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# Indiana Register

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## Readopted Rules

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### TITLE 68 INDIANA GAMING COMMISSION

LSA Document #01-418

Readopts rules in anticipation of IC 4-22-2.5-2, providing that an administrative rule adopted under IC 4-22-2 expires January 1 of the seventh year after the year in which the rule takes effect, unless the rule contains an earlier expiration date. Effective 30 days after filing with the secretary of state.

**OVERVIEW:** Rules to be readopted without changes are as follows:

- 68 IAC 3 MINORITY AND WOMEN'S BUSINESS ENTERPRISES
- 68 IAC 4 CORPORATIONS
- 68 IAC 5 TRANSFER OF OWNERSHIP
- 68 IAC 10 CONDUCT OF GAMING
- 68 IAC 11 INTERNAL CONTROL PROCEDURES
- 68 IAC 12 SECURITY AND SURVEILLANCE
- 68 IAC 13 SEIZURE, FORFEITURE, AND DISCIPLINARY HEARINGS
- 68 IAC 14 GAMING EQUIPMENT
- 68 IAC 15 ACCOUNTING RECORDS AND PROCEDURES
- 68 IAC 16 CREDIT
- 68 IAC 17 MOVEMENT OF GAMING EQUIPMENT
- 68 IAC 18 DISPUTE PROCEDURES
- 68 IAC 19 WAREHOUSES

Questions or comments about the readoption may be directed by mail to the Indiana Gaming Commission, South Tower, Suite 950, 115 West Washington Street, Indianapolis, Indiana 46204 or by electronic mail to [jchelf@igc.state.in.us](mailto:jchelf@igc.state.in.us). Statutory authority: IC 4-33-4-1; IC 4-33-4-2; IC 4-33-4-5.

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## Readopted Rules

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### TITLE 25 INDIANA DEPARTMENT OF ADMINISTRATION

LSA Document #01-125(F)

#### DIGEST

Readopts rules in anticipation of IC 4-22-2.5-2, providing that all rules of the Indiana administrative agencies in force on December 31, 1995, expire on January 1, 2002. Effective 30 days after filing with the secretary of state.

**25 IAC 1.1**                                **25 IAC 2**  
**25 IAC 1.5**                                **25 IAC 4**

SECTION 1. UNDER IC 4-22-2.5-4, THE FOLLOWING ARE READOPTED:

25 IAC 1.1 STATE PROCUREMENT  
25 IAC 1.5 SMALL BUSINESS PROCUREMENTS AND PROJECTS  
25 IAC 2 PUBLIC WORKS DIVISION  
25 IAC 4 OPERATION OF MOTOR VEHICLES

*LSA Document #01-125(F)*

*Intent to Readopt Rules Published: May 1, 2001; 24 IR 2564  
Proposed Readopted Rules Published: August 1, 2001; 24 IR 3788*

*Hearing Held: September 4, 2001*

*Filed with Secretary of State: November 20, 2001, 9:30 a.m.*

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### TITLE 35 BOARD OF TRUSTEES OF THE PUBLIC EMPLOYEES' RETIREMENT FUND

LSA Document #01-217(F)

#### DIGEST

Readopts rules in anticipation of IC 4-22-2.5-2, providing that all rules of the Indiana administrative agencies in force on December 31, 1995, expire on January 1, 2002. Effective 30 days after filing with secretary of state.

**35 IAC 1.2-1-3**                                **35 IAC 1.2-5-13**  
**35 IAC 1.2-3-10**                                **35 IAC 1.2-5-18**  
**35 IAC 1.2-5-5**                                **35 IAC 1.2-5-19**  
**35 IAC 1.2-5-6**                                **35 IAC 1.2-6-3**

SECTION 1. UNDER IC 4-22-2.5-3, 35 IAC 1.2-1-3 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

#### **35 IAC 1.2-1-3 General powers**

**Authority:** IC 5-10.3-3-8  
**Affected:** IC 5-10.2; IC 5-10.3

Sec. 3. The board may employ all necessary employees,

attorneys, as approved by the Indiana attorney general; and consultants to carry out the powers and duties of the fund. (*Board of Trustees of the Public Employees' Retirement Fund; 35 IAC 1.2-1-3; filed Dec 20, 1988, 1:00 p.m.: 12 IR 1078; readopted filed Dec 2, 2001, 12:35 p.m.: 25 IR 1265*)

SECTION 2. UNDER IC 4-22-2.5-3, 35 IAC 1.2-3-10 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

#### **35 IAC 1.2-3-10 Military service**

**Authority:** IC 5-10.3-3-8  
**Affected:** IC 5-10.2; IC 5-10.3-7-5

Sec. 10. In addition to the creditable service allowed by IC 5-10.3-7-5 for military service, a member is also entitled to creditable service as set forth at ~~38 U.S.C. 2021 et seq., Veterans Reemployment Rights~~ **38 U.S.C. 4301, et seq., the Uniformed Services Employment and Reemployment Rights Act of 1994.** (*Board of Trustees of the Public Employees' Retirement Fund; 35 IAC 1.2-3-10; filed Dec 20, 1988, 1:00 p.m.: 12 IR 1080; readopted filed Dec 2, 2001, 12:35 p.m.: 25 IR 1265*)

SECTION 3. UNDER IC 4-22-2.5-3, 35 IAC 1.2-5-5 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

#### **35 IAC 1.2-5-5 Basic salary defined**

**Authority:** IC 5-10.3-3-8  
**Affected:** IC 5-10.2; IC 5-10.3

Sec. 5. For the purpose of computing benefits, basic salary includes regular wages and overtime pay only. The salary shall not be reduced by any ~~deferred compensation plan~~ **salary reduction amounts contributed to Internal Revenue Code Section 125, 457, or 403(b) plans.** Subsequent to July 1, 1987, prosecuting attorneys and deputy prosecuting attorneys paid with state funds shall have only those funds paid by the state considered for computing benefits. (*Board of Trustees of the Public Employees' Retirement Fund; 35 IAC 1.2-5-5; filed Dec 20, 1988, 1:00 p.m.: 12 IR 1082; readopted filed Dec 2, 2001, 12:35 p.m.: 25 IR 1265*)

SECTION 4. UNDER IC 4-22-2.5-3, 35 IAC 1.2-5-6 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

#### **35 IAC 1.2-5-6 Reemployment**

**Authority:** IC 5-10.3-3-8  
**Affected:** IC 5-10.2-4; IC 5-10.3-2-1

Sec. 6. (a) Reemployment terms are set forth at IC 5-10.2-4-8 through IC 5-10.2-4-10.

(b) Under IC 5-10.2-4-8, if the position in which the member is reemployed has an annual salary, which is more than the "exempt amount", then retirement benefit payments shall stop beginning the first of the month following the date ~~of the reemployment~~ **that the member's year-to-date earnings**

## Readopted Rules

from the reemployed position have exceeded the exempt amount. (Board of Trustees of the Public Employees' Retirement Fund; 35 IAC 1.2-5-6; filed Dec 20, 1988, 1:00 p.m.: 12 IR 1082; readopted filed Dec 2, 2001, 12:35 p.m.: 25 IR 1265)

SECTION 5. UNDER IC 4-22-2.5-3, 35 IAC 1.2-5-13 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 35 IAC 1.2-5-13 Beneficiary designation

Authority: IC 5-10.3-3-8

Affected: IC 5-10.2; IC 5-10.3

Sec. 13. (a) Each member of PERF shall designate only one (1) person as a primary beneficiary and only one (1) person as a contingent beneficiary. In lieu of a named individual, the designation of a trust, estate, or legal entity will also be acceptable.; however, such designation will not allow the choice of a joint and survivor option. Active members may designate a primary beneficiary or beneficiaries and a contingent beneficiary or beneficiaries to receive the member's annuity savings account upon the death of the member. Such designations must be on the appropriate form. Forms must be filed and accepted by the fund before they are effective. Contingent beneficiaries shall receive the member's annuity savings account if no primary beneficiaries survive the member. If no primary and no contingent beneficiaries survive the member, the beneficiary shall be the member's estate. In lieu of a named individual, a member may designate a trust, estate, or other legal entity.

(b) If the primary beneficiary designated shall survive the member, he or she shall receive all benefits or funds from the member's participation in the public employees' retirement fund. If the primary beneficiary shall not survive the member, the contingent beneficiary shall receive such benefits or funds. If neither shall survive the member, the beneficiary shall be the member's estate. The member may reserve the right to change the primary or contingent beneficiary at any time prior to the first day of the month that benefits are scheduled to begin by filing a written notice of such change, duly witnessed, with the board of trustees of the public employees' retirement fund of Indiana. (See also section 4 of this rule.) **Members electing a joint survivor option at retirement shall designate only one (1) person as beneficiary for their joint survivor benefits. The beneficiary must be a named individual.**

(c) If more than one (1) beneficiary is named or if a nonspouse is named and the member dies with fifteen (15) or more years of service, then no employer financed monthly benefit will be paid. **Retired members who choose a retirement option other than a joint and survivor option and who do not elect to withdraw the total balance of their annuity savings account may designate a primary beneficiary or beneficiaries and a contingent beneficiary or beneficiaries to receive the unpaid balance, if any, of the member's annuity savings account upon the death of the member.**

Such designations must be on the appropriate form. Forms must be filed and accepted by the fund before they are effective. **Contingent beneficiaries shall receive the member's annuity savings account if no primary beneficiaries survive the member. If no primary and no contingent beneficiaries survive the member, the beneficiary shall be the member's estate. In lieu of a named individual, a member may designate a trust, estate, or other legal entity.** (Board of Trustees of the Public Employees' Retirement Fund; 35 IAC 1.2-5-13; filed Dec 20, 1988, 1:00 p.m.: 12 IR 1083; readopted filed Dec 2, 2001, 12:35 p.m.: 25 IR 1266)

SECTION 6. UNDER IC 4-22-2.5-3, 35 IAC 1.2-5-18 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 35 IAC 1.2-5-18 Minors and other incompetent persons

Authority: IC 5-10.3-3-8

Affected: IC 5-10.2; IC 5-10.3; IC 29-3

Sec. 18. Minors and other incompetent beneficiaries are governed by Indiana guardianship law set forth in ~~IC 29-1-18;~~ **IC 29-3**, Indiana Probate Code. **However, payments may be made to minor beneficiaries pursuant to the Uniform Transfers to Minors Act.** (Board of Trustees of the Public Employees' Retirement Fund; 35 IAC 1.2-5-18; filed Dec 20, 1988, 1:00 p.m.: 12 IR 1084; readopted filed Dec 2, 2001, 12:35 p.m.: 25 IR 1266)

SECTION 7. UNDER IC 4-22-2.5-3, 35 IAC 1.2-5-19 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 35 IAC 1.2-5-19 Proration of retirement costs

Authority: IC 5-10.3-3-8

Affected: IC 5-10.2; IC 5-10.3

Sec. 19. (a) A member with service credit from more than one (1) employer shall have his retirement reserve cost prorated based on months of service among all his **or her** employers.

(b) Any employer may object to this basis of proration by written objection made within fifteen (15) days from receipt by the employer of notification of each such proration.

(c) The board of trustees may, if evidence of substantial inequity is presented by such objecting employer, use the following basis for reaching a result.

(d) The annual compensation for each calendar year or part thereof shall be divided by the annual average consumer price index figure (1967 = \$100) of the U.S. Bureau of Labor Statistics for each such year to determine a weighted salary for each year or part thereof.

(e) The PERF board shall prorate retirement reserve costs to participating employers on the basis of the weighted salary each has paid, **or such other method that, in the judgment of the PERF board, equitably allocates the retirement reserve cost**

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## Readopted Rules

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between the member's employers. (*Board of Trustees of the Public Employees' Retirement Fund; 35 IAC 1.2-5-19; filed Dec 20, 1988, 1:00 p.m.: 12 IR 1084; readopted filed Dec 2, 2001, 12:35 p.m.: 25 IR 1266*)

SECTION 8. UNDER IC 4-22-2.5-3, 35 IAC 1.2-6-3 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### **35 IAC 1.2-6-3 Enlargement of PERF coverage**

**Authority:** IC 5-10.3-3-8

**Affected:** IC 5-10.2; IC 5-10.3-6-2

Sec. 3. (a) A political ~~subdivision~~ **subdivision** admitted to the fund or desiring to enlarge its participation in PERF to cover additional positions may do so by the following:

- (1) A preliminary survey shall be requested and completed **unless a survey is not required pursuant to IC 5-10.3-6-2.**
- (2) Ordinance or resolution of the governing body specifying by departmental, occupational, or other definable classifications the employees who will be added. ~~and which must include each such position so covered.~~
- (3) Such ordinance or resolution must be filed with, and approved by, the board of trustees.
- (4) The effective date of enlargement or admission is either January 1, or July 1, after the date of approval.
- (5) The ordinance or resolution must be filed with the board prior to the effective date.

(b) No retirement benefit resulting from positions included in the enlargement or admission may be paid until six (6) months after the effective date of enlargement or admission. (*Board of Trustees of the Public Employees' Retirement Fund; 35 IAC 1.2-6-3; filed Dec 20, 1988, 1:00 p.m.: 12 IR 1085; readopted filed Dec 2, 2001, 12:35 p.m.: 25 IR 1267*)

*LSA Document #01-217(F)*

*Intent to Readopt Rules Published: July 1, 2001; 24 IR 3204  
Proposed Readopted Rules Published: September 1, 2001; 24 IR 4201*

*Hearing Held: October 4, 2001*

*Approved by Attorney General: November 20, 2001*

*Approved by Governor: November 30, 2001*

*Filed with Secretary of State: December 2, 2001, 12:35 p.m.*

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## **TITLE 55 DEPARTMENT OF COMMERCE**

LSA Document #01-239(F)

### DIGEST

Readopts rules in anticipation of IC 4-22-2.5-2, providing that all rules of the Indiana administrative agencies in force on December 31, 1995, expire on January 1, 2002. Effective 30 days after filing with the secretary of state.

**55 IAC 1**  
**55 IAC 2**  
**55 IAC 3.1**  
**55 IAC 4**

**55 IAC 5**  
**55 IAC 6**  
**55 IAC 8**

SECTION 1. UNDER IC 4-22-2.5-4, THE FOLLOWING ARE READOPTED:

55 IAC 1 NEIGHBORHOOD ASSISTANCE CREDIT PROGRAM  
55 IAC 2 ENERGY DEVELOPMENT BOARD  
55 IAC 3.1 INDIANA RESIDENTIAL CONSERVATION SERVICE PROGRAM  
55 IAC 4 SOLAR ENERGY INCOME TAX CREDIT  
55 IAC 5 INDIANA DAIRY EXPORT CERTIFICATION PROGRAM  
55 IAC 6 INDIANA COMMERCIAL AND APARTMENT CONSERVATION SERVICE PROGRAM  
55 IAC 8 DEBARMENT PROCEDURE

*LSA Document #01-239(F)*

*Intent to Readopt Rules Published: August 1, 2001; 24 IR 3786  
Proposed Readopted Rules Published: November 1, 2001; 25 IR 518*

*Hearing Held: November 26, 2001*

*Filed with Secretary of State: December 2, 2001, 12:30 p.m.*

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## **TITLE 58 ENTERPRISE ZONE BOARD**

LSA Document #01-267(F)

### DIGEST

Readopts rules in anticipation of IC 4-22-2.5-2, providing that all rules of the Indiana administrative agencies in force on December 31, 1995, expire on January 1, 2002. Effective 30 days after filing with the secretary of state.

**58 IAC 1**  
**58 IAC 2**

SECTION 1. UNDER IC 4-22-2.5-4, THE FOLLOWING ARE READOPTED:

58 IAC 1 INDIANA BUSINESS RELOCATION  
58 IAC 2 BUSINESS DISQUALIFICATION

*LSA Document #01-267(F)*

*Intent to Readopt Rules Published: August 1, 2001; 24 IR 3786  
Proposed Readopted Rules Published: November 1, 2001; 25 IR 518*

*Hearing Held: November 26, 2001*

*Filed with Secretary of State: December 2, 2001, 12:30 p.m.*

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## Readopted Rules

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### TITLE 60 OVERSIGHT COMMITTEE ON PUBLIC RECORDS

LSA Document #01-318(F)  
DIGEST

Readopts rules in anticipation of IC 4-22-2.5-2, providing that all rules of the Indiana administrative agencies in force on December 31, 1995, expire on January 1, 2002. Effective 30 days after filing with the secretary of state.

#### 60 IAC 1.1 60 IAC 2

SECTION 1. UNDER IC 4-22-2.5-4, THE FOLLOWING ARE READOPTED:

- 60 IAC 1.1 GENERAL PROVISIONS
- 60 IAC 2 MICROFILMING STANDARDS FOR SOURCE DOCUMENTS WITH A RETENTION PERIOD OF MORE THAN FIFTEEN (15) YEARS

*LSA Document #01-318(F)*  
*Intent to Readopt Rules Published: September 1, 2001; 24 IR 4197*  
*Proposed Readopted Rules Published: November 1, 2001; 25 IR 518*  
*Hearing Held: November 27, 2001*  
*Filed with Secretary of State: December 2, 2001, 12:20 p.m.*

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### TITLE 65 STATE LOTTERY COMMISSION

LSA Document #01-286(F)  
DIGEST

Readopts rules in anticipation of IC 4-22-2.5-2, providing that all rules of the Indiana administrative agencies in force on December 31, 1995, expire on January 1, 2002. Effective 30 days after filing with the secretary of state.

- |              |              |
|--------------|--------------|
| 65 IAC 1     | 65 IAC 4-444 |
| 65 IAC 2     | 65 IAC 4-446 |
| 65 IAC 3     | 65 IAC 5-1   |
| 65 IAC 4-1   | 65 IAC 5-2   |
| 65 IAC 4-2   | 65 IAC 5-3   |
| 65 IAC 4-3   | 65 IAC 5-5   |
| 65 IAC 4-205 | 65 IAC 5-6   |
| 65 IAC 4-248 | 65 IAC 5-7   |
| 65 IAC 4-279 | 65 IAC 5-9   |
| 65 IAC 4-287 | 65 IAC 5-10  |
| 65 IAC 4-332 | 65 IAC 5-12  |
| 65 IAC 4-354 | 65 IAC 6-1   |
| 65 IAC 4-441 | 65 IAC 6-2   |
| 65 IAC 4-442 | 65 IAC 6-3   |
| 65 IAC 4-443 |              |

SECTION 1. UNDER IC 4-22-2.5-4, THE FOLLOWING ARE READOPTED:

- 65 IAC 1 THE COMMISSION
- 65 IAC 2 PROCUREMENT
- 65 IAC 3 RETAILERS
- 65 IAC 4-1 Definitions
- 65 IAC 4-2 General Provisions
- 65 IAC 4-3 Payment of Prizes
- 65 IAC 4-205 Instant Game 473
- 65 IAC 4-248 Instant Game 249
- 65 IAC 4-279 Instant Game 256
- 65 IAC 4-287 Instant Game 287
- 65 IAC 4-332 Instant Game 341
- 65 IAC 4-354 Instant Game 356
- 65 IAC 4-441 Instant Game 587
- 65 IAC 4-442 Instant Game 687
- 65 IAC 4-443 Instant Game 504
- 65 IAC 4-444 Instant Game 499
- 65 IAC 4-446 Instant Game 199
- 65 IAC 5-1 Definitions
- 65 IAC 5-2 General Provisions
- 65 IAC 5-3 Payment of Prizes
- 65 IAC 5-5 Daily3
- 65 IAC 5-6 Daily4
- 65 IAC 5-7 Lotto America
- 65 IAC 5-9 Lucky 5
- 65 IAC 5-10 Hoosier Lotto
- 65 IAC 5-12 Hoosier Lottery Powerball
- 65 IAC 6-1 Definitions
- 65 IAC 6-2 General Provisions
- 65 IAC 6-3 Payment of Prizes

*LSA Document #01-286(F)*  
*Intent to Readopt Rules Published: September 1, 2001; 24 IR 4197*  
*Proposed Readopted Rules Published: October 1, 2001; 25 IR 183*  
*Hearing Held: November 8, 2001*  
*Filed with Secretary of State: November 30, 2001, 11:02 a.m.*

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### TITLE 210 DEPARTMENT OF CORRECTION

LSA Document #01-292(F)  
DIGEST

Readopts rules in anticipation of IC 4-22-2.5-2, providing that all rules of the Indiana administrative agencies in force on December 31, 1995, expire on January 1, 2002. Effective 30 days after filing with the secretary of state.

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|-----------|-----------|
| 210 IAC 1 | 210 IAC 3 |
| 210 IAC 2 | 210 IAC 5 |

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## Readopted Rules

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SECTION 1. UNDER IC 4-22-2.5-4, THE FOLLOWING ARE READOPTED:

- 210 IAC 1 GENERAL PROVISIONS
- 210 IAC 2 COMMUNITY BASED CORRECTIONS
- 210 IAC 3 COUNTY JAIL STANDARDS
- 210 IAC 5 PAROLE AUTHORITY FOR JUVENILES

*LSA Document #01-292(F)*

*Intent to Readopt Rules Published: September 1, 2001; 24 IR 4198*

*Proposed Readopted Rules Published: October 1, 2001; 25 IR 185*

*Hearing Held: November 6, 2001*

*Filed with Secretary of State: November 15, 2001, 10:42 a.m.*

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### TITLE 270 ADJUTANT GENERAL

LSA Document #01-320(F)

#### DIGEST

Readopts rules in anticipation of IC 4-22-2.5-2, providing that all rules of the Indiana administrative agencies in force on December 31, 1995, expire on January 1, 2002. Effective 30 days after filing with the secretary of state.

#### 270 IAC 1

SECTION 1. UNDER IC 4-22-2.5-4, THE FOLLOWING IS READOPTED:

- 270 IAC 1 MILITARY PROPERTY

*LSA Document #01-320(F)*

*Intent to Readopt Rules Published: September 1, 2001; 24 IR 4198*

*Proposed Readopted Rules Published: October 1, 2001; 25 IR 186*

*Hearing Held: November 15, 2001*

*Filed with Secretary of State: November 30, 2001, 10:46 a.m.*

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### TITLE 355 STATE CHEMIST OF THE STATE OF INDIANA

LSA Document #01-48(F)

#### DIGEST

Readopt rules in anticipation of IC 4-22-2.5-2, providing that all rules of the Indiana administrative agencies in force on December 31, 1995, expire on January 1, 2002. Effective 30 days after filing with the secretary of state.

- 355 IAC 4-0.5
- 355 IAC 4-1
- 355 IAC 4-2
- 355 IAC 4-3

- 355 IAC 4-4
- 355 IAC 4-5
- 355 IAC 4-6
- 355 IAC 5

SECTION 1. UNDER IC 4-22-2.5-4, THE FOLLOWING ARE READOPTED:

- 355 IAC 4-0.5 Definitions
- 355 IAC 4-1 Categorization of Licenses and Certificates
- 355 IAC 4-2 Site Awareness and Direct Supervision of Non-Certified Applicators
- 355 IAC 4-3 Financial Responsibility of Commercial Applicators
- 355 IAC 4-4 Records
- 355 IAC 4-5 Licensed Applicators (for Hire) and Registered Technicians; Qualifications, Training and Supervision; Category 7B
- 355 IAC 4-6 Training Requirements for Licensed Applicators and Registered Technicians; Category 3B
- 355 IAC 5 PRIMARY AND SECONDARY CONTAINMENT OF PESTICIDES

*LSA Document #01-48(F)*

*Intent to Readopt Rules Published: March 1, 2001; 24 IR 1944*

*Proposed Readopted Rules Published: July 1, 2001; 24 IR 3221*

*Hearing Held: September 14, 2001*

*Filed with Secretary of State: November 21, 2001, 10:17 a.m.*

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### TITLE 360 STATE SEED COMMISSIONER

LSA Document #01-233(F)

#### DIGEST

Readopts rules in anticipation of IC 4-22-2.5-2, providing that all rules of the Indiana administrative agencies in force on December 31, 1995, expire on January 1, 2002. Effective 30 days after filing with the secretary of state.

#### 360 IAC 1

SECTION 1. UNDER IC 4-22-2.5-4, THE FOLLOWING IS READOPTED:

- 360 IAC 1 STANDARDS FOR SEED AND SEED LABELING

*LSA Document #01-233(F)*

*Intent to Readopt Rules Published: August 1, 2001; 24 IR 3786*

*Proposed Readopted Rules Published: November 1, 2001; 25 IR 519*

*Hearing Held: November 29, 2001*

*Filed with Secretary of State: December 2, 2001, 1:15 p.m.*

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## Readopted Rules

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### TITLE 410 INDIANA STATE DEPARTMENT OF HEALTH

LSA Document #01-240(F)

#### DIGEST

Readopts rules in anticipation of IC 4-22-2.5-2, providing that all rules of the Indiana administrative agencies in force on December 31, 1995, expire on January 1, 2002. Effective 30 days after filing with the secretary of state.

#### 410 IAC 5-10.1

SECTION 1. UNDER IC 4-22-2.5-4, THE FOLLOWING IS READOPTED:

410 IAC 5-10.1 Wireline Service Operations and Subsurface Tracer Studies; Safety Standards

*LSA Document #01-240(F)*

*Intent to Readopt Rules Published: August 1, 2001; 24 IR 3787*

*Proposed Readopted Rules Published: October 1, 2001; 25 IR 187*

*Hearing Held: October 24, 2001*

*Filed with Secretary of State: November 15, 2001, 1:30 p.m.*

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### TITLE 460 DIVISION OF DISABILITY, AGING, AND REHABILITATIVE SERVICES

LSA Document #00-299(F)

#### DIGEST

Readopts rules in anticipation of IC 4-22-2.5-2, providing that all rules of the Indiana administrative agencies in force on December 31, 1995, expire on January 1, 2002. Effective 30 days after filing with secretary of state.

460 IAC 1-1-1

460 IAC 1-1-9

460 IAC 1-1-2

460 IAC 1-1-10

460 IAC 1-1-3

460 IAC 1-1-11

460 IAC 1-1-4

460 IAC 1-1-12

460 IAC 1-1-5

460 IAC 1-1-13

460 IAC 1-1-6

460 IAC 1-1-14

460 IAC 1-1-7

460 IAC 1-1-15

460 IAC 1-1-8

460 IAC 1-1-16

SECTION 1. UNDER IC 4-22-2.5-3, 460 IAC 1-1-1 IS READOPTED TO READ AS FOLLOWS:

#### 460 IAC 1-1-1 Purpose

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-12-33; IC 12-10-12-34; IC 12-15

Sec. 1. The purpose of the health facility preadmission screening program is to determine whether there are community

services available for individuals who need assistance with the tasks of daily living that would be more appropriate than care in a health facility and, if so, to deny permission to enter a health facility unless the individual is willing to forego eligibility for certain Medicaid reimbursement for a period of time beginning from the date of admission as specified in IC 12-10-12-33 and IC 12-10-12-34. (*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-1-1; filed Jul 25, 1985, 3:39 p.m.: 8 IR 1984; filed Aug 7, 1995, 10:00 a.m.: 18 IR 3383; readopted filed Nov 14, 2001, 4:45 p.m.: 25 IR 1270*) NOTE: Transferred from the department on aging and community services (450 IAC 1-1-1) to the division of aging and rehabilitative services (460 IAC 1-1-1) by P.L. 41-1987, SECTION 23, effective July 1, 1987.

SECTION 2. UNDER IC 4-22-2.5-3, 460 IAC 1-1-2 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

#### 460 IAC 1-1-2 Definitions

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-8-6-1; IC 12-10-1-1; IC 12-10-1-4; IC 12-10-12; IC 12-14; IC 12-15-2; IC 16-28-2

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

(b) "Applicant" means an individual who has directly, or through a responsible party, made application to participate in the nursing home prescreening program under IC 12-10-12 in order to determine the appropriateness of the individual's placement in a health facility.

(c) "Admission to a health facility" means as soon as an individual is physically present in a health facility unless the admittance is designee-approved. A person approved by a designee is considered admitted twenty-four (24) hours after entering the facility.

(d) "Bureau" refers to the bureau of aging and in-home services established within the division under IC 12-10-1-1.

(e) "DDARS" or "division" refers to the Indiana division of disability, aging, and rehabilitative services.

(f) "Designee" means an individual appointed by the prescreening agency, who may authorize temporary admittance to a health facility, under IC 12-10-12-28 through ~~IC 12-20-12-31~~. IC 12-10-12-31.

(g) "Equivalent degree" means a bachelor's degree or a master's degree, which meets the following requirements:

- (1) The degree is in the same field of study as those listed in section 10(c)(1) of this rule.
- (2) The degree requires courses comparable to the courses required for the degrees listed in section 10(c)(1) of this rule.
- (3) The degree has a different title than the degree listed in section 10(c)(1) of this rule.

(h) "Health facility" means a facility licensed by the state department of health under IC 16-28-2, whether Medicare or Medicaid certified or not, that:

- (1) provides comprehensive:
  - (A) nursing care;
  - (B) room;
  - (C) food;
  - (D) laundry;
  - (E) administration of medications;
  - (F) special diets; and
  - (G) treatments; and
- (2) may provide rehabilitative and restorative therapies under the order of an attending physician.

The term, for purposes of this rule, does not include intermediate care facilities for the mentally retarded (ICF/MR) or facilities licensed for residential care.

(i) "Level I: Identification Evaluation Screen" refers to a screening tool designed to ascertain whether an individual has or is suspected of having a condition of mental illness (MI) and/or mental retardation /developmental disability (MR/DD).

(j) "Medicaid or medical assistance" means payment for part or all of the cost of medical or remedial services furnished on behalf of eligible needy individuals as defined in IC 12-15-2.

(k) "Medicaid waiver" refers to specific provisions concerning home and community based services as specified under 42 U.S.C. 1396n, which have been approved by the Secretary of the federal Department of Health and Human Services, for implementation in Indiana.

(l) "Office" means the office of Medicaid policy and planning established under IC 12-8-6-1.

(m) "PAS process" means the process specified in section 4 of this rule.

(n) "PAS team" means the screening team under IC 12-10-12-14.

(o) "Preadmission screening", "prescreening", and "screening program" mean the screening process under IC 12-10-12.

(p) "Prescreening agency" or "PAS agency" means an area agency on aging designated by the bureau under IC 12-10-1-4(18).

(q) "Responsible party" means an individual chosen by an applicant or, if the applicant is a minor or has been adjudicated incompetent, a parent or guardian of an applicant who assists in the process of making application for prescreening under this rule. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-1-2; filed Jul 25, 1985, 3:39 p.m.: 8 IR 1984; filed Aug 7, 1995, 10:00 a.m.: 18 IR 3386; readopted filed Nov 14,*

*2001, 4:45 p.m.: 25 IR 1270) NOTE: Transferred from the department on aging and community services (450 IAC 1-1-2) to the division of aging and rehabilitative services (460 IAC 1-1-2) by P.L.41-1987, SECTION 23, effective July 1, 1987.*

SECTION 3. UNDER IC 4-22-2.5-3, 460 IAC 1-1-3 IS READOPTED TO READ AS FOLLOWS:

**460 IAC 1-1-3 Exemption**

**Authority:** IC 12-8-8-4; IC 12-9-2-3

**Affected:** IC 12-10-12; IC 12-13-5; IC 12-14

Sec. 3. The prescreening program under IC 12-10-12 applies to all persons applying for admission to a health facility, except that all persons admitted to a health facility prior to implementation of this section on April 30, 1983, are exempted from the prescreening requirement as set out in IC 12-10-12. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-1-3; filed Jul 25, 1985, 3:39 p.m.: 8 IR 1985; filed Aug 7, 1995, 10:00 a.m.: 18 IR 3387; readopted filed Nov 14, 2001, 4:45 p.m.: 25 IR 1271) NOTE: Transferred from the department on aging and community services (450 IAC 1-1-3) to the division of aging and rehabilitative services (460 IAC 1-1-3) by P.L.41-1987, SECTION 23, effective July 1, 1987.*

SECTION 4. UNDER IC 4-22-2.5-3, 460 IAC 1-1-4 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**460 IAC 1-1-4 PAS process**

**Authority:** IC 12-8-8-4; IC 12-9-2-3

**Affected:** IC 12-10-12; IC 12-13-5; IC 12-14

Sec. 4. (a) The PAS process shall be completed for each individual who has agreed to participate in the PAS program.

(b) The PAS process shall consist of the following:

- (1) A complete PAS assessment, including the following:
  - (A) The applicant's medical condition and related service needs.
  - (B) The applicant's psychosocial status and related service needs.
  - (C) The applicant's degree of functional impairment and related service needs.
  - (D) The availability of community services (formal and informal) that are sufficient and appropriate to meet the identified service needs outside of, as opposed to within, a health facility.
- (2) A screening team recommendation, based upon the complete assessment, as to the appropriateness of health facility placement.
- (3) A final determination by the office, based upon the screening team recommendation, as to the appropriateness of health facility placement.

(c) The PAS process must be completed prior to admission to a health facility, within twenty-five (25) days from the effective date of the PAS application, except in situations involving

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designee authorization for temporary admission to a health facility. **However, for a nonresident, the PAS process must be completed and the findings reported within ten (10) days.** (*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-1-4; filed Jul 25, 1985, 3:39 p.m.: 8 IR 1985; filed Aug 7, 1995, 10:00 a.m.: 18 IR 3387; readopted filed Nov 14, 2001, 4:45 p.m.: 25 IR 1271*) *NOTE: Transferred from the department on aging and community services (450 IAC 1-1-4) to the division of aging and rehabilitative services (460 IAC 1-1-4) by P.L.41-1987, SECTION 23, effective July 1, 1987.*

SECTION 5. UNDER IC 4-22-2.5-3, 460 IAC 1-1-5 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 460 IAC 1-1-5 Application

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-12-7; IC 12-10-12-27.1; IC 16-28-2

Sec. 5. (a) The individual requesting care in a health facility or the individual's responsible party shall fill out and sign an application for the prescreening program prior to admission to a health facility under IC 12-10-12-7. The application is considered to be completed when it is filled out, signed, and given to a representative of a health facility, the designee, or a member of the prescreening team.

(b) The applicant shall, as part of the application process, state the name, address, and telephone number of the physician that he or she requests to serve on the screening team.

(c) The effective date of the application for prescreening is the date on which the prescribed form is signed by the applicant.

(d) A person in a residential living arrangement who is at risk of institutionalization or who could benefit from home-based care may make a request to the PAS agency in the county in which the applicant resides under IC 12-10-12 prior to application for admission to a health facility to determine if home-based services are available and appropriate. The application will be made to the prescreening agency serving the area in which the applicant resides.

(e) An individual who is a resident of a health facility may request to be screened, as part of a discharge planning process, to determine what services are available to help the individual live outside of the health facility. The application will be made to the prescreening agency serving the area in which the health facility is located.

(f) Requirements for a person residing in another state requesting admission to a health facility in Indiana shall be as follows:

(1) The person must participate in the prescreening program under ~~IC 12-10-12, and the determination under IC 12-10-12-20 must be rendered prior to admission to a health facility in Indiana.~~ **IC 12-10-12-27.1.**

(2) An application for the prescreening program by a person residing in another state shall be made to the prescreening agency serving the county in which the health facility is located, and the availability of community services shall be based on services available in the area in which the health facility is located. **Determination is to be rendered within ten (10) days of receipt of the required documents.**

(g) The screening under IC 12-10-12 shall not be required:

(1) for a person admitted to a health facility following direct discharge from another health facility licensed under IC 16-28-2;

(2) for a person readmitted to a health facility from a hospital after discharge directly from a health facility to the hospital, if his or her placement in a health facility was found to be appropriate under IC 12-10-12 or if he or she was admitted to a health facility prior to April 30, 1983;

(3) for transfer from one (1) nursing facility level of services to another nursing facility level of services in the same health facility or in another health facility;

(4) for a person admitted to an intermediate care facility for the mentally retarded or a facility licensed for residential care; or

(5) for an individual who transfers from a continuing care retirement community bed to the bed of a comprehensive care facility licensed under IC 16-28-2 that serves only residents of that retirement community for a recuperative stay not to exceed five (5) days, but if the individual remains longer than five (5) days, the individual must apply for screening no later than the fifth day.

(h) Authorization for admission under IC 12-10-12-31 may be granted by the designee when a medical emergency exists in that care in the health facility is required within seventy-two (72) hours of the request for admission and the attending physician certifies the need for emergency admission to the prescreening agency following the procedures established by the division. An emergency admission shall only be granted for admission from a noninstitutional living arrangement or an emergency room of an in-state hospital.

(i) For individuals who have undergone the screening process and have been determined to be ineligible for placement in a health facility, that individual shall not apply for participation in further screening for a minimum of one (1) year unless the medical condition or the support system of the individual is significantly changed to the degree that the attending physician believes a new screening process is medically necessary. The attending physician may certify the need for such additional screening to the prescreening agency. The screening team will make the final decision on the need for another screening based on the attending physician's certification. The screening shall be conducted in accordance with IC 12-10-12. The effective date of the application for additional screening shall be the date of the screening team's final decision on the need for another screening.

(j) For persons not admitted to a health facility, the determination under IC 12-10-12-20 that placement in a health facility is appropriate shall be valid for a period not to exceed ninety (90) days from the date of issuance by the office. If the person has not been admitted to a health facility ninety (90) days after the issuance of the determination, the individual must apply for PAS screening again, and must have a physician's certification of the need for additional screening.

(k) An individual who was not notified of the requirement for prescreening and who is in a health facility may be prescreened after receiving notification of the requirement. (*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-1-5; filed Jul 25, 1985, 3:39 p.m.: 8 IR 1985; filed Aug 7, 1995, 10:00 a.m.: 18 IR 3388; readopted filed Nov 14, 2001, 4:45 p.m.: 25 IR 1272*) NOTE: Transferred from the department on aging and community services (450 IAC 1-1-5) to the division of aging and rehabilitative services (460 IAC 1-1-5) by P.L.41-1987, SECTION 23, effective July 1, 1987.

SECTION 6. UNDER IC 4-22-2.5-3, 460 IAC 1-1-6 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

#### **460 IAC 1-1-6 Agency cooperation**

**Authority:** IC 12-8-8-4; IC 12-9-2-3  
**Affected:** IC 12-10-12; IC 12-13-5; IC 12-14

Sec. 6. (a) The county offices of family and children, the Indiana division of mental health, **the bureau of developmental disabilities**, the office, the division, the prescreening agencies, and all health facilities shall cooperate in the operation of the screening program and shall share such information concerning the applicant as requested by each other, except to the extent that the information is otherwise protected under state or federal law.

(b) The division shall prescribe the forms and procedures and establish the policy to be followed in the implementation of the nursing home prescreening program. The **appointed** area agencies on aging shall be designated by the division as the prescreening agencies to carry out the duties as outlined in this rule. (*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-1-6; filed Jul 25, 1985, 3:39 p.m.: 8 IR 1987; filed Aug 7, 1995, 10:00 a.m.: 18 IR 3389; readopted filed Nov 14, 2001, 4:45 p.m.: 25 IR 1273*) NOTE: Transferred from the department on aging and community services (450 IAC 1-1-6) to the division of aging and rehabilitative services (460 IAC 1-1-6) by P.L.41-1987, SECTION 23, effective July 1, 1987.

SECTION 7. UNDER IC 4-22-2.5-3, 460 IAC 1-1-7 IS READOPTED TO READ AS FOLLOWS:

#### **460 IAC 1-1-7 Prescreening agency; duties**

**Authority:** IC 12-8-8-4; IC 12-9-2-3  
**Affected:** IC 12-10-12; IC 12-13-5; IC 12-14

Sec. 7. The prescreening agency shall do the following:

- (1) Seek cooperation from other public and private agencies in the community which offer services to the disabled and elderly.
  - (2) Provide information and education to the general public regarding availability of the screening program.
  - (3) Accept prescreening referrals from individuals, families, human service professionals, and health facility personnel.
  - (4) Assess health and social needs of referred individuals and identification of services needed to maintain these persons in the least restrictive environment.
  - (5) Identify available noninstitutional services to meet the care needs of individuals referred.
  - (6) Compute the cost effectiveness of noninstitutional versus health facility services.
  - (7) Upon receipt of a completed application, immediately schedule the prescreening activities to be completed within the time designated at IC 12-10-12-28 through IC 12-10-12-31 or within twenty-five (25) days for persons making application under IC 12-10-12-7.
  - (8) Determine the composition of the PAS teams provided for under IC 12-10-12-14. The division may require the PAS agency to seek approval of PAS team members from the division.
  - (9) Make appointments and fill vacancies on the PAS team and appoint designees under IC 12-10-12-27.
  - (10) Appoint to the PAS team at the time of each prescreening, the applicant's physician as required in IC 12-1-12-14(b) [*IC 12-1 was repealed by P.L.2-1992, SECTION 897, effective February 14, 1992.*]. In the event that the applicant is unable to specify an attending physician, the prescreening agency may assist to locate a physician who shall be named as a member of the screening team with the approval of the applicant.
  - (11) Notify each appointee of his or her selection, in writing.
  - (12) Retain a signed copy of the prescribed notification, application form, and supporting documentation for a period of three (3) years.
  - (13) Prepare reports as required by the division.
  - (14) Report to the prosecuting attorney of the county in which the violation occurred the failure of the health facility to notify the individual that he or she must be prescreened prior to admission to the health facility or the failure of the health facility to deliver the signed copy of the notification to the prescreening agency serving the county in which the applicant resides.
- (*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-1-7; filed Jul 25, 1985, 3:39 p.m.: 8 IR 1987; filed Aug 7, 1995, 10:00 a.m.: 18 IR 3389; readopted filed Nov 14, 2001, 4:45 p.m.: 25 IR 1273*) NOTE: Transferred from the department on aging and community services (450 IAC 1-1-7) to the division of aging and rehabilitative services (460 IAC 1-1-7) by P.L.41-1987, SECTION 23, effective July 1, 1987.

SECTION 8. UNDER IC 4-22-2.5-3, 460 IAC 1-1-8 IS READOPTED TO READ AS FOLLOWS:

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### 460 IAC 1-1-8 Health facility; duties

Authority: IC 12-8-8-4; IC 12-9-2-3  
Affected: IC 12-10-12; IC 12-13-5; IC 12-14

Sec. 8. (a) When an individual applies to a health facility for admission, the health facility shall notify the applicant:

- (1) that he or she must apply to the prescreening agency for participation in the prescreening program;
- (2) that the preadmission screening program consists of an assessment of the applicant's need for care in a health facility made by a team of individuals familiar with the needs of persons seeking admission; and
- (3) the penalty that the individual will incur under IC 12-10-12-33 and IC 12-10-12-34 if he or she does not comply with the prescreening program.

(b) The notification shall be in writing on forms prescribed by the division and shall contain the information set out in IC 12-10-12-10(a) and IC 12-10-12-10(b).

(c) The applicant must be given one (1) signed copy acknowledging that he or she has received the notice and the date that the notice was received. The health facility that the individual has entered shall keep one (1) signed copy on file for one (1) year from the date of signature or, if the individual is admitted to the health facility, from the date of admission, whichever is later. One (1) signed copy must be forwarded to the prescreening agency within five (5) working days from the date of signature or, if the individual is admitted to the health facility, from the date of admission, whichever is later.

(d) It is the responsibility of the health facility to provide verification that:

- (1) the application for prescreening was made prior to admission;
- (2) an individual admitted prior to the prescreening determination under IC 12-10-12-20 had designee authorization for admission required under IC 12-10-12-27; and
- (3) the copy of the application and other designated documentation were forwarded to the prescreening agency within five (5) working days from the date of designee authorization.

(e) The health facility shall promptly provide to the screening team an estimate of the cost of all services that the individual is anticipated to require in the health facility. The estimate will be at the cost charged to private payors. (*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-1-8; filed Jul 25, 1985, 3:39 p.m.: 8 IR 1988; filed Aug 7, 1995, 10:00 a.m.: 18 IR 3390; readopted filed Nov 14, 2001, 4:45 p.m.: 25 IR 1274*) NOTE: Transferred from the department on aging and community services (450 IAC 1-1-8) to the division of aging and rehabilitative services (460 IAC 1-1-8) by P.L.41-1987, SECTION 23, effective July 1, 1987.

SECTION 9. UNDER IC 4-22-2.5-3, 460 IAC 1-1-9 IS READOPTED TO READ AS FOLLOWS:

### 460 IAC 1-1-9 Applicant's physician or physician member of PAS team; duties

Authority: IC 12-8-8-4; IC 12-9-2-3  
Affected: IC 12-10-12; IC 12-13-5; IC 12-14

Sec. 9. The applicant's physician or physician member of the screening team shall promptly supply all medical information on the applicant that is necessary to complete the assessment and make the findings required by IC 12-10-12-17 and IC 12-10-12-28 through IC 12-10-12-31. (*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-1-9; filed Jul 25, 1985, 3:39 p.m.: 8 IR 1988; filed Aug 7, 1995, 10:00 a.m.: 18 IR 3391; readopted filed Nov 14, 2001, 4:45 p.m.: 25 IR 1274*) NOTE: Transferred from the department on aging and community services (450 IAC 1-1-9) to the division of aging and rehabilitative services (460 IAC 1-1-9) by P.L.41-1987, SECTION 23, effective July 1, 1987.

SECTION 10. UNDER IC 4-22-2.5-3, 460 IAC 1-1-10 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 460 IAC 1-1-10 PAS team; duties

Authority: IC 12-8-8-4; IC 12-9-2-3  
Affected: IC 12-10-12; IC 12-13-5; IC 12-14

Sec. 10. (a) The PAS team shall conduct the preadmission assessment pursuant to the policies and procedures prescribed by the division.

(b) The preadmission assessment shall be conducted by the use of the assessment forms developed or approved by the division and shall include the following elements:

- (1) Client demographic information.
- (2) Present medical condition of client.
- (3) Present psychosocial status of client.
- (4) Assessment of functional capacity of client.
- (5) Present formal or informal services being provided to the client.
- (6) Present unmet needs of client.
- (7) Formal and informal services that are presently available but are not being provided to the client.
- (8) Observations of the PAS team during the on-site visit.
- (9) Persons consulted during the screening process.
- (10) Client's preference for care.
- (11) A preliminary care plan.

(c) Each PAS team member, other than the physician member, shall have one (1) of the following:

- (1) A bachelor's degree in social work, psychology, gerontology, sociology, counseling, nursing, or an equivalent degree.
- (2) A license as a registered nurse or a bachelor's degree in any field and a minimum of two (2) years of direct service experience with the elderly or persons with disabilities, which includes activities such as the following:
  - (A) Assessment.
  - (B) Plan development.

(C) Implementation.

(D) Monitoring.

A master's degree in a related field may substitute for the required experience.

(d) An individual who meet the educational requirement and a minimum of one (1) year of the required experience may qualify provisionally as a PAS team member. In order for any individual to qualify provisionally as a PAS team member, the PAS agency shall have in place a written plan, approved by the division, outlining the manner in which the individual shall achieve the experience needed to become a PAS team member. The written plan shall include the following:

(1) A specific proposal of how the remaining amount of the deficient experience will be satisfied within a time period equal to the amount of remaining experience needed, but not to exceed twelve (12) months.

(2) Arrangements for the provisional PAS team member to meet, at least biweekly, with a supervisor or an individual who meets the qualifications in section 10(c) of this rule, to discuss the ~~provision~~ **provisional** PAS team member's care plans.

(3) A statement asserting that the provisional PAS team member's care plans will be reviewed and approved by the supervisor or an individual who meets the qualifications in section 10(c) of this rule.

Provisional PAS team member certification shall be withdrawn by the division if the terms of the written plan are not met at least twelve (12) months from the date of provisional certification.

(e) Designees shall meet the criteria in subsection (c).

(f) After the assessment is completed, the PAS team shall find whether the placement of the individual in a health facility is appropriate, utilizing the guidelines set forth in section 12(c) and 12(d) of this rule.

(g) The vote of the PAS team shall be conducted at the time and place as set by the member of the screening team who represents the prescreening agency. The vote may either be made by a signature at the time of individual contact, based on a review of all necessary data, or the vote may be conducted by telephone. The vote of the physician team member will be made by completion of and signature on the prescribed form. The assessment of the appointee of the prescreening agency, together with the assessments of any other team member who desires to comment, shall be submitted to the office for the prescreening determination designated under IC 12-10-12-18. All screening forms, narrative reports, and other pertinent applicant data shall be submitted to the office with the findings of the PAS team.

(h) If the PAS team finds that placement in a health facility should be denied, then it shall:

(1) list the reason(s) for denial;

(2) list the community services available to the applicant that would be more appropriate than care in a health facility;

(3) detail the cost of those community services, regardless of the source of payment;

(4) detail the cost of placement in a health facility (which shall include the cost of all services, including those costs in addition to per diem that the applicant will require), regardless of the source of payment;

(5) discuss the alternative service plan with the applicant after completion of the assessment;

(6) submit the findings in writing to the office; and

(7) make appropriate referral for case management services if the services are available.

(i) The member of the PAS team who is appointed as the representative of the prescreening agency shall obtain the information for, and prepare the assessment required by IC 12-10-12-16. (*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-1-10; filed Jul 25, 1985, 3:39 p.m.: 8 IR 1988; filed Aug 7, 1995, 10:00 a.m.: 18 IR 3391; readopted filed Nov 14, 2001, 4:45 p.m.: 25 IR 1274*) NOTE: Transferred from the department on aging and community services (450 IAC 1-1-10) to the division of aging and rehabilitative services (460 IAC 1-1-10) by P.L.41-1987, SECTION 23, effective July 1, 1987.

SECTION 11. UNDER IC 4-22-2.5-3, 460 IAC 1-1-11 IS READOPTED TO READ AS FOLLOWS:

**460 IAC 1-1-11 Designee; duties**

**Authority:** IC 12-8-8-4; IC 12-9-2-3

**Affected:** IC 12-10-12; IC 12-13-5; IC 12-14

Sec. 11. (a) It is the duty of the designee to gather sufficient information to make a decision whether an applicant qualifies for temporary admittance to a health facility under IC 12-10-12-28 through IC 12-10-12-31.

(b) The designee shall submit a decision in writing and supporting documentation regarding the allowance or disallowance of placement in a health facility under IC 12-10-12-28 through IC 12-10-12-31 to the following:

(1) The prescreening agency.

(2) The applicant.

(3) The relevant health facility.

(*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-1-11; filed Jul 25, 1985, 3:39 p.m.: 8 IR 1989; filed Aug 7, 1995, 10:00 a.m.: 18 IR 3392; readopted filed Nov 14, 2001, 4:45 p.m.: 25 IR 1275*) NOTE: Transferred from the department on aging and community services (450 IAC 1-1-11) to the division of aging and rehabilitative services (460 IAC 1-1-11) by P.L.41-1987, SECTION 23, effective July 1, 1987.

SECTION 12. UNDER IC 4-22-2.5-3, 460 IAC 1-1-12 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

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### 460 IAC 1-1-12 Office of Medicaid policy and planning; duties

Authority: IC 12-8-8-4; IC 12-9-2-3  
Affected: IC 12-10-12-20; IC 12-13-5; IC 12-14

Sec. 12. (a) The final preadmission screening determination under IC 12-10-12-20(b) shall be rendered by the office within three (3) working days of receipt of the prescreening documentation and recommendation.

- (b) The office shall notify:
- (1) the applicant;
  - (2) the prescreening agency; and
  - (3) the health facility;

in writing of the prescreening determination, including data on alternative community services as identified in the recommendation of the prescreening team.

(c) A final determination that the person is appropriate for nursing facility care shall be rendered when the person's condition meets the nursing facility level of services as set forth in 405 IAC 1-3-1 through 405 IAC 1-3-3 and:

- (1) alternative community services are not sufficient to meet the needs of the person;
- (2) appropriate and beneficial alternative community services that have been identified are not immediately accessible by the person due to the lack of services in the county or a waiting list for needed services in the county; or
- (3) appropriate and beneficial alternative community services that have been identified are immediately accessible, ~~but~~ **regardless of whether** the cost of such services is greater than the cost of nursing home care.

(d) ~~A final determination that the person is inappropriate for nursing facility care shall be rendered~~ When the criteria in subsection (c) are not met, **a final determination that the person is inappropriate for nursing facility care shall be rendered.**

(e) The office shall retain a record of each determination that is a disapproval of admission or a waiver of a requirement in this rule for at least three (3) years. (*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-1-12; filed Jul 25, 1985, 3:39 p.m.: 8 IR 1989; filed Aug 7, 1995, 10:00 a.m.: 18 IR 3392; readopted filed Nov 14, 2001, 4:45 p.m.: 25 IR 1276*) NOTE: Transferred from the department on aging and community services (450 IAC 1-1-12) to the division of aging and rehabilitative services (460 IAC 1-1-12) by P.L.41-1987, SECTION 23, effective July 1, 1987.

SECTION 13. UNDER IC 4-22-2.5-3, 460 IAC 1-1-13 IS READOPTED TO READ AS FOLLOWS:

### 460 IAC 1-1-13 Individual compliance with PAS program

Authority: IC 12-8-8-4; IC 12-9-2-3  
Affected: IC 12-10-12-33; IC 12-10-12-34; IC 12-13-5; IC 12-14

Sec. 13. (a) It is the responsibility of each prescreening agency to monitor individual compliance with the PAS program and report to the office. It is the responsibility of the office to impose the PAS penalty under IC 12-10-12-33 and IC 12-10-12-34 if there is noncompliance.

(b) Whenever an individual requests Medicaid payment of per diem for care in a health facility, the office must verify that individual's PAS status. (*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-1-13; filed Jul 25, 1985, 3:39 p.m.: 8 IR 1990; filed Aug 7, 1995, 10:00 a.m.: 18 IR 3393; readopted filed Nov 14, 2001, 4:45 p.m.: 25 IR 1276*) NOTE: Transferred from the department on aging and community services (450 IAC 1-1-13) to the division of aging and rehabilitative services (460 IAC 1-1-13) by P.L.41-1987, SECTION 23, effective July 1, 1987.

SECTION 14. UNDER IC 4-22-2.5-3, 460 IAC 1-1-14 IS READOPTED TO READ AS FOLLOWS:

### 460 IAC 1-1-14 Penalties

Authority: IC 12-8-8-4; IC 12-9-2-3  
Affected: IC 12-10-12; IC 12-13-5; IC 12-14

Sec. 14. (a) A person admitted to a health facility will not incur the penalties set out in IC 12-10-12-33 and IC 12-10-12-34 if authorization for admission from the prescreening agency under IC 12-10-12-28 through IC 12-10-12-31 or approval for admission under IC 12-10-12-20 has been rendered.

(b) A person admitted to a health facility on designee authorization under IC 12-10-12-28 through IC 12-10-12-31 will not incur the penalties set out in IC 12-10-12-33 and IC 12-10-12-34 if, regardless of when the determination is made:

- (1) placement in the health facility is determined to be appropriate under IC 12-10-12-20; or
- (2) the individual is discharged from the health facility within fourteen (14) days after receipt of the decision that placement in the health facility is determined to be inappropriate.

(c) The penalty under IC 12-10-12-34 shall continue only until the person receives a determination that placement in a health facility certified as a skilled nursing facility is appropriate, but in no case will last more than one (1) year from the date of admission. The time of the penalty will be computed to include the period authorized under IC 12-10-12-28 through IC 12-10-12-31 except that the penalty will not be imposed for the designee authorized time.

(d) A person who refuses to be screened by the PAS team shall incur the penalty set out in IC 12-10-12-33 or IC 12-10-12-34.

(e) However, a person who was not notified of the preadmission screening requirement will incur no penalty, unless the individual refuses to be screened after notification or

is found to be inappropriate for services, in which case the individual would incur the penalty beginning with the date of notification that preadmission screening is required.

(f) The penalty set out in IC 12-10-12-33 and IC 12-10-12-34 shall not be levied against an individual who:

- (1) is eligible for and requires home and community based services approved by the Secretary of the federal Department of Health and Human Services under 42 U.S.C. 1396n; and
- (2) chooses to go into a health facility.

*(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-1-14; filed Jul 25, 1985, 3:39 p.m.: 8 IR 1990; errata, 8 IR 2041; filed Aug 7, 1995, 10:00 a.m.: 18 IR 3393; readopted filed Nov 14, 2001, 4:45 p.m.: 25 IR 1276) NOTE: Transferred from the department on aging and community services (450 IAC 1-1-14) to the division of aging and rehabilitative services (460 IAC 1-1-14) by P.L.41-1987, SECTION 23, effective July 1, 1987.*

SECTION 15. UNDER IC 4-22-2.5-3, 460 IAC 1-1-15 IS READOPTED TO READ AS FOLLOWS:

**460 IAC 1-1-15 Waiver of sanctions**

**Authority:** IC 12-8-8-4; IC 12-9-2-3  
**Affected:** IC 12-10-12-23; IC 12-13-5; IC 12-14

Sec. 15. (a) Application for a waiver under IC 12-10-12-23 of the prescreening sanction may be made to the office. The waiver may be granted if, after investigation, it is found that the conditions under IC 12-10-12-23 were met and if the health facility and hospital when necessary cooperated in the prescreening process promptly. The office shall confer with the prescreening agency to ascertain whether the conditions established in this subsection and IC 12-10-12-23 were met. The office shall maintain written documentation on the waiver decision for a period of not less than three (3) years.

(b) The office shall provide a copy of the findings under IC 12-10-12-23 to the following:

- (1) The division.
- (2) The prescreening agency.
- (3) The applicant.

*(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-1-15; filed Jul 25, 1985, 3:39 p.m.: 8 IR 1990; filed Aug 7, 1995, 10:00 a.m.: 18 IR 3394; readopted filed Nov 14, 2001, 4:45 p.m.: 25 IR 1277) NOTE: Transferred from the department on aging and community services (450 IAC 1-1-15) to the division of aging and rehabilitative services (460 IAC 1-1-15) by P.L.41-1987, SECTION 23, effective July 1, 1987.*

SECTION 16. UNDER IC 4-22-2.5-3, 460 IAC 1-1-16 IS READOPTED TO READ AS FOLLOWS:

**460 IAC 1-1-16 Appeals**

**Authority:** IC 12-8-8-4; IC 12-9-2-3  
**Affected:** IC 12-10-12; IC 12-13-5; IC 12-14

Sec. 16. (a) An applicant aggrieved by a final determination of the office or the division may appeal that determination to the family and social services administration, hearings and appeals office.

(b) The request for a fair hearing must be submitted in writing and signed by the applicant. This request must be received in the family and social services administration, hearings and appeals office within thirty (30) days of the action being appealed. This thirty (30) day period is measured from the date of the applicant's receipt of the PAS decision being appealed.

(c) The office shall provide a copy of the appeal decision to the following:

- (1) The division.
- (2) The prescreening agency.
- (3) The applicant.

*(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-1-16; filed Jul 25, 1985, 3:39 p.m.: 8 IR 1990; filed Aug 7, 1995, 10:00 a.m.: 18 IR 3394; readopted filed Nov 14, 2001, 4:45 p.m.: 25 IR 1277) NOTE: Transferred from the department on aging and community services (450 IAC 1-1-16) to the division of aging and rehabilitative services (460 IAC 1-1-16) by P.L.41-1987, SECTION 23, effective July 1, 1987.*

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**TITLE 460 DIVISION OF DISABILITY, AGING, AND REHABILITATIVE SERVICES**

LSA Document #00-300(F)

**DIGEST**

Readopts rules in anticipation of IC 4-22-2.5-2, providing that all rules of the Indiana administrative agencies in force on December 31, 1995, expire on January 1, 2002. Effective 30 days after filing with secretary of state.

<b>460 IAC 1-2-1</b>	<b>460 IAC 1-2-7</b>
<b>460 IAC 1-2-2</b>	<b>460 IAC 1-2-8</b>
<b>460 IAC 1-2-3</b>	<b>460 IAC 1-2-9</b>
<b>460 IAC 1-2-4</b>	<b>460 IAC 1-2-10</b>
<b>460 IAC 1-2-5</b>	<b>460 IAC 1-2-11</b>
<b>460 IAC 1-2-6</b>	<b>460 IAC 1-2-12</b>

SECTION 1. UNDER IC 4-22-2.5-3, 460 IAC 1-2-1 IS READOPTED AND AMENDED TO READ AS FOLLOWS:



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### 460 IAC 1-2-1 Purpose

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-3; IC 35-42-2-1; IC 35-46-1-13

Sec. 1. The purpose of the adult protective services program is to provide a legal basis for intervention to protect endangered adults within the state of Indiana by receiving reports regarding adults who may be endangered, investigating those reports and providing a coordinated and proper local response to individual cases as they are substantiated. Responsibility for investigating reports of neglect, battery, or exploitation of endangered adults, as well as for securing the appropriate social, medical, ~~and/or~~ **and** legal intervention, shall rest with adult protective services units, designated by the ~~Indiana department on aging and community services; division of disability, aging, and rehabilitative services.~~ *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-2-1; filed Oct 30, 1985, 10:48 a.m.: 9 IR 478; readopted filed Nov 14, 2001, 4:47 p.m.: 25 IR 1278)* NOTE: Transferred from the department on aging and community services (450 IAC 1-2-1) to the division of aging and rehabilitative services (460 IAC 1-2-1) by P.L.41-1987, SECTION 23, effective July 1, 1987.

SECTION 2. UNDER IC 4-22-2.5-3, 460 IAC 1-2-2 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 460 IAC 1-2-2 Definitions

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-3; IC 35-42-2-1; IC 35-46-1-13

Sec. 2. For purposes of 460 IAC 1-2-2: **(a) The definitions in this section apply throughout this rule.**

**(b)** “APS unit” is the adult protective services unit, charged with receiving and investigating reports regarding endangered adults, located throughout the state in areas designated by ~~IDACS.~~ **DDARS.**

**(c)** “Available services” means services needed by the individual to sustain his or her life, liberty, health or property which can be obtained from a service provider serving the area in which the endangered adult is living, or which could be provided by a willing neighbor, friend, or relative.

**(d)** “DDARS” is the division of disability, aging, and rehabilitative services.

**(e)** “Emergency” refers to a situation in which the possibility of immediate physical danger to the adult exists.

**(f)** “Endangered adult” means an individual who is eighteen (18) years of age or older and who:

(1) is incapable by reason of ~~insanity,~~ mental illness, mental retardation, ~~senility,~~ **dementia**, habitual ~~drunkenness,~~ **drunkenness**, excessive use of drugs, ~~old age,~~ **infirmity**, or other **physical or mental** incapacity, of ~~either managing his or directing the management of the individual’s~~ property or

~~caring for himself or both;~~ **providing self-care;** and  
(2) is harmed or threatened with harm as a result of:

(A) neglect;

(B) battery; or

(C) exploitation of the individual’s personal services or property.

~~This definition~~ **The term** includes individuals who are endangered as a consequence of their own inability to care for themselves and who would receive little or no help except through the services of an external intervenor.

**(g)** “Exploitation of the individual’s personal services or property” includes, but is not limited to sexual misuse as well as the use of the endangered adult’s labor without pay or exerting unauthorized control over the finances or property of the endangered adult.

“IDACS” is the ~~Indiana department on aging and community services.~~

**(h)** “Neglect” means that the endangered adult or the person who takes care of the endangered adult is unable or fails to provide adequate food, clothing, shelter or medical care.

**(i)** “Substantiated” means that endangerment was established to the satisfaction of the APS unit as relates to the definition of an endangered adult.

**(j)** “Unsubstantiated” means that endangerment of ~~a~~ **an** individual was not established to the satisfaction of the APS unit, within the meaning of ~~IC 4-27-7.~~ **IC 12-10-3.** *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-2-2; filed Oct 30, 1985, 10:48 a.m.: 9 IR 478; readopted filed Nov 14, 2001, 4:47 p.m.: 25 IR 1278)* NOTE: Transferred from the department on aging and community services (450 IAC 1-2-2) to the division of aging and rehabilitative services (460 IAC 1-2-2) by P.L.41-1987, SECTION 23, effective July 1, 1987.

SECTION 3. UNDER IC 4-22-2.5-3, 460 IAC 1-2-3 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 460 IAC 1-2-3 Agency cooperation

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-3; IC 35-42-2-1; IC 35-46-1-13

Sec. 3. All appropriate governmental agencies shall cooperate in the implementation of the provisions of ~~IC 4-27-7.~~ **IC 12-10-3** and coordinate services to endangered adults and shall share such information concerning the allegation of battery, neglect, exploitation, or endangerment of adults as requested by each other, except to the extent that the information is otherwise protected under state or federal law. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-2-3; filed Oct 30, 1985, 10:48 a.m.: 9 IR 478; readopted filed Nov 14, 2001, 4:47 p.m.: 25 IR 1278)* NOTE: Transferred from the department on aging and community services (450 IAC 1-2-3) to the division

of aging and rehabilitative services (460 IAC 1-2-3) by P.L. 41-1987, SECTION 23, effective July 1, 1987.

SECTION 4. UNDER IC 4-22-2.5-3, 460 IAC 1-2-4 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**460 IAC 1-2-4 Division's duties**

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-3-7; IC 12-10-3-10; IC 35-42-2-1; IC 35-46-1-13

Sec. 4. ~~HDACS~~ **DDARS** shall **do the following**:

(1) Provide information and education to the general public regarding the existence of the adult protective services law and available services.

(2) Prescribe the forms and procedures to be followed in the implementation of the program.

(3) Contract with entities, as identified at ~~IC 4-27-7-5~~, **IC 12-10-3-7**, to perform the duties of adult protective services units.

(4) Provide training and technical assistance in program operation and service delivery to the units.

(5) Monitor the program and fiscal activities of the units.

(6) Receive all reports of known or suspected neglect, battery, or exploitation which are communicated in person, in writing, or by telephone:

(A) establish and operate a statewide toll-free telephone line, answered **twenty-four** (24) hours a day, seven **(7)** days a week;

(B) document the receipt of all reports, by obtaining all necessary information as per ~~IC 4-27-7-7~~, **IC 12-10-3-10**;

(C) make a determination and classify the status of each report upon receipt as either emergency or nonemergency;

(D) refer all emergency reports received to the appropriate law enforcement agency immediately, and notify the appropriate APS unit of the referral to the law enforcement agency; **and**

(E) refer all nonemergency reports received to the appropriate APS unit within **five** (5) working days.

(7) Report to the general assembly before ~~December~~ **February 2** of each year concerning, at a minimum:

(A) the ~~department's~~ **division's** activities in the preceding year under ~~IC 4-27-7~~, **IC 12-10-3**; and

(B) program recommendations for continuing protection of endangered adults.

*(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-2-4; filed Oct 30, 1985, 10:48 a.m.: 9 IR 479; readopted filed Nov 14, 2001, 4:47 p.m.: 25 IR 1279) NOTE: Transferred from the department on aging and community services (450 IAC 1-2-4) to the division of aging and rehabilitative services (460 IAC 1-2-4) by P.L.41-1987, SECTION 23, effective July 1, 1987.*

SECTION 5. UNDER IC 4-22-2.5-3, 460 IAC 1-2-5 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**460 IAC 1-2-5 Adult protective services unit's duties**

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-3; IC 35-42-2-1; IC 35-46-1-13

Sec. 5. The APS unit shall assure that the following activities are carried out:

(1) Secure and maintain a full-time equivalent qualified protective services coordinator, as defined in ~~450 IAC 1-2-6~~; **460 IAC 1-2-6**.

(2) Cooperate with ~~HDACS~~ **DDARS** to provide information and education to the general public within the designated area regarding the existence of the adult protective services law and available services.

(3) Accept all reports of adult battery, neglect and exploitation from individuals, health care and human service professionals, institutions, law enforcement officials, ~~HDACS~~ **DDARS**, and other sources.

(4) Document the receipt of reports on the official report form developed by ~~HDACS~~, **DDARS**, obtaining all available and pertinent information.

(5) Conduct an investigation of all reports of battery, neglect, and exploitation to ascertain the condition and safety of the allegedly endangered adult:

(A) immediately when the possibility of physical danger to the adult exists; or

(B) as soon as possible after receipt of a report (within twenty calendar days).

(6) Follow procedures for coordination with the Indiana state ~~board~~ **department** of health as per ~~IC 4-27-7-10~~; **IC 12-10-3-17**.

(7) Maintain procedures for appropriate access to and for safeguarding of the confidentiality of records.

(8) Be familiar with available community resources.

(9) Seek cooperation from other public and private agencies and individuals in the geographic services region which offer services as may be needed by endangered adults.

(10) Cooperate with all the APS units in Indiana.

(11) Participate in ~~HDACS-sponsored~~ **DDARS-sponsored** in-service training.

(12) After initial investigation, proper notification that the report is unsubstantiated shall be made to concerned parties, at the discretion of the APS unit.

(13) Report to ~~HDACS~~ **DDARS** on forms provided by ~~HDACS~~ **DDARS**, information concerning each report of battery, neglect, or exploitation received and investigated, within time frames established by ~~HDACS~~, **DDARS**, including those reports made to the state ~~board~~ **department** of health.

(14) Transmit to ~~HDACS~~ **DDARS** all identifying records concerning unsubstantiated reports in accordance with ~~HDACS~~ **DDARS** policy and procedures.

(15) In instances of substantiated reports, obtain an assessment of the endangered adult's situation and needs, and coordinate with the appropriate social services agencies who will develop a service plan for the provision of protective services (in cooperation with the endangered adult).

(16) The plan for the provision of protective services shall be given to the endangered adult in writing, and shall include:

(A) a statement of the problem;

(B) one **(1)** or more goal statements;

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(C) a description of the desired state of client functioning;  
(~~E~~) (D) identification of the appropriate and least restrictive services;

(~~D~~) (E) the frequency and duration of anticipated service delivery; **and**

(~~E~~) (F) the manner in which the effectiveness of the services will be monitored and evaluated.

(17) Approve said plan and assure that the available necessary protective services for the endangered adult are secured.

(18) Monitor and maintain complete documentation of the implementation of the protective services plan.

(19) Petition, through the prosecuting attorney's office, the court having probate jurisdiction in the county of the adult's residence, for an order to enjoin interference with the delivery of protective services arranged by the ~~department~~ **division** or unit with the consent of the endangered adult, when such interference is occurring.

(20) Petition the probate court having jurisdiction in the county in which the endangered adult resides, to secure a protective order requiring that the adult receive protective services, only when:

(A) the individual does not consent, or withdraws consent ~~previously~~ **previously** given, to the receipt of the protective services; and

(B) the individual is an endangered adult under ~~IC 4-27-7-2(1) and (2);~~ **IC 12-10-3-2(a)**; and

(C) the individual, in the opinion of the APS unit, lacks the capacity to understand the clear consequences of his or her decisions, in accordance with IC 29-1-18.

A petition for a protective order does not constitute an action for guardianship.

(21) When a protective order is required, approve and submit to the court, a plan for the provision of the protective services, which includes, at the minimum, the items identified in ~~subsection~~ **subdivision** (16) of this section.

(22) Petition the court to modify or terminate a protective services order, as necessary, as per ~~IC 4-27-7-11(e)(4);~~ **IC 12-10-3-25.**

(23) Petition the court to hold a hearing on the question of continuing jurisdiction, as per ~~IC 4-27-7-11(g);~~ **IC 12-10-3-26.**

*(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-2-5; filed Oct 30, 1985, 10:48 a.m.: 9 IR 479; readopted filed Nov 14, 2001, 4:47 p.m.: 25 IR 1279) NOTE: Transferred from the department on aging and community services (450 IAC 1-2-5) to the division of aging and rehabilitative services (460 IAC 1-2-5) by P.L.41-1987, SECTION 23, effective July 1, 1987.*

SECTION 6. UNDER IC 4-22-2.5-3, 460 IAC 1-2-6 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 460 IAC 1-2-6 Coordinator's qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-3; IC 35-42-2-1; IC 35-46-1-13

Sec. 6. An adult protective services unit coordinator shall have, at a minimum:

(1) a bachelor's degree in an appropriate area of concentration, with one (1) relevant internship; or

(2) two (2) years of experience in investigation or other relevant work.

*(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-2-6; filed Oct 30, 1985, 10:48 a.m.: 9 IR 480; readopted filed Nov 14, 2001, 4:47 p.m.: 25 IR 1280) NOTE: Transferred from the department on aging and community services (450 IAC 1-2-6) to the division of aging and rehabilitative services (460 IAC 1-2-6) by P.L.41-1987, SECTION 23, effective July 1, 1987.*

SECTION 7. UNDER IC 4-22-2.5-3, 460 IAC 1-2-7 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 460 IAC 1-2-7 Complaints regarding residents of health facilities

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-3; IC 16-28; IC 35-42-2-1; IC 35-46-1-13

Sec. 7. ~~DDARS~~ **DDARS** and the APS unit shall:

(1) refer reports concerning individuals who are residents of health facilities licensed under ~~IC 16-10-4~~ **IC 16-28** to the ~~Indiana state board~~ **Indiana state department** of health immediately; **and**

(2) cooperate with the ~~Indiana state board~~ **Indiana state department** of health in these cases and carry out the remaining activities of case processing at the request of the ~~board;~~ **department;**

(~~3~~) ~~DDARS~~ shall notify the appropriate APS unit of the referral to the ~~Indiana state board~~ **Indiana state department** of health, and all APS units shall notify ~~DDARS~~ of referrals to the ~~Indiana state board~~ **Indiana state department** of health. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-2-7; filed Oct 30, 1985, 10:48 a.m.: 9 IR 480; readopted filed Nov 14, 2001, 4:47 p.m.: 25 IR 1280) NOTE: Transferred from the department on aging and community services (450 IAC 1-2-7) to the division of aging and rehabilitative services (460 IAC 1-2-7) by P.L.41-1987, SECTION 23, effective July 1, 1987.*

SECTION 8. UNDER IC 4-22-2.5-3, 460 IAC 1-2-8 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 460 IAC 1-2-8 Indiana state department of health; duties

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-3; IC 16-28; IC 35-42-2-1; IC 35-46-1-13

Sec. 8. The ~~Indiana state board~~ **Indiana state department** of health shall:

(1) receive reports of endangered adults who are residents of facilities licensed under ~~IC 16-10-4~~ **IC 16-28** from ~~DDARS~~ **DDARS** and the APS units;

(2) refer appropriate cases (as defined by the ~~Indiana state board~~ **Indiana state department** of health) to ~~DDARS~~ **DDARS** or the APS units for investigation, assessment and to assure the provision of protective services; **and**

(3) send completed report forms for all reports of endangered adults, whether substantiated or unsubstantiated, and whether primarily reported to the ~~Indiana state board~~ **Indiana state department** of

health, ~~DDARS~~ **DDARS** or the APS units to ~~DDARS~~ **DDARS** for statistical and substantive records.  
*(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-2-8; filed Oct 30, 1985, 10:48 a.m.: 9 IR 480; readopted filed Nov 14, 2001, 4:47 p.m.: 25 IR 1280) NOTE: Transferred from the department on aging and community services (450 IAC 1-2-8) to the division of aging and rehabilitative services (460 IAC 1-2-8) by P.L.41-1987, SECTION 23, effective July 1, 1987.*

SECTION 9. UNDER IC 4-22-2.5-3, 460 IAC 1-2-9 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**460 IAC 1-2-9 Maintenance of records**

**Authority:** IC 12-8-8-4; IC 12-9-2-3  
**Affected:** IC 12-10-3-13; IC 35-42-2-1; IC 35-46-1-13

Sec. 9. (a) **For** substantiated reports, ~~DDARS~~ **DDARS** and the APS units shall maintain identifying records concerning:

- (1) reports which identify the endangered adult;
- (2) types of protective services provided, and identity of the service provider(s); **and**
- (3) agencies, persons, or institutions who are determined to have permitted or inflicted neglect, battery, or exploitation.

(b) **For** unsubstantiated reports, ~~DDARS~~ **DDARS** shall:

- (1) receive all identifying records concerning unsubstantiated reports (as determined by the APS units) from the APS units;
- (2) destroy identifying information on said records within **one hundred eighty** (180) days after the receipt of those records; **and**
- (3) maintain nonidentifying statistical records concerning unsubstantiated reports, and make this information available to the entities listed at ~~IC 4-27-7-9(b)~~ **IC 12-10-3-13**.

*(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-2-9; filed Oct 30, 1985, 10:48 a.m.: 9 IR 481; readopted filed Nov 14, 2001, 4:47 p.m.: 25 IR 1281) NOTE: Transferred from the department on aging and community services (450 IAC 1-2-9) to the division of aging and rehabilitative services (460 IAC 1-2-9) by P.L.41-1987, SECTION 23, effective July 1, 1987.*

SECTION 10. UNDER IC 4-22-2.5-3, 460 IAC 1-2-10 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**460 IAC 1-2-10 Reporting battery, neglect, or exploitation**

**Authority:** IC 12-8-8-4; IC 12-9-2-3  
**Affected:** IC 12-10-3; IC 35-42-2-1; IC 35-46-1-13

Sec. 10. (a) Persons shall report known or suspected neglect, battery, or exploitation of an adult ~~(+)~~ to ~~DDARS~~ **DDARS**, an APS unit, or a law enforcement agency ~~(2)~~ by telephone, in writing, or in person.

(b) **Requirements for confidentiality of reports shall be as follows:**

- (1) The identity of the reporting person shall be kept confi-

dential and be disclosed only with the written consent of that person or by judicial process.

(2) In no event, however, shall the identity of the person who made the report be disclosed to an alleged abuser, except by judicial order.

(c) **Requirements for classification and transmittal of reports shall be as follows:**

(1) Every incident of neglect, battery, or exploitation which is received by the unit shall be reported to ~~DDARS~~ **DDARS** on forms provided by ~~DDARS~~ **DDARS** within **twenty** (20) calendar days of receiving the report.

(2) Within **thirty** (30) calendar days of completing the investigation, the unit shall make a determination and classify all reports as substantiated or unsubstantiated, and transmit said determination to ~~DDARS~~ **DDARS**.

(3) When the classification of a substantiated report has changed to unsubstantiated, the unit shall notify ~~DDARS~~ **DDARS** and transmit all identifying records as required in ~~450 IAC 1-2-5(14)~~ **section 5(14) of this rule**.

*(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-2-10; filed Oct 30, 1985, 10:48 a.m.: 9 IR 481; readopted filed Nov 14, 2001, 4:47 p.m.: 25 IR 1281) NOTE: Transferred from the department on aging and community services (450 IAC 1-2-10) to the division of aging and rehabilitative services (460 IAC 1-2-10) by P.L.41-1987, SECTION 23, effective July 1, 1987.*

SECTION 11. UNDER IC 4-22-2.5-3, 460 IAC 1-2-11 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**460 IAC 1-2-11 Rights of the alleged endangered adult**

**Authority:** IC 12-8-8-4; IC 12-9-2-3  
**Affected:** IC 12-10-3; IC 35-42-2-1; IC 35-46-1-13

Sec. 11. (a) **Requirements for a right to counsel shall be as follows:**

(1) At any time, a person who may be designated an endangered adult has the right to secure legal counsel; either a private attorney or if eligible, a legal services attorney.

(2) If the endangered adult does not consent or has withdrawn consent to receive protective services and a petition has been filed in probate court, the endangered adult is entitled:

- (A) to be represented by counsel; **and**
- (B) to have the court appoint counsel if said endangered adult is determined to be indigent.

(3) If the endangered adult is receiving protective services and an individual interferes with the provision of those services, the endangered adult is entitled to be represented by the prosecuting attorney's office in obtaining an order to enjoin the interference with the delivery of the service.

(b) The endangered adult has the right to protective services that offer the least restrictive alternative.

(c) The endangered adult has the right to privacy and confidentiality, within the boundaries of ~~IC 4-27-7~~ **IC 12-10-3**.

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## Readopted Rules

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(d) The protective services plan must take into account, to the extent feasible, the expressed preferences of the endangered adult.

(e) A competent adult, even though endangered, has the right to refuse protective services. However, the APS unit should make every effort to fully inform the endangered adult of the benefits available from protective services, and of the problems which could be exacerbated if protective services were refused.

(f) The endangered adult has the right to have court-ordered protective services reviewed by the court once every six (6) months. (*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-2-11; filed Oct 30, 1985, 10:48 a.m.: 9 IR 481; readopted filed Nov 14, 2001, 4:47 p.m.: 25 IR 1281*) NOTE: Transferred from the department on aging and community services (450 IAC 1-2-11) to the division of aging and rehabilitative services (460 IAC 1-2-11) by P.L.41-1987, SECTION 23, effective July 1, 1987.

SECTION 12. UNDER IC 4-22-2.5-3, 460 IAC 1-2-12 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 460 IAC 1-2-12 Appeal rights of the allegedly endangered adult

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 4-21.5; IC 12-10-3; IC 35-42-2-1; IC 35-46-1-13

Sec. 12. (a) An endangered adult, aggrieved by an action of the adult protective services unit or by ~~HACS~~, **DDARS** regarding adult protective services may appeal that action to ~~HACS~~, **DDARS**, after attempting to resolve the problem with the APS unit.

(b) The decision to conduct an investigation pursuant to a report under ~~IC 4-27-7~~, **IC 12-10-3**, is not appealable.

(c) The request for a hearing must be submitted in writing and signed by the appellant or his/her representative. This request must be received by ~~HACS~~ **DDARS** within **thirty** (30) calendar days of the appellant's notification of the action being appealed.

(d) ~~HACS~~ **DDARS** shall hold the hearing within **thirty** (30) calendar days after receipt of the request for a hearing.

(e) The hearing shall be conducted in accordance with the Indiana Administrative ~~Adjudication~~ **Orders and Procedures Act**, ~~IC 4-22-1~~, **IC 4-21.5**.

(f) ~~HACS~~ **DDARS** shall notify the appellant and the adult protective services unit by registered mail of the appeal decision within **ten** (10) calendar days after the hearing. (*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-2-12; filed Oct 30, 1985, 10:48 a.m.: 9 IR 482; readopted filed Nov 14, 2001, 4:47 p.m.: 25 IR 1282*) NOTE: Transferred from the

*department on aging and community services (450 IAC 1-2-12) to the division of aging and rehabilitative services (460 IAC 1-2-12) by P.L.41-1987, SECTION 23, effective July 1, 1987.*

LSA Document #00-300(F)

Intent to Readopt Rules Published: January 1, 2001; 24 IR 1127

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Approved by Governor: November 14, 2001

Filed with Secretary of State: November 14, 2001, 4:47 p.m.

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## TITLE 470 DIVISION OF FAMILY AND CHILDREN

LSA Document #01-60(F)

### DIGEST

Readopts rules in anticipation of IC 4-22-2.5-2, providing that all rules of Indiana administrative agencies in force on December 31, 1995, expire on January 1, 2002. Amends 470 IAC 2-5-1 by updating division and program titles in child support definitions, repealing subdivision (7) as unnecessary, and eliminating reference to repealed Indiana Code sections. Amends 470 IAC 2-5-2 and 470 IAC 2-5-3 by updating division and program titles and eliminating reference to repealed Indiana Code sections. Repeals 470 IAC 2-5-4 as duplicating 45 CFR 302.33 (services to individuals not receiving Title IV-A or Title IV-E-foster care assistance). Amends 470 IAC 2-5-5 by updating division and program titles, adding (a) and (b) to replace safeguards to information from users of parent locator and child support services, which were in repealed 45 CFR 303.21, and eliminating reference to repealed Indiana Code sections. Amends 470 IAC 2-5-6 and 470 IAC 2-5-7 by updating titles and eliminating reference to repealed Indiana Code sections. Repeals 470 IAC 2-5-8 as duplicating IC 12-17-2-26 (incentive payments for enforcing and collecting support rights). Repeals 470 IAC 2-5-9 as duplicative due to proposed changes to 470 IAC 2-5-5. Amends 470 IAC 2-5-10 by updating titles and eliminating reference to repealed Indiana Code sections. Repeals 470 IAC 2-5-11 as no longer necessary due to the repeal of 470 IAC 2-5-1(7). Amends 470 IAC 2-5-12, 470 IAC 2-5-13, and 470 IAC 2-5-14 by updating titles and eliminating reference to repealed Indiana Code sections. Amends 470 IAC 2-5-15 by updating terminology, rephrasing, and reorganizing to clarify recoupment of overpayments by offset procedures. Repeals 470 IAC 2-5-16, 470 IAC 2-5-17, and 470 IAC 2-5-18 as not relevant to Title IV-D, Child Support. Repeals 470 IAC 2-5-19 as covered in 470 IAC 1-4 (administrative appeals). Amends 470 IAC 2-5-20 by updating titles and eliminating reference to repealed Indiana Code sections.

Repeals 470 IAC 2-5-21 as replaced by IC 31-16-15-10(b)(9) (notice to income payor of activation order; pro rata distribution). Amends 470 IAC 2-5-22 to reflect IC 12-17-2-21 (support-related duties of bureau). Effective 30 days after filing with the secretary of state.

470 IAC 2-5-1	470 IAC 2-5-12
470 IAC 2-5-2	470 IAC 2-5-13
470 IAC 2-5-3	470 IAC 2-5-14
470 IAC 2-5-4	470 IAC 2-5-15
470 IAC 2-5-5	470 IAC 2-5-16
470 IAC 2-5-6	470 IAC 2-5-17
470 IAC 2-5-7	470 IAC 2-5-18
470 IAC 2-5-8	470 IAC 2-5-19
470 IAC 2-5-9	470 IAC 2-5-20
470 IAC 2-5-10	470 IAC 2-5-21
470 IAC 2-5-11	470 IAC 2-5-22

SECTION 1. UNDER IC 4-22-2.5-3, 470 IAC 2-5-1 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**470 IAC 2-5-1 Definitions**

Authority: IC 12-13-2-3; IC 12-13-5-3; IC 12-17-2-30  
 Affected: IC 12-17-2

Sec. 1. ~~Definitions.~~ **The following definitions used in these rules and regulations** shall have the meanings ascribed to them in this section unless the context clearly indicates a different meaning:

- (1) "Child support ~~Enforcement~~ services" ~~include~~ **includes** the legal activities necessary to establish or enforce a child support order, including:
  - (A) enforcement of a prior support order secured in a divorce or paternity proceedings; ~~(b)~~
  - (B) establishment and enforcement of a support order in a case where the parents are separated but not divorced; ~~(c)~~
  - (C) establishment of paternity and securing a support order; and ~~(d)~~
  - (D) modification of an existing support order ~~when the terms of such order are grossly inadequate:~~ **in accordance with the Indiana child support rules and guidelines.**

Child support ~~Enforcement~~ services do not include ~~providing legal representation involvement~~ in child custody and/or visitation disputes. ~~or in dissolution of marriage actions.~~

- (2) "Costs" ~~include~~ **includes** administrative costs of the prosecuting attorney and the ~~state department division of public welfare:~~ **family and children** filing fees, witness fees, jury fees, change of venue fees, deposition fees, **genetic testing fees**, and other items generally allowed as costs in Indiana trial courts.
- (3) "Current support", **for purposes of payment distribution**, means (a) all support collected in a given month from an absent parent who is paying voluntarily and not pursuant to a court order, or (b) all support collected in a given month from an ~~absent parent obligor~~ who is paying support pursuant to a court order, up to the amount of the monthly court

ordered support obligation which is in effect during the month in which the payment is received.

(4) ~~A "Non-AFDC~~ **"Nonpublic assistance participant"** in the child support program is **means** a person who is not receiving Aid to Families with Dependent Children (AFDC) ~~but assistance under Title IV-A, IV-E, or XIX of the federal Social Security Act (federal public assistance programs), and who has executed a written application for child support services and paid the required state fee.~~

(5) "Parent locator service" includes efforts to locate absent parents for the sole purpose of establishing and enforcing child support obligations. Parent location efforts are carried out by: ~~(1)~~

- (A) the Indiana state parent locator service, administered by the Indiana state department **division of public welfare; family and children**, child support ~~division;~~ ~~(2) bureau;~~
- (B) the parent locator service administered by another state; and ~~(3)~~

(C) The federal parent locator service. ~~A condition precedent for utilizing the Federal Parent Locator Service is the exhaustion of state location resources.~~

(6) "Support arrearage", **for purposes of payment distribution**, means all support collected in a given month from an absent parent who is paying support pursuant to a court order, but ~~which~~ is in excess of the absent parent's current court ordered support obligation for that month and ~~which~~ represents payment of a court ordered support obligation ~~which~~ **that** had accrued in prior months. ~~The terms "support arrearage" and "back support", shall be synonymous.~~

(7) "Valid Child Support Payments" mean:

- (a) All child support payments received by the Indiana state department of public welfare from a Circuit Court Clerk made payable to the Indiana state department of public welfare which are accompanied by proper identification to assure accurate crediting of each payment to the correct account. Such proper identification is a minimum of payor name; payee name and the Title IV-D case number.
- (b) All child support payments mailed to or received by the Indiana state department of public welfare, from an individual other than a Circuit Court Clerk, which are accompanied by proper identification as set forth in part (a) above; and further, which are in the form of a money order; certified check; cashier's check or military allotment made payable to the Indiana state department of public welfare.
- (c) All converted child support payments mailed to or received by the Indiana state department of public welfare from an Aid to Families with Dependent Children recipient which meets the requirements for a valid child support payment described in Regulation 2-722.

IC 12-1-2-2(c)

IC 12-1-2-3(f)

IC 12-1-6-1-19 (*Division of Family and Children; Title 2, Ch 7, Reg 2-700; filed Nov 2, 1977, 2:14 p.m.: Rules and Regs. 1978, p. 732; readopted filed Nov 14, 2001, 4:43 p.m.: 25 IR 1283*)

## Readopted Rules

SECTION 2. UNDER IC 4-22-2.5-3, 470 IAC 2-5-2 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 470 IAC 2-5-2 Eligibility and fees for parent locator and child support services; collection processing service

Authority: IC 12-13-2-3; IC 12-13-5-3; IC 12-17-2-30  
Affected: IC 12-17-2-22

Sec. 2. Any person who, in the month of application, is not receiving for himself or on behalf of any of his children aid to families with dependent children (~~AFDC~~) a recipient of a federal public assistance program shall be eligible for the parent locator and child support enforcement services administered by the state department of public welfare upon the filing of an application with the county department of public welfare in the county of the applicant's residence: a county child support office. A nonrefundable twenty-five dollar (\$25) application fee shall accompany each application for such services. (*Division of Family and Children; Title 2, Ch 7, Reg 2-701; filed Jan 6, 1977, 2:05 p.m.: Rules and Regs. 1978, p. 718; filed Nov 2, 1977, 2:14 p.m.: Rules and Regs. 1978, p. 734; filed Jul 16, 1982, 1:58 p.m.: 5 IR 1827; filed Mar 29, 1985, 10:05 a.m.: 8 IR 992; filed Aug 13, 1991, 9:15 a.m.: 15 IR 7; readopted filed Nov 14, 2001, 4:43 p.m.: 25 IR 1284*)

SECTION 3. UNDER IC 4-22-2.5-3, 470 IAC 2-5-3 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 470 IAC 2-5-3 Recovery of costs in nonpublic assistance child support cases

Authority: IC 12-13-2-3; IC 12-13-5-3; IC 12-17-2-30  
Affected: IC 12-17-2-22

Sec. 3. Recovery of Costs in Non-~~AFDC~~ Child Support Cases: In the event that the state department of public welfare recovers (a) When child support payments are collected for a non-~~AFDC~~ nonpublic assistance participant, in the ~~Child Support Program~~, the actual costs, in excess of the application fee, incurred by the state department of public welfare or its agents in the determination of paternity or collection of child support on behalf of said the person shall may be recovered by the state. department of public welfare:

(b) The state department division of public welfare family and children shall first attempt to recover these costs from obligor-absent parent obligor who has been ordered to make support payments to the non-~~AFDC~~ nonpublic assistance participant. in the Child Support Program. In the event If the state department division of public welfare family and children is unable to recover all or parts of these costs from the obligor-absent parent, obligor, the state department shall division may recover the unpaid costs from the non-~~AFDC~~ nonpublic assistance participant in the child support program.

(c) The state department division of public welfare shall

family and children will recover these unpaid costs from the non-~~AFDC~~ nonpublic assistance participant in the following manner:

(1) The state department division of public welfare family and children shall first recover unpaid costs out of any lump sum support arrearage payment recovered on the recipient's behalf as a result of the court order. or

(2) If this lump sum payment is insufficient to pay all of the unpaid costs, the state department division of public welfare family and children shall recover the remaining unpaid costs out of the support payments it collects on behalf of the non-~~AFDC~~ nonpublic assistance participant. In so doing, the state department division of public welfare family and children shall deduct amounts out of the support collection received on behalf of the non-~~AFDC~~ nonpublic assistance participant.

~~IC 12-1-2-2(c)~~

~~IC 12-1-2-3(f)~~

~~IC 12-1-6.1-13~~

~~IC 12-1-6.1-19~~ (*Division of Family and Children; Title 2, Ch 7, Reg 2-702; filed Jan 6, 1977, 2:05 p.m.: Rules and Regs. 1978, p. 719; filed Nov 2, 1977, 2:14 p.m.: Rules and Regs. 1978, p. 734; readopted filed Nov 14, 2001, 4:43 p.m.: 25 IR 1284*)

SECTION 4. UNDER IC 4-22-2.5-3, 470 IAC 2-5-5 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 470 IAC 2-5-5 Safeguarding information

Authority: IC 12-13-5-3; IC 12-17-2-30  
Affected: IC 12-14; IC 12-17-2

Sec. 5. Safeguarding Information: (a) No individually identifiable information secured from an applicant or recipient of parent locator and child support services by the State Department division of Public Welfare family and children shall be disclosed or released, except under the conditions specified in P.L.93-647, as permitted under 42 U.S.C. 651 et seq., as amended, and the any regulations promulgated thereunder. Except that the State Department of Public Welfare will comply with provisions of IC 12-1-10-2 regarding publications of the names and addresses of persons receiving public assistance:

(b) The use or disclosure of information concerning applicants or recipients of support enforcement services is limited to purposes directly connected with the following:

- (1) The administration of the plan or program approved:
  - (A) under Part A, B, D, E, or F of Title IV;
  - (B) under Title I, X, XIV, XVI, XIX, or XX; or
  - (C) the Supplemental Security Income Program established under Title XVI.
- (2) Any investigations, prosecution, or criminal or civil proceeding conducted in connection with the administration of any such plan or program.

(3) The administration of any other federal or federally assisted program that provides assistance, in cash or in kind, or services directly to individuals on the basis of need.

(4) Reporting to an appropriate agency or official information on known or suspected instances or physical or mental injury, sexual abuse, or exploitation, or negligent treatment or maltreatment of a child who is the subject of a child enforcement activity under circumstances that indicate that the child's health or welfare is threatened thereby.

(c) These safeguards shall also prohibit disclosure to any committee, or legislative body (federal, state, or local) of any information that identifies by name or address any such applicant or recipient.

IC 12-1-2-2(e)  
 IC 12-1-2-3(f)  
 IC 12-1-6.1-15  
 IC 12-1-6.1-19 (*Division of Family and Children; Title 2, Ch 7, Reg 2-704; filed Jan 6, 1977, 2:05 p.m.: Rules and Regs. 1978, p. 719; readopted filed Nov 14, 2001, 4:43 p.m.: 25 IR 1284*)

SECTION 5. UNDER IC 4-22-2.5-3, 470 IAC 2-5-6 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**470 IAC 2-5-6 Funding and withholding of funds to the clerk of the circuit court**

Authority: IC 12-13-5-3; IC 12-17-2-30  
 Affected: IC 12-17-2-23; IC 12-17-2-27

Sec. 6. Funding and Withholding of Funds to the Clerk of the Circuit Court. (a) The State Department division of Public Welfare family and children shall reimburse the clerk of the circuit court for the clerk's activities performed under the cooperative agreement between the State Department division of Public Welfare family and children and the clerk of the circuit court. The extent of this reimbursement shall be governed by the terms of the budget submitted by the clerk and approved by the State Department division of Public Welfare family and children. In no case shall the reimbursement exceed the percentages allowed by federal law and regulations.

(b) In the event the clerk does not perform the activities required by the cooperative agreement, the State Department division of Public Welfare family and children shall have the authority to withhold reimbursement funds due to the clerk of the circuit court. The State Department division of Public Welfare family and children shall not withhold such funds until the State Department division of Public Welfare family and children has forwarded written notice to the clerk twenty (20) sixty (60) days prior to the date upon which reimbursement will be withheld. Such notice shall contain the date reimbursement will be withheld and the reasons therefor.

IC 12-1-2-3(e)  
 IC 12-1-2-3(f)  
 IC 12-1-6.1-14  
 IC 12-1-6.1-17  
 IC 12-1-6.1-19 (*Division of Family and Children; Title 2, Ch 7, Reg 2-707; filed Jan 6, 1977, 2:05 p.m.: Rules and Regs. 1978, p. 721; readopted filed Nov 14, 2001, 4:43 p.m.: 25 IR 1285*)

SECTION 6. UNDER IC 4-22-2.5-3, 470 IAC 2-5-7 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**470 IAC 2-5-7 Cancellation of cooperative agreement with the prosecuting attorney; notice; withholding of reimbursement; failure to take legal action**

Authority: IC 12-13-2-3; IC 12-13-5-3; IC 12-17-2-30  
 Affected: IC 12-17-2-23

Sec. 7. Cancellation of Cooperative Agreement with the Prosecuting Attorney. (a) Either party to the cooperative agreement entered into between the State Department division of Public Welfare family and children and the prosecuting attorney may cancel that agreement prior to its expiration date by giving the other party to the agreement advance notice of the intention to cancel the agreement. Such notice shall be in writing and shall be forwarded to the other party to the agreement twenty (20) sixty (60) days prior to the date the agreement will be canceled. Such notice shall contain the date of the intended cancellation and the reason therefor.

(b) In the event the State Department division of Public Welfare family and children gives the prosecuting attorney prior notice of its intention to cancel the cooperative agreement, the State Department division of Public Welfare family and children shall have the right to withhold reimbursement funds due and owing to such prosecuting attorney on and after the date of intended cancellation.

(c) No prosecuting attorney shall be subject to cancellation of the agreement for breach of the provisions in his the cooperative agreement, which require him or her to take legal action to establish and enforce support obligations unless the failure to take legal action in a particular case is clear abuse of discretion.

IC 12-1-2-2(c)  
 IC 12-1-2-3(f)  
 IC 12-1-6.1-14  
 IC 12-1-6.1-19 (*Division of Family and Children; Title 2, Ch 7, Reg 2-708; filed Jan 6, 1977, 2:05 p.m.: Rules and Regs. 1978, p. 721; readopted filed Nov 14, 2001, 4:43 p.m.: 25 IR 1285*)

SECTION 7. UNDER IC 4-22-2.5-3, 470 IAC 2-5-10 IS READOPTED AND AMENDED TO READ AS FOLLOWS:



## Readopted Rules

### 470 IAC 2-5-10 Date of collection; individual

Authority: IC 12-13-2-3; IC 12-13-5-3; IC 12-17-2-30  
Affected: IC 12-17-2

Sec. 10. ~~Date of Collection:~~ The date of collection from an individual ~~other than a Circuit Court Clerk~~ shall be the date upon which a ~~valid~~ child support payment is received by the Indiana ~~state department division~~ of ~~public welfare family and children~~ in the office of the child support ~~division: bureau or a clerk of the circuit court.~~

~~IC 12-1-2-2(c)~~

~~IC 12-1-2-3(f)~~

~~IC 12-1-6.1-2~~

~~IC 12-1-6.1-4~~

~~IC 12-1-6.1-19 (Division of Family and Children; Title 2, Ch 7, Reg 2-720; filed Nov 2, 1977, 2:14 p.m.: Rules and Regs. 1978, p. 738; readopted filed Nov 14, 2001, 4:43 p.m.: 25 IR 1286)~~

SECTION 8. UNDER IC 4-22-2.5-3, 470 IAC 2-5-12 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 470 IAC 2-5-12 Requirements for converting support payments received directly by the recipient; condition for continuing eligibility for assistance

Authority: IC 12-13-2-3; IC 12-13-5-3; IC 12-17-2-30  
Affected: IC 12-17-2

Sec. 12. ~~Converting Support Payments Received Directly by the Recipient:~~ (a) As a condition of continuing eligibility for assistance, any Aid to Families with Dependent Children ~~temporary assistance to needy families (TANF)~~ recipient who, after executing an assignment of ~~his~~ support rights to the Indiana ~~state department division~~ of ~~public welfare, family and children~~, receives a ~~direct court ordered~~ child support payment from or on behalf of the ~~absent parent who is the subject of the assignment obligor~~ must:

- (1) convert that payment to the form prescribed by this ~~regulation, section; and~~
- (2) promptly forward that converted payment to the Indiana ~~state department division~~ of ~~public welfare family and children~~ at the office of the child support ~~division: bureau or the clerk of the circuit court.~~

(b) Any support payment received from an individual must be converted to a money order, cashier's ~~check~~, or certified check payable to the Indiana ~~state department division~~ of ~~public welfare family and children or the clerk of the circuit court~~ and contain or be accompanied by the following information:

- (1) The recipient's name.
- (2) The recipient's Title IV-D case number. ~~and~~
- (3) The ~~absent parent-obligor obligor~~ from whom or on whose behalf the support payment was made.

(c) Any support payment received from the clerk of the court

or any payment in the form of a military allotment must be endorsed by the recipient and contain or be accompanied by the following information:

- (1) The recipient's name.
- (2) The recipient's Title IV-D case number. ~~and~~
- (3) The ~~absent parent-obligor obligor~~ from whom or on whose behalf the support payment was made.

Any payment by the recipient to the Indiana state department of public welfare in an effort to comply with this regulation shall not constitute a valid support payment unless it meets the requirements of this regulation:

~~IC 12-1-2-2(c)~~

~~IC 12-1-2-3(f)~~

~~IC 12-1-6.1-2~~

~~IC 12-1-6.1-12~~

~~IC 12-1-6.1-17~~

~~IC 12-1-6.1-19 (Division of Family and Children; Title 2, Ch 7, Reg 2-722; filed Nov 2, 1977, 2:14 p.m.: Rules and Regs. 1978, p. 738; readopted filed Nov 14, 2001, 4:43 p.m.: 25 IR 1286)~~

SECTION 9. UNDER IC 4-22-2.5-3, 470 IAC 2-5-13 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 470 IAC 2-5-13 Distribution of child support collections

Authority: IC 12-13-2-3; IC 12-13-5-3; IC 12-17-2-30  
Affected: IC 12-17-2

Sec. 13. (a) The ~~state department division~~ of ~~public welfare family and children~~ shall distribute the child support moneys it collects on behalf of Aid to Families with Dependent Children ~~(AFDC) temporary assistance to needy families (TANF)~~ recipients according to the provisions of title 45 of the Code of Federal Regulations Section 302.51: in accordance with 42 U.S.C. 657 and 45 CFR 302.51.

(b) The same procedure for distributing support payments will be utilized when ~~an AFDC a TANF~~ award is suspended except that the ~~state department division~~ of ~~public welfare family and children~~ will continue to collect child support payments for the ~~AFDC TANF~~ recipient during the period of suspension.

~~IC 12-1-2-2(c)~~

~~IC 12-1-2-3(f)~~

~~IC 12-1-6.1-2~~

~~IC 12-1-6.1-12~~

~~IC 12-1-6.1-19 (Division of Family and Children; Title 2, Ch 7, Reg 2-730; filed Nov 2, 1977, 2:14 p.m.: Rules and Regs. 1978, p. 739; filed Aug 26, 1987, 11:00 a.m.: 11 IR 86; readopted filed Nov 14, 2001, 4:43 p.m.: 25 IR 1286)~~

SECTION 10. UNDER IC 4-22-2.5-3, 470 IAC 2-5-14 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**470 IAC 2-5-14 Distribution of support to nonpublic assistance participants who receive child support services**

Authority: IC 12-13-2-3; IC 12-13-5-3; IC 12-17-2-30  
 Affected: IC 12-17-2

Sec. 14. Distribution of Support to Non-AFDC Participants who Receive Child Support Enforcement Services: Upon the receipt of a valid child support payment made on behalf of a non-AFDC **nonpublic assistance** participant, in the Child Support Program who receives Child Support Enforcement Services; the Indiana state department **division** of public welfare **family and children shall**, after the deduction of any unpaid costs described in regulation 2-700, shall **470 IAC 2-5-1 [section 1 of this rule]**, forward the **monthly remaining** support collection received to the **non-AFDC nonpublic assistance** participant, not later than sixty (60) days after the end of the month in which the support collections were made by the Indiana state department of public welfare at the offices of the child support division:

- IC 12-1-2-2(c)
- IC 12-1-2-3(f)
- IC 12-1-6.1-13
- IC 12-1-6.1-14
- IC 12-1-6.1-19 (*Division of Family and Children; Title 2, Ch 7, Reg 2-731; filed Nov 2, 1977, 2:14 p.m.: Rules and Regs. 1978, p. 740; readopted filed Nov 14, 2001, 4:43 p.m.: 25 IR 1287*)

SECTION 11. UNDER IC 4-22-2.5-3, 470 IAC 2-5-15 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**470 IAC 2-5-15 Recoupment of an overpayment of child support collections**

Authority: IC 12-13-2-3; IC 12-13-5-3; IC 12-17-2-30  
 Affected: IC 12-17-2

Sec. 15. (a) When the Indiana state department of public welfare determines that an aid to families with dependent children assistance (AFDC) recipient or a non-AFDC participant who receives Title IV-D child support enforcement services has received from the Indiana state department of public welfare an overpayment of child support collections for any month; such overpayment shall be recouped by the Indiana state department of public welfare In non-AFDC cases the recoupment will be made by withholding in subsequent months the amount of child support collection payable to the participant until the overpayment has been repaid or recouped in full:

(b) In AFDC cases the recoupment will be made by withholding in subsequent months the amount of any child support collection payable to the AFDC recipient under 45 C.F.R. 302.51(b)(3) or (b)(5); until the overpayment has been recouped or repaid in full: Child support collections payable to the AFDC recipient as a disregard payment under 45 C.F.R. 302.51(b)(1) shall not be withheld to recoup any such overpayments:

(c) If an AFDC recipient withdraws from or becomes ineligible for public assistance before any overpayment of child support collections is fully repaid or recouped; the Indiana state department of public welfare may not continue to recoup the overpayment out of the ex-recipient's current support payments. However, the Indiana state department of public welfare may recoup overpayments out of child support arrearages; if:

- (1) the ex-recipient's right to the child support arrearages accrued before his termination from public assistance; and
- (2) all past public assistance paid to the AFDC family has been fully repaid:

(a) When the bureau determines that, in processing collections to program participants from federal or state tax or administrative offset procedures or from payments posted at the bureau's central office, moneys have been distributed to which a participant is not legally entitled, such overpayments may be recouped by the bureau.

(b) In active temporary assistance to needy families (TANF) cases, the recoupment of moneys shall be made from support payments, other than current support, to which the TANF recipient would otherwise have been entitled, through the submission of the overpaid participant for state tax offset, through subsequent federal tax offset collections from the obligor, or through a repayment agreement entered into between the participant and the bureau.

(c) If the overpayment is made to a nonpublic assistance participant, including a former public assistance recipient, the recoupment shall be made through a repayment agreement entered into between the participant and the bureau, the submission of the overpaid participant for state tax offset or through subsequent federal tax offset collections from the obligor. If the overpaid participant does not enter into a repayment agreement with the bureau within thirty (30) days of notice of the overpayment, the recoupment will be made by withholding in subsequent months the amount of child support collection payable to the participant until the overpayment has been repaid or recouped in full.

(d) If the overpayment in a non-AFDC nonpublic assistance case results from the IRS recalling all or part of an intercepted tax refund from child support ~~division~~ bureau funds, the non-AFDC nonpublic assistance participant is obligated to reimburse the child support ~~division~~ bureau for the recalled amount which that the participant received, and the recalled amount constitutes a debt owed by the non-AFDC nonpublic assistance participant to the child support ~~division~~ bureau.

(e) If a noncustodial party receives moneys from the bureau that are subsequently determined to be moneys to which that person was not entitled, the recoupment shall be

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made through the submission of the overpaid person for state tax offset collection or through a repayment agreement between the person and the bureau. (*Division of Family and Children; Title 2, Ch 7, Reg 2-732; filed Nov 2, 1977, 2:14 p.m.: Rules and Regs. 1978, p. 740; filed Apr 7, 1988, 8:30 a.m.: 11 IR 2856; filed Mar 8, 1989, 9:40 a.m.: 12 IR 1506; errata, 12 IR 1636; readopted filed Nov 14, 2001, 4:43 p.m.: 25 IR 1287*)

SECTION 12. UNDER IC 4-22-2.5-3, 470 IAC 2-5-20 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**470 IAC 2-5-20 Withdrawal from nonpublic assistance child support services; notice and payment of charges**

Authority: IC 12-13-2-3; IC 12-13-5-3; IC 12-17-2-30  
Affected: IC 12-17-2-22

Sec. 20. ~~Withdrawal From Non-AFDC Child Support Services.~~ A non-AFDC nonpublic assistance participant in the child support program who receives parent locator and/or child support enforcement services may withdraw from the program by notifying the Indiana state department of public welfare, office of the child support division local county child support enforcement office, in writing, of his the intention to withdraw and by paying all charges due and owing the Indiana state department of public welfare: from participation in the program. Upon the effective date of withdrawal, as determined by the Indiana state department division of public welfare, family and children, the Indiana state department of public welfare shall cease to collect child support payments on behalf of the non-AFDC participant: individual will no longer be entitled to any child support services.

~~IC 12-1-2-2(c)~~

~~IC 12-1-2-3(f)~~

~~IC 12-1-6.1-13~~

~~IC 12-1-6.1-19~~ (*Division of Family and Children; Title 2, Ch 7, Reg 2-760; filed Nov 2, 1977, 2:14 p.m.: Rules and Regs. 1978, p. 744; readopted filed Nov 14, 2001, 4:43 p.m.: 25 IR 1288*)

SECTION 13. UNDER IC 4-22-2.5-3, 470 IAC 2-5-22 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**470 IAC 2-5-22 State income tax refund intercept**

Authority: IC 12-13-2-3; IC 12-13-5-3; IC 12-17-2-30  
Affected: IC 6-8.1-9.5; IC 12-17-2-14

Sec. 22. (a) In non-AFDC cases the child support division shall, prior to any state income tax refund offset, inform the non-AFDC custodial parent that any offset amount will first be used to satisfy any unreimbursed past public assistance (AFDC and foster care maintenance) which has been provided to the family:

(b) Whenever the state department division of public welfare;

family and children, pursuant to IC 6-8.1-9.5, intercepts a state income tax refund for child support owed, and the amount offset is found to be in error or to exceed the amount of overdue support, the department division shall promptly refund the appropriate excess amount to the absent parent. (*Division of Family and Children; 470 IAC 2-5-22; filed May 8, 1986, 1:45 p.m.: 9 IR 2200; readopted filed Nov 14, 2001, 4:43 p.m.: 25 IR 1288*)

SECTION 14. THE FOLLOWING ARE REPEALED: 470 IAC 2-5-4; 470 IAC 2-5-8; 470 IAC 2-5-9; 470 IAC 2-5-11; 470 IAC 2-5-16; 470 IAC 2-5-17; 470 IAC 2-5-18; 470 IAC 2-5-19; 470 IAC 2-5-21.

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## TITLE 585 STATE STUDENT ASSISTANCE COMMISSION

LSA Document #01-147(F)(2)

### DIGEST

Readopts rules in anticipation of IC 4-22-2.5-2, providing that all rules of the Indiana administrative agencies in force on December 31, 1995, expire on January 1, 2002. Effective 30 days after filing with the secretary of state.

585 IAC 1-9-1

585 IAC 1-9-2

585 IAC 1-9-3

585 IAC 1-9-4

585 IAC 1-9-5

585 IAC 1-9-6

585 IAC 1-9-7

585 IAC 1-9-8

585 IAC 1-9-9

585 IAC 1-9-10

585 IAC 1-9-11

585 IAC 1-9-14

585 IAC 5-1-1

585 IAC 5-2-2

585 IAC 5-3-6

585 IAC 5-4-1

585 IAC 8-1-2

585 IAC 8-1-4

585 IAC 8-1-5

585 IAC 8-1-6

585 IAC 8-1-9

585 IAC 8-1-11

585 IAC 8-1-12

585 IAC 8-1-13

585 IAC 8-2-1

585 IAC 8-2-2

585 IAC 8-2-3

585 IAC 8-2-4

585 IAC 8-2-5

585 IAC 8-2-7

585 IAC 8-2-8

SECTION 1. UNDER IC 4-22-2.5-3, 585 IAC 1-9-1 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**585 IAC 1-9-1 Definitions**

Authority: IC 20-12-21-5  
 Affected: IC 20-12-21

Sec. 1. The following definitions apply throughout this article:

- (1) "Academic ~~term~~ **year**" means an approved institution's school year, usually two (2) semesters, ~~or~~ three (3) quarters, **or three (3) trimesters**, but not including summer sessions.
- (2) "Act" means IC 20-12-21.
- (3) **"Allowable tuition and fees" means the tuition and fees upon which awards are based and shall be established annually by a resolution adopted by the commission under section 7 of this rule.**
- ~~(3)~~ (4) "Application deadline" means the ~~final~~ date on which ~~paper~~ applications for awards must be postmarked, **or the date that electronic applications for awards must be received. The opening date for the application shall be January 1 of each year, and the closing date shall be March 1 of each year. The commission may establish other dates due to budgetary constraints. The closing date may be extended by a reasonable period of time as determined by the commission to allow time for mail delivery or, if funds are available, to make awards to those who did not file by the deadline.**
- ~~(4)~~ (5) "Application period" means the period of time ~~during which that~~ applications for awards are accepted.
- (6) **"Approved application" means the Free Application for Federal Student Aid (FAFSA).**
- ~~(5)~~ (7) "Approved institution" means ~~an approved institution institutions~~ of higher learning as defined in IC 20-12-21-3. **All approved institutions must have active Title IV participation agreements with the United States Department of Education and active program participation agreements with the commission.**
- ~~(6)~~ (8) "Award" means any monetary grant made by the commission from appropriations for Higher Education Awards and Freedom of Choice grants, federal ~~State Student Incentive Grant~~ funds, or other appropriations, grants, gifts, or bequests. ~~provided for the purpose of making need-based awards.~~
- ~~(7)~~ (9) "Award notification" means a notice ~~by mail~~ from the commission informing eligible applicants of their state award status.
- ~~(8)~~ (10) "Citizen" means a person:
  - (A) born in the United States;
  - (B) born abroad of parents who are United States citizens; or
  - (C) who has been naturalized.
- ~~(9)~~ (11) "Commission" means the policy making body of the state student assistance commission of Indiana created by IC 20-12-21-4 and the agency of state government with the same name.
- (12) **"Completed application" means a completed and error-free Free Application for Federal Student Aid as defined by the commission.**

(13) "Consortium agreement" means a written agreement between two (2) approved institutions to provide course work, which is applicable to a degree program at the home institution.

(14) "Correspondence course" means a home study course provided by an approved institution. Students may or may not be physically attending classes at the institution. **The institution provides instructional materials, including examinations, to students.**

~~(10)~~ (15) "Default" means the failure of a borrower to make an installment payment ~~on a federal student loan~~ when due ~~or to meet other terms of the promissory note under circumstances where the guarantee agency finds it reasonable to conclude that the borrower no longer intends to honor the obligations to repay; provided that this failure persists for:~~

- (A) ~~one hundred eighty (180) days delinquent for loans payable in monthly installments; or~~
- (B) ~~two hundred forty (240) days delinquent for loans payable in less frequent installments.~~

~~This one hundred eighty (180) or two hundred forty (240) day default period applies to loans authorized in accordance with the terms outlined under Title IV, Part B of the Higher Education Act of 1965, as amended, 20 U.S.C. 1071, et seq.~~

~~(11)~~ (16) "Dependent student" means any applicant not meeting the criteria under section 5(b) or 5(c) of this rule.

(17) **"Distance education" means an educational process that is characterized by the separation, in time or place, of the student and instructor and includes courses offered principally through the use of various means, including the Internet, television, audio, or computer transmission, such as open broadcast, closed circuit, cable, or satellite transmission; audio or computer conferencing; video cassettes or disks; or correspondence.**

~~(12)~~ (18) "Domiciled in the state" means that a dependent applicant's parents' or an independent applicant's permanent, continuous, and principal place of residence is within ~~the~~ state of Indiana.

(19) **"Edit letter" means a notice by mail that the commission sends to an applicant, stating the reason or reasons why an applicant is ineligible for an award and advising the applicant of the methods and deadlines that are associated with correcting an incomplete approved application.**

~~(13)~~ (20) "Eligible noncitizen" means a person who ~~holds certification as a permanent resident alien or who has been granted refugee~~ **eligible noncitizen status by the United States Department of Immigration and Naturalization Service.**

~~(14)~~ (21) "Eligible student" means a person who is enrolled or **has been** accepted for enrollment at an approved institution of higher education.

~~(15)~~ (22) "Enrollment period" means a portion of an academic ~~term; year~~, usually ~~either~~ a semester, a **trimester**, or a quarter.

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(16) (23) "Executive director" means the person appointed by the governor to administer the commission's programs.

(17) (24) "Expected family contribution (EFC)" means the dollar amount that an applicant and his or her spouse and/or the parents are expected to contribute to the costs of education.

(18) (25) "Federal methodology" means the federally legislated, nationally standardized procedure used for calculating a parental contribution (PC) and expected family contribution (EFC) from data on the approved application.

(19) (26) "File with the commission" means the mailing filing of an approved need analysis application to the servicer application processing center designated by the United States Department of Education to performing perform the analysis.

(20) (27) "Full-time student" means an individual enrolled at an approved institution for not less than twelve (12) semester credit hours in each enrollment period of an academic term or not less than six (6) credit hours in any summer or other short enrollment period: year at a semester-based institution. Semester credit hours shall be converted to the equivalent if a different grading period is used at the college or university. Unless it is established that a different equivalency applies, it shall be presumed that the correct equivalency is two (2) semester hours for every three (3) quarter or trimester hours.

(28) "Grant overpayment" means any federal or state grant that occurs any time the student receives a payment that is greater than the amount for which the student is eligible.

(29) "Higher education grant (HEG)" means funds awarded under the higher education award and the freedom of choice grant programs.

(30) "Home school" means the school responsible for administering a student's financial aid package and satisfactory academic progress (SAP) under the terms of a consortium agreement as outlined in this rule. Under a consortium agreement, the home school is the institution that will issue the student's degree.

(31) "Home study course" means a course that is delivered in whole or in part through video cassettes or video discs and considered a correspondence course unless the school also delivers comparable instruction to students physically attending classes at the school during the same award year.

(21) (32) "Hoosier scholar" means an individual selected to receive a stipend under IC 20-12-21-20.

(22) (33) "Independent student" means any applicant meeting the criteria of section 5(b) or 5(c) of this rule.

(23) "Legal dependent" means an applicant's natural or adopted child; or a person for whom the applicant has been appointed legal guardian; and for whom the applicant provides more than half support. In addition, a legal dependent may be a person (other than a spouse) who lives with and receives at least half support from the applicant and will

continue to receive that support during the award year.

(24) "Legal guardian" means an individual appointed by a court to be a legal guardian of a person and who is specifically required by the court to use his or her own financial resources to support that person.

(25) "Letter of denial" means a notice by mail that the commission sends to an applicant, stating the reason or reasons why an applicant is ineligible for an award and advising the applicant of his or her right to appeal.

(26) "Mandatory fees" means the nontuition charges regularly assessed against all students enrolling at an approved institution.

(27) (34) "Need analysis application" means the form prescribed by the commission used to determine eligibility for the state grant program.

(28) (35) "Parent" means:

- (A) a natural father or mother, or both;
- (B) an adoptive father or mother, or both; or
- (C) a stepfather or stepmother. or
- (D) legal guardian.

(29) (36) "Parental contribution (PC)" means the dollar amount that an applicant's parents are expected to contribute to the costs of education and that is derived from an analysis of financial data submitted by an applicant on or an approved institution by the approved need analysis application process.

(30) "Revision cycle" means the period beginning after the commission's original offers of awards to applicants and ending on the last day of January.

(37) "Regularly assessed fees" means the nontuition charges regularly assessed against all undergraduate students enrolling at an approved institution.

(31) (38) "Servicer" means any of the entities performing entity approved by the commission to perform the financial needs analysis that produces computes the parental contribution (PC) and/or expected family contribution (EFC) figures used in the awards calculation process.

(32) (39) "Stipend" means the grant made to a hoosier scholar under IC 20-12-21-20.

(33) "Tuition" means the dollar amount that an approved institution charges full-time students to enroll in courses, classes, or other forms of academic study for an academic term.

(40) "Telecommunications course" means a course that is offered principally through the use of television, audio, or computer transmission, including open broadcast, closed circuit, cable, microwave, satellite, audio conferencing, computer conferencing, or video cassettes or discs. The term does not include a course that is delivered using video cassettes or discs recordings unless the institution also delivers comparable instruction offered on the cassettes or discs to students physically attending classes at the school during the same academic year.

(34) (41) "Verification" means the procedure followed by financial aid administrators or commission staff to document

the expected family contribution of applicants **audit the data disclosed on an applicant's applications** for federal, state, or institutional student financial assistance. ~~funds, using the federal methodology:~~

(35) "Veteran" means any person who:

(A) completed not less than one hundred eighty-one (181) consecutive days of active duty in the regular armed forces of the United States and was released or discharged under conditions other than dishonorable;

(B) served less than one hundred eighty-one (181) consecutive days of active duty in the regular armed forces of the United States and was released from active duty due to a service-connected disability; or

(C) served on active duty in the Army, Navy, Air Force, Marines, or Coast Guard or was a National Guard/Reserve enlistee who participated in Operation Desert Shield/Storm and was discharged other than dishonorably.

*(State Student Assistance Commission; 585 IAC 1-9-1; filed Feb 26, 1986, 4:10 p.m.: 9 IR 1574; filed May 11, 1987, 8:45 a.m.: 10 IR 1867; filed Jan 4, 1989, 3:00 p.m.: 12 IR 1199; filed Jan 9, 1996, 5:00 p.m.: 19 IR 1358; readopted filed Nov 30, 2001, 10:52 a.m.: 25 IR 1289)*

SECTION 2. UNDER IC 4-22-2.5-3, 585 IAC 1-9-2 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**585 IAC 1-9-2 Program administration**

Authority: IC 20-12-21-5  
Affected: IC 20-12-21

Sec. 2. Consistent with IC 20-12-21 and this rule and acting on behalf of the commission, the executive director, or an authorized designee, may do the following:

- (1) Accept federal or other grants, or both, bequests, and gifts from any entity, public or private, for use in the grant and scholarship programs.
- (2) Establish administrative policies necessary to carry out the purposes of IC 20-12-21 and this rule.
- (3) Determine the eligibility of applicants for awards and scholarships.
- (4) ~~Cause calculation~~ **Calculate or recalculation of recalculate** awards, **if necessary**, for all eligible applicants.
- (5) Disburse funds to approved institutions to be administered on behalf of individual recipients.
- (6) Inspect and audit commission-related grant and scholarship funds and records maintained by the approved institutions.
- (7) Enter into agreements with approved institutions for ~~administration of commission funds:~~ **participation in the commission's grant and scholarship programs.**
- (8) Revise, suspend, or withdraw awards offered to any applicant.
- (9) Consider an enactment of the general assembly as an automatic revision of this rule.
- (10) Request information for an applicant from any source

necessary in order to determine or clarify the eligibility or financial need of the applicant.

(11) Establish that the opening date for the application shall be January 1 of each year and the closing date shall be March 1 of each year unless ~~other dates are established by the commission~~ **establishes other dates.** The closing date may be extended by ~~up to seven (7) calendar days~~ **a reasonable period of time as determined by the executive director or the appropriate designee** to allow time for mail delivery. **Unless the commission establishes other dates, applications filed electronically must be received electronically by March 1.**

(12) ~~May~~ **deem** eligible any applicant supplying **an electronic confirmation by the United States Department of Education's application servicer or a United States postal service certificate of mailing, return receipt, for an application that shows or certified or registered mail receipt that proves** the application was ~~deposited in the United States mail filed~~ **on or before the closing date established by the commission.**

(13) With approval of the commission, withhold or reduce distributions of state grant funds from an approved institution that:

- (A) fails to comply with the provisions of the program regulations; and
- (B) shows an unwillingness to negotiate in good faith on matters of dispute.

(14) Deny eligibility to those students who owe a repayment **or overpayment** of any state educational award administered by the commission **or federal Title IV funds.**

*(State Student Assistance Commission; 585 IAC 1-9-2; filed Feb 26, 1986, 4:10 p.m.: 9 IR 1575; filed May 11, 1987, 8:45 a.m.: 10 IR 1868; filed Jan 9, 1996, 5:00 p.m.: 19 IR 1360; readopted filed Nov 30, 2001, 10:52 a.m.: 25 IR 1291)*

SECTION 3. UNDER IC 4-22-2.5-3, 585 IAC 1-9-3 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**585 IAC 1-9-3 Hoosier scholar guidelines**

Authority: IC 20-12-21-5  
Affected: IC 20-12-21-20

Sec. 3. The following guidelines apply to the commission's designation of hoosier scholars under IC 20-12-21-20:

- (1) For eligibility, a nominee must meet the following requirements:
  - (A) Be a senior at an Indiana high school approved by the commission.
  - (B) Rank in the top twenty percent (20%) of their graduating class, with rank to be determined by each high school.
  - (C) Be physically domiciled in the state at the time of nomination. Parents and legal guardians of a dependent student must also be domiciled in the state **at the time the student is nominated in high school.**
  - (D) Be a United States citizen or hold classification as an eligible noncitizen.

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- (2) The stipend must be used as follows:
- (A) For any expense, not just tuition, related to attendance at an approved institution in Indiana. Unless permitted by law, the amount of any other state financial aid received by a hoosier scholar recipient may not be reduced.
  - (B) During the academic year immediately following high school graduation unless otherwise approved by the commission.
- (3) The stipend must be forfeited if a nominee:
- (A) enrolls at an ineligible institution;
  - (B) does not attend an approved institution during any portion of the award year as a full-time student; or
  - (C) fails to supply requested information to the commission within the time period specified.
- (4) An approved institution must:
- (A) credit the stipend award in a one (1) time lump sum disbursement;
  - (B) credit the stipend award to the recipient's account at any point in the thirty (30) day period prior to the first term of a student's full-time enrollment **or within thirty (30) days of being notified of the award whichever is earlier;** and
  - (C) pay all or part of the stipend award directly to the recipient if the stipend has not already been credited to the recipient's account on or after the first day of classes of an enrollment period.

*(State Student Assistance Commission; 585 IAC 1-9-3; filed Feb 26, 1986, 4:10 p.m.: 9 IR 1575; filed Jan 9, 1996, 5:00 p.m.: 19 IR 1360; readopted filed Nov 30, 2001, 10:52 a.m.: 25 IR 1291)*

SECTION 4. UNDER IC 4-22-2.5-3, 585 IAC 1-9-4 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 585 IAC 1-9-4 Eligibility standards

Authority: IC 20-12-21-5; IC 20-12-21-6

Affected: IC 20-12-21

Sec. 4. To be eligible for an award, an applicant shall meet the following requirements:

- (1) For purposes of eligibility, an applicant must have:
- (A) **completed graduated from** a program of instruction at ~~an approved~~ a secondary school. **A student who leaves an Indiana public high school with a certificate of completion, as opposed to high school diploma, is not considered a high school graduate for state grant purposes;** or
  - (B) received a general education development (GED) ~~certificate;~~ **diploma;** or
  - (C) been admitted to an approved institution in an early admissions or accelerated learning program leading to an associate's or bachelor's degree.
- (2) Be an eligible student as defined in section ~~1(14)~~ **1(21)** of this rule.
- (3) **Absent specific legislative language to the contrary,** to be eligible for a ~~first year~~ higher education ~~award;~~ ~~declare in writing grant,~~ **the student must be enrolled in an academic**

**program leading to a certificate at Ivy Tech State College, or an associate degree or baccalaureate degree at an eligible institution, or, up to the first thirty (30) credit hours of undergraduate study, pursue a specific educational objective or course of study at an eligible institution and enroll in:**

- (A) courses that apply toward the requirement for completion of that objective or course of study; or
  - (B) courses designed to assist the student in developing the basic skills necessary for the student to successfully achieve the objective or continue in that course of study.
- (4) Have not received a first baccalaureate degree and have not received:
- (A) more than eight (8) semesters or twelve (12) **trimesters or** quarters of state grant assistance; or
  - (B) more than ten (10) years of eligibility, beginning with the date that the initial award is ~~granted;~~ **used.**
- (5) File an approved ~~need analysis~~ application no earlier than the beginning of the application period and no later than the application **filing** deadline **established by the commission under section 1(3) of this rule.** To establish eligibility for an award, an applicant's need analysis application shall meet the following requirements:
- (A) Be ~~mailed submitted~~ **submitted** no later than the application ~~deadline filing deadlines~~ established by the commission. ~~A United States Postal Service certificate of mailing, return receipt, or certified or registered mail receipt shall be used as proof of timely mailing to determine eligibility when disputes arise.~~
  - (B) Be satisfactorily ~~complete~~ **completed by the filing date established by the commission** with ~~each all~~ applicable ~~question questions~~ answered and all required ~~correctly,~~ **including complete and accurate** financial data. ~~supplied.~~
  - ~~(C) Give permission to the United States Department of Education to send information from the need analysis application to the state.~~
- Failure to meet requirements of this subdivision shall render an applicant ineligible for an award in the **academic** year for which application is being made.
- (6) Be a United States citizen or ~~hold certification as be considered~~ an eligible noncitizen **as classified by the United States Department of Education for Title IV purposes.**
- (7) Be domiciled in the state on or before December 31 of the year preceding application for an award and be continuously domiciled in the state thereafter. Determination of residency status shall be as follows:
- (A) For a dependent student, the determination of residency status shall be based upon the permanent place of residence of the parents of an applicant.
  - (B) For an independent student, the determination of residency status shall be based upon the permanent place of residence of the applicant.
  - (C) If an applicant qualifies as a resident under this subdi-

vision, but is classified as a nonresident by an approved institution, the applicant's award shall be computed on the basis of in-state tuition and fees only. An applicant who is classified as a nonresident student by the commission is ineligible for an award even if classified as a resident student by an approved institution.

(State Student Assistance Commission; 585 IAC 1-9-4; filed Feb 26, 1986, 4:10 p.m.: 9 IR 1575; errata, 9 IR 2208; filed May 11, 1987, 8:45 a.m.: 10 IR 1868; filed Jan 4, 1989, 3:00 p.m.: 12 IR 1201; filed Jan 9, 1996, 5:00 p.m.: 19 IR 1361; readopted filed Nov 30, 2001, 10:52 a.m.: 25 IR 1292)

SECTION 5. UNDER IC 4-22-2.5-3, 585 IAC 1-9-5 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**585 IAC 1-9-5 Dependent and independent student status**

Authority: IC 20-12-21-5

Affected: IC 20-12-21-6; IC 20-12-21-15

Sec. 5. (a) The commission shall classify applicants for awards into the categories of dependent or independent students:

(b) ~~An independent student shall be~~ **With the exception of the conditional provisions identified in section 6 of this rule, an independent student is** any applicant who is:

(1) twenty-four (24) years of age or older as of the following December 31 **of the award year;** or

(2) less than twenty-four (24) years of age as of the following December 31 ~~and of the award year, who:~~

(A) **is** an orphan whose natural or adoptive parents are deceased;

(B) **is** a ward of a court or ~~an emancipated minor who was a ward at the time of emancipation;~~ **was a ward of the court until the individual reached the age of 18;**

(C) **is** a veteran **who has engaged in the active duty in the U.S. Army, Navy, Air Force, Marines, or Coast Guard and was released under a condition other than dishonorable;**

(D) **is** an individual with legal dependents other than a spouse; or

(E) **is** married on or before the date of filing a need analysis application.

(c) An applicant not meeting the requirements of subsection (b) may be classified as an independent student by the executive director, or designee, **or eligible institution** upon a finding based on documented facts that the applicant is independent due to unusual or unique circumstances **under the following guidelines:**

(1) **Irreparable breakdown in the family.**

(2) **A death of sole supporting parents.**

(3) **Other unique circumstances that are substantially similar to (1) and (2) above [subdivisions (1) and (2)].**

(d) An applicant not classified as an independent student

under subsection (b) or (c) shall be classified as a dependent student. (State Student Assistance Commission; 585 IAC 1-9-5; filed Feb 26, 1986, 4:10 p.m.: 9 IR 1576; filed May 11, 1987, 8:45 a.m.: 10 IR 1869; filed Jan 4, 1989, 3:00 p.m.: 12 IR 1201; filed Jan 9, 1996, 5:00 p.m.: 19 IR 1362; readopted filed Nov 30, 2001, 10:52 a.m.: 25 IR 1293)

SECTION 6. UNDER IC 4-22-2.5-3, 585 IAC 1-9-6 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**585 IAC 1-9-6 Determination of parental contribution and expected family contribution**

Authority: IC 20-12-21-5

Affected: IC 20-12-21-6.2

Sec. 6. (a) Federal methodology, as specified by resolution of the commission, shall be used to determine the parental contribution (PC) and expected family contribution (EFC). Both the PC and EFC shall always be calculated on the basis of actual income for the calendar year prior to the beginning of an application period and assets at the time of application, except as the commission may otherwise direct. **Absent specific legislative language to the contrary, the commission may adjust the methodology due to budgetary constraints.**

(b) For a dependent student, the PC figure shall be derived from the ~~financial needs analysis of parental~~ data submitted on **an approved application** by the applicant. ~~The following~~ Also, ~~shall apply to the determination of a PC:~~

~~(1) Adjustments in the PC for the number of family members attending college shall be made to include other dependents and parents who will be attending college at least half time.~~

~~(2) If the applicant's parents are separated or divorced at the time of application, only the prior year's income and current household and asset information of the parent with whom the student lived the most during the last twelve (12) months, or, if the student lived with each parent an equal number of days, of the parent who provided the most financial support during the last twelve (12) months or during the most recent calendar year that support was received shall be considered, including the following:~~

~~(A) (1) The executive director or designee may require an applicant to obtain a notarized statement from his or her parents that affirms that the parents were divorced or separated on the date the application was filed.~~

~~(B) In a divorced or separated situation, (2) If the custodial parent is not a resident of Indiana, the commission shall require that the applicant provide but the noncustodial parent is an Indiana resident, the commission shall treat the student as an Indiana resident. In this instance, the financial, household, and asset information of the noncustodial, Indiana resident custodial parent will be used to determine the student's eligibility for an award.~~

~~(3) The income of the stepparent or adoptive parent:~~

(c) For an independent student, the EFC shall be derived from



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the financial needs analysis of data submitted by the applicant on the approved application. The following shall also apply to the determination of an EFC for independent students:

~~(1) Adjustments for the number of family members attending college shall be made to include the applicant's dependents and spouse who will be attending college at least half time.~~

~~(2) (1) If the applicant is divorced or separated at the time of application, only the student's prior year's income and current household and asset information shall be used. The executive director or designee may require an applicant to obtain a notarized statement that affirms that the applicant was divorced or separated on the date the application was filed.~~

~~(3) (2) The income and assets of the applicant's spouse.~~

(d) ~~By resolution,~~ The commission may apply a factor that increases or decreases the PC and EFC of all applicants (both dependent and independent) if, in the commission's judgment, such adjustments are necessary and appropriate.

(e) The commission shall not adjust the PC or EFC or recalculate an award ~~regardless of whether an applicant, an applicant's spouse, or an applicant's parents: for any of the following reasons:~~

(1) Were temporarily or permanently unemployed during the year for which an application was filed.

(2) Experienced a change in farm or business assets occurring after the date an application was filed.

(3) Filed bankruptcy or experienced a loss of assets after the date an application was filed.

(4) Were married after the date an application was filed.

(5) Divorced or separated after the date an application was filed.

(6) Experienced an increase in the number of dependents or additional family members after the date an application was filed. ~~or~~

(7) Experienced an increase or decrease of income or assets after the filing of the need analysis application, unless prior year data was reported in error on the form.

(f) In the event of the death of one (1) of the parents of an applicant, the commission may recalculate the PC on the basis of the surviving parent's prior calendar year's income and current year's assets and issue a revised award at any time. ~~from the beginning of an application period up to the last day of January.~~ Should an applicant be orphaned, the commission may reclassify the applicant as an independent and issue a revised award based on the applicant's revised EFC. ~~In such an instance, a revised award may be issued from the beginning of the application period up to the last day of January. Adjustments under either provision mentioned in this section must be made during the academic term in which the student is enrolled.~~

(g) In the event of the death of the spouse of an independent student, the commission may recalculate the EFC on the basis

of the student's prior year's income and current year's assets and issue a revised award at any time from the beginning of an application period up to the ~~last day of January.~~ **reconciliation dates established by the commission for the eligible institution attended.**

(h) For an applicant ~~classified as an independent student~~ under section 5(b)(2)(A) or 5(b)(2)(B) of this rule, income from and assets of trusts administered in the applicant's behalf by a court-appointed guardian, trustee, or conservator shall be considered in calculating the EFC. The commission shall not consider the income of relatives or others with whom an applicant may live in calculating the EFC of an applicant classified as an independent student under section 5(b)(2)(A) or 5(b)(2)(B) of this rule if such relatives or other persons are not the applicant's adoptive parents.

(i) In determining the financial resources available to an applicant, the commission may not consider excludable bond interest as prescribed under IC 20-12-21-6.2 **or assets under an Internal Revenue Service Section 529 Plan.** (*State Student Assistance Commission; 585 IAC 1-9-6; filed Feb 26, 1986, 4:10 p.m.: 9 IR 1577; filed May 11, 1987, 8:45 a.m.: 10 IR 1871; filed Jan 4, 1989, 3:00 p.m.: 12 IR 1202; filed Jan 9, 1996, 5:00 p.m.: 19 IR 1362; errata filed Apr 9, 1996, 2:50 p.m.: 19 IR 2047; readopted filed Nov 30, 2001, 10:52 a.m.: 25 IR 1293*)

SECTION 7. UNDER IC 4-22-2.5-3, 585 IAC 1-9-7 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 585 IAC 1-9-7 Schedule of allowable tuition and regularly assessed fees

Authority: IC 20-12-21-5

Affected: IC 20-12-21-7; IC 20-12-21-17

Sec. 7. Unless otherwise approved by the commission, the commission's awards shall be directly related to actual tuition and ~~mandatory~~ **regularly assessed** fees charged to students by the approved institutions. **Applicants are only eligible for one (1) academic year's worth of state assistance within a twelve (12) month period.** For purposes of establishing the tuition and fee basis for its awards, the commission annually shall do the following:

(1) Collect tuition and fee information for the academic ~~term~~ **year** in which an application period falls from each approved institution.

(2) Compute tuition charges for an academic ~~term~~ **year** on the following basis

~~(A) of actual credit hours if greater than eleven (11) or a maximum of fifteen (15) credit hours times the number of enrollment periods in an academic term.~~ **year.**

~~(B) The number of credit hours required to complete graduation requirements divided by the number of academic terms, which a full-time student must complete for graduation, that is:~~

- (i) ~~two (2) terms for associate (two (2) year) degrees;~~
- (ii) ~~three (3) terms for hospital school of nursing diplomas; and~~
- (iii) ~~four (4) terms for bachelor's (four (4) year) degrees.~~

(3) Add to the computed tuition figure all ~~mandatory regularly assessed~~ fees. ~~except fees charged for parking.~~

(4) Develop a schedule showing allowable tuition and fees for each approved institution.

The ~~appointed members of the~~ commission annually shall adopt a schedule of allowable tuition and fees. (*State Student Assistance Commission; 585 IAC 1-9-7; filed Feb 26, 1986, 4:10 p.m.: 9 IR 1578; filed Jan 9, 1996, 5:00 p.m.: 19 IR 1364; readopted filed Nov 30, 2001, 10:52 a.m.: 25 IR 1294*)

SECTION 8. UNDER IC 4-22-2.5-3, 585 IAC 1-9-8 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**585 IAC 1-9-8 Minimum and maximum awards**

Authority: IC 20-12-21-5

Affected: IC 20-12-21-7; IC 20-12-21-17

Sec. 8. The maximum award offered to applicants shall not exceed the amount authorized by the general assembly in the biennial appropriations bill. In the absence of specific instructions from the general assembly, unless otherwise approved by the commission, the maximum shall not exceed the lesser of:

(1) ~~the actual tuition and mandatory fees from the schedule adopted by the commission; or~~

**(2) the actual fees charged students if less than the schedule adopted by the commission; or**

~~(2) (3) the sum of:~~

(A) the highest actual tuition and mandatory fees charged to students at a public institution of higher learning for the academic ~~term year~~ in which the application period falls; and

(B) the lowest appropriation per full-time student equivalent (FTE) made by the general assembly to a public institution of higher learning for the academic ~~term year~~ in which the application period falls.

The minimum award that shall be offered to applicants shall be established annually by a resolution adopted by the commission.

(*State Student Assistance Commission; 585 IAC 1-9-8; filed Feb 26, 1986, 4:10 p.m.: 9 IR 1578; filed Jan 9, 1996, 5:00 p.m.: 19 IR 1364; readopted filed Nov 30, 2001, 10:52 a.m.: 25 IR 1295*)

SECTION 9. UNDER IC 4-22-2.5-3, 585 IAC 1-9-9 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**585 IAC 1-9-9 Computation and adjustment of potential awards**

Authority: IC 20-12-21-5

Affected: IC 20-12-21-7; IC 20-12-21-17

Sec. 9. The commission shall compute awards in the manner in which the general assembly directs in the biennial appropria-

tions bill. In the absence of specific instructions from the general assembly, unless otherwise approved by the commission, the following calculation shall be used:

(1) **Potential award is a percentage of the tuition and mandatory regularly assessed** fees minus PC for dependent applicants and EFC for independent applicants. ~~equals potential award.~~ **Applicants who graduated from an Indiana high school in 1998 or beyond with a Core 40 diploma and a 2.0 grade point average, and applicants who graduated from an Indiana high school in 1997 or beyond with an academic honors diploma and a 3.0 grade point average may qualify for higher awards levels than those who graduate from high school without Core 40 or academic honors diploma credentials.**

(2) When potential awards for all eligible students exceed available funds, the commission shall reduce ~~awards the award amounts~~ on a pro rata basis.

(3) Based on prior year acceptances of awards offered to applicants, the commission may offer awards in a total amount greater than available funds to ensure the maximum possible utilization of grant funds.

(*State Student Assistance Commission; 585 IAC 1-9-9; filed Feb 26, 1986, 4:10 p.m.: 9 IR 1578; filed Jan 9, 1996, 5:00 p.m.: 19 IR 1364; readopted filed Nov 30, 2001, 10:52 a.m.: 25 IR 1295*)

SECTION 10. UNDER IC 4-22-2.5-3, 585 IAC 1-9-10 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**585 IAC 1-9-10 Applicant's right of appeal**

Authority: IC 20-12-21-5

Affected: IC 4-21-5; IC 20-12-21

Sec. 10. (a) When the commission determines that an applicant is ineligible for award consideration for reasons specified in IC 20-12-21-6, IC 20-12-21-6.1, and IC 20-12-21-7 or this rule, **to the extent practicable, the commission shall attempt to notify the applicant shall be notified at the address on record** of the denial and of the period of time an applicant has to provide requested data or appeal the denial.

(b) An applicant who has been denied ~~has a right of appeal, including may appeal the action in~~ the following manner:

(1) An appeal must be made in writing to the director of the scholarship and grant division. **Relevant documentation must accompany the written appeal and be submitted within thirty (30) days of the date the commission sent an edit letter to the student notifying them of their ineligibility for state grant assistance.**

(2) Decisions made by the director of the scholarship and grant division regarding the applicant's appeal shall be in writing and shall be mailed to the applicant making the appeal.

(3) An appeal decision rendered by the director of the scholarship and grant division may be appealed in writing to the executive director.

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(4) Decisions made by the executive director regarding the applicant's appeal shall be in writing and shall be mailed to the applicant making the appeal.

(5) An appeal decision rendered by the executive director may be appealed to the appointed members of the commission.

(6) Appeals to the appointed members of the commission shall be heard at a regular meeting or a specially called meeting. An applicant appealing to the commission is entitled to advance notice of the date, time, and place of the hearing. The applicant shall receive a copy of the official minutes that contain the decision made by the commission on the appeal.

(7) ~~Decisions by the appointed members of An appeal that has been denied by the commission on letters of denial shall be final within the meaning of IC 4-21.5.~~

(c) An applicant who fails to respond in writing to a request for information in the period of time specified shall be ineligible to receive award consideration for that academic year. (*State Student Assistance Commission; 585 IAC 1-9-10; filed Feb 26, 1986, 4:10 p.m.: 9 IR 1579; errata, 9 IR 2208; filed May 11, 1987, 8:45 a.m.: 10 IR 1872; filed Jan 9, 1996, 5:00 p.m.: 19 IR 1365; readopted filed Nov 30, 2001, 10:52 a.m.: 25 IR 1295*)

SECTION 11. UNDER IC 4-22-2.5-3, 585 IAC 1-9-11 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 585 IAC 1-9-11 Adjusted or withdrawn awards

Authority: IC 20-12-21-5

Affected: IC 20-12-21-6.5; IC 20-12-21-7

Sec. 11. (a) The commission shall recalculate, adjust, or withdraw awards in any of the following circumstances:

(1) A recipient makes a change of school choice.

(2) A recipient fails to make in writing a change of school choice ~~on or before the thirtieth calendar day following the first~~ **within thirty (30) days from the end of the last** day of classes in any enrollment period at the chosen school.

(3) A recipient enrolled in an institution ceases for any reason to be a student in good standing. If, under its current standards, a fee or charge that has been paid as part of an award would otherwise be remissible by the institution to the student, the fee or charge shall be remissible to the commission.

(4) A recipient is simultaneously enrolled full time in more than one (1) institution.

(5) An approved institution submits changes in a recipient's PC and/or EFC.

(6) Inaccurate or falsified data is intentionally submitted in an effort to affect the applicant's eligibility for award consideration.

(7) A recipient fails to maintain satisfactory academic progress as defined by each approved institution.

(8) A recipient **owes a Pell grant overpayment and/or** is in default of any educational loan.

(9) A recipient has obtained a prior bachelor's degree.

(10) A recipient owes repayment of any **federal or** commission-administered student aid.

(11) It is found that a recipient is not a United States citizen

~~nor holds classification as or is not considered~~ an eligible noncitizen **under section 4(6) of this rule.**

(12) The parents of a dependent student remove their permanent, continuous, and principal place of residence from Indiana after the beginning of the academic ~~term; year;~~ the recipient will not be eligible for award usage in subsequent ~~terms;~~ **academic years.**

(13) A recipient is a graduating senior and enrolled less than full time during the final term prior to graduation.

(b) An action by the commission to adjust or withdraw a recipient's award may be appealed in the same manner as determinations of eligibility under section ~~40 9~~ of this rule. (*State Student Assistance Commission; 585 IAC 1-9-11; filed Feb 26, 1986, 4:10 p.m.: 9 IR 1579; filed May 11, 1987, 8:45 a.m.: 10 IR 1872; filed Jan 9, 1996, 5:00 p.m.: 19 IR 1365; readopted filed Nov 30, 2001, 10:52 a.m.: 25 IR 1296*)

SECTION 12. UNDER IC 4-22-2.5-3, 585 IAC 1-9-14 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 585 IAC 1-9-14 Responsibilities of approved institutions

Authority: IC 20-12-21-5

Affected: IC 20-12-21-10

Sec. 14. (a) The commission shall execute agreements with each approved institution, which shall evidence the willingness of the approved institution to abide by the commission's law, rules, and policies. Execution of an agreement with the commission binds an approved institution to meet the following requirements:

(1) Notify the commission, at the times and in the form specified by the commission, of any of the following circumstances:

(A) A recipient's failure to enroll in or maintain status as a full-time student **if the student was awarded a HEG through the institution's refund period.**

(B) A recipient's failure to maintain satisfactory academic progress as that may be defined by each approved institution.

(C) A recipient's **grant overpayment or** default of any educational loan.

(D) A ~~recipient's receipt~~ **recipient owes an overpayment of a bachelor's degree; any federal or commission-administered student aid.**

(2) Supply the commission with information it receives that may raise questions about a recipient's eligibility, including, but not limited to, the following:

(A) State of residency.

(B) Omitted, inaccurate, falsified, or conflicting information on the approved need analysis application or any other documentation received.

(C) Misclassification of a recipient as an independent or dependent student.

(3) Maintain accurate and complete records sufficient to document the use of state grant funds for each recipient for at least three (3) years following the academic year in which a

grant was made to a recipient and, with advance notice and during normal business hours, permit inspection and audit of records related to state student financial assistance programs.

(4) Return unused, or inappropriately used, state grant funds to the commission by the established deadline ~~date~~: **dates**. **State grants cannot be treated as federal or institutional money for the purpose of returning funds. Returning funds to the commission must be done independent of the return of funds to the federal government, the institution, or any other granting source. Funds must be returned based on a prorated basis in such a way that if an institution charges a student a percentage of the tuition and regularly assessed fees used to calculate the award, the award can be claimed up to that percentage and the rest returned to the commission.**

(5) Submit commission-required reports by the established deadline dates. Failure to do so ~~may will~~ result in ~~delayed~~ **unpaid** claim reimbursements.

(6) Assist the commission in determinations of eligibility and financial need by sharing information supplied by applicants.

(7) Certify to the commission changes in a student's status resulting from the application of section 5(b) or 5(c) of this rule and changes in a student's PC and EFC resulting from verification under the federal methodology for federal, state, or institutional purposes that exceed the level established by the commission as significant.

(A) Approved institutions ~~may~~ **must** certify changes to the commission ~~at any time~~; ~~but, at a minimum, shall submit them~~ according to the following schedule **published by the commission**.

First report	August 15
Second report	November 15
Third report	January 31

(B) ~~The only exception to the January 31 deadline for submission of corrected PC and EFC changes shall be for an applicant who was not enrolled or who attended a different institution during the previous enrollment period of the academic term. March 15 shall be the deadline for applicants in this instance.~~

(C) ~~When the due date for a report falls on a Saturday, Sunday, or holiday, it automatically becomes the next state work day following the weekend or holiday.~~

(D) ~~For all students for whom approved institutions report changes under this subdivision up to and including January 31, the commission shall recalculate and adjust awards for the entire academic term and notify both students and the approved institutions of the results.~~

(8) Disburse state award funds only after the applicant's verification process is complete regardless of whether verification is federally or institutionally mandated. **Approved institutions that participate in the United States Department of Education's Quality Assurance (QA) program can disburse first-term awards to QA-selected students before completing the verification process. A QA-selected student's verification must be completed**

**before their second term award can be disbursed. If a QA school's verification process lowers a student's HEA/FOC award, the school must refund the overawarded amount to the commission. A verification that increases a student's award amount will not be paid by the commission for a semester, trimester, or quarter that has already been reconciled.**

(9) Certify to the commission the names of all applicants for a state grant who have been classified as independent by the financial aid administrator's professional judgment **and who meets one (1) of the commission-approved professional judgment (pj) dependency override categories under section 5(c) of this rule.** Copies of all documents relevant to the decision shall be ~~submitted with the certification~~: **made available to the commission upon request. Schools must document all pj actions, adhere to their written pj policies and procedures guidelines, and follow the commissions written pj policies.** For state grant purposes, final determination of status under section 5(d) of this rule rests solely with the executive director or designee.

(10) ~~Notify the commission within thirty (30) calendar days after an account goes into repayment of an improperly awarded state grant. For purposes of this section, an improperly awarded grant is defined as a grant that was issued to an applicant based on incorrect information provided to the school and/or commission by the applicant. If a school makes an error that results in a grant being improperly awarded to a student, the school is responsible for refunding the award amount to the commission.~~

(11) Make a reasonable effort to collect repayment from a recipient of an improperly awarded state grant by the end of the enrollment period that is, by the end of the semester, ~~or~~ **quarter, or trimester** in which the award was disbursed. **Schools must notify the commission within thirty (30) calendar days after an account goes into repayment of an improperly awarded state grant.**

(A) A reasonable effort shall consist of an effort equal to the approved institution's normal process of collecting improperly awarded financial aid from students. An approved institution shall document its effort to obtain repayment of an improper grant.

(B) In the event an institution cannot gain repayment of an improperly disbursed award, the institution must, within thirty (30) calendar days of determining the account uncollectible, appeal to the commission to be released of its collection obligations.

(C) Failure to make a reasonable effort to collect and notify the commission in a timely manner of improperly awarded state grants, including the appeal procedure for uncollectible accounts, will result in an institution being held financially liable.

(12) ~~Credit state awards in the following manner: Reconcile all awards by the deadlines established by the commission. Awards for periods that are not reconciled by the~~

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**end of a school's semester, trimester, or quarter will not be available for disbursement in a subsequent period.**

(A) For an approved institution operating on a semester basis, one-half (½) of the grant may be credited toward tuition and mandatory fees in each enrollment period. When the dollar amount of a grant for an academic term is not divisible to a whole dollar, an approved institution must credit the odd dollar or dollars, whichever may be applicable, to tuition and fees for the first enrollment period.

(B) For an approved institution operating on a quarter basis, one-third (⅓) of the grant must be credited to tuition and fees in each enrollment period. When the dollar amount of a grant for an academic term is not divisible to a whole dollar, an approved institution must credit the odd dollar or dollars, whichever may be applicable, to tuition and fees for the first enrollment period.

(C) No funds shall be disbursed for a term that begins after the defined academic term for the traditional student body.

(D) The institution shall prorate any tuition and mandatory fee charges if those charges are less than the reported traditional student charges.

(b) The commission is not obligated to provide grant funds for the same student to more than one (1) approved institution. When more than one (1) approved institution claims commission funds for the same student, the institution in which the student first enrolled shall have claim on the commission's grant, unless the student officially withdrew from the first-enrolled institution in time to receive a full refund of tuition and regularly assessed fees.

(c) **A consortium agreement between no more than two (2) approved institutions is allowed providing the two (2) schools have a written agreement that requires one (1) of the two (2) schools to consider the student enrolled full time at their institution. A home school is responsible for a student's financial aid administration and for ensuring that the student maintains satisfactory academic progress (SAP). Students' state grant awards must be based on a home school's approved tuition and fees as approved by the commission unless the tuition and fees charged students are less than what all students enrolled at the home school would otherwise pay. Home schools are responsible for reconciling state grant awards.**

(e) (d) If, during an academic period, a student enrolled in an institution ceases for any reason to be a student in good standing, the institution shall promptly give notice to the commission as to the change of status and the reason for it. If, under its current standards, a fee or charge that has been paid as part of an award would otherwise be remissible by the institution to the student, the fee or charge shall be remitted to the commission. (*State Student Assistance Commission; 585 IAC 1-9-14; filed Feb 26, 1986, 4:10 p.m.: 9 IR 1580; errata, 9 IR 1667; filed May 11, 1987, 8:45 a.m.: 10 IR 1873; filed Jan 4,*

*1989, 3:00 p.m.: 12 IR 1203; filed Jan 9, 1996, 5:00 p.m.: 19 IR 1366; readopted filed Nov 30, 2001, 10:52 a.m.: 25 IR 1296)*

SECTION 13. UNDER IC 4-22-2.5-3, 585 IAC 5-1-1 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 585 IAC 5-1-1 Definitions

Authority: IC 20-12-20.5-2

Affected: IC 20-12-21-4

Sec. 1. As used in this rule, unless the context otherwise clearly requires another meaning, the following terms shall have these meanings: **definitions apply throughout this article:**

(a) The terms "full-time student", (1) "Approved institution" of higher learning" and has the meaning set forth in 585 IAC 1-9-1.

(2) "Award" mean the same as defined has the meaning set forth in 585 IAC 1-9-1.

(3) "Commission" refers to the state student assistance commission established under IC 20-12-21-4.

(b) (4) "Eligible employer" means:

(+) (A) an approved institution; of higher education;

(-) (B) a unit of state or local government; or

(-) (C) a private, not-for-profit organization located in Indiana and performing work in the public interest.

(5) "Full-time student" has the meaning set forth in 585 IAC 1-9-1.

(*State Student Assistance Commission; 585 IAC 5-1-1; filed Mar 23, 1984, 4:00 p.m.: 7 IR 1246; filed Jan 4, 1989, 3:00 p.m.: 12 IR 1204; readopted filed Nov 30, 2001, 10:52 a.m.: 25 IR 1298)*

SECTION 14. UNDER IC 4-22-2.5-3, 585 IAC 5-2-2 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 585 IAC 5-2-2 Work-study

Authority: IC 20-12-20.5-2

Affected: IC 20-12-20.5

Sec. 2. To be eligible for the summer work-study program a student must meet the following requirements:

(1) **Be an Indiana resident.**

(+) (2) Apply for, receive, and use a state award in the academic year preceding the summer for which a work-study position is being sought **and be in satisfactory academic standing with the institution of attendance.**

(-) (3) Not have completed a baccalaureate degree.

(4) **If attending school, be enrolled as a full-time student.**

(*State Student Assistance Commission; 585 IAC 5-2-2; filed Mar 23, 1984, 4:00 p.m.: 7 IR 1246; filed Jan 4, 1989, 3:00 p.m.: 12 IR 1205; readopted filed Nov 30, 2001, 10:52 a.m.: 25 IR 1298)*

SECTION 15. UNDER IC 4-22-2.5-3, 585 IAC 5-3-6 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**585 IAC 5-3-6 Maximum hours reimbursed**

Authority: IC 20-12-20.5-2  
Affected: IC 20-12-20.5

Sec. 6. Student wages eligible for fifty percent (50%) reimbursement from the state may not be based on:

- (1) more than forty (40) hours of work per week per student **during the summer period; and**
- (2) **a maximum of nineteen (19) hours per week during the academic period of enrollment the student receives the award.**

Total reimbursement may not exceed fifty percent (50%) of the amount allotted to an employer. *(State Student Assistance Commission; 585 IAC 5-3-6; filed Mar 23, 1984, 4:00 p.m.: 7 IR 1247; filed Jan 4, 1989, 3:00 p.m.: 12 IR 1205; readopted filed Nov 30, 2001, 10:52 a.m.: 25 IR 1299)*

SECTION 16. UNDER IC 4-22-2.5-3, 585 IAC 5-4-1 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**585 IAC 5-4-1 Allotment of funds**

Authority: IC 20-12-20.5-2  
Affected: IC 20-12-20.5

Sec. 1. (a) Available funds will be allocated to eligible employers on the basis of the county's ration of population to total state population based on the most current census:

~~(b)~~ (a) Employers will be notified of funds available for their students by the May 1 prior to the summer for which work-study funds are being provided, or whenever the legislative appropriation becomes known, whichever is later.

~~(c)~~ (b) Funds shall be paid to employers as reimbursement in arrears for work actually performed in accordance with guidelines established by the state budget agency, department of administration, state treasurer, auditor's office, and the state board of accounts. *(State Student Assistance Commission; 585 IAC 5-4-1; filed Mar 23, 1984, 4:00 p.m.: 7 IR 1247; filed Jan 4, 1989, 3:00 p.m.: 12 IR 1206; readopted filed Nov 30, 2001, 10:52 a.m.: 25 IR 1299)*

SECTION 17. UNDER IC 4-22-2.5-3, 585 IAC 8-1-2 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**585 IAC 8-1-2 "Accredited nonpublic and public schools" defined**

Authority: IC 20-12-70-15  
Affected: IC 20-12-70

Sec. 2. "Accredited nonpublic school" and public schools" means a school meeting one (1) of the following:

- (1) a private Indiana elementary or secondary school that assists a student to meet the eligibility requirements for admission to an institution of higher education of the state of Indiana and is either currently seeking accreditation or is fully accredited under the division of performance-based accredita-

tion of the Indiana department of education; or  
(2) a school designated as a freeway, charter, or accredited public school by statute and the Indiana department of education.

*(State Student Assistance Commission; 585 IAC 8-1-2; filed Jan 9, 1996, 5:00 p.m.: 19 IR 1354; readopted filed Nov 30, 2001, 10:52 a.m.: 25 IR 1299)*

SECTION 18. UNDER IC 4-22-2.5-3, 585 IAC 8-1-4 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**585 IAC 8-1-4 "Eligibility verification" defined**

Authority: IC 20-12-70-15  
Affected: IC 20-12-70

Sec. 4. "Eligibility verification" refers to the process by which selected program applicants and program appellants shall be required to demonstrate eligibility for the program. Eligibility shall be verified by providing evidence of participation in a qualifying program or by income and benefits records. *(State Student Assistance Commission; 585 IAC 8-1-4; filed Jan 9, 1996, 5:00 p.m.: 19 IR 1354; readopted filed Nov 30, 2001, 10:52 a.m.: 25 IR 1299)*

SECTION 19. UNDER IC 4-22-2.5-3, 585 IAC 8-1-6 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**585 IAC 8-1-6 "Eligible institution" defined**

Authority: IC 20-12-70-15  
Affected: IC 20-1-19-1; IC 20-12-70-4; IC 20-12-70-6

Sec. 6. "Eligible institution" includes state universities, the Ivy Tech State College, and accredited not-for-profit private (independent) colleges and universities, and accredited proprietary institutions of higher education (see IC 20-12-70-4(2), and IC 20-12-70-6(3), and IC 20-1-19-1) that agree to participate. *(State Student Assistance Commission; 585 IAC 8-1-6; filed Jan 9, 1996, 5:00 p.m.: 19 IR 1354; readopted filed Nov 30, 2001, 10:52 a.m.: 25 IR 1299)*

SECTION 20. UNDER IC 4-22-2.5-3, 585 IAC 8-1-9 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**585 IAC 8-1-9 "Program appellant" defined**

Authority: IC 20-12-70-15  
Affected: IC 20-12-70

Sec. 9. "Program appellant" means a student who files an appeal to the twenty-first century scholars program. An appeal may be filed by a program applicant who has been denied or by any other student or advocate on behalf of a student. **enrollment.** *(State Student Assistance Commission; 585 IAC 8-1-9; filed Jan 9, 1996, 5:00 p.m.: 19 IR 1355; readopted filed Nov 30, 2001, 10:52 a.m.: 25 IR 1299)*

SECTION 21. UNDER IC 4-22-2.5-3, 585 IAC 8-1-11 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

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### 585 IAC 8-1-11 "Scholar" defined

Authority: IC 20-12-70-15

Affected: IC 20-12-70

Sec. 11. "Scholar" means a person who receives a letter of confirmation after meeting the following requirements:

- (1) Is a resident of Indiana. As used in this subdivision, "resident of Indiana" means a United States citizen or eligible noncitizen who was domiciled in the state on or before December 31 of the year preceding application to the twenty-first century scholars program and continuously domiciled in Indiana thereafter. The determination of residency status shall be based upon the permanent place of residence of the parents or legal guardian of an applicant.
- (2) Is enrolled in grade 8 or other grade authorized by the commission for enrollment in the program.
- (3) Is eligible for the program if at the time of application:
  - (A) he or she is a foster child (ward of the court);
  - ~~(B) his or her household receives aid to families with dependent children (AFDC);~~
  - ~~(C) his or her household receives food stamps;~~
  - ~~(D) (B) he or she is eligible meets the income guidelines for or participates in, the federal lunch program; or the state's textbook assistance program;~~
  - ~~(E) the household income of an eligible student is not more than one hundred ninety percent (190%) of the poverty guidelines as established by the bureau of census; or~~
  - ~~(F) (C) the student successfully appeals to enroll in the twenty-first century scholars program via the appeals process.~~

*(State Student Assistance Commission; 585 IAC 8-1-11; filed Jan 9, 1996, 5:00 p.m.: 19 IR 1355; readopted filed Nov 30, 2001, 10:52 a.m.: 25 IR 1300)*

SECTION 22. UNDER IC 4-22-2.5-3, 585 IAC 8-1-12 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 585 IAC 8-1-12 "Twenty-first century scholarship" defined

Authority: IC 20-12-70-15

Affected: IC 20-1-19-1; IC 20-12-0.5-1; IC 20-12-21-11.5; IC 20-12-21-15; IC 20-12-63-3; IC 20-12-70-7

Sec. 12. "Twenty-first century scholarship" shall be a tuition scholarship under IC 20-12-70-7 to include financial assistance provided to a student to offset the costs of tuition and other regularly assessed fees incurred by the student in attending an institution of higher learning. Tuition and fee levels must be approved by the commission and reflect current year tuition and regularly assessed fees. Scholarship awards shall be computed as follows:

- (1) If the scholarship applicant attends a state educational institution (as defined in IC 20-12-0.5-1), the award shall be the student's tuition and regularly assessed fees, less any award to which the student is entitled under the Higher Education Award Program (IC 20-12-21-11.5) and any other tuition specific financial assistance.

(2) If the scholarship applicant attends a private institution of higher education (as defined in IC 20-12-63-3), the award shall be the lesser of:

- (A) the tuition cap established by the commission, less any award to which the student is entitled under the Higher Education Award Program (IC 20-12-21-11.5) and the Freedom of Choice Program (IC 20-12-21-15); ~~or~~
- (B) the actual tuition and regularly assessed fees, less any award to which the student is entitled under the Higher Education Award Program (IC 20-12-21-11.5), the Freedom of Choice Program (IC 20-12-21-15), and any other tuition specific financial assistance; or
- (C) an average of the full tuition and fee amounts of all state educational institutions not including the Ivy Tech State College.

**(3) If the scholarship applicant attends a proprietary institution of higher education (as defined in IC 20-1-19-1), the award shall be the amount of an award the student could receive if the student were enrolled at Ivy Tech State College.**

*(State Student Assistance Commission; 585 IAC 8-1-12; filed Jan 9, 1996, 5:00 p.m.: 19 IR 1355; readopted filed Nov 30, 2001, 10:52 a.m.: 25 IR 1300)*

SECTION 23. UNDER IC 4-22-2.5-3, 585 IAC 8-1-13 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 585 IAC 8-1-13 "Twenty-first century scholarship applicant" defined

Authority: IC 20-12-70-15

Affected: IC 9-30-5; IC 20-12-70; IC 31-6-4-1; IC 31-37-1-2; IC 31-37-2; IC 35-48-1-9

Sec. 13. "Twenty-first century scholarship applicant" means a student who meets the following requirements:

- (1) Is an eligible student. Under ~~IC 20-12-70-2.2~~, **IC 20-12-70** students who enroll in the twenty-first century scholars program after June 30, 1994, must also achieve a grade average of at least 2.0 on a 4.0 scale or its equivalent if another grading scale is used **on courses taken during grades 9, 10, 11, and 12.**
- (2) Is a resident of Indiana. As used in this subdivision, "resident of Indiana" means one who was domiciled in Indiana on or before December 31 of the year preceding application for the scholarship and is continuously domiciled in Indiana thereafter. For:
  - (A) dependent students **as defined for federal student aid purposes**, the determination of residency status shall be based upon the permanent place of residence of the parents of an applicant **just as it is for the Indiana higher education grant**; and
  - (B) independent students **as defined for federal student aid purposes**, the determination of residency status shall be based upon the permanent place of residence of the applicant **just as it is for the Indiana higher education grant.**
- (3) Has applied for admission to attend an eligible institution

as a full-time student and has timely filed an application for financial assistance as required by the commission.

(4) Together with the custodial parent or legal guardian, certifies in writing that the student, since enrolling in the twenty-first century scholars program, has fulfilled the terms of the pledge under IC 20-12-70-2(4) and that the student:

(A) has not: ~~been convicted of a crime or adjudicated a delinquent for an act of delinquency under IC 31-6-4-1(a)(1);~~

(i) **illegally used controlled substances (as defined in IC 35-48-1-9);**

(ii) **committed a crime or infraction described in IC 9-30-5; and**

(iii) **committed any other crime or delinquent act (as described in IC 31-37-1-2 or IC 31-37-2-2 through IC 31-37-2-5 (or IC 31-6-4-1(a)(1) through IC 31-6-4-1(a)(5) before their repeal));**

(B) has not been suspended or expelled from school for having illegally used or possessed alcohol or a controlled substance; and

(C) agrees to release criminal and juvenile records and school records of disciplinary proceedings to the commission upon request.

*(State Student Assistance Commission; 585 IAC 8-1-13; filed Jan 9, 1996, 5:00 p.m.: 19 IR 1356; readopted filed Nov 30, 2001, 10:52 a.m.: 25 IR 1300)*

SECTION 24. UNDER IC 4-22-2.5-3, 585 IAC 8-2-1 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

#### **585 IAC 8-2-1 High school graduation requirements**

**Authority:** IC 20-12-70-15

**Affected:** IC 20-10.1-4.5-2; IC 20-10.1-5.6; IC 20-10.1-5.7; IC 20-12-0.5-1

Sec. 1. Twenty-first century scholars must meet all applicable requirements for high school graduation. These requirements include the same requirements ~~as~~ for all other students. ~~such as designing a "Career Plan" under IC 20-10.1-4.5-2 and passing the Gateway examination.~~ *(State Student Assistance Commission; 585 IAC 8-2-1; filed Jan 9, 1996, 5:00 p.m.: 19 IR 1356; readopted filed Nov 30, 2001, 10:52 a.m.: 25 IR 1301)*

SECTION 25. UNDER IC 4-22-2.5-3, 585 IAC 8-2-2 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

#### **585 IAC 8-2-2 College admission requirements**

**Authority:** IC 20-12-70-15

**Affected:** IC 20-10.1-4.5-2; IC 20-10.1-5.6; IC 20-10.1-5.7; IC 20-12-0.5-1

Sec. 2. Twenty-first century scholars must meet all applicable requirements for admission to an eligible institution of higher learning. These requirements include the same requirements ~~as~~ for all other Indiana students. ~~such as fulfillment of Core 40 requirements.~~ *(State Student Assistance Commission; 585 IAC 8-2-2; filed Jan 9, 1996, 5:00 p.m.: 19 IR 1356; readopted filed Nov 30, 2001, 10:52 a.m.: 25 IR 1301)*

SECTION 26. UNDER IC 4-22-2.5-3, 585 IAC 8-2-3 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

#### **585 IAC 8-2-3 Scholarship deferral**

**Authority:** IC 20-12-70-15

**Affected:** IC 20-10.1-4.5-2; IC 20-10.1-5.6; IC 20-10.1-5.7; IC 20-12-0.5-1

Sec. 3. **Absent specific legislative language**, twenty-first century scholars shall matriculate by the third academic year following high school completion. During the student's senior year in high school, and for up to two (2) academic years following, the student shall apply for the twenty-first century scholarship or for deferral. The commission shall administer this process. *(State Student Assistance Commission; 585 IAC 8-2-3; filed Jan 9, 1996, 5:00 p.m.: 19 IR 1356; readopted filed Nov 30, 2001, 10:52 a.m.: 25 IR 1301)*

SECTION 27. UNDER IC 4-22-2.5-3, 585 IAC 8-2-4 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

#### **585 IAC 8-2-4 Duration of award**

**Authority:** IC 20-12-70-15

**Affected:** IC 20-10.1-4.5-2; IC 20-10.1-5.6; IC 20-10.1-5.7; IC 20-12-0.5-1

Sec. 4. **Absent specific legislative language**, scholarship recipients will receive no more than eight (8) semesters or twelve (12) **trimesters or** quarters of undergraduate scholarship assistance. The scholarship recipient shall remain eligible for the scholarship for not more than ten (10) consecutive years beginning with the year of the initial award. *(State Student Assistance Commission; 585 IAC 8-2-4; filed Jan 9, 1996, 5:00 p.m.: 19 IR 1356; readopted filed Nov 30, 2001, 10:52 a.m.: 25 IR 1301)*

SECTION 28. UNDER IC 4-22-2.5-3, 585 IAC 8-2-5 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

#### **585 IAC 8-2-5 Scholarship renewal**

**Authority:** IC 20-12-70-15

**Affected:** IC 20-10.1-4.5-2; IC 20-10.1-5.6; IC 20-10.1-5.7; IC 20-12-0.5-1

Sec. 5. (a) To qualify for a scholarship renewal, the scholarship recipient shall submit to the commission a renewal application, continue to comply with the requirements of the program, and continue to be an undergraduate student in good standing and make satisfactory academic progress at an institution of higher learning. Subject to the fulfillment of renewal qualifications **and absent specific legislative language**, each scholarship may be renewed for a total award that does not exceed eight (8) semesters or twelve (12) **trimesters or** quarters within a ten (10) consecutive year period from the first receipt of a scholarship.

(b) A twenty-first century scholarship recipient must maintain satisfactory academic progress, as defined by each institution, and must maintain a primary place of residence in Indiana continuously during each semester or term that the student



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receives a twenty-first century scholarship to remain eligible for the program. (*State Student Assistance Commission; 585 IAC 8-2-5; filed Jan 9, 1996, 5:00 p.m.: 19 IR 1356; readopted filed Nov 30, 2001, 10:52 a.m.: 25 IR 1301*)

SECTION 29. UNDER IC 4-22-2.5-3, 585 IAC 8-2-7 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 585 IAC 8-2-7 Program administration

Authority: IC 20-12-70-15

Affected: IC 4-21.5; IC 20-10.1-4.5-2; IC 20-10.1-5.6; IC 20-10.1-5.7; IC 20-12-0.5-1

Sec. 7. Acting on behalf of the commission, the executive director or an authorized designee shall do the following:

- (1) Establish administrative policies to carry out the purposes of the program.
- (2) Determine eligibility of applicants for enrollment. The commission, in conjunction with the Indiana College Placement and Assessment Center, will administer the verification process at the point of entry for ~~eighth graders~~ those who apply to the program.
- (3) Determine compliance for awarding of scholarships. The commission will make a determination of compliance which will consist of an affirmation statement to be signed by a parent or legal guardian and student applying for the scholarship. The statement shall indicate that the student promises to repay scholarship money if conditions of the pledge are proven to have been violated. Violators shall be subject to prosecution under applicable state laws.
- (4) Disburse funds to approved institutions to be administered on behalf of individual recipients.
- (5) Enter into agreements with approved institutions for the administration of commission funds. Specific responsibilities for the administration of the program may be contracted outside of the commission.
- (6) Coordinate with eligible institutions a program to develop an ongoing mentoring program for twenty-first century scholars and monitor institutional compliance for mentoring.
- (7) Hear appeals and handle complaints regarding compliance. An appeal shall be reviewed by the appeals officer designated by the commission, by the executive director, and by the commission, in that sequence.

(A) An appeal must be made in writing to the commission.

(B) If an appeal contains extenuating circumstances, the appeal documentation may be reviewed by an appeals board.

(C) An appeal decision made by both the appeals officer and the appeals board regarding the applicant's appeal shall be reduced in writing and shall be mailed to the applicant making the appeal.

(D) An appeal decision rendered by the appeals officer and/or appeals board may be appealed in writing to the executive director.

(E) An appeal decision made by the executive director regarding the applicant's appeal shall be reduced in writing

and shall be mailed to the applicant making the appeal.

(F) An appeal decision rendered by the executive director may be appealed to the commission.

(G) An appeal to the commission shall be heard at a regular or specially called meeting. An applicant appealing to the commission is entitled to advance notice of the date, time, and place of the hearing. The applicant shall receive a copy of the official minutes which contain the decision made by the commission on the appeal.

(H) An appeal decision by the commission on letters of denial shall be final within the meaning of IC 4-21.5.

(*State Student Assistance Commission; 585 IAC 8-2-7; filed Jan 9, 1996, 5:00 p.m.: 19 IR 1357; readopted filed Nov 30, 2001, 10:52 a.m.: 25 IR 1302*)

SECTION 30. UNDER IC 4-22-2.5-3, 585 IAC 8-2-8 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 585 IAC 8-2-8 Responsibilities of approved institutions

Authority: IC 20-12-70-15

Affected: IC 20-10.1-4.5-2; IC 20-10.1-5.6; IC 20-10.1-5.7; IC 20-12-0.5-1

Sec. 8. The commission shall execute agreements with each eligible institution that participates in the program which shall be responsible to:

- (1) Execute an agreement to participate in the program.
- (2) Process state funds from the commission on behalf of scholarship recipients.
- (3) Develop an ongoing mentor program for providing support services to twenty-first century scholars. The plan for a mentor program may include the following:
  - (A) Academic and social support services to be provided.
  - (B) Expectations for frequency and duration of support services.
  - (C) Outreach strategies.
  - (D) Strategies for identification of key constituencies, including possible mentors.
  - (E) Strategies for the selection and introduction of mentors and mentees.
  - (F) Evaluation plans.
- (4) Monitor the academic progress of each scholarship recipient in attendance.
- (5) Notify the commission of any changes in status of scholarship recipients that may affect the student eligibility, including:
  - (A) A recipient's failure to enroll or maintain status as a full-time student.
  - (B) A recipient's failure to maintain satisfactory academic progress as that may be defined by each eligible institution.
  - (C) A recipient's receipt of any financial assistance, other than state aid, that is specifically designated for tuition and regularly assessed fees.
  - (D) A recipient's default of any educational loan.
  - (E) A recipient's receipt of a bachelor's degree.
  - (F) A recipient's state of residency if other than Indiana.
  - (G) A recipient's due process adjudication by the institu-

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tion in which there is a finding of fact that a program pledge violation (specifically related to the illegal use of alcohol, controlled substances, or other illegal activities) was committed by the recipient.

(6) To comply with all applicable state laws and regulations, including ~~585 IAC 1-9-14~~, **585 IAC 1-9-12**, for reconciliation of funds and return unused, or inappropriately used, state grant funds to the commission by the established deadline date.

*(State Student Assistance Commission; 585 IAC 8-2-8; filed Jan 9, 1996, 5:00 p.m.: 19 IR 1357; readopted filed Nov 30, 2001, 10:52 a.m.: 25 IR 1302)*

SECTION 31. 585 IAC 8-1-5 IS REPEALED.

*LSA Document #01-147(F)*

*Intent to Readopt Rules Published: June 1, 2001; 24 IR 2855  
Proposed Readopted Rules Published: August 1, 2001; 24 IR 3791*

*Hearing Held: September 6, 2001*

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*Approved by Governor: November 29, 2001*

*Filed with Secretary of State: November 30, 2001, 10:52 a.m.*

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### TITLE 590 INDIANA LIBRARY AND HISTORICAL BOARD

LSA Document #01-208(F)

#### DIGEST

Readopts rules in anticipation of IC 4-22-2.5-2, providing that all rules of the Indiana administrative agencies in force on December 31, 1995, expire on January 1, 2002. Effective 30 days after filing with the secretary of state.

**590 IAC 1-1-0.5**                      **590 IAC 1-2.5-1**  
**590 IAC 1-1-0.6**                      **590 IAC 1-3**  
**590 IAC 1-1-2.5**

SECTION 1. UNDER IC 4-22-2.5-4, THE FOLLOWING ARE READOPTED:

590 IAC 1-1-0.5	Purpose of rule
590 IAC 1-1-0.6	Definitions
590 IAC 1-1-2.5	Minimum standards for public libraries
590 IAC 1-2.5-1	Purpose of rule
590 IAC 1-3	Indiana Document Depository Libraries

*LSA Document #01-208(F)*

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Proposed Readopted Rules Published: September 1, 2001; 24 IR 4205*

*Hearing Held: October 17, 2001*

*Filed with Secretary of State: November 13, 2001, 9:25 a.m.*

### TITLE 590 INDIANA LIBRARY AND HISTORICAL BOARD

LSA Document #01-208(F)(2)

#### DIGEST

Readopts rules in anticipation of IC 4-22-2.5-2, providing that all rules of the Indiana administrative agencies in force on December 31, 1995, expire on January 1, 2002. Effective 30 days after filing with the secretary of state.

**590 IAC 1-1-1**  
**590 IAC 1-2**  
**590 IAC 1-2.5-2**  
**590 IAC 1-2.5-3**

SECTION 1. UNDER IC 4-23-2.5-3, 590 IAC 1-1-1 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

#### **590 IAC 1-1-1 Eligibility to receive state funds; determination**

**Authority:** IC 4-23-7-5

**Affected:** IC 4-23-7.1-11; IC 4-23-7.1-24; IC 20-14-12

Sec. 1. The eligibility of a public library to receive state **or federal** funds under the provisions of any program for which the Indiana state library is the administrator shall be determined as follows:

- (a) ~~by (1)~~ Compliance with any requirements that may be set forth in state legislation providing for such funds.
- (b) ~~by (2)~~ Compliance with Indiana law. ~~and~~
- (c) ~~by (3)~~ Compliance with the standards promulgated by the Indiana library and historical board.

*(Indiana Library and Historical Board; Rule I, A.1; filed Dec 21, 1973, 3:15 p.m.: Rules and Regs. 1974, p. 362; filed Mar 17, 1986, 4:00 p.m.: 9 IR 1966; errata, 9 IR 2063; readopted filed Nov 28, 2001, 3:30 p.m.: 25 IR 1303)*

SECTION 2. UNDER IC 4-23-2.5-3, 590 IAC 1-2.5-2 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

#### **Rule 2.5. Minimum Standards for the Indiana Cooperative Library Services Authority**

##### **590 IAC 1-2.5-2 Definitions**

**Authority:** IC 4-23-7.1-11

**Affected:** IC 4-23-7.1; IC 20-14-8-1; IC 20-14-12

Sec. 2. ~~As used in 590 IAC 1-2.5:~~ **The following definitions apply throughout this rule:**

- (1) "Library" means a collection of books or other printed matter, audiovisual materials and other forms of recorded knowledge kept in a centralized place and under the responsibility of a person who has knowledge of their arrangement and use of library skills. The library is for the use of individuals or groups in meeting their recreational, informational, educational, research, or cultural needs.
- (2) "Library services" means those activities in which libraries engage **in the following:**

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~~(1)~~ ~~in~~ (A) The planning, management, budgeting, financing, purchasing, staffing, and evaluation of their libraries.

~~(2)~~ ~~in~~ (B) The selection, acquisition, processing, and maintenance of their collections of materials and the related bibliographic records. ~~and~~

~~(3)~~ ~~in~~ (C) The promotion, interpretation, servicing, and use of their library materials and facilities. ~~(IC 20-14-8-2).~~

(3) "Member libraries" means the libraries of the qualified entities (as defined in IC 20-14-8-1) that have adopted the joint agreement of an area library services authority or the Indiana cooperative library services authority.

"Library services authority" for the purposes of these standards, this term applies only to the area library services authorities and the Indiana cooperative library services authority. (*Indiana Library and Historical Board; 590 IAC 1-2.5-2; filed Mar 17, 1986, 4:00 p.m.: 9 IR 1967; errata, 9 IR 2063; readopted filed Nov 28, 2001, 3:30 p.m.: 25 IR 1303*)

SECTION 3. UNDER IC 4-23-2.5-3, 590 IAC 1-2.5-3 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 590 IAC 1-2.5-3 Minimum standards for the Indiana cooperative library services authorities

Authority: IC 4-23-7.1-11

Affected: IC 4-23-7; IC 4-23-7.1; IC 20-14-8; IC 20-14-12

Sec. 3. (a) The Indiana cooperative library services authority shall operate in compliance with the Library Services Authority Act IC 20-14-8 and the Indiana Library and Historical Department Law IC 4-23-7.

(b) The Indiana cooperative library services authority shall be governed by written bylaws, administrative procedures, and rules for the conduct of business, copies of which shall be filed with the Indiana state library as adopted and amended.

(c) The Indiana cooperative library services authority shall develop a long range ~~five~~ (5) year plan that includes a statement of needs assessment, goals and program objectives, a method for annual review and evaluation, and a mechanism for the participation of member libraries in the planning and evaluation process. The plan should relate to the ~~philosophies~~ philosophies of the Indiana long range plan for library services and development. A copy of the plan shall be submitted to the Indiana state library.

(d) The Indiana cooperative library services authority shall comply with the laws governing municipal corporations and pertinent to the expenditure of public funds.

(e) The Indiana cooperative library services authority shall employ a chief administrative officer who holds an undergraduate degree from an accredited college or university, one (1) year of graduate library education, experience commensurate with responsibilities and eligibility for Librarian I certification as prescribed by the Indiana library certification board.

(f) At least fifty percent (50%) of the membership of the

Indiana cooperative library services authority must be publicly supported libraries.

(g) The long range plans of the Indiana cooperative library services authorities shall address the provisions of the following services for members:

~~(1)~~ Area library services authorities:

~~(A)~~ Reference and referral services to supplement those provided by the local libraries.

~~(B)~~ Interlibrary loan of materials, provided in accordance with the most recent edition of the Indiana resource sharing manual.

~~(C)~~ Delivery service for the fast, efficient interlibrary loan of materials.

~~(D)~~ Consultation, communication, and continuing education for libraries.

~~(2)~~ Indiana cooperative library services authority:

~~(A)~~ (1) Access to a national bibliographic utility.

~~(B)~~ (2) Training and consultation in the area of automation, such as the following:

~~(A)~~ Information retrieval.

~~(B)~~ Retrospective conversion.

~~(C)~~ Equipment and software purchasing.

~~(D)~~ Electronic mail service.

~~(3)~~ Reference and referral services to supplement those provided by the local libraries.

~~(4)~~ Interlibrary loan of materials, provided in accordance with the most recent edition of the Indiana resource sharing manual.

~~(5)~~ Delivery service for the fast, efficient interlibrary loan of materials.

~~(6)~~ Consultation, communication, and continuing education for libraries.

(h) The Indiana cooperative library services authority shall file with the Indiana state library an annual report for the preceding year in the ~~form(s)~~ form or forms prescribed by the Indiana state library. Included in the report shall be a statement certifying which standards have been met including a statement outlining the authority's intention and specific measures planned to reach the remaining requirements not met at that time. (*Indiana Library and Historical Board; 590 IAC 1-2.5-3; filed Mar 17, 1986, 4:00 p.m.: 9 IR 1967; readopted filed Nov 28, 2001, 3:30 p.m.: 25 IR 1304*)

SECTION 4. UNDER IC 4-22-2.5-3, 590 IAC 1-2 IS REPEALED.

*LSA Document #01-208(F)*

*Intent to Readopt Rules Published: July 1, 2001; 24 IR 3205  
Proposed Readopted Rules Published: September 1, 2001; 24 IR 4205*

*Hearing Held: October 17, 2001*

*Approved by Attorney General: November 13, 2001*

*Approved by Governor: November 28, 2001*

*Filed with Secretary of State: November 28, 2001, 3:30 p.m.*

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## Readopted Rules

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### TITLE 610 DEPARTMENT OF LABOR

LSA Document #01-313(F)

#### DIGEST

Readopts rules in anticipation of IC 4-22-2.5-2, providing that all rules of the Indiana administrative agencies in force on December 31, 1995, expire on January 1, 2002. Effective 30 days after filing with the secretary of state.

#### 610 IAC 4

SECTION 1. UNDER IC 4-22-2.5-4, THE FOLLOWING IS READOPTED:

610 IAC 4 SAFETY EDUCATION AND TRAINING OCCUPATIONAL SAFETY

*LSA Document #01-313(F)*

*Intent to Readopt Rules Published: September 1, 2001; 24 IR 4199  
Proposed Readopted Rules Published: October 1, 2001; 25 IR 188  
Hearing Held: November 20, 2001*

*Filed with Secretary of State: November 20, 2001, 2:15 p.m.*

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### TITLE 615 BOARD OF SAFETY REVIEW

LSA Document #01-314(F)

#### DIGEST

Readopts rules in anticipation of IC 4-22-2.5-2, providing that all rules of the Indiana administrative agencies in force on December 31, 1995, expire on January 1, 2002. Effective 30 days after filing with the secretary of state.

#### 615 IAC 1-2

SECTION 1. UNDER IC 4-22-2.5-4, THE FOLLOWING IS READOPTED:

615 IAC 1-2 Procedures Governing Adjudicative Proceedings Before the Board of Safety Review

*LSA Document #01-314(F)*

*Intent to Readopt Rules Published: September 1, 2001; 24 IR 4199  
Proposed Readopted Rules Published: October 1, 2001; 25 IR 188  
Hearing Held: November 13, 2001*

*Filed with Secretary of State: November 13, 2001, 9:55 a.m.*

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### TITLE 620 OCCUPATIONAL SAFETY STANDARDS COMMISSION

LSA Document #01-315(F)

#### DIGEST

Readopts rules in anticipation of IC 4-22-2.5-2, providing that all rules of the Indiana administrative agencies in force on

December 31, 1995, expire on January 1, 2002. Effective 30 days after filing with the secretary of state.

#### 620 IAC 1-3

SECTION 1. UNDER IC 4-22-2.5-4, THE FOLLOWING IS READOPTED:

620 IAC 1-3 Procedures Governing Permanent and Temporary Variances

*LSA Document #01-315(F)*

*Intent to Readopt Rules Published: September 1, 2001; 24 IR 4199*

*Proposed Readopted Rules Published: October 1, 2001; 25 IR 189*

*Hearing Held: November 19, 2001*

*Filed with Secretary of State: November 20, 2001, 9:27 a.m.*

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### TITLE 631 WORKER'S COMPENSATION BOARD OF INDIANA

LSA Document #01-178(F)

#### DIGEST

Readopts rules in anticipation of IC 4-22-2.5-2, providing that all rules of the Indiana administrative agencies in force on December 31, 1995, expire on January 1, 2002. Effective 30 days after filing with the secretary of state.

631 IAC 1-1-2

631 IAC 1-1-17

631 IAC 1-1-3

631 IAC 1-1-18

631 IAC 1-1-4

631 IAC 1-1-19

631 IAC 1-1-5

631 IAC 1-1-20

631 IAC 1-1-6

631 IAC 1-1-21

631 IAC 1-1-7

631 IAC 1-1-22

631 IAC 1-1-8

631 IAC 1-1-23

631 IAC 1-1-9

631 IAC 1-1-25

631 IAC 1-1-10

631 IAC 1-1-26

631 IAC 1-1-11

631 IAC 1-1-27

631 IAC 1-1-12

631 IAC 1-1-28

631 IAC 1-1-13

631 IAC 1-1-29

631 IAC 1-1-14

631 IAC 1-1-30

631 IAC 1-1-15

631 IAC 1-1-31

631 IAC 1-1-16

SECTION 1. UNDER IC 4-22-2.5-4, THE FOLLOWING ARE READOPTED:

631 IAC 1-1-2 Forms; publication and distribution of pamphlets

631 IAC 1-1-3 Rules of practice in proceedings

631 IAC 1-1-4 Pleadings in subsequent proceedings

631 IAC 1-1-5 Pleadings and papers to be printed or typewritten; filing; service

631 IAC 1-1-6 Plaintiffs

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## Readopted Rules

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- 631 IAC 1-1-7 Defendants
- 631 IAC 1-1-8 Answers; affirmative defenses
- 631 IAC 1-1-9 Disclaimer
- 631 IAC 1-1-10 Expediting proceedings; notice of hearings; continuances
- 631 IAC 1-1-11 Stipulations
- 631 IAC 1-1-12 Testimony; depositions
- 631 IAC 1-1-13 Pleadings or depositions in foreign language; translation
- 631 IAC 1-1-14 Foreign plaintiffs; power of attorney
- 631 IAC 1-1-15 Facts upon review; additional evidence; oral arguments
- 631 IAC 1-1-16 X-ray films; admissibility
- 631 IAC 1-1-17 Number of witnesses; challenging jurisdiction of board; insurance as proof of compliance
- 631 IAC 1-1-18 Advice and information furnished by secretary of board
- 631 IAC 1-1-19 Powers and duties of secretary of board
- 631 IAC 1-1-20 Claim register; card index of claims
- 631 IAC 1-1-21 Certified copies of records, orders, and transcripts
- 631 IAC 1-1-22 Appeal to court of appeals
- 631 IAC 1-1-23 Representing litigants before board
- 631 IAC 1-1-25 Claims for fees; disputes
- 631 IAC 1-1-26 Compensation agreements; failure to make payment
- 631 IAC 1-1-27 Time period of payments; memorandum of termination
- 631 IAC 1-1-28 Reports by employers
- 631 IAC 1-1-29 Self-insurers; application for certification
- 631 IAC 1-1-30 Request for certification of compliance
- 631 IAC 1-1-31 Second injury fund

*LSA Document #01-178(F)*

*Intent to Readopt Rules Published: June 1, 2001; 24 IR 2856  
Proposed Readopted Rules Published: August 1, 2001; 24 IR 3806*

*Hearing Held: October 22, 2001*

*Filed with Secretary of State: November 13, 2001, 12:20 p.m.*

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### TITLE 675 FIRE PREVENTION AND BUILDING SAFETY COMMISSION

LSA Document #01-209(F)

#### DIGEST

Readopts rules in anticipation of IC 4-22-2.5-2, providing that all rules of the Indiana administrative agencies in force on December 31, 1995, expire on January 1, 2002. Effective 30 days after filing with the secretary of state.

### 675 IAC 15-2

SECTION 1. UNDER IC 4-22-2.5-4, THE FOLLOWING IS READOPTED:

675 IAC 15-2 Indiana Mobile Structures Code

*LSA Document #01-209(F)*

*Intent to Readopt Rules Published: July 1, 2001; 24 IR 3206  
Proposed Readopted Rules Published: August 1, 2001; 24 IR 3808*

*Hearing Held: October 15, 2001 AND November 29, 2001*

*Filed with Secretary of State: November 29, 2001, 12:21 p.m.*

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### TITLE 828 STATE BOARD OF DENTISTRY

LSA Document #01-193(F)

#### DIGEST

Readopts rules in anticipation of IC 4-22-2.5-2, providing that all rules of the Indiana administrative agencies in force on December 31, 1995, expire on January 1, 2002. Effective 30 days after filing with the secretary of state.

### 828 IAC 1-5-4

### 828 IAC 1-5-5

SECTION 1. UNDER IC 4-22-2.5-3, 828 IAC 1-5-4 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

#### 828 IAC 1-5-4 Civil penalties for a dental hygienist

**Authority:** IC 25-13-2-10

**Affected:** IC 25-13-2-11; IC 25-13-2-12

Sec. 4. If a dental hygienist is not in compliance with IC 25-13-2 and is assessed a civil penalty under IC 25-13-2-11(b)(1) or IC 25-13-2-12(b)(1), the amount of the civil penalty shall be based on the number of continuing education credit hours needed **per license period** to be in compliance as follows:

Number of hours needed to be in compliance: Civil penalty:

1–2 hours \$50

3–5 hours \$100

6–10 hours \$250

11–~~15~~ 14 hours \$375

~~16–20~~ hours \$500

*(State Board of Dentistry; 828 IAC 1-5-4; filed Jan 28, 1992, 5:00 p.m.: 15 IR 1016; readopted filed Dec 2, 2001, 12:35 p.m.: 25 IR 1306)*

SECTION 2. UNDER IC 4-22-2.5-3, 828 IAC 1-5-5 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**828 IAC 1-5-5 Civil penalties for a dentist**

Authority: IC 25-14-3-12

Affected: IC 25-14-3-13; IC 25-14-3-14

Sec. 5. If a dentist is not in compliance with IC 25-14-3 and is assessed a civil penalty under IC 25-14-3-13(b)(1) or IC 25-14-3-14(b)(1), the amount of the civil penalty shall be based on the number of continuing education credit hours needed **per license period** to be in compliance as follows:

Number of hours needed to be in compliance: Civil penalty:

1-2 hours	\$100
3-5 hours	\$250
6-10 hours	\$500
11-15 hours	\$750
16-20 hours	\$1,000

(State Board of Dentistry; 828 IAC 1-5-5; filed Jan 28, 1992, 5:00 p.m.: 15 IR 1016; readopted filed Dec 2, 2001, 12:35 p.m.: 25 IR 1307)

LSA Document #01-193(F)

Intent to Readopt Rules Published: July 1, 2001; 24 IR 3206

Proposed Readopted Rules Published: September 1, 2001; 24 IR 4206

Hearing Held: October 17, 2001

Approved by Attorney General: November 26, 2001

Approved by Governor: November 30, 2001

Filed with Secretary of State: December 2, 2001, 12:35 p.m.

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**TITLE 839 SOCIAL WORKER, MARRIAGE  
AND FAMILY THERAPIST, AND MENTAL  
HEALTH COUNSELOR BOARD**

LSA Document #01-157(F)

**DIGEST**

Readopts rules in anticipation of IC 4-22-2.5-2, providing that all rules of the Indiana administrative agencies in force on December 31, 1995, expire on January 1, 2002. Effective 30 days after filing with the secretary of state.

**839 IAC 1-2-5**

SECTION 1. UNDER IC 4-22-2.5-3, 839 IAC 1-2-5 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**839 IAC 1-2-5 Fees**

Authority: IC 25-1-8-2; IC 25-23.6-2-8

Affected: IC 25-23.6

Sec. 5. (a) Candidates for examination shall **purchase pay** the examination **fee** directly **from to** the examination service. **at the examination site.**

(b) The application/issuance fee for licensure to practice as a social worker, clinical social worker, marriage and family therapist, or mental health counselor shall be ~~twenty fifty~~ **twenty five** dollars (~~\$20~~): (**\$50**).

(c) The fee for issuance of a temporary permit shall be ~~ten~~ **twenty-five** dollars (~~\$10~~): (**\$25**).

(d) The fee for verification of licensure to another state or jurisdiction shall be ten dollars (\$10).

(e) The fee for renewal of license to practice as a social worker, clinical social worker, marriage and family therapist, or mental health counselor shall be ~~twenty fifty~~ **twenty five** dollars (~~\$20~~): (**\$50**).

(f) The ~~penalty~~ fee for ~~late renewal~~ **a duplicate wall certificate** shall be ten dollars (\$10).

**(g) The penalty fee for late renewal, and any additional health professions bureau administrative fees, shall be set in accordance with the health professions bureau fee schedule.**

~~(g) Applicants will have seven (7) working days from the date an application is received by the board to submit a written withdrawal of the application at which one-half (1/2) of the application fee may be refunded. After seven (7) days;~~

**(h) All application fees are nonrefundable. (Social Worker, Marriage and Family Therapist, and Mental Health Counselor Board; 839 IAC 1-2-5; filed Nov 4, 1992, 5:00 p.m.: 16 IR 870; filed Dec 29, 1998, 10:57 a.m.: 22 IR 1505; readopted filed Dec 2, 2001, 12:35 p.m.: 25 IR 1307) NOTE: 839 IAC 1-2-6 was renumbered by Legislative Services Agency as 839 IAC 1-2-5.**

LSA Document #01-157(F)

Intent to Readopt Rules Published: June 1, 2001; 24 IR 2857

Proposed Readopted Rules Published: September 1, 2001; 24 IR 4208

Hearing Held: October 22, 2001

Approved by Attorney General: November 29, 2001

Approved by Governor: November 30, 2001

Filed with Secretary of State: December 2, 2001, 12:35 p.m.

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**TITLE 839 SOCIAL WORKER, MARRIAGE  
AND FAMILY THERAPIST, AND MENTAL  
HEALTH COUNSELOR BOARD**

LSA Document #01-158(F)

**DIGEST**

Readopts rules in anticipation of IC 4-22-2.5-2, providing that all rules of the Indiana administrative agencies in force on

## Readopted Rules

December 31, 1995, expire on January 1, 2002. Effective 30 days after filing with the secretary of state.

839 IAC 1-1-3.5	839 IAC 1-4-6
839 IAC 1-1-4	839 IAC 1-5-1
839 IAC 1-2-1	839 IAC 1-5-2
839 IAC 1-2-2	839 IAC 1-5-3
839 IAC 1-3-1	839 IAC 1-6-1
839 IAC 1-3-2.5	839 IAC 1-6-2
839 IAC 1-3-3.5	839 IAC 1-6-3
839 IAC 1-3-4	839 IAC 1-6-5
839 IAC 1-3-4.5	

SECTION 1. UNDER IC 4-22-2.5-3, 839 IAC 1-1-3.5 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 839 IAC 1-1-3.5 "LCSW" defined

Authority: IC 25-23.6-2-8  
Affected: IC 25-23.6

Sec. 3.5. "LCSW" means a licensed clinical **social** worker licensed under IC 25-23.6. (*Social Worker, Marriage and Family Therapist, and Mental Health Counselor Board; 839 IAC 1-1-3.5; filed Dec 29, 1998, 10:57 a.m.: 22 IR 1503; readopted filed Dec 2, 2001, 12:30 p.m.: 25 IR 1308*)

SECTION 2. UNDER IC 4-22-2.5-3, 839 IAC 1-1-4 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 839 IAC 1-1-4 "Practitioner" defined

Authority: IC 25-23.6-2-8  
Affected: IC 25-23.6

Sec. 4. "Practitioner" means a social worker, ~~licensed under IC 25-23.6~~; a clinical social worker, ~~licensed under IC 25-23.6~~; a marriage and family therapist, ~~licensed under IC 25-23.6~~; or a mental health counselor licensed under IC 25-23.6. (*Social Worker, Marriage and Family Therapist, and Mental Health Counselor Board; 839 IAC 1-1-4; filed Jul 1, 1992, 12:00 p.m.: 15 IR 2456; filed Dec 29, 1998, 10:57 a.m.: 22 IR 1504; readopted filed Dec 2, 2001, 12:30 p.m.: 25 IR 1308*)

SECTION 3. UNDER IC 4-22-2.5-3, 839 IAC 1-2-1 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 839 IAC 1-2-1 Application by examination

Authority: IC 25-23.6-2-8  
Affected: IC 25-23.6

Sec. 1. (a) An applicant for licensure as a social worker, clinical social worker, marriage and family therapist, or mental health counselor shall make application ~~therefore~~ in writing on forms provided by the board and shall furnish ~~evidence~~ satisfactory **evidence** to the board that the qualifying requirements have been met as provided for in the state licensing statutes, 839 IAC 1-3, 839 IAC 1-4, and 839 IAC 1-5.

(b) Applicants for **licensure** as a social worker ~~clinical social~~

~~worker, or marriage and family therapist~~ license shall be required to pass the **intermediate level of the national examination for such license with a converted score of seventy-five (75) or higher: as provided by the Association of Social Work Boards.**

(c) Applicants for licensure as a clinical social worker shall be required to pass the **clinical level of the national examination as provided by the Association of Social Work Boards.**

(d) Applicants for licensure as a marriage and family therapist shall be required to pass the **national examination as provided by the American Marriage and Family Therapist Regulatory Board.**

(e) Applicants for licensure as a mental health counselor shall be required to pass the **National Clinical Mental Health Counselor Examination as provided by the National Board for Certified Counselors.**

~~(f)~~ (f) All applications for the **Licensed Social Worker and Licensed Clinical Social Worker** examination must be complete in every respect, including accompanying data and the required fee. ~~and filed with the board at least forty-five (45) days prior to the examination for which application is being made.~~

(g) All applications for the **Licensed Mental Health Counselor and Licensed Marriage and Family Therapist** examination must be complete in every respect, including accompanying data and the required fee, ~~and filed with the board at least ninety (90) days prior to the examination for which application is being made.~~ (*Social Worker, Marriage and Family Therapist, and Mental Health Counselor Board; 839 IAC 1-2-1; filed Jul 1, 1992, 12:00 p.m.: 15 IR 2456; filed Dec 29, 1998, 10:57 a.m.: 22 IR 1504; readopted filed Dec 2, 2001, 12:30 p.m.: 25 IR 1308*)

SECTION 4. UNDER IC 4-22-2.5-3, 839 IAC 1-2-2 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 839 IAC 1-2-2 License renewal

Authority: IC 25-23.6-2-8  
Affected: IC 25-23.6-5

Sec. 2. (a) A license to practice social work, clinical social work, marriage and family therapy, or mental health counseling will expire on April 1 of even-numbered years. ~~beginning in 1994.~~

(b) Applicants for renewal of licensure shall pay a renewal fee.

(c) Applications for renewal shall be mailed to the last known address of the practitioner. Failure to receive the application for renewal shall not relieve the practitioner of the responsibility for renewing the license by the renewal date.

**(d) It is the responsibility of the practitioner to notify the health professions bureau of an address change.**

~~(d)~~ **(e)** If a license has been expired for longer than three (3) years, the practitioner may renew the license by **filing an application provided by the board, paying all current and past due renewal fees plus a penalty fee for late renewal, and passing an examination as required under section † of this rule. meeting the following requirements:**

- (1) File a renewal application provided by the board.**
- (2) Pay current renewal fees.**
- (3) Pay penalty fee for late renewal.**
- (4) Submit a detailed letter of explanation to the board as to why the license has lapsed.**
- (5) Submit proof of having met the continuing education requirements for one (1) renewal cycle within the previous twenty-four (24) months.**
- (6) Make a personal appearance before the board, as the board in its discretion may require.**
- (7) Pass the national examination, as the board in its discretion may require.**

*(Social Worker, Marriage and Family Therapist, and Mental Health Counselor Board; 839 IAC 1-2-2; filed Jul 1, 1992, 12:00 p.m.: 15 IR 2456; filed Dec 29, 1998, 10:57 a.m.: 22 IR 1504; readopted filed Dec 2, 2001, 12:30 p.m.: 25 IR 1308)*

SECTION 5. UNDER IC 4-22-2.5-3, 839 IAC 1-3-1 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**839 IAC 1-3-1 Educational institution requirements for social worker's licensure**

**Authority:** IC 25-23.6-2-8  
**Affected:** IC 25-23.6-5-1

Sec. 1. "Institution of higher education approved by the board", as used in IC 25-23.6-5-1, means an institution of higher education that has a program that is accredited or approved for candidacy by the Council on Social Work Education at the time the applicant was granted the degree. For an applicant whose degree was granted prior to June 30, 1995, the term also includes a nonaccredited program **in social work or clinical social work** from an institution of higher education. *(Social Worker, Marriage and Family Therapist, and Mental Health Counselor Board; 839 IAC 1-3-1; filed Jul 1, 1992, 12:00 p.m.: 15 IR 2457; filed Nov 4, 1992, 5:00 p.m.: 16 IR 871; filed Dec 29, 1998, 10:57 a.m.: 22 IR 1505, eff Jul 1, 1999; readopted filed Dec 2, 2001, 12:30 p.m.: 25 IR 1309)*

SECTION 6. UNDER IC 4-22-2.5-3, 839 IAC 1-3-2.5 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**839 IAC 1-3-2.5 Temporary permits for social workers and clinical social workers**

**Authority:** IC 25-23.6-2-8  
**Affected:** IC 25-23.6-5-11

Sec. 2.5. (a) As used in ~~25-23.6-5-11~~, **IC 25-23.6-5-11**, "the

date the board disapproves the individual's license application" means the date an applicant for licensure receives notice from the board of:

- (1) failure of the required examination; or
- (2) denial of the individual's license application.

(b) As used in ~~25-23.6-5-11~~, **IC 25-23.6-5-11**, "good cause" means any reason approved by the board following written notice to the board from the applicant within thirty (30) days of the date the applicant was scheduled to take the examination.

(c) An applicant for licensure as a social worker or as a clinical social worker ~~that who~~ fails the ~~required~~ initial examination ~~shall not be issued a second~~ **may renew the temporary permit, a maximum of two (2) times, if the applicant retakes the repeat examination within six (6) months of the date of the previously failed examination; failure to take within the six (6) months will automatically invalidate the temporary permit.**

(d) As used in IC 25-23.6-5-11, "national association approved by the board" means either of the following:

- (1) National Association of Social Workers.
- (2) Any national social work association with educational and clinical experience requirements substantially equivalent to National Association of Social Workers.

*(Social Worker, Marriage and Family Therapist, and Mental Health Counselor Board; 839 IAC 1-3-2.5; filed Dec 29, 1998, 10:57 a.m.: 22 IR 1506, eff Jul 1, 1999; readopted filed Dec 2, 2001, 12:30 p.m.: 25 IR 1309)*

SECTION 7. UNDER IC 4-22-2.5-3, 839 IAC 1-3-3.5 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**839 IAC 1-3-3.5 Exemption from examination for social workers and clinical social workers**

**Authority:** IC 25-23.6-2-8  
**Affected:** IC 25-23.6-5-11; IC 25-23.6-5-14

Sec. 3.5. ~~(a)~~ An examination shall be considered to be substantially equivalent, as used in IC 25-23.6-5-11 and IC 25-23.6-5-14, if the examination is the same examination used by the board and is equal to or higher than the level for which licensure is being requested. The board will review all examinations other than the one used by the board to determine equivalency.

(b) ~~A year in the practice of social work or clinical social work, as used in IC 25-23.6-5-14, means full-time, paid experience of at least one thousand five hundred (1,500) hours per year. Part-time experience will be considered if the applicant can verify a total of four thousand five hundred (4,500) hours. Applicants for licensure as a clinical social worker under this section must verify that two (2) of the years in the full-time practice of clinical social work or three thousand (3,000) hours of part-time practice took place after receiving the graduate~~



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~~degree.~~ (Social Worker, Marriage and Family Therapist, and Mental Health Counselor Board; 839 IAC 1-3-3.5; filed Dec 29, 1998, 10:57 a.m.: 22 IR 1506, eff Jul 1, 1999; readopted filed Dec 2, 2001, 12:30 p.m.: 25 IR 1309)

SECTION 8. UNDER IC 4-22-2.5-3, 839 IAC 1-3-4 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 839 IAC 1-3-4 Standards for the competent practice of social work and clinical social work

Authority: IC 25-23.6-2-8

Affected: IC 25-23.6

Sec. 4. (a) The competent practice of social work **and clinical social work** requires remaining current with generally accepted developments within the area of specialization and the development and exercise of judgment as to when to apply specific procedures in a reasonable, effective, efficient, and economical manner.

(b) The competent practice of social work **and clinical social work** includes acting within generally accepted ethical principles and guidelines of the profession and maintaining an awareness of personal and professional limitations. These ethical principles include, but are not limited to, the following:

(1) A social worker **or clinical social worker** shall provide a clear description of what the client may expect in the way of services, reports, fees, billing, and schedules.

(2) A social worker **or clinical social worker** shall not misrepresent the ~~social workers's~~ **practitioner's** qualifications, training, or experience. If a social worker **or a clinical social worker** engages in advertising, the ~~social worker's~~ **practitioner's** credentials shall be presented factually.

(3) A social worker **or clinical social worker** may not practice beyond the ~~social worker's~~ **practitioner's** competence. A social worker **or clinical social worker** shall make appropriate referrals when the client's needs exceed the ~~social worker's~~ **practitioner's** competency level. Such referrals should be timely.

(4) A social worker **or clinical social worker** shall assure that referrals are always based solely on the best interest of the client and not for personal gain.

(5) A social worker **or clinical social worker** shall not provide social work **or clinical social work** services while under the influence of alcohol or other mind-altering or mood-altering drugs, which impair delivery of such services.

(6) Relationships with clients shall not be exploited by the social worker **or clinical social worker** for personal gain. A social worker **or clinical social worker** shall not violate such positions of trust and dependency by committing any act detrimental to a client.

(7) A social worker **or clinical social worker** shall not abandon or neglect a client in need of immediate professional services without making reasonable arrangements for the provision or the continuation of services.

(8) The ~~practitioner should~~ **social worker or clinical social**

**worker shall** under no circumstances engage in sexual activities with clients.

(Social Worker, Marriage and Family Therapist, and Mental Health Counselor Board; 839 IAC 1-3-4; filed Jul 1, 1992, 12:00 p.m.: 15 IR 2458; filed Nov 4, 1992, 5:00 p.m.: 16 IR 872; readopted filed Dec 2, 2001, 12:30 p.m.: 25 IR 1310)

SECTION 9. UNDER IC 4-22-2.5-3, 839 IAC 1-3-4.5 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 839 IAC 1-3-4.5 Enrollment

Authority: IC 25-23.6-2-8

Affected: P.L.147-1997, SEC. 80

Sec. 4.5. As used in P.L.147-1997, SECTION 80, "enrolled" means **the point at which** a student is ~~considered to have enrolled in a program when they have~~ **has** begun to take classes to complete ~~a~~ either a master's or doctoral degree program in social work from an institution of higher education accredited or approved for candidacy by the Council on Social Work Education. (Social Worker, Marriage and Family Therapist, and Mental Health Counselor Board; 839 IAC 1-3-4.5; filed Dec 29, 1998, 10:57 a.m.: 22 IR 1506; readopted filed Dec 2, 2001, 12:30 p.m.: 25 IR 1310)

SECTION 10. UNDER IC 4-22-2.5-3, 839 IAC 1-4-6 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 839 IAC 1-4-6 Temporary permits for marriage and family therapists

Authority: IC 25-23.6-2-8

Affected: IC 25-23.6-8-10

Sec. 6. (a) As used in ~~25-23.6-8-10~~, **IC 25-23.6-8-10**, "the date the board disapproves the individual's license application" means the date an applicant for licensure receives notice ~~from the board of~~:

- (1) failure of the required examination; or
- (2) denial of the individual's license application.

(b) As used in ~~25-23.6-8-10~~, **IC 25-23.6-8-10**, "good cause" means any reason approved by the board following written notice to the board from the applicant within thirty (30) days of the date the applicant was scheduled to take the examination.

(c) An applicant for licensure as a marriage and family therapist ~~that who~~ fails the required examination shall not be issued a second temporary permit.

(d) As used in IC 25-23.6-8-10, "national association approved by the board" means either of the following:

- (1) Clinical membership in the American Association for Marriage and Family Therapy.
- (2) Clinical membership in any national marriage and family therapy association with educational and clinical experience requirements substantially equivalent to the American Association for Marriage and Family Therapy.

*(Social Worker, Marriage and Family Therapist, and Mental Health Counselor Board; 839 IAC 1-4-6; filed Dec 29, 1998, 10:57 a.m.: 22 IR 1507, eff Jul 1, 1999; readopted filed Dec 2, 2001, 12:30 p.m.: 25 IR 1310)*

SECTION 11. UNDER IC 4-22-2.5-3, 839 IAC 1-5-1 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**839 IAC 1-5-1 Educational requirements for mental health counselors**

**Authority:** IC 25-23.6-2-8

**Affected:** IC 25-23.6-8.5

Sec. 1. (a) As used in IC 25-23.6-8.5-1, “master’s degree in an area related to mental health counseling” means a degree earned in one (1) of the following programs:

- (1) Clinical social work.
- (2) Psychology.
- (3) Human services.
- (4) Human development.
- (5) Family relations.
- (6) Counseling.
- (7) Programs accredited by the Council for Accreditation of Counseling and Related Education Programs (CACREP) or the Council on Rehabilitation Education (CORE).

(b) An applicant for licensure as a mental health counselor with a graduate degree not listed in subsection (a), or an applicant asserting that his or her program is equivalent to a program in counseling whose content areas are listed in IC 25-23.6-8.5-3, must provide the board with the following information:

- (1) Evidence that their degree program and any additional course work ~~is~~ **are** equivalent to the criteria for a graduate degree in counseling as set forth in this section.
- (2) An official college transcript.
- (3) Appropriate certifications or affidavits from university officials.
- (4) Any additional supporting documentation as requested by the board.

(c) As used in IC 25-23.6-8.5-2, “regional accrediting body” means a college or university that was accredited prior to or within two (2) years of the time of the applicant’s graduation by one (1) of the following:

- (1) New England Association of Schools and Colleges.
- (2) Middle States Association of Colleges and Schools.
- (3) North Central Association of Colleges and Schools.
- (4) Northwest Association of Schools and Colleges.
- (5) Southern Association of Schools and Colleges.
- (6) Western Association of Schools and Colleges.

(d) An applicant for licensure as a mental health counselor under IC 25-23.6-8.5 must show successful completion of a degree curriculum that shall encompass a minimum of forty-eight (48) semester hours or seventy-two (72) quarter hours of graduate study for the master’s degree or a minimum of ninety-six (96) semester hours or one hundred forty-four (144) quarter

hours of graduate study for the doctoral degree. If the course titles as stated on the transcript do not clearly reflect the course work content areas as listed in IC 25-23.6-8.5-3, the applicant must document the course or combination of courses in which the material was covered. Further, the applicant for licensure shall document a minimum of sixty (60) hours of graduate credit in mental health counseling or a related field. Only graduate level courses are acceptable for establishing equivalency. The board will not accept course work counted or credited toward an undergraduate degree.

(e) The following criteria shall be used to identify a master’s or doctoral program in counseling or an area related to mental health counseling:

- (1) The program, wherever it may be housed, shall be clearly identified as a counseling program in pertinent catalogs and brochures and shall specify the program’s intent to educate and train counselors.
- (2) There shall be a clear authority and primary responsibility for the core and specialty areas, whether or not the program cuts across administrative lines.
- (3) The program shall have an identifiable mental health professional responsible for the program.
- (4) The program shall have an integrated, organized sequence of study that follows the CACREP standards.
- (5) The program shall have an identifiable body of students who are matriculated in that program for a degree.
- (6) The program shall include a supervised practicum and internship.
- (7) The degree program may or may not include an advanced internship. However, the advanced internship must be conducted in a setting focused on mental health counseling and/or mental health services, under the auspices of an approved graduate counseling program.

(f) As used in IC 25-23.6-8.5-3, “practicum” means a distinctly defined supervised curricular experience intended to enable the student to develop basic counseling skills and to integrate professional knowledge and skills appropriate to the student’s program emphasis. The practicum shall be a minimum of one hundred (100) clock hours and include the following:

- (1) A minimum of forty (40) hours of direct service with clients so that experience can be gained in individual and group interactions; at least one-fourth ( $\frac{1}{4}$ ) of these hours should be in group work.
- (2) A minimum of one (1) hour per week of individual supervision, over a minimum of one (1) academic term by a program faculty member or a supervisor working under the supervision of a program faculty member, using audiotape, videotape, and/or direct observation.
- (3) A minimum of one and one-half ( $1\frac{1}{2}$ ) hours per week of group supervision with other students in similar practica over a minimum of one (1) academic term by a program faculty member or a supervisor working under the supervision of a program faculty member.

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(4) An evaluation of the student's performance throughout the practicum, including a formal evaluation at the completion of the practicum.

(g) As used in IC 25-23.6-8.5-3, "internship" means a distinctly defined, supervised curricular experience intended to enable the student to refine and to enhance basic counseling skills, to develop more advanced counseling skills, and to integrate professional knowledge and skills appropriate to the student's initial postgraduation professional placement. A supervised internship of six hundred (600) clock hours, that is begun after successful completion of the student's practicum, includes the following:

- (1) A minimum of two hundred forty (240) hours of direct service with clients appropriate to the program of study.
- (2) A minimum of one (1) hour per week of individual supervision, throughout the internship, usually performed by the on-site supervisor.
- (3) A minimum of one and one-half (1½) hours per week of group supervision, throughout the internship, usually performed by a program faculty member supervisor.
- (4) The opportunity for the student to become familiar with a variety of professional activities other than direct service.
- (5) The opportunity for the student to develop audiotapes and/or videotapes of the student's interactions with clients appropriate for use in supervision.
- (6) The opportunity for the student to gain supervised experience in the use of a variety of professional resources, such as:
  - (A) assessment instruments;
  - (B) computers;
  - (C) print and nonprint media;
  - (D) professional literature;
  - (E) research; and
  - (F) information and referral to appropriate providers.
- (7) A formal evaluation of the student's performance during the internship, by a program faculty supervisor, in consultation with the site supervisor.

(h) The practicum and internship experiences listed in this section are tutorial forms of instruction. Individual supervision is supervision rendered to one (1) person at a time, and group supervision is supervision rendered to at least two (2) and not more than twelve (12) individuals at one (1) time.

(i) As used in IC 25-23.6-8.5-3, "advanced internship" means a minimum of three hundred (300) clock hours of supervised experience that must be completed in a setting in which the individual is providing mental health services under the direct supervision of a professional as defined in subsection (l).

(j) The required practicum, internship, and advanced internship experiences listed in this section must have been primarily in the provision of direct counseling services. This includes knowledge, skill, or experience derived from direct observations

of, and participation in, the practice of counseling. Academic credit for these must appear on the applicant's official graduate transcript. No course intended primarily for practice in the administration and grading of appraisal or assessment instruments shall count toward these clinical semester hour requirements.

(k) As used in IC 25-23.6-8.5-3, "one hundred (100) hours of face-to-face supervision" refers to the entire clinical experience requirement of one thousand (1,000) hours. This includes individual and group supervision. The applicant must document that at least one hundred (100) hours were spent face-to-face with a supervisor during the practicum, internship, and advanced internship. The graduate counseling student may work away from the premises of the educational institution but must be enrolled in a counseling practicum, internship, or advanced internship and must conduct counseling under the auspices of that graduate program.

(l) As used in IC 25-23.6-8.5-3, "supervised practice experience" means experience gained under supervision provided by:

- (1) a counselor educator;
- (2) a licensed and/or certified master's level or doctoral level:
  - (A) mental health counselor;
  - (B) clinical social worker;
  - (C) marriage and family therapist;
  - (D) **psychiatrist; a physician who has training in psychiatric medicine;**
  - (E) psychologist; or
  - (F) clinical nurse specialist in psychiatric or mental health nursing; or
- (3) another state-regulated mental health professional, or, if the experience was gained in a state where no regulation exists, by a mental health professional of equivalent status.

(m) As used in IC 25-23.6-8.5-4, "three thousand (3,000) hours of post-graduate clinical experience" means experience under approved supervision acquired subsequent to the date certified by the degree-granting institution as that on which all requirements for the master's degree have been completed. The doctoral student may continue to accrue hours for this clinical experience requirement once the doctoral internship has been completed.

(n) As used in ~~IC 25-23.6-8.5-4~~, **IC 25-23.6-8.5-4**, "equivalent supervisor" shall be supervision provided by:

- (1) a licensed and/or certified master's level or doctoral level:
  - (A) clinical social worker;
  - (B) marriage and family therapist;
  - (C) **psychiatrist; a physician who has training in psychiatric medicine;**
  - (D) psychologist; or
  - (E) clinical nurse specialist in psychiatric or mental health nursing; or
- (2) another state-regulated mental health professional, or, if

the experience was gained in a state where no regulation exists, by a mental health professional of equivalent status. (*Social Worker, Marriage and Family Therapist, and Mental Health Counselor Board; 839 IAC 1-5-1; filed Dec 29, 1998, 10:57 a.m.: 22 IR 1507; readopted filed Dec 2, 2001, 12:30 p.m.: 25 IR 1311*)

SECTION 12. UNDER IC 4-22-2.5-3, 839 IAC 1-5-2 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**839 IAC 1-5-2 Examination requirements for mental health counselors**

**Authority:** IC 25-23.6-2-8  
**Affected:** IC 25-23.6-8.5-5

Sec. 2. (a) An applicant for licensure by examination as a mental health counselor, approved by the board to sit for the examination, shall sit for that examination within one (1) year from the date of the initial board approval. If the exam applicant has not taken the examination within one (1) year from the date of the initial board approval, the initial board approval will be invalid and the applicant must file a new application.

(b) The board will notify the applicant in writing of examination results.

(c) Applicants determined by the board to have failed the examination, who wish to retake the examination, shall submit a new **repeat examination** application, fees, and other requirements as stated in ~~IC 839 1-2-1~~ **839 IAC 1-2-1**.

(d) Applicants who fail the initial examination and fail two (2) subsequent examinations are disqualified from retaking the examination until satisfactory documentation of additional education and experience has been received from the applicant and approved by the board. This documentation may consist of additional course work, internship experiences, supervision, or any combination of these: **three (3) times shall personally appear before the board prior to retaking the examination.**

(e) As used in ~~IC 25-23.6-8.5-5~~, **IC 25-23.6-8.5-5**, “an individual who satisfies the requirements of sections 1 and 2 of this chapter” means an applicant for licensure as a mental health counselor who has completed all the graduate educational, clinical instruction, and postgraduate supervised clinical experience requirements listed in ~~IC 25-23.6-8.5~~ **IC 25-23.6-8.5-5**. (*Social Worker, Marriage and Family Therapist, and Mental Health Counselor Board; 839 IAC 1-5-2; filed Dec 29, 1998, 10:57 a.m.: 22 IR 1509; readopted filed Dec 2, 2001, 12:30 p.m.: 25 IR 1313*)

SECTION 13. UNDER IC 4-22-2.5-3, 839 IAC 1-5-3 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**839 IAC 1-5-3 Temporary permits for mental health counselors**

**Authority:** IC 25-23.6-2-8  
**Affected:** IC 25-23.6-8-10; IC 25-23.6-8.5-10

Sec. 3. (a) As used in ~~25-23.6-8.5-10~~, **IC 25-23.6-8.5-10**, “the date the board disapproves the individual’s license application” means the date an applicant for licensure receives notice ~~from the board of~~:

- (1) failure of the required examination; or
- (2) denial of the individual’s license application.

(b) As used in ~~25-23.6-8-10~~, **IC 25-23.6-8-10**, “good cause” means any reason approved by the board following written notice to the board from the applicant within thirty (30) days of the date the applicant was scheduled to take the examination.

(c) An applicant for licensure as a mental health counselor who fails the required examination shall not be issued a second temporary permit. (*Social Worker, Marriage and Family Therapist, and Mental Health Counselor Board; 839 IAC 1-5-3; filed Dec 29, 1998, 10:57 a.m.: 22 IR 1510; readopted filed Dec 2, 2001, 12:30 p.m.: 25 IR 1313*)

SECTION 14. UNDER IC 4-22-2.5-3, 839 IAC 1-6-1 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**839 IAC 1-6-1 Continuing education**

**Authority:** IC 25-23.6-2-8  
**Affected:** IC 25-23.6

Sec. 1. (a) As used in IC 25-23.6, “continuing education” means ~~board-approved~~ education **provided by board-approved providers** which is obtained by a licensee in order to maintain, improve, or expand the licensee’s skills and knowledge. As used in this rule, “CEU” means **one (1) continuing education unit: hour.**

(b) Continuing education shall be comprised of two (2) categories, Category I and Category II. The licensee shall obtain a minimum of fifty percent (50%) of the required amount of CEUs for renewal from Category I and **may obtain** a maximum of fifty percent (50%) of the required amount of CEUs for renewal from Category II.

(c) Category I is defined as continuing education that is formal programming, which includes the following:

- (1) Formally organized courses.
- (2) Workshops.
- (3) Seminars.
- (4) Symposia.
- (5) Institutes.
- (6) Home study programs, including:
  - (A) computer;
  - (B) audio; ~~and~~
  - (C) video; ~~and~~
  - (D) instructional programs, accredited by board-approved organizations.
- (7) Courses that are relevant to the license holder’s professional skills, which are part of the curriculum of an accredited university, college, or educational institution, shall earn

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fifteen (15) CEUs for each academic semester hour completed, or ten (10) CEUs for each academic quarter hour completed. ~~CEUs obtained from Category I sponsors shall earn the amount of continuing education hours granted by the program sponsor. If the sponsor does not grant continuing education hours, then one (1) CEU will be granted for each clock hour of attendance.~~

**(8) Faculty teaching a course for the first time at an accredited university, college, or educational institution shall earn one and one-half (1½) CEUs for every hour taught.**

**(d) CEUs obtained from Category I sponsors shall earn the amount of continuing education hours granted by the program sponsor. If the sponsor does not grant continuing education hours, then one (1) CEU will be granted for each clock hour of attendance.**

~~(d)~~ **(e)** Category II is defined as continuing education that is self-directed, which includes the following:

- (1) Journal clubs, earns one (1) CEU for each hour attended.
- (2) Office in-services, earns one (1) CEU for each hour attended.
- (3) Case conferences that are specifically designed for training or teaching, earns one (1) CEU for each hour attended.
- (4) Services as an instructor, presenter, or supervisor in a relevant professional seminar, workshop, or training conference earns one (1) CEU for each hour of service, but only for the initial instruction, presentation, or supervision given.
- (5) Research and publication of research results in a recognized professional journal or book form, earns ~~five (5) ten~~ **(10)** CEUs, but may only be claimed for the initial publication of the information.
- (6) Providing peer review of another licensee's therapy and skills, which includes consultation, conference, and critique, earns one (1) CEU for each hour spent with the peer for this purpose.
- (7) Services on boards and commissions and holding office in professional organizations, specifically related to the licensee's profession, earns one (1) CEU for each hour of service.

*(Social Worker, Marriage and Family Therapist, and Mental Health Counselor Board; 839 IAC 1-6-1; filed Dec 29, 1998, 10:57 a.m.: 22 IR 1512; readopted filed Dec 2, 2001, 12:30 p.m.: 25 IR 1313)*

SECTION 15. UNDER IC 4-22-2.5-3, 839 IAC 1-6-2 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### **839 IAC 1-6-2 Approval of continuing education programs**

**Authority:** IC 25-23.6-2-8  
**Affected:** IC 25-23.6

Sec. 2. (a) The following criteria shall be used for **the**

approval **of providers** of continuing education programs for licensed social workers, licensed clinical social workers, licensed marriage and family therapists, and licensed mental health counselors:

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

(b) Organizations applying for board approval to be a sponsor of continuing education programming must submit an application to the board for approval at least ninety (90) days prior to the presentation of any program. The board shall act upon the application within ninety (90) days of receipt. The approval, if granted, ~~shall remain in effect for two (2) years: is effective until April 1st of every even-numbered year.~~

**(c) An approval to provide continuing education units for licensed social workers, licensed clinical social workers, licensed marriage and family therapists, and licensed mental health counselors will expire on April 1 of the even-numbered years.**

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

~~(d)~~ **(e)** The sponsor shall maintain attendance records for a minimum of four (4) years from the date of the program. These records must include the following:

- (1) The date of the program.
- (2) The program title.

- (3) The presenter's name.
- (4) The names of all participants.
- (5) The number of continuing education hours granted each participant.

(~~e~~) **(f)** Continuing education programs that are sponsored, accredited, or approved by the following organizations shall be deemed approved, and no prior approval by the board shall be required:

- (1) Academy for Cerebral Palsy and Developmental Medicine.
- (2) Academy of Family Mediators.
- (3) Accreditation Council on Continuing Medical Education (programs or seminars related to mental health).
- (4) American Association for Continuity of Care.
- (5) American Association for Diabetes.
- (6) American Association for Social Work with Groups/Spinal Cord Injury.
- (7) American Association of Marriage and Family Therapy.
- (8) American Association of Sex Educators, Counselors, and Therapists.**
- (~~8~~) **(9)** American Cancer Society.
- (~~9~~) **(10)** American Counseling Association.
- (~~10~~) **(11)** American Health Care Institute (programs or seminars related to mental health).
- (~~11~~) **(12)** American Hospital Association (programs or seminars related to mental health).
- (~~12~~) **(13)** American Medical Association (programs or seminars related to mental health).
- (~~13~~) **(14)** American Mental Health Counselors Association.
- (~~14~~) **(15)** American Psychiatric Association.
- (~~15~~) **(16)** American Psychological Association.
- (~~16~~) **(17)** American Red Cross (programs or seminars related to mental health).
- (~~17~~) **American Society of Sex Educators and Therapists.**
- (18) Arthritis Association.
- (19) Association of Oncology Social Work.
- (20) Association of Pediatric Oncology Social Work.
- (21) Association for Treatment of Sexual Abusers.
- (22) Association of Social Work Boards.**
- (~~22~~) **(23)** Chicago Center for Family Health.
- (~~23~~) **(24)** Commission on Rehabilitation Counselor Certification.
- (~~24~~) **(25)** Employee Assistance Professional Association.
- (~~25~~) **(26)** Employee Assistance Society of North America.
- (~~26~~) **(27)** Federation of Societies for Clinical Social Work.
- (~~27~~) **(28)** Federation of Society of Sex Educators and Therapists.
- (~~28~~) **(29)** First Steps.
- (~~29~~) **(30)** Healthy Families.
- (~~30~~) **(31)** Hoosier Oncology Group.
- (~~31~~) **(32)** Hospice Foundation of America.
- (~~32~~) **(33)** Indiana Association of Home and Hospice Care.
- (~~33~~) **(34)** Indiana Commission on Continuing Legal Education (programs or seminars related to mental health).
- (~~34~~) **(35)** Indiana Council of Nephrology Social Workers.
- (~~35~~) **(36)** Indiana Council on Adolescent Pregnancy.

- (~~36~~) **(37)** Indiana Counselors Association for Alcohol and Drug Abuse.
- (~~37~~) **(38)** Indiana Healthcare Ethics Network.
- (~~38~~) **(39)** Indiana Hospice Association.
- (~~39~~) **(40)** Indiana Hospital and Health Association (programs or seminars related to mental health).
- (~~40~~) **(41)** Indiana Organ Procurement Organization.
- (~~41~~) **(42)** Indiana Perinatal Association.
- (~~42~~) **(43)** International Critical Incident Stress Foundation.
- (~~43~~) **(44)** Leukemia Society of America.
- (~~44~~) **(45)** Mediation Matters.
- (~~45~~) **(46)** Mental Health Association.
- (~~46~~) **(47)** Midwest Regional Network for Intervention with Sex Offenders.
- (~~47~~) **(48)** National Association for Family-Based Services.
- (~~48~~) **(49)** National Association of Alcoholism and Drug Abuse Counselors.
- (~~49~~) **(50)** National Association of Liver Transplant Social Workers.
- (~~50~~) **(51)** National Association of Perinatal Social Work.
- (~~51~~) **(52)** National Association of Social Workers.
- (~~52~~) **(53)** National Board for Certified Counselors.
- (~~53~~) **(54)** National Board of Addiction Examiners.
- (~~54~~) **(55)** National Brain Tumor Foundation.
- (~~55~~) **(56)** National Committee to Prevent Child Abuse.
- (~~56~~) **(57)** National Council of Community Mental Health Centers.
- (58) National Council of Sexual Addiction and Compulsivity.**
- (~~57~~) **(59)** National Hospice Association.
- (~~58~~) **(60)** National Kidney Foundation.
- (~~59~~) **(61)** National Organization for Victim Assistance.
- (~~60~~) **(62)** National Resource Center for Family Centered Practice.
- (~~61~~) **(63)** National Spina Bifida Association.
- (~~62~~) **(64)** Society of Heart and Lung Transplant Social Workers.
- (~~63~~) **(65)** Solutions Training Institute.
- (~~64~~) **(66)** The Alfred Adler Institute of Chicago.
- (~~65~~) **(67)** The American Professional Society on the Abuse of Children.
- (~~66~~) **(68)** The Center for Family Studies, Chicago, ~~IL~~ **Illinois.**
- (~~67~~) **(69)** The Cincinnati Psychoanalytic Institute.
- (~~68~~) **(70)** The Family Institute of Chicago.
- (~~69~~) **(71)** The Family Institute/Center for Family Studies.
- (~~70~~) **(72)** The Gestalt Institute of Cleveland.
- (~~71~~) **(73)** The Indianapolis Gestalt Institute.
- (~~72~~) **(74)** The Institute for Clinical Social Work, Chicago, ~~IL~~ **Illinois.**
- (~~73~~) **(75)** The Institute for Psychoanalysis, Chicago, ~~IL~~ **Illinois.**
- (~~74~~) **(76)** The International Institute of Object Relations Therapy.

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- ~~(75)~~ (77) The Jungian Institute of Chicago.  
~~(76)~~ (78) The National Association of Family Mediators.  
~~(77)~~ (79) The National Center for Child Abuse and Neglect.  
~~(78)~~ (80) The National Children's Advocacy Center.  
~~(79)~~ (81) The Society of Social Work Leadership in Health Care.  
~~(80)~~ (82) A national, regional, state, district, or local organization that operates as an affiliated entity under the approval of any organization listed in subdivisions (1) through ~~(79)~~: (81).  
~~(81)~~ (83) Any institute or program focused on self-psychology.  
~~(82)~~ (84) A university, college, or other teaching institution accredited by the United States Department of Education or the Council on Postsecondary Education.  
~~(83)~~ (85) A federal, state, or local government agency that coordinates and presents continuing education courses and programs in conjunction with this rule.

*(Social Worker, Marriage and Family Therapist, and Mental Health Counselor Board; 839 IAC 1-6-2; filed Dec 29, 1998, 10:57 a.m.: 22 IR 1512; readopted filed Dec 2, 2001, 12:30 p.m.: 25 IR 1314)*

SECTION 16. UNDER IC 4-22-2.5-3, 839 IAC 1-6-3 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 839 IAC 1-6-3 Continuing education requirements

Authority: IC 25-23.6-2-8  
Affected: IC 25-23.6

Sec. 3. (a) A renewal period is defined as the two (2) year period beginning with April 1 of even-numbered years. A licensure year is defined as April 1 through March 31 of the following year.

- (b) A licensee who renews a license as  
~~(1)~~ a social worker, shall complete not less than ~~twenty (20)~~ CEUs;  
~~(2)~~ a clinical social worker, shall complete not less than ~~twenty (20)~~ CEUs;  
~~(3)~~ a mental health counselor shall complete not less than ~~twenty (20)~~ CEUs; and  
~~(4)~~ a marriage and family therapist, or mental health counselor shall complete not less than ~~fifteen (15)~~ **twenty (20)** CEUs in each of the two (2) licensure years of the renewal period.

- (c) If a licensee holds more than one (1):  
(1) clinical social worker;  
(2) marriage and family therapist; or  
(3) mental health counselor;

license issued under IC 25-23.6, then CEUs obtained to meet the CEUs required for renewal of one (1) license may be applied towards the CEUs required for renewal of each license held.

(d) CEUs ~~must~~ **shall** be obtained within the biennial renewal period in which the licensee is applying and ~~may~~ **shall** not be carried over from one (1) biennial renewal period to another.

(e) A holder of a license issued under IC 25-23.6 must retain a record of the continuing education required by section 2(a) of this rule for four (4) years following the end of the biennial renewal period in which it was obtained.

(f) Continuing education used to satisfy the continuing education requirements of another state, in which the licensee also holds a license to practice as a mental health professional, may be applied towards the CEUs required for renewal of a license issued under IC 25-23.6.

(g) A holder of a license issued under IC 25-23.6 who has been ~~fully~~ licensed for less than two (2) full years prior to the first renewal date for that license shall meet the following continuing education requirements for ~~their~~ **the licensee's** first renewal period:

- (1) A licensee who has been ~~fully~~ licensed for at least twelve (12) months, **but less than twenty-four (24) months**, shall complete at least one-half (½) of the CEUs required for renewal of that license. At least fifty percent (50%) of these CEUs shall be obtained from Category I, and no more than fifty percent (50%) shall be obtained from Category II.  
(2) A licensee who has been ~~fully~~ licensed for less than twelve (12) months shall be exempt from the CEUs required for renewal of that **initial** license.

*(Social Worker, Marriage and Family Therapist, and Mental Health Counselor Board; 839 IAC 1-6-3; filed Dec 29, 1998, 10:57 a.m.: 22 IR 1514; readopted filed Dec 2, 2001, 12:30 p.m.: 25 IR 1316)*

SECTION 17. UNDER IC 4-22-2.5-3, 839 IAC 1-6-5 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 839 IAC 1-6-5 Request for a waiver of the continuing education requirement

Authority: IC 25-23.6-2-8  
Affected: IC 25-23.6

Sec. 5. (a) A holder of a license issued under IC 25-23.6, seeking renewal of that license without having completed the CEUs required for renewal under this rule, must submit:

- (1) a statement explaining the reasons for noncompliance;  
(2) a request for a waiver of the CEUs required for renewal; and  
(3) the renewal application and all required fees;  
at least forty-five (45) days prior to the license expiration date.

(b) The license holder must submit evidence that an extreme hardship exists, to the satisfaction of the board, to be granted a waiver. **except the following:**

~~(1)~~ (c) If the request is granted, the waiver will be effective for the length of the current renewal period only.

~~(2)~~ (d) If the request is denied, the license holder is responsible for completing the full amount of continuing education required for license renewal.

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## Readopted Rules

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(e) Waivers may be granted if an extreme hardship exists. The board will determine whether an extreme hardship exists that would have prevented the licensee from obtaining his or her CEUs, including, but not limited to, the following:

(1) For at least one (1) year during the current renewal period, the licensee was absent from Indiana due to full-time service in the Armed Services of the United States.

(2) During the licensee's current renewal period, the licensee or an immediate family member, where the licensee has primary responsibility for the care of that family member, was suffering from or suffered a disability. A disability is a physical or mental impairment that substantially limits one (1) or more of the major life activities of an individual. The existence of the disability must be verified by a licensed physician or psychologist, with special expertise in the area of the disability. Verification of the disability must include the following:

(A) The nature and extent of the disability.

(B) An explanation of how the disability would hinder the licensee from completing the continuing education requirement.

(C) The name, title, address, telephone number, professional license number, and original signature of the licensed physician or psychologist verifying the disability.

*(Social Worker, Marriage and Family Therapist, and Mental Health Counselor Board; 839 IAC 1-6-5; filed Dec 29, 1998, 10:57 a.m.: 22 IR 1515; readopted filed Dec 2, 2001, 12:30 p.m.: 25 IR 1316)*

*LSA Document #01-158(F)*

*Intent to Readopt Rules Published: June 1, 2001; 24 IR 2857  
Proposed Readopted Rules Published: October 1, 2001; 25 IR 189  
Hearing Held: November 5, 2001*

*Approved by Attorney General: November 19, 2001*

*Approved by Governor: November 30, 2001*

*Filed with Secretary of State: December 2, 2001, 12:30 p.m.*

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### TITLE 844 MEDICAL LICENSING BOARD OF INDIANA

LSA Document #01-120(F)

#### DIGEST

Readopts rules in anticipation of IC 4-22-2.5-2, providing that all rules of the Indiana administrative agencies in force on December 31, 1995, expire on January 1, 2002. Effective 30 days after filing with the secretary of state.

<b>844 IAC 9-2-1</b>	<b>844 IAC 9-3-3</b>
<b>844 IAC 9-2-2</b>	<b>844 IAC 9-4-3</b>
<b>844 IAC 9-2-3</b>	<b>844 IAC 9-4-4</b>
<b>844 IAC 9-2-4</b>	<b>844 IAC 9-4-5</b>
<b>844 IAC 9-2-6</b>	<b>844 IAC 9-6-2</b>
<b>844 IAC 9-3-2</b>	<b>844 IAC 9-6-4</b>

SECTION 1. UNDER IC 4-22-2.5-4, THE FOLLOWING ARE READOPTED:

844 IAC 9-2-1	General
844 IAC 9-2-2	"Board" defined
844 IAC 9-2-3	"Bureau" defined
844 IAC 9-2-4	"Committee" defined
844 IAC 9-2-6	"Student" defined
844 IAC 9-3-2	Student hearing aid dealer registration
844 IAC 9-3-3	Change of address
844 IAC 9-4-3	Application for approval
844 IAC 9-4-4	Standards for approval
844 IAC 9-4-5	Responsibilities
844 IAC 9-6-2	Standards of unprofessional conduct
844 IAC 9-6-4	Failure to comply

*LSA Document #01-120(F)*

*Intent to Readopt Rules Published: May 1, 2001; 24 IR 2566  
Proposed Readopted Rules Published: August 1, 2001; 24 IR 3809*

*Hearing Held: August 23, 2001*

*Filed with Secretary of State: November 14, 2001, 2:47 p.m.*

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### TITLE 844 MEDICAL LICENSING BOARD OF INDIANA

LSA Document #01-120(F)(2)

#### DIGEST

Readopts rules in anticipation of IC 4-22-2.5-2, providing that all rules of the Indiana administrative agencies in force on December 31, 1995, expire on January 1, 2002. Effective 30 days after filing with the secretary of state.

<b>844 IAC 9-1-1</b>	<b>844 IAC 9-5-1</b>
<b>844 IAC 9-2-5</b>	<b>844 IAC 9-5-2</b>
<b>844 IAC 9-3-1</b>	<b>844 IAC 9-6-1</b>
<b>844 IAC 9-4-1</b>	<b>844 IAC 9-6-3</b>
<b>844 IAC 9-4-2</b>	

SECTION 1. UNDER IC 4-22-2.5-3, 844 IAC 9-1-1 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

#### **844 IAC 9-1-1 Fees**

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

**Affected:** IC 25-20-1

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

(1) For the examination and/or reexamination of an applicant to practice as a hearing aid dealer, an administrative/issuance fee of ~~thirty six~~ ~~thirty six~~ ~~dollars (\$30)~~ **(\$60)** payable to the Health Professions Bureau, plus the applicant's cost of purchasing the examination payable to the examination service.



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(2) For the renewal of the certificate to practice as a hearing aid dealer, ~~twenty forty~~ dollars (~~\$20~~): (**\$40**).

(3) For the issuance of a student hearing aid dealer certificate of registration, ~~ten twenty~~ dollars (~~\$10~~): (**\$20**).

(4) For the renewal of a student hearing aid dealer certificate, ~~ten twenty~~ dollars (~~\$10~~): (**\$20**).

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

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

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

SECTION 2. UNDER IC 4-22-2.5-3, 844 IAC 9-2-5 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 844 IAC 9-2-5 "Sponsor" defined

Authority: IC 25-20-1-23

Affected: IC 25-20-1

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

SECTION 3. UNDER IC 4-22-2.5-3, 844 IAC 9-3-1 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 844 IAC 9-3-1 Hearing aid dealer registration

Authority: IC 25-20-1-23

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

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

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

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

~~(1) Complete name; residence and office addresses with zip codes; residence and business telephone numbers with area codes.~~

~~(2)~~ **(1)** All names used by the applicant, explaining the reason for the name change(s) or use(s).

~~(3)~~ **(2)** Date and place of birth.

~~(4)~~ **(3)** Whether the applicant has ever been issued a student hearing aid dealer certificate and, if so, the name of the sponsor for that certificate and date the certificate was issued.

~~(5) Whether the applicant has any communicable disease(s).~~

~~(6)~~ **(4)** A list of all states, including Indiana, in which the applicant has ever applied for, or held, a certificate to practice as a hearing aid dealer.

~~(7)~~ **(5)** Whether the applicant is, or has ever been, addicted to any narcotic drugs, alcohol, or other drugs, and if so, the details of such addiction.

~~(8)~~ **(6)** Whether the applicant has ever had any disciplinary action taken against any hearing aid dealer certificate, registration, and/or license held by the applicant, by a licensing agency of this state, or any other state or jurisdiction and the date(s) and details of such action.

~~(9)~~ **(7)** Whether the applicant has ever been convicted of any violation of law relating to drug abuse, controlled substances, narcotic drugs, or any other drugs, including the date(s) and details of such conviction.

~~(10)~~ **(8)** A statement that the applicant has not been convicted of a criminal offense (excluding minor traffic violations) nor other offenses as specified in IC 25-1-9, or a certified statement listing all criminal offenses (excluding minor traffic violations) of which the applicant has been convicted. This listing must include:

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

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

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

~~(11)~~ **(9)** Two (2) passport-type photographs taken within sixty (60) days of the date of submission of the application.

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

SECTION 4. UNDER IC 4-22-2.5-3, 844 IAC 9-4-1 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

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

Authority: IC 25-20-1-23

Affected: IC 25-20-1-25

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

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

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

SECTION 5. UNDER IC 4-22-2.5-3, 844 IAC 9-4-2 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

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

Authority: IC 25-20-1-23  
Affected: IC 25-20-1-5

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

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

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

SECTION 6. UNDER IC 4-22-2.5-3, 844 IAC 9-5-1 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**844 IAC 9-5-1 Examination**

Authority: IC 25-20-1-23  
Affected: IC 25-20-1

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

- (1) Written tests of knowledge in areas such as physics of sound, anatomy and physiology of hearing, and the function of hearing aids, as these areas pertain to the fitting or selection and sale of hearing aids.
- (2) Evidence of knowledge of situations in which it is commonly believed that a hearing aid is inappropriate.
- (3) Practical tests of proficiency in the taking of earmold impressions.
- ~~(4) Practical tests assessing an applicant's working knowledge of hearing aids and their deficiencies.~~

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

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

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

SECTION 7. UNDER IC 4-22-2.5-3, 844 IAC 9-6-1 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

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

Authority: IC 25-20-1-23  
Affected: IC 25-1-9; IC 25-20-1

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

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

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

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

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

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

SECTION 8. UNDER IC 4-22-2.5-3, 844 IAC 9-6-3 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**844 IAC 9-6-3 Standards of conduct**

Authority: IC 25-20-1-23  
Affected: IC 25-20-1

Sec. 3. ~~Standards of conduct~~ **A hearing aid dealer shall include be required,** but not be limited to, **do** the following:

## Readopted Rules

- (1) ~~A hearing aid dealer shall~~ Give a truthful, candid, and complete account of the client's condition to the client or to those responsible for the client's care.
- (2) ~~A hearing aid dealer shall~~ Exercise reasonable care and diligence in providing services to clients based upon generally accepted scientific principles, methods, and current professional theory and practice.
- (3) ~~A hearing aid dealer shall~~ Make reasonable efforts to obtain a consultation with a physician or audiologist whenever requested to do so by a client or by those responsible for a client's care.
- (4) ~~Any registrant or student having knowledge of the unlawful activity of any other registrant or student shall~~ Report such conduct **unlawful activity of any other registrant or student** to the committee or medical licensing board.
- (5) **Maintain appropriate audiometric measurement equipment to assess hearing loss to include air conduction, bone conduction, speech reception thresholds, speech discrimination, MCLs and UCLs, and masking capability. He or she will also have appropriate tools to evaluate the condition of the external auditory canal and visualize the tympanic membrane. All evaluation equipment must be calibrated yearly if indicated.**
- (6) **Maintain an appropriate laboratory for the modification, repair, and/or cleaning of hearing aids and accessories.**
- (7) **Maintain an appropriate filing system, which includes a client's personal and appropriate medical history, audiometric results, and hearing aid information (including warranties and spec sheets) as well as appropriate medical clearances or medical waivers.**

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

SECTION 9. UNDER IC 4-22-2.5-3, 844 IAC 9-5-2 IS REPEALED.

*LSA Document #01-120(F)*

*Intent to Readopt Rules Published: May 1, 2001; 24 IR 2566*

*Proposed Readopted Rules Published: August 1, 2001; 24 IR 3809*

*Hearing Held: August 23, 2001*

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*Approved by Governor: November 30, 2001*

*Filed with Secretary of State: December 2, 2001, 12:30 p.m.*

### TITLE 844 MEDICAL LICENSING BOARD OF INDIANA

LSA Document #01-131(F)

#### DIGEST

Readopts rules in anticipation of IC 4-22-2.5-2, providing that all rules of the Indiana administrative agencies in force on

December 31, 1995, expire on January 1, 2002. Effective 30 days after filing with the secretary of state.

~~844 IAC 11-1-2~~

~~844 IAC 11-4-8~~

~~844 IAC 11-3-2~~

~~844 IAC 11-5-1~~

~~844 IAC 11-3-3~~

~~844 IAC 11-5-3~~

~~844 IAC 11-3-4~~

~~844 IAC 11-5-4~~

~~844 IAC 11-4-5~~

~~844 IAC 11-5-5~~

~~844 IAC 11-4-6~~

SECTION 1. UNDER IC 4-22-2.5-3, 844 IAC 11-1-2 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

#### 844 IAC 11-1-2 "School or program" defined

Authority: IC 25-34.5-2-7

Affected: IC 25-34.5-2-8

Sec. 2. "School or program", as mentioned in IC 25-34.5-2-8(b), means a program for the education of respiratory care practitioners, including the following:

(1) The following units, modules, or courses of instruction must be included:

(A) The following basic sciences:

(i) Biology:

(ii) Cardiopulmonary anatomy and physiology:

(iii) Chemistry:

(iv) Computer science:

(v) Human anatomy and physiology:

(vi) Mathematics:

(vii) Microbiology:

(viii) Pharmacology:

(ix) Physics:

(x) Psychology:

(B) The following clinical sciences:

(i) Cardiopulmonary diseases:

(ii) General medical and surgical specialties:

(iii) Pathology:

(iv) Pediatrics and perinatology:

(C) The following respiratory care content areas:

(i) Aerosol therapy:

(ii) Airway management:

(iii) Assessment of patients' cardiopulmonary status:

(iv) Cardiopulmonary diagnostics and interpretation:

(v) Cardiopulmonary monitoring and interpretation:

(vi) Cardiopulmonary rehabilitation and home care:

(vii) Cardiopulmonary resuscitation:

(viii) Chest physiotherapy:

(ix) Ethics of respiratory care and medical care:

(x) Gas therapy general patient care:

(xi) Humidity therapy:

(xii) Hyperinflation therapy:

(xiii) Mechanical ventilation management:

(xiv) Oxygen therapy:

(xv) Pediatrics and perinatology:

(2) The committee shall maintain a list of programs for the education of respiratory care practitioners which meet the

standards set by the board. This list shall be available in written form from the health professions bureau.

**The board hereby adopts the standards and guidelines of the Commission on Accreditation of Allied Health Education Programs for the Profession of Respiratory Care adopted in 1962 and revised in 1972, 1977, 1986, and 2000. The standards and guidelines are hereby incorporated by reference and made applicable to this title and specifically to this section. A current copy of the document may be purchased by contacting the Committee on Accreditation for Respiratory Care, 1248 Harwood Road, Bedford, Texas 76021-4244 or the Health Professions Bureau, Indiana Government Center-South, 402 West Washington Street, Room W041, Indianapolis, Indiana 46204.** (*Medical Licensing Board of Indiana; 844 IAC 11-1-2; filed Oct 26, 1990, 3:05 p.m.: 14 IR 448; readopted filed Nov 30, 2001, 10:25 a.m.: 25 IR 1320*)

SECTION 2. UNDER IC 4-22-2.5-3, 844 IAC 11-3-2 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**844 IAC 11-3-2 Licensure by examination**

Authority: IC 25-34.5-2-7  
Affected: IC 25-34.5-2-8; IC 25-34.5-2-9

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

- (1) Applies to the committee in the form and manner prescribed by the board.
- (2) Submits the fees specified in 844 IAC 11-2-1.
- (3) Successfully completes ~~the~~ **and submits an official credential report that verifies passing a respiratory care practitioner examination** required by the committee.
- ~~(4) Submits a certificate of completion to the committee of the applicant's graduation from a school or program of respiratory care that meets the standards set by the board under 844 IAC 11-1-4.~~
- ~~(5) (4)~~ Submits two (2) recent passport-quality photographs of the applicant, approximately two (2) inches by two (2) inches in size, signed in black ink along the bottom.
- ~~(6) (5)~~ Submits an official transcript of grades from the school or program from which the applicant obtained the applicant's degree which shows that all requirements for graduation have been met by the applicant **that meets the standards set by the board under 844 IAC 11-1-2.**
- ~~(7) (6)~~ Otherwise meets the requirements of IC 25-34.5-2-8. (*Medical Licensing Board of Indiana; 844 IAC 11-3-2; filed Oct 26, 1990, 3:05 p.m.: 14 IR 449; readopted filed Nov 30, 2001, 10:25 a.m.: 25 IR 1321*)

SECTION 3. UNDER IC 4-22-2.5-3, 844 IAC 11-3-3 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**844 IAC 11-3-3 Licensure by endorsement**

Authority: IC 25-34.5-2-7  
Affected: IC 25-34.5-2-8; IC 25-34.5-2-11

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

- (1) Applies to the committee in the form and manner required by the board.
- (2) Submits the fees required under 844 IAC 11-2-1.
- (3) Submits two (2) recent passport-quality photographs of the applicant, no smaller than two (2) inches by two (2) inches, each signed by the applicant at the bottom in black ink.
- ~~(4) Submits a certificate of completion to the committee of the applicant's graduation from a school or program of respiratory care that meets the standards set by the board under 844 IAC 11-1-2.~~
- ~~(5) (4)~~ Submits an official transcript of grades from the school or program from which the applicant obtained the applicant's degree which shows that all requirements for graduation have been met by the applicant **that meets the standards set by the board under 844 IAC 11-1-2.**
- ~~(6) Submits verification of licensure/certification status from the initial state in which the applicant has been or is currently licensed/certified.~~
- ~~(7) (5)~~ Submits verification from all states in which the applicant has been or is currently licensed/certified which statement shall include whether the applicant has ever been disciplined in any manner.
- (6) Submits an official credentials report that verifies passing a respiratory care practitioner examination approved by the board.**
- ~~(8) (7)~~ Otherwise meets the requirements of IC 25-34.5-2-8. (*Medical Licensing Board of Indiana; 844 IAC 11-3-3; filed Oct 26, 1990, 3:05 p.m.: 14 IR 449; readopted filed Nov 30, 2001, 10:25 a.m.: 25 IR 1321*)

SECTION 4. UNDER IC 4-22-2.5-3, 844 IAC 11-3-4 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**844 IAC 11-3-4 Temporary permits by endorsement**

Authority: IC 25-34.5-2-6; IC 25-34.5-2-7  
Affected: IC 25-34.5-2-10.1; IC 25-34.5-2-11

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

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

(c) ~~An applicant for~~ A temporary permit **expires the earlier of the date the:**

- (1) person holding the permit is issued a license** under ~~IC 25-34.5-2-10.1(a)(3)~~ will be required to take the first available examination for certification. A temporary permit of an

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applicant who fails to appear for the scheduled examination will be invalidated. If the applicant presents an explanation to the committee in writing which shows good cause for missing the scheduled examination, the committee may allow the applicant to submit a new application for a temporary permit. **IC 25-34.5-2-11; or**

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

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

SECTION 5. UNDER IC 4-22-2.5-3, 844 IAC 11-4-5 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 844 IAC 11-4-5 Incompetent practice

Authority: IC 25-34.5-2-7

Affected: IC 25-34.5-2

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

- (1) Willful or repeated violation of a rule of the medical licensing board of Indiana or a lawful order of the committee previously entered in a disciplinary hearing.
- (2) Accepting or performing professional responsibilities which the ~~certificate~~ license holder knows, or has reason to know, he or she is not competent to perform.
- (3) Professional incompetence in the practice of respiratory care.
- (4) Failure to deliver respiratory care services with a level of care, skill, and treatment which is recognized by a reasonably prudent respiratory care practitioner with similar professional training as being acceptable under similar conditions and circumstances.
- (5) Exercising influence on a patient in such a manner as to exploit the patient for financial gain of the certificate holder or a third party, which shall include, but not be limited to, the promoting or selling of services, goods, or appliances.
- (6) Payment or receipt of any commission, bonus, kickback, rebate, or fee splitting arrangement in any form whatsoever with any person or organization. This subdivision shall not be construed to prevent the certificate holder from receiving a fee for professional consultation services.
- (7) Exercising influence within a respiratory care relationship for purposes of engaging a patient in sexual activity.
- (8) Inaccurately recording, falsifying, or altering patient records, including, but not limited to, patient charts or medication administration records.
- (9) Falsely misrepresenting facts on an application for employment as a respiratory care practitioner.
- (10) Leaving a respiratory therapy assignment before properly advising appropriate personnel.
- (11) Discriminating on the basis of race, creed, religion, sex, age, or national origin in the rendering of respiratory therapy services as it relates to human rights and the dignity of an individual.
- (12) Impersonating or acting as a proxy for an applicant in

any examination required for certification: ~~licensure~~.

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

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

(15) Abandoning a patient.

*(Medical Licensing Board of Indiana; 844 IAC 11-4-5; filed Nov 14, 1991, 3:30 p.m.: 15 IR 584; readopted filed Nov 30, 2001, 10:25 a.m.: 25 IR 1322)*

SECTION 6. UNDER IC 4-22-2.5-3, 844 IAC 11-4-6 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 844 IAC 11-4-6 Peer reviews

Authority: IC 25-34.5-2-7

Affected: IC 25-34.5-2

Sec. 6. (a) A practitioner who has personal knowledge based upon a reasonable belief that another practitioner holding the same ~~certification~~ ~~licensure~~ has engaged in illegal, unlawful, incompetent, or fraudulent conduct in the practice of respiratory care shall promptly report such conduct to a peer review or similar body, as defined in IC 34-4-12.6-1(c) [*IC 34-4 was repealed by P.L. 1-1998, SECTION 221, effective July 1, 1998.*], having jurisdiction over the offending practitioner and the matter. This subsection does not prohibit a practitioner from promptly reporting said conduct directly to the respiratory care committee. Further, a practitioner who has personal knowledge of any person engaged in, or attempting to engage in, the unauthorized practice of respiratory care shall promptly report such conduct to the respiratory care committee.

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

- (1) the practitioner is complying with the course of treatment; and
- (2) the practitioner is making satisfactory progress.

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

such action as it deems appropriate or as may otherwise be provided by law. (*Medical Licensing Board of Indiana; 844 IAC 11-4-6; filed Nov 14, 1991, 3:30 p.m.: 15 IR 584; readopted filed Nov 30, 2001, 10:25 a.m.: 25 IR 1322*)

SECTION 7. UNDER IC 4-22-2.5-3, 844 IAC 11-4-8 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**844 IAC 11-4-8 Liability to patients**

Authority: IC 25-34.5-2-7  
Affected: IC 25-34.5-2

Sec. 8. A practitioner shall not attempt to exonerate himself or herself from or limit his or her liability to a patient for his or her personal malpractice except that a practitioner may enter into agreements which that contain informed, voluntary releases and/or waivers of liability in settlement of a claim made by a patient or by those responsible for a patient's care. (*Medical Licensing Board of Indiana; 844 IAC 11-4-8; filed Nov 14, 1991, 3:30 p.m.: 15 IR 585; readopted filed Nov 30, 2001, 10:25 a.m.: 25 IR 1323*)

SECTION 8. UNDER IC 4-22-2.5-3, 844 IAC 11-5-1 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**844 IAC 11-5-1 Address; change of name**

Authority: IC 25-34.5-2-7  
Affected: IC 25-34.5-2

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

(b) A respiratory care practitioner's failure to receive notification of renewal due to failure to notify the committee of a change of address or name shall not constitute an error on the part of the committee, board, or bureau, nor shall it exonerate or otherwise excuse the respiratory care practitioner from renewing such certificate license. (*Medical Licensing Board of Indiana; 844 IAC 11-5-1; filed Sep 29, 1992, 2:00 p.m.: 16 IR 723; readopted filed Nov 30, 2001, 10:25 a.m.: 25 IR 1323*)

SECTION 9. UNDER IC 4-22-2.5-3, 844 IAC 11-5-3 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**844 IAC 11-5-3 Continuing education hours required**

Authority: IC 25-34.5-2-10  
Affected: IC 25-34.5-2-10

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

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

~~(e) [Voided by P.L.60-2000, SECTION 31, effective July 1, 2000.]~~

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

~~(e) (d)~~ No more than five (5) hours of continuing education can be obtained through correspondence courses during the biennium.

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

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

(*Medical Licensing Board of Indiana; 844 IAC 11-5-3; filed Sep 29, 1992, 2:00 p.m.: 16 IR 723; filed Aug 4, 1994, 5:00 p.m.: 17 IR 2869; readopted filed Nov 30, 2001, 10:25 a.m.: 25 IR 1323*)

SECTION 10. UNDER IC 4-22-2.5-3, 844 IAC 11-5-4 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**844 IAC 11-5-4 Reporting continuing education**

Authority: IC 25-34.5-2-10  
Affected: IC 25-34.5-2-10

Sec. 4. (a) Proof of attendance and completion of continuing education shall be submitted at the time of certification renewal on a form provided by the health professions bureau.

(b) It is the responsibility of the respiratory care practitioner to notify the health professions bureau of courses completed to meet the continuing education requirements.

**(a) A licensee must sign the renewal form provided by the bureau that verifies that all continuing education requirements according to section 3 of this rule will have been met by the time of license renewal.**

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

~~(d) (c)~~ It is the responsibility of the respiratory care practitioner to verify that courses attended have been approved by the committee. Without approval, as provided under section 5 of this rule, credit will not be given. (*Medical Licensing Board of Indiana; 844 IAC 11-5-4; filed Sep 29, 1992, 2:00 p.m.: 16 IR 723; readopted filed Nov 30, 2001, 10:25 a.m.: 25 IR 1323*)

## Readopted Rules

SECTION 11. UNDER IC 4-22-2.5-3, 844 IAC 11-5-5 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 844 IAC 11-5-5 Approval of continuing education programs

Authority: IC 25-34.5-2-10

Affected: IC 25-34.5-2-10

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

(1) The continuing education program shall have a statement of objectives which the program should achieve for its participants relating to and enhancing the study of respiratory care.

(2) The sponsor of continuing education programs shall provide adequate administration, including a responsible person to coordinate and administer the program, and shall provide for the maintenance of proper records.

(3) Sponsors of continuing education programs shall provide adequate funding for the educational programs undertaken.

(4) The curriculum of a continuing education program shall be thoughtfully planned and designed to explore in considerable depth one (1) subject or a closely related group of subjects related to the practice of respiratory care.

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

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

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

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

(9) The sponsor of the continuing education program shall provide to the participants a meaningful record of attendance stating the continuing education hours involved.

(b) Programs for continuing education may be approved by the committee provided the sponsoring organization has submitted the proper form at least ~~ninety (90)~~ **thirty (30)** days prior to presentation of the program.

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

(d) Notwithstanding subsections (a) and (b), continuing education programs for respiratory care practitioners sponsored by the following organizations ~~shall be deemed~~ **are approved and no approval by the committee shall be required: as follows:**

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

(2) American Medical Association.

(3) American Nurses Association.

(4) Indiana State Nurses Association.

(5) American College of Chest Physicians.

(6) American Academy of Pediatrics.

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

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

(B) **Neonatal Resuscitation Certification (NRC)—four (4) hours.**

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

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

(7) **(8) American Heart Association seminar programs.**

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

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

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

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

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

(E) **Automated External Defibrillator Certification—four (4) hours.**

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

(8) **(10) Society of Critical Care Medicine.**

(9) **(11) American Association of Critical Care Nurses.**

(10) **(12) American Society of Anesthesiologists.**

(11) **(13) American Polysomnographers Technologist.**

(12) **(14) American Osteopathic Association.**

(13) **(15) National Society for Cardiopulmonary Technologists.**

(14) **(16) American Thoracic Society.**

(15) **(17) American Lung Association.**

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

(1) ~~Advanced Cardiac Life Support through the American Heart Association~~ **eight (8) hours.**

(2) ~~Pediatric Advanced Life Support through the American Academy of Pediatrics~~ **eight (8) hours.**

(3) ~~Advanced Cardiac Life Support Recertification through the American Heart Association; one (1) day~~ **four (4) hours.**

(4) ~~Advanced Cardiac Life Support Recertification through the American Heart Association; two (2) days~~ **eight (8) hours.**

(5) ~~Pediatric Advanced Life Support Recertification through the American Academy of Pediatrics; one (1) day~~ **four (4) hours.**

(6) ~~Pediatric Advanced Life Support Recertification through the American Academy of Pediatrics; two (2) days~~ **eight (8) hours.**

(7) ~~Basic Cardiac Life Support (CPR) Recertification through the American Heart Association~~ **two (2) hours.**

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## Readopted Rules

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- (8) (1) Intermediate Electrocardiography (EKG) one (1) hour.  
(9) Kettering National Board for Respiratory Care Entry Level Review four (4) hours.  
(10) Kettering National Board for Respiratory Care Advanced Practice Review eight (8) hours.  
(11) Kettering National Board for Respiratory Care Clinical Simulation Workshop four (4) hours.  
(12) Neonatal Resuscitation Certification or Recertification through the American Academy of Pediatrics four (4) hours.  
(13) Kettering Pulmonary Function Technician Review Seminar eight (8) hours.  
(14) Kettering Registered Pulmonary Function Technician Review four (4) hours.  
(15) (2) Atlanta School of Sleep Medicine and Technology, "Seminar on Sleep Study and Technology" two (2) week seminar eight (8) hours.  
(Medical Licensing Board of Indiana; 844 IAC 11-5-5; filed Sep 29, 1992, 2:00 p.m.: 16 IR 723; filed Aug 4, 1994, 5:00 p.m.: 17 IR 2870; readopted filed Nov 30, 2001, 10:25 a.m.: 25 IR 1324)

LSA Document #01-131(F)  
Intent to Readopt Rules Published: May 1, 2001; 24 IR 2566  
Proposed Readopted Rules Published: July 1, 2001; 24 IR 3225  
Hearing Held: August 23, 2001  
Approved by Attorney General: November 14, 2001  
Approved by Governor: November 29, 2001  
Filed with Secretary of State: November 30, 2001, 10:25 a.m.

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### TITLE 844 MEDICAL LICENSING BOARD OF INDIANA

LSA Document #01-170(F)  
DIGEST

Readopts rules in anticipation IC 4-22-2.5-2, providing that all rules of the Indiana administrative agencies in force on December 31, 1995, expire on January 1, 2002. Effective 30 days after filing with the secretary of state.

<b>844 IAC 5</b>	<b>844 IAC 6-7</b>
<b>844 IAC 6-1</b>	<b>844 IAC 7</b>
<b>844 IAC 6-3</b>	<b>844 IAC 10-1</b>
<b>844 IAC 6-4</b>	<b>844 IAC 10-3</b>
<b>844 IAC 6-5</b>	<b>844 IAC 10-4</b>
<b>844 IAC 6-6</b>	<b>844 IAC 10-5</b>

SECTION 1. UNDER IC 4-22-2.5-4, THE FOLLOWING ARE READOPTED:

844 IAC 5 STANDARDS OF PROFESSIONAL CONDUCT AND COMPETENT PRACTICE OF MEDICINE

- 844 IAC 6-1 General Provisions  
844 IAC 6-3 Admission to Practice  
844 IAC 6-4 Registration of a Licensed Physical Therapist  
844 IAC 6-5 Denial of License  
844 IAC 6-6 Reinstatement of Suspended License  
844 IAC 6-7 Standards of Professional Conduct  
844 IAC 7 REINSTATEMENT TO PRACTICE  
844 IAC 10-1 General Provisions  
844 IAC 10-3 Admission to Practice  
844 IAC 10-4 Certification  
844 IAC 10-5 Standards of Competent Practice of Occupational Therapy

LSA Document #01-170(F)  
Intent to Readopt Rules Published: June 1, 2001; 24 IR 2857  
Proposed Readopted Rules Published: September 1, 2001; 24 IR 4208  
Hearing Held: October 25, 2001  
Filed with Secretary of State: November 9, 2001, 3:16 p.m.

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### TITLE 846 BOARD OF CHIROPRACTIC EXAMINERS

LSA Document #01-221(F)  
DIGEST

Readopts rules in anticipation of IC 4-22-2.5-2, providing that all rules of the Indiana administrative agencies in force on December 31, 1995, expire on January 1, 2002. Effective 30 days after filing with the secretary of state.

#### 846 IAC 1-4-7

SECTION 1. UNDER IC 4-22-2.5-3, 846 IAC 1-4-7 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**846 IAC 1-4-7 Fees**  
**Authority:** IC 25-10-1-1.5  
**Affected:** IC 25-10-1-6

Sec. 7. The following fees shall apply to all licensed chiropractors and applicants for licensure:

Examination/issuance	<del>\$40</del> <b>\$100</b>
License renewal (July 1 of each even-numbered year)	<del>\$30</del> <b>\$100</b>
Inactive license renewal (July 1 of each even-numbered year)	<del>\$15</del> <b>\$50</b>
Endorsement in issuance	<del>\$40</del> <b>\$100</b>
<del>Endorsement out</del> <b>Verification of licensure</b>	<del>\$10</del> <b>\$10</b>
Duplicate wall license	<del>\$10</del> <b>\$10</b>
Reinstatement of inactive license	<del>\$15</del> <b>\$15</b>
<del>Penalty for late renewal</del>	<del>\$10</del> <b>\$10</b>
Temporary permit	<del>\$10</del> <b>\$50</b>



## Readopted Rules

*(Board of Chiropractic Examiners; 846 IAC 1-4-7; filed Dec 2, 1987, 9:30 a.m.: 11 IR 1292; filed Nov 15, 1990, 11:15 a.m.: 14 IR 755; filed May 20, 1996, 3:00 p.m.: 19 IR 2880; filed Mar 9, 1998, 9:30 a.m.: 21 IR 2390; readopted filed Dec 2, 2001, 12:23 p.m.: 25 IR 1325)*

*LSA Document #01-221(F)*

*Intent to Readopt Rules Published: July 1, 2001; 24 IR 3206  
Proposed Readopted Rules Published: September 1, 2001; 24 IR 4209*

*Hearing Held: October 4, 2001*

*Approved by Attorney General: November 26, 2001*

*Approved by Governor: November 30, 2001*

*Filed with Secretary of State: December 2, 2001, 12:23 p.m.*

### TITLE 848 INDIANA STATE BOARD OF NURSING

LSA Document #01-127(F)(2)

#### DIGEST

Readopts rules in anticipation of IC 4-22-2.5-2, providing that all rules of the Indiana administrative agencies in force on December 31, 1995, expire on January 1, 2002. Effective 30 days after filing with the secretary of state.

<b>848 IAC 1-1-5</b>	<b>848 IAC 3-2-5</b>
<b>848 IAC 1-1-6</b>	<b>848 IAC 3-4-1</b>
<b>848 IAC 1-1-7</b>	<b>848 IAC 4-1-3</b>
<b>848 IAC 1-1-10</b>	<b>848 IAC 4-1-6</b>
<b>848 IAC 1-1-13</b>	<b>848 IAC 4-4-1</b>
<b>848 IAC 3-2-2</b>	<b>848 IAC 5-2-1</b>

SECTION 1. UNDER IC 4-22-2.5-3, 848 IAC 1-1-5 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

#### **848 IAC 1-1-5 Appeals**

**Authority:** IC 25-23-1-7

**Affected:** IC 4-21.5

Sec. 5. APPEAL PROCEDURE: (5-1) PROCEDURE. In accordance with Indiana Code 4-22-1 the Indiana Administrative Adjudication Act, the Indiana State Board of Nurses' Registration and Nursing Education respects the right of any applicant to appeal its decisions. Applicants shall be entitled to have a hearing before the Board, by filing a written application for such a hearing, within fifteen (15) days after receipt of notice of decision. Appeals before the Indiana state board of nursing are governed by the Indiana Administrative Orders and Procedures Act (AOPA) under IC 4-21.5. (*Indiana State Board of Nursing; Reg 5; filed Jul 18, 1977, 8:55 a.m.: Rules and Regs. 1978, p. 611; readopted filed Nov 21, 2001, 10:23 a.m.: 25 IR 1326*)

SECTION 2. UNDER IC 4-22-2.5-3, 848 IAC 1-1-6 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

#### **848 IAC 1-1-6 Licensure by examination**

**Authority:** IC 25-23-1-7

**Affected:** IC 25-23-1-11; IC 25-23-1-12

Sec. 6. (a) Any person who makes application to the board for a license shall submit to the board written evidence, verified by oath, that the registered nurse applicant meets IC 25-23-1-11 and the licensed practical nurse applicant meets IC 25-23-1-12.

(b) Schools of nursing shall be notified by the Indiana board of nursing annually of the filing dates and the dates on which the graduates will be scheduled to write the examination. Schools of nursing shall submit to the board a list of graduates that will write the examination at least 60 days prior to the examination date.

(c) The required application for licensure by examination and fee shall be filed no later than the 56th day prior to the date of the examination. Applications will be accepted until the 42nd day prior to the examination date when an additional late application processing fee is submitted.

(d) The board of nursing shall provide examination information to the candidate at least two (2) weeks prior to the licensing examination.

(e) (b) A copy of a marriage certificate or court order shall be submitted by a candidate who wishes to change her/his name after the application is filed.

(f) (c) Candidates shall present an admission card the authorization to test and a photograph photo identification for entrance to the licensing examination. The photograph shall have the school seal affixed and the signatures of the candidate and the nurse director of the school or designee: testing center.

(g) A candidate without proper identification may be permitted entrance to the licensing examination by the board if eligibility is established by two (2) or more of the following:

(1) verification with check-in list of candidates;

(2) displaying requested identification such as: student I.D., driver's license, etc.;

(3) being identified by two (2) randomly selected classmates or an examiner.

The board may make exceptions to existing procedures for examinations in cases of emergency situations:

(h) (d) The required Indiana passing standard score for the registered nurse licensure examination is 1600 and for the practical nurse licensure examination is 350. criteria for the licensure examination is set by the National Council of State Boards of Nursing using the computerized adaptive testing methodology.

(i) An applicant for an Indiana license may write the licensing examination in another U.S. jurisdiction provided written consent is secured from the board of nursing in that jurisdiction. The applicant shall submit a copy of the consent to the Indiana board of nursing which will make the necessary arrangements. Candidates shall be responsible for fees charged by the proctoring board.

(j) (e) An applicant may take the examination at any testing center in the United States approved by the National Council for State Boards of Nursing. An authorization to test must be provided by the Indiana board of nursing may proctor the licensing examination upon authorization of another board of nursing, whether the examination is being taken for the first time or is a repeat examination. A nonrefundable proctoring fee shall be paid by the candidate prior to admission to the examination. **prior to testing.**

(k) Proctoring services will be provided only at a regularly scheduled examination session and to the extent of availability of examining space, as determined by the board.

(l) (f) Graduates of foreign schools of nursing shall meet the following qualifications before being licensed in Indiana:

- (1) Be licensed in the territory or country in which they graduated.
- (2) Meet the qualifications required in Indiana as determined by the board.
- (3) Obtain the official records from the territory or country in which the applicant graduated verifying academic qualifications, or be referred to state accredited nursing programs to establish the necessary credits if the original records are unobtainable.
- (4) Show evidence of having passed the examination prepared by the commission on graduates of foreign nursing schools.
- (5) Pass the appropriate nurse licensing examination in Indiana.

(m) (g) **Requirements for unsuccessful candidates are as follows:**

- (1) Any candidate who fails the Indiana licensing examination shall not be licensed until she or he has passed the licensing examination.
- (2) A complete application shall be submitted each time an examination is taken.
- (3) The full examination fee shall be charged for each reexamination.
- (4) A candidate who has failed the licensing examination (in any jurisdiction) should undertake a special study program before retaking the examination. This study program may include one (1) or all of the following:
  - (A) Auditing nursing courses at an approved program in nursing.
  - (B) Self-study program, such as review of course work or professional reading, etc.,

(C) Tutoring.

(D) Reenrollment in a state-accredited program of nursing.

(n) (h) Written informed consent from the candidate is necessary before individual licensing examination scores are released to anyone other than the candidate.

(o) (i) Candidates applying for the licensing examination shall be required to meet the board's curricular requirements for the program in nursing as stated in the rules and regulations in effect at the time of their graduation. (*Indiana State Board of Nursing; Reg 6; filed Mar 1, 1978, 8:51 a.m.: Rules and Regs. 1979, p. 162; filed Mar 18, 1980, 4:00 p.m.: 3 IR 961; filed Feb 18, 1982, 2:18 p.m.: 5 IR 735; filed Mar 29, 1985, 10:43 a.m.: 8 IR 1026; filed Sep 12, 1985, 3:27 p.m.: 9 IR 287; readopted filed Nov 21, 2001, 10:23 a.m.: 25 IR 1326*)

SECTION 3. UNDER IC 4-22-2.5-3, 848 IAC 1-1-7 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**848 IAC 1-1-7 Licensure by endorsement**

Authority: IC 25-23-1-7

Affected: IC 25-23-1-11; IC 25-23-1-12

Sec. 7. (7.1) (a) An applicant who was originally licensed by the state board test pool examination by a board of nursing **National Council Licensing Examination (NCLEX®) or an equivalent examination** in another jurisdiction will be accepted for registration in Indiana by endorsement from the board which that granted the original license if the applicant meets the following qualifications:

- (a) (1) Is of good moral character.
- (b) (2) Has graduated from high school or the equivalent thereof.
- (c) (3) Has graduated from a state approved program in nursing.

(7.2) Achievement of the Indiana passing score on the state board test pool examination subsequent to September 1952 is required for licensure by endorsement.

(7.3) (b) Applicants who are graduates of foreign schools of nursing are eligible for Indiana licensure by endorsement providing the following conditions are met:

- (a) (1) Have written and passed the state board test pool **National Council Licensing Examination (NCLEX®) or an equivalent examination** in another jurisdiction or country.
- (b) (2) Have achieved Indiana's passing scores in all areas.
- (c) submit verification of immigration status and eligibility for employment in Indiana;
- (d) (3) Submit copies of all scholastic records.
- (e) (4) Submit proof of good moral character.
- (f) (5) Submit proof of high school graduation or equivalent thereof.
- (g) (6) Submit proof of having graduated from a program in nursing with concurrent theory and clinical experience in all areas. tested by the state board test pool examination.

## Readopted Rules

(7.4) (c) The completed application accompanied by the statutory fee, photograph, and proof of current licensure in another jurisdiction shall be submitted to the Indiana board of nursing. The fee is nonrefundable.

(7.5) Applicants who were licensed prior to September 1952 shall be required to have taken and passed the licensing examination given by the state board of nursing in the original state of licensure: (Indiana State Board of Nursing; Reg 7; filed Mar 1, 1978, 8:51 a.m.: Rules and Regs. 1979, p. 165; filed Mar 18, 1980, 4:00 p.m.: 3 IR 963; filed Mar 29, 1985, 10:43 a.m.: 8 IR 1028; readopted filed Nov 21, 2001, 10:23 a.m.: 25 IR 1327)

SECTION 4. UNDER IC 4-22-2.5-3, 848 IAC 1-1-10 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 848 IAC 1-1-10 Duplicate license

Authority: IC 25-23-1-7

Affected: IC 25-23-1-7; IC 25-23-1-16.1

Sec. 10. ~~(10.1)~~ (a) The licensee shall report, in writing, on the form supplied by the board, the loss of the original certificate of licensure or the biennial renewal license.

~~(10.2)~~ (b) A license which that has been lost or destroyed shall be replaced upon proper identification of the registrant. ~~and payment of a fee.~~ (Indiana State Board of Nursing; Reg 10; filed Mar 1, 1978, 8:51 a.m.: Rules and Regs. 1979, p. 166; filed Mar 29, 1985, 10:43 a.m.: 8 IR 1028; readopted filed Nov 21, 2001, 10:23 a.m.: 25 IR 1328)

SECTION 5. UNDER IC 4-22-2.5-3, 848 IAC 1-1-13 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 848 IAC 1-1-13 Employment conditions; enforcement powers and duties; records and reports

Authority: IC 25-23-1-7

Affected: IC 4-1-6; IC 25-23-1-7; IC 25-23-1-16.1

Sec. 13. ENFORCEMENT: ~~(13.1)~~ Legal conditions of employment:

(a) Any person who practices or offers to practice nursing as either a registered or licensed practical nurse in the State of Indiana shall hold a current Indiana license as proof of their legal authorization to practice.

~~(b) A candidate who has applied for the licensing examination may be employed during the interim between graduation and licensure providing employment is not in conflict with the Indiana Nurse Practice Act.~~

~~(13.2)~~ (b) The Indiana board of nursing (board) shall be responsible for the following:

(a) (1) The verification of licensure of nurses to employers of nurses.

(b) (2) Initiating appropriate action as authorized by the Nurse Practice Act under IC 25-23-1 on reports to the board

concerning incidents involving a licensee that may be cause for disciplinary action.

~~(c)~~ (3) Assuring that imposters are not functioning in roles normally assumed by the licensed nurse.

~~(d)~~ (4) Carrying out the duties of the board in compliance with the Fair Information Practice Act P.L.21, Acts 1977: under IC 4-1-6.

~~(13.3)~~ The Employing Agency is responsible for:

(a) Verifying that applicants for positions requiring a license in nursing are currently licensed in the State of Indiana;

(b) Submitting annually to the Board:

(1) Names of all licensed nurses;

(2) Indiana nursing license numbers;

(3) Expiration dates of nursing licenses;

(4) Names of unlicensed employed graduate nurses;

(c) Reporting to the Board any incident involving a licensed nurse that could be cause for disciplinary action;

(d) Assuring that an unlicensed employed graduate nurse is not functioning in the role normally assumed by the licensed nurse.

~~(13.4)~~ Reports regarding licensees:

(a) Each hospital, agency or unit (office) employing licensed nurses shall submit an inclusive list of those persons at such times as may be required by the Board. Names of employed unlicensed graduate nurses are also to be submitted at this time;

(b) The names of individuals whose licenses have been placed on probation, suspended, revoked or surrendered voluntarily, shall become a matter of public record.

(Indiana State Board of Nursing; Reg 13; filed Mar 1, 1978, 8:51 a.m.: Rules and Regs. 1979, p. 167; readopted filed Nov 21, 2001, 10:23 a.m.: 25 IR 1328)

SECTION 6. UNDER IC 4-22-2.5-3, 848 IAC 3-2-2 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 848 IAC 3-2-2 Fees for limited license

Authority: IC 25-23-1-7

Affected: IC 25-23-1-1; IC 25-23-1-13.1

Sec. 2. (a) Each applicant for a limited license in nurse-midwifery shall pay a fee as provided in 848 IAC 1-1-14 in the form of a personal check, certified check, cashier's check, or money order payable to the health professions bureau. This fee is not refundable, but may be used up to and including three (3) years one (1) year from the original submission of the application.

(b) The fee for any reapplication shall be the same as determined by the board for the original application and is payable in the form of a personal check, certified check, cashier's check, or money order payable to the health professions bureau. (Indiana State Board of Nursing; 848 IAC 3-2-2; filed Jul 29, 1994, 5:00 p.m.: 17 IR 2872; readopted filed Nov 21, 2001, 10:23 a.m.: 25 IR 1328)

SECTION 7. UNDER IC 4-22-2.5-3, 848 IAC 3-2-5 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**848 IAC 3-2-5 Biennial renewal of limited license**

**Authority:** IC 25-23-1-7

**Affected:** IC 25-23-1-1; IC 25-23-1-13.1

Sec. 5. Every person with a limited license to practice nurse-midwifery shall renew such limited license with the board on or before October 31 of odd-numbered years. (*Indiana State Board of Nursing; 848 IAC 3-2-5; filed Jul 29, 1994, 5:00 p.m.: 17 IR 2872; readopted filed Nov 21, 2001, 10:23 a.m.: 25 IR 1329*)

SECTION 8. UNDER IC 4-22-2.5-3, 848 IAC 4-1-3 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**848 IAC 4-1-3 “Advanced practice nurse” defined**

**Authority:** IC 25-23-1-7

**Affected:** IC 16-21; IC 25-23-1

Sec. 3. (a) “Advanced practice nurse” means a registered nurse holding a current license in the state of Indiana who:

- (1) has obtained additional knowledge and skill through a formal, organized program of study and clinical experience, or its equivalent, as determined by the board;
- (2) functions in an expanded role of nursing at a specialized level through the application of advanced knowledge and skills to provide healthcare to individuals, families, or groups in a variety of settings, including, but not limited to:

- (A) homes;
  - (B) institutions;
  - (C) offices;
  - (D) industries;
  - (E) schools;
  - (F) community agencies;
  - (G) private practice;
  - (H) hospital outpatient clinics; and
  - (I) health maintenance organizations; and
- (3) makes independent decisions about the nursing needs of clients.

(b) The three (3) categories of advanced practice nurses as defined in IC 25-23-1-1 are as follows:

- (1) Nurse practitioner as defined in section 4 of this rule.
- (2) Certified nurse-midwife as defined in 848 IAC 3-1.
- (3) Clinical nurse specialist as defined in section 5 of this rule.

(*Indiana State Board of Nursing; 848 IAC 4-1-3; filed Jul 29, 1994, 5:00 p.m.: 17 IR 2874; readopted filed Nov 21, 2001, 10:23 a.m.: 25 IR 1329*)

SECTION 9. UNDER IC 4-22-2.5-3, 848 IAC 4-1-6 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**848 IAC 4-1-6 “Formal organized program of study and clinical experience or the equivalent as determined by the board” defined**

**Authority:** IC 25-23-1-7

**Affected:** IC 25-23-1-1

Sec. 6. “Formal organized program of study and clinical experience or the equivalent as determined by the board” means:

(1) a program offered by a college or university accredited by the Commission on Recognition of Postsecondary Accreditation ~~which shall include:~~ **that includes:**

- (A) instruction in the biological, behavioral, medical, and nursing sciences relevant to practice as an advanced practice nurse in a specified category;
  - (B) instruction in the legal, ethical, and professional responsibilities of advanced practice nursing; and
  - (C) supervised clinical practice of those skills used by the advanced practice nurse in a specialty role; or
- (2) experience obtained in collaboration with a physician, prior to the promulgation of this article, which was required by a national organization as a prerequisite for a national certifying examination used to certify a registered nurse in a specialty area.

(*Indiana State Board of Nursing; 848 IAC 4-1-6; filed Jul 29, 1994, 5:00 p.m.: 17 IR 2875; readopted filed Nov 21, 2001, 10:23 a.m.: 25 IR 1329*)

SECTION 10. UNDER IC 4-22-2.5-3, 848 IAC 5-2-1 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**848 IAC 5-2-1 Limitations of rules**

**Authority:** IC 25-23-1-7

**Affected:** IC 25-23-1

Sec. 1. (a) ~~Nothing in this article shall be construed to limit the authority of a registered nurse to perform services that a registered nurse was authorized to perform under IC 25-23-1 prior to July 1, 1993.~~

(b) No written practice agreement shall be necessary unless the advanced practice nurse seeks prescriptive authority. (*Indiana State Board of Nursing; 848 IAC 5-2-1; filed Jul 29, 1994, 5:00 p.m.: 17 IR 2878; readopted filed Nov 21, 2001, 10:23 a.m.: 25 IR 1329*)

SECTION 11. UNDER IC 4-22-2.5-3, THE FOLLOWING ARE REPEALED: 848 IAC 3-4-1; 848 IAC 4-4-1.

*LSA Document #01-127(F)*

*Intent to Readopt Rules Published: May 1, 2001; 24 IR 2567*

*Proposed Readopted Rules Published: July 1, 2001; 24 IR 3230*

*Hearing Held: August 16, 2001*

*Approved by Attorney General: November 9, 2001*

*Approved by Governor: November 20, 2001*

*Filed with Secretary of State: November 21, 2001, 10:23 a.m.*

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**TITLE 856 INDIANA BOARD OF PHARMACY**

LSA Document #01-150(F)

DIGEST

Readopts rules in anticipation of IC 4-22-2.5-2, providing that all rules of the Indiana administrative agencies in force on

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## Readopted Rules

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December 31, 1995, expire on January 1, 2002. Effective 30 days after filing with the secretary of state.

856 IAC 1-1  
856 IAC 1-2-4  
856 IAC 1-3.1-1  
856 IAC 1-3.1-2  
856 IAC 1-3.1-5  
856 IAC 1-3.1-9  
856 IAC 1-3.1-11  
856 IAC 1-3.1-13  
856 IAC 1-7-1  
856 IAC 1-7-2  
856 IAC 1-7-3  
856 IAC 1-7-4  
856 IAC 1-13-3  
856 IAC 1-13-4  
856 IAC 1-29-2  
856 IAC 1-29-3  
856 IAC 1-29-4  
856 IAC 1-29-5  
856 IAC 1-29-6  
856 IAC 1-29-9  
856 IAC 1-30-1  
856 IAC 1-30-2  
856 IAC 1-30-3  
856 IAC 1-30-4

856 IAC 1-30-6  
856 IAC 1-30-7  
856 IAC 1-30-8  
856 IAC 1-30-10  
856 IAC 1-30-11  
856 IAC 1-30-12  
856 IAC 1-30-16  
856 IAC 1-30-17  
856 IAC 1-31  
856 IAC 1-33  
856 IAC 1-34-1  
856 IAC 1-34-3  
856 IAC 1-34-4  
856 IAC 1-34-5  
856 IAC 1-35  
856 IAC 1-36-1  
856 IAC 1-36-2  
856 IAC 1-36-3  
856 IAC 1-36-4  
856 IAC 1-36-6  
856 IAC 1-36-7  
856 IAC 1-36-8  
856 IAC 1-36-9

SECTION 1. UNDER IC 4-22-2.5-3, THE FOLLOWING ARE READOPTED:

856 IAC 1-1 Definitions  
856 IAC 1-2-4 Service by mail sufficient notice  
856 IAC 1-3.1-1 Licensure by examination  
856 IAC 1-3.1-2 Information for licensure  
856 IAC 1-3.1-5 Pharmacist intern/extern; experience requirement  
856 IAC 1-3.1-9 Pharmacist intern/extern; practical experience affidavits  
856 IAC 1-3.1-11 Out-of-state externship and other practical experience programs  
856 IAC 1-3.1-13 Fraud or misrepresentation in applying for or taking examination  
856 IAC 1-7-1 Change of pharmacy ownership  
856 IAC 1-7-2 Application for permit to conduct pharmacy  
856 IAC 1-7-3 Relocation of pharmacy  
856 IAC 1-7-4 Licensed pharmacist required for each pharmacy  
856 IAC 1-13-3 "Prescription department closed" closing hours; electronic monitoring; applicability  
856 IAC 1-13-4 Record of hours open without a pharmacist on duty  
856 IAC 1-29-2 On-line retrieval and printout capabilities; data requirements; discontinuance of system

856 IAC 1-29-3 Hard-copy of daily dispensing; verification and retention; back-up capability  
856 IAC 1-29-4 Auxiliary system  
856 IAC 1-29-5 Safeguards  
856 IAC 1-29-6 Data entry; supervision  
856 IAC 1-29-9 Applicability of rule  
856 IAC 1-30-1 Sterile pharmaceuticals; preparation and dispensing  
856 IAC 1-30-2 "Biological safety cabinet" defined  
856 IAC 1-30-3 "Class 100 environment" defined  
856 IAC 1-30-4 "Cytotoxic" defined  
856 IAC 1-30-6 "Sterile pharmaceutical" defined  
856 IAC 1-30-7 Policy and procedure manual  
856 IAC 1-30-8 Physical requirements  
856 IAC 1-30-10 Support personnel  
856 IAC 1-30-11 Staffing  
856 IAC 1-30-12 Profile or medication record system  
856 IAC 1-30-16 Emergency kit  
856 IAC 1-30-17 Cytotoxic drugs  
856 IAC 1-31 Facsimile Machines  
856 IAC 1-33 Counseling  
856 IAC 1-34-1 Patient counseling requirements  
856 IAC 1-34-3 Preprinted controlled substance prohibition  
856 IAC 1-34-4 Exemption  
856 IAC 1-34-5 Approval  
856 IAC 1-35 Pharmacy Technicians  
856 IAC 1-36-1 Temporary variances  
856 IAC 1-36-2 Submission of a request for temporary variance  
856 IAC 1-36-3 Positive impact on delivery of pharmaceutical care  
856 IAC 1-36-4 Period of time  
856 IAC 1-36-6 Revocation  
856 IAC 1-36-7 Public notice  
856 IAC 1-36-8 Justification of denial  
856 IAC 1-36-9 Copies of requests

*LSA Document #01-150(F)*

*Intent to Readopt Rules Published: June 1, 2001; 24 IR 2858  
Proposed Readopted Rules Published: September 1, 2001; 24 IR 4210*

*Hearing Held: October 9, 2001*

*Filed with Secretary of State: November 13, 2001, 3:55 p.m.*

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### TITLE 856 INDIANA BOARD OF PHARMACY

LSA Document #01-150(F)(2)

#### DIGEST

Readopts rules in anticipation of IC 4-22-2.5-2, providing that all rules of the Indiana administrative agencies in force on December 31, 1995, expire on January 1, 2002. Effective 30 days after filing with the secretary of state.

- |                  |                 |
|------------------|-----------------|
| 856 IAC 1-2-1    | 856 IAC 1-23-1  |
| 856 IAC 1-2-2    | 856 IAC 1-26-1  |
| 856 IAC 1-2-3    | 856 IAC 1-29-1  |
| 856 IAC 1-3.1-3  | 856 IAC 1-29-7  |
| 856 IAC 1-3.1-4  | 856 IAC 1-30-5  |
| 856 IAC 1-3.1-6  | 856 IAC 1-30-9  |
| 856 IAC 1-3.1-7  | 856 IAC 1-30-13 |
| 856 IAC 1-3.1-10 | 856 IAC 1-30-14 |
| 856 IAC 1-3.1-12 | 856 IAC 1-30-15 |
| 856 IAC 1-4-1    | 856 IAC 1-30-18 |
| 856 IAC 1-4-2    | 856 IAC 1-32-1  |
| 856 IAC 1-4-4    | 856 IAC 1-32-2  |
| 856 IAC 1-5-1    | 856 IAC 1-32-3  |
| 856 IAC 1-12     | 856 IAC 1-32-4  |
| 856 IAC 1-15-1   | 856 IAC 1-34-2  |
| 856 IAC 1-20-1   | 856 IAC 1-36-5  |
| 856 IAC 1-21-1   |                 |

SECTION 1. UNDER IC 4-22-2.5-3, 856 IAC 1-2-1 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**856 IAC 1-2-1 Display of certificate**  
 Authority: IC 25-26-13-4  
 Affected: IC 25-26-13-4; IC 25-26-13-11

Sec. 1. Certificates of ~~registration licensure~~ shall be conspicuously displayed in the drugstore, pharmacy, hospital, dispensary or other place where drugs are sold or dispensed and where the owner or holder thereof is in employment. Failure to comply with this ~~regulation rule~~ shall be deemed sufficient cause for suspension or revocation of the ~~certificate~~ **license**. (*Indiana Board of Pharmacy; Reg 2, Sec 1; filed Jun 18, 1962, 10:00 a.m.: Rules and Regs. 1963, p. 119; readopted filed Dec 2, 2001, 12:35 p.m.: 25 IR 1331*)

SECTION 2. UNDER IC 4-22-2.5-3, 856 IAC 1-2-2 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**856 IAC 1-2-2 Illegal display of certificate; prohibition**  
 Authority: IC 25-26-13-4  
 Affected: IC 25-26-13-4; IC 25-26-13-11

Sec. 2. The display of a certificate of ~~registration licensure~~ as a pharmacist in a drugstore, pharmacy, hospital, dispensary, or other place where drugs are sold or dispensed, and in which place the owner and holder of such ~~certificate~~ **license** is not in bona fide employment, shall be deemed an illegal use of such ~~certificate~~ **license**, and upon satisfactory proof of such illegal use, such ~~certificate~~ **license** may be revoked. (*Indiana Board of Pharmacy; Reg 2, Sec 2; filed Jun 18, 1962, 10:00 a.m.: Rules and Regs. 1963, p. 119; readopted filed Dec 2, 2001, 12:35 p.m.: 25 IR 1331*)

SECTION 3. UNDER IC 4-22-2.5-3, 856 IAC 1-2-3 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**856 IAC 1-2-3 Notification of address change**  
 Authority: IC 25-26-13-4  
 Affected: IC 25-26-13-4; IC 25-26-13-11

Sec. 3. All holders of ~~certificates a license~~ as a registered pharmacist or registered assistant pharmacist shall notify the ~~secretary~~ **Indiana board of pharmacy** of any change of address. (*Indiana Board of Pharmacy; Reg 2, Sec 3; filed Jun 18, 1962, 10:00 a.m.: Rules and Regs. 1963, p. 119; readopted filed Dec 2, 2001, 12:35 p.m.: 25 IR 1331*)

SECTION 4. UNDER IC 4-22-2.5-3, 856 IAC 1-3.1-3 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**856 IAC 1-3.1-3 Passing scores**  
 Authority: IC 25-26-13-4  
 Affected: IC 25-26-13

Sec. 3. To successfully pass an examination, the applicant must attain a general average of not less than seventy-five (75) on ~~each section of~~ the examination taken after the effective date of this ~~regulation~~ **rule**. (*Indiana Board of Pharmacy; 856 IAC 1-3.1-3; filed Dec 3, 1985, 3:02 p.m.: 9 IR 767; readopted filed Dec 2, 2001, 12:35 p.m.: 25 IR 1331*)

SECTION 5. UNDER IC 4-22-2.5-3, 856 IAC 1-3.1-4 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**856 IAC 1-3.1-4 Reexamination**  
 Authority: IC 25-26-13-4  
 Affected: IC 25-26-13

Sec. 4. If an applicant fails an examination or any portion of an examination and wishes to retake the failed portions, the applicant shall file a new complete application, except that the applicant may include affidavits or data concerning his or her experience in a pharmacy and attendance at a college or school of pharmacy by referring to the original application. An applicant who fails to pass **a portion of the entire** examination after two (2) sittings shall be permitted to take subsequent examinations, providing the candidate first both appears before the board for consultation, and receives the express written permission of the board. (*Indiana Board of Pharmacy; 856 IAC 1-3.1-4; filed Dec 3, 1985, 3:02 p.m.: 9 IR 767; readopted filed Dec 2, 2001, 12:35 p.m.: 25 IR 1331*)

SECTION 6. UNDER IC 4-22-2.5-3, 856 IAC 1-3.1-6 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**856 IAC 1-3.1-6 Board approval required for practical experience programs for pharmacist intern/extern registration; pharmacy permit required, exceptions; prior approval of nonpharmacy experience site; minimum-maximum hours of practical experience**

Authority: IC 25-26-13-4  
 Affected: IC 25-26-13

## Readopted Rules

Sec. 6. (a) The **Indiana board of pharmacy (board)** shall approve all practical experience programs wherever served. Persons responsible for the integrity and content of practical experience programs shall furnish information regarding material changes to the board, prior to implementation, for ~~reapproval~~ **approval** of the program. Approval may be withheld for cause, which may include, but is not limited to, unapproved material change in the program or change in program administration.

(b) All persons wishing to satisfy their practical experience requirements in Indiana shall possess a valid registration as a pharmacist intern or extern ~~of in~~ **in** Indiana while the practical experience hours are being served.

(c) If the experience is in a pharmacy that is required by law to have a pharmacy permit, that pharmacy must have a valid pharmacy permit. A pharmacy permit is not required if:

- (1) the practical experience is being obtained at a site other than a pharmacy, for example, sites primarily engaged in:
  - (A) manufacturing;
  - (B) research;
  - (C) consulting;
  - (D) drug information;
  - (E) drug utilization review; or
  - (F) other pharmacy-related activity; or
- (2) the experience is in a pharmacy that is not required to have a permit, for example, federally owned facilities.

(d) Prior approval is required for experience in a site other than a pharmacy. A written request must be submitted to the board prior to beginning the experience period if:

- (1) an individual intern or preceptor is seeking board approval, the request for approval shall include:
  - (A) a detailed description of the proposed practical experience program with respect to time, place, duties, responsibilities, and supervision; and
  - (B) the name of the person responsible for supervising the experience; or
- (2) an approved college or school of pharmacy is seeking board approval for experiential courses, the request for approval shall include:
  - (A) a detailed description of the proposed practical experience course with respect to duties, responsibilities, and supervision; and
  - (B) the name of the course coordinator responsible for site selection and maintenance of the integrity of the program.

(e) Acceptable practical experience time per week shall consist of not less than four (4) and not more than sixty (60) hours of time per week served under the supervision of a pharmacist or another board approved practical experience supervisor. (*Indiana Board of Pharmacy; 856 IAC 1-3.1-6; filed Dec 3, 1985, 3:02 p.m.: 9 IR 768; filed Apr 23, 1999, 2:06 p.m.: 22 IR 2876; readopted filed Dec 2, 2001, 12:35 p.m.: 25 IR 1331*)

SECTION 7. UNDER IC 4-22-2.5-3, 856 IAC 1-3.1-7 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### **856 IAC 1-3.1-7 Pharmacist intern/extern; program requirements**

**Authority:** IC 25-26-13-4  
**Affected:** IC 25-26-13-2

Sec. 7. (a) Practical experience requirements for ~~registered~~ pharmacist interns/externs in Indiana may be satisfied by complying with either of the following:

- (1) Completion of the practical experience requirements of the college or school of pharmacy from which the intern/extern has graduated, if the curriculum of the college or school has been accredited by:
  - (A) the American Council on Pharmaceutical Education (ACPE);
  - (B) the Canadian Council on Pharmacy Accreditation (CCPA); or
  - (C) another board-approved practical experience program.
- (2) In the event the intern/extern has graduated from a nonaccredited program as outlined in subdivision (1) or has no practical experience as a part of that individual's educational curriculum, the intern/extern must complete a minimum of one thousand five hundred (1,500) hours of practical experience under the supervision of a pharmacist and provide the board, prior to or concurrent with application for licensure, a written description of the objectives and duties of that experience.

(b) If a candidate for licensure as a pharmacist in Indiana has been licensed as a pharmacist in another state or jurisdiction and has been engaged in the practice of pharmacy as defined in IC 25-26-13-2 for a period of not less than one (1) year, the practical experience requirement is waived. (*Indiana Board of Pharmacy; 856 IAC 1-3.1-7; filed Dec 3, 1985, 3:02 p.m.: 9 IR 768; filed Jan 3, 2000, 10:03 a.m.: 23 IR 1107; readopted filed Dec 2, 2001, 12:35 p.m.: 25 IR 1332*)

SECTION 8. UNDER IC 4-22-2.5-3, 856 IAC 1-3.1-12 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### **856 IAC 1-3.1-12 Out-of-state practical experience; reciprocity**

**Authority:** IC 25-26-13-4  
**Affected:** IC 25-26-13

Sec. 12. Practical experience time served in another state will be accepted and will permit the applicant to take the ~~Indiana~~ **NAPLEX** examination subject to section 11 of this rule if the following requirements are met:

- (1) The practical experience time served in such other state meets all requirements of Indiana law and is experience time of the type that is acceptable to the Indiana board of **pharmacy (board)**.
- (2) The applicant has a valid intern or apprentice license from

the state where the experience is served. Or, if that other state does not require an intern or apprentice license, the applicant must submit certification or an affidavit from the secretary of the board of pharmacy of that state showing that no intern or apprentice license is required.

*(Indiana Board of Pharmacy; 856 IAC 1-3.1-12; filed Dec 3, 1985, 3:02 p.m.: 9 IR 769; filed Apr 23, 1999, 2:06 p.m.: 22 IR 2878; readopted filed Dec 2, 2001, 12:35 p.m.: 25 IR 1332)*

SECTION 9. UNDER IC 4-22-2.5-3, 856 IAC 1-4-1 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**856 IAC 1-4-1 License transfer**

Authority: IC 25-26-13-4  
Affected: IC 25-26-13

Sec. 1. All applicants for **reciprocal license transfer** registration must submit their application, with a certified photograph of the applicant and if necessary a copy of their birth certificate attached thereto, and may be requested to appear in person before the **Indiana board of pharmacy (board)** for a personal interview during a board meeting. An Indiana law examination must be passed before any certificate of licensure will be issued. A practical examination will be administered to the applicant if the board determines that the applicant has not been actively practicing pharmacy in the twelve (12) months preceding the application. Applications for **reciprocity license transfer** must be reviewed and approved at a board meeting prior to examination and prior to the applicant's board requested personal appearance. *(Indiana Board of Pharmacy; Reg 4, Sec 1; filed Jun 18, 1962, 10:00 a.m.: Rules and Regs. 1963, p. 119; filed Dec 3, 1985, 3:02 p.m.: 9 IR 769; filed Apr 23, 1999, 2:06 p.m.: 22 IR 2878; readopted filed Dec 2, 2001, 12:35 p.m.: 25 IR 1333)*

SECTION 10. UNDER IC 4-22-2.5-3, 856 IAC 1-4-2 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**856 IAC 1-4-2 Application forms**

Authority: IC 25-26-13-4  
Affected: IC 25-26-13-4; IC 25-26-13-11

Sec. 2. All applicants applying for **reciprocity license transfer** in the State of Indiana are required to make application on the official application blanks issued by the National Association of Boards of Pharmacy. *(Indiana Board of Pharmacy; Reg 4, Sec 2; filed Jun 18, 1962, 10:00 a.m.: Rules and Regs. 1963, p. 119; readopted filed Dec 2, 2001, 12:35 p.m.: 25 IR 1333)*

SECTION 11. UNDER IC 4-22-2.5-3, 856 IAC 1-4-4 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**856 IAC 1-4-4 Qualifications of applicants for license transfer**

Authority: IC 25-26-13-4  
Affected: IC 25-26-13-4; IC 25-26-13-11

Sec. 4. Applicants for **reciprocity license transfer** will be admitted to Indiana only if their qualifications for licensure, possessed at the time of their original registration in the state from which they came, were equal to the requirements of the State of Indiana at that time. *(Indiana Board of Pharmacy; Reg 4, Sec 4; filed Jun 18, 1962, 10:00 a.m.: Rules and Regs. 1963, p. 120; readopted filed Dec 2, 2001, 12:35 p.m.: 25 IR 1333)*

SECTION 12. UNDER IC 4-22-2.5-3, 856 IAC 1-15-1 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**856 IAC 1-15-1 Pharmacist leaving employ of pharmacy; notice to board; application to qualify permit**

Authority: IC 25-26-13-4  
Affected: IC 25-26-13-4; IC 25-26-13-18

Sec. 1. If a **registered qualified** pharmacist, who, having upon the basis of his **or her** qualifications caused a pharmacy permit to be granted to any person, firm, corporation or copartnership desiring to operate, maintain, open or establish a pharmacy should leave the employ of such pharmacy, he **or she** shall immediately notify the **Indiana board of pharmacy (board)** and the owner shall file an application with the board to qualify the permit with another pharmacist. *(Indiana Board of Pharmacy; Reg 15, Sec 1; filed Jun 18, 1962, 10:00 a.m.: Rules and Regs. 1963, p. 125; filed Dec 3, 1985, 3:02 p.m.: 9 IR 771; readopted filed Dec 2, 2001, 12:35 p.m.: 25 IR 1333)*

SECTION 13. UNDER IC 4-22-2.5-3, 856 IAC 1-20-1 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**856 IAC 1-20-1 Prohibitions**

Authority: IC 25-26-13-4  
Affected: IC 16-1-30; IC 16-6-8; IC 25-26; IC 35-48

Sec. 1. A pharmacist licensed to practice pharmacy under IC 25-26-13-1 through 25-26-13-29, or a pharmacist extern or a pharmacist intern licensed under IC 25-26-13-10, as a part of the responsibility, to not knowingly violate the **Indiana board of pharmacy's** (board's) standards for the competent practice of pharmacy shall not **do the following**:

- (a) (1) Violate the Uniform Indiana Controlled Substances Act found at IC 35-48-1-1 through 35-48-4-14, as amended up to and including January 1, 1983, or any of the rules **or regulations** promulgated by the **pharmacy board** under the authority of the Uniform Indiana Controlled Substances Act, which were effective by January 1, 1983, insofar as such violation would pertain to the sale of drugs and devices in the **state of Indiana** as defined by IC 25-26-13-2.
- (b) (2) Violate the Indiana Legend Drug Act found at IC 16-6-8-1 through 16-6-8-9, as amended up to and including January 1, 1983, insofar as such violation would pertain to the sale of drugs and devices in the **state of Indiana** as defined by the IC 25-26-13-2.
- (c) (3) Violate IC 16-1-30-1 through IC 16-1-30-19, as



amended to and including January 1, 1983, which deal with adulterated and misbranded drugs or devices, or any rules or regulations promulgated by the pharmacy board under the authority of IC 16-1-30-1 through IC 16-1-30-19, which were effective as of January 1, 1983, insofar as such violation would pertain to the sale of drugs and devices in the state of Indiana as defined by IC 25-26-13-2.

~~(d)~~ **(4)** Violate Title 21 of United States Code, Sections U.S.C. 801 through 21 U.S.C. 1191, as amended, up to January 1, 1983, which deal with drug abuse and any of the rules and regulations promulgated under the authority of said Title and Sections as of January 1, 1983, insofar as such violations would pertain to the sale of drugs and devices in the state of Indiana as defined by IC 25-26-13-2.

~~(e)~~ **(5)** Violate the Federal Food, Drug, and Cosmetic Act, which is found at Title 21 of the United States Code, Sections U.S.C. 301 through 21 U.S.C. 392, as amended, up to January 1, 1983, or any rules or regulations promulgated under the authority of the said act as of January 1, 1983, insofar as such violation would pertain to the sale of drugs or devices in the state of Indiana as defined by IC 25-26-13-2.

~~(f)~~ **(6)** Violate Executive Proclamations of the President of the United States, which were effective by January 1, 1983, which pertain to the sale of drugs or devices in the state of Indiana as defined by IC 25-26-13-2.

~~(g)~~ **(7)** Sell, as defined in IC 25-26-13-2, controlled substances or legend drugs with or without prescription, where such sale or distribution is not in good faith and enables the person to whom the sale is made to supply or divert the controlled substances or legend drugs in an unlawful manner. The sale or distribution of controlled substances or legend drugs in unusually large amounts and within an unusually short period of time to the same individual is considered to be against the public welfare, health and safety and may be determined to be a sale or distribution not in good faith.

~~(h)~~ Dispense a different drug, biological, medicinal substance, device or brand of any of the foregoing in the place of the drug, biological, medicinal substance, device or brand prescribed in the prescription of a licensed practitioner without the expressed permission of such practitioner except a different brand name of the same drug, biological, medicinal substance, or device containing the identical chemical entities (i.e., the identical salt, ester, ether, isomer, etc., of the basic chemical); in the same dosage form and strength may be substituted for the drug, biological, medicinal substance, or device prescribed only in the case of a prescription which qualifies for reimbursement under 42 U.S.C. §1396a et. seq. commonly referred to as Title XIX of the Federal Social Security Act and any rules and regulations pertaining thereto; provided a maximum allowable cost program for purposes of reimbursement has been established for the prescribed drug, biological, medicinal substance, or device pursuant to the laws and regulations of the United States and provided further the prescriber has not certified the prescription medically necessary or brand necessary. The pharmacist must

dispense the brand prescribed if the prescriber has certified medically necessary or brand necessary. Prior to dispensing a different brand on a prescription not certified medically necessary or brand necessary, the pharmacist may consult the prescriber to verify his or her intention to authorize substitution, if the pharmacist deems it necessary.

~~(i)~~ **(8)** Sell, as defined in IC 25-26-13-2, to the public any drugs, biologicals, medicinal substances, or devices when such pharmacist knows such drugs, biologicals, medicinal substances, or devices to be forgeries or a counterfeit product or beyond the manufacturer's expiration date.

~~(j)~~ **(9)** Aid or abet in the practice of a pharmacy a person not having a license to practice as a pharmacist in this state: **Indiana.**

~~(k)~~ **(10)** Practice pharmacy in such a manner as to amount to incompetency or negligence in the sale or dispensation of legend drugs as defined in the Indiana Legend Drug Act under IC 16-6-8-2 or controlled substance as defined in the Uniform Controlled Substances Act of 1973, under IC 35-48-1-1.

~~(l)~~ **(11)** Violate the act regulating the practice of pharmacy in the state of Indiana, which is codified at IC 25-26-13-1 through IC 25-26-13-29 as amended up to and including January 1, 1983, or any of the rules or regulations promulgated by the pharmacy board under the authority of the said act, which were effective by January 1, 1983.

*(Indiana Board of Pharmacy; Reg 20; filed Nov 17, 1978, 2:06 p.m.: 2 IR 63; filed Jul 28, 1983, 9:01 a.m.: 6 IR 1745; readopted filed Dec 2, 2001, 12:35 p.m.: 25 IR 1333)*

SECTION 14. UNDER IC 4-22-2.5-3, 856 IAC 1-21-1 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**856 IAC 1-21-1 Resale of returned substances**

**Authority:** IC 25-26-13-4

**Affected:** IC 25-26-13-25

Sec. 1. (a) This section implements and interprets IC 25-26-13-25(h) concerning the resale or redistribution of medications.

(b) For a medication to have been properly stored and securely maintained according to sound pharmacy practices, the storage and administration of medications in the institutional facility must be under the immediate control of licensed nursing personnel.

(c) If the medication was originally packaged by the dispensing pharmacy, it cannot be resold or redistributed unless:

(1) the medication has been repackaged into unit-dose packaging using packaging materials that meets Class A or Class B standards, found in the United States Pharmacopeia (U.S.P.), page 1574, published by the United States Pharmacopeia, 22nd Revision, January 1, 1990, United States Pharmacopeia Convention, Inc., 12601 Twinbrook Parkway, Rockville, Maryland 20852, which standards are incorporated herein by reference; and

(2) the repackaging process complies with the standards as found in the "Proper Treatment of Products Subjected to Additional Manipulations, Section 1191" of the United States Pharmacopeia, page 1705, 22nd Revision, 1990, which section is incorporated herein by reference.

(d) A medication repackaged under the provisions of subsection (c) shall be labeled with an expiration date of not greater than ~~six (6) months from the date of repackaging or twenty-five percent (25%) of the time~~ **one (1) year** until the manufacturer's expiration date, whichever is ~~less~~ **earlier**. (*Indiana Board of Pharmacy; Reg 21, Sec 1; filed Jun 18, 1962, 10:00 a.m.: Rules and Regs. 1963, p. 128; filed Mar 31, 1992, 5:00 p.m.: 15 IR 1391; readopted filed Dec 2, 2001, 12:35 p.m.: 25 IR 1334*)

SECTION 15. UNDER IC 4-22-2.5-3, 856 IAC 1-23-1 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**856 IAC 1-23-1 Dispensing of dangerous drugs**

**Authority:** IC 25-26-13-4

**Affected:** IC 16-42-22; IC 25-26-13-4; IC 25-26-13-11

Sec. 1. In the sale or dispensing of any **dangerous prescription** drug or narcotic, the pharmacist shall be required to affix to the immediate container in which such **dangerous prescription** drug or narcotic is delivered a label bearing the following information:

- (a) **(1)** The name, ~~and address, and telephone number~~ of the establishment from which such drug was sold.
- (b) **(2)** The date on which the prescription for such drug was filled.
- (c) **(3)** The number of such prescription as filed in the prescription files of the pharmacy where the prescription was filled.
- (d) **(4)** The name of the practitioner who prescribed such drug.
- (e) **(5)** The name of the patient, and if such drug was prescribed for an animal, a statement of the species of the animal and the owner's name.
- (f) **(6)** The directions for use of the drug as contained in the prescription.
- (7) The name of the drug (trade or generic, or both) in compliance with the Generic Drug Law found in IC 16-42-22.**

(*Indiana Board of Pharmacy; Reg 23, Sec 1; filed Jun 18, 1962, 10:00 a.m.: Rules and Regs. 1963, p. 129; readopted filed Dec 2, 2001, 12:35 p.m.: 25 IR 1335*)

SECTION 16. UNDER IC 4-22-2.5-3, 856 IAC 1-26-1 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**856 IAC 1-26-1 Continuing professional education; general requirements; definitions**

**Authority:** IC 25-26-13-4

**Affected:** IC 25-1-9-3; IC 25-26-13-14

Sec. 1. (a) The following definitions apply throughout this rule:

(1) "Continuing professional education" or "continuing education" means accredited postlicensure professional educational experience derived from participation in post-graduate studies, institutes, seminars, lectures, conferences, workshops, and such other forms of educational experiences so as to maintain the professional competency of the practice of pharmacy, improve pharmacy professional skills, and preserve pharmaceutical standards for the purpose of the protection of the health and welfare of the citizens of ~~the state~~ **of Indiana**.

(2) "Hours" means measurement of value applied to a particular accredited continuing pharmacy educational activity as assigned by the **Indiana board of pharmacy (board)** relative to maintaining the competency of a pharmacist.

(3) ~~▲~~ "Contact hour" means not less than fifty (50) nor more than sixty (60) minutes of clock time participating in a continuing education program.

(4) ~~▲~~ "Continuing education unit" or "CEU" means ten (10) contact hours of continuing education credit.

(5) "Approved by ACPE" means pharmacy continuing education providers ~~which that~~ meet the requirements of "The ACPE Continuing Education Provider Approval Program Criteria for Quality and Interpretive Guidelines" as published by the American Council on Pharmaceutical Education, Inc., Chicago, Illinois on July 1991.

(b) In order to qualify for licensure renewal, a pharmacist must meet the continuing professional education requirements as follows:

- (1) Thirty (30) hours (**three (3) CEUs**) of continuing education as required by this rule shall be required each biennium.
- (2) No hours may be carried forward from one (1) biennium to another. However, if a pharmacist fails to meet the requirements of this rule during the biennial period, the pharmacist may earn and report sufficient hours during a succeeding biennium and apply the continuing education hours retroactively to the previous biennium as if they had been earned in that previous biennium in order to qualify for renewal of the pharmacist's license. In the event a pharmacist applies credits to a previous biennium for the reasons stated ~~here~~; **in this section**, those credits may not be used for any other biennium.
- (3) All continuing education program hours from sponsors not approved by ACPE must be evaluated and accepted by the board.
- (4) Continuing education biennium shall be that time period consisting of January 1 of all even-numbered years through December 31 of the following odd-numbered year.

(c) Accredited continuing education hours may be compiled in the following ways if the sponsor grants the participant a certificate of completion:

- (1) Cassette and audio-visual presentation.
- (2) In-company professional seminars.

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- (3) Accredited school of pharmacy continuing education programs.
- (4) Postgraduate courses in pharmaceutical sciences.
- (5) Correspondence courses.
- (6) Programs granted continuing education credit by other states.
- (7) Continuing education television series.
- (8) Programs sponsored by professional groups in public health provider services.
- (9) Professional society and association sponsored program.
- (10) Approved business, management, and computer courses.
- (11) Programs of sponsors approved by ACPE.

(d) Accredited continuing education hours may be compiled from other programs and experiences if they are evaluated and accepted by the board as meeting the definition of continuing professional education as found in subsection (a)(1).

(e) As provided in subsection (b)(3), continuing education sponsors (hereinafter referred to as sponsors) are responsible for submitting continuing education programs to the board for approval in addition to the following:

- (1) A sponsor shall be any person, school, association, or corporation who develops a continuing education program.
- (2) The continuing education program must receive approval of the board for final acceptance.
- (3) If a sponsor wishes to notify prospective participants in advance of the value (in hours or in CEUs) of a program, the content of the program shall be submitted to the board **at least ninety (90) days in advance of the program date** for evaluation. If the sponsor does not submit the content for evaluation, the sponsor shall note in all material relevant to the program that it has not been evaluated and the hours of credit listed are subject to review by the board.
- (4) Sponsors shall receive written notice from the board **within sixty (60) days of the receipt of the application** for approval or disapproval from the board. Approved programs shall be given an identification number stating the year and hourly value.
- (5) Program changes must be made to and accepted by the board or the evaluation and acceptance of the program becomes null and void.
- (6) Continuing education credit may be granted only once for each program to any individual participant.
- (7) Any member of the board shall have the right to attend and participate in any continuing education program.
- (8) Programs may be evaluated after presentation or participation if a written request is made to the board within ninety (90) days of the date of presentation.
- (9) Sponsors shall retain a file of participants' program completion for four (4) years.
- (10) When applying to the board for credit, sponsors shall supply the following information on the application for continuing education course approval, supplied by the board:
  - (A) Name and address of applicant.
  - (B) Program title.

- (C) Location, date, and time of program.
- (D) Sponsoring organization.
- (E) Type of program.
- (F) Name and qualification of each speaker.
- (G) Three (3) learning objectives for the program.
- (H) Contact hours of the course.
- (I) Method for evaluating the program.

(f) Pharmacists licensed with the board (hereinafter called participants) have the following responsibilities:

(1) Obtain a minimum of thirty (30) hours of continuing education per biennium unless first licensed during the biennium which would make those newly licensed individuals subject to subdivision (5):

(A) a maximum of one-fifth ( $1/5$ ) of the total hours may be business, management, or computer courses;

(B) at least four-fifths ( $4/5$ ) of the total hours must be pharmacy practice related; **and**

(C) at least one-half ( $1/2$ ) of the total hours must be provided by sponsors approved by ACPE.

(2) Report program name, identification number, and approved hours of continuing education to the board at the time of license renewal.

(3) Retain a file of certificates of completion for four (4) years from the end of the biennium for which the continuing education applied in order to provide copies of certificates upon request for the board's periodic audit of continuing education compliance.

(4) Earn one and one-fourth (1.25) hours of continuing education credit for each month or part of a month from date of licensure until the end of the biennium in which licensure originates if the pharmacist becomes licensed during the biennium. However, a pharmacist who becomes newly licensed for the first time in any state in the last six (6) months of the biennium shall not be required to complete any continuing education for the biennium.

(5) Continuing education hours may be transferred from another state to Indiana if the transfer state recognizes Indiana continuing education hours.

(g) Failure to comply with any one (1) or all of the provisions of this rule while continuing to hold a license as a pharmacist in Indiana shall constitute professional incompetence by failing to keep abreast of current professional theory or practice under IC 25-1-9-3(a)(4)(B) and the pharmacist is subject to discipline under IC 25-1-9. (*Indiana Board of Pharmacy; Reg 29; filed Mar 1, 1974, 3:05 p.m.: Rules and Regs. 1975, p. 516; filed Oct 26, 1984, 3:26 p.m.: 8 IR 212; filed Jan 21, 1994, 3:00 p.m.: 17 IR 1096, eff Jan 1, 1994 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #93-152 was filed Jan 21, 1994.]; readopted filed Dec 2, 2001, 12:35 p.m.: 25 IR 1335*)

SECTION 17. UNDER IC 4-22-2.5-3, 856 IAC 1-29-1 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**856 IAC 1-29-1 Approval of electronic data processing system**

**Authority:** IC 25-26-13-4  
**Affected:** IC 25-26-13-25

Sec. 1. (a) No electronic data processing system may be used by a pharmacist pursuant to a Type I, **Type III, and Type VI** pharmacy permit as an alternative to his **or her** recordation of prescription information unless that system has been approved by the **Indiana** board of pharmacy (**board**).

(b) No electronic data processing system may be used by a pharmacist as an alternative to his recordation of information directly on the original prescription pursuant to IC 25-26-13-25(c), without the approval of the **Indiana** board, **of pharmacy**, and such an electronic data processing system does not qualify for approval unless it satisfies at a minimum the requirements found in **856 IAC 1-29**. **this rule**. Any such system must be approved by the board **of pharmacy** before initial installation in Indiana. Any pharmacy installing such a system must make a written request to the board for approval. **This shall be the responsibility of the pharmacist manager**. Approval is subject to withdrawal for cause so that the pharmacist must in such a case discontinue use of the system as an alternative. (*Indiana Board of Pharmacy; 856 IAC 1-29-1; filed Aug 16, 1984, 3:55 p.m.: 7 IR 2543; readopted filed Dec 2, 2001, 12:35 p.m.: 25 IR 1337*)

SECTION 18. UNDER IC 4-22-2.5-3, 856 IAC 1-30-5 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**856 IAC 1-30-5 “Qualified pharmacist” defined**

**Authority:** IC 25-26-13-4  
**Affected:** IC 25-26-13-18

Sec. 5. As used in this rule, **“~~pharmacist-in-charge~~” “qualifying pharmacist”** means a licensed pharmacist, identified in the policy and procedure manual, required by section 7 of this rule, as responsible for the preparation of the sterile pharmaceuticals, in compliance with the policy and procedure manual and the applicable laws governing the practice of pharmacy in **the state of Indiana**. (*Indiana Board of Pharmacy; 856 IAC 1-30-5; filed Jan 28, 1992, 5:00 p.m.: 15 IR 1017, eff Jan 1, 1992 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #91-6 was filed Jan 28, 1992.]; readopted filed Dec 2, 2001, 12:35 p.m.: 25 IR 1337*)

SECTION 19. UNDER IC 4-22-2.5-3, 856 IAC 1-30-9 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**856 IAC 1-30-9 Personnel**

**Authority:** IC 25-26-13-4  
**Affected:** IC 25-26-13-18

Sec. 9. (a) Each pharmacist engaged in preparing sterile pharmaceuticals must be trained in the specialized functions of

preparing and dispensing compounded, sterile pharmaceuticals, including the principles of aseptic technique and quality assurance. Documentation of such training or experience shall be made available for inspection by the board or its representatives.

(b) The **pharmacist-in-charge qualifying pharmacist** shall be responsible for the purchasing, storage, compounding, repackaging, dispensing, and distribution of all sterile pharmaceuticals.

(c) The **pharmacist-in-charge qualifying pharmacist** shall also be responsible for the development and continuing review of all policies and procedures, training manuals, and quality assurance programs. (*Indiana Board of Pharmacy; 856 IAC 1-30-9; filed Jan 28, 1992, 5:00 p.m.: 15 IR 1019, eff Jan 1, 1992 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #91-6 was filed Jan 28, 1992.]; readopted filed Dec 2, 2001, 12:35 p.m.: 25 IR 1337*)

SECTION 20. UNDER IC 4-22-2.5-3, 856 IAC 1-30-13 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**856 IAC 1-30-13 Labeling**

**Authority:** IC 25-26-13-4  
**Affected:** IC 25-26-13-18

Sec. 13. (a) Each sterile pharmaceutical product dispensed to a patient shall be labeled with a **label containing** the following:

- (1) Date of preparation by the pharmacy.
- (2) Patient name and bed number, if an institutionalized patient.
- (3) Name of each drug in the preparation, strength, and amount.
- (4) Expiration date of the preparation, including time, if applicable.
- (5) Identity of the pharmacist compounding and dispensing the sterile pharmaceutical, and identity of other authorized personnel preparing the product, if applicable.
- (6) Other information required by the dispensing pharmacy regarding storage requirements or special warnings.

(b) In addition, if the patient residing at home or outside the facility where the sterile pharmaceutical is prepared, the following labeling requirements apply:

- (1) Identifying prescription number.
- (2) Prescriber's full name.
- (3) Name, address, and telephone number of the licensed pharmacy.
- (4) Directions for use shall be provided, either on the label or by other written instructions, including infusion rate and date and time of administration.

(*Indiana Board of Pharmacy; 856 IAC 1-30-13; filed Jan 28, 1992, 5:00 p.m.: 15 IR 1020, eff Jan 1, 1992 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30)*

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days after filing with the secretary of state. LSA Document #91-6 was filed Jan 28, 1992.]; errata filed Mar 17, 1992, 10:20 a.m.: 15 IR 1394; readopted filed Dec 2, 2001, 12:35 p.m.: 25 IR 1337)

SECTION 21. UNDER IC 4-22-2.5-3, 856 IAC 1-30-14 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 856 IAC 1-30-14 Records and reports

Authority: IC 25-26-13-4

Affected: IC 25-26-13-15; IC 25-26-13-18

Sec. 14. (a) The ~~pharmacist-in-charge~~ **qualifying pharmacist** shall be responsible for such records and reports as required to ensure the patient's health, safety, and welfare. Such records shall be readily available and maintained for two (2) years from the date of issuance of the prescription or drug order and be subject to inspection by the **Indiana** board of pharmacy or its designated inspector. These records shall include the following:

- (1) Patient profile or medication record system.
- (2) Policy and procedure manual.
- (3) Training manuals.
- (4) Policies and procedures for disposal of cytotoxic waste, when applicable.

(b) Information regarding individual patients shall be maintained in a manner to assure confidentiality of the patient's record. Release of this information shall be in accordance with IC 25-26-13-15. (*Indiana Board of Pharmacy; 856 IAC 1-30-14; filed Jan 28, 1992, 5:00 p.m.: 15 IR 1020, eff Jan 1, 1992 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #91-6 was filed Jan 28, 1992.]; readopted filed Dec 2, 2001, 12:35 p.m.: 25 IR 1338*)

SECTION 22. UNDER IC 4-22-2.5-3, 856 IAC 1-30-15 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 856 IAC 1-30-15 Disposal of infectious waste

Authority: IC 25-26-13-4

Affected: IC 25-26-13-18

Sec. 15. The ~~pharmacist-in-charge~~ **qualifying pharmacist** is responsible for assuring that there is a system for the disposal of infectious waste returned from outside the facility in a manner consistent with the protection of the public's health and safety and in compliance with applicable state and federal law. (*Indiana Board of Pharmacy; 856 IAC 1-30-15; filed Jan 28, 1992, 5:00 p.m.: 15 IR 1020, eff Jan 1, 1992 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #91-6 was filed Jan 28, 1992.]; readopted filed Dec 2, 2001, 12:35 p.m.: 25 IR 1338*)

SECTION 23. UNDER IC 4-22-2.5-3, 856 IAC 1-30-18 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 856 IAC 1-30-18 Quality assurance

Authority: IC 25-26-13-4

Affected: IC 25-26-13-18

Sec. 18. (a) The designated ~~pharmacist-in-charge~~ **qualifying pharmacist** shall conduct a documented, ongoing quality assurance program that monitors personnel performance, equipment, and facilities. Samples of finished products shall be examined, or other continuous monitoring methods shall be used to assure that the pharmacy is capable of consistently preparing sterile pharmaceuticals meeting their specifications. Quality assurance procedures shall include the following:

- (1) Recall procedures for compounded sterile pharmaceuticals.
- (2) Storage and dating for compounded sterile pharmaceuticals.
- (3) Sterile procedures, ~~which include~~ **including** the following:
  - (A) Monitoring the temperature of the refrigerator.
  - (B) Routine maintenance.
  - (C) Report of laminar flow hood certification.
- (4) Written documentation of periodic hood cleaning.

(b) All biological safety cabinets and Class 100 environments shall be certified by an independent contractor or facility specialist as meeting Federal Standard 209B or National Sanitation Foundation Standard 49, as referenced in section 2 of this rule, for operational efficiency. Such certification shall be performed at least annually. Records documenting certification shall be maintained for a period of not less than two (2) years.

(c) Prefilters for the clean air source shall be replaced or cleaned as applicable on a regular basis and the replacement or cleaning date documented.

(d) A vertical flow Class II biological safety cabinet may be used to compound any sterile pharmaceutical product; however, it must be thoroughly cleaned between each use for cytotoxic and noncytotoxic drug compounding.

(e) If manufacturing of parenteral solutions is performed utilizing nonsterile chemicals, extensive end product testing, as referenced in Remington's Pharmaceutical Sciences, published by Mack Publishing Company, Easton, Pennsylvania 18042, or other Federal Drug Administration approved testing methods, must be documented prior to the release of the product from quarantine. This process must include appropriate tests for particulate matter, microbial contamination, and testing for pyrogens. This does not preclude the extemporaneous compounding of certain sterile pharmaceuticals.

(f) There shall be written justification of the chosen expiration dates for compounded parenteral products documented in the policy and procedure manual.

(g) There shall be documentation of quality assurance audits

at planned intervals, including infection control and sterile technique audits. (*Indiana Board of Pharmacy; 856 IAC 1-30-18; filed Jan 28, 1992, 5:00 p.m.: 15 IR 1021, eff Jan 1, 1992 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #91-6 was filed Jan 28, 1992.]; readopted filed Dec 2, 2001, 12:35 p.m.: 25 IR 1338*)

SECTION 24. UNDER IC 4-22-2.5-3, 856 IAC 1-32-1 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

#### **856 IAC 1-32-1 Applicability of rule**

**Authority:** IC 25-26-13-4  
**Affected:** IC 25-26-13-25

Sec. 1. This rule governs the transfer of ~~prescriptions~~, **prescription information**, either originally filled or previously refilled, by one (1) pharmacy to another pharmacy for refills. (*Indiana Board of Pharmacy; 856 IAC 1-32-1; filed Jun 8, 1992, 5:00 p.m.: 15 IR 2248; readopted filed Dec 2, 2001, 12:35 p.m.: 25 IR 1339*)

SECTION 25. UNDER IC 4-22-2.5-3, 856 IAC 1-32-2 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

#### **856 IAC 1-32-2 Noncontrolled and controlled substance prescription transfers**

**Authority:** IC 25-26-13-4  
**Affected:** IC 25-26-13-25

Sec. 2. (a) ~~Prescriptions~~ **Prescription information** for legend drugs that are not controlled substances may be transferred at any time during the lifetime of the prescription up to one (1) year after the date of the original filling, or when the original number of authorized refills expires, whichever comes first.

(b) Except as limited by the requirement of subsection (a), prescriptions for legend drugs that are not controlled substances may be transferred any number of times.

(c) If any authorized refills remain, prescriptions for Schedule III, Schedule IV, and Schedule V controlled substances may be transferred only once within six (6) months from the date the prescription was issued. However, pharmacies electronically sharing a real-time, on-line database may transfer up to the maximum refills permitted by law and the prescriber's authorization.

(d) Prescriptions for Schedule II controlled substances may not be transferred. (*Indiana Board of Pharmacy; 856 IAC 1-32-2; filed Jun 8, 1992, 5:00 p.m.: 15 IR 2248; filed May 26, 2000, 8:52 a.m.: 23 IR 2503; readopted filed Dec 2, 2001, 12:35 p.m.: 25 IR 1339*)

SECTION 26. UNDER IC 4-22-2.5-3, 856 IAC 1-32-3 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

#### **856 IAC 1-32-3 Patient's right to transfer prescriptions**

**Authority:** IC 25-26-13-4  
**Affected:** IC 25-26-13-16; IC 25-26-13-25

Sec. 3. A pharmacist may not legally refuse to transfer a patient's prescription **or prescription information** except when to do so would be against the professional judgment of the pharmacist in the manner provided for under IC 25-26-13-16. (*Indiana Board of Pharmacy; 856 IAC 1-32-3; filed Jun 8, 1992, 5:00 p.m.: 15 IR 2248; errata filed Jul 10, 1992, 9:00 a.m.: 15 IR 2465; readopted filed Dec 2, 2001, 12:35 p.m.: 25 IR 1339*)

SECTION 27. UNDER IC 4-22-2.5-3, 856 IAC 1-32-4 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

#### **856 IAC 1-32-4 Pharmacists' responsibilities**

**Authority:** IC 25-26-13-4  
**Affected:** IC 25-26-13-25

Sec. 4. Transfer of ~~prescriptions~~ **prescription information** under this rule must meet the following requirements:

(1) The transfer is communicated directly between two (2) licensed pharmacists or by suitable electronic device approved by the **Indiana board of pharmacy**, and the transferring pharmacist records the following information:

(A) Write the word "VOID" on the face of the invalidated prescription.

(B) Record on the reverse of the invalidated prescription, the name, address, and Drug Enforcement Administration registration number of the pharmacy to which it was transferred and the name of the pharmacist receiving the prescription.

(C) Record the date of the transfer and the name of the pharmacist transferring the information.

(2) The pharmacist receiving the transferred prescription shall reduce to writing the following:

(A) Write the word "TRANSFER" on the face of the transferred prescription.

(B) Provide all information required to be on a prescription and include the following:

(i) Date of issuance of original prescription.

(ii) Original number of refills authorized on original prescriptions.

(iii) Date of original dispensing.

(iv) Number of valid refills remaining and date of last refill, and, in the event the transfer is for the second or subsequent transfer of a substance that is a Schedule III, Schedule IV, or Schedule V controlled substance, the date and location of the previous refill.

(v) Pharmacy's name, address, Drug Enforcement Administration registration number, and original prescription number from which the prescription information was transferred.

(vi) Name of the transferor pharmacist.

(C) Both the original and transferred prescription must be maintained as required under IC 25-26-13-25.

## Readopted Rules

(3) Pharmacies electronically accessing the same prescription record must satisfy all information requirements of a manual mode for prescription transferral.

*(Indiana Board of Pharmacy; 856 IAC 1-32-4; filed Jun 8, 1992, 5:00 p.m.: 15 IR 2248; errata filed Jul 10, 1992, 9:00 a.m.: 15 IR 2465; filed May 26, 2000, 8:52 a.m.: 23 IR 2503; readopted filed Dec 2, 2001, 12:35 p.m.: 25 IR 1339)*

SECTION 28. UNDER IC 4-22-2.5-3, 856 IAC 1-34-2 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 856 IAC 1-34-2 Security feature requirements

Authority: IC 35-48-7-8

Affected: IC 16-42-19-5

Sec. 2. (a) All controlled substance prescriptions written by licensed Indiana practitioners, as defined by IC 16-42-19-5, must contain the following security features:

(1) A latent, repetitive "void" pattern screened at five percent (5%) in reflex blue must appear across the entire face of the document when the prescription is photocopied.

(2) There shall be a custom artificial watermark printed on the back side of the base paper so that it may only be seen at a forty-five (45) degree angle. The watermark shall consist of the words "Indiana Security Prescription", appearing horizontally in a step-and-repeated format in five (5) lines on the back of the document using 12-point Helvetica bold type style.

(3) An opaque RX symbol must appear in the upper right-hand corner, one-eighth ( $\frac{1}{8}$ ) of an inch from the top of the pad and five-sixteenths ( $\frac{5}{16}$ ) of an inch from the right side of the pad. The symbol must be three-fourths ( $\frac{3}{4}$ ) inch in size and must disappear if the prescription copy is lightened.

(4) Six (6) quantity check-off boxes must be printed on the form and the following quantities must appear **and the appropriate box be checked off for the prescription to be valid:**

(A) 1-24

(B) 25-49

(C) 50-74

(D) 75-100

(E) 101-150

(F) 151 and over.

(5) No advertisements may appear on the front or back of the prescription blank.

(6) Logos, defined as a symbol utilized by an individual, professional practice, professional association, or hospital, may appear on the prescription blank. The upper left one (1) inch square of the prescription blank is reserved for the purpose of logos. Only logos, as defined by this subdivision, may appear on the prescription blank.

(7) Only one (1) prescription may be written per prescription blank. The following statement must be printed on the bottom of the pad: "Prescription is void if more than one (1) prescription is written per blank."

(8) Refill options that can be circled by the prescriber must

appear below any logos and above the signature lines on the left side of the prescription blank in the following order:

Refill NR 1 2 3 4 5 Void after \_\_\_\_\_.

(9) Practitioner name and state issued professional license number must be preprinted, stamped, or manually printed on the prescription.

(10) All prescription blanks printed under this rule shall be four and ~~one-quarter~~ **one-fourth** ( $\frac{1}{4}$ ) ~~inch~~ **inches** high and five and one-half ( $5\frac{1}{2}$ ) ~~inch~~ **inches** wide.

(b) Nothing in ~~the~~ **this** rule shall prevent licensed Indiana practitioners from utilizing security paper prescriptions for the prescribing of any legend drug. *(Indiana Board of Pharmacy; 856 IAC 1-34-2; filed Jul 5, 1995, 9:45 a.m.: 18 IR 2782, eff Jan 1, 1996; readopted filed Dec 2, 2001, 12:35 p.m.: 25 IR 1340)*

SECTION 29. UNDER IC 4-22-2.5-3, 856 IAC 1-36-5 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 856 IAC 1-36-5 Renewal

Authority: IC 25-26-13-4

Affected: IC 25-26-13

Sec. 5. A temporary variance may be renewed by the **Indiana board of pharmacy (board)** for an additional six (6) months. A temporary variance shall not be renewed more than ~~three (3)~~ **five (5)** times. Requests for renewal of a variance shall be submitted in writing to the board not less than thirty (30) days prior to the expiration of the variance and shall contain at least the information required by section 2 of this rule. *(Indiana Board of Pharmacy; 856 IAC 1-36-5; filed Jul 23, 1998, 4:43 p.m.: 21 IR 4535; readopted filed Dec 2, 2001, 12:35 p.m.: 25 IR 1340)*

SECTION 30. UNDER IC 4-22-2.5-3, THE FOLLOWING ARE REPEALED: 856 IAC 1-3.1-10; 856 IAC 1-5-1; 856 IAC 1-12; 856 IAC 1-29-7.

*LSA Document #01-150(F)*

*Intent to Readopt Rules Published: June 1, 2001; 24 IR 2858*

*Proposed Readopted Rules Published: September 1, 2001; 24 IR 4210*

*Hearing Held: October 9, 2001*

*Approved by Attorney General: November 14, 2001*

*Approved by Governor: November 30, 2001*

*Filed with Secretary of State: December 2, 2001, 12:35 p.m.*

## TITLE 856 INDIANA BOARD OF PHARMACY

LSA Document #01-151(F)

DIGEST

Readopts rules in anticipation of IC 4-22-2.5-2, providing that all rules of the Indiana administrative agencies in force on

## Readopted Rules

December 31, 1995, expire on January 1, 2002. Effective 30 days after filing with the secretary of state.

<b>856 IAC 2-1</b>	<b>856 IAC 2-3-29</b>
<b>856 IAC 2-2</b>	<b>856 IAC 2-3-30</b>
<b>856 IAC 2-3-1</b>	<b>856 IAC 2-3-31</b>
<b>856 IAC 2-3-2</b>	<b>856 IAC 2-3-32</b>
<b>856 IAC 2-3-3</b>	<b>856 IAC 2-3-33</b>
<b>856 IAC 2-3-4</b>	<b>856 IAC 2-3-34</b>
<b>856 IAC 2-3-5</b>	<b>856 IAC 2-3-35</b>
<b>856 IAC 2-3-6</b>	<b>856 IAC 2-4</b>
<b>856 IAC 2-3-7</b>	<b>856 IAC 2-5</b>
<b>856 IAC 2-3-8</b>	<b>856 IAC 2-6-1</b>
<b>856 IAC 2-3-11</b>	<b>856 IAC 2-6-3</b>
<b>856 IAC 2-3-12</b>	<b>856 IAC 2-6-4</b>
<b>856 IAC 2-3-16</b>	<b>856 IAC 2-6-5</b>
<b>856 IAC 2-3-17</b>	<b>856 IAC 2-6-6</b>
<b>856 IAC 2-3-18</b>	<b>856 IAC 2-6-7</b>
<b>856 IAC 2-3-19</b>	<b>856 IAC 2-6-8</b>
<b>856 IAC 2-3-20</b>	<b>856 IAC 2-6-9</b>
<b>856 IAC 2-3-21</b>	<b>856 IAC 2-6-10</b>
<b>856 IAC 2-3-22</b>	<b>856 IAC 2-6-13</b>
<b>856 IAC 2-3-23</b>	<b>856 IAC 2-6-14</b>
<b>856 IAC 2-3-25</b>	<b>856 IAC 2-6-15</b>
<b>856 IAC 2-3-26</b>	<b>856 IAC 2-6-16</b>
<b>856 IAC 2-3-27</b>	<b>856 IAC 2-6-17</b>
<b>856 IAC 2-3-28</b>	<b>856 IAC 2-6-18</b>

SECTION 1. UNDER IC 4-22-2.5-4, THE FOLLOWING ARE READOPTED:

856 IAC 2-1	Definitions
856 IAC 2-2	Code Numbers—Schedules I through IV
856 IAC 2-3-1	Registration information furnished upon request
856 IAC 2-3-2	Persons required to register
856 IAC 2-3-3	Independent activities; separate registration required; exceptions
856 IAC 2-3-4	Separate registrations for separate locations; exceptions
856 IAC 2-3-5	Exemption of agents or employees; affiliated practitioners; paramedics
856 IAC 2-3-6	Exemption of military or public health service personnel
856 IAC 2-3-7	Exemption of law enforcement officers; registration of law enforcement laboratories
856 IAC 2-3-8	Exemption of civil defense officials
856 IAC 2-3-11	Persons exempt from fee
856 IAC 2-3-12	Time for registration or re-registration application
856 IAC 2-3-16	Additional information; failure to supply
856 IAC 2-3-17	Amendment or withdrawal of application
856 IAC 2-3-18	Inspection and review of application by board

856 IAC 2-3-19	Certificate of registration; denial of registration
856 IAC 2-3-20	Suspension or revocation of registration
856 IAC 2-3-21	Suspension pending final order
856 IAC 2-3-22	Extension of registration pending re-registration order
856 IAC 2-3-23	Order to show cause
856 IAC 2-3-25	Hearing procedures
856 IAC 2-3-26	Modification or waiver of rules
856 IAC 2-3-27	Modification of registration
856 IAC 2-3-28	Termination of registration; notice to board
856 IAC 2-3-29	Transfer of registration
856 IAC 2-3-30	Security requirements; approval of security system
856 IAC 2-3-31	Storage areas; security controls for nonpractitioners
856 IAC 2-3-32	Manufacturing areas; security controls for nonpractitioners
856 IAC 2-3-33	Additional security controls for nonpractitioners
856 IAC 2-3-34	Storage; security controls for practitioners
856 IAC 2-3-35	Additional security controls for practitioners
856 IAC 2-4	Records and Inventories of Registrants
856 IAC 2-5	Order Forms
856 IAC 2-6-1	Scope of rules governing prescriptions
856 IAC 2-6-3	Purpose of prescription; prohibitions
856 IAC 2-6-4	Issuance of prescriptions; information required
856 IAC 2-6-5	Persons entitled to fill prescriptions
856 IAC 2-6-6	Dispensing of narcotics for maintenance purposes
856 IAC 2-6-7	Schedule II controlled substances; prescription required; exceptions
856 IAC 2-6-8	Schedule II controlled substances; refilling prescriptions
856 IAC 2-6-9	Schedule II controlled substances; partial filling of prescriptions
856 IAC 2-6-10	Schedule II controlled substances; label information; exceptions
856 IAC 2-6-13	Schedules III, IV, and V controlled substances; refilling prescriptions; retrievable information
856 IAC 2-6-14	Schedules III, IV and V controlled substances; partial filling of prescriptions
856 IAC 2-6-15	Schedules III and IV controlled substances; label information; exceptions
856 IAC 2-6-16	Schedules III and IV controlled substances; retention of prescriptions
856 IAC 2-6-17	Schedule V controlled substances; prescription requirements; refilling; exceptions
856 IAC 2-6-18	Dispensing without prescription; delivery of devices



## Readopted Rules

LSA Document #01-151(F)

Intent to Readopt Rules Published: June 1, 2001; 24 IR 2859  
Proposed Readopted Rules Published: September 1, 2001; 24 IR 4220

Hearing Held: October 9, 2001

Filed with Secretary of State: November 14, 2001, 2:45 p.m.

### TITLE 856 INDIANA BOARD OF PHARMACY

LSA Document #01-151(F)(2)

#### DIGEST

Readopts rules in anticipation of IC 4-22-2.5-2, providing that all rules of the Indiana administrative agencies in force on December 31, 1995, expire on January 1, 2002. Effective 30 days after filing with the secretary of state.

856 IAC 2-3-10	856 IAC 2-3-24
856 IAC 2-3-13	856 IAC 2-6-2
856 IAC 2-3-14	856 IAC 2-6-11
856 IAC 2-3-15	856 IAC 2-6-12

SECTION 1. UNDER IC 4-22-2.5-3, 856 IAC 2-3-13 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

#### 856 IAC 2-3-13 Application forms; reregistration forms

Authority: IC 35-48-3-1

Affected: IC 35-48-3-5

Sec. 13. ~~Application forms; contents; signature.~~ (a) If any person is required to be registered, and is not so registered and is applying for registration, **the following apply:**

- (1) To manufacture and perform other coincident activities (see ~~Section 3-12(b)(7)~~ **856 IAC 2-3-3(b)(7)** [section 3(b)(7) of this rule]) with controlled substances, he **or she** shall apply on Form CSR-1A.
- (2) To dispense, or to conduct research (other than research described in ~~3-12(a)(6)~~ **856 IAC 2-3-3(a)(6)** [section 3(a)(6) of this rule]) with, or to conduct instructional activities with, controlled substances listed in Schedules II through V **under 856 IAC 2-2-3 through 856 IAC 2-2-6**, he **or she** shall apply on Form CSR-1.
- (3) To conduct research with narcotic drugs listed in Schedules II through V **under 856 IAC 2-2-3 through 856 IAC 2-2-6**, as described in ~~3-12(a)(6)~~ **856 IAC 2-3-3(a)(6)** [section 3(a)(6) of this rule], he **or she** shall apply on Form CSR-1.
- (4) To conduct research with controlled substances listed in Schedule I **under 856 IAC 2-2-2**, he **or she** shall apply on Form CSR-1 in accordance with an approved Schedule I **under 856 IAC 2-2-2** research protocol. Such protocol shall be subject to inspection by **the** Indiana board of pharmacy.
- (5) To conduct instructional activities with controlled substances listed in Schedule I **under 856 IAC 2-2-2**, he **or**

**she** shall apply as a researcher on Form CSR-1 with two **(2)** copies of a statement describing the nature, extent, and duration of such instructional activities attached to the form. **(6)** To conduct chemical analysis with controlled substances listed in any schedule, he **or she** shall apply on Form CSR-1. **and** **(7)** To distribute controlled substances, he **or she** shall apply on Form CSR-1.

**(b)** If any person is registered and is applying for reregistration, **the following apply:**

- (1) To manufacture and perform other coincident activities (see ~~Section 3-12(b)(7)~~ **856 IAC 2-3-3(b)(7)** [section 3(b)(7) of this rule]), with controlled substances, he **or she** shall apply on Form CSRII-A.
- (2) To dispense, or to conduct research (other than research described in ~~3-22(a)(6)~~ **856 IAC 2-3-3(a)(6)** [section 3(a)(6) of this rule]) with, or to conduct instructional activities with, controlled substances listed in Schedules II through V **under 856 IAC 2-2-3 through 856 IAC 2-2-6**, he **or she** shall apply on Form CSR-II.
- (3) To conduct research with narcotic drugs listed in Schedules II through V **under 856 IAC 2-2-3 through 856 IAC 2-2-6**, as described in ~~3-12(a)(6)~~ **856 IAC 2-3-3(a)(6)** [section 3(a)(6) of this rule], he **or she** shall apply on Form CSR-II.
- (4) To continue to conduct research with controlled substances listed in Schedule I **under 856 IAC 2-2-2** under one **(1)** or more approved research protocols, by the Drug Enforcement Administration, he **or she** shall apply on Form CSR-II.
- (5) To continue to conduct instructional activities with controlled substances listed in Schedule I **under 856 IAC 2-2-2** under one **(1)** or more approved instructional statements, he **or she** shall apply as a researcher on Form CSR-II.
- (6) To conduct chemical analysis with controlled substances listed in any schedule, he **or she** shall apply on Form CSR-II. **and**
- (7) To distribute controlled substances, he **or she** shall apply on Form CSR-II.

**(c)** Applications for registration may be obtained by writing to the controlled substance division **of the** Indiana ~~State~~ board of pharmacy, ~~315 State Office Building, Indianapolis, Indiana.~~ Applications for reregistration will be mailed, as applicable, to each registered person approximately **sixty** (60) days before the expiration date of his **or her** registration; if any registered person does not receive such forms within **forty-five** (45) days before the expiration date of his **or her** registration, he **or she** must promptly give notice of such fact and request such forms by writing to the controlled substance division **of the** Indiana board of pharmacy. ~~at the foregoing address.~~

**(d)** Each application for registration to handle any basic class of controlled substance listed in Schedule I **under 856 IAC 2-2-2** (except to conduct chemical analysis with such classes), and each application for registration to manufacture a basic class of

controlled substance listed in Schedule II **under 856 IAC 2-2-3**, or to conduct research with any narcotic controlled substance listed in Schedule II **under 856 IAC 2-2-3**, shall include the controlled substances code number, as set forth in Part I [856 IAC 2-1], for each basic class or substance to be covered by such registration.

(e) Each application shall include all information called for on the form unless the item is not applicable, in which case this fact shall be indicated.

(f) Each application, attachment, or other document filed as part of an application shall be signed by:

- (1) the applicant, if an individual; ~~by~~
- (2) a partner of the applicant, if a partnership; or ~~by~~
- (3) an officer or authorized representative of the applicant, if a corporation, corporate division, association, trust, or other entity.

*(Indiana Board of Pharmacy; Reg 28, Ch III, Sec 3.32; filed Jul 9, 1974, 9:29 a.m.: Unpublished; readopted filed Nov 30, 2001, 11:00 a.m.: 25 IR 1342)*

SECTION 2. UNDER IC 4-22-2.5-3, 856 IAC 2-3-24 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**856 IAC 2-3-24 Evidentiary hearing**

Authority: IC 35-48-3-1  
Affected: IC 35-48-3-6

Sec. 24. ~~Purpose of hearing.~~ The **controlled substances** advisory committee shall hold a hearing for the purpose of receiving factual evidence regarding the issues involved in the denial, revocation, or suspension of any registration. *(Indiana Board of Pharmacy; Reg 28, Ch III, Sec 3.51; filed Jul 9, 1974, 9:29 a.m.: Unpublished; readopted filed Nov 30, 2001, 11:00 a.m.: 25 IR 1343)*

SECTION 3. UNDER IC 4-22-2.5-3, 856 IAC 2-6-2 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**856 IAC 2-6-2 Persons entitled to issue prescriptions**

Authority: IC 35-48-3-1  
Affected: IC 35-48-3-9

Sec. 2. **Persons entitled to issue prescriptions:** (a) A prescription for a controlled substance may be issued only by an individual practitioner who is:

- (1) authorized to prescribe controlled substances by the state; ~~of Indiana; and~~
- (2) either registered or exempted from registration pursuant to ~~sections 3-14(b) 856 IAC 2-3-5(b) or 3-15 of this part.~~ **856 IAC 2-3-6.**

(b) A prescription issued by an individual practitioner may be communicated to a pharmacist by an ~~employee or agent of the individual practitioner~~ **or a practitioner's authorized agent.**

~~Note of Explanation:~~ (c) Controlled substances prescriptions issued by individual practitioners in adjoining states to Indiana or other states are considered valid prescriptions if the practitioner issuing the prescription has a current and valid Drug Enforcement Administration certificate registration number. It is the pharmacist's responsibility as with all controlled substances prescriptions, to be sure beyond reasonable doubt in his **or her** professional judgment that the practitioner is issuing the prescription in good faith and has a valid Drug Enforcement Administration certificate of registration. *(Indiana Board of Pharmacy; Reg 28, Ch VI, Sec 6.02; filed Jul 9, 1974, 9:29 a.m.: Unpublished; readopted filed Nov 30, 2001, 11:00 a.m.: 25 IR 1343)*

SECTION 4. UNDER IC 4-22-2.5-3, 856 IAC 2-6-12 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**856 IAC 2-6-12 Schedules III and IV controlled substances**

Authority: IC 35-48-3-1  
Affected: IC 35-48-3-9

Sec. 12. ~~Requirement of prescription:~~ (a) A pharmacist may dispense a controlled substance listed in Schedule III or IV **under 856 IAC 2-2-4 or 856 IAC 2-2-5**, which is a prescription drug as determined under the federal Food, Drug, and Cosmetic Act, only pursuant to either a written prescription signed by a prescribing individual practitioner or an oral prescription made by a prescribing individual practitioner **or a practitioner's authorized agent** and promptly reduced to writing by the pharmacist containing all information required in ~~section 6-04; 856 IAC 2-6-4 [section 4 of this rule],~~ except for the signature of the prescribing individual practitioner.

(b) An individual practitioner may administer or dispense a controlled substance listed in Schedule III or IV **under 856 IAC 2-2-4 or 856 IAC 2-2-5** in the course of his **or her** professional practice without a prescription, subject to ~~section 6-06; 856 IAC 2-6-6 [section 6 of this rule].~~

(c) An institutional practitioner may administer or dispense directly (but not prescribe) a controlled substance listed in Schedule III or IV **under 856 IAC 2-2-4 or 856 IAC 2-2-5** pursuant to a written prescription signed by a prescribing individual practitioner, or pursuant to an oral prescription made by a prescribing individual practitioner and promptly reduced to writing by the pharmacist (containing all information required in ~~section 6-04 856 IAC 2-6-4 [section 4 of this rule],~~ except for the signature of the prescribing individual practitioner), or pursuant to an order for medication made by an individual practitioner ~~which that~~ is dispensed for immediate administration to the ultimate user, subject to ~~section 6-06; 856 IAC 2-6-6 [section 6 of this rule].~~ *(Indiana Board of Pharmacy; Reg 28, Ch VI, Sec 6.21; filed Jul 9, 1974, 9:29 a.m.: Unpublished; readopted filed Nov 30, 2001, 11:00 a.m.: 25 IR 1343)*

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## Readopted Rules

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SECTION 5. UNDER IC 4-22-2.5-3, THE FOLLOWING ARE REPEALED: 856 IAC 2-3-10; 856 IAC 2-3-14; 856 IAC 2-3-15; 856 IAC 2-6-11.

*LSA Document #01-151(F)*

*Intent to Readopt Rules Published: June 1, 2001; 24 IR 2859  
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*Approved by Governor: November 29, 2001*

*Filed with Secretary of State: November 30, 2001, 11:00 a.m.*

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### TITLE 858 CONTROLLED SUBSTANCES ADVISORY COMMITTEE

LSA Document #01-63(F)

#### DIGEST

Readopts rules in anticipation of IC 4-22-2.5-2, providing that all rules of the Indiana administrative agencies in force on December 31, 1995, expire on January 1, 2002. Effective 30 days after filing with the secretary of state.

#### 858 IAC 2

SECTION 1. UNDER IC 4-22-2.5-4, THE FOLLOWING IS READOPTED:

858 IAC 2 CONTROLLED SUBSTANCE MONITORING

*LSA Document #01-63(F)*

*Intent to Readopt Rules Published: March 1, 2001; 24 IR 1947  
Proposed Readopted Rules Published: September 1, 2001; 24 IR 4224*

*Hearing Held: November 30, 2001*

*Filed with Secretary of State: November 30, 2001, 2:47 p.m.*

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### TITLE 868 STATE PSYCHOLOGY BOARD

LSA Document #01-154(F)

#### DIGEST

Readopts rules in anticipation of IC 4-22-2.5-2, providing that all rules of the Indiana administrative agencies in force on December 31, 1995, expire on January 1, 2002. Effective 30 days after filing with the secretary of state.

#### 868 IAC 1.1-5-4

#### 868 IAC 1.1-5-7

SECTION 2. UNDER IC 4-22-2.5-4, THE FOLLOWING ARE READOPTED:

868 IAC 1.1-5-4 Examination for licensure

868 IAC 1.1-5-7 Reexamination

*LSA Document #01-154(F)*

*Intent to Readopt Rules Published: June 1, 2001; 24 IR 2861  
Proposed Readopted Rules Published: August 1, 2001; 24 IR 3814*

*Hearing Held: September 21, 2001*

*Filed with Secretary of State: November 9, 2001, 3:15 p.m.*

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### TITLE 868 STATE PSYCHOLOGY BOARD

LSA Document #01-154(F)(2)

#### DIGEST

Readopts rules in anticipation of IC 4-22-2.5-2, providing that all rules of the Indiana administrative agencies in force on December 31, 1995, expire on January 1, 2002. Effective 30 days after filing with the secretary of state.

#### 868 IAC 1.1-3-1

SECTION 1. UNDER IC 4-22-2.5-3, 868 IAC 1.1-3-1, AS AMENDED AT 24 IR 2469, SECTION 1, IS READOPTED AND AMENDED TO READ AS FOLLOWS:

#### 868 IAC 1.1-3-1 Application for licensure; examination process

**Authority:** IC 25-33-1-3

**Affected:** IC 25-33-1-4; IC 25-33-1-5.1

Sec. 1. (a) Any person seeking licensure must apply ~~on such~~ **in the form and in such manner as prescribed by the board.** ~~shall prescribe.~~

(b) The applicant will return completed application materials, and payment of the application fees, exclusive of the examination fee for the examination for professional practice in psychology (EPPP), to the board.

(c) The board will approve eligible candidates and notify the candidate of the date, time, and location of the jurisprudence examination.

(d) After the applicant has passed the jurisprudence examination, the board will notify the testing service utilized by the board that the applicant is eligible to take the EPPP.

(e) The applicant must sit for the examination within sixty (60) days from the date of being authorized to test.

**(f) If the applicant holds a temporary license, it shall expire on the earlier of:**

**(1) ten (10) months from the date that the temporary license is issued by the board;**

**(2) the applicant's failure of the jurisprudence examination; or**

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## Readopted Rules

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### (3) the date the results of the EPPP are known.

*(State Psychology Board; Rule 4.1; filed Jul 13, 1979, 9:07 a.m.: 2 IR 1133; filed Nov 22, 1985, 4:33 p.m.: 9 IR 773; filed Nov 22, 1993, 5:00 p.m.: 17 IR 761; filed Apr 4, 2001, 3:04 p.m.: 24 IR 2469; readopted filed Dec 2, 2001, 12:22 p.m.: 25 IR 1344)*

*LSA Document #01-154(F)(2)*

*Intent to Readopt Rules Published: June 1, 2001; 24 IR 2861  
Proposed Readopted Rules Published: August 1, 2001; 24 IR 3814  
Hearing Held: September 21, 2001*

*Approved by Attorney General: November 16, 2001*

*Approved by Governor: November 30, 2001*

*Filed with Secretary of State: December 2, 2001, 12:22 p.m.*

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### TITLE 880 SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY BOARD

LSA Document #00-326(F)

#### DIGEST

Readopts rules in anticipation of IC 4-22-22.5-2, providing that all rules of the Indiana administrative agencies in force on December 31, 1995, expire on January 1, 2002. Effective 30 days after filing with the secretary of state.

<b>880 IAC 1-1-1</b>	<b>880 IAC 1-1-7</b>
<b>880 IAC 1-1-2</b>	<b>880 IAC 1-2</b>
<b>880 IAC 1-1-3.1</b>	<b>880 IAC 1-3.1</b>
<b>880 IAC 1-1-6</b>	

SECTION 1. UNDER IC 4-22-2.5-4, THE FOLLOWING ARE READOPTED:

880 IAC 1-1-1	Definitions
880 IAC 1-1-2	Application for license
880 IAC 1-1-3.1	Clinical fellowship
880 IAC 1-1-6	Denial, suspension and revocation of licenses; unprofessional conduct; conviction of crime
880 IAC 1-1-7	Ethical practice standards; competency standards
880 IAC 1-2	Aides
880 IAC 1-3.1	Renewal of License; Continuing Education

*LSA Document #00-326(F)*

*Intent to Readopt Rules Published: January 1, 2001; 24 IR 1134*

*Proposed Readopted Rules Published: April 1, 2001; 24 IR 2210  
Hearing Held: July 10, 2001*

*Filed with Secretary of State: November 9, 2001, 3:18 p.m.*

### TITLE 880 SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY BOARD

LSA Document #01-222(F)

#### DIGEST

Readopts rules in anticipation of IC 4-22-2.5-2, providing that all rules of the Indiana administrative agencies in force on December 31, 1995, expire on January 1, 2002. Effective 30 days after filing with the secretary of state.

### 880 IAC 1-1-5

SECTION 1. UNDER IC 4-22-2.5-3, 880 IAC 1-1-5 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

#### 880 IAC 1-1-5 Fees

**Authority:** IC 25-1-8-2; IC 25-35.6-2-2

**Affected:** IC 25-35.6-3-7

Sec. 5. The following fees apply to licensed speech-language pathologists and audiologists:

Application/issuance fee (nonrefundable)	<del>\$25</del> <b>\$150</b>
License renewal (December 31 of each odd-numbered year)	<del>\$20</del> <b>\$100</b>
Penalty fee for late renewal	<del>\$10</del> <b>\$10</b>
Aide registration	<del>\$10</del> <b>\$50</b>
Renewal of aide registration (annually on December 31)	<del>\$10</del> <b>\$25</b>
Registration of an individual participating in a supervised experience year	<del>\$10</del> <b>\$50</b>
Duplicate license	<del>\$10</del> <b>\$10</b>
<b>Verification of licensure</b>	<b>\$10</b>

*(Speech-Language Pathology and Audiology Board; Reg PA-1, Ch V; filed Dec 4, 1974, 12:54 p.m.: Rules and Regs. 1975, p. 323; filed Jan 5, 1977, 3:30 p.m.: Rules and Regs. 1978, p. 317; filed May 30, 1985, 10:25 a.m.: 8 IR 1306; filed Apr 30, 1986, 9:42 a.m.: 9 IR 2206; filed Mar 8, 1988, 2:08 p.m.: 11 IR 2631; filed May 20, 1996, 3:00 p.m.: 19 IR 2881; readopted filed Dec 2, 2001, 12:35 p.m.: 25 IR 1345)*

*LSA Document #01-222(F)*

*Intent to Readopt Rules Published: July 1, 2001; 24 IR 3207  
Proposed Readopted Rules Published: September 1, 2001; 24 IR 4224*

*Hearing Held: October 16, 2001*

*Approved by Attorney General: November 26, 2001*

*Approved by Governor: November 30, 2001*

*Filed with Secretary of State: December 2, 2001, 12:35 p.m.*

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## Readopted Rules

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### TITLE 888 INDIANA BOARD OF VETERINARY MEDICAL EXAMINERS

LSA Document #01-223(F)

#### DIGEST

Readopts rules in anticipation of IC 4-22-2.5-2, providing that all rules of the Indiana administrative agencies in force on December 31, 1995, expire on January 1, 2002. Effective 30 days after filing with the secretary of state.

#### 888 IAC 1.1-3-2

SECTION 1. UNDER IC 4-22-2.5-3, 888 IAC 1.1-3-2 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

#### 888 IAC 1.1-3-2 Licensed veterinarians; fees

Authority: IC 15-5-1.1-8; IC 15-5-1.1-20.2; IC 25-1-8-2

Affected: IC 25-1-8-1

Sec. 2. The following fees shall apply to licensed veterinarians:

Application for licensure/issuance	<del>\$40</del> \$150
Application by examination/issuance	<del>\$40</del> \$150
License renewal (October 15 of each odd-numbered year)	<del>\$30</del> \$100 biennially
License reinstatement	\$10 plus current biennial renewal fee

Endorsement-reciprocity out \$10  
Duplicate license \$10  
(*Indiana Board of Veterinary Medical Examiners; 888 IAC 1.1-3-2; filed Nov 14, 1985, 9:38 a.m.: 9 IR 778; filed Feb 26, 1987, 2:45 p.m.: 10 IR 1392; filed Jul 6, 1988, 2:20 p.m.: 11 IR 3919; filed Mar 15, 1989, 2:55 p.m.: 12 IR 1635; filed May 20, 1993, 5:00 p.m.: 16 IR 2424; filed May 20, 1996, 3:00 p.m.: 19 IR 2882; filed Aug 7, 2000, 2:19 p.m.: 24 IR 24; readopted filed Dec 2, 2001, 12:35 p.m.: 25 IR 1346*)

LSA Document #01-223(F)

*Intent to Readopt Rules Published: July 1, 2001; 24 IR 3207  
Proposed Readopted Rules Published: September 1, 2001; 24 IR 4225*

*Hearing Held: October 31, 2001*

*Approved by Attorney General: November 20, 2001*

*Approved by Governor: November 30, 2001*

*Filed with Secretary of State: December 2, 2001, 12:35 p.m.*

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### TITLE 896 BOARD OF ENVIRONMENTAL HEALTH SPECIALISTS

LSA Document #01-224(F)

#### DIGEST

Readopts rules in anticipation of IC 4-22-2.5-2, providing that all rules of the Indiana administrative agencies in force on

December 31, 1995, expire on January 1, 2002. Effective 30 days after filing with the secretary of state.

#### 896 IAC 1-3-2

SECTION 1. UNDER IC 4-22-2.5-3, 896 IAC 1-3-2 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

#### 896 IAC 1-3-2 Fees

Authority: IC 25-1-8-2

Affected: IC 25-32-1

Sec. 2. The following fees apply to all registered environmental health specialists and applicants:

Application for registration/issuance	<del>\$30</del> \$50
Examination or reexamination	Applicant's cost to examination service to purchase the examination
License Registration renewal (July 31 of odd-numbered years)	<del>\$20</del> \$35
Penalty for delinquent renewal	\$10 (plus current renewal fee)

Verification of registration \$10  
Duplicate registration certificate \$10  
(*Board of Environmental Health Specialists; 896 IAC 1-3-2; filed Oct 26, 1990, 3:07 p.m.: 14 IR 451; filed Oct 4, 1991, 5:00 p.m.: 15 IR 109; filed Dec 27, 1993, 9:00 a.m.: 17 IR 1006; filed May 20, 1996, 3:00 p.m.: 19 IR 2883; readopted filed Dec 2, 2001, 12:35 p.m.: 25 IR 1346*)

LSA Document #01-224(F)

*Intent to Readopt Rules Published: July 1, 2001; 24 IR 3207  
Proposed Readopted Rules Published: September 1, 2001; 24 IR 4225*

*Hearing Held: November 15, 2001*

*Approved by Attorney General: November 20, 2001*

*Approved by Governor: November 30, 2001*

*Filed with Secretary of State: December 2, 2001, 12:35 p.m.*

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### TITLE 898 INDIANA ATHLETIC TRAINERS BOARD

LSA Document #01-199(F)

#### DIGEST

Readopts rules in anticipation of IC 4-22-2.5-2, providing that all rules of the Indiana administrative agencies in force on December 31, 1995, expire on January 1, 2002. Effective 30 days after filing with the secretary of state.

#### 898 IAC 1-3-1

SECTION 1. UNDER IC 4-22-2.5-3, 898 IAC 1-3-1 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

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## Readopted Rules

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### 898 IAC 1-3-1 Fees

Authority: IC 25-1-8-2; IC 25-5.1-2-6  
Affected: IC 25-5.1

Sec. 1. (a) Candidates for examination shall purchase the examination directly from the examination service.

(b) The application/issuance fee for a license to practice as an athletic trainer is ~~twenty-five~~ **fifty-five** dollars (~~\$25~~). (**\$55**).

(c) The fee for verification of a license to another state or jurisdiction is ten dollars (\$10).

(d) The fee for a duplicate ~~license~~ **license wall certificate** is ten dollars (\$10).

**(e) The fee for a temporary permit is twenty-five dollars (\$25).**

~~(e)~~ **(f)** The fee for renewal of the license to practice is ~~twenty~~ **fifty** dollars (~~\$20~~) (**\$50**) biennially.

~~(f)~~ **(g)** The penalty fee for renewal of a license that has been expired for not more than three (~~3~~) years is ten dollars (~~\$10~~).

**(g) The fees are subject to change in accordance with the health professions bureau fee schedule.**

~~(g)~~ **(h)** Applicants for licensure will have seven (~~7~~) working days from the date an application for licensure is received by the board to submit a written withdrawal of the application at which time one-half ( $\frac{1}{2}$ ) of the application fee may be refunded. After seven (~~7~~) working days,

**(h)** All application fees are nonrefundable. (*Indiana Athletic Trainers Board; 898 IAC 1-3-1; filed Dec 6, 1994, 10:40 a.m.: 18 IR 1289; filed Jun 6, 1996, 9:00 a.m.: 19 IR 3112; filed Mar 25, 1999, 4:28 p.m.: 22 IR 2531; readopted filed Dec 2, 2001, 12:35 p.m.: 25 IR 1347*)

LSA Document #01-199(F)

*Intent to Readopt Rules Published: July 1, 2001; 24 IR 3101  
Proposed Readopted Rules Published: September 1, 2001; 24 IR 4195*

*Hearing Held: October 23, 2001*

*Approved by Attorney General: November 26, 2001*

*Approved by Governor: November 30, 2001*

*Filed with Secretary of State: December 2, 2001, 12:35 p.m.*

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### TITLE 905 ALCOHOL AND TOBACCO COMMISSION

*NOTE: Under P.L.204-2001, SECTION 69, the name of the Indiana Alcoholic Beverage Commission is changed to Alcohol and Tobacco Commission, effective July 1, 2001.*

LSA Document #01-230(F)

#### DIGEST

Readopts rules in anticipation of IC 4-22-2.5-2, providing that all rules of the Indiana administrative agencies in force on

December 31, 1995, expire on January 1, 2002. Effective 30 days after filing with the secretary of state.

### 905 IAC 1-16.1-3

### 905 IAC 1-29-5

### 905 IAC 1-29-8

SECTION 1. UNDER IC 4-22-2.5-4, THE FOLLOWING ARE READOPTED:

905 IAC 1-16.1-3	Nudity in exhibition or professional dancing; restrictions
905 IAC 1-29-5	Advertising as package liquor store prohibited
905 IAC 1-29-8	Package alcoholic beverages; sold only during retailer business hours

LSA Document #01-230(F)

*Intent to Readopt Rules Published: July 1, 2001; 24 IR 3208  
Proposed Readopted Rules Published: August 1, 2001; 24 IR 3816*

*Hearing Held: August 28, 2001*

*Filed with Secretary of State: November 26, 2001, 4:27 p.m.*

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### TITLE 905 ALCOHOL AND TOBACCO COMMISSION

*NOTE: Under P.L.204-2001, SECTION 69, the name of the Indiana Alcoholic Beverage Commission is changed to Alcohol and Tobacco Commission, effective July 1, 2001.*

LSA Document #01-230(F)(2)

#### DIGEST

Readopts rules in anticipation of IC 4-22-2.5-2, providing that all rules of the Indiana administrative agencies in force on December 31, 1995, expire on January 1, 2002. Effective 30 days after filing with the secretary of state.

905 IAC 1-5.2-3	905 IAC 1-16.1-1
905 IAC 1-5.2-9	905 IAC 1-23-1
905 IAC 1-8-1	905 IAC 1-27-2
905 IAC 1-8-2	905 IAC 1-29-1
905 IAC 1-8-3	905 IAC 1-29-2
905 IAC 1-8-4	905 IAC 1-29-3
905 IAC 1-8-5	905 IAC 1-29-4
905 IAC 1-8-6	905 IAC 1-29-6
905 IAC 1-11.1-1	905 IAC 1-29-7

SECTION 1. UNDER IC 4-22-2.5-3, 905 IAC 1-5.2-3 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 905 IAC 1-5.2-3 Content restrictions

Authority: IC 7.1-2-3-7; IC 7.1-2-3-8; IC 7.1-2-3-22  
Affected: IC 7.1-5

## Readopted Rules

Sec. 3. (a) ~~No~~ Any product display, advertising specialty, advertisement, illuminated or nonilluminated advertising sign, poster, or label, regardless of the source, shall contain:

- (1) obscene or suggestive words or illustrations;
- (2) illustrations of minors;
- (3) reference to the kick, punch, or wallop of the liquor, beer, or wine;
- (4) disparaging or damaging words referring to the products of a competitor;
- (5) promotions of gambling or games of chance; or
- (6) offers of financial awards as an inducement to purchase alcoholic beverages.

which complies with the United States Bureau of Tobacco and Firearms (BATF) rules contained in 27 CFR, Chapter 1, shall be considered as approved by the alcohol and tobacco commission. Any complaints regarding displays, advertising specialty, advertisement, illuminated or nonilluminated advertising sign, poster, or label alleging obscenity or obscene content shall be referred to the BATF for their investigation.

(b) Any product display, advertising specialty, advertisement, illuminated or nonilluminated advertising sign, or poster shall conform to the brand name or logo on the label of the actual container of the alcoholic beverages so advertised.

(c) The label on an alcoholic beverage container is not considered to be advertising, and the label shall conform to the requirements of federal law. (*Alcohol and Tobacco Commission; 905 IAC 1-5.2-3; filed Jul 12, 1994, 3:30 p.m.: 17 IR 2881; readopted filed Dec 2, 2001, 12:23 p.m.: 25 IR 1347*)

SECTION 2. UNDER IC 4-22-2.5-3, 905 IAC 1-5.2-9 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 905 IAC 1-5.2-9 Samples

Authority: IC 7.1-2-3-7; IC 7.1-2-3-8; IC 7.1-2-3-22  
Affected: IC 7.1-3-9-11; IC 7.1-3-10-13; IC 7.1-3-14-7; IC 7.1-5

Sec. 9. (a) A primary source of supply or wholesaler may furnish, or give a sample of, alcoholic beverages to a retailer or dealer who has not previously purchased the brand from that primary source of supply or wholesaler. For each retail establishment, the primary source of supply or wholesaler may not give more than:

- (1) three (3) gallons of any brand of beer;
- (2) three hundred seventy-five (375) milliliters of any brand of liquor; and
- (3) three (3) liters of any brand of wine.

(b) If a particular product is not available in a size within the quantity limitations of this section, a primary source of supply or wholesaler may furnish to a retailer or dealer another single container size. A liquor dealer who is the proprietor of a package liquor store, a liquor retailer, or a wine retailer may offer a product sampling authorized under IC 7.1-3-9-

11, IC 7.1-3-10-13, or IC 7.1-3-14-7, in accordance with the following:

(1) Product that is to be used for a product sampling may be provided by a primary source or wholesaler to an authorized liquor dealer, liquor retailer, or wine retailer, but must be offered to all authorized liquor dealers, liquor retailers, and wine retailers in a nondiscriminatory manner. Samples provided to the liquor dealer, liquor retailer, or wine retailer must be properly invoiced by the authorized wholesaler and the invoice shall clearly show the product being used for a product sampling.

(2) In addition to product that is provided in accordance with subdivision (1), product to be used for a sampling may be purchased by the authorized liquor dealer, liquor retailer, or wine retailer from an authorized wholesaler.

(3) A sampling described in this subsection may only be conducted by licensed employees of the liquor dealer, liquor retailer, wine retailer, wholesaler, primary source of supply, or a company engaged by a primary source of supply, or wholesaler whose primary business is to conduct sampling or tasting promotions on the permit premises and during the normal business hours of the liquor dealer, liquor retailer, or wine retailer.

(4) The following limitations apply to the number of samples a customer may sample and the size of samples provided to a customer by a liquor dealer, liquor retailer, or wine retailer:

(A) A liquor retailer or a liquor dealer who is the proprietor of a package liquor store may offer a combined total not to exceed two (2) samples of liquor, liqueurs, or cordials in a day. A liqueur or cordial sample may not exceed one-half (½) ounce and a sample of liquor may not exceed four-tenths (0.4) ounce.

(B) A liquor retailer, a liquor dealer, or a wine retailer may offer wine samples not to exceed one (1) ounce.

(C) Any samples provided by a liquor dealer, liquor retailer, or wine retailer to a consumer must be provided in a nondiscriminatory manner.

(5) A liquor dealer, liquor retailer, or wine retailer may not charge a fee to a consumer for a sample.

(6) If a liquor dealer, liquor retailer, or wine retailer modifies their existing floor plan to provide for the sampling, then amended floor plans must be submitted to and approved by the Indiana state excise police.

(7) For each retail establishment, the primary source of supply or wholesaler may not give more than:

(A) three (3) gallons of any brand of beer;

(B) three hundred seventy-five (375) milliliters of any brand of liquor;

(C) three (3) liters of any brand of wine; and

(D) if a particular product is not available in a size within the quantity limitations of this section, a primary source of supply or wholesaler may furnish to a retailer or dealer another single container size.

(*Alcohol and Tobacco Commission; 905 IAC 1-5.2-9; filed Jul*

12, 1994, 3:30 p.m.: 17 IR 2883; readopted filed Dec 2, 2001, 12:23 p.m.: 25 IR 1348)

SECTION 3. UNDER IC 4-22-2.5-3, 905 IAC 1-8-1 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**905 IAC 1-8-1 Permit required; qualifications; application for permit; fee; violations**

**Authority:** IC 7.1-2-3-7; IC 7.1-3-18-7  
**Affected:** IC 7.1-3-12-5; IC 7.1-3-18-8

Sec. 1. (a) No person shall act as the agent or salesman for the sale of or taking or soliciting of orders for, the sale of alcoholic beverages, irrespective of whether such sale is to be made by a seller within the State of Indiana, or by a seller without the State of Indiana, for delivery to a buyer within the State of Indiana or whether such sale may be otherwise legal or illegal; unless such person shall have has a salesman's permit.

(b) No salesman's or agent's permit shall be issued to any person unless he shall be, prior to application thereof, is of good moral character. and a bona fide resident of the State of Indiana, or if not a resident of Indiana, he shall have posted with the Commission a bond in the sum of \$500.00 conditioned upon his conformance with the Alcoholic Beverage Act, Rules and Regulations: To receive a salesman's permit, the an applicant: must

(1) shall be either a bona fide employee or proprietor of an alcoholic beverage seller on a continuous basis: of an alcohol and tobacco commission (commission) wholesale, primary source, distiller, rectifier, vintner, or brewery permit holder; or

(2) if his employer is an Internet company and the Internet company provides the commission with the names of each permittee for whom the Internet company is a salesman in conformity with the rules adopted by the commission.

Any person may make application to the Indiana Alcoholic Beverage commission for a salesman's permit, which application shall be in such form and shall include such terms as the commission may, from time to time, prescribe, and shall include a provision that the holder will comply with the rules regulations and orders of the commission. The application and the permit issued pursuant thereto shall set forth the names and addresses of the person whom said salesman or agent represents and also the name and address of the applicant. Such salesman or agent shall not represent any person whose name does not appear on said permit as his employer; if employed by another; nor act as such salesman or agent for any other person not named therein. If such salesman is acting for himself as principal, the application and the permit shall so state. Additional permits may be granted the same salesman for additional principals, and a salesman may hold more than one (1) salesman's permit at any one (1) time. However, no salesman or agent of a producer permittee shall solicit or negotiate sales in any manner whatsoever at the retail level, except sales as

permitted by IC 7.1-3-12-5 (Small Winery) and by Regulation 17 (Direct Sales by Indiana Brewers): 905 IAC 1-24-1.

(c) If the application is approved by the commission, it shall issue a permit for one (1) year upon payment of an annual permit fee of five dollars (\$5) for each permit.

(d) Any permit authorized by this section shall be revocable by the commission on account of any violation of any law concerning alcoholic liquids beverages or any rule or regulation of the commission made pursuant to law.

(e) "Salesman" or "agent" shall mean and include means either of the following:

(1) Any person who procures or seeks to procure an order, bargain, contract, or agreement for the sale, or for the delivery, or for the transportation of alcoholic beverages, or who is engaged in promoting the sale of alcoholic beverages, or in promoting the business of any person engaged in the manufacturing, selling, delivery or transportation of alcoholic beverages for sale or delivery, whether the seller resides within the State of Indiana and sells to buyers either within or without the State of Indiana. or whether the seller resides without the State of Indiana and sells for delivery to the buyers within the State of Indiana.

(2) If the permittee's employer is an Internet company and the Internet company provides the commission with the names of each permittee for whom the Internet company is a salesman in conformity with the rules adopted by the commission.

(Alcohol and Tobacco Commission; Reg 18, Sec 1; filed Mar 5, 1946, 10:30 a.m.: Rules and Regs. 1947, p. 636; filed Nov 10, 1978, 4:15 p.m.: 1 IR 1067; readopted filed Dec 2, 2001, 12:23 p.m.: 25 IR 1349)

SECTION 4. UNDER IC 4-22-2.5-3, 905 IAC 1-8-2 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**905 IAC 1-8-2 Salesman's permits; form and contents**

**Authority:** IC 7.1-2-3-7; IC 7.1-3-18-7  
**Affected:** IC 7.1-3-18-8

Sec. 2. Permit Cards Salesman's permits shall be issued with the name of the applicant, his address, his permit number and the name of his employer. (Alcohol and Tobacco Commission; Reg 18, Sec 2; filed Mar 5, 1946, 10:30 a.m.: Rules and Regs. 1947, p. 638; filed Nov 10, 1978, 4:15 p.m.: 1 IR 1068; readopted filed Dec 2, 2001, 12:23 p.m.: 25 IR 1349)

SECTION 5. UNDER IC 4-22-2.5-3, 905 IAC 1-8-3 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**905 IAC 1-8-3 Salesman's permits available for inspection**

**Authority:** IC 7.1-2-3-7; IC 7.1-3-18-7  
**Affected:** IC 7.1-3-18-8

Sec. 3. Available for Inspection Salesman of alcoholic



## Readopted Rules

beverages must be prepared to exhibit their ~~permit cards~~ **permits** at any time while engaged in soliciting, taking orders for, or promoting the sale of, alcoholic beverages upon demand of a duly authorized representative of the commission, or upon the request of any permittee. (*Alcohol and Tobacco Commission; Reg 18, Sec 3; filed Mar 5, 1946, 10:30 a.m.: Rules and Regs. 1947, p. 638; filed Nov 10, 1978, 4:15 p.m.: 1 IR 1068; readopted filed Dec 2, 2001, 12:23 p.m.: 25 IR 1349*)

SECTION 6. UNDER IC 4-22-2.5-3, 905 IAC 1-8-4 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 905 IAC 1-8-4 Permittee's duty

Authority: IC 7.1-2-3-7; IC 7.1-3-18-7

Affected: IC 7.1-3-18-8

Sec. 4. ~~Permittee's Duty~~ **(a)** No permittee shall purchase from or give an order to, or permit the solicitation of a sale of alcoholic beverages by any person who is not the holder of a salesman's permit.

**(b)** This section does not apply to an employee of a permittee soliciting while on the permit premises. (*Alcohol and Tobacco Commission; Reg 18, Sec 4; filed Mar 5, 1946, 10:30 a.m.: Rules and Regs. 1947, p. 638; filed Nov 10, 1978, 4:15 p.m.: 1 IR 1068; readopted filed Dec 2, 2001, 12:23 p.m.: 25 IR 1350*)

SECTION 7. UNDER IC 4-22-2.5-3, 905 IAC 1-8-5 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 905 IAC 1-8-5 Applications for permits: contents; restriction

Authority: IC 7.1-2-3-7; IC 7.1-3-18-7

Affected: IC 7.1-3-18-7

Sec. 5. ~~Applications~~ All applications for such permits must bear ~~not only~~ the signature and address of the applicant ~~but and~~ the signature, address, and business of the employer. Said application shall also contain a statement that the applicant will comply with the rules ~~and regulations~~ of the commission. Separate permits shall be carried for each employer represented by a salesman. In no case shall a salesman sell, or take orders for, or solicit the sale of, or promote the sale of alcoholic beverages in behalf of any person whose name is not specified in the salesman's permit as his employer. (*Alcohol and Tobacco Commission; Reg 18, Sec 5; filed Mar 5, 1946, 10:30 a.m.: Rules and Regs. 1947, p. 639; filed Nov 10, 1978, 4:15 p.m.: 1 IR 1068; readopted filed Dec 2, 2001, 12:23 p.m.: 25 IR 1350*)

SECTION 8. UNDER IC 4-22-2.5-3, 905 IAC 1-8-6 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 905 IAC 1-8-6 Change of employment; surrender of permit; notification

Authority: IC 7.1-2-3-7; IC 7.1-3-18-7

Affected: IC 7.1-3-18-8

Sec. 6. ~~Change of Employment~~ If a licensed salesman shall leave the employ of the employer specified on his permit,

~~changes employment to another permittee~~, he shall notify the commission ~~and surrender his salesman's permit~~ within fifteen (15) days. Failure to ~~surrender~~ **notify** the ~~permit commission~~ within the specified time shall make the salesman ineligible for the issuance of any kind of alcoholic beverage permit for a definite period to be determined by the commission.

It shall also be the duty of the employer whose name is specified on the salesman's permit to notify the commission ~~within fifteen (15) days of the termination of employment~~: (*Alcohol and Tobacco Commission; Reg 18, Sec 6; filed Mar 5, 1946, 10:30 a.m.: Rules and Regs. 1947, p. 639; filed Nov 10, 1978, 4:15 p.m.: 1 IR 1068; readopted filed Dec 2, 2001, 12:23 p.m.: 25 IR 1350*)

SECTION 9. UNDER IC 4-22-2.5-3, 905 IAC 1-11.1-1 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 905 IAC 1-11.1-1 Temporary beer and wine permits

Authority: IC 7.1-2-3-7; IC 7.1-3-6-1

Affected: IC 7.1-2-3-7; IC 7.1-3-6-1

Sec. 1. The following schedule of fees ~~fee~~ for a temporary beer ~~and~~ wine permit shall be in effect hereafter; ~~to wit: is~~ **twenty-five dollars (\$25) per day. No rain checks shall be given on any of the above events.**

Special Events:

Churches; picnics; social and similar events \$25.00 per day

Convention; carnivals; street fairs; races and \$50.00 per day athletic events

All events taking place on national holidays \$50.00 per day (No rain checks on any of the above events)

The commission may also set the fee for any special event not set herein: (*Alcohol and Tobacco Commission; 905 IAC 1-11.1-1; filed May 16, 1985, 3:51 p.m.: 8 IR 1308; readopted filed Dec 2, 2001, 12:23 p.m.: 25 IR 1350*)

SECTION 10. UNDER IC 4-22-2.5-3, 905 IAC 1-16.1-1 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 905 IAC 1-16.1-1 Dancing permitted

Authority: IC 7.1-2-3-7

Affected: IC 7.1-3-9-9

Sec. 1. It is permissible for permittees to allow dancing upon their permit premise without the necessity of first obtaining a permit or other authorization from the **alcohol and tobacco commission (commission)**. All such dancing must take place in an area designated for dancing by the permit holder. The designated area need not be indicated to **floor plans must be approved** by the commission. ~~prior to its use and is subject to change at the permittee's discretion. No particular design, construction or separation of the dance area is required; it being the intent of this regulation to prevent unreasonable interference by dancers with diners and others upon the permit premises.~~ (*Alcohol and Tobacco Commission; Reg 31, Sec 1; filed Mar*

16, 1979, 9:25 a.m.: 2 IR 704; readopted filed Dec 2, 2001, 12:23 p.m.: 25 IR 1350)

SECTION 11. UNDER IC 4-22-2.5-3, 905 IAC 1-23-1 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**905 IAC 1-23-1 Registration of brands, labels, and trademarks**

Authority: IC 7.1-2-3-7  
Affected: IC 7.1-2-3-17

Sec. 1. All producers (brewers, distillers, rectifiers, vintners and small wineries) and importers, before shipping or causing to be shipped alcoholic beverages in Indiana, shall register with make available to the alcohol and tobacco commission (commission) upon request all brands, labels, and trademarks used or proposed to be used by said producer or importer in selling or advertising for sale alcoholic beverage in the State of Indiana. Labels will be approved by the commission if they have been approved by the federal Bureau of Alcohol, Tobacco, and Firearms.

Along with such registration, the applicant shall submit the bond, if any, required by the Alcoholic Beverage Act and such other application forms as may be required by the Commission. If the applicant meets the requirements of the Alcoholic Beverage Act, the Commission may issue written authorization entitling the holder to distribute, sell, import, transport or otherwise deal in the appropriate alcoholic beverage as covered by its permit. (Alcohol and Tobacco Commission; Reg 42; filed Oct 18, 1976, 9:20 a.m.: Rules and Regs. 1977, p. 106; filed Mar 16, 1979, 9:25 a.m.: 2 IR 582; filed Mar 16, 1979, 9:25 a.m.: 2 IR 702; errata, 2 IR 705; readopted filed Dec 2, 2001, 12:23 p.m.: 25 IR 1351)

SECTION 12. UNDER IC 4-22-2.5-3, 905 IAC 1-27-2 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**905 IAC 1-27-2 Public nuisance**

Authority: IC 7.1-2-3-7  
Affected: IC 7.1-2-6; IC 35-41-1-1

Sec. 2. If a permittee or applicant for a permit allows the licensed premises to become becomes a public nuisance, or allows the licensed premises to be becomes the scene of acts or conduct which are prohibited by the Indiana Penal Code (IC 35-41-1-1 et seq.), or by the criminal laws of the United States, the premises shall be deemed to be a public nuisance and subject to the sanctions specified in IC 7.1-2-6-1 through IC 7.1-2-6-14. (Alcohol and Tobacco Commission; Reg 43, Sec 2; filed Mar 16, 1979, 9:25 a.m.: 2 IR 584; filed Mar 16, 1979, 9:25 a.m.: 2 IR 703; errata, 2 IR 705; readopted filed Dec 2, 2001, 12:23 p.m.: 25 IR 1351)

SECTION 13. UNDER IC 4-22-2.5-3, 905 IAC 1-29-1 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**905 IAC 1-29-1 Package alcoholic beverages; sale restrictions**

Authority: IC 7.1-2-3-7  
Affected: IC 7.1-3-1-19; IC 7.1-3-23-12

Sec. 1. No retailer permittee shall sell or otherwise dispose of alcoholic spirituous, vinous, and/or malt beverages to persons for consumption off the licensed premises (hereinafter referred to as "package alcoholic beverages"), except in accordance with the provisions of all applicable Indiana alcoholic beverage laws and rules and regulations of the Indiana alcoholic beverage alcohol and tobacco commission, including 905 IAC 1-29-2, 905 IAC 1-29-3, 905 IAC 1-29-4, 905 IAC 1-29-5, 905 IAC 1-29-6, 905 IAC 1-29-7 and 905 IAC 1-29-8. sections 2 through 8 of this rule. (Alcohol and Tobacco Commission; 905 IAC 1-29-1; filed Aug 9, 1983, 3:32 p.m.: 6 IR 1748; readopted filed Dec 2, 2001, 12:23 p.m.: 25 IR 1351)

SECTION 14. UNDER IC 4-22-2.5-3, 905 IAC 1-29-2 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**905 IAC 1-29-2 Package alcoholic beverages; sold in bar, storage, or dispensing area only**

Authority: IC 7.1-2-3-7  
Affected: IC 7.1-3-1-19; IC 7.1-3-23-12

Sec. 2. Package alcoholic beverages shall be sold by a retail permittee only in the same room as is located the bar or in the room where alcoholic beverages are stored, prepared, or dispensed for consumption on the licensed premises, and at no other location. This room shall not be partitioned so as to create a "section" solely solely or primarily for the sale of package alcoholic beverages. There may not be a separate cash register for package sales. There shall be no self-service. (Alcohol and Tobacco Commission; 905 IAC 1-29-2; filed Aug 9, 1983, 3:32 p.m.: 6 IR 1748; errata, 6 IR 1751; readopted filed Dec 2, 2001, 12:23 p.m.: 25 IR 1351)

SECTION 15. UNDER IC 4-22-2.5-3, 905 IAC 1-29-3 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

**905 IAC 1-29-3 Package alcoholic beverages; restrictions on floor space used for sale**

Authority: IC 7.1-2-3-7  
Affected: IC 7.1-3-1-19; IC 7.1-3-23-12

Sec. 3. The total floor space area for the sale and display of package alcoholic beverages shall not exceed one-fourth (1/4) of the total floor space area of the licensed premises or three hundred (300) square feet, whichever whichever is the lesser area. (Alcohol and Tobacco Commission; 905 IAC 1-29-3; filed Aug 9, 1983, 3:32 p.m.: 6 IR 1748; readopted filed Dec 2, 2001, 12:23 p.m.: 25 IR 1351)

SECTION 16. UNDER IC 4-22-2.5-3, 905 IAC 1-29-4 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

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## Readopted Rules

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### 905 IAC 1-29-4 Package alcoholic beverages; floor plan of sale area to be approved by commission

Authority: IC 7.1-2-3-7

Affected: IC 7.1-3-1-19; IC 7.1-3-23-12

Sec. 4. The floor plans of the licensed premises of each retail permittee must be approved by the **alcohol and tobacco** commission prior to the granting of the retailer's permit. Such floor plans must clearly designate the dimensions and location of any area to be used for the sale of package alcoholic beverages. (*Alcohol and Tobacco Commission; 905 IAC 1-29-4; filed Aug 9, 1983, 3:32 p.m.: 6 IR 1748; readopted filed Dec 2, 2001, 12:23 p.m.: 25 IR 1352*)

SECTION 17. UNDER IC 4-22-2.5-3, 905 IAC 1-29-6 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 905 IAC 1-29-6 Violation of floor area requirement for retailers

Authority: IC 7.1-2-3-7

Affected: IC 7.1-3-1-19; IC 7.1-3-23-12

Sec. 6. ~~905 IAC 1-29-2 and 905 IAC 1-29-3~~ **Sections 2 through 3 of this rule** shall not apply to a permittee in any case where the floor plans of licensed premises, with respect to an area now used for the sale of package liquor, have been approved by the **alcohol and tobacco** commission (**commission**) as of the effective date of ~~905 IAC 1-29-2~~ **this rule**. In the event that on the date of the adoption of ~~905 IAC 1-29-2~~ **this rule**, the licensed premises of a retailer's permit violates the provisions hereof, and the floor plans of such premises have not been approved by the commission, such permittee shall have **one hundred twenty** (120) days after the effective date of ~~905 IAC 1-29-2~~ **this rule** in which to comply fully herewith and to submit to the commission floor plans showing such compliance. (*Alcohol and Tobacco Commission; 905 IAC 1-29-6; filed Aug 9, 1983, 3:32 p.m.: 6 IR 1748; readopted filed Dec 2, 2001, 12:23 p.m.: 25 IR 1352*)

SECTION 18. UNDER IC 4-22-2.5-3, 905 IAC 1-29-7 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

### 905 IAC 1-29-7 Package alcoholic beverages; change of approved floor plan a violation

Authority: IC 7.1-2-3-7

Affected: IC 7.1-3-1-19; IC 7.1-3-23-12

Sec. 7. Any change in the floor plans of the licensed premises of any retail permittee made after the date of the adoption of ~~905 IAC 1-29-7~~ **this rule** shall require the prior approval of the **alcohol and tobacco** commission, and failure to obtain such prior approval shall constitute a violation of ~~905 IAC 1-29-7~~ **this rule**. (*Alcohol and Tobacco Commission; 905 IAC 1-29-7; filed Aug 9, 1983, 3:32 p.m.: 6 IR 1748; readopted filed Dec 2, 2001, 12:23 p.m.: 25 IR 1352*)

LSA Document #01-230(F)(2)

Intent to Readopt Rules Published: July 1, 2001; 24 IR 3208  
Proposed Readopted Rules Published: August 1, 2001; 24 IR 3816

Hearing Held: August 28, 2001

Approved by Attorney General: November 26, 2001

Approved by Governor: November 30, 2001

Filed with Secretary of State: December 2, 2001, 12:23 p.m.

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## TITLE 920 INDIANA WAR MEMORIALS COMMISSION

LSA Document #01-316(F)

### DIGEST

Readopts rules in anticipation of IC 4-22-2.5-2, providing that all rules of the Indiana administrative agencies in force on December 31, 1995, expire on January 1, 2002. Effective 30 days after filing with the secretary of state.

### 920 IAC 1

SECTION 1. UNDER IC 4-22-2.5-4, THE FOLLOWING IS READOPTED:

#### 920 IAC 1 GENERAL PROVISIONS

LSA Document #01-316(F)

Intent to Readopt Rules Published: September 1, 2001; 24 IR 4200

Proposed Readopted Rules Published: October 1, 2001; 25 IR 201

Hearing Held: November 13, 2001

Filed with Secretary of State: November 27, 2001, 10:18 a.m.

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