B) holds the degree of doctor of osteopathy or its equivalent; and
- (C) holds a valid unlimited license to practice osteopathic medicine in Indiana;

shall serve for a term of four (4) years.

(3) One (1) member to serve a term of four (4) years who:

- (A) will represent the general public;
- (B) is a resident of this state; and
- (C) is in no way associated with the medical profession other than as a consumer.

*(Formerly: Acts 1975, P.L.271, SEC.1.) As amended by Acts 1981, P.L.222, SEC.152; P.L.247-1985, SEC.3.*

#### **IC 25-22.5-2-2 Meetings and election of officers; quorum**

Sec. 2. The board shall have regular meetings called upon the request of the president or a majority of the board for the transaction of business as may properly come before it under this article. At the first meeting of the board in each calendar year, the board shall organize by the election of a president and any other officers considered necessary by the board. Four (4) members of the board constitute a quorum. A majority of the quorum may transact business.

*(Formerly: Acts 1975, P.L.271, SEC.1.) As amended by P.L.247-1985, SEC.4; P.L.152-1988, SEC.14.*

#### **IC 25-22.5-2-3 Per diem and expenses**

Sec. 3. Per Diem and Expenses. For their services, the members shall receive the per diem as is generally paid to similar boards and agencies of the state, and the traveling expenses necessarily incurred in their attendance upon the business of the board.

*(Formerly: Acts 1975, P.L.271, SEC.1.)*

#### **IC 25-22.5-2-4 Record keeping**

Sec. 4. The agency shall keep a record of all licenses, permits, and applications for licensure or permit. This record must contain all the facts set forth in the application, including the action of the board thereon.

*(Formerly: Acts 1975, P.L.271, SEC.1.) As amended by Acts 1981, P.L.222, SEC.153; P.L.247-1985, SEC.5; P.L.1-2006, SEC.445.*

#### **IC 25-22.5-2-5 Registration and penalty fees; funds; disposition; expenses of board**

Sec. 5. Except for a penalty under section 8 of this chapter, the funds obtained from registration and penalty fees shall, upon receipt thereof, be accounted for and paid over by the agency to the treasurer of state and be placed in the general fund of the state. The expenses of the board shall be paid from the general fund upon appropriation being made therefor in the manner required by law for the making of such appropriations. The amount to be expended by the board shall not exceed the amount collected by the board from all sources.

*(Formerly: Acts 1975, P.L.271, SEC.1.) As amended by P.L.247-1985, SEC.6; P.L.1-2006, SEC.446; P.L.149-2011, SEC.4; P.L.226-2011, SEC.20.*

#### **IC 25-22.5-2-6 Repealed**

*(Repealed by Acts 1981, P.L.222, SEC.296.)*

#### **IC 25-22.5-2-7 Powers and duties**

Sec. 7. (a) The board shall do the following:

(1) Adopt rules and forms necessary to implement this article that concern, but are not limited to, the following areas:

(A) Qualification by education, residence, citizenship, training, and character for admission to an examination for licensure or by endorsement for licensure.

(B) The examination for licensure.

(C) The license or permit.

(D) Fees for examination, permit, licensure, and registration.

(E) Reinstatement of licenses and permits.

(F) Payment of costs in disciplinary proceedings conducted by the board.

(2) Administer oaths in matters relating to the discharge of its official duties.

(3) Enforce this article and assign to the personnel of the agency duties as may be necessary in the discharge of the board's duty.

(4) Maintain, through the agency, full and complete records of all applicants for licensure or permit and of all licenses and permits issued.

(5) Make available, upon request, the complete schedule of minimum requirements for licensure or permit.

(6) Issue, at the board's discretion, a temporary permit to an applicant for the interim from the date of application until the next regular meeting of the board.

(7) Issue an unlimited license, a limited license, or a temporary medical permit, depending upon the qualifications of the applicant, to any applicant who successfully fulfills all of the requirements of this article.

(8) Adopt rules establishing standards for the competent practice of medicine, osteopathic medicine, or any other form of practice regulated by a limited license or permit issued under this article.

(9) Adopt rules regarding the appropriate prescribing of Schedule III or Schedule IV controlled substances for the purpose of weight reduction or to control obesity.



- (10) Adopt rules establishing standards for office based procedures that require moderate sedation, deep sedation, or general anesthesia.
- (b) The board may adopt rules that establish:
- (1) certification requirements for child death pathologists;
  - (2) an annual training program for child death pathologists under IC 16-35-7-3(b)(2); and
  - (3) a process to certify a qualified child death pathologist.

*(Formerly: Acts 1975, P.L. 271, SEC.1.) As amended by Acts 1981, P.L.222, SEC.154; P.L.247-1985, SEC.7; P.L.177-1997, SEC.2; P.L.18-2005, SEC.1; P.L.1-2006, SEC.447; P.L.225-2007, SEC.3.*

### **IC 25-22.5-2-8 Implementation of program to investigate violations; penalties; appeal; report certain actions to National Practitioner Data Bank; physician compliance fund**

Sec. 8. (a) The board shall implement a program to investigate and assess a civil penalty of not more than one thousand dollars (\$1,000) against a physician licensed under this article for the following violations:

- (1) Licensure renewal fraud.
- (2) Improper termination of a physician and patient relationship.
- (3) Practicing with an expired medical license.
- (4) Providing office based anesthesia without the proper accreditation.
- (5) Failure to perform duties required for issuing birth or death certificates.
- (6) Failure to disclose, or negligent omission of, documentation request for license renewal.

(b) An individual who is investigated by the board and found by the board to have committed a violation specified in subsection (a) may appeal the determination made by the board in accordance with IC 4-21-5.

(c) In accordance with the federal Health Care Quality Improvement Act (42 U.S.C. 11132), the board shall report a disciplinary board action that is subject to reporting to the National Practitioner Data Bank. However, the board may not report board action against a physician for only an administrative penalty described in subsection (a). The board's action concerning disciplinary action or an administrative penalty described in subsection (a) shall be conducted at a hearing that is open to the public.

(d) The physician compliance fund is established to provide funds for administering and enforcing the investigation of violations specified in subsection (a). The fund shall be administered by the Indiana professional licensing agency.

(e) The expenses of administering the physician compliance fund shall be paid from the money in the fund. The fund consists of penalties collected through investigations and assessments by the board concerning violations specified in subsection (a). Money in the fund at the end of a state fiscal year does not revert to the state general fund.

*As added by P.L.149-2011, SEC.5. Amended by P.L.154-2012, SEC.3.*

## **IC 25-22.5-3 Chapter 3. Licensure Requirements**

### **IC 25-22.5-3-1 Minimum requirements**

Sec. 1. (a) The minimum requirements for all applicants for an unlimited license to practice medicine or osteopathic medicine in Indiana must include but are not limited to the requirements prescribed by this section.

(b) The applicant must not have a conviction for a crime that has a direct bearing on the applicant's ability to practice competently.

(c) The applicant shall possess the degree of doctor of medicine or doctor of osteopathy or its equivalent from a medical school which was approved by the board as of the time the degree was conferred.

(d) The applicant shall have successfully passed the examination for licensure or shall have satisfied the requirements for licensure by endorsement as prescribed by the board.

(e) The applicant shall be physically and mentally capable of, and professionally competent to, safely engage in the practice of medicine or osteopathic medicine as determined by the board and shall submit:

- (1) to an examination; or
- (2) additional evidence to the board;

if considered necessary by the board to determine such capability. In making that determination, the board may consider any malpractice settlements or judgments against the applicant.

(f) The applicant shall not have had disciplinary action taken against the applicant or the applicant's license by the board or by the licensing agency of any other state or jurisdiction by reasons of the applicant's inability to safely practice medicine or osteopathic medicine and those reasons are still valid in the opinion of the board.

(g) The applicant shall have submitted a complete transcript of his educational records, grades, and diploma from his medical school with an English translation thereof.

(h) The applicant shall, at the board's discretion, make a personal appearance before it.

(i) The applicant shall have completed one (1) year of postgraduate training in a hospital or institution located in the United States, its possessions, or Canada that meets standards set by the board under IC 25-22.5-2-7.

*(Formerly: Acts 1975, P.L.271, SEC.1.) As amended by Acts 1981, P.L.222, SEC.155; Acts 1982, P.L.113, SEC.56; P.L.247-1985, SEC.8; P.L.149-1987, SEC.51.*

### **IC 25-22.5-3-2 Foreign medical graduates**

Sec. 2. (a) In addition to meeting all the requirements of section 1 of this chapter except subsection (i), an applicant for licensure who:

- (1) has been graduated from a medical school outside the

United States, its possessions, or Canada; and

(2) submits evidence satisfactory to the board that prior to passing the examination the applicant has successfully completed a minimum of at least two (2) years of postgraduate training in a hospital or an institution located 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 which is approved by the board;

is entitled to receive an unlimited license to practice medicine or osteopathic medicine.

(b) Notwithstanding subsection (a), the board may waive the second year of postgraduate training in the United States or Canada required of a graduate of a foreign medical school.

*(Formerly: Acts 1975, P.L.271, SEC.1.) As amended by P.L.247-1985, SEC.9; P.L.156-1986, SEC.1; P.L.242-1995, SEC.1.*

## **IC 25-22.5-4 Chapter 4. Examinations**

### **IC 25-22.5-4-1 Guidelines**

Sec. 1. (a) The board shall:

- (1) adopt rules concerning examinations;
- (2) prepare and give, or approve the preparation and giving of, an examination which covers those general subjects and topics, a knowledge of which is commonly and generally required, in the opinion of the board, to practice medicine or osteopathic medicine in Indiana; and
- (3) permit a student of an accredited school of medicine to take the examination for licensure if:
  - (A) the student submits an application to the board to take the examination before the application deadline set by the board; and
  - (B) the dean of the school certifies that the student is expected to graduate before the results of the examination are published by the board.

(b) Examinations must be:

- (1) given in a way that persons grading the papers will have no knowledge of the identity of an individual being examined; and
- (2) conducted at least semiannually, if there are applicants.

(c) An applicant must achieve a passing score on the examination to qualify for licensure.

*(Formerly: Acts 1975, P.L.271, SEC.1.) As amended by Acts 1982, P.L.113, SEC.57; P.L.247-1985, SEC.10; P.L.149-1987, SEC.52.*

### **IC 25-22.5-4-2 Procedure**

Sec. 2. If any applicant fails to satisfactorily pass the examination for licensure, the applicant is entitled to take not more than two (2) subsequent examinations at other examination periods within nineteen (19) months from the date of the first examination upon the payment of an additional examination fee each time. The board may establish additional requirements under IC 25-22.5-2-7 for those applicants who, after having failed the examination three (3) or more times, wish to take another examination.

*(Formerly: Acts 1975, P.L.271, SEC.1.) As amended by P.L.247-1985, SEC.11.*

## **IC 25-22.5-5 Chapter 5. Licenses and Permits**

### **IC 25-22.5-5-1 Licenses with examination**

Sec. 1. Licenses with Examination. Any applicant who successfully passes the examination provided in chapter 4, and who meets all of the requirements of chapter 3, is entitled to be registered as a physician and to receive an unlimited license to practice medicine or osteopathic medicine.

*(Formerly: Acts 1975, P.L.271, SEC.1.)*

### **IC 25-22.5-5-2 Licenses without examination**

Sec. 2. (a) The board in its discretion may register as a physician and may issue by endorsement an unlimited license to practice medicine or osteopathic medicine to any applicant who has:

- (1) complied with the minimum requirements of IC 25-22.5-3; and
- (2) passed an examination:
  - (A) for licensure in another state or territory of the United States, or Canada; or
  - (B) given by a recognized certifying agency approved by the board;

if that examination was, in the opinion of the board, equivalent in every respect to Indiana's examination at the time it was taken.

(b) The board may refuse to issue a license or may issue a probationary license to an applicant for licensure under this section if:

- (1) the applicant has been disciplined by an administrative agency in another state or jurisdiction; and
- (2) the board determines that the violation for which the applicant was disciplined has a direct bearing on the applicant's ability to practice competently as a physician in Indiana.

*(Formerly: Acts 1975, P.L.271, SEC.1.) As amended by P.L.149-1987, SEC.53; P.L.33-1993, SEC.28.*

### **IC 25-22.5-5-2.5 Unlimited and probationary licenses; refusal to license; removal of limitation**

Sec. 2.5. (a) The board may:

- (1) refuse to issue a license;
- (2) issue an unlimited license; or
- (3) issue a probationary license to an applicant for licensure by examination or endorsement;

if the applicant has had a license revoked under this chapter and is applying for a new license after the expiration of the period prescribed by IC 25-

1-9-12.

(b) Before making a determination under subsection (a), the board may require the applicant to engage in full-scale assessments, formal training programs, supervised practice arrangements, formal testing, or other proof of competence as provided under section 2.7 of this chapter.

(c) When issuing a probationary license under this section, the board may require the individual holding the license to perform any of the following acts as a condition for the issuance of a probationary license:

- (1) Submit a regular report to the board concerning matters that are the basis of probation.
- (2) Limit the practice of the individual to the areas prescribed by the board.
- (3) Continue or renew the individual's professional education.
- (4) Perform or refrain from performing acts, as the board considers appropriate to the public interest or the rehabilitation of the individual.
- (5) Engage in community restitution or service without compensation for a number of hours specified by the board.
- (6) Any combination of these conditions.

(d) If the board determines following a hearing that the deficiency requiring disciplinary action concerning the individual has been remedied, the board shall remove any limitation placed on the individual's license under subsection (c).

*As added by P.L.152-1988, SEC.15. Amended by P.L.33-1993, SEC.29; P.L.32-2000, SEC.13; P.L.105-2008, SEC.40.*

#### **IC 25-22.5-5-2.7 Provisional license**

Sec. 2.7. (a) The board may issue a provisional license to an applicant who:

(1) has not practiced medicine or has not maintained continued competency for at least two (2) years immediately preceding the filing of an application for an initial license;

(2) has applied for reinstatement of a license under IC 25-1-8-6 that has been lapsed for at least three (3) years; or

(3) has submitted a request, petition, motion, or application to reactivate an inactive license previously issued by the board.

(b) For an applicant to qualify for a provisional license under subsection (a), the board must find the following:

(1) The applicant's practice is deficient in one (1) or more areas.

(2) The nature of the applicant's deficiency is such that it does not constitute a violation of the practice act, other than a de minimis violation, as determined by the board.

(3) The nature of the applicant's identified practice deficiency is such that it may be monitored until resolved to the satisfaction of the board.

(4) The applicant's practice deficiency did not result in death, serious harm, or other serious outcome for a patient or patients.

(5) The applicant's practice deficiency did not represent an intentional or willful commission or omission of an act that constitutes a violation of IC 25-1-9-4, IC 25-22.5, or the rules of the board.

(6) The applicant's practice deficiency did not involve sexual misconduct.

(c) As a condition for an applicant to hold a provisional license, the board may require full-scale assessments, engagement in formal training programs, supervised practice arrangements, formal testing, or other proof of competence.

(d) An applicant under this section shall develop an individualized practice reentry program subject to the approval of the board.

(e) The duration of a provisional license shall be determined by the board and reviewed at least annually by the board.

(f) When an applicant has demonstrated to the board that the applicant has satisfactorily met the terms of the individualized practice reentry program, the applicant shall be released from terms of the provisional license and is entitled to hold an unlimited license under IC 25-22.5-3-1.

(g) A provisional license is a non-restricted license, and the issuance of a provisional license issued under this section may not be construed as a disciplinary action taken by the board.

(h) The board may take disciplinary action against an applicant who holds a provisional license if, after a hearing, the board finds any of the following:

(1) Failure to comply with any term of the provisional license.

(2) Receipt of evidence from an appointed supervisor or workplace monitor that the holder of the provisional license has failed to make satisfactory progress or successfully complete the requirements of the provisional license.

(3) Receipt of evidence from an appointed supervisor or workplace monitor that the holder of the provisional license has failed to incorporate learned knowledge and skills into the holder's practice or has continued to demonstrate the same practice deficiency that led to the issuance of the provisional license.

(4) A violation of IC 25-1-9.

(i) The holder of a provisional license may petition the board for modification, withdrawal, or retirement of the provisional license.

*As added by P.L.105-2008, SEC.41.*

#### **IC 25-22.5-5-3 Waiver of requirements**

Sec. 3. The board, in certain exceptional instances, may waive for limited licenses, temporary medical permits, or final licensure any of the provisions of this article, including fee requirements, if a complete evaluation by the board of the applicant's previous training, education, and practice determines them to equal or exceed the requirements of this article.

*(Formerly: Acts 1975, P.L.271, SEC.1.) As amended by P.L.247-1985, SEC.12.*

#### **IC 25-22.5-5-4 Temporary medical permits**

Sec. 4. (a) The board may authorize the agency to issue temporary medical permits for the practice of medicine or osteopathic medicine. When a temporary medical permit is issued, it is subject to any termination date specified by the board. A temporary medical permit may be issued to any person who:

(1) has completed the academic requirements for the degree of doctor of medicine or doctor of osteopathy from a medical school approved by the board; and

(2) desires to obtain postgraduate medical education or training in a medical education institution or hospital located in Indiana which has standards for postgraduate medical education and training satisfactory to the board; is required to obtain a temporary medical permit unless the graduate possesses an unlimited license to practice medicine or osteopathic medicine in Indiana. Application for the permit must be made to the board subject to this article. A temporary medical permit issued to a person under this subsection for purposes of postgraduate training is valid for a period of one (1) year and may be renewed for additional one (1) year periods at the discretion of the board.

(b) A medical educational institution located in Indiana which has standards satisfactory to the board may, in the board's discretion, secure from it a permit for a person in the active practice of medicine outside the state of Indiana or the United States, but who is not licensed in Indiana, to teach medicine in the institution for an annually renewable period not to exceed one (1) year by filing with the board an application by the institution and the person certifying:

- (1) the person's professional qualifications;
- (2) the term of the teaching appointment;
- (3) the medical subjects to be taught; and
- (4) other information and assurances as the board may require.

If the application is approved, the person is entitled to receive a "temporary medical teaching permit" which authorizes the person to teach medicine in the applicant institution for a stated period not to exceed one (1) year. This permit must be kept in the possession of the institution and surrendered by it to the board for cancellation within thirty (30) days after the person has ceased teaching in the institution. The permit authorizes the person to practice in the institution only and, in the course of teaching, to practice those medical or osteopathic medical acts as are usually and customarily performed by a physician teaching in a medical educational institution, but does not authorize the person to practice medicine or osteopathic medicine otherwise.

(c) Any medical educational institution in this state which authorizes or permits a physician to violate this article or which itself violates this section may, in the discretion of the board, be disqualified from further receiving the benefits of this section.

(d) The board may authorize the issuance of a temporary medical permit to a person who will be taking in Indiana for the first time the examination or portion of the examination required by the board. A temporary medical permit holder under this subsection shall work under the supervision of a licensed physician, who is in good standing with the board, until the results of the examination taken by the permit holder are published by the board. If the holder of a temporary medical permit under this subsection fails the examination, the board may reissue a temporary medical permit to the holder upon conditions, and for a period of time, that the board considers appropriate.

(e) A person who holds a valid license to practice medicine or osteopathic medicine in the United States, its possessions, or Canada, and who is seeking licensure by endorsement, may be issued a temporary medical permit by the agency upon the authorization of the board. A temporary medical permit issued under this subsection is valid for ninety (90) days or for a period considered appropriate by the board.

(f) A person who is licensed to practice medicine or osteopathic medicine by any board or licensing agency of another state or jurisdiction, and who meets the requirements established by the board under IC 25-22.5-2-7, may be issued a temporary medical permit limited by terms and conditions considered appropriate by the board. A temporary medical permit issued under this subsection is valid for a nonrenewable period of no more than thirty (30) days.

*(Formerly: Acts 1975, P.L. 271, SEC. 1.) As amended by P.L. 247-1985, SEC. 13; P.L. 1-2006, SEC. 448.*

#### **IC 25-22.5-5-4.5 Repealed**

*(Repealed by P.L. 177-2009, SEC. 63.)*

#### **IC 25-22.5-5-4.6 Temporary fellowship permits**

Sec. 4.6. (a) The board may authorize the agency to issue temporary fellowship permits for the practice of medicine. A temporary fellowship permit is subject to any termination date specified by the board.

(b) The board may issue a temporary fellowship permit to a graduate of a school located outside the United States, its possessions, or Canada if the graduate:

- (1) applies in the form and manner required by the board;
- (2) pays a fee set by the board;
- (3) has completed the academic requirements for the degree of doctor of medicine from a medical school approved by the board;
- (4) has been issued a valid permit by another state for participation in a postgraduate medical education or training program located in a state that has standards for postgraduate medical education and training satisfactory to the board;
- (5) has been accepted into a postgraduate medical fellowship training program that:
  - (A) is affiliated with a medical school located in a state that issued a permit under subdivision (4);
  - (B) has a training site located in Indiana; and
  - (C) has standards for postgraduate medical education and training satisfactory to the board;
- (6) provides the board with documentation of the areas of medical practice for which the training is sought;
- (7) provides the board with at least two (2) letters of reference documenting the individual's character; and
- (8) demonstrates to the board that the individual is a physician of good character who is in good standing outside the United States, its possessions, or Canada where the person normally would practice.

(c) Applications for a temporary fellowship permit for graduates of foreign medical schools must be made to the board subject to this section.

(d) A permit issued under this section expires one (1) year after the date it is issued and, at the discretion of the board, may be renewed for additional one (1) year periods upon the payment of a renewal fee set by the board by rule.

(e) An individual who applies for a temporary fellowship permit under this section is not required to take any step of the United States Medical Licensure Examination.

(f) A temporary fellowship permit must be kept in the possession of the fellowship training institution and surrendered by the institution to the board within thirty (30) days after the person ceases training in Indiana.

(g) A temporary fellowship permit authorizes a person to practice in the training institution only and, in the course of training, to practice only those medical acts approved by the board but does not authorize the person to practice medicine otherwise.

(h) The board may deny an application for a temporary fellowship permit if the training program that has accepted the applicant has:

- (1) violated; or
- (2) authorized or permitted a physician to violate;

this section.

(i) A person issued a temporary fellowship permit under this section must file an affidavit that:

- (1) is signed by a physician licensed in Indiana;
- (2) includes the license number of the signing physician;
- (3) attests that the physician will monitor the work of the physician holding the temporary fellowship permit; and
- (4) is notarized.

The affidavit must be filed with the agency before the person holding the temporary fellowship permit may provide medical services.

*As added by P.L.177-2009, SEC.41.*

### **IC 25-22.5-5-5 Repealed**

*(Repealed by P.L.185-1993, SEC.15.)*

### **IC 25-22.5-5-6 Eye enucleators; corneal excision technicians; registration; training programs**

Sec. 6. (a) The board shall register as an eye enucleator an individual who qualifies for registration under rules adopted by the board under IC 25-22.5-2-7. An applicant for registration as an eye enucleator must submit evidence that the applicant has successfully completed a training program in the enucleation of eyes approved by the board. To be approved, a training program must:

- (1) be taught by one (1) or more surgeons or physicians;
- (2) include instruction and practice in:
  - (A) anatomy and physiology of the eye;
  - (B) the maintenance of a sterile field during the removal of an eye; and
  - (C) the use of appropriate instruments and sterile procedures for removing the eye; and
- (3) comply with rules adopted by the board under IC 25-22.5-2-7.

Registration of an eye enucleator under this section does not qualify the eye enucleator to remove corneas or corneal tissue.

(b) The board shall register as a corneal excision technician a person who qualifies for registration under rules adopted by the board under IC 25-22.5-2-7. An applicant for registration as a corneal excision technician must submit evidence that the applicant has successfully completed a training program in corneal excision approved by the board. To be approved, a training program must:

- (1) be taught by one (1) or more surgeons or physicians;
- (2) include instruction and practice in:
  - (A) the anatomy and physiology of the eye;
  - (B) maintenance of a sterile field during the removal of a cornea, an eye, or part of an eye; and
  - (C) the use of appropriate instruments and sterile procedures for removing a cornea, an eye, or part of an eye; and
- (3) comply with rules adopted by the board under IC 25-22.5-2-7.

A corneal excision technician registered under this section may remove an eye, part of an eye, a cornea, and corneal tissue.

(c) The board may revoke a registration issued under this section upon a showing of good cause for revocation.

(d) The board shall adopt rules under IC 25-22.5-2-7 to implement this section.

*As added by P.L.36-1993, SEC.3*

### **IC 25-22.5-6 Chapter 6. Discipline; Retirement of Licenses**

#### **IC 25-22.5-6-1 Retirement and surrender; inactive status**

Sec. 1. (a) Any physician licensed to practice medicine or osteopathic medicine in this state who intends to retire from practice shall notify the board in writing of the physician's intention to retire. Upon receipt of this notice, the board shall record the fact that the physician is retired and excuse the person from further payment of registration fees. If any physician retires the physician's license to practice medicine or osteopathic medicine in this state, reinstatement of the license may be considered by the board upon written request. The board may impose any conditions it considers appropriate to the retirement or to the reinstatement of a retired license. If any disciplinary proceedings under this chapter are pending against a physician, the physician may not surrender or retire the physician's license to practice without the written approval of the board.

(b) Any physician licensed to practice medicine or osteopathic medicine in this state who intends to become inactive in the practice of medicine shall notify the board in writing that:

- (1) the physician will not maintain an office or practice; and
- (2) if the physician does render a service that constitutes the practice of medicine, the physician will not charge a fee for that service.

The board shall then classify the physician's license as inactive. The renewal fee of the inactive license is one-half (1/2) of the registration fee.

(c) If a physician holding an inactive license intends to maintain an office or practice or charge a fee for the physician's medical services, the physician shall notify the board of the intent to reactivate a license to practice medicine or osteopathy. As a condition of reactivation, the board may require the physician to appear before the board. This personal appearance shall be to establish the physician's work history if the physician's license has been inactive for more than four (4) years and the physician cannot verify active practice history in another jurisdiction during the period

in which the physician's Indiana license has been under inactive status. Upon:

- (1) notification;
- (2) receipt of the regular registration fee for a physician's license, less the amount paid for the current inactive license; and
- (3) either:
  - (A) verification of active licensure in another jurisdiction; or
  - (B) completion of other reasonable requirements imposed by the board, after the physician's work history has been established;

the board shall reinstate that physician's license.

*(Formerly: Acts 1975, P.L.271, SEC.1.) As amended by Acts 1979, P.L.246, SEC.1; P.L.247-1985, SEC.15; P.L.157-2006, SEC.60.*

#### **IC 25-22.5-6-2 Repealed**

*(Repealed by Acts 1981, P.L.222, SEC.296.)*

#### **IC 25-22.5-6-2.1 Repealed**

*(Repealed by P.L.152-1988, SEC.30.)*

#### **IC 25-22.5-6-3 Immunity from civil liability**

Sec. 3. The executive director and staff of the agency, counsel, investigators, hearing officers, and the board members are immune from civil liability for damages for conduct within the scope and arising out of the performance of their duties.

*(Formerly: Acts 1975, P.L.271, SEC.1.) As amended by Acts 1977, P.L.172, SEC.28; Acts 1981, P.L.222, SEC.157; P.L.247-1985, SEC.17; P.L.1-2006, SEC.450.*

#### **IC 25-22.5-6-4 Injunctions**

Sec. 4. Injunctions. In cases where the continued practice of medicine by an accused is considered harmful to the public or himself, the board may sue to enjoin the accused from practicing medicine or osteopathic medicine until the hearing, provided in section 3 of this chapter, is completed and a decision rendered.

*(Formerly: Acts 1975, P.L.271, SEC.1.)*

#### **IC 25-22.5-7 Chapter 7. Registration Fees**

##### **IC 25-22.5-7-1 Expiration of licenses; renewal fee; reinstatement of invalid licenses; rules**

Sec. 1. (a) A license issued under this article expires biennially on the date established by the licensing agency under IC 25-1-5-4. On or before the date established by the licensing agency, an applicant for renewal shall pay the biennial renewal fee set by the board under IC 25-1-8-2.

(b) If the holder of a license does not renew the license on or before the date established by the licensing agency, the license expires and becomes invalid without any action taken by the board.

(c) A license that becomes invalid under subsection (b) may be reinstated by the board not later than three (3) years after the invalidation if the holder of the invalid license meets the requirements for reinstatement under IC 25-1-8-6(c).

(d) If a license that becomes invalid under this section is not reinstated by the board not later than three (3) years after its invalidation, the holder of the invalid license must meet the requirements for reinstatement established by the board under IC 25-1-8-6(d).

(e) A licensee whose license is reinstated under subsection (d) may be issued a provisional license under IC 25-22.5-5-2.7.

(f) The board may adopt rules under IC 25-22.5-2-7 establishing requirements for the reinstatement of a lapsed license.

*(Formerly: Acts 1975, P.L.271, SEC.1.) As amended by Acts 1979, P.L.246, SEC.3; P.L.247-1985, SEC.18; P.L.149-1987, SEC.55; P.L.105-2008, SEC.42.*

#### **IC 25-22.5-8 Chapter 8. Penalties**

##### **IC 25-22.5-8-1 Unlawful practice**

Sec. 1. Unlawful Practice. It is unlawful for any person to practice medicine or osteopathic medicine in this state without holding a license or permit to do so, as provided in this article.

*(Formerly: Acts 1975, P.L.271, SEC.1.)*

##### **IC 25-22.5-8-2 Offenses**

Sec. 2. (a) A person who violates this article by unlawfully practicing medicine or osteopathic medicine commits a Class C felony.

(b) A person who practices midwifery without the license required under this article commits a Class D felony.

(c) A person who acts as a physician assistant without the license required under IC 25-27.5 commits a Class D felony.

*(Formerly: Acts 1975, P.L.271, SEC.1.) As amended by Acts 1978, P.L.2, SEC.2541; P.L.247-1985, SEC.19; P.L.90-2007, SEC.5.*

##### **IC 25-22.5-8-3 Violations; temporary medical permits**

Sec. 3. A person who violates this article relating to temporary medical permits, if the violation does not involve the unlawful practice of medicine or osteopathic medicine, commits a Class C misdemeanor.

*(Formerly: Acts 1975, P.L.271, SEC.1.) As amended by Acts 1978, P.L.2, SEC.2542; P.L.247-1985, SEC.20.*

#### **IC 25-22.5-8-4 Injunctions**

Sec. 4. Injunctions. The attorney general, prosecuting attorney, the board or any citizen of any county where any person engages in the practice of medicine or osteopathic medicine without a license or a permit to do so, may, according to the laws of Indiana governing injunctions, maintain an action in the name of the state of Indiana to enjoin the person from engaging in the practice of medicine or osteopathic medicine. In charging any person in an affidavit, information or indictment, with a violation of this law by practicing medicine or osteopathic medicine without a license or permit, it is sufficient to charge that he did, upon a certain day and in a certain county, engage in the unlawful practice of medicine or osteopathic medicine and that he did not have any license or permit to do so. No further or more particular fact need be averred concerning the matter.  
(Formerly: Acts 1975, P.L.271, SEC.1.)

#### **IC 25-22.5-8-5 Revocation of physician license for participation in cloning**

Sec. 5. (a) As used in this section, "cloning" has the meaning set forth in IC 16-18-2-56.5.  
(b) Notwithstanding IC 25-1-9, the board shall revoke the license of a physician if, after appropriate notice and an opportunity for a hearing, the attorney general proves by a preponderance of the evidence that the physician knowingly participated in cloning or attempted cloning.  
As added by P.L.126-2005, SEC.8.

#### **IC25-22.5-9 Repealed**

(Repealed by P.L.199-1987, SEC.2.)

### **IC 25-22.5-10 Chapter 10. Osteopathic Residency Training and Certification**

#### **IC 25-22.5-10-1 Residency training and board certification required by health provider or insurer**

Sec. 1. If:

- (1) a hospital;
- (2) a health maintenance organization issued a certificate of authority under IC 27-13;
- (3) a preferred provider organization licensed under IC 27-8-11;
- (4) a health insurance company; or
- (5) any other similarly licensed entity;

requires a physician to be residency trained, board certified, or eligible for certification in a medical specialty, it shall include residency training or certification approved by a national association founded in 1897 that accredits residency training programs and certifying boards for osteopathic physicians as criteria that satisfy the requirement.

As added by P.L.182-1997, SEC.1.

### **IC 25-22.5-11 Chapter 11. Physician Referral to Certain Health Care Entities**

#### **IC 25-22.5-11-1 "Financial interest"**

Sec. 1. (a) As used in this chapter, "financial interest" means an ownership or investment interest through equity, debt, or other means. The term includes an ownership or investment interest in an entity that holds:

- (1) directly; or
- (2) through a subsidiary;

an ownership or investment interest in a health care entity.

(b) The term does not include the following:

- (1) Ownership of investment securities (including shares or bonds, debentures, notes, or other debt instruments) that may be purchased on terms generally available to the public and that are:
  - (A) securities:
    - (i) listed on the New York Stock Exchange, the American Stock Exchange, any regional exchange in which quotations are published on a daily basis, or foreign securities listed on a recognized foreign, national, or regional exchange in which quotations are published on a daily basis; or
    - (ii) traded under the National Association of Securities Dealers, Inc. Automated Quotations System; and
  - (B) in a corporation that had, at the end of the corporation's most recent fiscal year, or on average during the previous three (3) fiscal years, stockholder equity exceeding seventy-five million dollars (\$75,000,000).
- (2) Ownership of shares in a regulated investment company as defined in section 851(a) of the Internal Revenue Code of 1986, if such company had, at the end of the company's most recent fiscal year, or on average during the previous three (3) fiscal years, total assets exceeding seventy-five million dollars (\$75,000,000).

As added by P.L.217-2005, SEC.26.

#### **IC 25-22.5-11-2 "Health care entity"**

Sec. 2. As used in this chapter, "health care entity" means an organization or a business that provides diagnostic, medical, or surgical services, dental treatment, or rehabilitative care.

As added by P.L.217-2005, SEC.26.

#### **IC 25-22.5-11-3 Physician requirements before referring patient to health care entity; exception**

Sec. 3. (a) Except as provided in subsection (b), a physician must do the following before referring an individual to a health care entity

in which the physician has a financial interest:

- (1) Disclose in writing to the individual that the physician has a financial interest in the health care entity.
- (2) Inform the individual in writing that the individual may choose to be referred to another health care entity.

The individual shall acknowledge receipt of the notice required under this section by signing the notice. The physician shall keep a copy of the signed notice.

(b) Subsection (a) does not apply if a delay in treatment caused by compliance with the requirements of subsection (a) would reasonably be expected by the referring physician to result in serious:

- (1) jeopardy to the individual's health;
- (2) impairment to the individual's bodily functions; or
- (3) dysfunction of a bodily organ or part of the individual.

*As added by P.L.217-2005, SEC.26.*

#### **IC 25-22.5-11-4 Compliance as condition for physician licensure**

Sec. 4. Compliance with this chapter is a condition of licensure under this article.

*As added by P.L.217-2005, SEC.26.*

#### **IC 25-22.5-11-5 Intent not to conflict with federal law**

Sec. 5. This chapter is not intended to conflict with 42 U.S.C. 1395nn or 42 U.S.C. 1396b(s).

*As added by P.L.217-2005, SEC.26.*

### **IC 25-22.5-12 Chapter 12. Residency Pilot Program for Qualified International Medical School Graduates**

#### **IC 25-22.5-12-1 "Graduate" defined**

Sec. 1. As used in this chapter, "graduate" means a qualified international medical school graduate.

*As added by P.L.157-2006, SEC.61.*

#### **IC 25-22.5-12-2 "Resident" defined**

Sec. 2. As used in this chapter, "resident" means a graduate who has been accepted in the residency pilot program under this chapter.

*As added by P.L.157-2006, SEC.61.*

#### **IC 25-22.5-12-3 Residency pilot program established**

Sec. 3. The board shall work with primary care residency programs, limited to family medicine, pediatrics, and internal medicine residency programs, to develop a pilot program for a period of seven (7) academic years to better identify, evaluate, and prepare qualified graduates for future practice in Indiana.

*As added by P.L.157-2006, SEC.61.*

#### **IC 25-22.5-12-4 Eligible graduates**

Sec. 4. The board shall allow family medicine, pediatrics, and internal medicine residency programs in Indiana that elect to participate in the residency pilot program to accept graduates from medical schools that:

- (1) are not on the board's list of approved medical schools; and
- (2) are not on the list of schools disapproved for postgraduate medical education training.

*As added by P.L.157-2006, SEC.61.*

#### **IC 25-22.5-12-5 Application process**

Sec. 5. The board shall develop an application process for each approved residency program's participation in the residency pilot program.

*As added by P.L.157-2006, SEC.61.*

#### **IC 25-22.5-12-6 Disapproved medical schools; list**

Sec. 6. The list of disapproved medical schools must be updated by August 1 of each year to the best ability of the board to exclude any medical schools that are not known to be qualified educational institutions.

*As added by P.L.157-2006, SEC.61.*

#### **IC 25-22.5-12-7 Request for temporary permit**

Sec. 7. The program director of a residency program that wants to participate in the residency pilot program shall submit a letter to the board requesting that the accepted residency candidate receive a temporary permit for residency training. A representative of the residency program must appear with the candidate for a hearing of the board.

*As added by P.L.157-2006, SEC.61. Amended by P.L.1-2007, SEC.169.*

#### **IC 25-22.5-12-8 Temporary permit duration**

Sec. 8. A temporary permit to participate in residency training may be:

- (1) issued to a graduate for one (1) year; and
- (2) renewed for two (2) additional one (1) year periods;



until completion of the residency program. The board may require the graduate to appear before the board.  
*As added by P.L.157-2006, SEC.61.*

**IC 25-22.5-12-9 Eligible candidates**

Sec. 9. A candidate for the residency program must be certified by the Education Commission for Foreign Medical Graduates (ECFMG) to participate in the residency pilot program.  
*As added by P.L.157-2006, SEC.61.*

**IC 25-22.5-12-10 Pilot program director's report**

Sec. 10. The director of a participating residency pilot program shall submit a written progress report to the board within three (3) months after the beginning of training of a resident to verify that the resident is providing the quality of medical care to patients expected at the level of medical experience and training of the resident.  
*As added by P.L.157-2006, SEC.61.*

**IC 25-22.5-12-11 Dismissal of resident; notification of board**

Sec. 11. The residency program director shall promptly inform the board in writing if a pilot program resident is:  
(1) dismissed for failure to meet the professional expectations of the residency program; or  
(2) incapable of competent medical practice.  
*As added by P.L.157-2006, SEC.61.*

**IC 25-22.5-12-12 Annual progress report**

Sec. 12. The residency program director shall submit a report concerning the progress of each resident to the board at the completion of the first and second years of the resident's training recommending renewal of the temporary medical permit for one (1) additional year if the resident's performance is satisfactory.  
*As added by P.L.157-2006, SEC.61.*

**IC 25-22.5-12-13 Completion of pilot program; additional practice requirements; failure to complete program**

Sec. 13. (a) Upon the resident's completion of the three (3) year training program, the residency program director may be required to appear before the board to:

- (1) verify the competency of the resident; and
- (2) recommend that the candidate be issued a license to enable the candidate to practice medicine in Indiana.

If the resident was granted a temporary permit under the residency pilot program, a graduate participating in the program may not be issued a permanent license until the graduate completes the three (3) years of pilot program residency training and completes two (2) years of practice in Indiana to complete the pilot program requirements. The type of license the graduating resident obtains for the two (2) years of practice after residency shall be determined by the board. The board may defer the practice requirement if the resident requests a delay to participate in an Accreditation Council on Graduate Medical Education (ACGME) accredited fellowship program that enhances the practice of primary care. The candidate must appear before the board for permanent license approval.

(b) Failure to complete the residency pilot program for reasons including:

- (1) negligence;
- (2) incompetency; or
- (3) issues of professionalism;

is an adverse event reportable to medical licensing boards in other states. Issues not related to performance are not reportable events.  
*As added by P.L.157-2006, SEC.61.*

**IC 25-22.5-12-14 Successful candidates**

Sec. 14. International medical school graduates who have successfully completed the residency pilot program and have met all requirements of this chapter:

- (1) shall be given equal standing for licensure with other international medical school graduates who have graduated from approved medical schools; and
- (2) must meet all other licensure requirements under IC 25-22.5-3-1.

*As added by P.L.157-2006, SEC.61.*

**IC 25-22.5-12-15 Data collection by board**

Sec. 15. The board shall collect information and data during the residency pilot program concerning the:

- (1) successes of;
- (2) failures of;
- (3) difficulties encountered in; and
- (4) number of residents involved in, entering, and graduating from;

the program. The information must include data based on the six (6) required ACGME competencies used to evaluate all residents.  
*As added by P.L.157-2006, SEC.61.*

**IC 25-22.5-12-16 Limit on number of candidates**

Sec. 16. There may not be more than two (2) graduates allowed under this pilot program for each approved primary care residency program.  
As added by P.L.157-2006, SEC.61.

**IC 25-22.5-12-17 Chapter expiration**

Sec. 17. This chapter expires December 31, 2013.  
As added by P.L.157-2006, SEC.61.

**INDIANA CODE § 25-2.5**

**ARTICLE 2.5 ACUPUNCTURISTS**

**IC 25-2.5-1 Chapter 1. Definitions**

**IC 25-2.5-1-1 Applicability of definitions**

Sec. 1. The definitions in this chapter apply throughout this article.  
As added by P.L.265-1999, SEC.1.

**IC 25-2.5-1-2 "Acupuncture"**

Sec. 2. "Acupuncture" means a form of health care employing traditional and modern Oriental medical concepts, Oriental medical diagnosis and treatment, and adjunctive therapies and diagnostic techniques for the promotion, maintenance, and restoration of health and the prevention of disease.  
As added by P.L.265-1999, SEC.1.

**IC 25-2.5-1-2.1 "Acupuncturist"**

Sec. 2.1. "Acupuncturist" means an individual to whom a license to practice acupuncture in Indiana has been issued under IC 25-2.5-2.  
As added by P.L.59-2001, SEC.1.

**IC 25-2.5-1-2.5 "Agency"**

Sec. 2.5. "Agency" refers to the Indiana professional licensing agency established by IC 25-1-5-3.  
As added by P.L.1-2006, SEC.418.

**IC 25-2.5-1-3 "Board"**

Sec. 3. "Board" refers to the medical licensing board.  
As added by P.L.265-1999, SEC.1.

**IC 25-2.5-1-4 Repealed**

*(Repealed by P.L.1-2006, SEC.588.)*

**IC 25-2.5-1-5 "Practice of acupuncture"**

Sec. 5. "Practice of acupuncture" means the insertion of acupuncture needles, the application of moxibustion to specific areas of the human body based upon Oriental medical diagnosis as a primary mode of therapy, and other means of applying acupuncture under this chapter.  
As added by P.L.265-1999, SEC.1.

**IC 25-2.5-2 Chapter 2. License and Qualifications**

**IC 25-2.5-2-1 Requirements for license**

Sec. 1. Except as provided in section 3 of this chapter, to qualify for a license under this article, an individual must satisfy the following requirements:

- (1) Complete an application for licensure in accordance with the rules adopted by the board.
- (2) Pay the fees established by the board.
- (3) Not have been convicted of a crime that has a direct bearing on the applicant's ability to practice competently as determined by the board.
- (4) Not have had disciplinary action taken against the applicant or the applicant's license by the board or by the licensing agency of another state or jurisdiction by reason of the applicant's inability to safely practice acupuncture with the reasons for discipline still being valid as determined by the board or by a national certification agency.
- (5) Show to the satisfaction of the board that the applicant has:
  - (A) current active status as a diplomate in acupuncture of the National Certification Commission for Acupuncture and Oriental Medicine;
  - (B) successfully completed a three (3) year postsecondary training program or acupuncture college program that:

- (i) is accredited by;
- (ii) is a candidate for accreditation by; or
- (iii) meets the standards of;

the National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine; and

(C) successfully completed a clean needle technique course approved by the National Certification Commission for Acupuncture and Oriental Medicine.

*As added by P.L.265-1999, SEC.1.*

#### **IC 25-2.5-2-2 Issuance of license**

Sec. 2. Except as provided in section 4 of this chapter, the board shall issue a license to an individual who:

- (1) meets the conditions of section 1 of this chapter; and
- (2) is otherwise qualified for licensure under this article.

*As added by P.L.265-1999, SEC.1.*

#### **IC 25-2.5-2-3 Applicants licensed in other state or licensed in related fields**

Sec. 3. (a) An applicant may, upon the payment of a fee established by the board, be granted a license if the applicant:

(1) submits satisfactory evidence to the board that the applicant has been licensed to practice acupuncture in another state or authorized in another country to practice acupuncture;

(2) meets the requirements of section 1(1) through 1(4) of this chapter; and

(3) shows to the satisfaction of the board that the applicant has:

(A) successfully completed a clean needle technique course substantially equivalent to a clean needle technique course approved by a national acupuncture association approved by the board;

(B) successfully completed a three (3) year postsecondary training program or acupuncture college program that meets the standards substantially equivalent to the standards for a three (3) year postsecondary training program or acupuncture college program approved by a national acupuncture association approved by the board; and

(C) passed an examination substantially equivalent to the examination required by a national acupuncture association approved by the board.

(b) An applicant may, upon the payment of a fee established by the board, be granted a professional's license to practice acupuncture if the applicant submits satisfactory evidence to the board that the applicant 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 training.

(c) The board shall:

(1) compile, at least once every two (2) years, a list of courses and institutions that provide training approved for the purpose of qualifying an individual for a professional's license under subsection (b); and

(2) adopt rules that set forth procedures for the case by case approval of training under subsection (b).

(d) If an individual's license described in subsection (b)(1), (b)(2), or (b)(3) is subject to any restrictions as the result of disciplinary action taken against the individual by the board that regulates the individual's profession, the same restrictions shall be applied to the individual's professional's license to practice acupuncture.

(e) An individual's professional's license issued under subsection (b) shall be suspended if the individual's license described under subsection (b)(1), (b)(2), or (b)(3) is suspended.

(f) An individual's professional's license issued under subsection (b) shall be revoked if the individual's license described under subsection (b)(1), (b)(2), or (b)(3) is revoked.

(g) The practice of acupuncture by an individual issued a professional's license under subsection (b) is limited to the scope of practice of the individual's license described in subsection (b)(1), (b)(2), or (b)(3).

*As added by P.L.265-1999, SEC.1. Amended by P.L.59-2001, SEC.2; P.L.105-2008, SEC.7; P.L.134-2008, SEC.17.*

#### **IC 25-2.5-2-4 Refusal to issue license**

Sec. 4. The board may refuse to issue a license to an applicant for licensure if:

(1) the board determines during the application process that the applicant committed an act that would have subjected the applicant to disciplinary sanction under section 1(4) of this chapter if the applicant had been licensed in Indiana when the act occurred; or

(2) the applicant has had a license revoked under IC 25-1-1.1.

*As added by P.L.265-1999, SEC.1. Amended by P.L.14-2000, SEC.56.*

#### **IC 25-2.5-2-5 Expiration and renewal of license**

Sec. 5. (a) A license issued by the board expires on the date established by the agency under IC 25-1-5-4 in each even-numbered year.

(b) To renew a license, an acupuncturist must:

(1) pay a renewal fee not later than the expiration date of the license; and

(2) submit proof of current active licensure in acupuncture by the National Certification Commission for Acupuncture and Oriental Medicine.

(c) If an individual fails to pay a renewal fee on or before the expiration date of a license, the license becomes invalid without further action by the board.

(d) If an individual holds a license that has been invalid for not more than three (3) years, the board shall reinstate the license if the individual meets the requirements of IC 25-1-8-6(c).

(e) If more than three (3) years have elapsed since the date a license expired, the individual who holds the license may seek reinstatement of the license by satisfying the requirements for reinstatement under IC 25-1-8-6(d).

*As added by P.L.265-1999, SEC.1. Amended by P.L.1-2006, SEC.419; P.L.105-2008, SEC.8.*

#### **IC 25-2.5-2-6 Denial, suspension, or revocation of license**

Sec. 6. The board may deny, suspend, or revoke a license, require remedial education, or issue a letter of reprimand, if an applicant or licensed acupuncturist does any of the following:

- (1) Engages in false or fraudulent conduct that demonstrates an unfitness to practice acupuncture, including:
  - (A) making a misrepresentation in connection with an application for a license or an investigation by the board;
  - (B) attempting to collect fees for services that were not performed;
  - (C) false advertising, including guaranteeing that a cure will result from an acupuncture treatment; or
  - (D) dividing, or agreeing to divide, a fee for acupuncture services with another person for referring the patient.
- (2) Fails to exercise proper control over the acupuncturist's practice by:
  - (A) aiding an unlicensed person in practicing acupuncture;
  - (B) delegating professional responsibilities to a person the acupuncturist knows or should know is not qualified to perform; or
  - (C) insufficiently supervising unlicensed personnel working with the acupuncturist in the practice.
- (3) Fails to maintain records in a proper manner by:
  - (A) failing to keep written records describing the course of treatment for each patient;
  - (B) refusing to provide upon request patient records that have been prepared for or paid for by the patient; or
  - (C) revealing personally identifiable information about a patient, without the patient's consent, unless otherwise allowed by law.
- (4) Fails to exercise proper care of a patient, including:
  - (A) abandoning or neglecting a patient without making reasonable arrangements for the continuation of care; or
  - (B) exercising or attempting to exercise undue influence within the relationship between the acupuncturist and the patient by making sexual advances or requests for sexual activity or by making submission to sexual conduct a condition of treatment.
- (5) Displays substance abuse or mental impairment to the degree that it interferes with the ability to provide safe and effective treatment.
- (6) Is convicted, pleads guilty, or pleads no contest to a crime that demonstrates an unfitness to practice acupuncture.
- (7) Fails, in a negligent manner, to practice acupuncture with the level of skill recognized within the profession as acceptable under the circumstances.
- (8) Violates willfully any provision of this article or rule of the board.
- (9) Has had a license denied, suspended, or revoked in another jurisdiction for a reason that would be grounds for denial, suspension, or revocation of a license under this article.

*As added by P.L.265-1999, SEC.1. Amended by P.L.59-2001, SEC.3.*

#### **IC 25-2.5-2-7 Auricular acupuncture**

Sec. 7. (a) This section may not be construed to prohibit licensed acupuncturists from practicing auricular acupuncture.

(b) An individual who is not an acupuncturist licensed under this article may practice auricular acupuncture for the purpose of treating alcoholism, substance abuse, or chemical dependency if the individual:

- (1) provides the board with 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 set by the National Acupuncture Detoxification Association;
- (2) provides the board with documentation of successful completion of a clean needle technique course;
- (3) provides auricular acupuncture services within the context of a state, federal, or board approved alcohol, substance abuse, or chemical dependency program under the supervision of a licensed acupuncturist; and
- (4) maintains the ethical standards under this article and under rules adopted by the board.

*As added by P.L.265-1999, SEC.1.*

#### **IC 25-2.5-3 Chapter 3. Unlawful Practice**

##### **IC 25-2.5-3-1 Applicability of chapter**

Sec. 1. This chapter does not apply to the following:

- (1) A health care professional acting within the scope of the health care professional's license, certification, or registration.
- (2) A student practicing acupuncture under the direct supervision of a licensed acupuncturist as part of a course of study approved by the board.

*As added by P.L.265-1999, SEC.1.*

##### **IC 25-2.5-3-2 Use of acupuncturist title**

Sec. 2. An individual may not use the title "licensed acupuncturist" or "acupuncturist" unless the acupuncturist is licensed under this article.

*As added by P.L.265-1999, SEC.1.*

**IC 25-2.5-3-3 Unlicensed practice of acupuncture; civil immunity for physician who referred patient to a licensed acupuncturist**

Sec. 3. (a) Subject to section 1 of this chapter, it is unlawful to practice acupuncture without a license issued under this article.

(b) If a licensed acupuncturist practices acupuncture on a patient after having obtained a written letter of referral or written diagnosis of the patient from a physician licensed under IC 25-22.5, the physician is immune from civil liability relating to the patient's or acupuncturist's use of that diagnosis or referral except for acts or omissions of the physician that amount to gross negligence or willful or wanton misconduct.

*As added by P.L.265-1999, SEC.1. Amended by P.L.59-2001, SEC.4; P.L.134-2008, SEC.18.*

**IC 25-2.5-3-4 Violations**

Sec. 4. A person who knowingly or intentionally violates this article commits a Class B misdemeanor.

*As added by P.L.265-1999, SEC.1.*

## INDIANA CODE § 25-17.3

### ARTICLE 17.3 GENETIC COUNSELORS

**IC 25-17.3-1-1 Chapter 1. Applicability**

**IC 25-17.3-1-1 Applicability of Chapter**

Sec. 1. This article applies after June 30, 2010.

*As added by P.L.177-2009, SEC.35.*

**IC 25-17.3-2 Chapter 2. Definitions**

**IC 25-17.3-2-1 Applicability**

Sec. 1. The definitions in this chapter apply throughout this article.

*As added by P.L.177-2009, SEC.35.*

**IC 25-17.3-2-2 "Agency" defined**

Sec. 2. "Agency" refers to the Indiana professional licensing agency established by IC 25-1-5-3.

*As added by P.L.177-2009, SEC.35.*

**IC 25-17.3-2-3 "Board" defined**

Sec. 3. "Board" refers to the medical licensing board of Indiana created by IC 25-22.5-2-1.

*As added by P.L.177-2009, SEC.35.*

**IC 25-17.3-2-4 "Genetic counseling" defined**

Sec. 4. "Genetic counseling" means the communication by an individual of any of the following:

(1) Estimating, through the following methods, the likelihood of the occurrence or recurrence of a birth defect or a potentially inherited or genetically influenced condition:

(A) Obtaining and analyzing the health history of an individual and the individual's family.

(B) Reviewing medical records.

(C) Evaluating the risks of exposure to possible mutagens or teratogens.

(D) Recommending genetic testing or other evaluation to detect fetal abnormalities or determine the carrier status of a family member.

(2) Explaining to an individual or a family the following:

(A) The medical, psychological, and social implications of a disorder and the usual course of evaluation, treatment, or management.

(B) The genetic factors that contribute to the disorder and how the genetic factors affect the chance for recurrence of the condition in other family members.

(C) The available options for coping with, preventing, or reducing the chance of occurrence or recurrence of the disorder.

(D) The genetic or other tests available for inherited disorders.

(E) How to interpret complex genetic test results.

*As added by P.L.177-2009, SEC.35.*

**IC 25-17.3-2-5 "Genetic counselor" defined**

Sec. 5. "Genetic counselor" means an individual who is licensed under this article to provide genetic counseling.

*As added by P.L.177-2009, SEC.35.*

**IC 25-17.3-2-6 "Genetic supervision" defined**

Sec. 6. "Genetic supervision" refers to the assessment by:

(1) an individual who is licensed under this article; or

(2) a physician licensed under IC 25-22.5; of an individual who is issued a temporary genetic counselor license. The term includes regular meetings and chart review under a genetic supervision contract entered into by both parties.  
*As added by P.L.177-2009, SEC.35.*

### **IC 25-17.3-3 Chapter 3. Powers and Duties of the Board**

#### **IC 25-17.3-3-1 Enforcement**

Sec. 1. The board shall enforce this article.  
*As added by P.L.177-2009, SEC.35.*

#### **IC 25-17.3-3-2 Rule readoption**

Sec. 2. The board may adopt rules under IC 4-22-2 that are consistent with this article and with IC 25-22.5 and that are necessary for the proper enforcement of this article and for the conduct of the practice of genetic counseling.  
*As added by P.L.177-2009, SEC.35.*

### **IC 25-17.3-1 Chapter 4. Requirements for Licensure as a Genetic Counselor**

#### **IC 25-17.3-4-1 Licensure requirements**

Sec. 1. To qualify for licensure as a genetic counselor, an applicant must:

- (1) submit an application on a form developed by the board;
- (2) pay the licensure fee determined by the board;
- (3) provide written evidence that the applicant has earned:
  - (A) a master's degree from a genetic counseling training program accredited by the American Board of Genetic Counseling or its successor; or
  - (B) a doctoral degree from a medical genetics training program that is accredited by the American Board of Medical Genetics or its successor; and
- (4) meet the examination requirement for certification as:
  - (A) a genetic counselor by the American Board of Genetic Counseling or the American Board of Medical Genetics or the successor of these entities; or
  - (B) a medical geneticist by the American Board of Medical Genetics or its successor.

*As added by P.L.177-2009, SEC.35.*

#### **IC 25-17.3-4-2 Temporary license requirements**

Sec. 2. (a) The board may issue a temporary license to an applicant who:

- (1) meets all the requirements for licensure under section 1 of this chapter except the examination for certification requirement set forth in section 1(4) of this chapter; and
- (2) has an active candidate status for the certification.

(b) An individual who is issued a temporary license under this section:

- (1) must apply for and take the next available examination for certification; and
- (2) may practice under the temporary license only if directly supervised by a licensed genetic counselor or a physician licensed under IC 25-22.5 under a genetic supervision contract.

(c) An individual who holds a temporary license issued under this section and fails the examination for certification described in section 1(4) of this chapter for the first time may reapply for a second temporary license. The board may not issue a temporary license to an individual who has failed the examination for certification more than one (1) time.

(d) A temporary license issued under this section expires upon the earliest of the following:

- (1) The date on which the individual meets the requirements of this chapter and is issued a license.
- (2) The date that is thirty (30) days after the individual fails the examination for certification described in section 1(4) of this chapter.
- (3) The date printed on the temporary license.

(e) An individual who is issued a temporary license under this section shall inform the board of the results of the individual's examination for certification described in section 1(4) of this chapter.  
*As added by P.L.177-2009, SEC.35.*

#### **IC 25-17.3-4-3 Licensure eligibility**

Sec. 3. The board may issue a license to an individual who:

- (1) is licensed, certified, or registered in another state or territory of the United States that has requirements determined by the board to be substantially equivalent to the requirements specified in this article;
- (2) is in good standing in the other state or territory;
- (3) applies in the manner required by the board; and
- (4) pays an application fee specified by the board.

*As added by P.L.177-2009, SEC.35.*

#### **IC 25-17.3-4-4 Exclusions**

Sec. 4. The following individuals are not required to be licensed under this article:

- (1) An individual who is licensed as a physician under IC 25-22.5 or a nurse under IC 25-23. However, the individual may not use the title "genetic counselor" or any other title that indicates that the individual is a genetic counselor unless the individual is licensed under this article.
- (2) A student or an intern from an accredited school who is participating in a supervised training program.
- (3) An individual from another state who is certified by the American Board of Medical Genetics or the American Board of Genetic Counseling and acting in Indiana on a consultant basis.

*As added by P.L.177-2009, SEC.35.*

#### **IC 25-17.3-4-5 Expiration of licenses**

Sec. 5. (a) A license issued by the board expires on the date established by the agency under IC 25-1-5-4 in even-numbered years.

(b) To renew a license, a genetic counselor shall:

- (1) pay a renewal fee not later than the expiration date of the license; and
  - (2) meet all other requirements for renewal under this chapter.
- (c) If an individual fails to pay a renewal fee on or before the expiration date of a license, the license becomes invalid without further action by the board.
- (d) If an individual holds a license that has been invalid for not more than three (3) years, the board shall reinstate the license if the individual meets the requirements of IC 25-1-8-6(c).

(e) If more than three (3) years have elapsed since the date a license has expired, the individual who holds the expired license may seek reinstatement of the license by satisfying the requirements for reinstatement under IC 25-1-8-6(d).

*As added by P.L.177-2009, SEC.35.*

#### **IC 25-17.3-4-6 Renewal of licenses**

Sec. 6. (a) To renew a license under this article, an applicant must complete continuing education. The continuing education must meet the requirements of IC 25-1-4 and consist of:

- (1) the completion in each two (2) year license cycle of fifty (50) contact hours that have been approved by the National Society of Genetic Counselors; or
- (2) the successful completion in each two (2) year license cycle of a reading assignment and proctored examination in medical genetics provided by the American Board of Medical Genetics.

(b) An applicant seeking renewal of a license shall certify that the applicant:

- (1) has complied with the continuing education requirements; or
- (2) has not complied with the continuing education requirements but is seeking a waiver from the board under section 7 of this chapter.

*As added by P.L.177-2009, SEC.35.*

#### **IC 25-17.3-4-7 Waivers**

Sec. 7. The board may grant an applicant seeking renewal of a license a waiver from all or part of the continuing education requirement for the renewal period if the applicant was not able to fulfill the requirement due to a hardship that resulted from any of the following conditions:

- (1) Service in the armed forces of the United States during a substantial part of the renewal period.
- (2) An incapacitating illness or injury.
- (3) Other circumstances determined by the board.

*As added by P.L.177-2009, SEC.35.*

### **IC 25-17.3-5 Chapter 5. Unlawful Practices**

#### **IC 25-17.3-5-1 Title protection**

Sec. 1. An individual who does not have a valid license or temporary license as a genetic counselor under this article may not use the title "genetic counselor", "licensed genetic counselor", or any word, letter, abbreviation, or insignia that indicates or implies that the individual has been issued a license or has met the qualifications for licensure under this article.

*As added by P.L.177-2009, SEC.35.*

#### **IC 25-17.3-5-2 Unlawful practice**

Sec. 2. (a) If the board believes that a person has engaged in or is about to engage in an act or practice that constitutes or will constitute a violation of section 1 of this chapter, the board may apply to a circuit or superior court for an order enjoining the act or practice.

(b) If the board determines that a person has engaged in or is about to engage in an act or practice that constitutes or will constitute a violation of section 1 of this chapter, an injunction, a restraining order, or another appropriate order may be granted by the court.

*As added by P.L.177-2009, SEC.35.*

#### **IC 25-17.3-5-3 Violations**

Sec. 3. A person who violates this chapter commits a Class A misdemeanor. In addition to any other penalty imposed for a violation of this chapter, the board may, in the name of the state of Indiana through the attorney general, petition a circuit or superior court to enjoin the person who is violating this chapter from practicing genetic counseling in violation of this chapter.

*As added by P.L.177-2009, SEC.35.*

## INDIANA CODE § 25-1

### TITLE 25 PROFESSIONS AND OCCUPATIONS

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#### INDIANA CODE §25-1-1

#### Article 1. General Provisions

##### IC 25-1-1 Chapter 1. Evidence of License Applicant's Payment of Personal Property Taxes Required

###### IC 25-1-1-1 Issuance of license; evidence of payment of personal property tax

Sec. 1. It is unlawful for any board, officer, or person to issue any license, as defined in section 2 of this chapter, to any person who is a resident of this state, unless the applicant, at the time he applies for such license, submits, in addition to all other requirements prescribed by law, a receipt or other evidence showing that he has paid all his personal property taxes in full. "Other evidence" in the case of all licenses issued by the bureau of motor vehicles means a statement signed by the treasurer of the county in which the applicant is a resident that the applicant has paid all personal taxes assessed against him, including all delinquent personal property tax; or, if the applicant owns no personal property subject to taxation, a signed statement from the assessor of the county in which the applicant resides certifying that he has made an affidavit to the effect that he owes no delinquent personal property tax in any county in Indiana.

*(Formerly: Acts 1931, c.124, s.1; Acts 1941, c.61, s.1; Acts 1943, c.124, s.1; Acts 1953, c.208, s.1.) As amended by Acts 1978, P.L.2, SEC.2501.*

###### IC 25-1-1-2 License defined

Sec. 2. The term "license" as used in this chapter shall be construed to mean and include motor vehicle registration licenses, certificates of title showing the ownership of any motor vehicle, except those classed as passenger vehicles.

*(Formerly: Acts 1931, c.124, s.2; Acts 1972, P.L.183, SEC.1.)*

**IC 25-1-1-3 Repealed** *(Repealed by Acts 1978, P.L.2, SEC.2570.)*

**IC 25-1-1-4 Repealed** *(Repealed by Acts 1978, P.L.2, SEC.2570)*

##### IC 25-1-1.1 Chapter 1.1. Effect of Criminal Convictions on Licensed or Registered Persons

###### IC 25-1-1.1-1

###### Denial, revocation, or suspension of license or certificate of registration; conviction of crime

Sec. 1. Except as provided under sections 2 through 5 of this chapter, a license or certificate of registration that an individual is required by law to hold to engage in a business, profession, or occupation may not be denied, revoked, or suspended because the applicant or holder has been convicted of an offense. The acts from which the applicant's or holder's conviction resulted may, however, be considered as to whether the applicant or holder should be entrusted to serve the public in a specific capacity.

*(Formerly: Acts 1973, P.L.249, SEC.1.) As amended by Acts 1978, P.L.2, SEC.2502; P.L.67-1990, SEC.6; P.L.155-2011, SEC.5.*

###### IC 25-1-1.1-2 Version a Suspension or revocation of license or certificate; conviction for drug related offense

*Note: This version of section amended by P.L.138-2011, SEC.6 and P.L.182-2011, SEC.6. See also following version of this section amended by P.L.155-2011, SEC.6.*

Sec. 2. A board, a commission, or a committee may suspend or revoke a license or certificate issued under this title by the board, the commission, or the committee if the individual who holds the license or certificate is convicted of any of the following:

- (1) Possession of cocaine or a narcotic drug under IC 35-48-4-6.
- (2) Possession of methamphetamine under IC 35-48-4-6.1.
- (3) Possession of a controlled substance under IC 35-48-4-7(a).
- (4) Fraudulently obtaining a controlled substance under IC 35-48-4-7(b).
- (5) Manufacture of paraphernalia as a Class D felony under IC 35-48-4-8.1(b).
- (6) Dealing in paraphernalia as a Class D felony under IC 35-48-4-8.5(b).
- (7) Possession of paraphernalia as a Class D felony under IC 35-48-4-8.3(b).



- (8) Possession of marijuana, hash oil, hashish, salvia, or a synthetic cannabinoid as a Class D felony under IC 35-48-4-11.
- (9) Maintaining a common nuisance under IC 35-48-4-13.
- (10) An offense relating to registration, labeling, and prescription forms under IC 35-48-4-14.
- (11) Conspiracy under IC 35-41-5-2 to commit an offense listed in subdivisions (1) through (10).
- (12) Attempt under IC 35-41-5-1 to commit an offense listed in subdivisions (1) through (10).
- (13) An offense in any other jurisdiction in which the elements of the offense for which the conviction was entered are

substantially similar to the elements of an offense described under subdivisions (1) through (12).

*As added by P.L.67-1990, SEC.7. Amended by P.L.1-1991, SEC.162; P.L.17-2001, SEC.5; P.L.151-2006, SEC.10; P.L.138-2011, SEC.6; P.L.182-2011, SEC.6.*

#### **IC 25-1-1.1-2 Version b Suspension, denial, or revocation of a license or certificate for specified convictions**

*Note: This version of section amended by P.L.155-2011, SEC.6. See also preceding version of this section amended by P.L.138-2011, SEC.6 and P.L.182-2011, SEC.6.*

Sec. 2. Notwithstanding IC 25-1-7, a board, a commission, or a committee may suspend, deny, or revoke a license or certificate issued under this title by the board, the commission, or the committee without an investigation by the office of the attorney general if the individual who holds the license or certificate is convicted of any of the following and the board, commission, or committee determines, after the individual has appeared in person, that the offense affects the individual's ability to perform the duties of the profession:

- (1) Possession of cocaine or a narcotic drug under IC 35-48-4-6.
- (2) Possession of methamphetamine under IC 35-48-4-6.1.
- (3) Possession of a controlled substance under IC 35-48-4-7(a).
- (4) Fraudulently obtaining a controlled substance under IC 35-48-4-7(b).
- (5) Manufacture of paraphernalia as a Class D felony under IC 35-48-4-8.1(b).
- (6) Dealing in paraphernalia as a Class D felony under IC 35-48-4-8.5(b).
- (7) Possession of paraphernalia as a Class D felony under IC 35-48-4-8.3(b).
- (8) Possession of marijuana, hash oil, or hashish as a Class D felony under IC 35-48-4-11.
- (9) Maintaining a common nuisance under IC 35-48-4-13.
- (10) An offense relating to registration, labeling, and prescription forms under IC 35-48-4-14.
- (11) Conspiracy under IC 35-41-5-2 to commit an offense listed in subdivisions (1) through (10).
- (12) Attempt under IC 35-41-5-1 to commit an offense listed in subdivisions (1) through (10).
- (13) An offense in any other jurisdiction in which the elements of the offense for which the conviction was entered are substantially similar to the elements of an offense described under subdivisions (1) through (12).
- (14) A sex crime under IC 35-42-4.
- (15) A felony that reflects adversely on the individual's fitness to hold a professional license.
- (16) An offense in any other jurisdiction in which the elements of the offense for which the conviction was entered are substantially similar to the elements of an offense described in this section.

*As added by P.L.67-1990, SEC.7. Amended by P.L.1-1991, SEC.162; P.L.17-2001, SEC.5; P.L.151-2006, SEC.10; P.L.155-2011, SEC.6.*

#### **IC 25-1-1.1-3 Suspension or revocation of license or certificate; conviction for additional drug related offenses**

Sec. 3. A board, a commission, or a committee shall revoke or suspend a license or certificate issued under this title by the board, the commission, or the committee if the individual who holds the license or certificate is convicted of any of the following:

- (1) Dealing in or manufacturing cocaine or a narcotic drug under IC 35-48-4-1.
- (2) Dealing in methamphetamine under IC 35-48-4-1.1.
- (3) Dealing in a schedule I, II, or III controlled substance under IC 35-48-4-2.
- (4) Dealing in a schedule IV controlled substance under IC 35-48-4-3.
- (5) Dealing in a schedule V controlled substance under IC 35-48-4-4.
- (6) Dealing in a substance represented to be a controlled substance under IC 35-48-4-4.5.
- (7) Knowingly or intentionally manufacturing, advertising, distributing, or possessing with intent to manufacture, advertise, or distribute a substance represented to be a controlled substance under IC 35-48-4-4.6.
- (8) Dealing in a counterfeit substance under IC 35-48-4-5.
- (9) Dealing in marijuana, hash oil, hashish, salvia, or a synthetic cannabinoid under IC 35-48-4-10(b).
- (10) Conspiracy under IC 35-41-5-2 to commit an offense listed in subdivisions (1) through (9).
- (11) Attempt under IC 35-41-5-1 to commit an offense listed in subdivisions (1) through (9).
- (12) An offense in any other jurisdiction in which the elements of the offense for which the conviction was entered are substantially similar to the elements of an offense described under subdivisions (1) through (11).
- (13) A violation of any federal or state drug law or rule related to wholesale legend drug distributors licensed under IC 25-26-14.

*As added by P.L.67-1990, SEC.8. Amended by P.L.182-1991, SEC.1; P.L.17-2001, SEC.6; P.L.1-2002, SEC.94; P.L.151-2006, SEC.11; P.L.138-2011, SEC.7; P.L.182-2011, SEC.7.*

#### **IC 25-1-1.1-4**

**National criminal history background check for certain licenses and certificates; release of background results; random audit**

Sec. 4. (a) This section applies to an individual who is applying for, or will be applying for, an initial license or an initial certificate under one (1) of the following:

- (1) IC 25-2.5 (acupuncturists).
- (2) IC 25-10 (chiropractors).
- (3) IC 25-13 (dental hygienists).
- (4) IC 25-14 (dentists).
- (5) IC 25-14.5 (dietitians).
- (6) IC 25-17.3 (genetic counselors).
- (7) IC 25-19 (health facility and residential care facility administrators).
- (8) IC 25-21.8 (massage therapists).
- (9) IC 25-22.5 (physicians).
- (10) IC 25-23 (nurses).
- (11) IC 25-23.5 (occupational therapists).
- (12) IC 25-24 (optometrists).
- (13) IC 25-26 (pharmacists).
- (14) IC 25-27 (physical therapists).
- (15) IC 25-27.5 (physician assistants).
- (16) IC 25-29 (podiatrists).
- (17) IC 25-33 (psychologists).
- (18) IC 25-34.5 (respiratory care practitioners).
- (19) IC 25-35.6 (speech pathologists and audiologists).
- (20) IC 25-38.1 (veterinarians).

(b) As used in this chapter, "national criminal history background check" means the criminal history record system maintained by the Federal Bureau of Investigation based on fingerprint identification or any other method of positive identification.

(c) An individual applying for an initial license or initial certificate specified in subsection (a) shall submit to a national criminal history background check at the cost of the individual.

(d) The state police department shall release the results of a national criminal history background check conducted under this section to the Indiana professional licensing agency.

(e) A board, a commission, or a committee may conduct a random audit and require an individual seeking a renewal of a license or a certificate specified in subsection (a) to submit to a national criminal history background check at the cost of the individual.

*As added by P.L.155-2011, SEC.7.*

#### **IC 25-1-1.1-5 Memorandum of understanding for data exchange; use of personal information**

Sec. 5. (a) As used in this section, "licensee" refers to an individual who is licensed or certified in a profession set forth in section 4 of this chapter.

(b) As used in this section, "personal information" means information that identifies an individual, including the following:

- (1) Photograph.
- (2) Social Security number.
- (3) Driver's license number or identification card number.
- (4) Name.
- (5) Address
- (6) Telephone number.
- (7) Fingerprints.

(c) The state police department and the Indiana professional licensing agency shall enter into a memorandum of understanding to provide data exchange and data matching regarding licensees who are charged with or convicted of an offense.

(d) Personal information data exchanged under subsection (c) shall be kept confidential and may be used only for the purposes of a government agency, including the following:

- (1) A prosecuting attorney.
- (2) The Indiana professional licensing agency or a board, committee, or commission administered by the Indiana professional licensing agency.
- (3) A court.
- (4) A law enforcement agency.
- (5) The office of the attorney general.

*As added by P.L.155-2011, SEC.8.*

#### **IC 1-1.2 Chapter 1.2. Effect of Delinquency in Child Support Payments on Licensed or Registered Persons**

##### **IC 25-1-1.2-1 "Applicant" defined**

Sec. 1. As used in this chapter, "applicant" means a person who applies for:

- (1) an unlimited license, certificate, registration, or permit;

- (2) a limited or probationary license, certificate, registration, or permit;
- (3) a temporary license, certificate, registration, or permit; or
- (4) an intern permit; issued by a board regulating a profession or an occupation.

As added by P.L.133-1995, SEC.19.

**IC 25-1-1.2-2 "Board" defined**

Sec. 2. As used in this chapter, "board" means an entity that regulates occupations or professions under this title and the department of education as established by IC 20-19-3-1.

As added by P.L.133-1995, SEC.19. Amended by P.L.1-2005, SEC.191; P.L.246-2005, SEC.210.

**IC 25-1-1.2-3 "Bureau" defined**

Sec. 3. As used in this chapter, "bureau" means the child support bureau established by IC 31-25-3-1.

As added by P.L.133-1995, SEC.19. Amended by P.L.145-2006, SEC.157.

**IC 25-1-1.2-4 "Delinquent" defined**

Sec. 4. As used in this chapter, "delinquent" means at least:

- (1) two thousand dollars (\$2,000); or
- (2) three (3) months; past due on payment of court ordered child support.

As added by P.L.133-1995, SEC.19. Amended by P.L.23-1996, SEC.18.

**IC 25-1-1.2-5 "License" defined**

Sec. 5. As used in this chapter, "license" has the meaning set forth in IC 25-1-2-6.

As added by P.L.133-1995, SEC.19.

**IC 25-1-1.2-6 "Practitioner" defined**

Sec. 6. As used in this chapter, "practitioner" means a person that holds:

- (1) an unlimited license, certificate, registration, or permit;
- (2) a limited or probationary license, certificate, registration, or permit;
- (3) a temporary license, certificate, registration, or permit; or
- (4) an intern permit; issued by a board regulating a profession or an occupation.

As added by P.L.133-1995, SEC.19.

**IC 25-1-1.2-7 Order for suspension or denial of license; notice to practitioner; contents; reinstatement**

Sec. 7. (a) Upon receiving an order of a court issued under IC 31-14-12-5 or IC 31-16-12-8 (or IC 31-1-11.5-13(k) or IC 31-6-6.1-16(k) before their repeal), the board shall:

- (1) suspend the license of the practitioner; or
- (2) deny the application of the applicant;

who is the subject of the order.

(b) Upon receiving an order of a court issued under IC 31-14-12-5 or IC 31-16-12-8 (or IC 31-1-11.5-13(k) or IC 31-6-6.1-16(k) before their repeal), the board shall promptly mail a notice to the last known address of the person who is the subject of the order, stating the following:

(1) That the practitioner's license has been suspended, beginning five (5) business days after the date the notice is mailed, and that the suspension will terminate ten (10) business days after the board receives an order allowing reinstatement from the court that issued the suspension order.

(2) That the practitioner has the right to petition for reinstatement of the practitioner's license to the court that issued the order for suspension.

(c) The board may not reinstate a license suspended under this section until the board receives an order allowing reinstatement from the court that issued the order for suspension.

As added by P.L.133-1995, SEC.19. Amended by P.L.23-1996, SEC.19; P.L.1-1997, SEC.109.

**IC 25-1-1.2-8 Notice of delinquency; contents; delinquency finding; probationary status; suspension; reinstatement**

Sec. 8. (a) The board shall, upon receiving an order from the bureau under IC 31-25-4-32(e), send a notice to the practitioner identified by the bureau that includes the following:

- (1) Specifies that the practitioner is delinquent and is subject to an order placing the practitioner on probationary status.
- (2) Describes the amount of child support that the practitioner is in arrears.
- (3) Explains that unless the practitioner contacts the bureau and:
  - (A) pays the practitioner's child support arrearage in full;
  - (B) establishes a payment plan with the bureau to pay the arrearage, which must include an income withholding order

under IC 31-16-15-2 or IC 31-16-15-2.5; or

(C) requests a hearing under IC 31-25-4-33;

within twenty (20) days after the date the notice is mailed, the board shall place the practitioner on probationary status.

(4) Explains that the practitioner may contest the bureau's determination that the practitioner is delinquent and subject to an order placing the practitioner on probationary status by making written application to the bureau within twenty (20) days after the date the notice is mailed.

(5) Explains that the only basis for contesting the bureau's determination that the practitioner is delinquent and subject to an order placing the

practitioner on probationary status is a mistake of fact.

(6) Explains the procedures to:

(A) pay the practitioner's child support arrearage in full;

(B) establish a payment plan with the bureau to pay the arrearage, which must include an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5; and

(C) request a hearing under IC 31-25-4-33.

(7) Explains that the probation will terminate ten (10) business days after the board receives a notice from the bureau that the practitioner has:

(A) paid the practitioner's child support arrearage in full; or

(B) established a payment plan with the bureau to pay the arrearage, which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5.

(b) If the board is advised by the bureau that the practitioner either requested a hearing and failed to appear or appeared and was found to be delinquent, the board shall promptly mail a notice to the practitioner who is the subject of the order stating the following:

(1) That the practitioner's license has been placed on probationary status, beginning five (5) business days after the date the notice is mailed, and that the probation will terminate ten (10) business days after the board receives a notice from the bureau that the person has:

(A) paid the person's child support arrearage in full; or

(B) established a payment plan with the bureau to pay the arrearage, which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5.

(2) That if the board is advised by the bureau that the practitioner whose license has been placed on probationary status has failed to:

(A) pay the person's child support arrearage in full; or

(B) establish a payment plan with the bureau to pay the arrearage, which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5;

within twenty (20) days after the date the notice is mailed, the board shall suspend the practitioner's license.

(c) If the board is advised by the bureau that the practitioner whose license has been placed on probationary status has failed to:

(1) pay the person's child support arrearage in full; or

(2) establish a payment plan with the bureau to pay the arrearage, which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5;

within twenty (20) days after the date the notice is mailed, the board shall suspend the practitioner's license.

(d) The board may not reinstate a license or permit placed on probation or suspended under this section until the board receives a notice from the bureau that the person has:

(1) paid the person's child support arrearage in full; or

(2) established a payment plan with the bureau to pay the arrearage, which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5.

*As added by P.L. 133-1995, SEC. 19. Amended by P.L. 23-1996, SEC. 20; P.L. 1-1997, SEC. 110; P.L. 145-2006, SEC. 158; P.L. 103-2007, SEC. 7.*

#### **IC 25-1-1.2-9 Repealed**

*(Repealed by P.L. 23-1996, SEC. 33.)*

#### **IC 25-1-1.2-10 Repealed**

*(Repealed by P.L. 23-1996, SEC. 33.)*

### **IC 25-1-2 Chapter 2. Renewal of Licenses Granted by State Agencies. Notice of Expiration**

#### **IC 25-1-2-1 Declaration of intent**

Sec. 1. It is the declared intent of the general assembly by the enactment of this law to require those agencies which are authorized to issue the licenses designated in section 2.1 of this chapter, in the interests of efficiency and economy in the administration of government, to issue such designated permits, licenses, certificates of registration, and other evidences of compliance with statute or regulation, and renewals thereof, for periods of two (2) years duration rather than upon an annual basis, and at the time of issuance or reissuance, or at the time designated by law for the collection of fees therefore, to require the payment of such fees for a period of two (2) years rather than for one (1) year.

*(Formerly: Acts 1961, c. 79, s. 1.) As amended by P.L. 1-1990, SEC. 246.*

#### **IC 25-1-2-2 Repealed**

*(Repealed by P.L. 1-1990, SEC. 247.)*

#### **IC 25-1-2-2.1 Two year or longer period for certain licenses**

Sec. 2.1. Rather than being issued annually, the following permits, licenses, certificates of registration, or evidences of authority granted by a state agency must be issued for a period of two (2) years or for the period specified in the article under which the permit, license, certificate of registration, or evidence of authority is issued if the period specified in the article is longer than two (2) years:

(1) Certified public accountants, public accountants, and accounting practitioners.

(2) Architects and landscape architects.

(3) Dry cleaners.

(4) Professional engineers.

(5) Land surveyors.

- (6) Real estate brokers.
- (7) Real estate agents.
- (8) Security dealers' licenses issued by the securities commissioner.
- (9) Dental hygienists.
- (10) Dentists.
- (11) Veterinarians.
- (12) Physicians.
- (13) Chiropractors.
- (14) Physical therapists.
- (15) Optometrists.
- (16) Pharmacists and assistants, drugstores or pharmacies.
- (17) Motels and mobile home community licenses.
- (18) Nurses.
- (19) Podiatrists.
- (20) Occupational therapists and occupational therapy assistants.
- (21) Respiratory care practitioners.
- (22) Social workers, marriage and family therapists, and mental health counselors.
- (23) Real estate appraiser licenses and certificates issued by the real estate appraiser licensure and certification board.
- (24) Wholesale legend drug distributors.
- (25) Physician assistants.
- (26) Dietitians.
- (27) Athlete agents.
- (28) Manufactured home installers.
- (29) Home inspectors.
- (30) Massage therapists.
- (31) Interior designers.
- (32) Genetic counselors.

*As added by P.L.1-1990, SEC.248. Amended by P.L.186-1990, SEC.1; P.L.183-1991, SEC.1; P.L.182-1991, SEC.2; P.L.25-1992, SEC.26; P.L.227-1993, SEC.2; P.L.124-1994, SEC.1; P.L.234-1995, SEC.1; P.L.175-1997, SEC.2; P.L.147-1997, SEC.5; P.L.84-1998, SEC.1; P.L.54-2001, SEC.3; P.L.162-2002, SEC.1; P.L.145-2003, SEC.1; P.L.87-2005, SEC.31; P.L.200-2007, SEC.2; P.L.3-2008, SEC.175; P.L.177-2009, SEC.10; P.L.84-2010, SEC.6.*

**IC 25-1-2-3 Authorization to issue and reissue two year licenses**

Sec. 3. Effective October 1, 1961, such licensing agencies as are authorized to issue any of the foregoing shall issue and reissue such licenses and collect the fees for the same on the basis of two (2) years and the dates by month and day which govern the issuance or reissuance of licenses for one (1) year shall govern the issuance or reissuance of licenses for two (2) years; provided, that entire fees for a two (2) year period shall be payable before issuance thereof on the day and month designated for payment of fees for one (1) year licenses.  
*(Formerly: Acts 1961, c.79, s.3.) As amended by Acts 1982, P.L.154, SEC.1.*

**IC 25-1-2-4 Rebates and proration of fees**

Sec. 4. Rebates and proration of fees for fractions of a biennium shall be allowed only with respect to the second year of such license if claim be made therefore before the expiration of the first year for which the license was issued.  
*(Formerly: Acts 1961, c.79, s.4.)*

**IC 25-1-2-5 Rules and regulations**

Sec. 5. Notice shall be given and forms prepared by such licensing agencies as necessary to execute the provisions of this chapter and in order to expedite and effectuate the conversion from one (1) year licensing periods to those of two (2) years, such licensing agencies may adopt and promulgate such rules and regulations they may deem necessary in the manner prescribed by law.  
*(Formerly: Acts 1961, c.79, s.5.) As amended by Acts 1982, P.L.154, SEC.2.*

**IC 25-1-2-6 Definitions; application of section; notice to licensee of need to renew**

Sec. 6. (a) As used in this section, "license" includes all occupational and professional licenses, registrations, permits, and certificates issued under the Indiana Code, and "licensee" includes all occupational and professional licensees, registrants, permittees, and certificate holders regulated under the Indiana Code.

(b) This section applies to the following entities that regulate occupations or professions under the Indiana Code:

- (1) Indiana board of accountancy.
- (2) Indiana grain buyers and warehouse licensing agency.
- (3) Indiana auctioneer commission.
- (4) Board of registration for architects and landscape architects.
- (5) State board of cosmetology and barber examiners.
- (6) Medical licensing board of Indiana.
- (7) Secretary of state.

- (8) State board of dentistry.
- (9) State board of funeral and cemetery service.
- (10) Worker's compensation board of Indiana.
- (11) Indiana state board of health facility administrators.
- (12) Committee of hearing aid dealer examiners.
- (13) Indiana state board of nursing.
- (14) Indiana optometry board.
- (15) Indiana board of pharmacy.
- (16) Indiana plumbing commission.
- (17) Board of podiatric medicine.
- (18) Private investigator and security guard licensing board.
- (19) State board of registration for professional engineers.
- (20) State psychology board.
- (21) Indiana real estate commission.
- (22) Speech-language pathology and audiology board.
- (23) Department of natural resources.
- (24) Board of chiropractic examiners.
- (25) Mining board.
- (26) Indiana board of veterinary medical examiners.
- (27) State department of health.
- (28) Indiana physical therapy committee.
- (29) Respiratory care committee.
- (30) Occupational therapy committee.
- (31) Behavioral health and human services licensing board.
- (32) Real estate appraiser licensure and certification board.
- (33) State board of registration for land surveyors.
- (34) Physician assistant committee.
- (35) Indiana dietitians certification board.
- (36) Attorney general (only for the regulation of athlete agents).
- (37) Manufactured home installer licensing board.
- (38) Home inspectors licensing board.
- (39) State board of massage therapy.
- (40) Any other occupational or professional agency created after June 30, 1981.

(c) Notwithstanding any other law, the entities included in subsection (b) shall send a notice of the upcoming expiration of a license to each licensee at least sixty (60) days prior to the expiration of the license. The notice must inform the licensee of the need to renew and the requirement of payment of the renewal fee. If this notice of expiration is not sent by the entity, the licensee is not subject to a sanction for failure to renew if, once notice is received from the entity, the license is renewed within forty-five (45) days of the receipt of the notice.

(d) Notwithstanding any other law, the entities included in subsection (b) shall send notice of the expiration of a license to each individual whose license has expired within thirty (30) days following the expiration of the license. The notice must meet the following requirements:

(1) Inform the individual of the following:

(A) That the individual's license has expired.

(B) Any requirements that must be met before reinstatement of a license may occur.

(2) Be sent electronically. However, if the entity does not have an electronic mail address on record for the individual, the notice must be sent via United States mail.

*As added by Acts 1981, P.L. 221, SEC. 1. Amended by P.L. 137-1985, SEC. 5; P.L. 246-1985, SEC. 13; P.L. 169-1985, SEC. 22; P.L. 149-1987, SEC. 17; P.L. 5-1988, SEC. 132; P.L. 28-1988, SEC. 73; P.L. 242-1989, SEC. 4; P.L. 234-1989, SEC. 1; P.L. 238-1989, SEC. 4; P.L. 186-1990, SEC. 2; P.L. 183-1991, SEC. 2; P.L. 23-1991, SEC. 7; P.L. 48-1991, SEC. 12; P.L. 2-1992, SEC. 765; P.L. 227-1993, SEC. 3; P.L. 33-1993, SEC. 9; P.L. 124-1994, SEC. 2; P.L. 175-1997, SEC. 3; P.L. 125-1997, SEC. 17; P.L. 147-1997, SEC. 6; P.L. 253-1997(ss), SEC. 22; P.L. 24-1999, SEC. 2; P.L. 82-2000, SEC. 2; P.L. 54-2001, SEC. 4; P.L. 162-2002, SEC. 2; P.L. 145-2003, SEC. 2; P.L. 185-2007, SEC. 1; P.L. 200-2007, SEC. 3; P.L. 3-2008, SEC. 176; P.L. 122-2009, SEC. 1; P.L. 160-2009, SEC. 4; P.L. 1-2010, SEC. 100; P.L. 84-2010, SEC. 7; P.L. 113-2010, SEC. 100; P.L. 42-2011, SEC. 49; P.L. 197-2011, SEC. 73.*

#### **IC 25-1-2-7 Application of IC 25-1-2-6**

Sec. 7. Section 6 of this chapter applies to the mining board (IC 22-10-1.5-2).

*As added by P.L. 37-1985, SEC. 56.*

#### **IC 25-1-2-8 Application of chapter; fees**

Sec. 8. This chapter applies to the imposition and collection of fees under the following:

IC 14-24-10

IC 16-19-5-2

IC 25-30-1-17

IC 33-42-2-1.

*As added by P.L. 5-1988, SEC. 133. Amended by P.L. 2-1993, SEC. 135; P.L. 1-1995, SEC. 69; P.L. 98-2004, SEC. 98.*

#### **IC 25-1-2-9 Repealed**

*(Repealed by P.L.194-2005, SEC.87.)*

### **IC 25-1-3 Chapter 3. Civil Immunity of Regulatory Agencies**

#### **IC 25-1-3-1 Definitions**

Sec. 1. (a) As used in this chapter, the term "regulatory board" means any state board, commission, or state agency which licenses persons in order to regulate the practice of a particular profession or professions.

(b) As used in this chapter, the term "board members" means members of a regulatory board.

(c) As used in this chapter, the term "secretary" means the executive secretary or other person charged with the administration of the affairs of a regulatory board.

*(Formerly: Acts 1975, P.L.268, SEC.1.)*

#### **IC 25-1-3-2 Extent of immunity from civil liability**

Sec. 2. The board members, the secretary, his staff, counsel, investigators and hearing officer of every regulatory board, except as provided in section 4 of this chapter, shall be immune from civil liability for damages for conduct within the scope and arising out of the performance of their duties. This section shall not be construed to include civil actions for damages not directly related to the investigative process and shall apply only to the process for the finding of fact of the regulatory board.

*(Formerly: Acts 1975, P.L.268, SEC.1.)*

#### **IC 25-1-3-3 Immunity from civil liability; statements in course of investigatory hearing or review proceedings**

Sec. 3. Any person shall be immune from civil liability for damages for any sworn or written statements, made without malice, and transmitted to the regulatory board, executive secretary, or his staff, or made in the course of investigatory, hearing or review proceedings.

*(Formerly: Acts 1975, P.L.268, SEC.1.)*

#### **IC 25-1-3-4 Regulatory boards covered**

Sec. 4. The provisions of this chapter extend to every regulatory board of the state except the disciplinary commission of the Supreme Court of Indiana which is protected under IC 1971, 33-2-3-1.

*(Formerly: Acts 1975, P.L.268, SEC.1.)*

### **IC 25-1-5 Chapter 5. Professional Licensing Agency**

#### **IC 25-1-5-1 Centralization of staff, functions, and services; purpose**

Sec. 1. The centralization of staff, functions, and services contemplated by this chapter shall be done in such a way as to enhance the Indiana professional licensing agency's ability to:

(1) make maximum use of data processing as a means of more efficient operation; and

(2) provide more services and carry out functions of superior quality.

*As added by Acts 1981, P.L.222, SEC.2. Amended by P.L.169-1985, SEC.23; P.L.206-2005, SEC.1.*

#### **IC 25-1-5-2 Definitions**

Sec. 2. As used in this chapter:

(1) "Agency" means the Indiana professional licensing agency established by section 3 of this chapter.

(2) "Board" means any agency, board, advisory committee, or group included in section 3 of this chapter.

*As added by Acts 1981, P.L.222, SEC.2. Amended by P.L.206-2005, SEC.2.*

#### **IC 25-1-5-3 Indiana professional licensing agency; functions; duties and responsibilities**

Sec. 3. (a) There is established the Indiana professional licensing agency. The agency shall perform all administrative functions, duties, and responsibilities assigned by law or rule to the executive director, secretary, or other statutory administrator of the following:

(1) Board of chiropractic examiners (IC 25-10-1).

(2) State board of dentistry (IC 25-14-1).

(3) Indiana state board of health facility administrators (IC 25-19-1).

(4) Medical licensing board of Indiana (IC 25-22.5-2).

(5) Indiana state board of nursing (IC 25-23-1).

(6) Indiana optometry board (IC 25-24).

(7) Indiana board of pharmacy (IC 25-26).

(8) Board of podiatric medicine (IC 25-29-2-1).

(9) Speech-language pathology and audiology board (IC 25-35.6-2).

(10) State psychology board (IC 25-33).

(11) Indiana board of veterinary medical examiners (IC 25-38.1-2).

(12) Committee of hearing aid dealer examiners (IC 25-20).

- (13) Indiana physical therapy committee (IC 25-27).
- (14) Respiratory care committee (IC 25-34.5).
- (15) Occupational therapy committee (IC 25-23.5).
- (16) Behavioral health and human services licensing board (IC 25-23.6).
- (17) Physician assistant committee (IC 25-27.5).
- (18) Indiana athletic trainers board (IC 25-5.1-2-1).
- (19) Indiana dietitians certification board (IC 25-14.5-2-1).

(b) Nothing in this chapter may be construed to give the agency policy making authority, which authority remains with each board.

*As added by Acts 1981, P.L.222, SEC.2. Amended by Acts 1982, P.L.113, SEC.8; P.L.137-1985, SEC.6; P.L.169-1985, SEC.24; P.L.149-1987, SEC.18; P.L.242-1989, SEC.5; P.L.238-1989, SEC.5; P.L.186-1990, SEC.3; P.L.48-1991, SEC.13; P.L.227-1993, SEC.4; P.L.213-1993, SEC.1; P.L.33-1993, SEC.10; P.L.124-1994, SEC.3; P.L.175-1997, SEC.4; P.L.147-1997, SEC.7; P.L.84-1998, SEC.2; P.L.24-1999, SEC.3; P.L.206-2005, SEC.3; P.L.2-2008, SEC.57; P.L.122-2009, SEC.3; P.L.84-2010, SEC.9.*

#### **IC 25-1-5-4 Additional duties and functions; staff**

Sec. 4. (a) The agency shall employ necessary staff, including specialists and professionals, to carry out the administrative duties and functions of the boards, including but not limited to:

- (1) notice of board meetings and other communication services;
- (2) recordkeeping of board meetings, proceedings, and actions;
- (3) recordkeeping of all persons licensed, regulated, or certified by a board;
- (4) administration of examinations; and
- (5) administration of license or certificate issuance or renewal.

(b) In addition, the agency:

- (1) shall prepare a consolidated statement of the budget requests of all the boards in section 3 of this chapter;
- (2) may coordinate licensing or certification renewal cycles, examination schedules, or other routine activities to efficiently utilize agency staff, facilities, and transportation resources, and to improve accessibility of board functions to the public;
- (3) may consolidate, where feasible, office space, recordkeeping, and data processing services; and
- (4) shall operate and maintain the electronic registry of professions established under IC 25-1-5.5.

(c) In administering the renewal of licenses or certificates under this chapter, the agency shall send a notice of the upcoming expiration of a license or certificate to each holder of a license or certificate at least sixty (60) days before the expiration of the license or certificate. The notice must inform the holder of the license or certificate of the need to renew and the requirement of payment of the renewal fee. If this notice of expiration is not sent by the agency, the holder of the license or certificate is not subject to a sanction for failure to renew if, once notice is received from the agency, the license or certificate is renewed within forty-five (45) days after receipt of the notice.

(d) In administering an examination for licensure or certification, the agency shall make the appropriate application forms available at least thirty (30) days before the deadline for submitting an application to all persons wishing to take the examination.

(e) The agency may require an applicant for license renewal to submit evidence proving that:

- (1) the applicant continues to meet the minimum requirements for licensure; and
- (2) the applicant is not in violation of:
  - (A) the statute regulating the applicant's profession; or
  - (B) rules adopted by the board regulating the applicant's profession.

(f) The agency shall process an application for renewal of a license or certificate:

- (1) not later than ten (10) days after the agency receives all required forms and evidence; or
- (2) within twenty-four (24) hours after the time that an applicant for renewal appears in person at the agency with all required forms and evidence.

This subsection does not require the agency to issue a renewal license or certificate to an applicant if subsection (g) applies.

(g) The agency may delay issuing a license renewal for up to ninety (90) days after the renewal date for the purpose of permitting the board to investigate information received by the agency that the applicant for renewal may have committed an act for which the applicant may be disciplined. If the agency delays issuing a license renewal, the agency shall notify the applicant that the applicant is being investigated. Except as provided in subsection (h), before the end of the ninety (90) day period, the board shall do one (1) of the following:

- (1) Deny the license renewal following a personal appearance by the applicant before the board.
- (2) Issue the license renewal upon satisfaction of all other conditions for renewal.
- (3) Issue the license renewal and file a complaint under IC 25-1-7.
- (4) Request the office of the attorney general to conduct an investigation under subsection (i) if, following a personal appearance by the applicant before the board, the board has good cause to believe that there has been a violation of IC 25-1-9-4 by the applicant.
- (5) Upon agreement of the applicant and the board and following a personal appearance by the applicant before the board, renew the license and place the applicant on probation status under IC 25-1-9-9.

(h) If an individual fails to appear before the board under subsection (g), the board may take action on the applicant's license allowed under subsection (g)(1), (g)(2), or (g)(3).

(i) If the board makes a request under subsection (g)(4), the office of the attorney general shall conduct an investigation. Upon completion of the investigation, the office of the attorney general

may file a petition alleging that the applicant has engaged in activity described in IC 25-1-9-4. If the office of the attorney general files a petition, the board shall set the matter for a hearing. If, after the hearing, the board finds the practitioner violated IC 25-1-9-4, the board may impose sanctions



under IC 25-1-9-9. The board may delay issuing the renewal beyond the ninety (90) days after the renewal date until a final determination is made by the board. The applicant's license remains valid until the final determination of the board is rendered unless the renewal is denied or the license is summarily suspended under IC 25-1-9-10.

(j) The license of the applicant for a license renewal remains valid during the ninety (90) day period unless the license renewal is denied following a personal appearance by the applicant before the board before the end of the ninety (90) day period. If the ninety (90) day period expires without action by the board, the license shall be automatically renewed at the end of the ninety (90) day period.

(k) Notwithstanding any other statute, the agency may stagger license or certificate renewal cycles. However, if a renewal cycle for a specific board or committee is changed, the agency must obtain the approval of the affected board or committee.

(l) An application for a license, certificate, registration, or permit is abandoned without an action of the board, if the applicant does not complete the requirements to complete the application within one (1) year after the date on which the application was filed. However, the board may, for good cause shown, extend the validity of the application for additional thirty (30) day periods. An application submitted after the abandonment of an application is considered a new application.

*As added by Acts 1981, P.L.222, SEC.2. Amended by P.L.169-1985, SEC.25; P.L.149-1987, SEC.19; P.L.22-1999, SEC.1; P.L.44-2000, SEC.1; P.L.75-2002, SEC.1; P.L.206-2005, SEC.4; P.L.177-2009, SEC.14.*

#### **IC 25-1-5-5 Executive director**

Sec. 5. (a) The agency shall be administered by an executive director appointed by the governor who shall serve at the will and pleasure of the governor.

(b) The executive director must be qualified by experience and training.

(c) The term "executive director" or "secretary", or any other statutory term for the administrative officer of a board listed in section 3 of this chapter, means the executive director of the agency or the executive director's designee.

(d) The executive director is the chief fiscal officer of the agency and is responsible for hiring of all staff, and for procurement of all services and supplies in accordance with IC 5-22. The executive director and the employees of the agency are subject to IC 4-15-1.8 but are not under IC 4-15-2. The executive director may appoint not to exceed three (3) deputy directors, who must be qualified to work for the boards which are served by the agency.

(e) The executive director shall execute a bond payable to the state, with surety to consist of a surety or guaranty corporation qualified to do business in Indiana, in an amount fixed by the state board of accounts, conditioned upon the faithful performance of duties and the accounting for all money and property that come into the executive director's hands or under the executive director's control. The executive director may likewise cause any employee of the agency to execute a bond if that employee receives, disburses, or in any way handles funds or property of the agency. The costs of any such bonds shall be paid from funds available to the agency.

(f) The executive director may present to the general assembly legislative recommendations regarding operations of the agency and the boards it serves, including adoption of four (4) year license or certificate renewal cycles wherever feasible.

(g) The executive director may execute orders, subpoenas, continuances, and other legal documents on behalf of a board or committee when requested to do so by the board or committee.

(h) The executive director or the executive director's designee may, upon request of a board or committee, provide advice and technical assistance on issues that may be presented to the boards or committees.

*As added by Acts 1981, P.L.222, SEC.2. Amended by Acts 1982, P.L.113, SEC.9; P.L.169-1985, SEC.26; P.L.149-1987, SEC.20; P.L.48-1991, SEC.14; P.L.49-1997, SEC.63; P.L.206-2005, SEC.5.*

#### **IC 25-1-5-6 Executive director; representatives; staff placement**

Sec. 6. (a) The executive director may designate certain employees of the agency to represent the executive director of the agency at the board meetings, proceedings, or other activities of the board.

(b) The executive director shall assign staff to individual boards and shall work with the boards to ensure efficient utilization and placement of staff.

*As added by Acts 1981, P.L.222, SEC.2. Amended by P.L.169-1985, SEC.27; P.L.206-2005, SEC.6.*

#### **IC 25-1-5-7 Repealed**

*(Repealed by P.L.186-1990, SEC.17.)*

#### **IC 25-1-5-8 Repealed**

*(Repealed by P.L.206-2005, SEC.15.)*

#### **IC 25-1-5-9 Submission of certified document as proof of required diploma**

Sec. 9. If a board or committee requires an applicant for a certificate or license to submit a certified copy of a diploma showing that the applicant graduated from a school or program as a condition for certification or licensure, the applicant may satisfy this requirement by submitting another certified document that shows that the applicant graduated from or received the required diploma from the applicable school or program.

*As added by P.L.177-1996, SEC.1.*

#### **IC 25-1-5-10 Provider profiles**

Sec. 10. (a) As used in this section, "provider" means an individual licensed, certified, registered, or permitted by any of the following:

(1) Board of chiropractic examiners (IC 25-10-1).

- (2) State board of dentistry (IC 25-14-1).
  - (3) Indiana state board of health facility administrators (IC 25-19-1).
  - (4) Medical licensing board of Indiana (IC 25-22.5-2).
  - (5) Indiana state board of nursing (IC 25-23-1).
  - (6) Indiana optometry board (IC 25-24).
  - (7) Indiana board of pharmacy (IC 25-26).
  - (8) Board of podiatric medicine (IC 25-29-2-1).
  - (9) Speech-language pathology and audiology board (IC 25-35.6-2).
  - (10) State psychology board (IC 25-33).
  - (11) Indiana board of veterinary medical examiners (IC 25-38.1-2).
  - (12) Indiana physical therapy committee (IC 25-27).
  - (13) Respiratory care committee (IC 25-34.5).
  - (14) Occupational therapy committee (IC 25-23.5).
  - (15) Behavioral health and human services licensing board (IC 25-23.6).
  - (16) Physician assistant committee (IC 25-27.5).
  - (17) Indiana athletic trainers board (IC 25-5.1-2-1).
  - (18) Indiana dietitians certification board (IC 25-14.5-2-1).
  - (b) The agency shall create and maintain a provider profile for each provider described in subsection (a).
  - (c) A provider profile must contain the following information:
    - (1) The provider's name.
    - (2) The provider's license, certification, registration, or permit number.
    - (3) The provider's license, certification, registration, or permit type.
    - (4) The date the provider's license, certification, registration, or permit was issued.
    - (5) The date the provider's license, certification, registration, or permit expires.
    - (6) The current status of the provider's license, certification, registration, or permit.
    - (7) The provider's city and state of record.
    - (8) A statement of any disciplinary action taken against the provider within the previous ten (10) years by a board or committee described in subsection (a).
  - (d) The agency shall make provider profiles available to the public.
  - (e) The computer gateway administered by the office of technology established by IC 4-13.1-2-1 shall make the information described in subsection (c)(1), (c)(2), (c)(3), (c)(6), (c)(7), and (c)(8) generally available to the public on the Internet.
  - (f) The agency may adopt rules under IC 4-22-2 to implement this section.
- As added by P.L.211-2001, SEC.1. Amended by P.L.177-2005, SEC.45; P.L.206-2005, SEC.7; P.L.2-2008, SEC.58; P.L.122-2009, SEC.4; P.L.84-2010, SEC.10.*

**IC 25-1-5-11 Provision of Social Security number; access to numbers**

- Sec. 11. (a) An individual who applies for a license issued by a board under this chapter or who holds a license issued by a board under this chapter shall provide the individual's Social Security number to the agency.
- (b) The agency and the boards shall collect and release the applicant's or licensee's Social Security number as provided in state or federal law.
- (c) Notwithstanding IC 4-1-10-3, the agency and the boards may allow access to the Social Security number of each person who is licensed under this chapter or has applied for a license under this chapter to:
- (1) a testing service that provides the examination for licensure to the agency or the boards; or
  - (2) an individual state regulatory board or an organization composed of state regulatory boards for the applicant's or licensee's profession for the purpose of coordinating licensure and disciplinary activities among the individual states.
- As added by P.L.157-2006, SEC.18.*

**IC 25-1-5.5 Chapter 5.5. Electronic Registry of Professions**

**IC 25-1-5.5-1 Establishment of electronic registry**

Sec. 1. The electronic registry of professions is established. This chapter applies to any profession required to use the registry under this title.

*As added by P.L.177-2009, SEC.15.*

**IC 25-1-5.5-2 Definitions**

- Sec. 2. As used in the chapter:
- (1) "Applicant" refers to a person who applies for a registration in the electronic registry of professions.
  - (2) "Executive director" refers to the executive director of the licensing agency appointed under IC 25-1-5-5.
  - (3) "Licensing agency" means the Indiana professional licensing agency created by IC 25-1-5-3.
  - (4) "Registrant" means an individual who is registered in the electronic registry of professions as an interior designer under IC 25-20.7.
  - (5) "Registry" refers to the electronic registry of professions established by section 1 of this chapter.
- As added by P.L.177-2009, SEC.15.*

### **IC 25-1-5.5-3 Registry requirements**

Sec. 3. (a) The registry shall be maintained by the licensing agency.

(b) The registry must:

- (1) be maintained in an electronic format;
- (2) allow an applicant to electronically input information to certify, under penalty of perjury, the successful completion of any education, experience, and examination required for the applicant to become registered;
- (3) allow for payment of registration fees through only electronic means;
- (4) include each registrant's:
  - (A) name;
  - (B) city and state of residence;
  - (C) qualifications for registration;
  - (D) registration number;
  - (E) date the applicant was registered;
  - (F) place of business; and
  - (G) registration expiration date; and
- (5) be made available to the public on the Internet through the computer gateway administered by the office of technology established by IC 4-13.1-2-1.

*As added by P.L.177-2009, SEC.15.*

### **IC 25-1-5.5-4 Limitation of licensing agency's responsibilities and liability**

Sec. 4. The licensing agency is not:

- (1) responsible for performing or required to perform any due diligence or review of the veracity of the information represented by an applicant under this chapter;
- (2) liable to any party in any capacity for any misrepresentation, fraud, or omission or other such conduct committed or caused by an applicant who applies for registration under this chapter; or
- (3) liable to any party in any capacity for any misrepresentation, fraud, or omission or other such conduct committed or caused by any individual who is registered under this chapter.

*As added by P.L.177-2009, SEC.15.*

### **IC 25-1-5.5-5 Rules**

Sec. 5. The licensing agency may adopt rules under IC 4-22-2 to implement this chapter.

*As added by P.L.177-2009, SEC.15.*

### **IC 25-1-5.5-6 Review of registry**

Sec. 6. (a) Beginning in July 2014, and each five (5) years thereafter, the agency shall review the use of the registry by each profession on the registry to determine whether there is sufficient use of the registry to justify continuing the registration of each profession under this chapter.

(b) If new professions are required by the general assembly to be registered by the agency, five (5) years after the addition of each profession, the agency shall review the use by the profession of the registry to determine whether there is sufficient use of the registry to justify continuing the registration of the profession under this chapter.

(c) After a review required under subsection (a) or (b), the agency shall prepare a report with recommendations for the general assembly. A report under this subsection shall be submitted to the legislative council by October 1 of the year in which the report is required. A report submitted under this subsection must be in an electronic format under IC 5-14-6.

*As added by P.L.177-2009, SEC.15.*

## **IC 25-1-6 Chapter 6. Professional Licensing Agency Functions and Duties**

### **IC 25-1-6-1 Centralization of staff, functions, and services**

Sec. 1. The centralization of staff, functions, and services contemplated by this chapter shall be done in such a way as to enhance the licensing agency's ability to:

- (1) make maximum use of data processing as a means of more efficient operation;
- (2) provide more services and carry out functions of superior quality; and
- (3) ultimately and significantly reduce the number of staff needed to provide these services and carry out these functions.

*As added by Acts 1981, P.L.222, SEC.3. Amended by P.L.132-1984, SEC.2; P.L.194-2005, SEC.1.*

### **IC 25-1-6-2 Definitions**

Sec. 2. As used in this chapter:

"Board" means any agency, board, advisory committee, or group included in section 3 of this chapter.

"Licensing agency" means the Indiana professional licensing agency created by IC 25-1-5-3.

*As added by Acts 1981, P.L.222, SEC.3. Amended by P.L.132-1984, SEC.3; P.L.206-2005, SEC.8.*

### **IC 25-1-6-3 Indiana professional licensing agency; functions, duties, and responsibilities**

Sec. 3. (a) The licensing agency shall perform all administrative functions, duties, and responsibilities assigned by law or rule to the executive

director, secretary, or other statutory administrator of the following:

- (1) Indiana board of accountancy (IC 25-2.1-2-1).
- (2) Board of registration for architects and landscape architects (IC 25-4-1-2).
- (3) Indiana auctioneer commission (IC 25-6.1-2-1).
- (4) State board of cosmetology examiners (IC 25-8-3-1).
- (5) State board of funeral and cemetery service (IC 25-15-9).
- (6) State board of registration for professional engineers (IC 25-31-1-3).
- (7) Indiana plumbing commission (IC 25-28.5-1-3).
- (8) Indiana real estate commission (IC 25-34.1).
- (9) Real estate appraiser licensure and certification board (IC 25-34.1-8-1).
- (10) Private investigator and security guard licensing board (IC 25-30-1-5.2).
- (11) State board of registration for land surveyors (IC 25-21.5-2-1).
- (12) Manufactured home installer licensing board (IC 25-23.7).
- (13) Home inspectors licensing board (IC 25-20.2-3-1).
- (14) State board of massage therapy (IC 25-21.8-2-1).

(b) Nothing in this chapter may be construed to give the licensing agency policy making authority, which remains with each board.

*As added by Acts 1981, P.L.222, SEC.3. Amended by Acts 1982, P.L.113, SEC.10; P.L.132-1984, SEC.4; P.L.246-1985, SEC.14; P.L.257-1987, SEC.14; P.L.234-1989, SEC.2; P.L.186-1990, SEC.4; P.L.23-1991, SEC.8; P.L.48-1991, SEC.15; P.L.1-1992, SEC.129; P.L.30-1993, SEC.4; P.L.234-1995, SEC.2; P.L.82-2000, SEC.3; P.L.227-2001, SEC.3; P.L.162-2002, SEC.3; P.L.145-2003, SEC.3; P.L.194-2005, SEC.2; P.L.206-2005, SEC.9; P.L.185-2007, SEC.3; P.L.200-2007, SEC.4; P.L.3-2008, SEC.177; P.L.160-2009, SEC.6; P.L.84-2010, SEC.11.*

**IC 25-1-6-4 Additional duties and functions; staff; requirements for renewal; delay of renewal; attorney general; investigation; sanctions; staggering renewal cycles; abandoned application**

Sec. 4. (a) The licensing agency shall employ necessary staff, including specialists and professionals, to carry out the administrative duties and functions of the boards, including but not limited to:

- (1) notice of board meetings and other communication services;
- (2) record keeping of board meetings, proceedings, and actions;
- (3) record keeping of all persons or individuals licensed, regulated, or certified by a board;
- (4) administration of examinations; and
- (5) administration of license or certificate issuance or renewal.

(b) In addition, the licensing agency:

- (1) shall prepare a consolidated statement of the budget requests of all the boards in section 3 of this chapter;
- (2) may coordinate licensing or certification renewal cycles, examination schedules, or other routine activities to efficiently utilize licensing agency staff, facilities, and transportation resources, and to improve accessibility of board functions to the public; and
- (3) may consolidate, where feasible, office space, record keeping, and data processing services.

(c) In administering the renewal of licenses or certificates under this chapter, the licensing agency shall issue a sixty (60) day notice of expiration to all holders of a license or certificate. The notice must inform the holder of a license or certificate of the requirements to:

- (1) renew the license or certificate; and
- (2) pay the renewal fee.

(d) If the licensing agency fails to send notice of expiration under subsection (c), the holder of the license or certificate is not subject to a sanction for failure to renew if the holder renews the license or certificate not more than forty-five (45) days after the holder receives the notice from the licensing agency.

(e) The licensing agency may require an applicant for a license or certificate renewal to submit evidence showing that the applicant:

- (1) meets the minimum requirements for licensure or certification; and
- (2) is not in violation of:
  - (A) the law regulating the applicant's profession; or
  - (B) rules adopted by the board regulating the applicant's profession.

(f) The licensing agency may delay renewing a license or certificate for not more than ninety (90) days after the renewal date to permit the board to investigate information received by the licensing agency that the applicant for renewal may have committed an act for which the applicant may be disciplined. If the licensing agency delays renewing a license or certificate, the licensing agency shall notify the applicant that the applicant is being investigated. Except as provided in subsection (g), the board shall do one (1) of the following before the expiration of the ninety (90) day period:

- (1) Deny renewal of the license or certificate following a personal appearance by the applicant before the board.
- (2) Renew the license or certificate upon satisfaction of all other requirements for renewal.
- (3) Renew the license and file a complaint under IC 25-1-7.

(4) Request the office of the attorney general to conduct an investigation under subsection (h) if, following a personal appearance by the applicant before the board, the board has good cause to believe that the applicant engaged in activity described in IC 25-1-11-5.

(5) Upon agreement of the applicant and the board and following a personal appearance by the applicant before the board, renew the license or certificate and place the applicant on probation status under IC 25-1-11-12.

(g) If an applicant fails to appear before the board under subsection (f), the board may take action as provided in subsection (f)(1), (f)(2), or (f)(3).

(h) If the board makes a request under subsection (f)(4), the office of the attorney general shall conduct an investigation. Upon completion of the investigation, the office of the attorney general may file a petition alleging that the applicant has engaged in activity described in IC 25-1-11-5. If the

office of the attorney general files a petition, the board shall set the matter for a public hearing. If, after a public hearing, the board finds the applicant violated IC 25-1-11-5, the board may impose sanctions under IC 25-1-11-12. The board may delay renewing a license or certificate beyond ninety (90) days after the renewal date until a final determination is made by the board. The applicant's license or certificate remains valid until the final determination of the board is rendered unless the renewal is:

- (1) denied; or
- (2) summarily suspended under IC 25-1-11-13.

(i) The license or certificate of the applicant for license renewal remains valid during the ninety (90) day period unless the license or certificate is denied following a personal appearance by the applicant before the board before the end of the ninety (90) day period. If the ninety (90) day period expires without action by the board, the license or certificate shall be automatically renewed at the end of the ninety (90) day period.

(j) Notwithstanding any other law, the licensing agency may stagger license or certificate renewal cycles.

(k) An application for a license or certificate is abandoned without an action by the board if the applicant does not complete the requirements for obtaining the license or certificate not more than one (1) year after the date on which the application was filed. However, the board may, for good cause shown, extend the validity of the application for additional thirty (30) day periods. An application submitted after the abandonment of an application is considered a new application.

*As added by Acts 1981, P.L.222, SEC.3. Amended by P.L.132-1984, SEC.5; P.L.194-2005, SEC.3.*

#### **IC 25-1-6-5 Executive director**

Sec. 5. (a) The licensing agency shall be administered by an executive director appointed by the governor who shall serve at the will and pleasure of the governor.

(b) The executive director must be qualified by experience and training.

(c) The term "executive director" or "secretary", or any other statutory term for the administrative officer of a board listed in section 3 of this chapter, means the executive director of the licensing agency or the executive director's designee.

(d) The executive director is the chief fiscal officer of the licensing agency and is responsible for hiring of all staff and for procurement of all services and supplies in accordance with IC 5-22. The executive director and the employees of the licensing agency are subject to IC 4-15-1.8 but are not under IC 4-15-2. The executive director may appoint no more than three (3) deputy directors, who must be qualified to work for the boards which are served by the licensing agency.

(e) The executive director shall execute a bond payable to the state, with surety to consist of a surety or guaranty corporation qualified to do business in Indiana, in an amount fixed by the state board of accounts, conditioned upon the faithful performance of duties and the accounting for all money and property that come into the executive director's hands or under the executive director's control. The executive director may likewise cause any employee of the licensing agency to execute a bond if that employee receives, disburses, or in any way handles funds or property of the licensing agency. The costs of any such bonds shall be paid from funds available to the licensing agency.

(f) The executive director may present to the general assembly legislative recommendations regarding operations of the licensing agency and the boards it serves, including adoption of four (4) year license or certificate renewal cycles wherever feasible.

(g) Upon the request of a board or commission, the executive director may execute orders, subpoenas, continuances, and other legal documents on behalf of the board or commission.

(h) Upon the request of a board or commission, the executive director may provide advice and technical assistance on issues that may be presented to the board or commission.

*As added by Acts 1981, P.L.222, SEC.3. Amended by Acts 1982, P.L.113, SEC.11; P.L.132-1984, SEC.6; P.L.49-1997, SEC.64; P.L.194-2005, SEC.4.*

#### **IC 25-1-6-5.5 Appeal of license renewal denial**

Sec. 5.5. A person who has a license renewal denied by a board listed in section 3 of this chapter may file an appeal of the denial in accordance with IC 4-21.5-3.

*As added by P.L.227-2001, SEC.4. Amended by P.L.1-2002, SEC.95; P.L.194-2005, SEC.5.*

#### **IC 25-1-6-6 Executive director; representatives; staff placement**

Sec. 6. (a) The executive director shall designate certain employees of the licensing agency to represent the executive director of the licensing agency at board meetings, proceedings, or any other activities of a board.

(b) The executive director shall assign staff to individual boards and shall work with the boards to ensure efficient utilization and placement of staff.

*As added by Acts 1981, P.L.222, SEC.3. Amended by P.L.132-1984, SEC.7.*

#### **IC 25-1-6-7 Repealed**

*(Repealed by P.L.186-1990, SEC.17.)*

#### **IC 25-1-6-8 Department of state revenue; access to names of licensees and applicants; persons on tax warrant list**

Sec. 8. (a) The licensing agency and the boards may allow the department of state revenue access to the name of each person who:

- (1) is licensed under this chapter or IC 25-1-5; or
- (2) has applied for a license under this chapter or IC 25-1-5.

(b) If the department of state revenue notifies the licensing agency that a person is on the most recent tax warrant list, the licensing agency may not issue or renew the person's license until:

- (1) the person provides to the licensing agency a statement from the department of revenue that the person's delinquent tax liability has been

satisfied; or

(2) the licensing agency receives a notice from the commissioner of the department of state revenue under IC 6-8.1-8-2(k).  
As added by P.L.26-1985, SEC.20. Amended by P.L.332-1989(ss), SEC.46; P.L.2-2005, SEC.63; P.L.206-2005, SEC.10.

#### **IC 25-1-6-9 Repealed**

*(Repealed by P.L.186-1990, SEC.17.)*

#### **IC 25-1-6-10 Provision of Social Security numbers; access to numbers**

Sec. 10. (a) An individual who applies for a license issued by a board under this chapter or who holds a license issued by a board under this chapter shall provide the individual's Social Security number to the licensing agency.

(b) The licensing agency and the boards shall collect and release the applicant's or licensee's Social Security number as otherwise provided in state or federal law.

(c) Notwithstanding IC 4-1-10-3, the licensing agency and the boards may allow access to the Social Security number of each person who is licensed under this chapter or has applied for a license under this chapter to:

(1) a testing service that provides the examination for licensure to the licensing agency or the boards; or

(2) an individual state regulatory board or an organization composed of state regulatory boards for the applicant's or licensee's profession for the purpose of coordinating licensure and disciplinary activities among the individual states.

As added by P.L.157-2006, SEC.19

### **IC 25-1-7 Chapter 7. Investigation and Prosecution of Complaints Concerning Regulated Occupations**

#### **IC 25-1-7-1 Definitions**

Sec. 1. As used in this chapter:

"Board" means the appropriate agency listed in the definition of regulated occupation in this section.

"Director" refers to the director of the division of consumer protection.

"Division" refers to the division of consumer protection, office of the attorney general.

"Licensee" means a person who is:

- (1) licensed, certified, or registered by a board listed in this section; and
- (2) the subject of a complaint filed with the division.

"Person" means an individual, a partnership, a limited liability company, or a corporation.

"Regulated occupation" means an occupation in which a person is licensed, certified, or registered by one (1) of the following:

- (1) Indiana board of accountancy (IC 25-2.1-2-1).
- (2) Board of registration for architects and landscape architects (IC 25-4-1-2).
- (3) Indiana auctioneer commission (IC 25-6.1-2-1).
- (4) State board of barber examiners (IC 25-7-5-1).
- (5) Board of chiropractic examiners (IC 25-10-1).
- (6) State board of cosmetology examiners (IC 25-8-3-1).
- (7) State board of dentistry (IC 25-14-1).
- (8) State board of funeral and cemetery service (IC 25-15-9).
- (9) State board of registration for professional engineers (IC 25-31-1-3).
- (10) Indiana state board of health facility administrators (IC 25-19-1).
- (11) Medical licensing board of Indiana (IC 25-22.5-2).
- (12) Indiana state board of nursing (IC 25-23-1).
- (13) Indiana optometry board (IC 25-24).
- (14) Indiana board of pharmacy (IC 25-26).
- (15) Indiana plumbing commission (IC 25-28.5-1-3).
- (16) Board of podiatric medicine (IC 25-29-2-1).
- (17) Board of environmental health specialists (IC 25-32-1).
- (18) State psychology board (IC 25-33).
- (19) Speech-language pathology and audiology board (IC 25-35.6-2).
- (20) Indiana real estate commission (IC 25-34.1-2).
- (21) Indiana board of veterinary medical examiners (IC 25-38.1).
- (22) Department of natural resources for purposes of licensing water well drillers under IC 25-39-3.
- (23) Respiratory care committee (IC 25-34.5).
- (24) Private investigator and security guard licensing board (IC 25-30-1-5.2).
- (25) Occupational therapy committee (IC 25-23.5).
- (26) Behavioral health and human services licensing board (IC 25-23.6).
- (27) Real estate appraiser licensure and certification board (IC 25-34.1-8).
- (28) State board of registration for land surveyors (IC 25-21.5-2-1).
- (29) Physician assistant committee (IC 25-27.5).
- (30) Indiana athletic trainers board (IC 25-5.1-2-1).
- (31) Indiana dietitians certification board (IC 25-14.5-2-1).

- (32) Indiana hypnotist committee (IC 25-20.5-1-7).
- (33) Indiana physical therapy committee (IC 25-27).
- (34) Manufactured home installer licensing board (IC 25-23.7).
- (35) Home inspectors licensing board (IC 25-20.2-3-1).
- (36) State department of health, for out-of-state mobile health care entities.
- (37) State board of massage therapy (IC 25-21.8-2-1).
- (38) Any other occupational or professional agency created after June 30, 1981.

*As added by Acts 1981, P.L.222, SEC.4. Amended by Acts 1982, P.L.113, SEC.12; P.L.137-1985, SEC.7; P.L.246-1985, SEC.15; P.L.169-1985, SEC.29; P.L.149-1987, SEC.21; P.L.257-1987, SEC.15; P.L.242-1989, SEC.6; P.L.234-1989, SEC.3; P.L.238-1989, SEC.6; P.L.1-1990, SEC.249; P.L.186-1990, SEC.5; P.L.183-1991, SEC.3; P.L.23-1991, SEC.9; P.L.48-1991, SEC.16; P.L.1-1992, SEC.130; P.L.30-1993, SEC.5; P.L.227-1993, SEC.5; P.L.213-1993, SEC.2; P.L.8-1993, SEC.371; P.L.33-1993, SEC.11; P.L.1-1994, SEC.120; P.L.124-1994, SEC.4; P.L.234-1995, SEC.3; P.L.175-1997, SEC.5; P.L.147-1997, SEC.8; P.L.84-1998, SEC.3; P.L.24-1999, SEC.4; P.L.82-2000, SEC.4; P.L.162-2002, SEC.4; P.L.145-2003, SEC.4; P.L.185-2007, SEC.4; P.L.193-2007, SEC.4; P.L.200-2007, SEC.5; P.L.3-2008, SEC.178; P.L.134-2008, SEC.16; P.L.1-2009, SEC.138; P.L.122-2009, SEC.5; P.L.160-2009, SEC.7; P.L.1-2010, SEC.102; P.L.113-2010, SEC.101.*

**IC 25-1-7-2 Duties of attorney general**

Sec. 2. The office of the attorney general, under the conditions specified in this chapter, may receive, investigate, and prosecute complaints concerning regulated occupations.  
*As added by Acts 1981, P.L.222, SEC.4.*

**IC 25-1-7-3 Investigation of complaints**

Sec. 3. (a) Except as provided in subsection (b), the division is responsible for the investigation of complaints concerning licensees.  
 (b) The medical licensing board of Indiana shall investigate a complaint concerning a physician licensed under IC 25-22.5 and a violation specified in IC 25-22.5-2-8. The division shall forward a complaint concerning a physician licensed under IC 25-22.5 and a violation specified in IC 25-22.5-2-8 to the medical licensing board of Indiana for investigation by the board. However, if the complaint includes a violation in addition to a violation specified in IC 25-22.5-2-8, the division shall investigate the complaint in its entirety and notify the medical licensing board of Indiana of the investigation.  
*As added by Acts 1981, P.L.222, SEC.4. Amended by P.L.149-2011, SEC.1; P.L.226-2011, SEC.17.*

**IC 25-1-7-4 Complaints; requisites; standing**

Sec. 4. All complaints must be written and signed by the complainant and initially filed with the director. Except for employees of the attorney general's office acting in their official capacity, a complaint may be filed by any person, including members of any of the boards listed in section 1 of this chapter.  
*As added by Acts 1981, P.L.222, SEC.4.*

**IC 25-1-7-5 Duties and powers of director**

Sec. 5. (a) Subsection (b)(1) does not apply to:  
 (1) a complaint filed by:  
 (A) a member of any of the boards listed in section 1 of this chapter; or  
 (B) the Indiana professional licensing agency; or  
 (2) a complaint filed under IC 25-1-5-4.  
 (b) Except as provided in section 3(b) of this chapter, the director has the following duties and powers:  
 (1) The director shall make an initial determination as to the merit of each complaint. A copy of a complaint having merit shall be submitted to the board having jurisdiction over the licensee's regulated occupation, that board thereby acquiring jurisdiction over the matter except as otherwise provided in this chapter.  
 (2) The director shall through any reasonable means notify the licensee of the nature and ramifications of the complaint and of the duty of the board to attempt to resolve the complaint through negotiation.  
 (3) The director shall report any pertinent information regarding the status of the complaint to the complainant.  
 (4) The director may investigate any written complaint against a licensee. The investigation shall be limited to those areas in which there appears to be a violation of statutes governing the regulated occupation.  
 (5) The director has the power to subpoena witnesses and to send for and compel the production of books, records, papers, and documents for the furtherance of any investigation under this chapter. The circuit or superior court located in the county where the subpoena is to be issued shall enforce any such subpoena by the director.  
*As added by Acts 1981, P.L.222, SEC.4. Amended by P.L.22-1999, SEC.2; P.L.14-2000, SEC.55; P.L.206-2005, SEC.11; P.L.149-2011, SEC.2; P.L.226-2011, SEC.18.*

**IC 25-1-7-6 Statement of settlement; period to resolve**

Sec. 6. (a) This section does not apply to:

- (1) a complaint filed by:
  - (A) a member of any of the boards listed in section 1 of this chapter; or
  - (B) the Indiana professional licensing agency; or
- (2) a complaint filed under IC 25-1-5-4.

(b) If, at any time before the director files the director's recommendations with the attorney general, the board files with the director a statement signed by the licensee and the complainant that the complaint has been resolved, the director shall not take further action. For a period of thirty (30) days after the director has notified the board and the licensee that a complaint has been filed, the division shall not conduct any investigation or take any action whatsoever, unless requested by the board. If, during the thirty (30) days, the board requests an extension of the thirty (30) day time period, the director shall grant it for a period not exceeding an additional twenty (20) days. If at any time during the thirty (30) day period or an extension thereof, the board notifies the director of its intention not to proceed further to resolve the complaint, the division may proceed immediately under this chapter. For every purpose of this section, a board may designate a board member or staff member to act on behalf of or in the name of the board.

*As added by Acts 1981, P.L.222, SEC.4. Amended by P.L.22-1999, SEC.3; P.L.206-2005, SEC.12.*

#### **IC 25-1-7-7 Disciplinary sanctions; report to attorney general; prosecution; hearing officer**

Sec. 7. (a) If there has been no statement of settlement filed by the board under section 6 of this chapter, and if, after conducting an investigation, the director believes that the licensee should be subjected to disciplinary sanctions by the board of his regulated occupation, then he shall so report to the attorney general. Upon receiving the director's report, the attorney general may prosecute the matter, on behalf of the state of Indiana, before the board. The board may designate any person as a hearing officer to hear the matter.

(b) Notwithstanding subsection (a) of this section, if the Board by majority vote so requests, the attorney general shall prosecute the matter before the board, on behalf of the state of Indiana.

*As added by Acts 1981, P.L.222, SEC.4.*

#### **IC 25-1-7-8 Witnesses**

Sec. 8. At the hearing, the board or hearing officer may call witnesses in addition to those presented by the state or the licensee.

*As added by Acts 1981, P.L.222, SEC.4.*

#### **IC 25-1-7-9 Disqualification of board member**

Sec. 9. A board member is disqualified from any consideration of the case if the board member filed the complaint or participated in negotiations regarding the complaint. The board member is not disqualified from the board's final determination solely because the board member was the hearing officer or determined the complaint and the information pertaining to the complaint was current significant investigative information (as defined by IC 25-23.2-1-5 (repealed)).

*As added by Acts 1981, P.L.222, SEC.4. Amended by P.L.181-2002, SEC.1; P.L.1-2007, SEC.166.*

#### **IC 25-1-7-10 Confidentiality of complaints and information**

Sec. 10. (a) Except as provided in section 3(b) of this chapter, all complaints and information pertaining to the complaints shall be held in strict confidence until the attorney general files notice with the board of the attorney general's intent to prosecute the licensee.

(b) A person in the employ of the office of attorney general or any of the boards, or any person not a party to the complaint, may not disclose or further a disclosure of information concerning the complaint unless the disclosure is required:

- (1) under law; or
- (2) for the advancement of an investigation.

*As added by Acts 1981, P.L.222, SEC.4. Amended by P.L.181-2002, SEC.2; P.L.1-2007, SEC.167; P.L.149-2011, SEC.3; P.L.226-2011, SEC.19.*

#### **IC 25-1-7-11 Administrative orders and procedures**

Sec. 11. Nothing in this chapter limits the rights of the licensee or the state under IC 4-21.5.

*As added by Acts 1981, P.L.222, SEC.4. Amended by P.L.7-1987, SEC.110.*

#### **IC 25-1-7-12 Reimbursement of attorney general**

Sec. 12. (a) If:

- (1) a fund is created by statute for the payment of an unpaid judgment against a licensee; and
- (2) the office of the attorney general is required by statute to provide services to the boards that administer the funds described in subdivision

(1);

the office of the attorney general is entitled to reimbursement for the costs incurred in providing the services described in subdivision (2).

(b) If:

- (1) more than one (1) fund is established by statute for the payment of an unpaid judgment against a licensee; and
- (2) the office of the attorney general is entitled to reimbursement under subsection (a);

the funds for reimbursement shall be taken in equal amounts from each of the funds described in subdivision (1).

*As added by P.L.255-1987, SEC.1.*

#### **IC 25-1-7-13 Reports; contents**

Sec. 13. The office of the attorney general shall submit to each board, at the request of the board, a report that includes the following information



concerning that regulated occupation:

- (1) The number of complaints filed.
- (2) The number of cases currently under investigation.
- (3) The number of cases closed.
- (4) The number of cases resolved.
- (5) The age of the complaints.

*As added by P.L.177-1997, SEC.1.*

#### **IC 25-1-7-14 Cease and desist orders**

Sec. 14. (a) Notwithstanding any other law, if the board of a regulated occupation believes that a person who is not licensed, certified, or registered under this title is engaged in or is believed to be engaged in activities for which a license, certification, or registration is required under this title, the board may do the following:

- (1) File a complaint with the attorney general, who shall investigate and may file:

(A) with notice; or

(B) without notice, if the attorney general determines that person is engaged in activities that may affect an individual's health or safety; a motion for a cease and desist order with the appropriate board. For purposes of this subdivision, the board may designate a board member or an employee of the Indiana professional licensing agency to act on behalf or in the name of the board.

(2) Upon review of the attorney general's motion for a cease and desist order, the board may issue an order requiring the affected person to show cause why the person should not be ordered to cease and desist from such activities. The show cause order must set forth a time and place for a hearing at which the affected person may appear and show cause as to why the person should not be subject to licensing, certification, or registration under this title. For purposes of this subdivision, the board may designate a board member to act on behalf or in the name of the board.

(b) If the board, after a hearing, determines that the activities in which the person is engaged are subject to licensing, certification, or registration under this title, the board may issue a cease and desist order that must describe the person and activities that are the subject of the order.

(c) A hearing conducted under this section must comply with the requirements under IC 4-21.5.

(d) A cease and desist order issued under this section is enforceable in the circuit or superior courts. A person who is enjoined under a cease and desist order and who violates the order shall be punished for contempt of court.

(e) A cease and desist order issued under this section does not relieve any person from prosecution under any other law.

*As added by P.L.84-2010, SEC.13. Amended by P.L.155-2011, SEC.9.*

### **IC 25-1-8 Chapter 8. Occupational and Professional Licensure, Registration, and Certification Fees**

#### **IC 25-1-8-1 "Board" defined**

Sec. 1. As used in this chapter, "board" means any of the following:

- (1) Indiana board of accountancy (IC 25-2.1-2-1).
- (2) Board of registration for architects and landscape architects (IC 25-4-1-2).
- (3) Indiana auctioneer commission (IC 25-6.1-2-1).
- (4) State board of barber examiners (IC 25-7-5-1).
- (5) Board of chiropractic examiners (IC 25-10-1).
- (6) State board of cosmetology examiners (IC 25-8-3-1).
- (7) State board of dentistry (IC 25-14-1).
- (8) State board of funeral and cemetery service (IC 25-15).
- (9) State board of registration for professional engineers (IC 25-31-1-3).
- (10) Indiana state board of health facility administrators (IC 25-19-1).
- (11) Medical licensing board of Indiana (IC 25-22.5-2).
- (12) Mining board (IC 22-10-1.5-2).
- (13) Indiana state board of nursing (IC 25-23-1).
- (14) Indiana optometry board (IC 25-24).
- (15) Indiana board of pharmacy (IC 25-26).
- (16) Indiana plumbing commission (IC 25-28.5-1-3).
- (17) Board of environmental health specialists (IC 25-32-1).
- (18) State psychology board (IC 25-33).
- (19) Speech-language pathology and audiology board (IC 25-35.6-2).
- (20) Indiana real estate commission (IC 25-34.1-2-1).
- (21) Indiana board of veterinary medical examiners (IC 25-38.1-2-1).
- (22) Department of insurance (IC 27-1).
- (23) State police department (IC 10-11-2-4), for purposes of certifying polygraph examiners under IC 25-30-2.
- (24) Department of natural resources for purposes of licensing water well drillers under IC 25-39-3.
- (25) Private investigator and security guard licensing board (IC 25-30-1-5.2).
- (26) Occupational therapy committee (IC 25-23.5-2-1).
- (27) Behavioral health and human services licensing board (IC 25-23.6-2-1).

- (28) Real estate appraiser licensure and certification board (IC 25-34.1-8).
- (29) State board of registration for land surveyors (IC 25-21.5-2-1).
- (30) Physician assistant committee (IC 25-27.5).
- (31) Indiana athletic trainers board (IC 25-5.1-2-1).
- (32) Board of podiatric medicine (IC 25-29-2-1).
- (33) Indiana dietitians certification board (IC 25-14.5-2-1).
- (34) Indiana physical therapy committee (IC 25-27).
- (35) Manufactured home installer licensing board (IC 25-23.7).
- (36) Home inspectors licensing board (IC 25-20.2-3-1).
- (37) State board of massage therapy (IC 25-21.8-2-1).
- (38) Any other occupational or professional agency created after June 30, 1981.

*As added by Acts 1981, P.L.223, SEC.1. Amended by P.L.250-1983, SEC.1; P.L.246-1985, SEC.16; P.L.169-1985, SEC.30; P.L.19-1986, SEC.42; P.L.149-1987, SEC.22; P.L.257-1987, SEC.16; P.L.3-1989, SEC.144; P.L.234-1989, SEC.4; P.L.186-1990, SEC.6; P.L.183-1991, SEC.4; P.L.23-1991, SEC.10; P.L.48-1991, SEC.17; P.L.1-1992, SEC.131; P.L.30-1993, SEC.6; P.L.33-1993, SEC.12; P.L.213-1993, SEC.3; P.L.227-1993, SEC.6; P.L.1-1994, SEC.121; P.L.124-1995, SEC.5; P.L.234-1995, SEC.4; P.L.147-1997, SEC.9; P.L.84-1998, SEC.4; P.L.24-1999, SEC.5; P.L.82-2000, SEC.5; P.L.162-2002, SEC.5; P.L.2-2003, SEC.64; P.L.145-2003, SEC.5; P.L.185-2007, SEC.5; P.L.200-2007, SEC.6; P.L.3-2008, SEC.179; P.L.122-2009, SEC.6; P.L.160-2009, SEC.8; P.L.1-2010, SEC.103; P.L.113-2010, SEC.102.*

**IC 25-1-8-1.1 Repealed**

*(Repealed by P.L.19-1986, SEC.43.)*

**IC 25-1-8-2 Fees; establishment and collection**

Sec. 2. (a) Notwithstanding any other provision regarding the fees to be assessed by a board, a board shall establish by rule and cause to be collected fees for the following:

- (1) Examination of applicants for licensure, registration, or certification.
- (2) Issuance, renewal, or transfer of a license, registration, or certificate.
- (3) Restoration of an expired license, registration, or certificate when such action is authorized by law.
- (4) Issuance of licenses by reciprocity or endorsement for out-of-state applicants.
- (5) Issuance of board or committee reciprocity or endorsements for practitioners licensed, certified, or registered in Indiana who apply to another state for a license.

No fee shall be less than ten dollars (\$10) unless the fee is collected under a rule adopted by the board which sets a fee for miscellaneous expenses incurred by the board on behalf of the practitioners the board regulates.

(b) Fees established by statute shall remain in effect until replaced by a new fee adopted by rule under this section.

(c) In no case shall the fees be less than are required to pay all of the costs, both direct and indirect, of the operation of the board.

(d) For the payment of fees, a board shall accept cash, a draft, a money order, a cashier's check, and a certified or other personal check. If a board receives an uncertified personal check for the payment of a fee and if the check does not clear the bank, the board may void the license, registration, or certificate for which the check was received.

(e) Unless designated by rule, a fee is not refundable.

(f) A board shall charge a fee of not more than twenty-five dollars (\$25) for the issuance of a duplicate license, registration, or certificate.

*As added by Acts 1981, P.L.223, SEC.1. Amended by Acts 1982, P.L.113, SEC.13; P.L.169-1985, SEC.31; P.L.48-1991, SEC.18; P.L.33-1993, SEC.13; P.L.235-1995, SEC.1; P.L.197-2007, SEC.19.*

**IC 25-1-8-3 Quadrennial license or registration cycle; refunds**

Sec. 3. (a) A board, operating on a quadrennial license, registration, or certificate renewal cycle, shall refund one-half (1/2) of the amount of the license, registration, or certificate fee if the holder of the license, registration, or certificate surrenders it at least two (2) years before it expires.

(b) This section does not apply to the holder of a license, registration, or certificate revoked or suspended by the board.

*As added by Acts 1982, P.L.113, SEC.14.*

**IC 25-1-8-4 Quadrennial license renewal system**

Sec. 4. (a) Notwithstanding any law establishing a biennial license renewal system, a board operating on such a system may by rule establish a quadrennial license renewal system.

(b) If a board establishes a quadrennial license renewal system, it may provide for a reduction in the fees for the four (4) year license.

*As added by P.L.234-1983, SEC.3.*

**IC 25-1-8-5 Employment of professionals for testing; examination on statutes, rules, and regulations; standards of review**

Sec. 5. (a) Notwithstanding any statutory provisions regarding the administration of examinations, a board or committee may employ organizations or additional professionals to assist in the preparation, administration, and scoring of licensing examinations.

(b) A board or committee may require applicants for licensure, certification, or registration by examination, endorsement, or reciprocity to pass a test on the state or federal statutes, state rules, and federal regulations that the board or committee determines by rule to be relevant to the practice of a regulated profession.

(c) A board or committee may enter into a contract with a testing company or national association to set the standards of review for an examination by an applicant for licensure, certification, or registration. The standards of review may include:

- (1) setting fees for review;
- (2) requiring that an examination remain confidential; and
- (3) prohibiting the release of the examination or copies of the examination.

As added by P.L.169-1985, SEC.32. Amended by P.L.152-1988, SEC.5; P.L.48-1991, SEC.19.

#### **IC 25-1-8-6 Reinstatement of delinquent or lapsed licenses**

Sec. 6. (a) As used in this section, "board" means any of the following:

- (1) Indiana board of accountancy (IC 25-2.1-2-1).
- (2) Board of registration for architects and landscape architects (IC 25-4-1-2).
- (3) Indiana athletic trainers board (IC 25-5.1-2-1).
- (4) Indiana auctioneer commission (IC 25-6.1-2-1).
- (5) Board of chiropractic examiners (IC 25-10-1).
- (6) State board of cosmetology and barber examiners (IC 25-8-3-1).
- (7) State board of dentistry (IC 25-14-1).
- (8) Indiana dietitians certification board (IC 25-14.5-2-1).
- (9) State board of registration for professional engineers (IC 25-31-1-3).
- (10) State board of funeral and cemetery service (IC 25-15-9).
- (11) Indiana state board of health facility administrators (IC 25-19-1).
- (12) Committee of hearing aid dealer examiners (IC 25-20-1-1.5).
- (13) Home inspectors licensing board (IC 25-20.2-3-1).
- (14) State board of registration for land surveyors (IC 25-21.5-2-1).
- (15) Manufactured home installer licensing board (IC 25-23.7).
- (16) Medical licensing board of Indiana (IC 25-22.5-2).
- (17) Indiana state board of nursing (IC 25-23-1).
- (18) Occupational therapy committee (IC 25-23.5).
- (19) Indiana optometry board (IC 25-24).
- (20) Indiana board of pharmacy (IC 25-26).
- (21) Indiana physical therapy committee (IC 25-27).
- (22) Physician assistant committee (IC 25-27.5).
- (23) Indiana plumbing commission (IC 25-28.5-1-3).
- (24) Board of podiatric medicine (IC 25-29-2-1).
- (25) Private investigator and security guard licensing board (IC 25-30-1-5.2).
- (26) State psychology board (IC 25-33).
- (27) Indiana real estate commission (IC 25-34.1-2).
- (28) Real estate appraiser licensure and certification board (IC 25-34.1-8).
- (29) Respiratory care committee (IC 25-34.5).
- (30) Behavioral health and human services licensing board (IC 25-23.6).
- (31) Speech-language pathology and audiology board (IC 25-35.6-2).
- (32) Indiana board of veterinary medical examiners (IC 25-38.1).
- (33) State board of massage therapy (IC 25-21.8-2-1).

(b) This section does not apply to a license, certificate, or registration that has been revoked or suspended.

(c) Notwithstanding any other law regarding the reinstatement of a delinquent or lapsed license, certificate, or registration and except as provided in section 8 of this chapter, the holder of a license, certificate, or registration that was issued by the board that is three (3) years or less delinquent must be reinstated upon meeting the following requirements:

- (1) Submission of the holder's completed renewal application.
- (2) Payment of the current renewal fee established by the board under section 2 of this chapter.
- (3) Payment of a reinstatement fee established by the Indiana professional licensing agency.
- (4) If a law requires the holder to complete continuing education as a condition of renewal, the holder:

(A) shall provide the board with a sworn statement, signed by the holder, that the holder has fulfilled the continuing education requirements required by the board; or

(B) shall, if the holder has not complied with the continuing education requirements, meet any requirements imposed under IC 25-1-4-5 and IC 25-1-4-6.

(d) Notwithstanding any other law regarding the reinstatement of a delinquent or lapsed license, certificate, or registration and except as provided in section 8 of this chapter, unless a statute specifically does not allow a license, certificate, or registration to be reinstated if it has lapsed for more than three (3) years, the holder of a license, certificate, or registration that was issued by the board that is more than three (3) years delinquent must be reinstated upon meeting the following requirements:

- (1) Submission of the holder's completed renewal application.
- (2) Payment of the current renewal fee established by the board under section 2 of this chapter.
- (3) Payment of a reinstatement fee equal to the current initial application fee.

(4) If a law requires the holder to complete continuing education as a condition of renewal, the holder:

(A) shall provide the board with a sworn statement, signed by the holder, that the holder has fulfilled the continuing education requirements required by the board; or

(B) shall, if the holder has not complied with the continuing education requirements, meet any requirements imposed under IC 25-1-4-5 and IC 25-1-4-6.

(5) Complete such remediation and additional training as deemed appropriate by the board given the lapse of time involved.

(6) Any other requirement that is provided for in statute or rule that is not related to fees.

*As added by P.L.269-2001, SEC.5. Amended by P.L.206-2005, SEC.13; P.L.157-2006, SEC.20; P.L.185-2007, SEC.6; P.L.197-2007, SEC.20; P.L.3-2008, SEC.180; P.L.105-2008, SEC.2; P.L.122-2009, SEC.7; P.L.160-2009, SEC.9; P.L.1-2010, SEC.104; P.L.84-2010, SEC.15.*

#### **IC 25-1-8-7 Repealed**

*(Repealed by P.L.157-2006, SEC.76.)*

#### **IC 25-1-8-8 Delaying reinstatement; investigation; attorney general; petition; sanctions; invalid during investigation**

Sec. 8. (a) As used in this section, "board" has the meaning set forth in section 6(a) of this chapter.

(b) The licensing agency may delay reinstating a license, certificate, or registration for not more than ninety (90) days after the date the applicant applies for reinstatement of a license, certificate, or registration to permit the board to investigate information received by the licensing agency that the applicant for reinstatement may have committed an act for which the applicant may be disciplined. If the licensing agency delays reinstating a license, certificate, or registration, the licensing agency shall notify the applicant that the applicant is being investigated. Except as provided in subsection (c), the board shall do one (1) of the following before the expiration of the ninety (90) day period:

(1) Deny reinstatement of the license, certificate, or registration following a personal appearance by the applicant before the board.

(2) Reinstatement of the license, certificate, or registration upon satisfaction of all other requirements for reinstatement.

(3) Reinstatement of the license and file a complaint under IC 25-1-7.

(4) Request the office of the attorney general to conduct an investigation under subsection (d) if, following a personal appearance by the applicant before the board, the board has good cause to believe that the applicant engaged in activity described in IC 25-1-9-4 or IC 25-1-11-5.

(5) Upon agreement of the applicant and the board and following a personal appearance by the applicant before the board, reinstate the license, certificate, or registration and place the applicant on probation status under IC 25-1-9-9 or IC 25-1-11-12.

(c) If an applicant fails to appear before the board under subsection (b), the board may take action as provided in subsection (b)(1), (b)(2), or (b)(3).

(d) If the board makes a request under subsection (b)(4), the office of the attorney general shall conduct an investigation. Upon completion of the investigation, the office of the attorney general may file a petition alleging that the applicant has engaged in activity described in IC 25-1-9-4 or IC 25-1-11-5. If the office of the attorney general files a petition, the board shall set the matter for a public hearing. If, after a public hearing, the board finds that the applicant violated IC 25-1-9-4 or IC 25-1-11-5, the board may impose sanctions under IC 25-1-9-9 or IC 25-1-11-12. The board may delay reinstating a license, certificate, or registration beyond ninety (90) days after the date the applicant files an application for reinstatement of a license, certificate, or registration until a final determination is made by the board.

(e) The license, certificate, or registration of the applicant for license reinstatement remains invalid during the ninety (90) day period unless:

(1) the license, certificate, or registration is reinstated following a personal appearance by the applicant before the board before the end of the ninety (90) day period;

(2) the board issues a conditional license to the practitioner that is effective until the reinstatement is denied or the license is reinstated; or

(3) the reinstatement is denied.

If the ninety (90) day period expires without action by the board, the license, certificate, or registration shall be automatically reinstated at the end of the ninety (90) day period.

*As added by P.L.197-2007, SEC.21.*

#### **IC 25-1-9 Chapter 9. Health Professions Standards of Practice**

##### **IC 25-1-9-1 "Board" defined**

Sec. 1. As used in this chapter, "board" means any of the following:

(1) Board of chiropractic examiners (IC 25-10-1).

(2) State board of dentistry (IC 25-14-1).

(3) Indiana state board of health facility administrators (IC 25-19-1).

(4) Medical licensing board of Indiana (IC 25-22.5-2).

(5) Indiana state board of nursing (IC 25-23-1).

(6) Indiana optometry board (IC 25-24).

(7) Indiana board of pharmacy (IC 25-26).

(8) Board of podiatric medicine (IC 25-29-2-1).

(9) Speech-language pathology and audiology board (IC 25-35.6-2).

(10) State psychology board (IC 25-33).

(11) Indiana board of veterinary medical examiners (IC 25-38.1-2).

(12) Indiana physical therapy committee (IC 25-27-1).

(13) Respiratory care committee (IC 25-34.5).

- (14) Occupational therapy committee (IC 25-23.5).
- (15) Behavioral health and human services licensing board (IC 25-23.6).
- (16) Physician assistant committee (IC 25-27.5).
- (17) Indiana athletic trainers board (IC 25-5.1-2-1).
- (18) Indiana dietitians certification board (IC 25-14.5-2-1).

*As added by P.L.152-1988, SEC.1. Amended by P.L.242-1989, SEC.7; P.L.238-1989, SEC.7; P.L.186-1990, SEC.7; P.L.48-1991, SEC.20; P.L.227-1993, SEC.7; P.L.33-1993, SEC.14; P.L.213-1993, SEC.4; P.L.1-1994, SEC.122; P.L.124-1994, SEC.6; P.L.175-1997, SEC.6; P.L.147-1997, SEC.10; P.L.84-1998, SEC.5; P.L.24-1999, SEC.6; P.L.2-2008, SEC.59; P.L.122-2009, SEC.8; P.L.84-2010, SEC.16.*

**IC 25-1-9-2 "Practitioner" defined**

Sec. 2. As used in this chapter, "practitioner" means an individual who holds:

- (1) an unlimited license, certificate, or registration;
- (2) a limited or probationary license, certificate, or registration;
- (3) a temporary license, certificate, registration, or permit;
- (4) an intern permit; or
- (5) a provisional license;

issued by the board regulating the profession in question, including a certificate of registration issued under IC 25-20.

*As added by P.L.152-1988, SEC.1.*

**IC 25-1-9-3 "License" defined**

Sec. 3. As used in this chapter, "license" includes a license, certificate, registration, or permit.

*As added by P.L.152-1988, SEC.1.*

**IC 25-1-9-3.5 "Sexual contact" defined**

Sec. 3.5. As used in this chapter, "sexual contact" means:

- (1) sexual intercourse (as defined in IC 35-41-1-26);
- (2) deviate sexual conduct (as defined in IC 35-41-1-9); or
- (3) any fondling or touching intended to arouse or satisfy the sexual desires of either the individual performing the fondling or touching or the individual being fondled or touched.

*As added by P.L.200-2001, SEC.1.*

**IC 25-1-9-4 Standards of professional practice; findings required for sanctions; evidence of foreign discipline**

Sec. 4. (a) A practitioner shall conduct the practitioner's practice in accordance with the standards established by the board regulating the profession in question and is subject to the exercise of the disciplinary sanctions under section 9 of this chapter if, after a hearing, the board finds:

(1) a practitioner has:

- (A) engaged in or knowingly cooperated in fraud or material deception in order to obtain a license to practice, including cheating on a licensing examination;
- (B) engaged in fraud or material deception in the course of professional services or activities;
- (C) advertised services in a false or misleading manner; or
- (D) been convicted of a crime or assessed a civil penalty involving fraudulent billing practices, including fraud under:
  - (i) Medicaid (42 U.S.C. 1396 et seq.);
  - (ii) Medicare (42 U.S.C. 1395 et seq.);
  - (iii) the children's health insurance program under IC 12-17.6; or
  - (iv) insurance claims;

(2) a practitioner has been convicted of a crime that:

- (A) has a direct bearing on the practitioner's ability to continue to practice competently; or
- (B) is harmful to the public;

(3) a practitioner has knowingly violated any state statute or rule, or federal statute or regulation, regulating the profession in question;

(4) a practitioner has continued to practice although the practitioner has become unfit to practice due to:

(A) professional incompetence that:

(i) may include the undertaking of professional activities that the practitioner is not qualified by training or experience to undertake; and

(ii) does not include activities performed under IC 16-21-2-9;

- (B) failure to keep abreast of current professional theory or practice;
- (C) physical or mental disability; or

(D) addiction to, abuse of, or severe dependency upon alcohol or other drugs that endanger the public by impairing a practitioner's ability to practice safely;

(5) a practitioner has engaged in a course of lewd or immoral conduct in connection with the delivery of services to the public;

(6) a practitioner has allowed the practitioner's name or a license issued under this chapter to be used in connection with an individual who renders services beyond the scope of that individual's training, experience, or competence;

(7) a practitioner has had disciplinary action taken against the practitioner or the practitioner's license to practice in any state or jurisdiction on grounds similar to those under this chapter;

- (8) a practitioner has diverted:
    - (A) a legend drug (as defined in IC 16-18-2-199); or
    - (B) any other drug or device issued under a drug order (as defined in IC 16-42-19-3) for another person;
  - (9) a practitioner, except as otherwise provided by law, has knowingly prescribed, sold, or administered any drug classified as a narcotic, addicting, or dangerous drug to a habitué or addict;
  - (10) a practitioner has failed to comply with an order imposing a sanction under section 9 of this chapter;
  - (11) a practitioner has engaged in sexual contact with a patient under the practitioner's care or has used the practitioner-patient relationship to solicit sexual contact with a patient under the practitioner's care;
  - (12) a practitioner who is a participating provider of a health maintenance organization has knowingly collected or attempted to collect from a subscriber or enrollee of the health maintenance organization any sums that are owed by the health maintenance organization; or
  - (13) a practitioner has assisted another person in committing an act that would be grounds for disciplinary sanctions under this chapter.
  - (b) A practitioner who provides health care services to the practitioner's spouse is not subject to disciplinary action under subsection (a)(11).
  - (c) A certified copy of the record of disciplinary action is conclusive evidence of the other jurisdiction's disciplinary action under subsection (a)(7).
- As added by P.L.152-1988, SEC.1. Amended by P.L.2-1993, SEC.136; P.L.149-1997, SEC.7; P.L.22-1999, SEC.4; P.L.200-2001, SEC.2; P.L.203-2001, SEC.3; P.L.1-2002, SEC.96; P.L.197-2007, SEC.22.*

#### **IC 25-1-9-5 Optometry employment practice**

Sec. 5. In addition to section 4 of this chapter, a practitioner licensed to practice optometry is subject to the exercise of disciplinary sanctions under section 9 of this chapter if, after a hearing, the board finds a practitioner has accepted employment to practice optometry from a person other than:

- (1) a corporation formed by an optometrist under IC 23-1.5; or
- (2) an individual who is licensed as an optometrist under this article and whose legal residence is in Indiana.

*As added by P.L.152-1988, SEC.1.*

#### **IC 25-1-9-6 Veterinary practitioners; cruelty to animals**

Sec. 6. In addition to section 4 of this chapter, a practitioner licensed to practice veterinary medicine or registered as a veterinary technician is subject to the exercise of the disciplinary sanctions under section 9 of this chapter if, after a hearing, the board finds a practitioner has engaged in cruelty to animals.

*As added by P.L.152-1988, SEC.1.*

#### **IC 25-1-9-6.5 Chiropractors; waiver of deductible or copayment**

Sec. 6.5. (a) In addition to section 4 of this chapter, a practitioner licensed to practice chiropractic is subject to the exercise of the disciplinary sanctions under section 9 of this chapter if, after a hearing, the board regulating the profession finds a practitioner has:

(1) waived a payment of a deductible or a copayment required to be made to the practitioner by a patient under the patient's insurance or health care plan; and

(2) advertised the waiver of a payment described in subdivision (1).

(b) This section does not apply to the waiver of a deductible or a copayment by a practitioner if:

(1) the practitioner determines chiropractic service is necessary for the immediate health and welfare of a patient;

(2) the practitioner determines the payment of a deductible or a copayment would create a substantial financial hardship for the patient; and

(3) the waiver is based on the evaluation of the individual patient and is not a regular business practice of the practitioner.

*As added by P.L.151-1989, SEC.9.*

#### **IC 25-1-9-6.7 Marriage and family therapists; disciplinary sanctions**

Sec. 6.7. In addition to the actions listed under section 4 of this chapter that subject a practitioner to the exercise of disciplinary sanctions, a practitioner who is licensed under IC 25-23.6 is subject

to the exercise of disciplinary sanctions under section 9 of this chapter if, after a hearing, the board regulating the profession finds that the practitioner has:

(1) performed any therapy that, by the prevailing standards of the mental health professions in the community where the services were provided, would constitute experimentation on human subjects, without first obtaining full, informed, and written consent;

(2) failed to meet the minimum standards of performance in professional activities when measured against generally prevailing peer performance in professional activities, including the undertaking of activities that the practitioner is not qualified by training or experience to undertake;

(3) performed services, including any duties required of the individual under IC 31, in reckless disregard of the best interests of a patient, a client, or the public;

(4) without the consent of the child's parent, guardian, or custodian, knowingly participated in the child's removal or precipitated others to remove a child from the child's home unless:

(A) the child's physical health was endangered due to injury as a result of the act or omission of the child's parent, guardian, or custodian;

(B) the child had been or was in danger of being a victim of an offense under IC 35-42-4, IC 35-45-4-1, IC 35-45-4-2, IC 35-46-1-3, IC 35-49-2-2, or IC 35-49-3-2; or

(C) the child was in danger of serious bodily harm as a result of the inability, refusal, or neglect of the child's parent, guardian, or custodian to supply the child with necessary food, shelter, or medical care, and a court order was first obtained;

(5) willfully made or filed a false report or record, failed to file a report or record required by law, willfully impeded or obstructed the filing of a

report or record, or induced another individual to:

- (A) make or file a false report or record; or
- (B) impede or obstruct the filing of a report or record; or
- (6) performed a diagnosis (as defined in IC 25-22.5-1-1.1(c));
- (7) provided evidence in an administrative or judicial proceeding that had insufficient factual basis for the conclusions rendered by the practitioner;
- (8) willfully planted in the mind of the patient suggestions that are not based in facts known to the practitioner; or
- (9) performed services outside of the scope of practice of the license issued under IC 25-23.6.

*As added by P.L.147-1997, SEC.11. Amended by P.L.2-1998, SEC.65.*

#### **IC 25-1-9-6.8 Practitioner guidelines before prescribing stimulant medication for a child for treatment of certain disorders**

Sec. 6.8. (a) This section applies to a practitioner who is:

- (1) licensed to practice medicine or osteopathic medicine under IC 25-22.5; or
- (2) an advanced practice nurse granted prescriptive authority under IC 25-23, and whose practice agreement with a collaborating physician reflects the conditions specified in subsection (b).

(b) Before prescribing a stimulant medication for a child for the treatment of attention deficit disorder or attention deficit hyperactivity disorder, a practitioner described in subsection (a) shall follow the most recent guidelines adopted by the American Academy of Pediatrics or the American Academy of Child and Adolescent Psychiatry for the diagnosis and evaluation of a child with attention deficit disorder or attention deficit hyperactivity disorder.

*As added by P.L.107-2002, SEC.28.*

#### **IC 25-1-9-6.9 Failing to provide or providing false information to agency**

Sec. 6.9. In addition to the actions listed under section 4 of this chapter that subject a practitioner to disciplinary sanctions, a practitioner is subject to the exercise of disciplinary sanctions under section 9 of this chapter if, after a hearing, the board finds that the practitioner has:

- (1) failed to provide information requested by the Indiana professional licensing agency; or
- (2) knowingly provided false information to the Indiana professional licensing agency;

for a provider profile required under IC 25-1-5-10.

*As added by P.L.211-2001, SEC.2. Amended by P.L.206-2005, SEC.14.*

#### **IC 25-1-9-7 Physical or mental examination; power to require**

Sec. 7. The board may order a practitioner to submit to a reasonable physical or mental examination, at the practitioner's own expense, if the practitioner's physical or mental capacity to practice safely is at issue in a disciplinary proceeding.

*As added by P.L.152-1988, SEC.1. Amended by P.L.158-2003, SEC.2.*

#### **IC 25-1-9-8 Failure to submit to physical or mental examination; sanctions**

Sec. 8. Failure to comply with a board order to submit to a physical or mental examination makes a practitioner liable to summary suspension under section 10 of this chapter.

*As added by P.L.152-1988, SEC.1.*

#### **IC 25-1-9-9 Disciplinary sanctions**

Sec. 9. (a) The board may impose any of the following sanctions, singly or in combination, if it finds that a practitioner is subject to disciplinary sanctions under section 4, 5, 6, 6.7, or 6.9 of this chapter or IC 25-1-5-4:

- (1) Permanently revoke a practitioner's license.
- (2) Suspend a practitioner's license.
- (3) Censure a practitioner.
- (4) Issue a letter of reprimand.
- (5) Place a practitioner on probation status and require the practitioner to:
  - (A) report regularly to the board upon the matters that are the basis of probation;
  - (B) limit practice to those areas prescribed by the board;
  - (C) continue or renew professional education under a preceptor, or as otherwise directed or approved by the board, until a satisfactory degree of skill has been attained in those areas that are the basis of the probation; or
  - (D) perform or refrain from performing any acts, including community restitution or service without compensation, that the board considers appropriate to the public interest or to the rehabilitation or treatment of the practitioner.
- (6) Assess a fine against the practitioner in an amount not to exceed one thousand dollars (\$1,000) for each violation listed in section 4 of this chapter, except for a finding of incompetency due to a physical or mental disability. When imposing a fine, the board shall consider a practitioner's ability to pay the amount assessed. If the practitioner fails to pay the fine within the time specified by the board, the board may suspend the practitioner's license without additional proceedings. However, a suspension may not be imposed if the sole basis for the suspension is the practitioner's inability to pay a fine.

(b) The board may withdraw or modify the probation under subsection (a)(5) if it finds, after a hearing, that the deficiency that required disciplinary action has been remedied, or that changed circumstances warrant a modification of the order.

*As added by P.L.152-1988, SEC.1. Amended by P.L.48-1991, SEC.21; P.L.22-1999, SEC.5; P.L.32-2000, SEC.10; P.L.211-2001, SEC.3.*

#### **IC 25-1-9-10 Summary license suspension pending final adjudication; notice; opportunity to be heard**

Sec. 10. (a) The board may summarily suspend a practitioner's license for ninety (90) days before a final adjudication or during the appeals process if the board finds that a practitioner represents a clear and immediate danger to the public health and safety if the practitioner is allowed to continue to practice. The summary suspension may be renewed upon a hearing before the board, and each renewal may be for ninety (90) days or less.

(b) Before the board may summarily suspend a license that has been issued under IC 25-22.5, IC 25-38.1, or IC 25-14, the consumer protection division of the attorney general's office shall make a reasonable attempt to notify a practitioner of a hearing by the board to suspend a practitioner's license and of information regarding the allegation against the practitioner. The consumer protection division of the attorney general's office shall also notify the practitioner that the practitioner may provide a written or an oral statement to the board on the practitioner's behalf before the board issues an order for summary suspension. A reasonable attempt to reach the practitioner is made if the consumer protection division of the attorney general's office attempts to reach the practitioner by telephone or facsimile at the last telephone number of the practitioner on file with the board.

(c) After a reasonable attempt is made to notify a practitioner under subsection (b):

(1) a court may not stay or vacate a summary suspension of a practitioner's license for the sole reason that the practitioner was not notified; and

(2) the practitioner may not petition the board for a delay of the summary suspension proceedings.

*As added by P.L.152-1988, SEC.1. Amended by P.L.43-1995, SEC.2; P.L.71-2000, SEC.18; P.L.2-2008, SEC.60.*

#### **IC 25-1-9-10.1 Retention of clinical consultants and experts to advise on suspension**

Sec. 10.1. The attorney general may retain the services of a clinical consultant or an expert to provide the attorney general with advice concerning the acts that are the subject of a suspension under this chapter.

*As added by P.L.43-1995, SEC.3.*

#### **IC 25-1-9-11 Reinstatement of suspended licenses**

Sec. 11. The board may reinstate a license which has been suspended under this chapter if, after a hearing, the board is satisfied that the applicant is able to practice with reasonable skill and safety to the public. As a condition of reinstatement, the board may impose disciplinary or corrective measures authorized under this chapter.

*As added by P.L.152-1988, SEC.1.*

#### **IC 25-1-9-12 Reinstatement of revoked license**

Sec. 12. The board may not reinstate a license that has been revoked under this chapter. An individual whose license has been revoked under this chapter may not apply for a new license until seven (7) years after the date of revocation.

*As added by P.L.152-1988, SEC.1.*

#### **IC 25-1-9-13 Consistency of sanctions prescribed**

Sec. 13. The board shall seek to achieve consistency in the application of the sanctions authorized in this section. Significant departures from prior decisions involving similar conduct must be explained in the board's findings or orders.

*As added by P.L.152-1988, SEC.1.*

#### **IC 25-1-9-14 Surrender of practitioners license instead of hearing; approval**

Sec. 14. A practitioner may petition the board to accept the surrender of the practitioner's license instead of a hearing before the board. The practitioner may not surrender the practitioner's license without the written approval of the board, and the board may impose any conditions appropriate to the surrender or reinstatement of a surrendered license.

*As added by P.L.152-1988, SEC.1.*

#### **IC 25-1-9-15 Costs in disciplinary proceedings**

Sec. 15. Practitioners who have been subjected to disciplinary sanctions may be required by a board to pay for the costs of the proceeding. The practitioner's ability to pay shall be considered when costs are assessed. If the practitioner fails to pay the costs, a suspension may not be imposed solely upon the practitioner's inability to pay the amount assessed. These costs are limited to costs for the following:

- (1) Court reporters.
- (2) Transcripts.
- (3) Certification of documents.
- (4) Photoduplication.
- (5) Witness attendance and mileage fees.
- (6) Postage.
- (7) Expert witnesses.
- (8) Depositions.
- (9) Notarizations.
- (10) Administrative law judges.

*As added by P.L.152-1988, SEC.1. Amended by P.L.158-2003, SEC.3.*

#### **IC 25-1-9-16 Refusal of licensure or grant of probationary license**

Sec. 16. (a) The board may refuse to issue a license or may issue a probationary license to an applicant for licensure if:



(1) the applicant has been disciplined by a licensing entity of any state or jurisdiction, or has committed an act that would have subjected the applicant to the disciplinary process had the applicant been licensed in Indiana when the act occurred; and

(2) the violation for which the applicant was, or could have been, disciplined has a direct bearing on the applicant's ability to competently practice in Indiana.

(b) The board may:

(1) refuse to issue a license; or

(2) issue a probationary license;

to an applicant for licensure if the applicant practiced without a license in violation of the law.

(c) Whenever the board issues a probationary license, the board may impose one (1) or more of the following conditions:

(1) Report regularly to the board upon the matters that are the basis of the discipline of the other state or jurisdiction.

(2) Limit practice to those areas prescribed by the board.

(3) Continue or renew professional education.

(4) Engage in community restitution or service without compensation for a number of hours specified by the board.

(5) Perform or refrain from performing an act that the board considers appropriate to the public interest or to the rehabilitation or treatment of the applicant.

(d) The board shall remove any limitations placed on a probationary license under this section if the board finds after a hearing that the deficiency that required disciplinary action has been remedied.

*As added by P.L.33-1993, SEC.15. Amended by P.L.32-2000, SEC.11; P.L.197-2007, SEC.23.*

#### **IC 25-1-9-17 Applicant appearance before board**

Sec. 17. The board may require an applicant for licensure to appear before the board before issuing a license.

*As added by P.L.33-1993, SEC.16. Amended by P.L.84-2010, SEC.17.*

#### **IC 25-1-9-18 Fitness determination of health care provider; filing complaint**

Sec. 18. (a) If the insurance commissioner forwards to the board the name of a practitioner under IC 34-18-9-4(a) (or IC 27-12-9-4(a) before its repeal), the board shall consider whether:

(1) the practitioner has become unfit to practice under section 4 of this chapter; and

(2) a complaint should be filed under IC 25-1-7-4.

(b) If the board determines that a complaint should be filed under subsection (a), the board must report to the consumer protection division whether the board will schedule the matter:

(1) for informal negotiation under IC 25-1-7-6;

(2) on the board's agenda for a vote requesting that the attorney general prosecute the matter before the board under IC 25-1-7-7; or

(3) on the board's agenda for a vote on summary suspension of the practitioner's license pending prosecution of the matter before the board under IC 25-1-7-7.

(c) A board may designate a board member or staff member to act on behalf of the board under this section.

*As added by P.L.43-1995, SEC.4. Amended by P.L.1-1998, SEC.131.*

#### **IC 25-1-9-19 Third party billing notice**

Sec. 19. A practitioner that provides to a patient notice concerning a third party billing for a health care service provided to the patient shall ensure that the notice:

(1) conspicuously states that the notice is not a bill;

(2) does not include a tear-off portion; and

(3) is not accompanied by a return mailing envelope.

*As added by P.L.178-2003, SEC.12.*

#### **IC 25-1-9-20 Authority to adopt rules**

Sec. 20. The board may adopt rules under IC 4-22-2, including emergency rules under IC 4-22-2-37.1, to establish procedures to expedite the issuance or renewal of a:

(1) license;

(2) certificate;

(3) registration; or

(4) permit;

of a person whose spouse serves on active duty (as defined in IC 25-1-12-2) and is assigned to a duty station in Indiana.

*As added by P.L.144-2007, SEC.25.*

#### **IC 25-1-9-21 Rules; management and disposition of health records**

Sec. 21. The board may adopt rules under IC 4-22-2 to establish requirements for the management and disposition of health records (as defined in IC 16-18-2-168) on the discontinuation of practice by:

(1) sale;

(2) transfer;

(3) closure;

(4) disciplinary action;

(5) retirement; or  
(6) death;  
of the practitioner.  
As added by P.L.177-2009, SEC.16.

## **IC 25-1-10 Reserved**

## **IC 25-1-11 Chapter 11. Professional Licensing Standards of Practice**

### **IC 25-1-11-1 Version a "Board" defined**

*Note: This version of section amended by P.L.84-2010, SEC.18. See also following version of this section amended by P.L.113-2010, SEC.103.*

Sec. 1. As used in this chapter, "board" means any of the following:

- (1) Indiana board of accountancy (IC 25-2.1-2-1).
- (2) Board of registration for architects and landscape architects (IC 25-4-1-2).
- (3) Indiana auctioneer commission (IC 25-6.1-2).
- (4) State athletic commission (IC 25-9-1).
- (5) State board of cosmetology and barber examiners (IC 25-8-3-1).
- (6) State board of registration of land surveyors (IC 25-21.5-2-1).
- (7) State board of funeral and cemetery service (IC 25-15-9).
- (8) State board of registration for professional engineers (IC 25-31-1-3).
- (9) Indiana plumbing commission (IC 25-28.5-1-3).
- (10) Indiana real estate commission (IC 25-34.1-2-1).
- (11) Real estate appraiser licensure and certification board (IC 25-34.1-8).
- (12) Private investigator and security guard licensing board (IC 25-30-1-5.2).
- (13) Manufactured home installer licensing board (IC 25-23.7).
- (14) Home inspectors licensing board (IC 25-20.2-3-1).
- (15) State board of massage therapy (IC 25-21.8-2-1).

*As added by P.L.214-1993, SEC.1. Amended by P.L.2-1995, SEC.93; P.L.234-1995, SEC.5; P.L.82-2000, SEC.6; P.L.162-2002, SEC.6; P.L.145-2003, SEC.6; P.L.185-2007, SEC.7; P.L.200-2007, SEC.7; P.L.3-2008, SEC.181; P.L.160-2009, SEC.10; P.L.84-2010, SEC.18.*

### **IC 25-1-11-1 Version b "Board" defined**

*Note: This version of section amended by P.L.113-2010, SEC.103. See also preceding version of this section amended by P.L.84-2010, SEC.18.*

Sec. 1. As used in this chapter, "board" means any of the following:

- (1) Indiana board of accountancy (IC 25-2.1-2-1).
- (2) Board of registration for architects and landscape architects (IC 25-4-1-2).
- (3) Indiana auctioneer commission (IC 25-6.1-2).
- (4) State board of barber examiners (IC 25-7-5-1).
- (5) State board of cosmetology examiners (IC 25-8-3-1).
- (6) State board of registration of land surveyors (IC 25-21.5-2-1).
- (7) State board of funeral and cemetery service (IC 25-15-9).
- (8) State board of registration for professional engineers (IC 25-31-1-3).
- (9) Indiana plumbing commission (IC 25-28.5-1-3).
- (10) Indiana real estate commission (IC 25-34.1-2-1).
- (11) Real estate appraiser licensure and certification board (IC 25-34.1-8).
- (12) Private investigator and security guard licensing board (IC 25-30-1-5.2).
- (13) Manufactured home installer licensing board (IC 25-23.7).
- (14) Home inspectors licensing board (IC 25-20.2-3-1).
- (15) State board of massage therapy (IC 25-21.8-2-1).

*As added by P.L.214-1993, SEC.1. Amended by P.L.2-1995, SEC.93; P.L.234-1995, SEC.5; P.L.82-2000, SEC.6; P.L.162-2002, SEC.6; P.L.145-2003, SEC.6; P.L.185-2007, SEC.7; P.L.200-2007, SEC.7; P.L.3-2008, SEC.181; P.L.160-2009, SEC.10; P.L.113-2010, SEC.103.*

### **IC 25-1-11-2 "Practitioner" defined**

Sec. 2. As used in this chapter, "practitioner" means a person that holds:

- (1) an unlimited license, certificate, registration, or permit;
- (2) a limited or probationary license, certificate, registration, or permit;
- (3) a temporary license, certificate, registration, or permit;
- (4) an intern permit; or
- (5) an inactive license;

issued by the board regulating a profession.

*As added by P.L.214-1993, SEC.1. Amended by P.L.236-1995, SEC.1.*

#### **IC 25-1-11-3 "License" defined**

Sec. 3. As used in this chapter, "license" includes a license, certificate, registration, or permit.

*As added by P.L.214-1993, SEC.1.*

#### **IC 25-1-11-4 "Person" defined**

Sec. 4. As used in this chapter, "person" means an individual, a partnership, a corporation, or a limited liability company.

*As added by P.L.214-1993, SEC.1. Amended by P.L.236-1995, SEC.2.*

#### **IC 25-1-11-5 Practitioner compliance with professional standards; findings meriting disciplinary sanctions; fraud or material deception**

Sec. 5. (a) A practitioner shall comply with the standards established by the board regulating a profession. A practitioner is subject to the exercise of the disciplinary sanctions under section 12 of this chapter if, after a hearing, the board finds that:

- (1) a practitioner has:
  - (A) engaged in or knowingly cooperated in fraud or material deception in order to obtain a license to practice, including cheating on a licensing examination;
  - (B) engaged in fraud or material deception in the course of professional services or activities;
  - (C) advertised services or goods in a false or misleading manner; or
  - (D) been convicted of a crime or assessed a civil penalty involving fraudulent billing practices;
- (2) a practitioner has been convicted of a crime that:
  - (A) has a direct bearing on the practitioner's ability to continue to practice competently; or
  - (B) is harmful to the public;
- (3) a practitioner has knowingly violated a state statute or rule or federal statute or regulation regulating the profession for which the practitioner is licensed;
- (4) a practitioner has continued to practice although the practitioner has become unfit to practice due to:
  - (A) professional incompetence, including undertaking professional activities that the practitioner is not qualified by training or experience to undertake;
  - (B) failure to keep abreast of current professional theory or practice;
  - (C) physical or mental disability; or
  - (D) addiction to, abuse of, or severe dependency on alcohol or other drugs that endanger the public by impairing a practitioner's ability to practice safely;
- (5) a practitioner has engaged in a course of lewd or immoral conduct in connection with the delivery of services to the public;
- (6) a practitioner has allowed the practitioner's name or a license issued under this chapter to be used in connection with an individual or business who renders services beyond the scope of that individual's or business's training, experience, or competence;
- (7) a practitioner has had disciplinary action taken against the practitioner or the practitioner's license to practice in any state or jurisdiction on grounds similar to those under this chapter;
- (8) a practitioner has assisted another person in committing an act that would constitute a ground for disciplinary sanction under this chapter;
- (9) a practitioner has allowed a license issued by a board to be:
  - (A) used by another person; or
  - (B) displayed to the public when the license has expired, is inactive, or has been revoked or suspended; or
- (10) a practitioner has failed to comply with an order imposing a sanction under section 12 of this chapter.

(b) If an applicant or a practitioner has engaged in or knowingly cooperated in fraud or material deception to obtain a license to practice, including cheating on the licensing examination, the board may rescind the license if it has been granted, void the examination or other fraudulent or deceptive material, and prohibit the applicant from reapplying for the license for a length of time established by the board. An applicant who is aggrieved by a decision of the board under this section is entitled to hearing and appeal rights under the Indiana administrative rules and procedures act (IC 4-21.5).

(c) A certified copy of the record of disciplinary action is conclusive evidence of the other jurisdiction's disciplinary action under subsection (a)(7).  
*As added by P.L.214-1993, SEC.1. Amended by P.L.84-1998, SEC.6; P.L.113-1999, SEC.1; P.L.197-2007, SEC.24.*

#### **IC 25-1-11-6 Architect or landscape architect; grounds for disciplinary sanctions**

Sec. 6. A practitioner registered as an architect or a landscape architect is subject to the disciplinary sanctions under section 12 of this chapter if, after a hearing, the board finds that the practitioner has:

- (1) permitted the practitioner's seal to be affixed to plans, specifications, or drawings that were not prepared by the practitioner or under the practitioner's personal supervision by the practitioner's regularly employed subordinates; or
- (2) used the title "engineer" or advertised to practice engineering and is not registered under IC 25-31-1.

*As added by P.L.214-1993, SEC.1.*

#### **IC 25-1-11-7 Auctioneers; grounds for disciplinary sanctions**

Sec. 7. A practitioner licensed to practice auctioneering is subject to the disciplinary sanctions under section 12 of this chapter if, after a hearing,

the board finds that the practitioner has failed to:

- (1) account and to make payment under IC 25-6.1-6-2; or
- (2) keep the funds of others separate from the practitioner's own private accounts.

*As added by P.L.214-1993, SEC.1.*

#### **IC 25-1-11-8 Barbers; grounds for disciplinary sanctions**

Sec. 8. A practitioner registered as a barber is subject to the disciplinary sanctions under section 12 of this chapter if, after a hearing, the board finds that the practitioner has continued to practice barbering while the practitioner has an infectious, a contagious, or a communicable disease that has been epidemiologically demonstrated to be transmitted through casual contact during the scope of practice of barbering.

*As added by P.L.214-1993, SEC.1.*

#### **IC 25-1-11-9 Engineers or land surveyors; grounds for disciplinary sanctions**

Sec. 9. A practitioner registered as an engineer or a land surveyor is subject to the disciplinary sanctions under section 12 of this chapter if, after a hearing, the board finds that the practitioner:

- (1) has permitted the practitioner's seal to be affixed to plans, specifications, or drawings not prepared by the practitioner or under the practitioner's personal supervision by the practitioner's regularly employed subordinates;
- (2) has used the title "architect" or advertised to practice architecture and is not registered under IC 25-4-1.

*As added by P.L.214-1993, SEC.1.*

#### **IC 25-1-11-9.5 Repealed**

*(Repealed by P.L.194-2005, SEC.87.)*

#### **IC 25-1-11-10 Physical and mental examination of practitioner**

Sec. 10. The board may order a practitioner to submit to a reasonable physical or mental examination, at the practitioner's expense, if the practitioner's physical or mental capacity to practice safely and competently is at issue in a disciplinary proceeding.

*As added by P.L.214-1993, SEC.1. Amended by P.L.178-1997, SEC.1; P.L.194-2005, SEC.7.*

#### **IC 25-1-11-11 Refusal of physical or mental examination; summary suspension**

Sec. 11. Failure to comply with a board order to submit to a physical or mental examination makes a practitioner liable to summary suspension under section 13 of this chapter.

*As added by P.L.214-1993, SEC.1.*

#### **IC 25-1-11-12 Sanctions for violations**

Sec. 12. (a) The board may impose any of the following sanctions, singly or in combination, if the board finds that a practitioner is subject to disciplinary sanctions under sections 5 through 9 of this chapter:

- (1) Permanently revoke a practitioner's license.
- (2) Suspend a practitioner's license.
- (3) Censure a practitioner.
- (4) Issue a letter of reprimand.
- (5) Place a practitioner on probation status and require the practitioner to:
  - (A) report regularly to the board upon the matters that are the basis of probation;
  - (B) limit practice to those areas prescribed by the board;
  - (C) continue or renew professional education approved by the board until a satisfactory degree of skill has been attained in those areas that are the basis of the probation; or
  - (D) perform or refrain from performing any acts, including community restitution or service without compensation, that the board considers appropriate to the public interest or to the rehabilitation or treatment of the practitioner.
- (6) Assess a civil penalty against the practitioner for not more than one thousand dollars (\$1,000) for each violation listed in sections 5 through 9 of this chapter except for a finding of incompetency due to a physical or mental disability.
- (7) Order a practitioner to pay consumer restitution to a person who suffered damages as a result of the conduct or omission that was the basis for the disciplinary sanctions under this chapter.

(b) When imposing a civil penalty under subsection (a)(6), the board shall consider a practitioner's ability to pay the amount assessed. If the practitioner fails to pay the civil penalty within the time specified by the board, the board may suspend the practitioner's license without additional proceedings. However, a suspension may not be imposed if the sole basis for the suspension is the practitioner's inability to pay a civil penalty.

(c) The board may withdraw or modify the probation under subsection (a)(5) if the board finds after a hearing that the deficiency that required disciplinary action has been remedied or that changed circumstances warrant a modification of the order.

*As added by P.L.214-1993, SEC.1. Amended by P.L.32-2000, SEC.12; P.L.177-2009, SEC.17.*

#### **IC 25-1-11-13 Summary license suspension of real estate appraisers and other practitioners; notification by consumer protection division**

Sec. 13. (a) The board may summarily suspend a practitioner's license for ninety (90) days before a final adjudication or during the appeals process if the board finds that a practitioner represents a clear and immediate danger to the public's health, safety, or property if the practitioner is allowed to continue to practice. The summary suspension may be renewed upon a hearing before the board, and each renewal may be for not more than ninety (90) days.

(b) The board may summarily suspend the license of a real estate appraiser for ninety (90) days before a final adjudication or during the appeals process if the board finds that the licensed real estate appraiser has engaged in material and intentional misrepresentations or omissions in the preparation of at least three (3) written appraisal reports that were submitted by a person to obtain a loan. The summary suspension may be renewed after a hearing before the board. Each renewal of a summary suspension may be for not more than ninety (90) days.

(c) Before the board may summarily suspend a license under this section, the consumer protection division of the office of the attorney general shall make a reasonable attempt to notify a practitioner of:

- (1) a hearing by the board to suspend the practitioner's license; and
- (2) information regarding the allegation against the practitioner.

The consumer protection division of the office of the attorney general shall also notify the practitioner that the practitioner may provide a written or an oral statement to the board on the practitioner's behalf before the board issues an order for summary suspension. A reasonable attempt to notify the practitioner is made if the consumer protection division of the office of the attorney general attempts to notify the practitioner by telephone or facsimile at the last telephone number or facsimile number of the practitioner on file with the board.

*As added by P.L.214-1993, SEC.1. Amended by P.L.178-1997, SEC.2; P.L.197-2007, SEC.25; P.L.209-2007, SEC.3; P.L.3-2008, SEC.182.*

#### **IC 25-1-11-14 Reinstatement of suspended license**

Sec. 14. The board may reinstate a license that has been suspended under this chapter if, after a hearing, the board is satisfied that the applicant is able to practice with reasonable skill, safety, and competency to the public. As a condition of reinstatement, the board may impose disciplinary or corrective measures authorized under this chapter.

*As added by P.L.214-1993, SEC.1. Amended by P.L.178-1997, SEC.3.*

#### **IC 25-1-11-15 Reinstatement of revoked license**

Sec. 15. The board may not reinstate a license that has been revoked under this chapter. An individual whose license has been revoked under this chapter may not apply for a new license until seven (7) years after the date of revocation.

*As added by P.L.214-1993, SEC.1.*

#### **IC 25-1-11-16 Consistency of sanctions**

Sec. 16. The board shall seek to achieve consistency in the application of sanctions authorized in this chapter. Significant departures from prior decisions involving similar conduct must be explained in the board's findings or orders.

*As added by P.L.214-1993, SEC.1.*

#### **IC 25-1-11-17 Surrender of practitioner license; surrender prohibited if attorney general opposes**

Sec. 17. (a) Except as provided in subsection (b), a practitioner may petition the board to accept the surrender of the practitioner's license instead of having a hearing before the board. The practitioner may not surrender the practitioner's license without the written approval of the board, and the board may impose any conditions appropriate to the surrender or reinstatement of a surrendered license.

(b) The board may not approve the surrender of a practitioner's license under subsection (a) if the office of the attorney general:

- (1) has filed an administrative complaint concerning the practitioner's license; and
- (2) opposes the surrender of the practitioner's license.

*As added by P.L.214-1993, SEC.1. Amended by P.L.52-2009, SEC.10; P.L.105-2009, SEC.13.*

#### **IC 25-1-11-18 Costs; practitioners subject to sanctions**

Sec. 18. A practitioner who has been subjected to disciplinary sanctions may be required by a board to pay the costs of the proceeding. The practitioner's ability to pay shall be considered when costs are assessed. If the practitioner fails to pay the costs, a suspension may not be imposed solely upon the practitioner's inability to pay the amount assessed. These costs are limited to costs for the following:

- (1) Court reporters.
- (2) Transcripts.
- (3) Certification of documents.
- (4) Photo duplication.
- (5) Witness attendance and mileage fees.
- (6) Postage.
- (7) Expert witnesses.
- (8) Depositions.
- (9) Notarizations.
- (10) Administrative law judges.
- (11) Real estate review appraisals, if applicable.

*As added by P.L.214-1993, SEC.1. Amended by P.L.194-2005, SEC.8; P.L.52-2009, SEC.11; P.L.105-2009, SEC.14.*

#### **IC 25-1-11-19 Refusal to issue license; probationary license; requirements**

Sec. 19. (a) The board may refuse to issue a license or may issue a probationary license to an applicant for licensure if:

- (1) the applicant has:
  - (A) been disciplined by a licensing entity of another state or jurisdiction; or
  - (B) committed an act that would have subjected the applicant to the disciplinary process if the applicant had been licensed in Indiana when

the act occurred; and

(2) the violation for which the applicant was or could have been disciplined has a bearing on the applicant's ability to competently perform or practice the profession in Indiana.

(b) The board may:

- (1) refuse to issue a license; or
- (2) issue a probationary license;

to an applicant for licensure if the applicant practiced without a license in violation of the law.

(c) Whenever the board issues a probationary license, the board may require a licensee to do any of the following:

- (1) Report regularly to the board upon the matters that are the basis of the discipline of the other state or jurisdiction.
- (2) Limit practice to the areas prescribed by the board.
- (3) Continue or renew professional education requirements.
- (4) Engage in community restitution or service without compensation for the number of hours specified by the board.
- (5) Perform or refrain from performing an act that the board considers appropriate to the public interest or to the rehabilitation or treatment of the applicant.

(d) The board shall remove any limitations placed on a probationary license under this section if the board finds after a public hearing that the deficiency that required disciplinary action has been remedied.

*As added by P.L.194-2005, SEC.9. Amended by P.L.197-2007, SEC.26.*

#### **IC 25-1-11-20 Appearance before board**

Sec. 20. The board may require an applicant for licensure to appear before the board before issuing a license.

*As added by P.L.194-2005, SEC.10..*

#### **IC 25-1-11-21 Authority to adopt rules**

Sec. 21. The board may adopt rules under IC 4-22-2, including emergency rules under IC 4-22-2-37.1, to establish procedures to expedite the issuance or renewal of a:

- (1) license;
- (2) certificate;
- (3) registration; or
- (4) permit;

of a person whose spouse serves on active duty (as defined in IC 25-1-12-2) and is assigned to a duty station in Indiana.

*As added by P.L.144-2007, SEC.26.*

### **IC 25-1-12-1 Chapter 12. Renewal of Licenses Held by Individuals in Military Service**

#### **IC 25-1-12-1 Applicability of chapter**

Sec. 1. This chapter applies to an individual who:

- (1) holds a license, certificate, registration, or permit under this title, IC 16, or IC 22; and
- (2) is called to active duty.

*As added by P.L.88-2004, SEC.2. Amended by P.L.2-2008, SEC.61.*

#### **IC 25-1-12-2 "Active duty" defined**

Sec. 2. As used in this chapter, "active duty" means full-time service in the:

- (1) armed forces of the United States; or
- (2) national guard;

for a period that exceeds thirty (30) consecutive days in a calendar year.

*As added by P.L.88-2004, SEC.2.*

#### **IC 25-1-12-3 "Armed forces of the United States" defined**

Sec. 3. As used in this chapter, "armed forces of the United States" means the active or reserve components of:

- (1) the Army;
- (2) the Navy;
- (3) the Air Force;
- (4) the Coast Guard;
- (5) the Marine Corps; or
- (6) the Merchant Marine.

*As added by P.L.88-2004, SEC.2. Amended by P.L.2-2005, SEC.64.*

#### **IC 25-1-12-4 "National guard" defined**

Sec. 4. As used in this chapter, "national guard" means:

- (1) the Indiana army national guard; or
- (2) the Indiana air national guard.

*As added by P.L.88-2004, SEC.2.*

**IC 25-1-12-5 "Practitioner" defined**

Sec. 5. As used in this chapter, "practitioner" means an individual who holds:

- (1) an unlimited license, certificate, or registration;
- (2) a limited or probationary license, certificate, or registration;
- (3) a temporary license, certificate, registration, or permit;
- (4) an intern permit; or
- (5) a provisional license;

issued under this title, IC 16, or IC 22.

*As added by P.L.88-2004, SEC.2. Amended by P.L.2-2008, SEC.62.*

**IC 25-1-12-6 Extension to renew license or complete continuing education; requirements for extension; additional extensions**

Sec. 6. (a) Notwithstanding any other law, a practitioner who is called to active duty out of state and meets the requirements of subsection (b) is entitled to an extension of time described in subsection (c) to:

- (1) renew; and
- (2) complete the continuing education required by;

the practitioner's license, certificate, registration, or permit.

(b) The practitioner must meet the following requirements to receive the extension of time provided under subsection (a):

(1) On the date the practitioner enters active duty, the practitioner's license, certificate, registration, or permit may not be revoked, suspended, lapsed, or be the subject of a complaint under IC 25-1-7.

(2) The practitioner's license, certificate, registration, or permit must expire while the practitioner is out of state on active duty, and the practitioner must not have received the notice of expiration before the date the practitioner entered active duty.

(3) The practitioner shall provide proof of out of state active duty by providing a copy of the practitioner's:

- (A) discharge; or
- (B) government movement orders;

to the agency, board, commission, or committee issuing the practitioner's license, certificate, registration, or permit at the time the practitioner renews the practitioner's license, certificate, registration, or permit under this chapter.

(c) The extension of time provided under subsection (a) is equal to one hundred eighty (180) days after the date of the practitioner's discharge or release from active duty.

(d) The agency, board, commission, or committee that issued the practitioner's license, certificate, registration, or permit may extend the period provided in subsection (c) if the agency or board determines that an illness, an injury, or a disability related to the practitioner's active duty prevents the practitioner from renewing or completing the continuing education required for the practitioner's license, certificate, registration, or permit. However, the agency, board, commission, or committee may not extend the period for longer than three hundred sixty-five (365) days after the date of the practitioner's discharge or release from active duty.

*As added by P.L.88-2004, SEC.2. Amended by P.L.2-2005, SEC.65.*

**IC 25-1-12-7 Waiver of late fees**

Sec. 7. Any late fees that may be assessed against a practitioner in connection with a renewal under this chapter are waived.

*As added by P.L.88-2004, SEC.2.*

**IC 25-1-12-8 Construction with federal law**

Sec. 8. This chapter may not be construed as a restriction or limitation on any of the rights, benefits, and protections granted to a member of:

- (1) the armed forces of the United States; or
- (2) the national guard;

under federal law.

*As added by P.L.88-2004, SEC.2*

**IC 25-1-13 Chapter 13. Indiana Scheduled Prescription Electronic Collection and Tracking Program****IC 25-1-13-1 Effective date**

Sec. 1. This chapter applies after June 30, 2007.

*As added by P.L.65-2006, SEC.1.*

**IC 25-1-13-2 "Agency"**

Sec. 2. As used in this chapter, "agency" refers to the Indiana professional licensing agency established by IC 25-1-5-3.

*As added by P.L.65-2006, SEC.1.*

**IC 25-1-13-3 "INSPECT"**

Sec. 3. As used in this chapter, "INSPECT" refers to the Indiana scheduled prescription electronic collection and tracking program established by section 4 of this chapter.

*As added by P.L.65-2006, SEC.1.*

**IC 25-1-13-4 Establishment of the Indiana scheduled prescription electronic collection and tracking program**

Sec. 4. The Indiana scheduled prescription electronic collection and tracking program is established within the agency.  
As added by P.L.65-2006, SEC.1.

**IC 25-1-13-5 Agency functions, duties, and responsibilities**

Sec. 5. The agency shall perform all administrative functions, duties, and responsibilities for the INSPECT program.  
As added by P.L.65-2006, SEC.1.

**IC 25-1-13-6 INSPECT program duties**

Sec. 6. The INSPECT program shall collect and process information received under IC 35-48-7-8.1 and has duties described in IC 35-48-7-10.1 and IC 35-48-7-11.1.  
As added by P.L.65-2006, SEC.1.

**IC 25-1-14 Chapter 14. Meetings****IC 25-1-14 Version a****Chapter 14. Meetings**

*Note: This version of chapter effective until 1-1-2013. See also following repeal of this chapter, effective 1-1-2013.*

**IC 25-1-14-1 Version a****Applicability**

*Note: This version of section effective until 1-1-2013. See also following repeal of this chapter, effective 1-1-2013.*

Sec. 1. This section applies to a meeting of a board, committee, or commission listed in IC 25-1-5-3 or IC 25-1-6-3.  
As added by P.L.179-2007, SEC.14.

**IC 25-1-14-2 Version a****Participation by member not physically present at meeting**

*Note: This version of section effective until 1-1-2013. See also following repeal of this chapter, effective 1-1-2013.*

Sec. 2. (a) A member of a board, committee, or commission may participate in a meeting of the board, committee, or commission:

- (1) except as provided in subsection (b), at which at least a quorum is physically present at the place where the meeting is conducted; and
- (2) by using a means of communication that permits:
  - (A) all other members participating in the meeting; and
  - (B) all members of the public physically present at the place where the meeting is conducted; to simultaneously communicate with each other during the meeting.
- (b) A member of a board, committee, or commission may participate in an emergency meeting of the board, committee, or commission to consider disciplinary sanctions under IC 25-1-9-10 or IC 25-1-11-13 by using a means of communication that permits:
  - (1) all other members participating in the meeting; and
  - (2) all members of the public physically present at the place where the meeting is conducted; to simultaneously communicate with each other during the meeting.
- (c) A member who participates in a meeting under subsection (b):
  - (1) is considered to be present at the meeting;
  - (2) shall be counted for purposes of establishing a quorum; and
  - (3) may vote at the meeting.

As added by P.L.179-2007, SEC.14. Amended by P.L.105-2008, SEC.3; P.L.160-2009, SEC.11; P.L.113-2010, SEC.104.

**IC 25-1-14-3 Version a****Member considered present**

*Note: This version of section effective until 1-1-2013. See also following repeal of this chapter, effective 1-1-2013.*

Sec. 3. A member who participates in a meeting under section 2 of this chapter:

- (1) is considered to be present at the meeting;
- (2) shall be counted for purposes of establishing a quorum; and
- (3) may vote at the meeting.

As added by P.L.179-2007, SEC.14.

**IC 25-1-14-4 Version a****Meeting memoranda requirements**

*Note: This version of section effective until 1-1-2013. See also following repeal of this chapter, effective 1-1-2013.*

Sec. 4. The memoranda of the meeting prepared under IC 5-14-1.5-4 must state the name of:

- (1) each member who was physically present at the place where the meeting was conducted;
- (2) each member who participated in the meeting by using a means of communication described in section 2 of this chapter; and



(3) each member who was absent.  
As added by P.L.179-2007, SEC.14.

#### **IC 25-1-14 Version b**

##### **Repealed**

(Repealed by P.L.134-2012, SEC.28.)

Note: This repeal of chapter effective 1-1-2013. See also preceding sections of this chapter, effective until 1-1-2013.

#### **IC 25-1-15 Chapter 15. Exemptions for Athletic Organization Practitioners Licensed in Other Jurisdictions**

##### **IC 25-1-15-1 License**

Sec. 1. As used in this chapter, "license" includes a license, certificate, or registration.  
As added by P.L.177-2009, SEC.18.

##### **IC 25-1-15-2 Practitioner**

Sec. 2. As used in this chapter, "practitioner" refers to any of the following:

- (1) Athletic trainer.
- (2) Chiropractor.
- (3) Dentist.
- (4) Dietitian.
- (5) Marriage and family therapist.
- (6) Massage therapist.
- (7) Mental health counselor.
- (8) Nurse.
- (9) Occupational therapist.
- (10) Optometrist.
- (11) Physical therapist.
- (12) Physician.
- (13) Physician assistant.
- (14) Podiatrist.
- (15) Psychologist.
- (16) Respiratory care practitioner.
- (17) Social worker.

As added by P.L.177-2009, SEC.18.

##### **IC 25-1-15-3 Exemption**

Sec. 3. (a) A practitioner licensed in another state, territory, or jurisdiction of the United States or of any nation or foreign jurisdiction is exempt from the requirements of licensure under this title, if the practitioner:

- (1) holds an active license to practice the profession in question in the other jurisdiction;
- (2) engages in the active practice of the profession in which the practitioner is licensed in the other jurisdiction; and
- (3) is employed or designated as the athletic or sports organization's practitioner by an athletic or sports organization visiting Indiana for a specific sporting event.

(b) A practitioner's practice under this section is limited to the members, coaches, and staff of the athletic or sports organization that employs or designates the practitioner.

(c) A practitioner practicing in Indiana under the authority of this section:

- (1) does not have practice privileges in any licensed hospital or health care facility; and
  - (2) is not authorized to issue orders or prescriptions or to order testing at a medical facility;
- in Indiana.

(d) A practitioner's practice under this section may not exceed thirty (30) consecutive days for a specific event.

As added by P.L.177-2009, SEC.18.

#### **IC 25-1-16 Chapter 16. Evaluation of Regulated Occupations**

##### **IC 25-1-16-1 "Agency"**

Sec. 1. As used in this chapter, "agency" refers to the Indiana professional licensing agency.  
As added by P.L.84-2010, SEC.19.

##### **IC 25-1-16-2 "Board"**

Sec. 2. As used in this chapter, "board" means an entity that regulates a specific regulated occupation.  
As added by P.L.84-2010, SEC.19.

**IC 25-1-16-3 "Committee"**

Sec. 3. As used in this chapter, "committee" means the regulated occupations evaluation committee established by section 6 of this chapter.  
As added by P.L.84-2010, SEC.19.

**IC 25-1-16-4 "License"**

- Sec. 4. As used in this chapter, "license" means:
- (1) an unlimited license, certificate, or registration;
  - (2) a limited or probationary license, certificate, or registration;
  - (3) a temporary license, certificate, registration, or permit;
  - (4) an intern permit; or
  - (5) a provisional license;

issued by the board regulating the regulated occupation in question.  
As added by P.L.84-2010, SEC.19.

**IC 25-1-16-5 "Regulated occupation"**

Sec. 5. As used in this chapter, "regulated occupation" has the meaning set forth in IC 25-1-7-1.  
As added by P.L.84-2010, SEC.19.

**IC 25-1-16-6 Regulated occupations evaluation committee established**

Sec. 6. The regulated occupations evaluation committee is established.  
As added by P.L.84-2010, SEC.19.

**IC 25-1-16-7 Members; terms; votes**

Sec. 7. (a) The committee consists of the following individuals:

- (1) The dean of the Indiana University School of Public and Environmental Affairs or the dean's designee. The dean or the dean's designee shall serve as chairperson of the committee.
- (2) The director of the agency or the director's designee.
- (3) The attorney general or the attorney general's designee, as a nonvoting member.
- (4) Two (2) individuals appointed by the governor who are licensed in a regulated occupation.
- (5) Two (2) individuals appointed by the governor who are not licensed in a regulated occupation.

(b) The term of a member appointed under subsection (a)(4) or (a)(5) is three (3) years.

(c) The affirmative votes of a majority of the voting members appointed to the committee are required for the committee to take action on any measure.  
As added by P.L.84-2010, SEC.19.

**IC 25-1-16-8 Review and evaluation of regulated occupations; report**

Sec. 8. (a) The committee shall review and evaluate each regulated occupation. The review and evaluation must include the following:

- (1) The functions, powers, and duties of the regulated occupation and the board, including any functions, powers, or duties that are inconsistent with current or projected practice of the occupation.
- (2) An assessment of the management efficiency of the board.
- (3) An assessment of the regulated occupation's and the board's ability to meet the objectives of the general assembly in licensing the regulated occupation.
- (4) Any other criteria identified by the committee.

(b) The committee shall prepare a report concerning each regulated occupation that the committee reviews and evaluates. The report must contain the following:

- (1) The number of individuals who are licensed in the regulated occupation.
- (2) A summary of the board's functions and actions.
- (3) The budget and other fiscal factors of regulating the regulated occupation.
- (4) An assessment of the effect of the regulated occupation on the state's economy, including consumers and businesses.
- (5) Any recommendations for legislation, including whether a regulated occupation should be modified, combined with another board, or terminated.
- (6) Any recommendations for administrative changes.

As added by P.L.84-2010, SEC.19.

**IC 25-1-16-9 Cooperation with committee; testimony**

Sec. 9. (a) A board shall cooperate with the committee, as the committee determines is necessary in the committee's review and evaluation of the board.

(b) The committee shall allow testimony concerning each regulated occupation that is being reviewed and evaluated.  
As added by P.L.84-2010, SEC.19.

#### **IC 25-1-16-10 Review schedule**

Sec. 10. The committee shall establish a schedule to review and evaluate each regulated occupation. Each regulated occupation must be reviewed and evaluated at least every seven (7) years.

*As added by P.L.84-2010, SEC.19.*

#### **IC 25-1-16-11 Staff; expenditures**

Sec. 11. (a) The agency shall provide staff and administrative support to the committee.

(b) The committee may hire, with approval of the director of the agency, an individual to assist the committee.

(c) The expenditures of the committee shall be paid from appropriations to the agency.

*As added by P.L.84-2010, SEC.19.*

#### **IC 25-1-16-12 Member reimbursement**

Sec. 12. (a) Each member of the committee who is not a state employee is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Each member of the committee who is a state employee is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

*As added by P.L.84-2010, SEC.19.*

#### **IC 25-1-16-13 Annual report**

Sec. 13. The committee shall submit a report to the:

- (1) governor;
- (2) health finance commission; and
- (3) legislative services agency;

not later than July 1 of each year. The report submitted to the legislative services agency must be in an electronic format under IC 5-14-6.

*As added by P.L.84-2010, SEC.19*

### **IC 21-42-7 Chapter 7. Military Education**

#### **IC 21-42-7-1 "Military service"**

Sec. 1. As used in this chapter, "military service" means service performed while an active member of any of the following:

- (1) The armed forces of the United States.
- (2) A reserve component of the armed forces of the United States.
- (3) The National Guard.

*As added by P.L.57-2012, SEC.1.*

#### **IC 21-42-7-2 Credit for military service courses**

Sec. 2. Each state educational institution shall adopt a policy to award educational credit to an individual who:

- (1) is enrolled in a state educational institution; and
- (2) successfully completes courses that:
  - (A) are part of the individual's military service;
  - (B) meet the standards of the American Council on Education, or the council's successor organization, for awarding academic credit; and
  - (C) meet the state educational institution's role, scope, and mission.

*As added by P.L.57-2012, SEC.1.*

#### **IC 21-42-7-3 Rules**

Sec. 3. The commission for higher education shall adopt rules under IC 4-22-2 that establish uniform guidelines for state educational institutions to follow when implementing the requirements under section 2 of this chapter.

*As added by P.L.57-2012, SEC.1.*

### **IC 4-6-14 Chapter 14. Health Records and Identifying Information Protection**

#### **IC 4-6-14-1 "Abandoned"**

Sec. 1. As used in this chapter, "abandoned" means voluntarily surrendered, relinquished, or disclaimed by the health care provider or regulated professional, with no intention of reclaiming or regaining possession.

*As added by P.L.84-2010, SEC.1.*

**IC 4-6-14-2 "Health care provider"**

Sec. 2. As used in this chapter, "health care provider" means:

- (1) a person listed in IC 16-39-7-1(a)(1) through IC 16-39-7-1(a)(11); or
- (2) a person licensed, certified, registered, or regulated by a board listed in IC 25-1-9-1.

*As added by P.L. 84-2010, SEC.1. Amended by P.L. 226-2011, SEC.1.*

**IC 4-6-14-3 "Personal information"**

Sec. 3. As used in this chapter, "personal information" has the meaning set forth in IC 24-4.9-2-10.

*As added by P.L. 84-2010, SEC.1.*

**IC 4-6-14-4 "Regulated professional"**

Sec. 4. As used in this chapter, "regulated professional" means an individual who is regulated by a board listed under IC 25-1-11-1.

*As added by P.L. 84-2010, SEC.1.*

**IC 4-6-14-5 Attorney general's powers**

Sec. 5. The attorney general may do the following with abandoned health records and other records that contain personal information:

- (1) Take possession of.
- (2) Store.
- (3) Maintain.
- (4) Transfer.
- (5) Protect.
- (6) Destroy, subject to the limitations in sections 8(b) and 9(b) of this chapter.

*As added by P.L. 84-2010, SEC.1.*

**IC 4-6-14-6 Determination of abandonment**

Sec. 6. (a) Before taking any action described in section 5 of this chapter, the attorney general shall determine whether a health care provider or regulated professional has abandoned health records or records containing personal information.

(b) A determination of abandonment under this section may only be used for the purpose of taking an action described in this chapter. However, a subsequent enforcement action may take place under a state or federal law based on proof of facts that may have contributed to the determination of abandonment if the facts are proved in a subsequent enforcement action.

(c) An investigation to make a determination of abandonment under this section must be conducted under the attorney general's authority under existing state and federal law. Nothing in this chapter shall be construed to create new authority for a subpoena or search warrant.

*As added by P.L. 84-2010, SEC.1.*

**IC 4-6-14-7 Notification**

Sec. 7. (a) The attorney general shall make reasonable efforts to notify the patients and those individuals identified in:

- (1) health records; or
- (2) records or documents that contain personal information;

that the attorney general has taken possession of the records or documents. The notice in this subsection must include information about the procedure for either obtaining originals or copies of the records or having the original records sent to a duly authorized subsequent treating health care provider.

(b) Unless prohibited by law, the attorney general may also notify other persons, including professional organizations, hospitals, law enforcement agencies, and government units, who:

- (1) may be able to assist in notifying persons whose records were abandoned and secured by the attorney general under this chapter; and
- (2) when appropriate, may be able to assist in returning the records to those persons.

*As added by P.L. 84-2010, SEC.1.*

**IC 4-6-14-8 Length of time health records must be maintained; destruction of records**

Sec. 8. (a) The attorney general shall maintain health records obtained under section 5 of this chapter for the lesser of the following:

- (1) The time required under IC 16-39-7-1 and IC 16-39-7-2.
- (2) Three (3) years after the date the records are secured.

(b) When the time expires under subsection (a), the attorney general may destroy the health records obtained under section 5 of this chapter.

*As added by P.L. 84-2010, SEC.1.*

**IC 4-6-14-9 Length of time personal information records must be maintained; destruction of records**

Sec. 9. (a) The attorney general shall maintain records that are not health records but contain personal information for at least three (3) years after the date the records are seized or secured.

(b) When the time expires under subsection (a) and after notification under section 7 of this chapter, the attorney general may destroy the records that contain personal information.

*As added by P.L. 84-2010, SEC.1.*

**IC 4-6-14-10 Health records and personal identifying information protection trust fund**

Sec. 10. (a) The health records and personal identifying information protection trust fund is established for the purpose of paying storage, maintenance, copying, mailing, and transfer of:

- (1) health records; and
- (2) records containing personal information;

as required under this chapter. Expenditures from the trust fund may be made only to carry out the purposes of this subsection.

(b) Subject to subsection (c), if a health care provider or a regulated professional is disciplined under IC 25-1-9 or IC 25-1-11, the board that issues the disciplinary order shall impose a fee against the individual of five dollars (\$5). The fee must be deposited into the health records and personal identifying information protection trust fund.

(c) If the amount in the health records and personal identifying information protection trust fund exceeds seventy-five thousand dollars (\$75,000), the fee imposed under subsection (b) may not be imposed on an individual who is subject to a disciplinary order.

(d) The attorney general shall administer the trust fund.

(e) The expenses of administering the trust fund shall be paid from the money in the fund.

(f) The treasurer of state shall invest the money in the trust fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(g) Money in the trust fund at the end of a state fiscal year does not revert to the state general fund.

*As added by P.L.84-2010, SEC.1.*

**IC 4-6-14-11 Immunity**

Sec. 11. The attorney general is immune from civil liability for destroying or failing to maintain custody and control of any record obtained under this chapter.

*As added by P.L.84-2010, SEC.1.*

**IC 4-6-14-12 Cooperation with other agencies**

Sec. 12. The following may cooperate with the attorney general's office to implement this chapter:

(1) The Indiana professional licensing agency and the appropriate board that regulates a health care provider or a regulated professional under IC 25.

(2) The state police department.

(3) A prosecuting attorney.

(4) Local law enforcement agencies.

(5) Federal law enforcement agencies.

*As added by P.L.84-2010, SEC.1.*

**IC 4-6-14-13 Rules**

Sec. 13. The attorney general may adopt rules under IC 4-22-2 that are necessary to administer and implement this chapter.

*As added by P.L.84-2010, SEC.1.*

**IC 4-6-14-14 Judicial review**

Sec. 14. A determination by the attorney general that health records or other records that contain personal information have been abandoned is subject to review in a circuit or superior court. A person who seeks to enforce this section must first notify the attorney general of the intention to seek judicial review.

*As added by P.L.84-2010, SEC.1.*

**IC 4-6-14-15 Funding**

Sec. 15. The attorney general may pay for the administration of this chapter only from funds currently appropriated to the office of the attorney general.

*As added by P.L.84-2010, SEC.1.*

**INDIANA CODE § 10-13-3**

**INDIANA ADMINISTRATIVE CODE**

**Title 844, Article 4 – MEDICAL DOCTORS; OSTEOPATHIC DOCTORS**

**ARTICLE 4. MEDICAL DOCTORS; OSTEOPATHIC DOCTORS**

**Rule 1. General Provisions**

**844 IAC 4-1-1 Purpose (Repealed)**

Sec. 1. *(Repealed by Medical Licensing Board of Indiana; filed Sep 3, 2002, 3:38 p.m.: 26 IR 34)*

## 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

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; readopted filed Oct 10, 2008, 8:57 a.m.: 20081105-IR-844080339RFA)

## 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 filed Dec 10, 2001, 3:48 p.m.: 25 IR 1731; readopted filed Oct 10, 2008, 8:57 a.m.: 20081105-IR-844080339RFA)

### 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 filed Dec 10, 2001, 3:48 p.m.: 25 IR 1731; readopted filed Oct 10, 2008, 8:57 a.m.: 20081105-IR-844080339RFA)

## 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 (Repealed)

### Rule 4.5. Licensure to Practice

#### 844 IAC 4-4.5-1 Available licenses and permits

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

Affected: IC 25-22.5-2

Sec. 1. An applicant may apply for the following:

- (1) Unlimited license to practice medicine or osteopathic medicine by:
  - (A) examination; or
  - (B) endorsement.
- (2) A temporary medical permit for an applicant who is applying for unlimited licensure by endorsement.
- (3) A temporary medical permit for postgraduate training.

(4) A temporary medical teaching permit.

(5) A limited scope temporary medical permit for an applicant who holds an unrestricted license to practice in another state. (Medical Licensing Board of Indiana; 844 IAC 4-4.5-1; filed Sep 3, 2002, 3:38 p.m.: 26 IR 28; readopted filed Oct 10, 2008, 8:57 a.m.: 20081105-IR-844080339RFA)

#### **844 IAC 4-4.5-2 Licenses and permits issued for general practice only**

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

Affected: IC 25-22.5-2

Sec. 2. A medical license issued by Indiana is for the general practice of medicine. Regardless of the applicant's certification by a specialty board, neither a license nor a permit shall be issued unless the applicant has fulfilled the general licensure requirements of IC 25-22.5 and this article.

(Medical Licensing Board of Indiana; 844 IAC 4-4.5-2; filed Sep 3, 2002, 3:38 p.m.: 26 IR 29; readopted filed Oct 10, 2008, 8:57 a.m.: 20081105-IR-844080339RFA)

#### **844 IAC 4-4.5-3 Approved medical schools**

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5-2-7

Sec. 3. (a) An approved school of medicine or school of osteopathic medicine is one located within the United States, its possessions, or Canada and is recognized by either:

(1) the Liaison Committee on Medical Education, which is jointly sponsored by the American Medical Association (AMA) and the Association of American Medical Colleges (AAMC); or

(2) the American Osteopathic Association (AOA) Bureau of Professional Education.

(b) In order to be approved by the board for the purpose of obtaining a license or permit, a school of medicine or school of osteopathic medicine located outside of the United States, its possessions, or Canada must maintain standards equivalent to those adopted by:

(1) the Liaison Committee on Medical Education, Functions and Structure of a Medical School, Standards for Accreditation of Medical Education Programs Leading to the M.D. degree, 2001; or

(2) the Bureau of Professional Education of the American Osteopathic Association, Accreditation of Colleges of Osteopathic Medicine, 2001.

(c) A copy of such standards shall be available for public inspection at the office of the Health Professions Bureau, 402 West Washington Street, Room W041, Indianapolis, Indiana 46204. Copies of such standards are available from the respective entity originally issuing the incorporated matter as follows:

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

(2) The Bureau of Professional Education of the American Osteopathic Association, 142 East Ontario Street, Chicago, Illinois 60611.

(Medical Licensing Board of Indiana; 844 IAC 4-4.5-3; filed Sep 3, 2002, 3:38 p.m.: 26 IR 29; readopted filed Oct 10, 2008, 8:57 a.m.: 20081105-IR-844080339RFA)

#### **844 IAC 4-4.5-4 Approved postgraduate (internship and residency) programs**

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5-2-7

Sec. 4. An approved internship or residency program is one that was, at time the applicant was enrolled in the internship or residency program accepted by the:

(1) Accreditation Council for Graduate Medical Education;

(2) Executive Committee of the Council on Postdoctoral Training of the American Osteopathic Association; or

(3) Royal College of Physicians and Surgeons of Canada.

(Medical Licensing Board of Indiana; 844 IAC 4-4.5-4; filed Sep 3, 2002, 3:38 p.m.: 26 IR 29; readopted filed Oct 10, 2008, 8:57 a.m.: 20081105-IR-844080339RFA)

#### **844 IAC 4-4.5-5 Authentic documents required**

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5-2-7

Sec. 5. 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 4-4.5-5; filed Sep 3, 2002, 3:38 p.m.: 26 IR 29; readopted filed Oct 10, 2008, 8:57 a.m.: 20081105-IR-844080339RFA)

#### **844 IAC 4-4.5-6 Burden of proof**

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5-2-7

Sec. 6. Every applicant for licensure or temporary medical permit shall demonstrate that the applicant meets all of the qualifications required by Indiana statutes and by the rules of the board. In any proceeding before the board the burden of proof shall be on the applicant.

#### **844 IAC 4-4.5-7 Application for a license**

Authority: IC 25-22.5-2-7

Affected: IC 25-1-8-2

Sec. 7. (a) A person seeking licensure to practice medicine or osteopathic medicine shall file an application on a form supplied by the board and submit the fees required by 844 IAC 4-2-2.

(b) The applicant for a license shall provide the following:

(1) 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.

(2) One (1) recent passport-type photograph of the applicant, taken within eight (8) weeks prior to filing of the application.

(3) A certified copy of the original medical school or osteopathic medical school diploma. The following are requirements in the event that such diploma has been lost or destroyed:

(A) The applicant shall submit, 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 the applicant graduated, stating that the applicant has satisfactorily completed the prescribed course of study, the actual degree conferred, and the date of graduation.

(B) The applicant shall submit an affidavit fully and clearly stating the circumstances under which his or her diploma was lost or destroyed.

(C) In exceptional circumstances, the board 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.

(4) If the applicant is the graduate of a school of medicine or osteopathic medicine in the United States, its possessions, or Canada, an original transcript of the applicant's medical education, including the degree conferred and the date the degree was conferred must be submitted. If the original transcript is in a language other than English, the applicant must include a certified translation of the transcript.

(5) If the applicant is a graduate of a school of medicine or osteopathic medicine outside the United States, its possessions, or Canada, the applicant must submit an original transcript of the applicant's medical education, including the degree conferred and the date the degree was conferred. If the original transcript is in a language other than English, the applicant must include a certified translation of the transcript. If an original transcript is not available, the applicant must submit the following:

(A) A notarized or certified copy of the original medical school or osteopathic medical school transcript, which must include the degree conferred and the date the degree was conferred.

(B) An affidavit fully and clearly stating the reasons that an original transcript is not available.

(6) If the applicant has been convicted of a criminal offense (excluding minor traffic violations), the applicant shall submit a notarized statement detailing all criminal offenses (excluding minor traffic violations) for which the applicant has been convicted. This notarized statement must include the following:

(A) The offense of which the applicant was convicted.

(B) The court in which the applicant was convicted.

(C) The cause number under which the applicant was convicted.

(D) The penalty imposed by the court.

(7) If the applicant is a graduate of a school of medicine or osteopathic medicine outside the United States, its possessions, or Canada, the applicant must submit a notarized copy of a certificate issued to the applicant by the Educational Commission on Foreign Medical Graduates.

(8) All applicants who are now, or have been, licensed to practice any health profession in another state must submit verification of license status. This information must be sent by the state that issued the license directly to the Indiana board.

(9) The applicant shall submit a self-query form completed by the National Practitioner Data Bank and the Healthcare Integrity and Protection Data Bank.

(10) All information on the application shall be submitted under oath or affirmation, subject to the penalties for perjury.

*(Medical Licensing Board of Indiana; 844 IAC 4-4.5-7; filed Sep 3, 2002, 3:38 p.m.: 26 IR 29; readopted filed Oct 10, 2008, 8:57 a.m.: 20081105-IR-844080339RFA)*

#### **844 IAC 4-4.5-8 Licensure by examination**

Authority: IC 25-22.5-2-7

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

Sec. 8. An applicant for licensure by examination must:

(1) Pass Steps I, II, and III of the United States Medical Licensing Examination or pass Steps I, II, and III of the Comprehensive Osteopathic Medical Licensing Examination.

(2) Meet the requirements of IC 25-22.5.

(3) Meet the requirements of this article.

*(Medical Licensing Board of Indiana; 844 IAC 4-4.5-8; filed Sep 3, 2002, 3:38 p.m.: 26 IR 30; readopted filed Oct 10, 2008, 8:57 a.m.: 20081105-IR-844080339RFA)*



#### **844 IAC 4-4.5-9 Licensure by endorsement**

Authority: IC 25-22.5-2-7

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

Sec. 9. (a) In addition to complying with section 7 of this rule, an applicant for licensure by endorsement shall submit proof that the applicant satisfactorily completed the written examination provided by the:

- (1) National Board of Medical Examiners (NBME);
- (2) National Board of Osteopathic Medical Examiners (NBOME); or
- (3) Federation of State Medical Boards of the United States, Inc. (FSMB).

(b) Acceptable examinations provided by an entity under subsection (a) are as follows:

- (1) NBME.
- (2) NBOME.
- (3) Comprehensive Osteopathic Medical Licensing Examination (COMLEX-USA).
- (4) Federation of State Medical Boards of the United States (FLEX).
- (5) United States Medical Licensing Examination (USMLE).

(c) Endorsement from states requiring the NBME, NBOME, or FLEX will be honored if the examination was taken and passed in a manner that was, in the opinion of the board, equivalent in every respect to Indiana's examination requirements at the time it was taken.

(d) Endorsement from states requiring the USMLE or COMLEX-USA for licensure will be honored if the examination requirements of the other state are equivalent to the requirements of section 12 or 13 of this rule.

(e) Licensure by endorsement may be granted to an applicant who obtained a license in another state before the FLEX, NBME, USMLE, or COMLEX-USA were used in that state if the applicant:

(1) took an examination equivalent in every respect to Indiana's examination requirements at the time it was taken in another state; and

(2) meets all of the other requirements of the board under IC 25-22.5 and this article.

*(Medical Licensing Board of Indiana; 844 IAC 4-4.5-9; filed Sep 3, 2002, 3:38 p.m.: 26 IR 30; readopted filed Oct 10, 2008, 8:57 a.m.: 20081105-IR-844080339RFA)*

#### **844 IAC 4-4.5-10 Requirements for taking the United States Medical Licensing Examination Step III**

Authority: IC 25-22.5-2-7

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

Sec. 10. (a) In order to qualify to take Step III of the United States Medical Licensing Examination (USMLE), a graduate of a medical school in the United States, its possessions, or Canada must submit proof of the following:

(1) Completion of the academic requirements for the degree of doctor of medicine or doctor of osteopathic medicine and graduation from a medical school or osteopathic medical school approved by the board.

(2) Passage of both Steps I and II of the USMLE.

(3) 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 that meets the requirements for an approved internship or residency under this rule.

(b) In order to qualify to take Step III of the USMLE, a graduate of a medical school outside the United States, its possessions, or Canada, including citizens of the United States, must submit proof of the following:

(1) Passage of both Steps I and II of the USMLE.

(2) Completion of a minimum of two (2) years of postgraduate training in a hospital or institution in the United States or Canada that meets the requirements for an approved internship or residency under this rule.

(3) Certification by the Educational Commission on Foreign Medical Graduates.

(4) Passing such other examinations as may be required by the board.

*(Medical Licensing Board of Indiana; 844 IAC 4-4.5-10; filed Sep 3, 2002, 3:38 p.m.: 26 IR 31; readopted filed Oct 10, 2008, 8:57 a.m.: 20081105-IR-844080339RFA)*

#### **844 IAC 4-4.5-11 Requirements for taking the Comprehensive Osteopathic Medical Licensing Examination United States Medical Licensing Examination Step III**

Authority: IC 25-22.5-2-7

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

Sec. 11. (a) In order to qualify to take Step III of the Comprehensive Osteopathic Medical Licensing Examination (COMLEXUSA), a graduate of an osteopathic medical school in the United States, its possessions, or Canada must submit proof of the following:

(1) Completion of the academic requirements for the degree of doctor of osteopathic medicine and graduation from an osteopathic medical school approved by the board.

(2) Passage of both Steps I and II of the COMLEX-USA.

(3) Completion of one (1) year of postgraduate training in a hospital or institution in the United States, its possessions, or Canada that meets the requirements for an approved internship or residency under this rule.

(b) In order to qualify to take Step III of the COMLEX-USA, a graduate of an osteopathic medical school outside the United States, its possessions, or Canada, including citizens of the United States, must submit proof of the following:

(1) Passage of both Steps I and II of the United States Medical Licensing Examination.

(2) Completion of a minimum of two (2) years of postgraduate training in a hospital or institution in the United States or Canada that meets the requirements for an approved internship or residency under this rule.

(3) Certification by the Educational Commission on Foreign Medical Graduates.

(4) Passing such other examinations as may be required by the board.

*(Medical Licensing Board of Indiana; 844 IAC 4-4.5-11; filed Sep 3, 2002, 3:38 p.m.: 26 IR 31; readopted filed Oct 10, 2008, 8:57 a.m.: 20081105-IR-844080339RFA)*

#### **844 IAC 4-4.5-12 Passing requirements for United States Medical Licensing Examination**

Authority: IC 25-22.5-2-7

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

Sec. 12. The following are the examination passing requirements for licensure:

(1) A score of seventy-five (75) is the minimum passing score for all steps of the United States Medical Licensing Examination (USMLE).

(2) An applicant may have a maximum of three (3) attempts to pass each step of the USMLE. Therefore, upon the third seating of each step of the exam, the applicant must obtain a passing score.

(3) All steps of the USMLE must be taken and successfully passed within a ten (10) year time period. This ten (10) year period begins when the applicant first passes a step, either Step I or Step II. In counting the number of attempts regarding USMLE steps, previous attempts on the National Board Medical Examination and the examination of the Federation of State Medical Boards of the United States are included.

*(Medical Licensing Board of Indiana; 844 IAC 4-4.5-12; filed Sep 3, 2002, 3:38 p.m.: 26 IR 31; filed Jun 7, 2004, 4:15 p.m.: 27 IR 3072; filed Jun 10, 2008, 9:46 a.m.: 20080709-IR-844070723FRA)*

#### **844 IAC 4-4.5-13 Passing requirements for Comprehensive Osteopathic Medical Licensing Examination**

Authority: IC 25-22.5-2-7

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

Sec. 13. The following are the examination passing requirements for licensure:

(1) A score of three hundred fifty (350) is the minimum passing score for Step III of the Comprehensive Osteopathic Medical Licensing Examination (COMLEX-USA).

(2) An applicant may have a maximum of five (5) attempts to pass each step of the COMLEX-USA. Therefore, upon the fifth seating of each step of the exam, the applicant must obtain a passing score.

(3) All steps of the COMLEX-USA must be taken and passed in sequential order within a seven (7) year time period. This seven (7) year period begins when the applicant first takes Step I. In counting the number of attempts regarding COMLEXUSA steps, previous attempts on the National Board Osteopathic Medical Examination are included.

*(Medical Licensing Board of Indiana; 844 IAC 4-4.5-13; filed Sep 3, 2002, 3:38 p.m.: 26 IR 32; readopted filed Oct 10, 2008, 8:57 a.m.: 20081105-IR-844080339RFA)*

#### **844 IAC 4-4.5-14 Temporary permits for endorsement applicants**

Authority: IC 25-22.5-2-7

Affected: IC 25-1-8-2; IC 25-22.5-5-2

Sec. 14. (a) An applicant seeking a temporary permit to practice medicine or osteopathic medicine based upon licensure in another state of the United States, its possessions, or Canada shall file an application for licensure and a temporary permit on a form supplied by the board and submit the fees required by 844 IAC 4-2-2.

(b) The applicant for a temporary medical permit shall submit the following:

(1) One (1) recent passport-type photograph of the applicant, taken within eight (8) weeks prior to filing the application.

(2) Proof of holding a current and valid unrestricted license to practice medicine or osteopathic medicine in another state of the United States, its possessions, or Canada.

(c) All information on the application shall be submitted under oath or affirmation, subject to the penalties for perjury.

(d) A temporary medical permit issued under this section shall remain in effect for a period not to exceed ninety (90) days.

(e) If the application for licensure under IC 25-22.5-5-2 is denied, the temporary permit becomes null and void immediately upon denial.

(f) If an extension of the temporary permit past ninety (90) days is required due to an incomplete license application file, the request for an extension of time must be submitted in writing (via letter, facsimile transmission, or electronic mail transmission) to the director of the board and received prior to the expiration date of the temporary medical permit.

*(Medical Licensing Board of Indiana; 844 IAC 4-4.5-14; filed Sep 3, 2002, 3:38 p.m.: 26 IR 32; readopted filed Oct 10, 2008, 8:57 a.m.: 20081105-IR-844080339RFA)*

#### **844 IAC 4-4.5-15 Temporary medical permits for postgraduate training**

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

Sec. 15. (a) A temporary medical permit issued for postgraduate medical education or training shall include internships, transitional programs, residency training, or other postgraduate medical education in a medical institution or hospital located in Indiana that meets the requirements of section 4 of this rule. A temporary medical permit for postgraduate training may be issued to a person who has:

- (1) 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 board;
- (2) submitted an application for a temporary medical permit;
- (3) submitted one (1) recent passport-type photograph of the applicant, taken within eight (8) weeks prior to filing the application;
- (4) paid the nonrefundable fee specified in 844 IAC 4-2-2; and
- (5) provided documented evidence of acceptance into a postgraduate medical education or training program located in Indiana which meets the requirements of section 4 of this rule.

(b) Graduates of a school outside of the United States, its possessions, or Canada must submit proof of certification by the Educational Commission on Foreign Medical Graduates.

(c) All information on the application shall be submitted under oath or affirmation, subject to the penalties for perjury.

(d) A temporary medical permit issued under this section shall remain in force and effect for a period of one (1) year. A temporary medical permit issued under this section may be renewed for an additional one (1) year period, provided that the applicant submits an application and pays the nonrefundable fee. Temporary medical permits issued under this section to persons having passed Steps I and II of the United States Medical Licensing Examination (USMLE) or Comprehensive Osteopathic Medical Licensing Examination United States Medical Licensing Examination (COMLEX-USA), and who have failed Step III of the USMLE or the COMLEX-USA may be renewed and reissued to the applicant, at the discretion of the board.

(e) After seven (7) years expires from the date when the applicant first took a step of the USMLE or the COMLEX-USA, the temporary permit becomes invalid without further action of the board and cannot be renewed.

(f) A temporary medical permit issued under this section 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 board in which the applicant is employed, assigned, or enrolled, which limitation shall be stated on the face of the temporary medical permit.

(g) If training will occur in more than one (1) facility, the applicant must submit with the application for a temporary medical permit identifying information for each facility in which training will occur.

(h) A person issued a temporary medical permit under this section 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.

*(Medical Licensing Board of Indiana; 844 IAC 4-4.5-15; filed Sep 3, 2002, 3:38 p.m.: 26 IR 32; readopted filed Oct 10, 2008, 8:57 a.m.: 20081105-IR-844080339RFA)*

#### **844 IAC 4-4.5-16 Temporary medical permits for teaching in an accredited medical school**

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

Sec. 16. (a) A medical educational institution located in Indiana may apply for a temporary medical permit for teaching for a practitioner in the active practice of medicine outside of Indiana or the United States, but who is not licensed in Indiana, to teach medicine in the institution. The institution and the practitioner shall file an application, which shall include the following:

- (1) Documentation certifying the person's professional qualifications.
- (2) The term of the teaching appointment.
- (3) The medical subjects to be taught.
- (4) One (1) recent passport-type photograph of the person, taken within eight (8) weeks prior to filing the application.
- (5) The nonrefundable fee specified in 844 IAC 4-2-2.

(b) All information on the application shall be submitted under oath or affirmation, subject to the penalties for perjury.

(c) A temporary medical teaching permit issued under this section shall authorize the practitioner to teach medicine in the institution for a stated period not to exceed one (1) year.

(d) The temporary medical teaching permit must be kept in the possession of the institution and surrendered by it to the board for cancellation within thirty (30) days after the practitioner has ceased teaching in the institution.

(e) The permit authorizes the practitioner to practice in the institution only and, in the course of teaching, to practice those medical or osteopathic medical acts as are usually and customarily performed by a physician teaching in a medical educational institution, but does not authorize the practitioner to practice medicine or osteopathic medicine otherwise.

*(Medical Licensing Board of Indiana; 844 IAC 4-4.5-16; filed Sep 3, 2002, 3:38 p.m.: 26 IR 33; readopted filed Oct 10, 2008, 8:57 a.m.: 20081105-IR-844080339RFA)*

#### **844 IAC 4-4.5-17 Limited scope 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

Sec. 17. (a) A person not currently licensed to practice medicine in Indiana, yet licensed to practice medicine or osteopathic medicine by any board or licensing agency of any state or jurisdiction may make application for a limited scope temporary medical

permit that, if issued under this section, shall remain valid for a nonrenewable period not to exceed thirty (30) days.

(b) A person seeking a limited scope temporary medical permit under this section shall do the following:

(1) Complete an application form supplied by the board, specifying the following:

(A) The reasons for seeking a temporary medical permit.

(B) The location or locations where the applicant will provide medical services.

(C) The type, extent, and specialization of medical services that the applicant intends to, or may, provide.

(D) The activity, organization, function, or event with regard to which the applicant may provide medical services.

(2) The applicant's residence and office addresses and phone numbers.

(3) Pay to the board the nonrefundable fee specified by 844 IAC 4-2-2, at the time the application for temporary medical permit is filed.

(4) Submit one (1) recent passport-type photograph of the applicant, taken within eight (8) weeks prior to filing the application, simultaneously with filing the application for a temporary medical permit.

(5) Submit proof of holding a current and valid unrestricted license to practice medicine or osteopathic medicine in another state or jurisdiction.

(6) Submit a certified copy of the original medical school or osteopathic medical school diploma. The following requirements apply in the event that such diploma has been lost or destroyed:

(A) The applicant shall submit, 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 the applicant graduated, stating that the applicant has satisfactorily completed the prescribed course of study, the actual degree conferred, and the date of graduation.

(B) The applicant shall submit an affidavit fully and clearly stating the circumstances under which his or her diploma was lost or destroyed.

(C) In exceptional circumstances, the board 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.

(c) All information on the application shall be submitted under oath or affirmation, subject to the penalties for perjury.

(d) Temporary medical permits issued under this section 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 temporary medical permit.

*(Medical Licensing Board of Indiana; 844 IAC 4-4.5-17; filed Sep 3, 2002, 3:38 p.m.: 26 IR 33; readopted filed Oct 10, 2008, 8:57 a.m.: 20081105-IR-844080339RFA)*

#### **844 IAC 4-4.5-18 Temporary medical permits; discipline**

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5-3-1; IC 25-22.5-4-1; IC 25-22.5-5-3

Sec. 18. A temporary medical permit issued under this rule may be sanctioned for failure to comply with, or otherwise satisfy, the provisions of IC 25-22.5 or IC 25-1-9.

*(Medical Licensing Board of Indiana; 844 IAC 4-4.5-18; filed Sep 3, 2002, 3:38 p.m.: 26 IR 34; readopted filed Oct 10, 2008, 8:57 a.m.: 20081105-IR-844080339RFA)*

#### **844 IAC 4-4.5-19 Notice of address change**

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5-2-7

Sec. 19. (a) Every person issued a permit or license shall inform the board of the following in writing by mail, facsimile transmission, or electronic mail transmission:

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

(2) All changes of address, including additional practice locations and residential addresses, or removals from such addresses within twenty (20) days of each such occurrence.

(b) Where the practitioner has more than one (1) address, the practitioner must notify the board which of the addresses is the practitioner's primary mailing address.

(c) A practitioner's failure to receive notification of licensure or permit renewal due to a failure to notify the board of a change of address shall not constitute an error on the part of the board nor shall it exonerate or otherwise excuse the practitioner from renewing such license or permit as required by law.

*(Medical Licensing Board of Indiana; 844 IAC 4-4.5-19; filed Sep 3, 2002, 3:38 p.m.: 26 IR 34; readopted filed Oct 10, 2008, 8:57 a.m.: 20081105-IR-844080339RFA)*

### **Rule 5. Preceptorships**

#### **844 IAC 4-5-1 Examination of foreign medical graduates (Repealed)**

Sec. 1. *(Repealed by Medical Licensing Board of Indiana; filed Sep 3, 2002, 3:38 p.m.: 26 IR 34)*

#### **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 filed Dec 10, 2001, 3:47 p.m.: 25 IR 1732; readopted filed Oct 10, 2008, 8:57 a.m.: 20081105-IR-844080339RFA)*

### **844 IAC 4-6-2 Mandatory renewal; notice (Repealed)**

Sec. 2. *(Repealed by Medical Licensing Board of Indiana; filed Sep 3, 2002, 3:38 p.m.: 26 IR 34)*

### **844 IAC 4-6-2.1 Mandatory renewal; notice**

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5

Sec. 2.1. (a) On or before sixty (60) days prior to June 30 of odd-numbered years, the board, or its duly authorized agent, shall issue a notice of expiration to each holder of a license that the holder is required to renew the holder's license.

(b) This notice will be sent to the address of record. If the practitioner has moved since the last renewal and has not notified the board of the new address, the board is not responsible for the untimely renewal of said license or its subsequent denial.

*(Medical Licensing Board of Indiana; 844 IAC 4-6-2.1; filed Sep 3, 2002, 3:38 p.m.: 26 IR 34; readopted filed Oct 10, 2008, 8:57 a.m.: 20081105-IR-844080339RFA)*

### **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 filed Dec 10, 2001, 3:47 p.m.: 25 IR 1732; readopted filed Oct 10, 2008, 8:57 a.m.: 20081105-IR-844080339RFA)*

### **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 filed Dec 10, 2001, 3:47 p.m.: 25 IR 1732; readopted filed Oct 10, 2008, 8:57 a.m.: 20081105-IR-844080339RFA)*

### **844 IAC 4-6-5 Delinquent renewal (Repealed)**

Sec. 5. *(Repealed by Medical Licensing Board of Indiana; filed Sep 3, 2002, 3:38 p.m.: 26 IR 34)*

### **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 filed Dec 10, 2001, 3:47 p.m.: 25 IR 1732; readopted filed Oct 10, 2008, 8:57 a.m.: 20081105-IR-844080339RFA)*

### **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 filed Dec 10, 2001, 3:47 p.m.: 25 IR 1732; readopted filed Oct 10, 2008, 8:57 a.m.: 20081105-IR-844080339RFA)*

#### **844 IAC 4-6-8 Reinstatement after delinquent renewal of license (Repealed)**

Sec. 8. *(Repealed by Medical Licensing Board of Indiana; filed Sep 3, 2002, 3:38 p.m.: 26 IR 34)*

#### **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 filed Dec 10, 2001, 3:47 p.m.: 25 IR 1732; readopted filed Oct 10, 2008, 8:57 a.m.: 20081105-IR-844080339RFA)*

#### **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 filed Dec 10, 2001, 3:47 p.m.: 25 IR 1732; readopted filed Oct 10, 2008, 8:57 a.m.: 20081105-IR-844080339RFA)*

### **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 filed Dec 10, 2001, 3:48 p.m.: 25 IR 1731; readopted filed Oct 10, 2008, 8:57 a.m.: 20081105-IR-844080339RFA)*

#### **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 filed Dec 10, 2001, 3:48 p.m.: 25 IR 1731; readopted filed Oct 10, 2008, 8:57 a.m.: 20081105-IR-844080339RFA)*

#### **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 filed Dec 10, 2001, 3:48*

*p.m.: 25 IR 1731; readopted filed Oct 10, 2008, 8:57 a.m.: 20081105-IR-844080339RFA)*

#### **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 filed Dec 10, 2001, 3:48 p.m.: 25 IR 1731; readopted filed Oct 10, 2008, 8:57 a.m.: 20081105-IR-844080339RFA)*

#### **844 IAC 4-7-5 Examination dates (Repealed)**

Sec. 5. *(Repealed by Medical Licensing Board of Indiana; filed Sep 3, 2002, 3:38 p.m.: 26 IR 34)*

## **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 16-18-2-199; IC 16-42-19-5; IC 25-1-9; IC 25-10; IC 25-13; IC 25-14; IC 25-20; IC 25-23; IC 25-23.5; IC 25-23.6; IC 25-24; IC 25-26-13-17; IC 25-27; IC 25-27.5; IC 25-29; IC 25-33; IC 25-34.5; IC 25-35.6; IC 35-48-1-9; IC 35-48-2

Sec. 1. For purposes of this article and IC 25-1-9, the following definitions apply:

(1) "Addict" means a person who is physiologically and/or psychologically dependent upon a drug that is classified as a narcotic, controlled substance, or dangerous drug.

(2) "Classified as a narcotic" means any substance that 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.

(3) "Controlled substance" has the same meaning set forth in IC 35-48-1-9.

(4) "Dangerous drug" means any substance that 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.

(5) "General health information site" means a noninteractive Internet site that is accessible by anyone with access to the Internet and intended to provide general, user nonspecific information or advice about maintaining health or the treatment of an acute or chronic illness, health condition, or disease state.

(6) "Habitue" means a person who:

(A) is physiologically and/or psychologically dependent upon any narcotic drug classified as a narcotic, dangerous drug, or controlled substance under Indiana law; or

(B) 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.

(7) "Institutional setting" means any health care facility whose primary purpose is to provide a physical environment for patients to obtain health care services, except those places where practitioners, as defined by IC 16-42-19-5, who are duly licensed, engage in private practice and pharmacies licensed under IC 25-26-13-17.

(8) "Internet medical practice site" means a patient-specific Internet site, access to which is limited to licensed physicians, associated medical personnel, and patients.

(9) "Internet site" means an electronic source of health information content, commerce, connectivity, and/or service delivery.

(10) "Legend drug" has the meaning set forth in IC 16-18-2-199.

(11) "Passive tracking mechanism" means a persistent electronic file used to track Internet site navigation, which allows the Internet site to record and retain user-specific navigation information whenever the user accesses the Internet site. Examples include:

(A) cookies;

(B) clear.gifs; or

(C) Web bugs.

(12) "Personal health information" means any information, whether oral or recorded in any form or medium, that:

(A) is created or received by a physician or other health care provider, health plan, public health authority, employer, life insurer, school or university, or health care clearinghouse; and

(B) relates to the:

- (i) past, present, or future physical or mental health or condition of an individual;
- (ii) provision of health care to an individual; or
- (iii) past, present, or future payment for the provision of health care to an individual.

(13) "Physician-patient e-mail" means computer-based communication between physicians or associated medical personnel and patients within a professional relationship in which the physician has taken on an explicit measure of responsibility for the patient's care.

(14) "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.

(15) "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.

(16) "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:

- (A) Any chiropractor licensed under IC 25-10.
- (B) Any dental hygienist licensed under IC 25-13.
- (C) Any dentist licensed under IC 25-14.
- (D) Any hearing aid dealer licensed under IC 25-20.
- (E) Any nurse licensed under IC 25-23.
- (F) Any optometrist licensed under IC 25-24.
- (G) Any pharmacist licensed under IC 25-26.
- (H) Any physical therapist licensed under IC 25-27.
- (I) Any podiatrist licensed under IC 25-29.
- (J) Any psychologist licensed under IC 25-33.
- (K) Any speech pathologist or audiologist licensed under IC 25-35.6.
- (L) Any respiratory care practitioner certified under IC 25-34.5.
- (M) Any occupational therapist certified under IC 25-23.5.
- (N) Any clinical social worker, marriage and family therapist, or mental health counselor licensed under IC 25-23.6.
- (O) Any physician assistant certified under IC 25-27.5.
- (P) Any hypnotist certified under IC 25-20.5-1-7 [IC 25-20.5-1 was repealed by P.L. 84-2010, SECTION 102, effective July 1, 2010].

*(Medical Licensing Board of Indiana; 844 IAC 5-1-1; filed Apr 12, 1984, 8:28 a.m.: 7 IR 1522; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325; filed Oct 1, 2003, 9:32 a.m.: 27 IR 521; readopted filed Dec 1, 2009, 9:13 a.m.: 20091223-IR-844090779RFA; readopted filed Jun 16, 2010, 12:14 p.m.: 20100630-IR-844090779RFA)*

#### **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)*

#### **844 IAC 5-1-3 Disciplinary action**

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9

Sec. 3. Failure to comply with this article 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 rule 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; filed Oct 1, 2003, 9:32 a.m.: 27 IR 522; readopted filed Dec 1, 2009, 9:13 a.m.: 20091223-IR-844090779RFA; readopted filed Jun 16, 2010, 12:14 p.m.: 20100630-IR-844090779RFA)*

## **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; readopted filed Oct 4, 2007, 3:36 p.m.: 20071031-IR-844070050RFA)*

#### **844 IAC 5-2-2 Confidentiality**

Authority: IC 25-22.5-2-7

Affected: 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; readopted filed Oct 4, 2007, 3:36 p.m.: 20071031-IR-844070050RFA)*

#### **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; readopted filed Oct 4, 2007, 3:36 p.m.: 20071031-IR-844070050RFA)*

#### **844 IAC 5-2-4 Case withdrawal**

Authority: IC 25-22.5-2-7

Affected: 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; readopted filed Oct 4, 2007, 3:36 p.m.: 20071031-IR-844070050RFA)*

#### **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; readopted filed Oct 4, 2007, 3:36 p.m.: 20071031-IR-844070050RFA)*

#### **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; readopted filed Oct 4, 2007, 3:36 p.m.: 20071031-IR-844070050RFA)*

#### **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; readopted filed Oct 4, 2007, 3:36 p.m.: 20071031-IR-844070050RFA)*

#### **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; readopted filed Oct 4, 2007, 3:36 p.m.: 20071031-IR-844070050RFA)*

#### **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; readopted filed Oct 4, 2007, 3:36 p.m.: 20071031-IR-844070050RFA)*

#### **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; readopted filed Oct 4, 2007, 3:36 p.m.: 20071031-IR-844070050RFA)*

#### **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; readopted filed Oct 4, 2007, 3:36 p.m.: 20071031-IR-844070050RFA)*

#### **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; readopted filed Oct 4, 2007, 3:36 p.m.: 20071031-IR-844070050RFA)*

#### **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; readopted filed Oct 4, 2007, 3:36 p.m.: 20071031-IR-844070050RFA)*

#### **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; readopted filed Oct 4, 2007, 3:36 p.m.: 20071031-IR-844070050RFA)*

#### **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; readopted filed Oct 4, 2007, 3:36 p.m.: 20071031-IR-844070050RFA)*

#### **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; readopted filed Oct 4, 2007, 3:36 p.m.: 20071031-IR-844070050RFA)*

#### **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; readopted filed Oct 4, 2007, 3:36 p.m.: 20071031-IR-844070050RFA)*

#### **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; readopted filed Oct 4, 2007, 3:36 p.m.: 20071031-IR-844070050RFA)*

#### **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; readopted filed Oct 4, 2007, 3:36 p.m.: 20071031-IR-844070050RFA)*

#### **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; readopted filed Oct 4, 2007, 3:36 p.m.: 20071031-IR-844070050RFA)*

#### **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.)*

#### **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; readopted filed Oct 4, 2007, 3:36 p.m.: 20071031-IR-844070050RFA)*

### **Rule 3. Appropriate Use of the Internet in Medical Practice**

#### **844 IAC 5-3-1 General provisions**

Authority: IC 25-22.5-2-7

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

Sec. 1. A practitioner shall comply with this article when utilizing the Internet in the delivery of patient care.

*(Medical Licensing Board of Indiana; 844 IAC 5-3-1; filed Oct 1, 2003, 9:32 a.m.: 27 IR 522; readopted filed Dec 1, 2009, 9:13 a.m.: 20091223-IR-844090779RFA; readopted filed Jun 16, 2010, 12:14 p.m.: 20100630-IR-844090779RFA)*

#### **844 IAC 5-3-2 Evaluation of the patient**

Authority: IC 25-22.5-2-7

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

Sec. 2. A documented patient evaluation, including history and physical evaluation adequate to establish diagnoses and identify underlying conditions or contraindications to the treatment recommended or provided, must be obtained prior to providing treatment, including issuing prescriptions, electronically or otherwise.

*(Medical Licensing Board of Indiana; 844 IAC 5-3-2; filed Oct 1, 2003, 9:32 a.m.: 27 IR 523; readopted filed Dec 1, 2009, 9:13 a.m.: 20091223-IR-844090779RFA; readopted filed Jun 16, 2010, 12:14 p.m.: 20100630-IR-844090779RFA)*

#### **844 IAC 5-3-3 Treatment**

Authority: IC 25-22.5-2-7

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

Sec. 3. Treatment, including issuing a prescription, based solely on an on-line questionnaire or consultation is prohibited.

*(Medical Licensing Board of Indiana; 844 IAC 5-3-3; filed Oct 1, 2003, 9:32 a.m.: 27 IR 523; readopted filed Dec 1, 2009, 9:13 a.m.: 20091223-IR-844090779RFA; readopted filed Jun 16, 2010, 12:14 p.m.: 20100630-IR-844090779RFA)*

#### **844 IAC 5-3-4 Electronic communications**

Authority: IC 25-22.5-2-7

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

Sec. 4. (a) Written policies and procedures must be maintained by the physician for the use of patient-physician electronic mail.

Such policies and procedures must address the following:

- (1) Privacy.
- (2) Health care personnel (in addition to the physician addressee) who will process messages.
- (3) Hours of operation.
- (4) Types of transactions that will be permitted electronically.
- (5) Required patient information to be included in the communication, such as patient name, identification number, and type of transaction.
- (6) Archival and retrieval of patient medical data.
- (7) Quality oversight mechanisms.
- (8) Protocol to be followed in emergency situations.

(b) Policies and procedures must be periodically evaluated for currency and maintained in an accessible and readily available manner for review.

(c) Sufficient security measures must be in place and documented to assure confidentiality and integrity of patient-identifiable information. Transmissions, including patient e-mail, prescriptions, and laboratory results must be secure within existing technology, that is, password protected, encrypted electronic prescriptions, or other reliable authentication techniques.

(d) Patient-physician e-mail pertinent to the ongoing care of the patient, as well as other patient-related electronic communications, must be maintained as part of, and integrated into, the patient's medical record, whether that record is paper or electronic.

(e) Turnaround time shall be established for patient-physician e-mail and medical practice sites must clearly indicate alternative form or forms of communication for urgent matters.

(f) E-mail systems must be configured to include an automatic reply to acknowledge message delivery and that messages have been read. Patients must be encouraged to confirm that they have received and read messages.

*(Medical Licensing Board of Indiana; 844 IAC 5-3-4; filed Oct 1, 2003, 9:32 a.m.: 27 IR 523; readopted filed Dec 1, 2009, 9:13 a.m.: 20091223-IR-844090779RFA; readopted filed Jun 16, 2010, 12:14 p.m.: 20100630-IR-844090779RFA)*

#### **844 IAC 5-3-5 Informed consent**

Authority: IC 25-22.5-2-7

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

Sec. 5. A written agreement must be employed documenting patient informed consent for the use of patient-physician e-mail.

The agreement must be discussed with and signed by the patient and included in the medical record. The agreement must include

the following terms:

- (1) Types of transmissions that will be permitted, such as:
  - (A) prescription refills;
  - (B) appointment scheduling; and
  - (C) patient education.
- (2) Fees, if any, that will be assessed for on-line consultations or other electronic communication.
- (3) Under what circumstances alternate forms of communication or office visits must be utilized.
- (4) A statement that physician-patient e-mail is not to be used in emergency situations.
- (5) Instructions on what steps the patient should take in an emergency situation.
- (6) Security measures, such as encrypting data, password protected screen savers and data files, or utilizing other reliable authentication techniques, as well as potential risks to privacy.
- (7) Hold harmless clause for information lost due to technical failures.
- (8) Requirement for express patient consent to forward patient-identifiable information to a third party.
- (9) Patient's failure to comply with the agreement may result in physician terminating the e-mail relationship.

*(Medical Licensing Board of Indiana; 844 IAC 5-3-5; filed Oct 1, 2003, 9:32 a.m.: 27 IR 523; readopted filed Dec 1, 2009, 9:13 a.m.: 20091223-IR-844090779RFA; readopted filed Jun 16, 2010, 12:14 p.m.: 20100630-IR-844090779RFA)*

#### **844 IAC 5-3-6 Medical records**

Authority: IC 25-22.5-2-7

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

Sec. 6. (a) The medical record must include written or electronic copies of all patient-related electronic communications, including the following:

- (1) Patient-physician e-mail.
- (2) Prescriptions.
- (3) Laboratory and test results.
- (4) Evaluations and consultations.
- (5) Records of past care.
- (6) Instructions.

Informed consent agreements related to the use of e-mail shall also be filed in the medical record.

(b) Patient medical records must remain current and accessible for review and be maintained in compliance with applicable state and federal requirements.

*(Medical Licensing Board of Indiana; 844 IAC 5-3-6; filed Oct 1, 2003, 9:32 a.m.: 27 IR 523; readopted filed Dec 1, 2009, 9:13 a.m.: 20091223-IR-844090779RFA; readopted filed Jun 16, 2010, 12:14 p.m.: 20100630-IR-844090779RFA)*

#### **844 IAC 5-3-7 Disclosure**

Authority: IC 25-22.5-2-7

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

Sec. 7. (a) An interactive Internet medical practice site is a practice location and requires a defined physician-patient relationship.

(b) Internet medical practice sites must clearly disclose the following:

- (1) The owner of the site.
- (2) The specific services provided.
- (3) The office address and contact information for the medical practice.
- (4) Licensure and qualifications of the physician or physicians and associated health care providers.
- (5) Fees for on-line consultation and services and how payment is to be made.
- (6) Financial interests in any information, products, or services.
- (7) Appropriate uses and limitations of the site, including providing health advice and emergency health situations.
- (8) Uses and response times for e-mails, electronic messages, and other communications transmitted via the site.
- (9) To whom patient health information may be disclosed and for what purpose.
- (10) Rights of patients with respect to patient health information.
- (11) Information collected and any passive tracking mechanisms utilized.

*(Medical Licensing Board of Indiana; 844 IAC 5-3-7; filed Oct 1, 2003, 9:32 a.m.: 27 IR 524; readopted filed Dec 1, 2009, 9:13 a.m.: 20091223-IR-844090779RFA; readopted filed Jun 16, 2010, 12:14 p.m.: 20100630-IR-844090779RFA)*

#### **844 IAC 5-3-8 Accountability**

Authority: IC 25-22.5-2-7

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

Sec. 8. Medical practice sites must provide patients a clear mechanism to do the following:

- (1) Access, supplement, and amend patient-provided personal health information.
- (2) Provide feedback regarding the site and the quality of information and services.
- (3) Register complaints, including information regarding filing a complaint with the consumer protection division of the office

of the attorney general.

*(Medical Licensing Board of Indiana; 844 IAC 5-3-8; filed Oct 1, 2003, 9:32 a.m.: 27 IR 524; readopted filed Dec 1, 2009, 9:13 a.m.: 20091223-IR-844090779RFA; readopted filed Jun 16, 2010, 12:14 p.m.: 20100630-IR-844090779RFA)*

#### **844 IAC 5-3-9 Advertising or promotion of goods or products**

Authority: IC 25-22.5-2-7

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

Sec. 9. Advertising or promotion of goods or products from which the physician receives direct remuneration, benefits, or incentives is prohibited unless the physician discloses that the physician receives direct remuneration, benefits, or incentives from the sale of the goods or products.

*(Medical Licensing Board of Indiana; 844 IAC 5-3-9; filed Oct 1, 2003, 9:32 a.m.: 27 IR 524; readopted filed Dec 1, 2009, 9:13 a.m.: 20091223-IR-844090779RFA; readopted filed Jun 16, 2010, 12:14 p.m.: 20100630-IR-844090779RFA).*

#### **844 IAC 5-3-10 Links**

Authority: IC 25-22.5-2-7

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

Sec. 10. Practitioner Internet sites may provide links to general health information sites to enhance patient education; however, the physician shall not receive direct remuneration, benefits, or incentives from providing such links or from the services or products marketed by such links unless the physician discloses that the physician receives direct remuneration, benefits, or incentives from providing such links or from the services or products marketed by such links.

*(Medical Licensing Board of Indiana; 844 IAC 5-3-10; filed Oct 1, 2003, 9:32 a.m.: 27 IR 524; readopted filed Dec 1, 2009, 9:13 a.m.: 20091223-IR-844090779RFA; readopted filed Jun 16, 2010, 12:14 p.m.: 20100630-IR-844090779RFA)*

### **Rule 4. Prescribing to Persons Not Seen by the Physician**

#### **844 IAC 5-4-1 General provisions**

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5-1-2; IC 25-23-1-19.4

Sec. 1. (a) Except in institutional settings, on-call situations, cross-coverage situations, and situations involving advanced practice nurses with prescriptive authority practicing in accordance with standard care arrangements, as described in subsection (d), a physician shall not prescribe, dispense, or otherwise provide, or cause to be provided, any controlled substance to a person who the physician has never personally physically examined and diagnosed.

(b) Except in institutional settings, on-call situations, cross-coverage situations, and situations involving advanced practice nurses with prescriptive authority practicing in accordance with the requirements of IC 25-23-1-19.4 and 848 IAC 5, as described in subsection (d), a physician shall not prescribe, dispense, or otherwise provide, or cause to be provided, any legend drug that is not a controlled substance to a person who the physician has never personally physically examined and diagnosed unless the physician is providing care in consultation with another physician who has an ongoing professional relationship with the patient, and who has agreed to supervise the patient's use of the drug or drugs to be provided.

(c) A physician shall not advertise or offer, or permit the physician's name or certificate to be used in an advertisement or offer, to provide any legend drug in a manner that would violate subsection (a) or (b).

(d) Subsections (a) and (b) do not apply to or prohibit the following:

(1) The provision of drugs to a person who is admitted as an inpatient to or is a resident of an institutional facility.

(2) The provision of controlled substances or legend drugs by a physician to a person who is a patient of a colleague of the physician, if the drugs are provided pursuant to an on-call or cross-coverage arrangement between the physicians.

(3) The provision of controlled substances or legend drugs by emergency medical squad personnel, nurses, or other appropriately trained and licensed individuals as permitted by IC 25-22.5-1-2.

(4) The provision of controlled substances or drugs by an advanced practice nurse with prescriptive authority practicing in accordance with a standard care arrangement that meets the requirements of IC 25-23-1-19.4 and 848 IAC 5.

*(Medical Licensing Board of Indiana; 844 IAC 5-4-1; filed Oct 1, 2003, 9:32 a.m.: 27 IR 524; errata filed Oct 8, 2003, 1:45 p.m.: 27 IR 538; readopted filed Dec 1, 2009, 9:13 a.m.: 20091223-IR-844090779RFA; readopted filed Jun 16, 2010, 12:14 p.m.: 20100630-IR-844090779RFA)*

#### **844 IAC 5-4-2 Expedited partner therapy**

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9

Sec. 2. Section 1 of this rule does not apply if the physician is prescribing or dispensing medications for the treatment of Chlamydia trachomatis or Neisseria gonorrhoeae to sex partner(s) of the physician's diagnosed patient without requiring examination of the sex partner(s). Medications must be in accordance with current professional theory or practice for the treatment of these infections. The current Centers for Disease Control and Prevention of Sexually Transmitted Diseases Treatment Guidelines shall be considered an authoritative source of such current professional theory or practice. Partner management of patients with gonorrhea or chlamydia shall include providing the following items:

(1) Notification to the infected patient that all partners should be evaluated and treated;

- (2) Written materials for the infected patient to give partners that state that a clinical evaluation is desirable; lists common medication side effects and the appropriate response to them; fact sheets regarding sexually transmitted diseases; and emergency contact information;
- (3) Prescriptions or dispensed medications and accompanying written materials shall be given to the physician's patient for distribution to named partners; and
- (4) The physician shall maintain appropriate documentation of partner management. Documentation shall include the names of partners, if available, and a record of treatment provided. If the partner's name is not available, documentation shall be kept within patient's file.

*(Medical Licensing Board of Indiana; 844 IAC 5-4-2; filed Sep 28, 2011, 11:06 a.m.: 20111026-IR-844110044FRA)*

## **Rule 5. Standards for Procedures Performed in Office-Based Settings That Require Moderate Sedation/Analgesia, Deep Sedation/Analgesia, General Anesthesia, or Regional Anesthesia**

### **844 IAC 5-5-1 Purpose**

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5

Sec. 1. This rule establishes standards for procedures performed in office-based settings that require:

- (1) moderate sedation/analgesia;
- (2) deep sedation/analgesia;
- (3) general anesthesia; or
- (4) regional anesthesia.

*(Medical Licensing Board of Indiana; 844 IAC 5-5-1; filed Apr 24, 2008, 1:41 p.m.: 20080521-IR-844070842FRA)*

### **844 IAC 5-5-2 Application of rule**

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5

Sec. 2. Except as provided in section 15 of this rule, this rule does not apply to:

- (1) local anesthesia;
- (2) topical anesthesia;
- (3) superficial nerve blocks; or
- (4) minimal sedation/anoxiolysis.

*(Medical Licensing Board of Indiana; 844 IAC 5-5-2; filed Apr 24, 2008, 1:41 p.m.: 20080521-IR-844070842FRA)*

### **844 IAC 5-5-3 "Accreditation agency" defined**

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5

Sec. 3. As used in this rule, "accreditation agency" means a public or private organization that is approved to issue certificates of accreditation to office-based settings by the board under this rule.

*(Medical Licensing Board of Indiana; 844 IAC 5-5-3; filed Apr 24, 2008, 1:41 p.m.: 20080521-IR-844070842FRA)*

### **844 IAC 5-5-4 "American Society of Anesthesiologists (ASA) Physical Status Classification System" defined**

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5

Sec. 4. As used in this rule, "American Society of Anesthesiologists (ASA) Physical Status Classification System" refers to the following classifications:

- (1) P1 - A normal healthy patient.
- (2) P2 - A patient with mild systemic disease.
- (3) P3 - A patient with severe systemic disease.
- (4) P4 - A patient with severe systemic disease that is a constant threat to life.
- (5) P5 - A moribund patient who is not expected to survive without the operation.
- (6) P6 - A declared brain-dead patient whose organs are being removed for donor purposes.

*(Medical Licensing Board of Indiana; 844 IAC 5-5-4; filed Apr 24, 2008, 1:41 p.m.: 20080521-IR-844070842FRA)*

### **844 IAC 5-5-5 "Anesthesia" defined**

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5

Sec. 5. As used in this rule, "anesthesia" includes the following:

- (1) Moderate sedation/analgesia.
- (2) Deep sedation/analgesia.
- (3) General anesthesia.
- (4) Regional anesthesia.

*(Medical Licensing Board of Indiana; 844 IAC 5-5-5; filed Apr 24, 2008, 1:41 p.m.: 20080521-IR-844070842FRA)*



**844 IAC 5-5-6 "Deep sedation/analgesia" defined**

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5

Sec. 6. (a) As used in this rule, "deep sedation/analgesia" means a drug-induced depression of consciousness during which patients cannot be easily aroused but respond purposefully following repeated or painful stimulation. For purposes of this rule, reflex withdrawal from a painful stimulus is not considered a purposeful response.

(b) The following are conditions that a patient under deep sedation/analgesia may experience:

- (1) The ability to independently maintain ventilatory function may be impaired.
- (2) Patients may require assistance in maintaining a patent airway, and spontaneous ventilation may be inadequate.
- (3) Cardiovascular function is usually maintained.

*(Medical Licensing Board of Indiana; 844 IAC 5-5-6; filed Apr 24, 2008, 1:41 p.m.: 20080521-IR-844070842FRA)*

**844 IAC 5-5-7 "General anesthesia" defined**

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5

Sec. 7. (a) As used in this rule, "general anesthesia" means a drug-induced loss of consciousness during which patients are not arousable, even by pain stimulation.

(b) The following are conditions that a patient under general anesthesia may experience:

- (1) The ability to independently maintain ventilatory function is often impaired.
- (2) Patients often require assistance in maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function.
- (3) Cardiovascular function may be impaired.

*(Medical Licensing Board of Indiana; 844 IAC 5-5-7; filed Apr 24, 2008, 1:41 p.m.: 20080521-IR-844070842FRA)*

**844 IAC 5-5-8 "Health care provider" defined**

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5

Sec. 8. As used in this rule, "health care provider" means an individual licensed or legally authorized by this state to provide health care services.

*(Medical Licensing Board of Indiana; 844 IAC 5-5-8; filed Apr 24, 2008, 1:41 p.m.: 20080521-IR-844070842FRA)*

**844 IAC 5-5-9 "Immediate presence" defined**

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5

Sec. 9. As used in this rule, "immediate presence" means, at a minimum, that the directing practitioner must be:

- (1) physically located within the office-based setting;
- (2) prepared to immediately conduct hands-on intervention if needed; and
- (3) not engaged in activities that could prevent the practitioner from being able to immediately intervene and conduct hands-on interventions if needed.

*(Medical Licensing Board of Indiana; 844 IAC 5-5-9; filed Apr 24, 2008, 1:41 p.m.: 20080521-IR-844070842FRA)*

**844 IAC 5-5-10 "Local anesthesia" defined**

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5

Sec. 10. As used in this rule, "local anesthesia" means a transient and reversible loss of sensation in a circumscribed portion of the body produced by:

- (1) a local anesthetic agent; or
- (2) cooling a circumscribed area of the skin.

The term includes subcutaneous infiltration of an agent.

*(Medical Licensing Board of Indiana; 844 IAC 5-5-10; filed Apr 24, 2008, 1:41 p.m.: 20080521-IR-844070842FRA)*

**844 IAC 5-5-11 "Minimal sedation/anoxiolysis" defined**

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5

Sec. 11. As used in this rule, "minimal sedation/anoxiolysis" means a drug-induced state during which a patient responds normally to verbal commands. Although cognitive function and coordination may be impaired, ventilatory and cardiovascular functions are usually not affected.

*(Medical Licensing Board of Indiana; 844 IAC 5-5-11; filed Apr 24, 2008, 1:41 p.m.: 20080521-IR-844070842FRA)*

**844 IAC 5-5-12 "Moderate sedation/analgesia" defined**

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5

Sec. 12. (a) As used in this rule, "moderate sedation/analgesia" (also sometimes called "conscious sedation") means a drug induced depression of consciousness during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation.

(b) The following are conditions that a patient under moderate sedation/analgesia may experience:

(1) No interventions are required to maintain a patent airway, and spontaneous ventilation is adequate.

(2) Cardiovascular function is usually maintained.

*(Medical Licensing Board of Indiana; 844 IAC 5-5-12; filed Apr 24, 2008, 1:41 p.m.: 20080521-IR-844070842FRA)*

#### **844 IAC 5-5-13 "Office-based setting" defined**

Authority: IC 25-22.5-2-7

Affected: IC 16-21-2; IC 25-22.5

Sec. 13. As used in this rule, "office-based setting" means any:

(1) facility;

(2) clinic;

(3) center;

(4) office; or

(5) other setting;

where procedures are performed that require moderate sedation/analgesia, deep sedation/analgesia, general anesthesia, or regional anesthesia. The term does not include a hospital operated by the federal government or a setting licensed under IC 16-21-2 as a hospital, ambulatory surgical center, abortion clinic, or birthing center.

*(Medical Licensing Board of Indiana; 844 IAC 5-5-13; filed Apr 24, 2008, 1:41 p.m.: 20080521-IR-844070842FRA)*

#### **844 IAC 5-5-14 "Practitioner" defined**

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5

Sec. 14. As used in this rule, "practitioner" has the meaning set forth in 844 IAC 5-1-1(14).

*(Medical Licensing Board of Indiana; 844 IAC 5-5-14; filed Apr 24, 2008, 1:41 p.m.: 20080521-IR-844070842FRA)*

#### **844 IAC 5-5-15 "Regional anesthesia" defined**

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5

Sec. 15. (a) As used in this rule, "regional anesthesia" means the administration of anesthetic agents to a patient to interrupt nerve impulses without the loss of consciousness and includes the following:

(1) Major conduction blocks, such as:

(A) epidural;

(B) spinal; and

(C) caudal;

blocks.

(2) Peripheral nerve blocks, such as:

(A) brachial;

(B) lumbar plexus;

(C) peribulbar; and

(D) retrobulbar;

blocks.

(3) Intravenous regional anesthesia, such as Bier blocks.

(b) Notwithstanding section 2 of this rule, a superficial nerve block or application of a local anesthetic agent in which the total dosage administered exceeds the recommended maximum dosage per body weight described in the manufacturer's package insert shall be considered regional anesthesia for purposes of this rule.

*(Medical Licensing Board of Indiana; 844 IAC 5-5-15; filed Apr 24, 2008, 1:41 p.m.: 20080521-IR-844070842FRA)*

#### **844 IAC 5-5-16 "Rescue" defined**

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5

Sec. 16. As used in this rule, "rescue" means an intervention by a practitioner proficient in airway management and advanced life support. In rescuing a patient, the practitioner must:

(1) correct adverse physiologic consequences of the deeper-than-intended level of sedation, such as:

(A) hypoventilation;

(B) hypoxia; and

(C) hypotension; and

(2) return the patient to the originally intended level of sedation.

*(Medical Licensing Board of Indiana; 844 IAC 5-5-16; filed Apr 24, 2008, 1:41 p.m.: 20080521-IR-844070842FRA)*

**844 IAC 5-5-17 "Superficial nerve block" defined**

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5

Sec. 17. As used in this rule, "superficial nerve block" means an agent placed in the proximity of any nerve or group of nerves outside of the vertebral canal to produce a loss of sensation in an anatomic or circumscribed area. For purposes of this rule, the term is limited to:

- (1) ankle;
- (2) metacarpal;
- (3) digit; and
- (4) paracervical;

blocks.

*(Medical Licensing Board of Indiana; 844 IAC 5-5-17; filed Apr 24, 2008, 1:41 p.m.: 20080521-IR-844070842FRA)*

**844 IAC 5-5-18 "Topical anesthesia" defined**

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5

Sec. 18. As used in this rule, "topical anesthesia" means a transient and reversible loss of sensation to a circumscribed area produced by an anesthetic agent applied directly or by spray to the skin or mucous membranes.

*(Medical Licensing Board of Indiana; 844 IAC 5-5-18; filed Apr 24, 2008, 1:41 p.m.: 20080521-IR-844070842FRA)*

**844 IAC 5-5-19 Standards for procedures performed in office-based settings**

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5

Sec. 19. (a) Because sedation is a continuum, it is not always possible to predict how an individual patient will respond. Practitioners intending to produce a given level of sedation must be able to rescue a patient whose level of sedation becomes deeper than initially intended. Practitioners administering deep sedation/analgesia in an office-based setting, or directing or supervising the administration of deep sedation/analgesia in an office-based setting, must be able to rescue patients who enter a state of general anesthesia. Practitioners administering moderate sedation/analgesia in an office-based setting, or directing or supervising the administration of moderate sedation/analgesia in an office-based setting, must be able to rescue patients who enter a state of deep sedation/analgesia.

(b) Practitioners administering regional anesthesia, or supervising or directing the administration of regional anesthesia, must be knowledgeable about the risks of regional anesthesia and the interventions required to correct any adverse physiological consequences that may occur in the administration of regional anesthesia.

(c) A health care provider may not administer or monitor an anesthetic agent containing alkylphenols in an office-based setting unless the health care provider is:

- (1) trained in the administration of general anesthesia; and
- (2) not involved in the conduct of the procedure.

*(Medical Licensing Board of Indiana; 844 IAC 5-5-19; filed Apr 24, 2008, 1:41 p.m.: 20080521-IR-844070842FRA)*

**844 IAC 5-5-20 Accreditation required**

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5

Sec. 20. After January 1, 2010, a practitioner may not perform or supervise a procedure that requires anesthesia in an office based setting unless the office-based setting is accredited by an accreditation agency approved by the board under this rule.

*(Medical Licensing Board of Indiana; 844 IAC 5-5-20; filed Apr 24, 2008, 1:41 p.m.: 20080521-IR-844070842FRA)*

**844 IAC 5-5-21 Approval of accreditation agencies; requirements**

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5-1-2

Sec. 21. In approving accreditation agencies to perform accreditation of office-based settings, the board shall ensure that the certification program, at a minimum, includes standards for the following aspects of an office-based setting's operations:

- (1) Anesthesia, as follows:
  - (A) The level of anesthesia administered shall be appropriate for the:
    - (i) patient;
    - (ii) procedure;
    - (iii) clinical setting;
    - (iv) education and training of the personnel; and
    - (v) equipment available.

Practitioners shall select patients for procedures in office-based settings using anesthesia by criteria, including the American Society of Anesthesiologists (ASA) Physical Status Classification System, and so document.

(B) The choice of specific anesthetic agents and techniques shall focus on providing anesthesia that will:

- (i) be safe, effective, and appropriate; and
- (ii) respond to the specific needs of patients while also ensuring rapid recovery to normal function with appropriate efforts to control postoperative pain, nausea, or other side effects.

(C) A health care provider administering anesthesia shall be licensed, qualified, and working within the provider's scope of practice. In those cases in which a nonphysician provider administers the anesthesia, the provider must be:

- (i) under the direction and supervision of a practitioner as required by IC 25-22.5-1-2(a)(20); or
- (ii) under the direction of and in the immediate presence of a practitioner as required by IC 25-22.5-1-2(a)(13),

if the provider is a certified registered nurse anesthetist.

(D) A:

- (i) health care provider who administers anesthesia; and
- (ii) practitioner who:
  - (AA) performs a procedure that requires anesthesia; or
  - (BB) directs or supervises the administration of anesthesia;

in an office-based setting shall maintain current training in advanced resuscitation techniques, such as advanced cardiac life support (ACLS) or pediatric advanced life support (PALS), as applicable. At least one (1) person with ACLS or PALS training should be immediately available until the patient is discharged.

(E) In addition to the health care provider performing the procedure, sufficient numbers of qualified health care providers, each working within the individual provider's scope of practice, must be present to:

- (i) evaluate the patient;
- (ii) assist with the procedure;
- (iii) administer and monitor the anesthesia; and
- (iv) recover the patient.

Other health care providers involved in the delivery of procedures in an office-based setting that require anesthesia, at a minimum, shall maintain training in basic cardiopulmonary resuscitation.

(F) Patients who have preexisting medical or other conditions who may be at particular risk for complications shall be referred to:

- (i) a hospital;
- (ii) an ambulatory surgical center; or
- (iii) another office-based setting appropriate for the procedure and the administration of anesthesia.

(G) The practitioner administering the anesthesia, or supervising or directing the administration of anesthesia as required by clause (C), shall do the following:

- (i) Perform a preanesthetic examination and evaluation or ensure that it has been appropriately performed by a qualified health care provider.
- (ii) Develop the anesthesia plan or personally review and concur with the anesthesia plan if the plan has been developed by a certified registered nurse anesthetist (CRNA).
- (iii) Remain physically present during the operative period and be immediately available until the patient is discharged from anesthesia care for diagnosis, treatment, and management of complications or emergencies.
- (iv) Assure provision of appropriate postanesthesia care.

(H) Patient assessment shall occur throughout the preprocedure, periprocedure, and postprocedure phases. The assessment shall:

- (i) address not only physical and functional status, but also physiological and cognitive status; and
- (ii) be documented in the medical record.

The procedure and anesthesia shall be properly documented in the medical record.

(I) Physiologic monitoring of patients shall be appropriate for the type of anesthesia and individual patient needs, including continuous monitoring or assessment of the following:

- (i) Ventilation.
- (ii) Cardiovascular status.
- (iii) Body temperature.
- (iv) Neuromuscular function and status.
- (v) Patient positioning.
- (vi) Oxygenation using a quantitative technique such as pulse oximetry.

When general anesthesia is used, equipment to assess exhaled carbon dioxide must also be available.

(J) Provisions shall be made for a reliable source of the following:

- (i) Oxygen.
- (ii) Suction.
- (iii) Resuscitation equipment.
- (iv) Emergency drugs.

(2) Procedures, as follows:

(A) Procedures shall be provided by qualified health care providers in an environment that promotes patient safety.

(B) Procedures to be undertaken shall be within the:

- (i) scope of practice, training, and expertise of the health care providers; and

(ii) capabilities of the facilities.

(C) The procedure shall be of a duration and degree of complexity that will permit patients to recover and be discharged from the office-based setting in less than twenty-four (24) hours.

(D) Provisions shall be made for appropriate ancillary services on site or in another predetermined location. Ancillary services shall be provided in a safe and effective manner in accordance with accepted ethical professional practice and statutory requirements. These services include, but are not limited to:

- (i) pharmacy;
- (ii) laboratory;
- (iii) pathology;
- (iv) radiology;
- (v) occupational health; and
- (vi) other associated services.

(3) Facilities and equipment, as follows:

(A) The office-based setting shall:

- (i) be clean and properly maintained and have adequate lighting and ventilation;
- (ii) be equipped with the appropriate medical equipment, supplies, and pharmacological agents that are required

in order to provide:

- (AA) anesthesia;
- (BB) recovery services;
- (CC) cardiopulmonary resuscitation; and
- (DD) other emergency services;
- (iii) have:
  - (AA) appropriate firefighting equipment;
  - (BB) signage;
  - (CC) emergency power capabilities and lighting; and
  - (DD) an evacuation plan;
- (iv) have the necessary:
  - (AA) personnel;
  - (BB) equipment; and
  - (CC) procedures;

to handle medical and other emergencies that may arise in connection with services provided; and

(v) comply with:

(AA) applicable federal, state, and local laws and codes and regulations, and provisions must be made to accommodate disabled individuals in compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.); and

(BB) federal and state laws and regulations regarding protection of the health and safety of employees.

(B) The space allocated for a particular function or service shall be adequate for the activities performed.

(C) In locations where anesthesia is administered, there shall be appropriate anesthesia apparatus and equipment to allow appropriate monitoring of patients. All equipment shall be maintained, tested, and inspected according to the manufacturer's specifications. Backup power sufficient to ensure patient protection in the event of an emergency shall be available. There shall be sufficient space to:

- (i) accommodate all necessary equipment and personnel; and
- (ii) allow for expeditious access to patients and all monitoring equipment.

(D) When anesthesia services are provided to infants and children, the required:

- (i) equipment;
- (ii) medications; and
- (iii) resuscitative capabilities;

shall be appropriately sized for children.

(E) All equipment used in patient care, testing, or emergency situations shall be inspected, maintained, and tested:

- (i) on a regular basis; and
- (ii) according to manufacturers' specifications.

(F) Appropriate emergency equipment and supplies shall be readily accessible to all patient service areas.

(G) Efforts shall be made to eliminate hazards that might lead to:

- (i) slipping;
- (ii) falling;
- (iii) electrical shock;
- (iv) burns;
- (v) poisoning; or
- (vi) other trauma.

(H) Procedures shall be implemented to:

- (i) minimize the sources and transmission of infections; and
- (ii) maintain a sanitary environment.

(I) A system shall be in place to:

- (i) identify;
- (ii) manage;
- (iii) handle;
- (iv) transport;
- (v) treat; and
- (vi) dispose of;

hazardous materials and wastes, whether solid, liquid, or gas.

(J) Smoking must be prohibited in all patient care areas.

*(Medical Licensing Board of Indiana; 844 IAC 5-5-21; filed Apr 24, 2008, 1:41 p.m.: 20080521-IR-844070842FRA).*

#### **844 IAC 5-5-22 Practitioners requirements**

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5

Sec. 22. (a) A practitioner who performs a procedure that requires anesthesia in an office-based setting, or who directs or supervises the administration of anesthesia in an office-based setting, must have:

- (1) admitting privileges at a nearby hospital;
- (2) a transfer agreement with another practitioner who has admitting privileges at a nearby hospital; or
- (3) an emergency transfer agreement with a nearby hospital.

(b) A practitioner who performs a procedure that requires anesthesia in an office-based setting, or who directs or supervises the administration of anesthesia in an office-based setting, shall ensure that a patient's informed consent for the nature and objectives of the anesthesia planned and procedure to be performed is obtained in writing before the procedure is performed. The informed consent shall be:

- (1) obtained after a discussion of the risks, benefits, and alternatives; and
- (2) documented in the patient's medical record.

(c) Written procedures for credible peer review to determine the appropriateness of the following shall be established and reviewed at least annually:

- (1) Clinical decision making.
- (2) Overall quality of care.

(d) Agreements with local emergency medical service (EMS) shall be in place for purposes of transfer of patients to the hospital in case of an emergency. EMS agreements shall be re-signed at least annually.

(e) A practitioner who performs a procedure that requires anesthesia in an office-based setting, or who directs or supervises the administration of anesthesia in an office-based setting, shall show competency by maintaining privileges at an accredited or licensed hospital or ambulatory surgical center, for the procedures they perform in the office-based setting. Alternatively, the governing body of the office-based setting is responsible for a peer review process for privileging practitioners based on nationally recognized credentialing standards.

(f) A practitioner who performs a procedure that requires anesthesia in an office-based setting, or who directs or supervises the administration of anesthesia in an office-based setting, shall have appropriate education and training.

*(Medical Licensing Board of Indiana; 844 IAC 5-5-22; filed Apr 24, 2008, 1:41 p.m.: 20080521-IR-844070842FRA)*

## **INDIANA ADMINISTRATIVE CODE Title 844, Article 13 – ACUPUNCTURISTS**

### **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; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*

##### **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; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*

#### **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; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*

#### **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 13-1-1;

(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; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*

#### **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; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*

#### **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; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*

#### **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; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*

#### **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; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*

**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; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*

**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; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*

**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; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*

**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; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*

#### **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; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*

#### **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; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*

#### **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; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*

#### **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

*(Medical Licensing Board of Indiana; 844 IAC 13-2-6; filed Oct 9, 2001, 2:52 p.m.: 25 IR 806; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*

### **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; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*

#### **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; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*

### **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; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*

#### **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; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*

#### **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; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*

#### **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; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*

### **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; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*

#### **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; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*

#### **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; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*

#### **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; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*

#### **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; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*

#### **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; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*

#### **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; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*

### **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; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*

#### **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; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*

#### **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; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*

#### **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; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*

## **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; readopted filed Oct 4, 2007, 3:34 p.m.: 20071031-IR-844070055RFA)*

## **INDIANA ADMINISTRATIVE CODE Title 844, Article 14 – GENETIC COUNSELORS**

### **ARTICLE 14. Genetic Counselors**

#### **Rule 1. Definitions**

##### **844 IAC 14-1-1 Applicability**

Authority: IC 25-17.3-3-2

Affected: IC 25-17.3

Sec. 1. The definitions in this rule and in IC 25-17.3 apply throughout this article.

*(Medical Licensing Board of Indiana; 844 IAC 14-1-1; filed Jun 1, 2010, 1:15 p.m.: 20100630-IR-844100063FRA)*

##### **844 IAC 14-1-2 "ABGC" defined**

Authority: IC 25-17.3-3-2

Affected: IC 25-17.3

Sec. 2. "ABGC" means the American Board of Genetic Counseling.

*(Medical Licensing Board of Indiana; 844 IAC 14-1-2; filed Jun 1, 2010, 1:15 p.m.: 20100630-IR-844100063FRA)*

##### **844 IAC 14-1-3 "Active candidate status" defined**

Authority: IC 25-17.3-3-2

Affected: IC 25-17.3

Sec. 3. "Active candidate status" means a person who has:

- (1) met the requirements established by the ABGC to take the ABGC certification examination in genetic counseling; and
- (2) has been granted this designation by ABGC.

*(Medical Licensing Board of Indiana; 844 IAC 14-1-3; filed Jun 1, 2010, 1:15 p.m.: 20100630-IR-844100063FRA)*

**844 IAC 14-1-4 "Board" defined**

Authority: IC 25-17.3-3-2

Affected: IC 25-22.5-2-1

Sec. 4. "Board" means the medical licensing board of Indiana established by IC 25-22.5-2-1

*(Medical Licensing Board of Indiana; 844 IAC 14-1-4; filed Jun 1, 2010, 1:15 p.m.: 20100630-IR-844100063FRA)*

**844 IAC 14-1-5 "Direct supervision" defined**

Authority: IC 25-17.3-3-2

Affected: IC 25-17.3

Sec. 5. "Direct supervision" means a genetic supervisor who has the overall responsibility to assess the work of the holder of a temporary license, including regular meetings and chart review, provided that a supervision contract signed by the genetic supervisor and supervisee be on file with both parties. The genetic supervisor shall not be required to be physically present where such licensee provides genetic counseling services; however, the supervisor shall be readily accessible during the performance of the services.

*(Medical Licensing Board of Indiana; 844 IAC 14-1-5; filed Jun 1, 2010, 1:15 p.m.: 20100630-IR-844100063FRA)*

**844 IAC 14-1-6 "Genetic counseling" defined**

Authority: IC 25-17.3-3-2

Affected: IC 25-17.3-2-4

Sec. 6. "Genetic counseling" has the meaning set forth in IC 25-17.3-2-4.

*(Medical Licensing Board of Indiana; 844 IAC 14-1-6; filed Jun 1, 2010, 1:15 p.m.: 20100630-IR-844100063FRA)*

**844 IAC 14-1-7 "Licensee" defined**

Authority: IC 25-17.3-3-2

Affected: IC 25-17.3

Sec. 7. "Licensee" means a licensed genetic counselor under this title.

*(Medical Licensing Board of Indiana; 844 IAC 14-1-7; filed Jun 1, 2010, 1:15 p.m.: 20100630-IR-844100063FRA)*

**844 IAC 14-1-8 "Licensing agency" defined**

Authority: IC 25-17.3-3-2

Affected: IC 25-1-5-3; IC 25-17.3

Sec. 8. "Licensing agency" means the Indiana professional licensing agency established under IC 25-1-5-3.

*(Medical Licensing Board of Indiana; 844 IAC 14-1-8; filed Jun 1, 2010, 1:15 p.m.: 20100630-IR-844100063FRA)*

**844 IAC 14-1-9 "Supervisee" defined**

Authority: IC 25-17.3-3-2

Affected: IC 25-17.3

Sec. 9. "Supervisee" means a genetic counselor with a temporary license.

*(Medical Licensing Board of Indiana; 844 IAC 14-1-9; filed Jun 1, 2010, 1:15 p.m.: 20100630-IR-844100063FRA)*

**844 IAC 14-1-10 "Supervision contract" defined**

Authority: IC 25-17.3-3-2

Affected: IC 25-17.3; IC 25-22.5

Sec. 10. "Supervision contract" means a written contract between the holder of a temporary license and a licensed genetic counselor or physician licensed under IC 25-22.5, that sets forth the manner in which the genetic supervisor will supervise the supervisee and specify the following:

- (1) Assess and document the professional competence, skill, and experience of the supervisee.
- (2) Determine the nature and level of the supervision required by the supervisee.
- (3) Convene monthly to review clinical services and administrative practices.
- (4) Conduct monthly chart or case reviews.
- (5) Provide coverage during absence, incapacity, infirmity, or emergency by the genetic supervisor.

*(Medical Licensing Board of Indiana; 844 IAC 14-1-10; filed Jun 1, 2010, 1:15 p.m.: 20100630-IR-844100063FRA)*

**844 IAC 14-1-11 "Supervisor" defined**



Authority: IC 25-17.3-3-2

Affected: IC 25-17.3; IC 25-22.5

Sec. 11. "Supervisor" means an individual who is a genetic counselor licensed under IC 25-17.3, or a physician licensed to practice medicine under IC 25-22.5 and supervises the holder of a temporary permit.

*(Medical Licensing Board of Indiana; 844 IAC14-1-11; filed Jun 1, 2010, 1:15 p.m.: 20100630-IR-844100063FRA)*

## **Rule 2. Licensure**

### **844 IAC 14-2-1 Requirements for licensure**

Authority: IC 25-17.3-3-2

Affected: IC 25-17.3-4-1

Sec. 1. In order to be licensed as a genetic counselor, all applicants shall do the following:

- (1) File a completed application in the form and manner required by the board.
- (2) Pay fees established by the board in 844 IAC 14-3-1.
- (3) Submit official transcripts showing proof that applicant has received a degree specified in IC 25-17.3-4-1(3).
- (4) Original score report showing that applicant has passed an examination required by IC 25-17.3-4-1(4).
- (5) Cause each state where the applicant is licensed or has been licensed in, as a genetic counselor or any other health profession, to submit to the board verification of the applicant's current status and whether the applicant has been subject to disciplinary action in that state.
- (6) Provide a work history in the practice of genetic counseling on a form provided by the board.

*(Medical Licensing Board of Indiana; 844 IAC 14-2-1; filed Jun 1, 2010, 1:15 p.m.: 20100630-IR-844100063FRA)*

### **844 IAC 14-2-2 Requirements for a temporary license**

Authority: IC 25-17.3-3-2

Affected: IC 25-17.3

Sec. 2. The board may grant a temporary license to an applicant who meets all the qualifications in section 1 of this rule, with the exception of having passed the examination and must provide proof of active candidate status with the ABGC.

*(Medical Licensing Board of Indiana; 844 IAC 14-2-2; filed Jun 1, 2010, 1:15 p.m.: 20100630-IR-844100063FRA)*

## **Rule 3. Fees**

### **844 IAC 14-3-1 Fees**

Authority: IC 25-17.3-3-2

Affected: IC 25-17.3

Sec. 1. An applicant for licensure to practice as a genetic counselor shall pay to the board the following fees:

Application for permanent licensure \$40

Application for a temporary license \$10

Renewal fee \$30 per biennium

*(Medical Licensing Board of Indiana; 844 IAC 14-3-1; filed Jun 1, 2010, 1:15 p.m.: 20100630-IR-844100063FRA)*

## **Rule 4. Renewal**

### **844 IAC 14-4-1 Licensure expiration and renewal**

Authority: IC 25-17.3-3-2

Affected: IC 25-17.3

Sec. 1. (a) A genetic counselor license issued under this article expires on a date established by the licensing agency, and every two (2) years thereafter.

(b) Applicants for renewal must:

- (1) apply for renewal in the manner required by the board in 844 IAC 14-3-1;
- (2) pay a renewal fee established by the board; and
- (3) affirm they have completed the required continuing education.

(c) If a renewal application is not submitted before the license expires under subsection (a), the certificate:

- (1) is delinquent; and
- (2) may be reinstated under section 2 of this rule.

(d) A license holder's failure to receive notice of the upcoming license expiration because of failure to notify the board of a change of address or change of name shall not:

- (1) constitute an error on the part of the board or the licensing agency; or
- (2) excuse the license holder from timely renewal of the certification.

*(Medical Licensing Board of Indiana; 844 IAC 14-4-1; filed Jun 1, 2010, 1:15 p.m.: 20100630-IR-844100063FRA)*

### **844 IAC 14-4-2 Reinstatement of delinquent license**

Authority: IC 25-17.3-3-2

Affected: IC 25-1-8-6; IC 25-17.3

Sec. 2. (a) The holder of a certificate that was issued by the board that is three (3) years or less delinquent shall be reinstated upon meeting the requirements of IC 25-1-8-6(c).

(b) The holder of a certificate that was issued by the board that is more than three (3) years delinquent shall be reinstated upon meeting the requirements of IC 25-1-8-6(d).

*(Medical Licensing Board of Indiana; 844 IAC 14-4-2; filed Jun 1, 2010, 1:15 p.m.: 20100630-IR-844100063FRA)*

**844 IAC 14-4-3 Verification of attendance of continuing education**

Authority: IC 25-17.3-3-2

Affected: IC 25-17.3

Sec. 3. The licensed genetic counselor shall:

(1) retain copies of certificates of completion for continuing education courses for three (3) years from the end of the licensing period for which the continuing education applied; and

(2) provide the board with copies of the certificates of completion upon the board's request for a compliance audit.

*(Medical Licensing Board of Indiana; 844 IAC 14-4-3; filed Jun 1, 2010, 1:15 p.m.: 20100630-IR-844100063FRA)*