

# ARTICLE 7. REINSTATEMENT TO PRACTICE

## Rule 1. General Provisions

### 844 IAC 7-1-1 Evidence for reinstatement

Authority: IC 25-22.5-2-7

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

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

- (1) the person desires in good faith to obtain restoration of such license, registration or approval;
- (2) the term of suspension prescribed in the order of suspension has elapsed or seven (7) years have elapsed since the revocation;
- (3) the person has not engaged in that practice for which that person was licensed, registered or approved, in this state or has attempted to do so from the date discipline was imposed;
- (4) the person has complied fully with the terms, if any, of the order for suspension or revocation;
- (5) the person's attitude with regard to the misconduct, violation of law or rule, or incompetent practice for which the person was disciplined is one of genuine remorse;
- (6) the person has a proper understanding of an attitude towards the standards that are imposed by statute or rule upon persons holding such license, registration or approval as had been suspended or revoked and the person can be reasonably expected to conduct himself/herself in conformity with such standards;
- (7) the person can be safely recommended to the public and applicable professions as a person fit to be reinstated and is able to practice his/her profession with reasonable skill and safety to patients;
- (8) the disability has been removed, corrected or otherwise brought under control if the suspension or revocation was imposed by reason of physical or mental illness or infirmity, or for use of or addiction to intoxicants or drugs;
- (9) the person has successfully taken and completed such written examinations and tests as may be required by the medical licensing board, and has completed such professional training or education under a preceptorship as may be required.

*(Medical Licensing Board of Indiana; 844 IAC 7-1-1; filed Apr 12, 1984, 8:28 am: 7 IR 1526; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325; readopted filed Oct 4, 2007, 3:36 p.m.: 20071031-IR-844070050RFA)*

### 844 IAC 7-1-2 Petitions for reinstatement

Authority: IC 25-22.5-2-7

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

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

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

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

In the event that a person is unable to pay the filing fee or costs or to give security therefor, the person shall file ten (10)

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

BEFORE THE MEDICAL LICENSING BOARD

IN THE MATTER OF:

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

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

(LIST ISSUES)

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

1. Are you presently employed?
  - a. If the answer is yes, state the amount of your salary or wages per month and give the name and address of your employer.
  - b. If the answer is no, state the date of your last employment and the amount of the salary and wages per month which you received.
2. Have you received within the past twelve months any income from a business, profession or other form of self-employment, or in the form of rent payments, interest, dividends, or other source?
  - a. If the answer is yes, describe each source of income, and state the amount received from each during the past twelve months.
3. Do you own any cash or checking or savings account?
  - a. If the answer is yes, state the total value of the items owned.
4. Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)?
  - a. If the answer is yes, describe the property and state its approximate value.
5. List the persons who are dependent upon you for support and state you [sic.] relationship to those persons.

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

\_\_\_\_\_  
(SIGN NAME)

SUBSCRIBED AND SWORN TO before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

The medical licensing board may conduct such investigations and hearings as it may deem appropriate and necessary in ruling upon motions requesting waiver of the prepayment of fees and costs. Although prepayment of fees and costs may be waived by the medical licensing board, the petitioner shall remain responsible for the payment of fees and costs which payment may be a condition of reinstatement. (*Medical Licensing Board of Indiana; 844 IAC 7-1-2; filed Apr 12, 1984, 8:28 am: 7 IR 1526; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325; readopted filed Oct 4, 2007, 3:36 p.m.: 20071031-IR-844070050RFA*)

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

Authority: IC 25-22.5-2-7

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

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

- (1) Promptly notify or cause to be notified by in the manner and method specified by the board, all patients then in the care of the licensee or registrant, or those persons responsible for the patient's care, of the revocation and of the licensee's or registrant's consequent inability to act for or on their behalf in the licensee's or registrant's professional capacity. Such notice shall advise all such patients to seek the services of another licensee in good standing of their own choice.
- (2) Promptly notify or cause to be notified all hospitals, medical and health care facilities where such licensee or registrant has privileges or staff status of the revocation accompanied by a list of all patients then in the care of said licensee or

registrant.

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

- (A) Indiana department of public welfare;
- (B) Social Security Administration;
- (C) the medical licensing board(s), or equivalent state agency, of each state in which the person is licensed, registered or approved;
- (D) drug enforcement administration;
- (E) Indiana hospital association;
- (F) Indiana state medical association;
- (G) Indiana pharmacists association;
- (H) American Medical Association;
- (I) American Osteopathic Association;
- (J) Federation of State Medical Boards of the United States, Inc.

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

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

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

*(Medical Licensing Board of Indiana; 844 IAC 7-1-3; filed Apr 12, 1984, 8:28 am: 7 IR 1528; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325; readopted filed Oct 4, 2007, 3:36 p.m.: 20071031-IR-844070050RFA; readopted filed Nov 25, 2013, 9:24 a.m.: 20131225-IR-844130307RFA)*

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

Authority: IC 25-22.5-2-7

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

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

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

- (A) All active patients then under the licensee's or registrant's care have been notified in the manner and method specified by the board of the licensee's or registrant's suspension and consequent inability to act for or on their behalf in a professional capacity. Such notice shall advise all such patients to seek the services of another licensee or registrant of good standing of their own choice.
- (B) All hospitals, medical and health care facilities where such licensee or registrant has privileges or staff status have been informed of the suspension order.
- (C) Reasonable arrangements were made for the transfer of patient records, radiographic studies, and test results, or copies thereof, to a succeeding licensee or registrant employed by the patient or those responsible for the patient's care.

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

*(Medical Licensing Board of Indiana; 844 IAC 7-1-4; filed Apr 12, 1984, 8:28 am: 7 IR 1528; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325; readopted filed Oct 4, 2007, 3:36 p.m.: 20071031-IR-844070050RFA; readopted filed Nov 25, 2013, 9:24 a.m.: 20131225-IR-844130307RFA)*

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

Authority: IC 25-22.5-2-7

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

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Sec. 5. Whenever a person's license or registration has been revoked or suspended, and said person has not fully complied with the provisions of 844 IAC 7-1-3 and 844 IAC 7-1-4, or if said licensee or registrant has disappeared or died or is otherwise unable to comply with said sections, the medical licensing board shall request the health professions service bureau or any state medical or osteopathic association or any county medical or osteopathic society to take such action as may be appropriate to protect the interest of that person's patients. (*Medical Licensing Board of Indiana; 844 IAC 7-1-5; filed Apr 12, 1984, 8:28 am: 7 IR 1528; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325; readopted filed Oct 4, 2007, 3:36 p.m.: 20071031-IR-844070050RFA*)

### **844 IAC 7-1-6 Surrendered licenses**

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5-3-1

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

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

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

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

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

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

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

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

(1) obtain a complete physical and/or psychiatric examination at the person's expense;

(2) participate in, and complete, courses of continuing medical education specified and approved by the board;

(3) pass an examination specified by the board;

(4) personally appear before board;

(5) perform or refrain from performing such acts as the board may deem appropriate.

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

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

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

In the event that a person is unable to pay the filing fee or costs or to give security therefor, the person shall file the (10) copies of a verified motion requesting waiver of the prepayment of such fees and costs accompanied by an affidavit executed on

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the person's personal knowledge stating that such person is unable to pay such fees and costs or to give security therefor. The affidavit shall be in the form specified by 844 IAC 7-1-2.

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

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

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

- (3) Notify in writing, by first class mail, the following organizations and governmental agencies of the surrender licensure:

- (A) Indiana Department of Public Welfare;

- (B) Social Security Administration;

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

- (D) Drug Enforcement Administration;

- (E) Indiana Hospital Association;

- (F) Indiana State Medical Association;

- (G) Indiana Pharmacists Association;

- (H) American Medical Association;

- (I) American Osteopathic Association;

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

- (K) Indiana Association of Osteopathic Physicians and Surgeons

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

- (5) Within thirty (30) days after the date of license surrender, the licensee shall file an affidavit with the medical licensing board showing compliance with the provisions of 844 IAC 7-1-6(d) which time may be extended by the board. Such affidavit shall also state all other jurisdictions in which the licensee is still licensed.

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

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

- (1) periodic physical and/or psychiatric examination;

- (2) participation in continuing medical education courses;

- (3) periodic personal appearances before the board;

- (4) surrender of permits for the issuance of prescriptions for controlled substances;

- (5) the performance, or prohibition against performing, such acts as the board deems appropriate in the public interest or for purposes of rehabilitation or treatment, if cause therefor is established.

(f) Whenever a person's license has been surrendered, and said person has not fully complied with the provisions of 844 IAC 7-1-6(d), or if said licensee has disappeared or died or is otherwise unable to comply with said section, the medical licensing board shall request the health professions service bureau or any state medical or osteopathic society to take such actions as may be appropriate to protect the interests of that person's patients. (*Medical Licensing Board of Indiana; 844 IAC 7-1-6; filed May 3, 1985, 10:44 am: 8 IR 1157; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325; readopted filed Oct 4, 2007, 3:36 p.m.: 20071031-IR-844070050RFA*)

**844 IAC 7-1-7 Costs of disciplinary proceedings**

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5-3-1

Sec. 7. Persons who have been subjected to disciplinary sanctions by the medical licensing board shall be responsible for the

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payment of the costs of such disciplinary proceedings including, but not limited to, costs for:

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

*(Medical Licensing Board of Indiana; 844 IAC 7-1-7; filed May 3, 1985, 10:44 am: 8 IR 1159; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325; readopted filed Oct 4, 2007, 3:36 p.m.: 20071031-IR-844070050RFA)*

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