

Final Rules

TITLE 10 OFFICE OF ATTORNEY GENERAL FOR THE STATE

LSA Document #01-264(F)

DIGEST

Adds 10 IAC 4 concerning the regulation of athlete agents provided for in IC 25-5.2 (Senate Enrolled Act 171). Adds 10 IAC 4-3 establishing fees for an application for registration or renewal of registration of athlete agents. Adds 10 IAC 4-4 placing within the consumer protection division of the office of the attorney general the responsibility of the regulation of athlete agents, including the granting, denying, renewing, refusing to renew, suspending, revoking, and restricting of certificates of registration of athlete agents and investigation of athlete agents. Adds 10 IAC 4-5 establishing procedures for petitioning for administrative review under IC 4-21.5-3 and petition for the stay of effectiveness arising from the denial, suspension, revocation, restriction, or refusal to renew certificates of registration for athlete agents, and providing that the attorney general or his designee from outside the consumer protection division of the office of the attorney general may serve as administrative law judge in administrative proceedings under IC 4-21.5-3 arising from the denial, suspension, revocation, restriction, or refusal to renew certificates of registration for athlete agents. Effective 30 days after filing with the secretary of state.

10 IAC 4

SECTION 1. 10 IAC 4 IS ADDED TO READ AS FOLLOWS:

ARTICLE 4. ATHLETE AGENTS

Rule 1. Authority and Applicability

10 IAC 4-1-1 Authority

Authority: IC 4-6-2-1.3
Affected: IC 25-5.2

Sec. 1. This article is adopted under the authority granted to the attorney general by the uniform athlete agent act (IC 25-5.2). (*Office of Attorney General for the State; 10 IAC 4-1-1; filed Feb 22, 2002, 2:52 p.m.: 25 IR 2208*)

10 IAC 4-1-2 Applicability

Authority: IC 4-6-2-1.3
Affected: IC 25-5.2

Sec. 2. The definitions in the uniform athlete agent act and in this rule apply throughout this article. (*Office of Attorney General for the State; 10 IAC 4-1-2; filed Feb 22, 2002, 2:52 p.m.: 25 IR 2208*)

Rule 2. Definitions

10 IAC 4-2-1 "Administrative law judge" defined

Authority: IC 4-6-2-1.3
Affected: IC 4-21.5-1-2; IC 4-21.5-3-35; IC 25-5.2

Sec. 1. "Administrative law judge" shall have the meaning set forth in IC 4-21.5-1-2. (*Office of Attorney General for the State; 10 IAC 4-2-1; filed Feb 22, 2002, 2:52 p.m.: 25 IR 2208*)

10 IAC 4-2-2 "Division" defined

Authority: IC 4-6-2-1.3
Affected: IC 4-6-9; IC 25-5.2

Sec. 2. "Division" means the consumer protection division of the office of attorney general for the state. (*Office of Attorney General for the State; 10 IAC 4-2-2; filed Feb 22, 2002, 2:52 p.m.: 25 IR 2208*)

Rule 3. Fees

10 IAC 4-3-1 Fee for registration as an athlete agent

Authority: IC 4-6-2-1.3
Affected: IC 25-1-8-2; IC 25-5.2-2-7

Sec. 1. The fee for a two (2) year application for registration or renewal of registration is seven hundred dollars (\$700). (*Office of Attorney General for the State; 10 IAC 4-3-1; filed Feb 22, 2002, 2:52 p.m.: 25 IR 2208*)

Rule 4. Enforcement

10 IAC 4-4-1 Powers of regulation by the division

Authority: IC 4-6-2-1.3
Affected: IC 4-21.5-3-35; IC 25-5.2

Sec. 1. The division shall have the responsibility for the regulation of athlete agents, including the:

- (1) granting;
- (2) denial;
- (3) renewal;
- (4) refusal to renew;
- (5) suspension;
- (6) revocation; and
- (7) restriction;

of certificates of registration of athlete agents. (*Office of Attorney General for the State; 10 IAC 4-4-1; filed Feb 22, 2002, 2:52 p.m.: 25 IR 2208*)

10 IAC 4-4-2 Powers of investigation by the division

Authority: IC 4-6-2-1.3
Affected: IC 25-5.2

Sec. 2. The division may investigate any athlete agent matter for which investigative authority is granted to the attorney general by IC 25-5.2. (*Office of Attorney General for the State; 10 IAC 4-4-2; filed Feb 22, 2002, 2:52 p.m.: 25 IR 2208*)

Rule 5. Administrative Proceedings

10 IAC 4-5-1 Administrative proceedings

Authority: IC 4-6-2-1.3
Affected: IC 4-21.5-3-35; IC 25-5.2

Sec. 1. Any agency action by the division shall be governed by the rules under the administrative orders and

procedures act (IC 4-21.5 et seq.). (*Office of Attorney General for the State; 10 IAC 4-5-1; filed Feb 22, 2002, 2:52 p.m.: 25 IR 2208*)

10 IAC 4-5-2 Administrative hearings

Authority: IC 4-6-2-1.3
Affected: IC 4-21.5-3-35; IC 25-5.2

Sec. 2. The attorney general shall set an administrative hearing date within twenty-one (21) days following receipt of the petition for review. (*Office of Attorney General for the State; 10 IAC 4-5-2; filed Feb 22, 2002, 2:52 p.m.: 25 IR 2209*)

10 IAC 4-5-3 Administrative law judge to be chosen from outside the division

Authority: IC 4-6-2-1.3
Affected: IC 4-21.5-3-35; IC 25-5.2

Sec. 3. For the administrative hearing described in 10 IAC 4-4-4 [sic.], the attorney general or his designee shall act as administrative law judge. Should the attorney general choose to designate an administrative law judge, the administrative law judge for this hearing shall be selected from outside the division. (*Office of Attorney General for the State; 10 IAC 4-5-3; filed Feb 22, 2002, 2:52 p.m.: 25 IR 2209*)

Rule 6. Agency Contract Notice Provision

10 IAC 4-6-1 Format for notice on agency contract

Authority: IC 4-6-2-1.3
Affected: IC 4-21.5-3-35; IC 25-5.2-2-8

Sec. 1. For the purposes of IC 25-5.2-2-8, the notice required in IC 25-5.2-2-8(c) shall be considered adequate if the notice is in 14-point boldface type in capital letters within two (2) inches of the signature of the student athlete on the same page as the signature of the student athlete. (*Office of Attorney General for the State; 10 IAC 4-6-1; filed Feb 22, 2002, 2:52 p.m.: 25 IR 2209*)

LSA Document #01-264(F)
Notice of Intent Published: 24 IR 3659
Proposed Rule Published: October 1, 2001; 25 IR 128
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Approved by Attorney General: February 6, 2002
Approved by Governor: February 21, 2002
Filed with Secretary of State: February 22, 2002, 2:52 p.m.
Incorporated Documents Filed with Secretary of State: None

TITLE 170 INDIANA UTILITY REGULATORY COMMISSION

LSA Document #01-236(F)
DIGEST

Amends 170 IAC 7-1.1-19 concerning unauthorized switching of telecommunications providers; billing for telecommuni-

cations or other services added without customer's consent. Effective 30 days after filing with the secretary of state.

170 IAC 7-1.1-19

SECTION 1. 170 IAC 7-1.1-19 IS AMENDED TO READ AS FOLLOWS:

170 IAC 7-1.1-19 Unauthorized switching of telecommunications providers; billing for telecommunications or other services added without customer's consent

Authority: IC 8-1-1-3; IC 8-1-2-9
Affected: IC 8-1-2-4

Sec. 19. (a) For purposes of this rule, the following definitions apply:

(1) "Express authorization" means an express, affirmative act by the customer clearly agreeing to the change in PIC or LEC in the form of:

- (A) a written authorization;
- (B) a customer-initiated call to the prospective IXC or LEC;
- (C) an oral authorization verified, and recorded, by an independent third party;
- (D) a recorded electronic authorization; or
- (E) some other form of recorded authorization, such as personal identification numbers (PINs) or passwords.

(2) "Letter of agency" or "LOA" means a written statement that the customer signs that authorizes a change to that customer's primary interexchange carrier or primary local exchange carrier.

(3) "Local exchange carrier" or "LEC" means a provider of switched telecommunications service that carries calls originating and terminating within the local calling area.

(4) "Long distance telecommunications service" means service that carries calls to exchanges that are not within the local calling area of the originating number.

(5) "Primary interexchange carrier" or "PIC" means a provider of presubscribed inter-LATA or intra-LATA long distance telecommunications services. Presubscribed facilities-based carriers of long distance service, resellers of long distance service, and local exchange carriers providing long distance service are included in this definition. In those local exchanges where intra-LATA equal access is available, customers may receive presubscribed long distance service from more than one (1) PIC (one (1) for inter-LATA and one (1) for intra-LATA toll) or may select a single PIC that provides both inter-LATA and intra-LATA toll service.

(6) "Primary local exchange carrier" or "PLEC" means a carrier to which a customer has presubscribed for local exchange service.

(7) "Properly disputed" means the filing of a complaint, either verbally or in writing, with the commission.

(8) "Telemarketing" means the use of telecommunications in marketing campaigns to reach prospective purchasers and sell them goods or services.

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(b) No prospective PIC shall submit to a LEC a PIC change order generated by telemarketing unless the prospective PIC has first obtained express authorization from the customer. No prospective LEC shall submit a PLEC change order generated by telemarketing unless the prospective LEC has first obtained express authorization from the customer.

(c) The prospective PIC or prospective LEC shall confirm such express authorization through one (1) of the following ~~four~~ **three (3)** procedures:

(1) The prospective PIC or prospective LEC shall obtain the customer's written authorization in a form that meets the requirements of ~~sections~~ **subsections** (e) through (m). ~~of this rule; or~~

(2) The prospective PIC or prospective LEC shall obtain the customer's electronic authorization, placed from the telephone number(s) on which the PIC or PLEC is to be changed, to submit a PIC or PLEC change order. The authorization shall include the information described in ~~section~~ **subsection** (i). ~~of this rule.~~ Prospective PICs or prospective LECs electing to confirm sales electronically shall establish one (1) or more toll-free telephone numbers exclusively for that purpose. A call to the number(s) will connect a customer to a voice response unit, or similar mechanism, that records the required information regarding the PIC or PLEC change, including automatically recording the automatic number identification (ANI). ~~or~~

(3) An appropriately qualified and independent third party shall obtain the customer's oral authorization to submit the PIC or PLEC change order. Such authorization shall confirm and include appropriate verification data, ~~(e.g., for example,~~ the customer's date of birth, mother's maiden name, or Social Security number or part thereof. Such authorization is valid only if the entity that obtained the authorization:

(A) is independent of the prospective PIC or prospective LEC or the telemarketing representative of the prospective PIC or prospective LEC;

(B) complies with ~~these rules~~ **this section** regarding changes to telecommunications carriers;

(C) has a written policy regarding customer complaints and abides by that policy;

(D) has a written policy requiring the maintenance and storage of recorded electronic authorizations for a minimum period of one (1) year and abides by that policy;

(E) has a written script that it uses when obtaining verifications, and the script provides clear and unambiguous notice to the customer of the following:

- (i) that the customer is authorizing a change in primary interexchange or primary local exchange carrier;
- (ii) the identity of the new primary interexchange or primary local exchange carrier;
- (iii) a toll-free or local number of the LEC that the customer can call to verify whether the change has occurred;

(iv) that, for any one (1) telephone number:

(AA) only one (1) prospective PIC may be designated as the subscriber's inter-LATA primary interexchange carrier;

(BB) only one (1) prospective PIC may be designated as the subscriber's intra-LATA primary interexchange carrier; and

(CC) only one (1) intrastate primary LEC may be designated as the subscriber's primary LEC;

(v) that the PIC change will automatically apply to both inter-LATA and intra-LATA long distance service offerings unless the customer directs otherwise; and

(F) is in a location that is physically separate from that of the prospective PIC or prospective LEC or the telemarketing representative of the prospective PIC or prospective LEC. ~~or~~

~~(4) Within three (3) business days of the customer's request for a PIC or PLEC change, the prospective PIC or prospective LEC must send each new customer an information package by first class mail containing at least the following information concerning the requested change:~~

~~(A) The information is being sent to confirm an order placed by the customer within the previous week.~~

~~(B) The name of the customer's current PIC or LEC.~~

~~(C) The name of the newly requested PIC or LEC.~~

~~(D) A description of any terms, conditions, or charges that will be incurred.~~

~~(E) The name of the person ordering the change.~~

~~(F) The name, address, and telephone number of both the customer and the soliciting PIC or LEC.~~

~~(G) A postpaid postcard which the customer can use to deny, cancel, or confirm a service order.~~

~~(H) A clear statement that if the customer does not, within fourteen (14) days after the date the information package was mailed, return the postcard, the customer's long distance or local exchange service will be switched to the soliciting carrier.~~

~~(I) The name, address, and telephone number of a contact point at the consumer affairs division of the Indiana utility regulatory commission and the consumer division of the Federal Communications Commission; and~~

~~(J) Prospective PICs and prospective LECs must wait fourteen (14) days after the form is mailed to customers before submitting their PIC or PLEC change orders to incumbent PICs or incumbent LECs. If customers have canceled their orders during the waiting period, prospective PICs or prospective LECs cannot submit the customer's order to the incumbent PICs or incumbent LECs.~~

~~(K) A clear statement that, for any one (1) telephone number:~~

~~(i) only one (1) prospective PIC may be designated as the subscriber's inter-LATA primary interexchange carrier;~~

~~(ii) only one (1) prospective PIC may be designated as the subscriber's intra-LATA primary interexchange carrier; and~~

~~(iii) only one (1) intrastate primary LEC may be designated as the subscriber's intrastate primary LEC.~~

(d) A PIC or PLEC change made in violation of any of the requirements of ~~170 IAC 7-1.1-19~~ **this section** is invalid. A prospective PIC or PLEC must provide all information regarding disputed carrier changes and services billings to the commission within thirty (30) days of a commission request for said information.

(e) If the prospective PIC or prospective LEC utilizes authorization procedure in subsection (c)(1) above, the prospective PIC or LEC shall obtain any necessary written authorization from a subscriber for a PIC or PLEC change by using a letter of agency as specified in ~~sections subsections~~ **sections subsections** (f) through (m). ~~of this rule~~. Any letter of agency that does not conform with those ~~sections subsections~~ **sections subsections** is invalid.

(f) The letter of agency shall be a separate document, an easily separable document containing only the authorizing language described in ~~section subsection~~ **section subsection** (i), ~~of this rule~~ whose sole purpose is to authorize a prospective PIC or LEC to initiate a primary interexchange carrier or PLEC change. The letter of agency must be signed and dated by the subscriber to the telephone line(s) requesting the primary interexchange carrier or PLEC change. The subscriber (or authorized agent in the case of a business customer) whose name appears on bills for local and interexchange service shall be the only party authorized to execute a letter of agency.

(g) The letter of agency shall not be combined with inducements of any kind on the same document.

(h) Notwithstanding ~~sections subsections~~ **sections subsections** (f) and (g), ~~of this rule~~, the letter of agency may be combined with checks that contain only the required letter of agency language prescribed in ~~section subsection~~ **section subsection** (i) ~~of this rule~~ and the necessary information to make the check a negotiable instrument. The letter of agency check shall not contain any promotional language or material. The letter of agency check shall contain, in easily readable, bold-face type on the front of the check, a notice that the consumer is authorizing a primary interexchange carrier or PLEC change by signing the check. The letter of agency language also shall be placed near the signature line on the back of the check.

(i) At a minimum, the letter of agency must be printed with a typeface of sufficient size and clarity to be clearly legible and must contain clear and unambiguous language that confirms:

- (1) the subscriber's billing name and address and each telephone number to be covered by the primary interexchange carrier or PLEC change order;
- (2) the subscriber's decision to change the primary interexchange carrier or PLEC from the current interexchange carrier or LEC to the prospective interexchange carrier or prospective LEC;
- (3) that the subscriber designates the prospective interexchange carrier or prospective LEC to act as the sub-

scriber's agent for the primary interexchange carrier or PLEC change;

(4) that the subscriber understands that, for any one (1) telephone number:

- (A) only one (1) prospective PIC may be designated as the subscriber's inter-LATA primary interexchange carrier;
- (B) only one (1) prospective PIC may be designated as the subscriber's intra-LATA primary interexchange carrier; and
- (C) only one (1) intrastate primary LEC may be designated as the subscriber's intrastate primary LEC;

(5) that the subscriber understands that any change in primary interexchange carrier or primary LEC may result in a charge to the subscriber; and

(6) the LEC's toll-free or local number that the customer can call to verify whether the change has occurred.

(j) To the extent a customer selects separate carriers for inter-LATA, intra-LATA, and LEC services, the letter of agency must contain separate statements regarding those choices. Any carrier designated as a primary interexchange carrier for inter-LATA service must be the carrier directly setting the inter-LATA service rates for the subscriber. Any carrier designated as a primary interexchange carrier for intra-LATA services must be the carrier directly setting the intra-LATA service rates for the subscriber. Any carrier designated as a primary local exchange carrier must be the LEC directly setting the local exchange service rates for the subscriber. One (1) interexchange carrier can be both a subscriber's inter-LATA primary interexchange carrier and a subscriber's intra-LATA primary interexchange carrier.

(k) Letters of agency shall not suggest or require that a subscriber take some action in order to retain the subscriber's current interexchange carrier or LEC.

(l) If any portion of a letter of agency is translated into a language other than English, then all portions of the letter of agency must be translated into that language. Every letter of agency must be translated into the same language as any promotional materials, oral descriptions, or instructions provided with the letter of agency.

(m) The letter of agency shall provide the toll-free telephone number and mailing address of the consumer affairs division of the Indiana utility regulatory commission and shall inform the customer of his or her right to file a complaint with that division.

(n) Upon request of the customer, offers to provide telecommunications interexchange or local exchange services shall be sent to the customer in written form, describing the terms and conditions of service.

(o) Except for tariff-regulated, customer-initiated, one-time use products, such as collect calling services, optional pay-per-use services (including automatic callback, repeat dialing, and

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three-way calling), no PIC or LEC or any billing agent acting for said PIC or LEC shall bill a customer for any service unless the PIC, LEC, or billing agent possesses written or electronic documentation ~~which that~~ shows:

- (1) the name of the customer requesting the service;
- (2) a description of the service requested by the customer;
- (3) the date on which the customer requested the service;
- (4) the means by which the customer requested the service; and
- (5) the name, address, and telephone number of all sales agents involved.

(p) No PIC, LEC, or billing agent for any PIC or LEC shall be entitled to any compensation from a customer for services rendered in violation of this rule.

(q) The customer's local exchange company shall not disconnect the customer's phone service for nonpayment where the customer has properly disputed a carrier change or service billing.

(r) This rule shall apply only to the extent not preempted by federal law. (*Indiana Utility Regulatory Commission; 170 IAC 7-1.1-19; filed Jan 18, 1999, 1:18 p.m.: 22 IR 1938; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; filed Mar 4, 2002, 2:57 p.m.: 25 IR 2209*)

LSA Document #01-236(F)

Notice of Intent Published: 24 IR 3660

Proposed Rule Published: October 1, 2001; 25 IR 135

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Approved by Attorney General: February 15, 2002

Approved by Governor: March 1, 2002

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Incorporated Documents Filed with Secretary of State: None

TITLE 355 STATE CHEMIST OF THE STATE OF INDIANA

LSA Document #01-294(F)

DIGEST

Amends 355 IAC 5 to standardize some of the terms used throughout the article. Adds a definition of a mobile container and an appurtenance. Repeals outdated effective dates for compliance by existing storage facilities, duplicative and contradictory provisions for drainage from secondary containment, inspection and record keeping requirements with a maintenance standard, and a duplicative requirement for a discharge response plan. Repeals 355 IAC 5-1-2, 355 IAC 5-1-10, 355 IAC 5-2-13, 355 IAC 5-3-2, 355 IAC 5-4-5, 355 IAC 5-4-6, 355 IAC 5-4-9, 355 IAC 5-5-2, 355 IAC 5-6, 355 IAC 5-7, and 355 IAC 5-8-2. Effective 30 days after filing with the secretary of state.

355 IAC 5-1-1	355 IAC 5-2-10
355 IAC 5-1-1.5	355 IAC 5-2-11
355 IAC 5-1-2	355 IAC 5-2-12
355 IAC 5-1-3	355 IAC 5-2-13
355 IAC 5-1-4	355 IAC 5-3-1
355 IAC 5-1-5	355 IAC 5-3-2
355 IAC 5-1-6	355 IAC 5-4-1
355 IAC 5-1-7.5	355 IAC 5-4-2
355 IAC 5-1-10	355 IAC 5-4-3
355 IAC 5-1-11	355 IAC 5-4-4
355 IAC 5-1-13	355 IAC 5-4-5
355 IAC 5-1-14	355 IAC 5-4-6
355 IAC 5-1-15	355 IAC 5-4-7
355 IAC 5-2-2	355 IAC 5-4-8
355 IAC 5-2-3	355 IAC 5-4-9
355 IAC 5-2-4	355 IAC 5-5-1
355 IAC 5-2-5	355 IAC 5-5-2
355 IAC 5-2-6	355 IAC 5-6
355 IAC 5-2-7	355 IAC 5-7
355 IAC 5-2-8	355 IAC 5-8-1
355 IAC 5-2-9	355 IAC 5-8-2

SECTION 1. 355 IAC 5-1-1 IS AMENDED TO READ AS FOLLOWS:

ARTICLE 5. STORAGE AND SECONDARY CONTAINMENT OF PESTICIDES

355 IAC 5-1-1 "Approved" defined

Authority: IC 15-3-3.5-11

Affected: IC 15-3-3.5-33; IC 15-3-3.5-34

Sec. 1. As used in this article, "approved" means approval by the Indiana state chemist, or his agent except where otherwise stated. (*State Chemist of the State of Indiana; 355 IAC 5-1-1; filed Mar 8, 1991, 2:45 p.m.: 14 IR 1400, eff sixty (60) days after filing with secretary of state; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; filed Feb 20, 2002, 9:38 a.m.: 25 IR 2212*)

SECTION 2. 355 IAC 5-1-1.5 IS ADDED TO READ AS FOLLOWS:

355 IAC 5-1-1.5 "Appurtenance" defined

Authority: IC 15-3-3.5-11

Affected: IC 15-3-3.5-33; IC 15-3-3.5-34

Sec. 1.5. As used in this article, "appurtenance" means any valve, pump, fitting, pipe, hose, metering device, or mechanical device that is connected to a storage container, or is used to transfer a material into or out of such container. (*State Chemist of the State of Indiana; 355 IAC 5-1-1.5; filed Feb 20, 2002, 9:38 a.m.: 25 IR 2212*)

SECTION 3. 355 IAC 5-1-3 IS AMENDED TO READ AS FOLLOWS:

355 IAC 5-1-3 “Discharge” defined

Authority: IC 15-3-3.5-11

Affected: IC 15-3-3.5-33; IC 15-3-3.5-34

Sec. 3. As used in this article, “discharge” means ~~any spill, leak, deposit, dumping, or emitting, either accidental or otherwise, that results in~~ a release of a pesticide into either a secondary containment or operational containment area at a storage facility. ~~“Discharge” does not include lawful repackaging, transfer, loading, unloading, distribution use, disposal, or application of a pesticide.~~ (State Chemist of the State of Indiana; 355 IAC 5-1-3; filed Mar 8, 1991, 2:45 p.m.: 14 IR 1401, eff sixty (60) days after filing with secretary of state; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; filed Feb 20, 2002, 9:38 a.m.: 25 IR 2213)

SECTION 4. 355 IAC 5-1-4 IS AMENDED TO READ AS FOLLOWS:

355 IAC 5-1-4 “Dry pesticide” defined

Authority: IC 15-3-3.5-11

Affected: IC 15-3-3.5-33; IC 15-3-3.5-34

Sec. 4. As used in this article, “dry pesticide” means pesticide ~~which in an undivided quantity exceeding one hundred (100) pounds that~~ is in solid form prior to any application or mixing for application and includes formulations, such as dusts, wettable powders, dry flowable powders, and granules. (State Chemist of the State of Indiana; 355 IAC 5-1-4; filed Mar 8, 1991, 2:45 p.m.: 14 IR 1401, eff sixty (60) days after filing with secretary of state; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; filed Feb 20, 2002, 9:38 a.m.: 25 IR 2213)

SECTION 5. 355 IAC 5-1-5 IS AMENDED TO READ AS FOLLOWS:

355 IAC 5-1-5 “Elephant ring” defined

Authority: IC 15-3-3.5-11

Affected: IC 15-3-3.5-33; IC 15-3-3.5-34

Sec. 5. As used in this article, “elephant ring” means a storage container with open top serving as a secondary containment vessel into which a smaller ~~primary~~ storage container is placed. (State Chemist of the State of Indiana; 355 IAC 5-1-5; filed Mar 8, 1991, 2:45 p.m.: 14 IR 1401, eff sixty (60) days after filing with secretary of state; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; filed Feb 20, 2002, 9:38 a.m.: 25 IR 2213)

SECTION 6. 355 IAC 5-1-6 IS AMENDED TO READ AS FOLLOWS:

355 IAC 5-1-6 “Liquid pesticide” defined

Authority: IC 15-3-3.5-11

Affected: IC 15-3-3.5-33; IC 15-3-3.5-34

Sec. 6. As used in this article, “liquid pesticide” means pesticide in liquid form, including solutions, emulsions, suspensions, and slurries contained in an undivided quantity

exceeding fifty-five (55) U.S. gallons. ~~It includes minibulk pesticide except as otherwise specified.~~ (State Chemist of the State of Indiana; 355 IAC 5-1-6; filed Mar 8, 1991, 2:45 p.m.: 14 IR 1401, eff sixty (60) days after filing with secretary of state; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; filed Feb 20, 2002, 9:38 a.m.: 25 IR 2213)

SECTION 7. 355 IAC 5-1-7.5 IS ADDED TO READ AS FOLLOWS:

355 IAC 5-1-7.5 “Mobile container” defined

Authority: IC 15-3-3.5-11

Affected: IC 15-3-3.5-33; IC 15-3-3.5-34

Sec. 7.5. As used in this article, “mobile container” means a storage container that is designed and used as:

- (1) a delivery vehicle;
- (2) application equipment; or
- (3) a minibulk pesticide container.

(State Chemist of the State of Indiana; 355 IAC 5-1-7.5; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; filed Feb 20, 2002, 9:38 a.m.: 25 IR 2213)

SECTION 8. 355 IAC 5-1-11 IS AMENDED TO READ AS FOLLOWS:

355 IAC 5-1-11 “Secondary containment” defined

Authority: IC 15-3-3.5-11

Affected: IC 15-3-3.5-33; IC 15-3-3.5-34

Sec. 11. As used in this article, “secondary containment” means any structure, ~~such as a dike,~~ used to contain ~~product spills pesticide discharges~~ from storage containers and prevent run-off or leaching. (State Chemist of the State of Indiana; 355 IAC 5-1-11; filed Mar 8, 1991, 2:45 p.m.: 14 IR 1402, eff sixty (60) days after filing with secretary of state; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; filed Feb 20, 2002, 9:38 a.m.: 25 IR 2213)

SECTION 9. 355 IAC 5-1-13 IS AMENDED TO READ AS FOLLOWS:

355 IAC 5-1-13 “Storage container” defined

Authority: IC 15-3-3.5-11

Affected: IC 15-3-3.5-33; IC 15-3-3.5-34

Sec. 13. (a) As used in this article, “storage container” means the following:

- (+) a container used for the storage of liquid ~~or dry~~ pesticide at a storage facility.
- (-) A rail car, nurse tank, or other mobile container used for the storage of liquid pesticide.

(b) ~~“Storage container”~~ The term does not include the following:

- (+) a mobile container storing liquid pesticide at a storage facility for less than ~~fifteen (15)~~ thirty (30) days. if this

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storage is incidental to the loading or unloading of a storage container at the storage facility. **In the case of minibulk pesticide containers, written and verifiable documentation as to the period of storage at the storage facility shall be required and made available to the state chemist upon request.**

~~(2) A mobile container located other than on property owned, operated, or controlled by an owner or operator of a storage facility:~~

~~(3) A container used solely for emergency storage of leaking pesticide containers that are fifty-five (55) gallons or smaller. (State Chemist of the State of Indiana; 355 IAC 5-1-13; filed Mar 8, 1991, 2:45 p.m.: 14 IR 1402, eff sixty (60) days after filing with secretary of state; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; filed Feb 20, 2002, 9:38 a.m.: 25 IR 2213)~~

SECTION 10. 355 IAC 5-1-14 IS AMENDED TO READ AS FOLLOWS:

355 IAC 5-1-14 "Storage facility" defined

Authority: IC 15-3-3.5-11

Affected: IC 15-3-3.5-33; IC 15-3-3.5-34

Sec. 14. As used in this article, "storage facility" means a location at which liquid pesticide ~~and/or bulk~~ or dry pesticide is held in storage. (State Chemist of the State of Indiana; 355 IAC 5-1-14; filed Mar 8, 1991, 2:45 p.m.: 14 IR 1402, eff sixty (60) days after filing with secretary of state; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; filed Feb 20, 2002, 9:38 a.m.: 25 IR 2214)

SECTION 11. 355 IAC 5-1-15 IS AMENDED TO READ AS FOLLOWS:

355 IAC 5-1-15 "Storage facility registry" defined

Authority: IC 15-3-3.5-11

Affected: IC 15-3-3.5-33; IC 15-3-3.5-34

Sec. 15. As used in this article, "storage facility ~~location~~ registry" means the annual listing of all liquid pesticide ~~and bulk pesticide~~ storage facilities in Indiana by the state chemist as derived from written notification ~~of such from the~~ storage facility. ~~location by the facility's owner, operator, or person in charge.~~ (State Chemist of the State of Indiana; 355 IAC 5-1-15; filed Mar 8, 1991, 2:45 p.m.: 14 IR 1402, eff sixty (60) days after filing with secretary of state; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; filed Feb 20, 2002, 9:38 a.m.: 25 IR 2214)

SECTION 12. 355 IAC 5-2-2 IS AMENDED TO READ AS FOLLOWS:

Rule 2. Storage of Liquid Pesticide

355 IAC 5-2-2 Prohibition against underground storage

Authority: IC 15-3-3.5-11

Affected: IC 15-3-3.5-33; IC 15-3-3.5-34

Sec. 2. ~~No person may store~~ Liquid pesticide **shall not be stored** in an underground storage container. This prohibition does not apply to a watertight catch basin used for the temporary collection of run-off or rinsate from transfer and loading areas. (State Chemist of the State of Indiana; 355 IAC 5-2-2; filed Mar 8, 1991, 2:45 p.m.: 14 IR 1403, eff sixty (60) days after filing with secretary of state; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; filed Feb 20, 2002, 9:38 a.m.: 25 IR 2214)

SECTION 13. 355 IAC 5-2-3 IS AMENDED TO READ AS FOLLOWS:

355 IAC 5-2-3 Abandoned containers

Authority: IC 15-3-3.5-11

Affected: IC 15-3-3.5-33; IC 15-3-3.5-34

Sec. 3. (a) Storage containers and other containers used at a storage facility to hold pesticide or pesticide rinsate are considered abandoned if they have been out of service for more than six (6) months because of a weakness or leak or have been out of service for any reason for more than two (2) years.

(b) Abandoned underground containers, including abandoned underground catch basins, shall be thoroughly cleaned and removed from the ground or thoroughly cleaned and filled with an inert solid. All connections and vents shall be disconnected and sealed. A record of the catch basin size, location, and method of closing shall be maintained at the storage facility or as otherwise provided for in this article.

(c) Abandoned aboveground containers shall be thoroughly cleaned. All hatches on the containers shall be left open, and all valves or connections shall be severed and left open.

(d) ~~A~~ Secondary containment facility is not considered abandoned merely because there have been no discharges into the secondary containment. ~~facility.~~ (State Chemist of the State of Indiana; 355 IAC 5-2-3; filed Mar 8, 1991, 2:45 p.m.: 14 IR 1403, eff sixty (60) days after filing with secretary of state; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; filed Feb 20, 2002, 9:38 a.m.: 25 IR 2214)

SECTION 14. 355 IAC 5-2-4 IS AMENDED TO READ AS FOLLOWS:

355 IAC 5-2-4 Prohibited materials

Authority: IC 15-3-3.5-11

Affected: IC 15-3-3.5-33; IC 15-3-3.5-34

Sec. 4. (a) Storage containers and appurtenances ~~may~~ **shall** not be made of polyvinyl chloride.

(b) A storage container ~~may~~ **shall** not be made of ferrous metals, unless the container is made of stainless steel **or other approved materials**, or the container has a protective lining ~~which that~~ inhibits corrosion and ~~which~~ does not react chemically with the stored pesticide. ~~or the manufacturer of the stored~~

pesticide has confirmed in writing to the state chemist that corrosion tests have been conducted and storage in such unlined containers has been found to be satisfactory. *(State Chemist of the State of Indiana; 355 IAC 5-2-4; filed Mar 8, 1991, 2:45 p.m.: 14 IR 1403, eff sixty (60) days after filing with secretary of state; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; filed Feb 20, 2002, 9:38 a.m.: 25 IR 2214)*

SECTION 15. 355 IAC 5-2-5 IS AMENDED TO READ AS FOLLOWS:

355 IAC 5-2-5 Anchoring storage containers

Authority: IC 15-3-3.5-11

Affected: IC 15-3-3.5-33; IC 15-3-3.5-34

Sec. 5. (a) Storage containers shall be anchored, as necessary, to prevent flotation or instability which might occur as a result of liquid accumulations within a secondary containment facility constructed in accordance with this article:

(b) ~~In lieu of anchoring, the Storage container may contain-~~ **ers shall be considered anchored if, in addition to other approved means, the containers:**

(1) are placed on a raised area or platform of such height as to prevent flotation or instability in the event of liquid accumulations; or

(2) store product with sufficient volume to rise to at least the height of the secondary containment walls.

(State Chemist of the State of Indiana; 355 IAC 5-2-5; filed Mar 8, 1991, 2:45 p.m.: 14 IR 1403, eff sixty (60) days after filing with secretary of state; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; filed Feb 20, 2002, 9:38 a.m.: 25 IR 2215)

SECTION 16. 355 IAC 5-2-6 IS AMENDED TO READ AS FOLLOWS:

355 IAC 5-2-6 Vents

Authority: IC 15-3-3.5-11

Affected: IC 15-3-3.5-33; IC 15-3-3.5-34

Sec. 6. (a) Each storage container shall be equipped with a vent with hood or inverted opening.

(b) Conservation vents shall be used on containers storing products where loss of vapor affects product quality or where the vapor is harmful ~~or objectionable~~ to plants, animals, or humans.

(c) ~~When Conservation vents are used, they shall open and close within the designed pressure limits of the storage container.~~ *(State Chemist of the State of Indiana; 355 IAC 5-2-6; filed Mar 8, 1991, 2:45 p.m.: 14 IR 1403, eff sixty (60) days after filing with secretary of state; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; filed Feb 20, 2002, 9:38 a.m.: 25 IR 2215)*

SECTION 17. 355 IAC 5-2-7 IS AMENDED TO READ AS FOLLOWS:

355 IAC 5-2-7 Security

Authority: IC 15-3-3.5-11

Affected: IC 15-3-3.5-33; IC 15-3-3.5-34

Sec. 7. (a) Storage containers and appurtenances shall be secured to provide reasonable protection from wildlife, vandalism, and unauthorized access. ~~which may result in damage and a subsequent discharge.~~ Such security shall be provided by fencing, lighting, or other approved means.

(b) Valves on storage containers shall be locked or otherwise secured, except when persons responsible for facility security are present at the facility.

(c) Valves on mobile ~~pesticide~~ containers ~~containing liquid pesticide and~~ parked overnight at a storage facility shall be locked or secured except when persons responsible for facility security are present at the facility.

(d) Valves on empty containers need not be secured. *(State Chemist of the State of Indiana; 355 IAC 5-2-7; filed Mar 8, 1991, 2:45 p.m.: 14 IR 1403, eff sixty (60) days after filing with secretary of state; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; filed Feb 20, 2002, 9:38 a.m.: 25 IR 2215)*

SECTION 18. 355 IAC 5-2-8 IS AMENDED TO READ AS FOLLOWS:

355 IAC 5-2-8 Filling

Authority: IC 15-3-3.5-11

Affected: IC 15-3-3.5-33; IC 15-3-3.5-34

Sec. 8. Storage containers shall not be filled to more than ninety-five percent (95%) of capacity unless the storage container construction or location provides constant temperature control, ~~or the storage container is a minibulk pesticide container,~~ or is otherwise designed to be filled to a capacity of greater than ninety-five percent (95%). ~~of its total volume according to the manufacturer's recommendations.~~ *(State Chemist of the State of Indiana; 355 IAC 5-2-8; filed Mar 8, 1991, 2:45 p.m.: 14 IR 1404, eff sixty (60) days after filing with secretary of state; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; filed Feb 20, 2002, 9:38 a.m.: 25 IR 2215)*

SECTION 19. 355 IAC 5-2-9 IS AMENDED TO READ AS FOLLOWS:

355 IAC 5-2-9 Shutoff valves

Authority: IC 15-3-3.5-11

Affected: IC 15-3-3.5-33; IC 15-3-3.5-34

Sec. 9. (a) ~~Every Storage container connection,~~ **connections,** except ~~a for safety relief connection,~~ **connections,** shall be equipped with a shutoff valve located on the storage container or at a distance from the storage container dictated by standard engineering practice.

(b) Except for a storage container of minibulk pesticide, all

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wetted parts inside shutoff valves and connections from the storage container to the shutoff valve shall be made of stainless steel or other approved material.

(c) Valves shall be secured to protect against vandalism or accidental valve openings which may result in a discharge. (State Chemist of the State of Indiana; 355 IAC 5-2-9; filed Mar 8, 1991, 2:45 p.m.: 14 IR 1404, eff sixty (60) days after filing with secretary of state; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; filed Feb 20, 2002, 9:38 a.m.: 25 IR 2215)

SECTION 20. 355 IAC 5-2-10 IS AMENDED TO READ AS FOLLOWS:

355 IAC 5-2-10 Appurtenances

Authority: IC 15-3-3.5-11

Affected: IC 15-3-3.5-33; IC 15-3-3.5-34

Sec. 10. Pipes and fittings Appurtenances shall be adequately supported to prevent sagging and possible breakage because of gravity and other forces which may be encountered in the ordinary course of operations. (State Chemist of the State of Indiana; 355 IAC 5-2-10; filed Mar 8, 1991, 2:45 p.m.: 14 IR 1404, eff sixty (60) days after filing with secretary of state; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; filed Feb 20, 2002, 9:38 a.m.: 25 IR 2216)

SECTION 21. 355 IAC 5-2-11 IS AMENDED TO READ AS FOLLOWS:

355 IAC 5-2-11 Liquid level gauging device

Authority: IC 15-3-3.5-11

Affected: IC 15-3-3.5-33; IC 15-3-3.5-34

Sec. 11. (a) Every Storage container containers shall be equipped with a liquid level gauging device or other means by which the level of liquid in the storage container can be readily and safely determined. A liquid level gauging device is not required if the level of liquid in a storage container can be readily and reliably measured by other approved means:

(b) Liquid level gauging devices shall be secured, in a safe manner, to protect against breakage or vandalism which may result in a discharge.

(c) (b) External sight gauges are prohibited. (State Chemist of the State of Indiana; 355 IAC 5-2-11; filed Mar 8, 1991, 2:45 p.m.: 14 IR 1404, eff sixty (60) days after filing with secretary of state; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; filed Feb 20, 2002, 9:38 a.m.: 25 IR 2216)

SECTION 22. 355 IAC 5-2-12 IS AMENDED TO READ AS FOLLOWS:

355 IAC 5-2-12 Maintenance

Authority: IC 15-3-3.5-11

Affected: IC 15-3-3.5-33; IC 15-3-3.5-34

Sec. 12. (a) The operator of a storage facility shall routinely inspect and maintain storage facilities; Storage containers and appurtenances shall be maintained to minimize the risk of a discharge.

(b) The operator shall inspect valves and other appurtenances for leakage at least weekly and shall inspect vents for proper operation at least monthly.

(c) A written record of all inspections and maintenance shall be made on the day of the inspection or maintenance.

(d) Inspection and maintenance records shall be kept at the storage site or at the nearest local office from which the storage site is administered. (State Chemist of the State of Indiana; 355 IAC 5-2-12; filed Mar 8, 1991, 2:45 p.m.: 14 IR 1404, eff sixty (60) days after filing with secretary of state; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; filed Feb 20, 2002, 9:38 a.m.: 25 IR 2216)

SECTION 23. 355 IAC 5-3-1 IS AMENDED TO READ AS FOLLOWS:

355 IAC 5-3-1 Operational area containment

Authority: IC 15-3-3.5-11

Affected: IC 15-3-3.5-33; IC 15-3-3.5-34

Sec. 1. (a) Areas used for the loading of liquid pesticide into storage containers or for unloading liquid pesticide from storage containers into mobile containers shall be Operational areas at a storage facility shall have containment that is curbed and paved with reinforced concrete or other suitable approved material which that provides an impervious surface. and is approved by the state chemist. Operational area activities at the liquid pesticide storage facility shall be carried out within this area. Such activities include the loadout and unloading of liquid pesticide to and from storage containers; application equipment; mobile containers; equipment and container washing; and other similar activities: containment.

(b) The operational area containment shall be constructed and reinforced to handle at least support the foreseeable maximum gross load including of all product, equipment, that utilize the operational area; mobile container; and motor vehicle vehicles utilizing the area. The curbed and paved area containment shall have a minimum width of ten (10) feet, and a minimum length of twenty (20) feet, Any fill or unloading point and a minimum capacity of seven hundred fifty (750) gallons. Points of the mobile container loading and unloading shall be positioned over the paved area during loading or unloading to assure retention of any discharge: containment.

(c) Wherever sufficient capacity required in 355 IAC 5-4-1(c) and provisions of this rule are complied with, the ~~diked~~ secondary containment area described in 355 IAC 5-4 may be designed for and jointly used in lieu of a separate operational area containment.

(d) The operational area containment shall form or drain into a watertight catch basin. If the operational area containment drains to a sump, the catch basin may include the sump and an aboveground container, provided a pump is installed which automatically transfers the contents of the sump into an aboveground container. Such containers used for the temporary storage of liquids collected from the operational area containment shall be located within secondary containment.

(e) The curbed surface and catch basin shall be of adequate design and size to contain a combined total of at least seven hundred fifty (750) gallons of discharged liquid.

(f) Discharges incidental to loading or unloading and rainwater (e) All liquids shall be promptly recovered removed from the operational area containment area and catch basin such that for use in the blending process or for proper disposal in accordance with all applicable rules. The capacity required in subsection (e) is (b) shall be available at all times.

(g) (f) Storage containers and appurtenances including pipes, shall be protected against reasonably foreseeable risks of damage by trucks and other moving vehicles engaged in the loading or unloading of liquid pesticide: operating in the area.

(h) (g) This section does not apply to the unloading of mobile containers used to nurse field operations when at a field unloading the pesticide application site.

(i) The operator of a storage facility shall routinely inspect and maintain the (h) Operational area containment system. Such inspections shall be conducted at least weekly during operational periods: shall be maintained as necessary to assure compliance with this rule.

(j) (i) Alternative means, including portable operational area containment systems, shall be permitted to serve as operational area containment systems if recommended by the manufacturer and approved. for this use by the state chemist.

(k) A written record of all inspections and maintenance shall be made on the day of the inspection or maintenance. Inspection and maintenance records shall be kept at the storage site or at the nearest local office from which the storage site and operational area is administered. *(State Chemist of the State of Indiana; 355 IAC 5-3-1; filed Mar 8, 1991, 2:45 p.m.: 14 IR 1405, eff sixty (60) days after filing with secretary of state; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; filed Feb 20, 2002, 9:38 a.m.: 25 IR 2216)*

SECTION 24. 355 IAC 5-4-1 IS AMENDED TO READ AS FOLLOWS:

Rule 4. Secondary Containment of Liquid Pesticide

355 IAC 5-4-1 General requirements

Authority: IC 15-3-3.5-11
Affected: IC 15-3-3.5-33; IC 15-3-3.5-34

Sec. 1. (a) ~~Primary storage of~~ Liquid pesticide ~~storage containers~~ shall be located within a ~~diked area secondary containment~~ constructed with a base, perimeter wall, and sloped floor. ~~drain; except as noted in sections 4 through 6 of this rule.~~ Exception for a sloped floor drain may be granted prior existing diked areas providing other requirements of this rule are met: by the state chemist.

(b) The ~~diked containment~~ area shall be separate from a secondary containment area for other materials and used only for containment of ~~primary storage of~~ liquid pesticide ~~storage containers~~ or other ~~pesticide related~~ equipment. ~~used in the operational area provided the minimum containment requirement noted in subsection (e) is maintained at all times.~~ Adjoining secondary containment areas may share common walls.

(c) ~~The diked area for Secondary~~ containment of storage facilities not protected from rainfall shall ~~contain at all times~~ have a minimum capacity of one hundred percent (100%) of the volume of the largest storage container within the ~~diked contained~~ area plus the volume ~~occupied displaced~~ by all the other tanks, equipment, and appurtenances in the area up to the safe design level of the ~~dike containment structure~~ plus a freeboard of six (6) inches.

(d) ~~Diked Secondary~~ containment areas protected from rainfall ~~are is~~ not required to ~~provide have~~ the freeboard noted in subsection (c), but shall comply with all other requirements therein.

(e) ~~Diked Secondary~~ containment areas constructed prior to enactment of this rule and ~~which have that has~~ a capacity of a minimum of one hundred ten percent (110%) of the volume of the largest storage container within the ~~diked contained~~ area plus the volume ~~occupied displaced~~ by all the other tanks in the area up to the safe design level of the ~~dike containment structure~~ shall be deemed to be in compliance with this rule. Any such storage facility upon alteration of the secondary containment area or increases in storage container volume shall be brought into full compliance within ninety (90) days of alteration or increase.

(f) Tile drainage ~~shall not be permitted~~ within or ~~underlying the area to be diked shall be eliminated.~~ ~~under secondary containment.~~ *(State Chemist of the State of Indiana; 355 IAC 5-4-1; filed Mar 8, 1991, 2:45 p.m.: 14 IR 1405, eff sixty (60) days after filing with secretary of state; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; filed Feb 20, 2002, 9:38 a.m.: 25 IR 2217)*

SECTION 25. 355 IAC 5-4-2 IS AMENDED TO READ AS FOLLOWS:

355 IAC 5-4-2 Walls

Authority: IC 15-3-3.5-11
Affected: IC 15-3-3.5-33; IC 15-3-3.5-34

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Sec. 2. (a) The walls of a secondary containment facility shall be constructed of steel, poured reinforced concrete, precast concrete modules, or solid masonry and be designed to withstand a full hydrostatic head of any discharged liquid and weight load of material used in construction.

(b) Cracks and seams shall be sealed to prevent leakage.

(c) Walls may ~~shall~~ not exceed six (6) feet in height above interior grade unless provisions are made for normal access and necessary emergency access to ~~tanks~~, **storage containers**, valves, and other equipment and for safe exit from the secondary containment. ~~facility~~.

(d) Walls constructed of concrete or solid masonry shall rest upon a floating base of concrete prepared as in section 3(b) of this rule or upon suitable concrete footings which extend below the average frost depth. ~~to provide structural integrity~~. **Joints between walls and the base shall be watertight.** (*State Chemist of the State of Indiana; 355 IAC 5-4-2; filed Mar 8, 1991, 2:45 p.m.: 14 IR 1406; errata filed May 10, 1991, 2:30 p.m.: 14 IR 1730, eff sixty (60) days after filing with secretary of state; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; filed Feb 20, 2002, 9:38 a.m.: 25 IR 2217*)

SECTION 26. 355 IAC 5-4-3 IS AMENDED TO READ AS FOLLOWS:

355 IAC 5-4-3 Base liners

Authority: IC 15-3-3.5-11

Affected: IC 15-3-3.5-33; IC 15-3-3.5-34

Sec. 3. (a) The base of a secondary containment facility shall be lined with concrete, steel, or other approved liners. ~~Liners shall meet the requirements of this section.~~

(b) Concrete liners shall be designed according to good engineering practices to withstand any foreseeable loading conditions, including a full hydrostatic head of discharged fluid and static loads of storage containers, including appurtenances, equipment, and contents. Cracks and seams shall be sealed to prevent leakage.

(c) Steel plates may be used for wall and for base liners. ~~Installation plans shall be approved by the state chemist who shall require that the plates are protected against corrosion and are joined in a manner as to provide watertight joints. and installation plans shall be approved before use.~~

(d) Synthetic liners and installation plans shall be approved by the state chemist. ~~A synthetic liner may not be approved by the state chemist until the manufacturer of the liner provides the state chemist with a written confirmation of compatibility and a written estimate of the life of the liner. before use.~~

(e) Synthetic liners shall have a minimum thickness of thirty (30) mils (eight-tenths (0.8) ~~millimeters~~) **millimeter**) and be

chemically compatible with the materials being stored within the containment. ~~and operational areas.~~

(f) Synthetic liners shall be installed under the supervision of a qualified representative of the manufacturer, and all field constructed seams shall be tested and repaired, if necessary, in accordance with the manufacturer's recommendations. (*State Chemist of the State of Indiana; 355 IAC 5-4-3; filed Mar 8, 1991, 2:45 p.m.: 14 IR 1406, eff sixty (60) days after filing with secretary of state; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; filed Feb 20, 2002, 9:38 a.m.: 25 IR 2218*)

SECTION 27. 355 IAC 5-4-4 IS AMENDED TO READ AS FOLLOWS:

355 IAC 5-4-4 Drainage from secondary containment

Authority: IC 15-3-3.5-11

Affected: IC 15-3-3.5-33; IC 15-3-3.5-34

Sec. 4. ~~A prefabricated diked area~~ **Secondary containment** shall not have a relief outlet ~~and or~~ valve. The base shall slope to a collecting spot where ~~storm water can liquid shall be discharged removed~~ by a manually operated **activated** pump over the ~~berm wall~~ for use in the blending process or for proper disposal in accordance with ~~local requirements for disposal of storm water: all applicable regulations.~~ (*State Chemist of the State of Indiana; 355 IAC 5-4-4; filed Mar 8, 1991, 2:45 p.m.: 14 IR 1407, eff sixty (60) days after filing with secretary of state; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; filed Feb 20, 2002, 9:38 a.m.: 25 IR 2218*)

SECTION 28. 355 IAC 5-4-7 IS AMENDED TO READ AS FOLLOWS:

355 IAC 5-4-7 Alternative to secondary containment for storage containers of 3,000 gallons or less

Authority: IC 15-3-3.5-11

Affected: IC 15-3-3.5-33; IC 15-3-3.5-34

Sec. 7. (a) Individual storage containers not exceeding three thousand (3,000) gallons may be contained within a ~~secondary storage container~~ an elephant ring in lieu of a ~~diked secondary containment. area.~~ The "elephant ring" serves as a second containing wall in the event that the primary storage container develops a leak:

(b) Both the ~~primary~~ storage container and the elephant ring shall be fabricated of ~~material~~ **materials** compatible with each other and with the pesticide being stored. ~~Dissimilar metals between~~ The ~~primary~~ storage container and the elephant ring contribute to electrolytic corrosion and such use is ~~prohibited.~~ **shall be constructed of similar metals.** Elephant rings **shall not be** constructed of plastic. ~~are prohibited from use.~~

(c) The height of the elephant ring wall shall not exceed four (4) feet. The ~~volume contained within the secondary storage walls up to the working height~~ **minimum capacity** of the

elephant ring shall be sufficient to contain a volume equal to **one hundred percent (100%)** of the volume of the primary storage container plus the volume displaced by ~~any all~~ equipment, i.e., pumps, meters, etc., ~~placed within and appurtenances in~~ the secondary containment vessel up to the safe storage level of the elephant ring, plus a freeboard of six (6) inches. ~~which freeboard is exempted if the containment system is~~ **An elephant ring** protected from rainfall **is not required to have the freeboard of six (6) inches.**

(d) The elephant ring shall be free of leaks and structural defects. The base shall be protected from corrosion, both from inside and outside, and shall be underlain by a concrete pad or ~~with by~~ eight (8) inches of compacted gravel beneath four (4) inches of compacted sand or as recommended by the manufacturer of the elephant ring and approved by the state chemist.

(e) ~~All piping connections to the primary storage container shall be made over~~ **The elephant ring shall not have a relief outlet or valve. No appurtenances shall extend through** the wall of the elephant ring, ~~and shall be adequately supported and braced.~~ Pumps and other fixtures, if located within the elephant ring ~~containment structure,~~ shall be placed on an elevated platform.

(f) ~~Accumulations of storm water and other material~~ **Liquid** shall be ~~drained removed~~ from the elephant ring ~~over the wall of the container~~ by means of a ~~sump~~ **manually activated** pump ~~within the secondary container or by means of an exterior portable pump,~~ and disposed of in accordance with section 5(g) of this rule. ~~for use in the blending process or disposal in accordance with all applicable regulations.~~

(g) Inspection and maintenance of the primary storage container and of the Elephant rings shall be ~~conducted and records of inspections and maintenance maintained as in section 8 of~~ **necessary to assure compliance with** this rule. (*State Chemist of the State of Indiana; 355 IAC 5-4-7; filed Mar 8, 1991, 2:45 p.m.: 14 IR 1407, eff sixty (60) days after filing with secretary of state; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; filed Feb 20, 2002, 9:38 a.m.: 25 IR 2218*)

SECTION 29. 355 IAC 5-4-8 IS AMENDED TO READ AS FOLLOWS:

355 IAC 5-4-8 Maintenance

Authority: IC 15-3-3.5-11
Affected: IC 15-3-3.5-33; IC 15-3-3.5-34

Sec. 8. (a) Every Secondary containment shall be inspected by the operator of the storage facility at intervals of not greater than six (6) months and be maintained as necessary to assure compliance with this rule.

(b) A written record of all inspections and maintenance shall be made on the day of the inspection or maintenance and kept

at the storage facility or at the nearest local office from which the storage facility is administered:

(e) ~~All~~ (b) Secondary containment areas shall be maintained free of debris and foreign matter. (*State Chemist of the State of Indiana; 355 IAC 5-4-8; filed Mar 8, 1991, 2:45 p.m.: 14 IR 1408, eff sixty (60) days after filing with secretary of state; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; filed Feb 20, 2002, 9:38 a.m.: 25 IR 2219*)

SECTION 30. 355 IAC 5-5-1 IS AMENDED TO READ AS FOLLOWS:

355 IAC 5-5-1 Storage requirements

Authority: IC 15-3-3.5-11
Affected: IC 15-3-3.5-33; IC 15-3-3.5-34

Sec. 1. (a) Dry bulk pesticide stored in outdoor facilities shall be kept in storage containers effectively designed and constructed to hold dry bulk pesticide, ~~and which shall be compatible with the pesticide stored therein.~~ Storage containers shall be constructed of materials ~~which that~~ are **compatible with the pesticide being stored** resistant to corrosion, puncture, or cracking, and shall be maintained in a good state of repair. Storage containers shall be placed on pallets or on a raised concrete platform which is drained to prevent the accumulation of water in or under the pesticide.

(b) Except during loading or unloading, stored dry bulk pesticide shall be covered by a roof or tarpaulin ~~which that~~ will keep precipitation off the pesticide.

(c) Storage facilities shall be secured ~~against unauthorized persons or to provide reasonable protection from~~ **wildlife, vandalism, and unauthorized access.** (*State Chemist of the State of Indiana; 355 IAC 5-5-1; filed Mar 8, 1991, 2:45 p.m.: 14 IR 1408, eff sixty (60) days after filing with secretary of state; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; filed Feb 20, 2002, 9:38 a.m.: 25 IR 2219*)

SECTION 31. 355 IAC 5-8-1 IS AMENDED TO READ AS FOLLOWS:

Rule 8. Storage Facility Registry

355 IAC 5-8-1 Facility registry

Authority: IC 15-3-3.5-11
Affected: IC 15-3-3.5-33; IC 15-3-3.5-34

Sec. 1. The owner, operator, or person in charge of a liquid pesticide or a bulk pesticide Storage facility ~~facilities~~ shall notify the state chemist each year prior to the receipt of the initial shipment of such pesticide, the location of each respective storage facility operated in this state. The notice shall be submitted in writing upon either a form furnished by the state chemist upon request of the facility owner, operator, or person in charge, or upon the facility letterhead. ~~of the facilities'~~

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location and status. The notice shall disclose the physical location of the facility and its mailing address, if different. The state chemist shall compile the location notices into a location registry and may use the registry as deemed necessary to promote the general public benefit. **include the facilities’:**

- (1) mailing address;
- (2) owner or manager name;
- (3) rated or calculated capacity off all storage containers; and
- (4) physical location of storage containers.

(State Chemist of the State of Indiana; 355 IAC 5-8-1; filed Mar 8, 1991, 2:45 p.m.: 14 IR 1410, eff sixty (60) days after filing with secretary of state; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; filed Feb 20, 2002, 9:38 a.m.: 25 IR 2219)

SECTION 32. THE FOLLOWING ARE REPEALED: 355 IAC 5-1-2; 355 IAC 5-1-10; 355 IAC 5-2-13; 355 IAC 5-3-2; 355 IAC 5-4-5; 355 IAC 5-4-6; 355 IAC 5-4-9; 355 IAC 5-5-2; 355 IAC 5-6; 355 IAC 5-7; 355 IAC 5-8-2.

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TITLE 440 DIVISION OF MENTAL HEALTH AND ADDICTION

LSA Document #01-263(F)

DIGEST

Amends 440 IAC 4.4 concerning the certification of addiction treatment services providers to add uniform criteria for addiction treatment services programs, to define intensive outpatient services, to require entities requesting temporary regular certification to meet specific criteria, and to make technical revisions regarding time frames. Effective 30 days after filing with the secretary of state.

440 IAC 4.4-1-1	440 IAC 4.4-2-5
440 IAC 4.4-2-1	440 IAC 4.4-2-6
440 IAC 4.4-2-2	440 IAC 4.4-2-7
440 IAC 4.4-2-3	440 IAC 4.4-2-8
440 IAC 4.4-2-3.5	440 IAC 4.4-2-9
440 IAC 4.4-2-4	440 IAC 4.4-2-11
440 IAC 4.4-2-4.5	

SECTION 1. 440 IAC 4.4-1-1 IS AMENDED TO READ AS FOLLOWS:

ARTICLE 4.4. ADDICTION TREATMENT SERVICES PROVIDER CERTIFICATION

440 IAC 4.4-1-1 Definitions

Authority: IC 12-8-8-4; IC 12-23-1-6

Affected: IC 12-7-2-11; IC 12-7-2-73

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

(1) “Accreditation” means an accrediting agency has granted approval to an entity to provide specific services after the entity has met specific requirements of the accrediting agency.

(2) “Accrediting agency” means an agency, included on a list of accrediting agencies approved by the division, that:

(A) has developed clinical, financial, and organizational standards for the operation of a provider of addiction **treatment** services; and

(B) ~~which~~ evaluates compliance with its established standards on a regularly scheduled basis.

(3) “Addiction **treatment** services” means a broad range of planned and continuing care, treatment, and rehabilitation, including, but not limited to, counseling, psychological, medical, and social service care designed to influence the behavior of individual alcohol abusers or drug abusers, based on an individual treatment plan.

(4) “Alcohol abuser” means an individual who has had repeated episodes of intoxication or drinking that impair the individual’s health or interfere with the individual’s effectiveness on the job, at home, in the community, or in operating a motor vehicle.

(5) “Certification” means the process used by the division to document an ~~organizations’s~~ **organization’s** compliance with the statutory and regulatory requirements for ~~operation~~ **operating** as a provider of addiction **treatment** services, including the issuance of a certificate if the entity is found to comply with this article.

(6) “Credentialing body” means an organization **approved by the division** that:

(A) has developed training, knowledge, and skills requirements for individuals who practice the treatment of addictions problems; and

(B) certifies that an individual meets those requirements.

(7) “Direct services provider” means an individual, **a contractor, employee, or volunteer** who provides counseling, psychological, medical, or social services **on behalf of a provider of addiction treatment services**.

(8) “Division” means the division of mental health **and addiction**.

(9) “Drug abuser” means an individual who:

(A) has developed a psychological or physical dependence on the effect of drugs or harmful substances; or

(B) abuses the use of drugs or harmful substances;

so that the individual or society is harmed or endangered.

- (10) "Entity" means any:
- (A) individual;
 - (B) firm;
 - (C) corporation;
 - (D) partnership;
 - (E) association;
 - (F) foundation;
 - (G) governmental unit; or
 - (H) agency;

whether public or private.

(11) "Incidental service" means a minor service provided to an individual in conjunction with other nonaddiction primary services by an entity that does not hold itself out as an addiction **treatment** services provider.

(12) "Intensive outpatient services" means a milieu of treatment, with a combination of counseling and education activities consisting of sessions at least two (2) hours in length, occurring at least three (3) days per week for a minimum duration of four (4) weeks per consumer.

(13) "Opioid addiction treatment provider" means an entity that runs a program that furnishes a comprehensive range of assessment, rehabilitation, and treatment services using Levo-Alpha-Acetyl-Methaldol (LAAM), methadone, or other narcotic substances approved by the federal government, for the detoxification and maintenance of persons addicted to heroin or other opiate-like substances.

(14) "Outpatient services" means the provision of therapeutic activities, either to the individual or in a group/conjoint session, that are related to the outcomes described in the individual treatment plan.

(Division of Mental Health and Addiction; 440 IAC 4.4-1-1; filed Apr 17, 1997, 10:00 a.m.: 20 IR 2400; readopted filed May 10, 2001, 2:30 p.m.: 24 IR 3235; filed Feb 11, 2002, 4:30 p.m.: 25 IR 2220)

SECTION 2. 440 IAC 4.4-2-1 IS AMENDED TO READ AS FOLLOWS:

440 IAC 4.4-2-1 Certification by the division

Authority: IC 12-8-8-4; IC 12-23-1-6
 Affected: IC 12-23-14

Sec. 1. (a) Every provider of addiction **treatment** services in **Indiana** must have either regular certification or outpatient certification issued by the division to provide addiction **treatment** services.

- (b) This rule does not apply to the following:
- (1) Addiction **treatment** services programs operated by the federal government.
 - (2) Prevention, education, or intervention services.
 - (3) Voluntary self-help groups.
 - (4) Any entity that provides addiction **treatment** services to alcohol abusers or drug abusers only as an incidental service.
- (5) Programs run by the Indiana department of correction.**

(6) Programs run in child caring institutions licensed by the division of family and children.

(c) An addiction **treatment** services provider who offers twenty-four (24) hour care must have one (1) of the following:

- (1) Regular certification under this article.
- (2) Residential care provider certification under 440 IAC 6 and outpatient certification under this article.

(d) An entity with a regular certification under this article is deemed a certified residential care provider under 440 IAC 6.

(e) In addition to ~~either regular or outpatient~~ certification, a provider must have specific approval by the division to be a ~~methadone opiod~~ *[sic., opioid]* **treatment** provider. The provider must comply with 21 CFR Part 291, **42 CFR 8**, and all other applicable federal laws, **regulations**, and guidelines.

(f) Detoxification services must be provided under the supervision of:

- (1) a physician; or
- (2) ~~an advanced practice;~~ **clinical nurse specialist;** licensed to practice in Indiana.

(g) An entity that has applied for certification or has been certified as an addiction **treatment** services provider must provide information related to services or the operation of the organization as required by the division.

(h) The division shall provide annually a list of approved accrediting agencies and a list of approved credentialing bodies.

(i) A copy of the most recent certification issued by the division must be available to the public upon request. *(Division of Mental Health and Addiction; 440 IAC 4.4-2-1; filed Apr 17, 1997, 10:00 a.m.: 20 IR 2401; readopted filed May 10, 2001, 2:30 p.m.: 24 IR 3235; filed Feb 11, 2002, 4:30 p.m.: 25 IR 2221)*

SECTION 3. 440 IAC 4.4-2-2 IS AMENDED TO READ AS FOLLOWS:

440 IAC 4.4-2-2 Requirements for certification

Authority: IC 12-8-8-4; IC 12-23-1-6
 Affected: IC 12-27

Sec. 2. Before commencing services, an ~~applicant~~ **entity must be certified** for regular certification or outpatient certification. **The entity** shall file an application with the division. The application shall contain the following:

- (1) The **legal** name of the applicant.
- (2) A description of the organizational structure and mission **statement** of the applicant, including the services to be provided and the populations to be served.
- (3) The location of all operational sites of the applicant.
- (4) A copy of the applicant's procedures to ensure protection

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of **client consumer** rights under IC 12-27 and confidentiality under 42 CFR Part 2.

(5) All materials requested by the division.

(Division of Mental Health and Addiction; 440 IAC 4.4-2-2; filed Apr 17, 1997, 10:00 a.m.: 20 IR 2401; readopted filed May 10, 2001, 2:30 p.m.: 24 IR 3235; filed Feb 11, 2002, 4:30 p.m.: 25 IR 2221)

SECTION 4. 440 IAC 4.4-2-3 IS AMENDED TO READ AS FOLLOWS:

440 IAC 4.4-2-3 Regular certification

Authority: IC 12-8-8-4; IC 12-23-1-6
Affected: IC 12-23-1-6

Sec. 3. (a) To be certified and to maintain regular certification as an addiction **treatment** services provider, the entity must maintain accreditation from an accrediting agency approved by the division.

(b) The application for regular certification as an addiction **treatment** services provider must include the following:

- (1) Proof of accreditation.
- (2) Site survey recommendations from the accrediting agency.
- (3) The applicant's responses to the site survey recommendations.

(c) The provider must take any action deemed to be necessary by the division in response to the site survey issued by the accrediting agency.

(d) When the division determines that the provider meets the requirements for regular certification as set forth in this article, the division shall issue a regular certification to the provider.

(e) The regular certification expires ninety (90) days after the expiration of the entity's accreditation.

(f) If the entity is not yet accredited, a temporary certification may be issued for twelve (12) months. Prior to the expiration of the temporary certification, the entity must provide proof of application to an accrediting body approved by the division.

(g) Upon the verification of the application for accreditation, the temporary certification may be extended for no more than twelve (12) additional months:

(h) Before the temporary certification expires, the applicant must forward to the division:

- (1) proof of accreditation;
- (2) site survey recommendations from the accrediting agency;
- (3) the applicant's responses to the site survey recommendations.

(Division of Mental Health and Addiction; 440 IAC 4.4-2-3; filed Apr 17, 1997, 10:00 a.m.: 20 IR 2401; readopted filed May 10, 2001, 2:30 p.m.: 24 IR 3235; filed Feb 11, 2002, 4:30 p.m.: 25 IR 2222)

SECTION 5. 440 IAC 4.4-2-3.5 IS ADDED TO READ AS FOLLOWS:

440 IAC 4.4-2-3.5 Temporary certification

Authority: IC 12-8-4; IC 12-23-1-6
Affected: IC 12-23-1-6

Sec. 3.5. (a) If the entity that has applied for regular certification is not yet accredited as an addiction treatment services provider, the entity must meet the requirement that at least one (1) of the direct service providers must be specifically credentialed in addictions counseling by a credentialing body approved by the division.

(b) Temporary certification may be issued for twelve (12) months. Prior to the expiration of the temporary certification, the entity must provide proof of application to an accrediting body approved by the division.

(c) If the applicant fails to provide proof of application to an accrediting body, or fails to maintain at least one (1) direct service provider credentialed in addictions counseling, the applicant may not reapply for regular certification until twelve (12) months after the temporary certification ends.

(d) Upon the verification of the application for accreditation, and continuing to meet the requirements set forth in this section, the temporary certification may be extended for no more than twelve (12) additional months.

(e) Before the extended temporary certification expires, the applicant must forward to the division the following:

- (1) Proof of accreditation.
- (2) Site survey recommendations from the accrediting agency.
- (3) The applicant's responses to the site survey recommendations.
- (4) Any other materials requested by the division as a part of the application process.

(f) If the applicant fails to achieve accreditation within twenty-four (24) months:

- (1) the applicant may not reapply for regular certification until twelve (12) months after the extended temporary certification ends; and
- (2) the applicant may choose to apply for outpatient certification, if the applicant meets the criteria for outpatient certification.

(Division of Mental Health and Addiction; 440 IAC 4.4-2-3.5; filed Apr 17, 1997, 10:00 a.m.: 20 IR 2401; filed Feb 11, 2002, 4:30 p.m.: 25 IR 2222)

SECTION 6. 440 IAC 4.4-2-4 IS AMENDED TO READ AS FOLLOWS:

440 IAC 4.4-2-4 Outpatient certification

Authority: IC 12-8-8-4; IC 12-23-1-6

Affected: IC 25-22.5-2; IC 25-23-1; IC 25-23.6; IC 25-33

Sec. 4. (a) If an entity has ten (10) or fewer, full-time or part-time, direct service providers, and meets the other criteria in this article, the entity may receive an outpatient certification from the division.

(b) The entity must provide a list of all direct service providers, including name, educational level, any degrees obtained, proof of current individual licensure ~~certification~~, or endorsement from a division approved credentialing body.

(c) At least fifty percent (50%) of the direct service providers must be licensed or ~~certified~~ **credentialed** as follows:

- (1) A ~~certified licensed~~ clinical social worker, a **licensed mental health counselor**, or a ~~certified licensed~~ marriage and family therapist. ~~from the social work certification and marriage and family therapists credentialing board (IC 25-23.6).~~
- (2) A psychologist (IC 25-33).
- (3) A physician (IC 25-22.5-2).
- (4) An advanced practice nurse or certified nursing specialist (IC 25-23-1). ~~or~~
- (5) An individual credentialed in addictions counseling by a credentialing body approved by the division.

(d) In addition, at least one (1) of the direct service providers must be specifically credentialed in addictions counseling by a credentialing body approved by the division.

(e) Applicants for outpatient certification must meet all requirements at the time of application in order to be certified.

(f) The division may require the applicant to resolve any problems identified by the division or the credentialing bodies.

(g) The division may issue an outpatient certification as an addiction **treatment** services provider to the applicant, after the division has determined that the applicant meets all of the criteria for outpatient certification set forth in this article.

(h) The outpatient certification shall expire two (2) years from the date it is issued.

~~(i) Programs which are certified by the divisions as addiction services providers on November 1, 1996, must meet the requirements set forth in this section by July 1, 1998: (Division of Mental Health and Addiction; 440 IAC 4.4-2-4; filed Apr 17, 1997, 10:00 a.m.: 20 IR 2402; readopted filed May 10, 2001, 2:30 p.m.: 24 IR 3235; filed Feb 11, 2002, 4:30 p.m.: 25 IR 2223)~~

SECTION 7. 440 IAC 4.4-2-4.5 IS ADDED TO READ AS FOLLOWS:

440 IAC 4.4-2-4.5 Uniform criteria for programs that are certified as outpatient under section 4 of this rule

Authority: IC 12-8-8-4; IC 12-23-1-6

Affected: IC 12-23-4-5

Sec. 4.5. (a) Each outpatient certified program shall provide at least outpatient treatment services and may provide intensive outpatient treatment services to those individuals whose assessments indicate a need for these services.

(b) If an outpatient certified program has or holds itself out as having intensive outpatient treatment services, it shall meet the requirements at 440 IAC 4.4-1-1(12).

(c) Each program shall have specific minimum admission criteria, including the following:

- (1) The consumer has a documented history of current excessive use of alcohol or other drugs.**
- (2) The individual is experiencing significant functional impairments in one (1) or more of the following areas:**
 - (A) Activities of daily living.**
 - (B) Interpersonal functioning.**
 - (C) Psychological functioning.**
 - (D) Ability to live without recurrent abuse of chemicals.**
- (3) The program shall consider whether the consumer has adequate support systems to foster recovery.**
- (4) There are no presenting medical or unstable psychiatric conditions that would preclude the consumer's participation in this level of treatment.**
- (5) A more intensive level of treatment is not indicated from the intake and assessment.**

(d) The program shall have a written policy and procedure for conducting consumer intake assessments meeting the following criteria:

- (1) The consumer intake assessment shall take place within two (2) weeks of the consumer's first contact with the agency.**
- (2) The intake assessment shall include, but not be limited to, the following items of information:**
 - (A) A psychosocial history.**
 - (B) Emotional and behavioral functioning.**
 - (C) Alcohol and other drug use history.**
 - (D) Medical conditions.**
- (3) The individual shall be screened for co-occurring disorders.**

(e) The program shall refer the individual to appropriate treatment, or link with another program with special expertise if:

- (1) there are medical or unstable psychiatric conditions that would preclude the consumer's participation in this level of treatment; or**

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(2) a more intensive level of treatment is indicated from the assessment.

(f) The program shall have written policies and procedures for the development of a treatment plan, which includes, at a minimum, the following:

- (1) Each consumer shall have an individualized treatment plan.
- (2) Each consumer shall have the opportunity to participate in developing the treatment plan.
- (3) The comprehensive treatment plan shall be completed by the third session.
- (4) Each treatment plan shall be reviewed as appropriate with the consumer, but at least every sixty (60) calendar days, and revised as necessary.
- (5) The review of the treatment plan shall address the attainment of treatment goals.

(g) Each individual treatment plan shall include, at a minimum, the following:

- (1) Consumer problems to be addressed.
- (2) Specific goals written in terms of measurable criteria for proposed outcomes of each identified problem.
- (3) Therapeutic activities and their frequency.
- (4) Referrals for needed services that are not provided by the program.
- (5) Staff persons responsible for working with each identified goal.
- (6) Plans for involvement in appropriate support groups.
- (7) The consumer's signature indicating that he or she has reviewed and understands the contents of the service plan and any revisions thereafter.

(h) The program shall have a policy and procedure for recording consumer progress that addresses, at a minimum, the following:

- (1) A consumer record shall be completed for each therapeutic activity and its relationship to the service plan.
- (2) The date and identity of the person making the entry.
- (3) Entries shall be made after each consumer contact.

(i) The program shall have written policies and procedures for discharge planning that shall include, but not be limited to, the following criteria:

- (1) The discharge plan shall be reviewed by the consumer.
- (2) The discharge summary shall include, at a minimum, indicators of the following:
 - (A) The consumer's progress in achieving outcomes for each goal of the treatment plan.
 - (B) A final evaluation.
 - (C) Recommendations for care after discharge.
- (3) The discharge summary shall be completed within thirty (30) calendar days following discharge.

(Division of Mental Health and Addiction; 440 IAC 4.4-2-4.5;

filed Apr 17, 1997, 10:00 a.m.: 20 IR 2402; filed Feb 11, 2002, 4:30 p.m.: 25 IR 2223)

SECTION 8. 440 IAC 4.4-2-5 IS AMENDED TO READ AS FOLLOWS:

440 IAC 4.4-2-5 Maintenance of certification

Authority: IC 12-8-8-4; IC 12-23-1-6

Affected: IC 12-23-1-6

Sec. 5. Maintenance of certification is dependent upon the following:

(1) For regular certification, the entity shall maintain accreditation from an approved accrediting agency.

(2) For temporary certification, the entity shall do the following:

(A) Fulfill the requirements regarding direct service provider credentials.

(B) If, for more than thirty (30) days, there is no direct service provider who has a specific addictions counseling credential the entity must immediately notify the division with a plan of correction.

(C) The division may continue the certification for another sixty (60) days while the entity comes into compliance with the requirements.

(2) (3) For outpatient certification, the entity shall do the following:

(A) Fulfill the requirements regarding direct service provider credentials.

(B) Maintain a file containing documentation of current licensure or certification for each direct service provider.

(C) If, for more than ~~ninety (90)~~ thirty (30) days:

(i) the number of licensed or certified direct service providers drops below fifty percent (50%) of the direct service providers; or

(ii) there is no direct service provider who has a specific addictions counseling credential;

the entity must immediately notify the division with a plan of correction.

(D) The division may continue the certification for another ~~ninety (90)~~ sixty (60) days while the entity comes into compliance with the requirements.

(3) (4) If the number of direct service providers in an entity with outpatient certification increases to eleven (11) or more, the entity must immediately notify the division and begin the process for regular certification as set forth in this article.

(4) (5) For either regular certification or outpatient certification, the entity shall do the following:

(A) Have written policies and enforce these policies to support and protect the fundamental human, civil, constitutional, and statutory rights of each ~~client~~ consumer. The entity shall give a written statement of rights to each ~~client~~ consumer and, in addition, the entity shall document that staff provides an oral explanation of these rights to each ~~client~~ consumer.

(B) Maintain compliance with required health, fire, and safety codes as prescribed by federal and state law.

(Division of Mental Health and Addiction; 440 IAC 4.4-2-5; filed Apr 17, 1997, 10:00 a.m.: 20 IR 2402; readopted filed May 10, 2001, 2:30 p.m.: 24 IR 3235; filed Feb 11, 2002, 4:30 p.m.: 25 IR 2224)

SECTION 9. 440 IAC 4.4-2-6 IS AMENDED TO READ AS FOLLOWS:

440 IAC 4.4-2-6 Notification of changes

Authority: IC 12-8-8-4; IC 12-23-1-6
Affected: IC 12-27

Sec. 6. (a) An entity which is certified under this article must notify the division, in writing, of any of the following:

- (1) Change in location of any of the addiction treatment services operational sites, including additions, deletions, and expansion.
- (2) Changes in the addiction **treatment** services provided or changes in the populations served.
- (3) Change in ownership.
- (4) The violation of health, fire, or safety codes as prescribed by federal and state laws.
- (5) Documented violation of a ~~client's~~ **consumer's** rights under IC 12-27 and under 42 CFR ~~Part~~ 2.

(b) If an entity has outpatient certification, the entity must notify the division of changes in the number of direct service providers when any of the following occurs:

- (1) The direct service providers number eleven (11) or more.
- (2) For more than ~~ninety (90)~~ **thirty (30)** days, the number of licensed ~~certified~~, or credentialed direct service providers drops below fifty percent (50%).
- (3) For more than ~~ninety (90)~~ **thirty (30)** days, there is no direct service provider who is specifically credentialed in addictions counseling.

(c) If an entity has a temporary certification, the entity must notify the division if, for more than thirty (30) days, there is no direct service provider who is specifically credentialed in addictions counseling.

~~(c)~~ **(d)** If an entity has a regular certification, the entity must notify the division of the following:

- (1) Change in the accrediting agency to provide accreditation.
- (2) Change in the accreditation status of the entity.

(Division of Mental Health and Addiction; 440 IAC 4.4-2-6; filed Apr 17, 1997, 10:00 a.m.: 20 IR 2402; readopted filed May 10, 2001, 2:30 p.m.: 24 IR 3235; filed Feb 11, 2002, 4:30 p.m.: 25 IR 2225)

SECTION 10. 440 IAC 4.4-2-7 IS AMENDED TO READ AS FOLLOWS:

440 IAC 4.4-2-7 Renewal of certification

Authority: IC 12-8-8-4; IC 12-23-1-6
Affected: IC 12-23-1-6

Sec. 7. (a) To renew certification under this article, the provider shall submit a request for certification **thirty (30) days prior to the expiration of the application** on a form prepared by the division, which shall ~~include~~ **consist of all materials requested by the division, including** the following:

- (1) For regular certification, proof of accreditation, including the most recent site survey recommendations and the entity's response to these recommendations.
- (2) For outpatient certification, **the following:**
 - (A) Proof of current licensure or certification credential of individual direct service providers.**
 - (B) Proof of compliance with the uniform criteria for outpatient programs, set forth at section 4.5 of this rule.**

(b) The division may require the applicant to resolve any problems identified by the division, a credentialing body, or the accrediting agency before the division issues a renewal certificate.

(c) When a request for the renewal of certification is deemed to be complete by the division and the applicant has taken any action which is deemed necessary by the division, the division shall issue a new certificate.

(d) If the entity has a regular certification, this certification shall expire ninety (90) days after the expiration of the entity's accreditation from the accrediting agency.

(e) If the entity has an outpatient certification, this certification shall expire two (2) years from the date it is issued. *(Division of Mental Health and Addiction; 440 IAC 4.4-2-7; filed Apr 17, 1997, 10:00 a.m.: 20 IR 2403; readopted filed May 10, 2001, 2:30 p.m.: 24 IR 3235; filed Feb 11, 2002, 4:30 p.m.: 25 IR 2225)*

SECTION 11. 440 IAC 4.4-2-8 IS AMENDED TO READ AS FOLLOWS:

440 IAC 4.4-2-8 Conditional status for regular and outpatient certification

Authority: IC 12-8-8-4; IC 12-23-1-6
Affected: IC 12-23-1-6

Sec. 8. (a) The division shall issue a conditional ~~certification~~ **status** under this article upon the division's investigation and determination of any of the following conditions:

- (1) A substantive change in the entity's accreditation status other than revocation of the accreditation.
- (2) Failure of the entity to renew accreditation within ninety (90) days following expiration of the entity's current accreditation by the entity's accrediting agency.
- (3) Failure to comply with this article.
- (4) **Any** conduct or ~~any~~ practice in the operations of the entity that is found by the division to be detrimental to the welfare of persons served by the organization.
- (5) The physical safety of the ~~clients~~ **consumers** or staff of the entity is compromised by a physical or sanitary condition of a physical facility of the entity.

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(6) Violation of a federal or state statute, rule, or regulation in the course of the operation of the entity.

(b) The time period of a conditional **certification status** is determined by the division, but may not exceed ~~eighteen (18)~~ **twelve (12) months from the date the conditional status was effective.**

(c) The division shall notify the entity of the following:

(1) The requirements not met and the **actions intermediate steps required by the division that** the entity must take to meet those requirements.

(2) The time period granted by the division for the entity to meet the requirements.

~~(d) The division shall reinstate regular certification if the entity meets the requirements.~~

~~(d)~~ (d) The division shall terminate the entity's certification if the entity fails to meet the requirements within the allotted time period. (*Division of Mental Health and Addiction; 440 IAC 4.4-2-8; filed Apr 17, 1997, 10:00 a.m.: 20 IR 2403; readopted filed May 10, 2001, 2:30 p.m.: 24 IR 3235; filed Feb 11, 2002, 4:30 p.m.: 25 IR 2225*)

SECTION 12. 440 IAC 4.4-2-9 IS AMENDED TO READ AS FOLLOWS:

440 IAC 4.4-2-9 Termination of certification

Authority: IC 12-8-8-4; IC 12-23-1-6

Affected: IC 12-23-1-6

Sec. 9. (a) The division shall terminate the certification of the entity if the following occurs:

(1) The entity's accreditation is revoked.

(2) The entity that has a conditional **certification status** does not meet the requirements of the division within the period of time required.

(3) The entity fails to provide proof of application for accreditation prior to the expiration of the initial temporary certification.

(4) The entity fails to become accredited within twenty-four (24) months of receiving a temporary certification.

(b) The division shall notify the Indiana family and social services administration and the department of administration that the entity's certification has been terminated.

(c) An entity whose regular certification is terminated may not reapply for regular certification as an addiction services treatment provider until the lapse of one (1) year from the date of termination.

(d) An entity whose outpatient certification is terminated may not reapply for regular certification as an addiction services treatment provider until the lapse of one (1) year from the date of termination. (*Division of Mental Health and*

Addiction; 440 IAC 4.4-2-9; filed Apr 17, 1997, 10:00 a.m.: 20 IR 2403; readopted filed May 10, 2001, 2:30 p.m.: 24 IR 3235; filed Feb 11, 2002, 4:30 p.m.: 25 IR 2226)

SECTION 13. 440 IAC 4.4-2-11 IS ADDED TO READ AS FOLLOWS:

440 IAC 4.4-2-11 Appeals

Authority: IC 12-8-8-4; IC 12-23-1-6

Affected: IC 4-21.5-3

Sec. 11. A party who is aggrieved by any adverse action taken under this rule may appeal under IC 4-21.5-3. (*Division of Mental Health and Addiction; 440 IAC 4.4-2-11; filed Feb 11, 2002, 4:30 p.m.: 25 IR 2226*)

LSA Document #01-263(F)

Notice of Intent Published: 24 IR 3660

Proposed Rule Published: October 1, 2001; 25 IR 157

Hearing Held: October 25, 2001

Approved by Attorney General: January 23, 2002

Approved by Governor: February 7, 2002

Filed with Secretary of State: February 11, 2002, 4:30 p.m.

Incorporated Documents Filed with Secretary of State: None

TITLE 460 DIVISION OF DISABILITY, AGING, AND REHABILITATIVE SERVICES

LSA Document #01-204(F)

DIGEST

Amends 460 IAC 3.5-2-1 to update the unit of service reimbursement rates for adult day services paid by the division of disability, aging, and rehabilitative services to approved providers. Adult day services are provided to eligible individuals with a developmental disability. Effective 30 days after filing with the secretary of state.

460 IAC 3.5-2-1

SECTION 1. 460 IAC 3.5-2-1 IS AMENDED TO READ AS FOLLOWS:

460 IAC 3.5-2-1 Unit of service reimbursement rates

Authority: IC 12-8-8-4

Affected: IC 12-7-2-39; IC 12-7-2-61; IC 12-9-2-6

Sec. 1. (a) The units of adult day services specified in this section shall be reimbursed by the division at the following corresponding rates:

Unit of Adult Day Service	Unit Service	Rate
Supported employment follow-along	1 hour	\$36.95
Community-based sheltered work	1 hour	\$5.43
		\$5.67

Sheltered work	1 hour	\$2.75
Group habilitation	1 hour	\$5.11 \$5.34
Individual habilitation	1 hour	\$27.58 \$28.82
Group occupational therapy	15 minutes	\$5.04
Individual occupational therapy	15 minutes	\$20.13
Group physical therapy	15 minutes	\$5.87
Individual physical therapy	15 minutes	\$23.49
Group speech therapy	15 minutes	\$4.24
Individual speech therapy	15 minutes	\$16.97
Transportation	1 round trip	\$8.91

(b) For the following rates, at least eighty percent (80%) of the unit rate increase from the previously published unit rate must be paid by the provider to the hourly wages of direct care staff:

Adult Day Service	Unit of Service Rate	Previous Unit Rate	New Unit Rate
Community-based sheltered work	1 hour	\$5.43	\$5.67
Group habilitation	1 hour	\$5.11	\$5.34
Individual habilitation	1 hour	\$27.58	\$28.82

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 3.5-2-1; filed Mar 18, 1996, 11:00 a.m.: 19 IR 2041; filed Feb 11, 2002, 4:27 p.m.: 25 IR 2226)

*LSA Document #01-204(F)
Notice of Intent Published: 24 IR 3100
Proposed Rule Published: October 1, 2001; 25 IR 163
Hearing Held: October 29, 2001
Approved by Attorney General: January 23, 2002
Approved by Governor: February 7, 2002
Filed with Secretary of State: February 11, 2002, 4:27 p.m.
Incorporated Documents Filed with Secretary of State: None*

TITLE 511 INDIANA STATE BOARD OF EDUCATION

LSA Document #01-163(F)

DIGEST

Adds 511 IAC 6.2-6 to establish criteria and procedures for assessing school improvement, establishing categories or designations of school improvement, and placing schools in categories or designations of school improvement as required by IC 20-10.2-5. Effective 30 days after filing with the secretary of state.

511 IAC 6.2-6

SECTION 1. 511 IAC 6.2-6 IS ADDED TO READ AS FOLLOWS:

Rule 6. Assessing School Improvement and Performance

511 IAC 6.2-6-1 Relationship to academic standards

Authority: IC 20-10.2-7-1
Affected: IC 20-1-20.5-3; IC 20-1-1-6; IC 20-5-62-6; IC 20-5.5; IC 20-10.1-16; IC 20-10.1-17; IC 20-10.2-5

Sec. 1. New more rigorous, clear, and concise academic standards were adopted in 2000 in mathematics and language arts. These standards will first be tested in 2002 for grades 3, 6, and 8 and in 2004 for grade 10. The scores to pass these tests will be set at the levels necessary for students to demonstrate solid academic performance on the standards. These scores will not be set or skewed for the reason to cause more or fewer students to pass or more or fewer schools to rise or fall in category placements. The education roundtable may recommend and the board may set additional higher levels of proficiency to encourage increased achievement for advanced students. (Indiana State Board of Education; 511 IAC 6.2-6-1; filed Feb 20, 2002, 10:55 a.m.: 25 IR 2227)

511 IAC 6.2-6-2 Primary indicators of improvement and performance; required administration of mandatory annual assessments

Authority: IC 20-10.2-7-1
Affected: IC 20-1-20.5-3; IC 20-1-1-6; IC 20-5-62-6; IC 20-5.5; IC 20-10.1-16; IC 20-10.1-17; IC 20-10.2-5

Sec. 2. (a) The primary indicators of school improvement and performance, as recommended by the education roundtable created by IC 20-1-20.5-3 and approved by the board, are the following:

- (1) ISTEP English/language arts and mathematics tests at grades 3, 6, 8, and 10.**
- (2) English/language arts and mathematics tests at grades 4, 5, 7, and 9.**
- (3) ISTEP science tests and social studies tests, when implemented, at grades 5, 7, and 9.**
- (4) Science and social studies tests at grades 4, 6, and 8.**
- (5) Core 40 end-of-course exams.**

(b) The tests in subsection (a) collectively are referred to as mandatory annual assessments.

(c) Mandatory annual assessments shall be administered by the following schools:

- (1) Public schools.**
- (2) Accredited nonpublic schools.**
- (3) Freeway schools under IC 20-5-62 unless a freeway school contract provides for a locally adopted assessment as permitted by IC 20-5-62-6(7).**
- (4) Charter schools under IC 20-5.5.**

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(d) If the board determines that adequate resources are not available to support administration of all mandatory annual assessments, the schools in subsection (c) are required to administer only the following:

- (1) ISTEP English/language arts and mathematics tests at grades 3, 6, 8, and 10.
- (2) ISTEP science tests and social studies tests, when implemented, at grades 5, 7, and 9.

(Indiana State Board of Education; 511 IAC 6.2-6-2; filed Feb 20, 2002, 10:55 a.m.: 25 IR 2227)

511 IAC 6.2-6-3 Requirements for mandatory annual assessments; state provided tests; approval of locally adopted tests at certain grade levels

Authority: IC 20-10.2-7-1

Affected: IC 20-1-1-6; IC 20-10.1-16-5; IC 20-10.1-17; IC 20-10.2-5

Sec. 3. (a) The mandatory annual assessments in section 2 of this rule must meet all of the following criteria:

- (1) Be aligned with the Indiana academic standards.
- (2) Test basic skills and applied skills as required by IC 20-10.1-16-5(b).
- (3) Be graded on a common vertical scale.
- (4) Meet security requirements listed in the ISTEP program manual.
- (5) Provide, as appropriate, a method of testing and grading that will allow comparison with national and international academic standards, as required by IC 20-10.1-16-5(b)(3).

(b) The board and department shall develop and provide mandatory annual assessments.

(c) The schools in section 2(c) of this rule shall administer the following without substitution:

- (1) ISTEP English/language arts and mathematics tests at grades 3, 6, 8, and 10.
- (2) ISTEP science tests and social studies tests, when implemented, at grades 5, 7, and 9.

(d) The schools in section 2(c) of this rule may, with the approval of the board, substitute locally adopted tests for the following:

- (1) English/language arts and mathematics tests at grades 4, 5, 7, and 9.
- (2) Science and social studies tests at grades 4, 6, and 8.

(e) The board may approve a locally adopted test only if the test:

- (1) meets the criteria in subsection (a);
- (2) has been reviewed for alignment with Indiana academic standards and recommended for approval, as being in alignment with the standards, by an entity experienced in determining alignment of tests with academic standards; and

(3) has been reviewed for alignment with psychometric properties of ISTEP and recommended for approval, as being in alignment with those psychometric properties, by an independent panel of individuals appointed by the department and experienced in examining psychometric properties of tests.

(f) Information to substantiate that the test meets the requirements of subsection (e) may be provided by the school or by the publisher of the test. *(Indiana State Board of Education; 511 IAC 6.2-6-3; filed Feb 20, 2002, 10:55 a.m.: 25 IR 2228)*

511 IAC 6.2-6-4 School improvement and performance categories; placement of school in categories; measures used; nonmobile cohort group of students

Authority: IC 20-10.2-7-1

Affected: IC 20-1-1-6; IC 20-10.2-5

Sec. 4. (a) The base year for improvement and performance determinations for elementary and middle schools will be the 2003-2004 school year. The base year for high schools will be the 2004-2005 school year.

(b) Beginning in the 2005-2006 school year, the board annually shall place a school in a school improvement and performance category based on results of mandatory annual assessments. English/language arts and mathematics test results will be used initially. Science and social studies test results will be added when those tests are implemented.

(c) School performance is based on the percentage of all students who pass mandatory annual assessments in English/language arts and mathematics calculated as an average rate across subject areas and grade levels. Science and social studies test results will be added when those tests are implemented.

(d) School improvement is based on increases in achievement of a nonmobile cohort group of students as they progress through school. Increases in achievement will be measured by percentage point increases in students who pass mandatory annual assessments in English/language arts and mathematics calculated as an average rate across subject areas and grade levels.

(e) The nonmobile cohort group of students referred to in subsection (a) includes students enrolled in the school for at least seventy percent (70%) of the school year preceding testing.

(f) After the initial determinations of school improvement, the level of school improvement shall be determined by the average of the yearly improvement for the three-year period that includes the current year and the two (2) previous years (three-year rolling average).

(g) The initial determination of school improvement for

a high school will be based on a comparison of the base year to the next year. The second determination shall be based on a two (2) year average.

(h) The initial determination of school improvement for an elementary school or a middle school will be based on a two (2) year average. (*Indiana State Board of Education; 511 IAC 6.2-6-4; filed Feb 20, 2002, 10:55 a.m.: 25 IR 2228*)

511 IAC 6.2-6-5 Categories of school improvement and performance

Authority: IC 20-10.2-7-1
Affected: IC 20-1-1-6; IC 20-10.2-5

Sec. 5. (a) The following categories of school improvement and performance are established effective with the 2005-2006 school year:

Performance	Exemplary Progress	Commendable Progress	Improvement		
			Academic Progress	Academic Watch (Priority)	Academic Probation (High Priority)
≥90%			Exemplary School		
≥80%	≥1%		Commendable School		
≥70%	≥3%	≥2%	≥1%	<1%	
≥60%	≥4%	≥3%	≥2%	<2%	
≥50%	≥5%	≥4%	≥3%	<3%	<0%
≥40%	≥6%	≥5%	≥4%	<4%	<1%
<40%		≥6%	≥5%	≥3%	<3%

(b) The following categories of school improvement and performance are established effective with the 2009-2010 school year:

Performance	Exemplary Progress	Commendable Progress	Improvement		
			Academic Progress	Academic Watch (Priority)	Academic Probation (High Priority)
≥90%			Exemplary School		
≥80%	≥1%		Commendable School		
≥70%	≥3%	≥2%	≥1%	<1%	
≥60%	≥4%	≥3%	≥2%	<2%	<0%
≥50%	≥5%	≥4%	≥3%	<3%	<1%
<50%		≥5%	≥4%	≥3%	<3%

(c) The categories in subsection (b) shall be phased in over the four (4) years from the 2005-2006 school year to the 2009-2010 school year.

(*Indiana State Board of Education; 511 IAC 6.2-6-5; filed Feb 20, 2002, 10:55 a.m.: 25 IR 2229*)

(d) A school will not be placed in a lower category based on lack of continuous improvement, until two (2) years of the three-year rolling average is in effect.

511 IAC 6.2-6-6 Additional requirements for category placement

Authority: IC 20-10.2-7-1
Affected: IC 20-1-1-6; IC 20-10.2-5

(e) By May 15, 2003, the education roundtable and the state board will review results from ISTEP tests for the 2002-2003 school year, the first administration of assessments aligned to the new, more rigorous standards described in 511 IAC 6.2-6-1 [section 1 of this rule]. Using the available data, the roundtable may recommend and the state board may may [sic.] adjust:

Sec. 6. Notwithstanding the provisions of sections 4 and 5 of this rule, the following provisions apply to category placement for high schools:

- (1) Before high schools are placed into categories, the roundtable will recommend and the state board will establish criteria for the exemplary and commendable categories for required improvement in:
 - (A) advanced placement (AP) test scores;
 - (B) results of Core 40 end-of-course exams; and
 - (C) graduates who earn the academic honors diploma and Core 40 diploma;

- (1) the school improvement and performance categories in subsection (a) and subsection (b) [subsections (a) and (b)]; and
- (2) the phase-in period in subsection (c).

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expressed as a percentage of the members of a particular graduating class.

(2) High schools in all categories will be required to meet a minimum graduation rate that may vary by category. Criteria for the third (middle) category may be established as an incentive for a school to move up one (1) or two (2) categories.

(Indiana State Board of Education; 511 IAC 6.2-6-6; filed Feb 20, 2002, 10:55 a.m.: 25 IR 2229)

511 IAC 6.2-6-7 Support to schools

Authority: IC 20-10.2-7-1

Affected: IC 20-1-1-6; IC 20-10.2-5; IC 20-10.2-6

Sec. 7. The board and department will provide attention and support to schools as follows:

(1) Data from the 2002 test administration will be used to identify and provide assistance to schools in the lowest categories and students not meeting standards in other schools.

(2) Schools in the academic probation (high priority) category will receive assistance as permitted and required by IC 20-10.2-6.

(Indiana State Board of Education; 511 IAC 6.2-6-7; filed Feb 20, 2002, 10:55 a.m.: 25 IR 2230)

511 IAC 6.2-6-8 Disaggregated data and category placement

Authority: IC 20-10.2-7-1

Affected: IC 20-1-1-6; IC 20-10.2-5

Sec. 8. After disaggregated data become available, it is the intent of the board to base category placement on improvement and performance of defined groups of students. *(Indiana State Board of Education; 511 IAC 6.2-6-8; filed Feb 20, 2002, 10:55 a.m.: 25 IR 2230)*

511 IAC 6.2-6-9 Study of effects of mobility

Authority: IC 20-10.2-7-1

Affected: IC 20-1-1-6; IC 20-10.2-5

Sec. 9. After data on the effects of interdistrict and intradistrict student mobility become available, it is the intent of the board to review and, if necessary, adjust the definition of nonmobile students in section 4(d) [4(e)] of this rule. *(Indiana State Board of Education; 511 IAC 6.2-6-9; filed Feb 20, 2002, 10:55 a.m.: 25 IR 2230)*

511 IAC 6.2-6-10 Comprehensive assessment system; incentives for participation

Authority: IC 20-10.2-7-1

Affected: IC 20-1-1-6; IC 20-10.1-16-15; IC 20-10.1.17; IC 20-10.2-4

Sec. 10. (a) The comprehensive assessment system includes the following:

(1) Mandatory annual assessments as described in section 1 of this rule.

(2) Core 40 end-of-course tests established pursuant to IC 20-10.1-16-15(b).

(3) Early assessments in kindergarten through grade 2, established pursuant to IC 20-10.1-16-15(c).

(b) The board and department will develop and make available to schools the assessments and tests described in subsection (a)(2) and (a)(3).

(c) Schools that participate in the comprehensive assessment system:

(1) are eligible for educational achievement grants, including awards under IC 20-10.2-4 and P.L. 291-2001, SECTION 4; and

(2) will receive a proportionally greater share of remediation funds, including grants under IC 20-10.1-17 and P.L. 291-2001, SECTION 4.

(Indiana State Board of Education; 511 IAC 6.2-6-10; filed Feb 20, 2002, 10:55 a.m.: 25 IR 2230)

511 IAC 6.2-6-11 Reporting other data

Authority: IC 20-10.2-7-1

Affected: IC 20-1-1-6; IC 20-10.2-5

Sec. 11. The school performance report card requires public reporting of specified data by grade and subject. The school report card also will include the school improvement and performance category and detail the percentage of students meeting academic standards, percentage of improvement, and percentage of students receiving free lunches. *(Indiana State Board of Education; 511 IAC 6.2-6-11; filed Feb 20, 2002, 10:55 a.m.: 25 IR 2230)*

511 IAC 6.2-6-12 Appeal of category placement

Authority: IC 20-10.2-7-1

Affected: IC 20-1-1-6; IC 20-10.2-5

Sec. 12. The state board of education shall develop criteria for a school to appeal its category placement based on objective factors the school considers relevant because the annual assessment data does not provide an accurate picture of school improvement and performance, including significant demographic changes in the student population, errors in data, or other significant issues. *(Indiana State Board of Education; 511 IAC 6.2-6-12; filed Feb 20, 2002, 10:55 a.m.: 25 IR 2230)*

LSA Document #01-163(F)

Notice of Intent Published: 24 IR 2726

Proposed Rule Published: August 1, 2001; 24 IR 3765

Hearing Held: September 5, 2001, September 6, 2001

Approved by Attorney General: February 1, 2002

Approved by Governor: February 14, 2002

Filed with Secretary of State: February 20, 2002, 10:55 a.m.

Incorporated Documents Filed with Secretary of State: None

TITLE 511 INDIANA STATE BOARD OF EDUCATION

LSA Document #01-212(F)

DIGEST

Amends 511 IAC 6.1 concerning provisions for a transition from the performance-based accreditation system to the system of accountability for school performance and improvement created by IC 20-10.2. Effective 30 days after filing with the secretary of state.

- | | |
|---------------------------|---------------------------|
| 511 IAC 6-2-1 | 511 IAC 6.1-1-12 |
| 511 IAC 6.1-0.5 | 511 IAC 6.1-1-13 |
| 511 IAC 6.1-1-1 | 511 IAC 6.1-1-13.5 |
| 511 IAC 6.1-1-2 | 511 IAC 6.1-1-15 |
| 511 IAC 6.1-1-3 | 511 IAC 6.1-2-1 |
| 511 IAC 6.1-1-4 | 511 IAC 6.1-2-6 |
| 511 IAC 6.1-1-5 | 511 IAC 6.1-3-1 |
| 511 IAC 6.1-1-6 | 511 IAC 6.1-4-1 |
| 511 IAC 6.1-1-7 | 511 IAC 6.1-5-7 |
| 511 IAC 6.1-1-8 | 511 IAC 6.1-5-9 |
| 511 IAC 6.1-1-9 | 511 IAC 6.1-5-10 |
| 511 IAC 6.1-1-11 | 511 IAC 6.1-7 |
| 511 IAC 6.1-1-11.5 | |

SECTION 1. 511 IAC 6.1-0.5 IS ADDED TO READ AS FOLLOWS:

ARTICLE 6.1. SCHOOL ACCREDITATION

Rule 0.5. Applicability

511 IAC 6.1-0.5-1 Applicability to schools

Authority: IC 20-1-1-6; IC 20-1-1.2-18
Affected: IC 20-1-1.2-2

Sec. 1. This article applies only to the following:

- (1) Public schools.**
- (2) Nonpublic schools that voluntarily become accredited.**
(Indiana State Board of Education; 511 IAC 6.1-0.5-1; filed Feb 20, 2002, 9:43 a.m.: 25 IR 2231)

SECTION 2. 511 IAC 6.1-1-1 IS AMENDED TO READ AS FOLLOWS:

Rule 1. School Accreditation System

511 IAC 6.1-1-1 School accreditation

Authority: IC 20-1-1-6; IC 20-1-1.2-18; IC 20-10.2-1-1
Affected: IC 20-1-1.2; IC 20-5-62; IC 20-5.5; IC 20-10.2-3; IC 20-10.2-5

Sec. 1. In order to be accorded full accreditation status, schools in Indiana must: **(a) A public school must be accredited. A nonpublic school may seek accreditation.**

(b) A school may be accredited by meeting the following criteria:

(1) Comply with those the legal standards that insure the school has the necessary resources, personnel, programs, and safety standards in order to provide an educational program in a safe environment that is conducive to learning. **in section 4 of this rule.**

(2) Comply with the school improvement plan requirements of IC 20-10.2-3 by doing one (1) of the following:

(A) Complete a continuous and strategic school improvement and achievement plan that serves as a basis for assessment of school effectiveness, a structure for organizing evaluation efforts, and an impetus for mobilizing improvement efforts, and meets the requirements of IC 20-10.2-3 and 511 IAC 6.2-3.

(B) Implement a quality-focused approach to strategic and continuous school improvement, such as the criteria for the Malcolm Baldrige National Quality Award for Education or the criteria for a national or regional accrediting agency approved by the state board.

(3) Meet expected school improvement and performance levels in the following areas:

- (A) Student attendance rate.**
- (B) Graduation rate.**
- (C) ISTEP results.**
- (D) Reading and mathematics proficiencies. requirements under IC 20-10.2-5.**

(c) The board shall accredit a nonpublic school that:

- (1) becomes a freeway school under IC 20-5-62; and**
- (2) complies with the terms of the freeway school contract.**

(d) The board shall accredit a school that:

- (1) becomes a charter school under IC 20-5.5; and**
- (2) complies with the requirements of IC 20-5.5.**

(e) A school holding accreditation under the former performance-based accreditation system shall retain accreditation until the transition to the accreditation system described in this rule is complete. *(Indiana State Board of Education; 511 IAC 6.1-1-1; filed Jan 9, 1989, 11:00 a.m.: 12 IR 1184; readopted filed Oct 12, 2001, 12:55 p.m.: 25 IR 937; filed Feb 20, 2002, 9:43 a.m.: 25 IR 2231)*

SECTION 3. 511 IAC 6.1-1-2 IS AMENDED TO READ AS FOLLOWS:

511 IAC 6.1-1-2 Definitions

Authority: IC 20-1-1-6; IC 20-1-1.2-18
Affected: IC 20-1-1.2; IC 20-6.1-8; IC 20-6.1-9; IC 20-10.1-16; IC 20-10.1-17

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

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(b) “Academic standards” means the skills and knowledge base expected of students for a particular subject area at a particular grade level.

~~(b)~~ **(c) “Accreditation year” means the year from July 1 to June 30.**

~~(c)~~ **(d) “Attendance center” means one (1) or more buildings where the school’s program serves pupils who reside in an attendance area.**

~~(d)~~ **(e) “Credit” means a minimum of two hundred fifty (250) minutes of instruction per week for one (1) semester, except in the case of basic physical education courses where one (1) school year of instruction is required for one (1) credit.**

~~(e)~~ **(f) “Curriculum” means the planned interaction of pupils with instructional content, materials, resources, and processes for evaluating the attainment of educational objectives.**

~~(f)~~ **(g) “Department” means the Indiana department of education.**

~~(g)~~ **(h) “Dropout” means a student who was enrolled in school during the current school year or the previous summer recess, who left the educational system during the current school year or the previous summer recess, who has not graduated from high school, and who does not meet any of the following exclusionary conditions:**

- (1) Death.
- (2) Temporary absence due to suspension or a school excused absence.
- (3) Transfer to a public or nonpublic school.

~~(h)~~ **(i) “Dropout rate” means the number determined under STEP THREE of the following formula:**

STEP ONE: Determine the number of students enrolled on October 1 or the date closest to October 1 that school is in session.

STEP TWO: Determine the number of students who drop out of school during the current school year and the previous summer recess.

STEP THREE: Determine the quotient of:

- (A) the amount determined under STEP TWO; divided by
- (B) the amount determined under STEP ONE.

~~(i)~~ **(j) “Fine arts education” means instruction in art, music, and other arts areas that encompass visual, aural, performing, and creative modes of student learning.**

~~(j)~~ **(k) “Graduation rate” means the number determined under STEP THREE of the following formula:**

STEP ONE: Determine the dropout rates for grades 9, 10, 11, and 12.

STEP TWO: Determine the remainder of:

- (A) 1.0; minus
- (B) the amount determined under STEP ONE for each of the above four (4) grades.

STEP THREE: Determine the product of the four (4) amounts determined under STEP TWO.

~~(k)~~ **(l) “ISTEP” means Indiana statewide testing for educational progress as established under IC 20-10.1-16, IC 20-10.1-17, and 511 IAC 5-2. ~~and 511 IAC 12-4.~~**

~~(l)~~ **(m) “Laboratory course” means a course in which a minimum of twenty-five percent (25%) of the total instructional time is devoted to laboratory activities. Laboratory activities are those activities in which the pupil personally utilizes appropriate procedures and equipment in accomplishing that learning task.**

~~(m)~~ **(n) “Legal standards” means those Indiana statutes and state board rules that apply to school accreditation.**

~~(n)~~ **(o) “Level”, when used in course titles, means a course that lasts one (1) full school year in grades 9 through 12, except that in the highest level of a sequence a course of shorter duration may be offered.**

~~(o)~~ **(p) “Practical arts education” means instruction in the curriculum areas of:**

- (1) agricultural science and business;
- (2) business technology education;
- (3) family and consumer sciences; and
- (4) technology education;

of a nonvocational or prevocational nature, which provides learning experiences in consumer knowledge, family living, creative expression, manual skills, technical skills, leisure time interests, and similar areas of practical application to everyday life.

~~(p)~~ **(q) “Principal” means a properly certified person who is assigned as the chief administrative officer of a school.**

~~(q)~~ **“Proficiencies” means the skills and knowledge base expected of students for a particular subject area at a particular grade level.**

~~(r)~~ **(r) “School classification” refers to the following school types:**

- (1) An elementary school, which includes:
 - (A) grade 1, 2, or 3;
 - (B) grade 1, 2, or 3 in combination with other grades; or
 - (C) any school that has grade 6 as its highest grade.
- (2) A high school, which includes:
 - (A) grade 10, 11, or 12; or
 - (B) grade 10, 11, or 12 in combination with other grades.
- (3) A middle school or junior high school, which includes any grade or combination of grades that is not defined as an elementary school or a high school.

If a school includes grades kindergarten through 12, the school superintendent shall designate the division of the grades within the school into at least two (2) school classifications.

~~(s)~~ **(s) “School corporation” means any public school corporation**

established by, and under the laws of, the state of Indiana. The term includes, but is not necessarily limited to, any:

- (1) school city;
 - (2) school town;
 - (3) school township;
 - (4) consolidated school corporation;
 - (5) county school corporation;
 - (6) metropolitan school corporation; **district;**
 - (7) township school corporation;
 - (8) united school corporation; **or**
 - (9) community school corporation.
 - ~~(10) area vocational school; or~~
 - ~~(11) special joint services school.~~
- (t) "Semester" means half of a regular school year.
- (u) "State board" means the Indiana state board of education.

(v) "Student attendance rate" means the aggregate number of days of attendance for the regular school year divided by the number of aggregate days of enrollment, as determined under 511 IAC 1-3-1(l).

(w) "Superintendent" means the chief administrative officer of a school corporation (generally referred to as the superintendent of schools, except, in the case of township schools, the term refers to the county superintendent of schools).

(x) "Teacher" means a properly certified, licensed person who is assigned to instruction. (*Indiana State Board of Education; 511 IAC 6.1-1-2; filed Jan 9, 1989, 11:00 a.m.: 12 IR 1184; filed Jul 18, 1989, 5:00 p.m.: 12 IR 2259; filed Nov 8, 1990, 3:05 p.m.: 14 IR 652; filed Oct 6, 1997, 5:20 p.m.: 21 IR 389; filed May 28, 1998, 4:57 p.m.: 21 IR 3824; filed Feb 20, 2002, 9:43 a.m.: 25 IR 2231*)

SECTION 4. 511 IAC 6.1-1-3 IS AMENDED TO READ AS FOLLOWS:

511 IAC 6.1-1-3 Accreditation levels

Authority: IC 20-1-1-6; IC 20-1-1.2-18
Affected: IC 20-1-1.2-3

Sec. 3. **Subject to the provisions of section 13.5 of this rule,** the state board shall accord each ~~public school and school corporation~~ either full accreditation status, **provisional accreditation status,** or probationary accreditation status. (*Indiana State Board of Education; 511 IAC 6.1-1-3; filed Jan 9, 1989, 11:00 a.m.: 12 IR 1185; readopted filed Oct 12, 2001, 12:55 p.m.: 25 IR 937; filed Feb 20, 2002, 9:43 a.m.: 25 IR 2233*)

SECTION 5. 511 IAC 6.1-1-4 IS AMENDED TO READ AS FOLLOWS:

511 IAC 6.1-1-4 Accreditation requirements

Authority: IC 20-1-1-6; IC 20-1-1.2-18
Affected: IC 20-1-1.2-4; IC 20-1-1.2-8; IC 20-1-21-4; IC 20-10.1-16; IC 20-10.1-17; IC 20-10.2-3

Sec. 4. A school must meet the following accreditation requirements to be accorded full accreditation status:

- (1) Compliance with the following legal standards:
 - (A) Health and safety requirements listed under 511 IAC 6.1-2.
 - (B) Minimum time requirements listed under 511 IAC 6.1-3.
 - (C) Staff-student ratio requirements listed under 511 IAC 6.1-4.
 - (D) Curriculum offering requirements listed under 511 IAC 6.1-5 and ~~511 IAC 6-5-1~~; **511 IAC 6.1-5.1.**
 - (E) Instructional staff requirements listed under 511 IAC 6.1-6.
 - (F) ~~School improvement~~ **ISTEP participation** requirements listed under ~~511 IAC 6.1-7~~; **in accordance with IC 20-10.1-16, IC 20-10.1-17, and 511 IAC 5-2.**
 - (G) **Mandatory annual assessment requirements in accordance with 511 IAC 6.2-6.**
 - (H) **Accurate and timely submission of all reports required of schools.**
 - (I) **Production of an annual performance report that meets the requirements of IC 20-1-21 and in the case of a:**
 - (i) **public school, is published in accordance with IC 20-1-21-4; or**
 - (ii) **nonpublic school, is disseminated to school constituents.**
 - (J) **Strategic and continuous school improvement and achievement planning requirements under IC 20-10.2-3 and 511 IAC 6.2-3.**

(2) Performance at its expected level in **Assignment to one (1) of the following areas: categories of school improvement and performance under 511 IAC 6.2-6-4:**

- ~~(A) Student attendance rate;~~
- ~~(B) Graduation rate;~~
- ~~(C) ISTEP results;~~
- ~~(D) Student proficiency in mathematics and reading;~~
- (A) Exemplary.**
- (B) Commendable.**
- (C) Academic progress.**

(*Indiana State Board of Education; 511 IAC 6.1-1-4; filed Jan 9, 1989, 11:00 a.m.: 12 IR 1185; filed Nov 8, 1990, 3:05 p.m.: 14 IR 654; readopted filed Oct 12, 2001, 12:55 p.m.: 25 IR 937; filed Feb 20, 2002, 9:43 a.m.: 25 IR 2233*)

SECTION 6. 511 IAC 6.1-1-5 IS AMENDED TO READ AS FOLLOWS:

511 IAC 6.1-1-5 Accreditation procedures

Authority: IC 20-1-1-6; IC 20-1-1.2-18
Affected: IC 20-1-1.2-5; IC 20-1-1.2-6; IC 20-6.1-8; IC 20-6.1-9; IC 20-10.1-16; IC 20-10.1-17

Sec. 5. ~~(a) On or before October 1 of the accreditation year,~~ the department shall inform each school of its expected performance level in the following criteria:

- ~~(1) Student attendance rate;~~
- ~~(2) For high schools, graduation rate;~~

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- (3) ISTEP results;
- (4) Mathematics proficiencies;
- (5) Language arts proficiencies;

(b) A school's expected performance level in each of the criteria listed under subsection (a) is the amount determined under STEP EIGHT:

STEP ONE: Determine the school's cognitive skills index (CSI) by calculating the average ISTEP cognitive ability score of the school's students.

STEP TWO: Determine the school's socioeconomic status (SES) by calculating the percentage of students not receiving free lunches under the National School Lunch Act under 42 U.S.C. 1761.

STEP THREE: Using the canonical correlation method, weight the CSI as determined under STEP ONE and the SES as determined under STEP TWO according to their influence on the criteria listed under subsection (a):

STEP FOUR: Determine the school's contextual index by adding:

- (1) the weighted CSI as determined under STEP THREE; and
- (2) the weighted SES as determined under STEP THREE.

STEP FIVE: Determine each school's league by ranking all schools of the same classification according to their contextual indices. Each league shall include the twenty-five (25) schools with the next highest contextual indices above the school's contextual index and the twenty-five (25) schools with the next lowest contextual indices below the school's contextual index. (If the school's contextual index falls within the highest twenty-five (25) in the state, the league shall include all schools with contextual indices above the school's contextual index and the twenty-five (25) schools with the next lowest contextual indices. If the school's contextual index falls within the lowest twenty-five (25) in the state, the league shall include the twenty-five (25) schools with the next highest contextual indices and all schools with contextual indices lower than the school's contextual index.)

STEP SIX: Determine each league's average level of performance in each of the criteria listed under subsection (a):

STEP SEVEN: Determine each league's standard deviation in each of the criteria listed under subsection (a):

STEP EIGHT: Determine the level of performance in each of the criteria under subsection (a) that is one (1) standard deviation below the average performance as determined under STEP SIX.

(c) The department shall collect from each school the following information for that school:

- (1) Student attendance rate;
- (2) For high schools, graduation rate;
- (3) ISTEP results;
- (4) A report on language arts and mathematics proficiencies, including language arts and mathematics skills of students who are not required to undergo remediation under IC 20-10.1-17 and 511 IAC 12-4.

(5) Documentation of the implementation of professional development programs and evaluation plans for licensed school personnel.

(d) The department shall compare the information collected under subsection (c) with the school's expected performance levels in the criteria listed under subsection (a):

(e) (a) Each school and school corporation shall provide to the department shall collect from each school and other appropriate state agencies documentation verifying the school's compliance with the legal standards listed in 511 IAC 6.1-2 through 511 IAC 6.1-7: **511 IAC 6.1-6.**

(f) (b) The department, under procedures approved by the board, shall review the documentation under subsection (e) (a) to determine if the school has met all legal standards.

(c) The school shall provide to the department a copy of its most recently revised strategic and continuous school improvement and achievement plan. The department shall determine if the plan meets one (1) of the following requirements:

(1) The plan was developed as a part of a quality focused school improvement process, such as the criteria for the Malcolm Baldrige National Quality Award for Education or for a national or regional accreditation agency, that is approved by the state board.

(2) The plan was:

(A) developed as a part of a school improvement process other than a process described in subdivision (1); and

(B) meets the requirements of 511 IAC 6.2-3.

(Indiana State Board of Education; 511 IAC 6.1-1-5; filed Jan 9, 1989, 11:00 a.m.: 12 IR 1185; filed Jul 18, 1989, 5:00 p.m.: 12 IR 2260; readopted filed Oct 12, 2001, 12:55 p.m.: 25 IR 937; filed Feb 20, 2002, 9:43 a.m.: 25 IR 2233)

SECTION 7. 511 IAC 6.1-1-6 IS AMENDED TO READ AS FOLLOWS:

511 IAC 6.1-1-6 Accreditation status, school and school corporation

Authority: IC 20-1-1-6; IC 20-1-1.2-18

Affected: IC 20-1-1.2-8

Sec. 6. (a) If the department determines that a school meets the accreditation requirements defined in section 4 of this rule, the state board shall **accord the school full accreditation status and** award the school a certificate of full accreditation status.

(b) The department shall review a fully accredited school no later than **five (5) three (3)** years after the state board's determination of its accreditation status.

(c) When schools enrolling at least ninety-five percent (95%)

of the students within a school corporation achieve full accreditation status, the state board shall **accord the school corporation full accreditation status and** award the school corporation a certificate of full accreditation status. (*Indiana State Board of Education; 511 IAC 6.1-1-6; filed Jan 9, 1989, 11:00 a.m.: 12 IR 1186; readopted filed Oct 12, 2001, 12:55 p.m.: 25 IR 937; filed Feb 20, 2002, 9:43 a.m.: 25 IR 2234*)

SECTION 8. 511 IAC 6.1-1-7 IS AMENDED TO READ AS FOLLOWS:

511 IAC 6.1-1-7 Appointment of on-site review panel

Authority: IC 20-1-1-6; IC 20-1-1.2-18
Affected: IC 20-1-1.2-9

Sec. 7. (a) If a school does not meet the accreditation requirements defined in section 4 of this rule, the department shall appoint a review panel to conduct an on-site evaluation of the school: **conduct a preliminary visitation, at which time the school may provide additional information about either of the following:**

- (1) Compliance with legal standards.
- (2) School improvement and performance.

(b) **If information provided at the preliminary visitation does not confirm that the school meets the accreditation requirements in section 4 of this rule, the department shall appoint a review panel to conduct an on-site review of the school.** (*Indiana State Board of Education; 511 IAC 6.1-1-7; filed Jan 9, 1989, 11:00 a.m.: 12 IR 1186; filed Sep 11, 1997, 8:55 a.m.: 21 IR 394; filed Feb 20, 2002, 9:43 a.m.: 25 IR 2235*)

SECTION 9. 511 IAC 6.1-1-8 IS AMENDED TO READ AS FOLLOWS:

511 IAC 6.1-1-8 Composition of the on-site review panel

Authority: IC 20-1-1-6; IC 20-1-1.2-18
Affected: IC 20-1-1.2-10

Sec. 8. The department shall select the review panel members from a pool of trained individuals. Each review panel shall consist of at least three (3) individuals, **including:**

- (1) ~~one (1) staff member of the department; the chair of the panel, who:~~
 - (A) has served as a member of an on-site review panel;
 - (B) has been trained to serve as chair of the panel; and
 - (C) may be a staff member of the department;
- (2) one (1) classroom teacher; and
- (3) one (1) individual who is not a classroom teacher. ~~but who represents the field of education.~~

(*Indiana State Board of Education; 511 IAC 6.1-1-8; filed Jan 9, 1989, 11:00 a.m.: 12 IR 1186; readopted filed Oct 12, 2001, 12:55 p.m.: 25 IR 937; filed Feb 20, 2002, 9:43 a.m.: 25 IR 2235*)

SECTION 10. 511 IAC 6.1-1-9 IS AMENDED TO READ AS FOLLOWS:

511 IAC 6.1-1-9 Duties of the on-site review panel

Authority: IC 20-1-1-6; IC 20-1-1.2-18
Affected: IC 20-1-1-6.3; IC 20-1-1-6.5; IC 20-1-1.2-11; IC 20-10.1-17

Sec. 9. (a) During its on-site evaluation of a school, the review panel shall review:

- (1) teaching practices;
- (2) administrative instructional leadership;
- (3) parental and community involvement;
- (4) implementation of the ISTEP remediation program under IC 20-10.1-17 and 511 IAC 12-4 [*511 IAC 12-4 was repealed filed Feb 9, 1999, 4:18 p.m.: 22 IR 1972.*];
- (5) ~~implementation of the educational opportunity program for at-risk children under IC 20-10.1-18;~~
- (6) ~~(5) the homework policy; and~~
- (6) **curricular focus on academic standards and instructional practices that meet the needs of all students;**
- (7) **the professional development program under IC 20-1-1-6.3, IC 20-1-1-6.5, and 511 IAC 6.2-4;**
- (8) school climate;
- (9) monitoring student progress;
- (10) corporation level and governing body support; and
- (7) ~~(11) any other policy or practice necessary for the panel to determine whether if the school meets full accreditation status criteria.~~

(b) **The review process must include the following strategies for gathering information about educational programing:**

- (1) reviewing documents;
- (2) observing students in the learning environment; and
- (3) interviewing teachers, administrators, school board members, parents, students, and community representatives.

(b) (c) The review panel shall verify compliance with the legal standards set out in 511 IAC 6.1-2, 511 IAC 6.1-3, 511 IAC 6.1-4, 511 IAC 6.1-5, **and 511 IAC 6.1-6.** ~~and 511 IAC 6.1-7.~~ (*Indiana State Board of Education; 511 IAC 6.1-1-9; filed Jan 9, 1989, 11:00 a.m.: 12 IR 1186; readopted filed Oct 12, 2001, 12:55 p.m.: 25 IR 937; filed Feb 20, 2002, 9:43 a.m.: 25 IR 2235*)

SECTION 11. 511 IAC 6.1-1-11 IS AMENDED TO READ AS FOLLOWS:

511 IAC 6.1-1-11 Determination by the state board

Authority: IC 20-1-1-6; IC 20-1-1.2-18
Affected: IC 20-1-1.2-13

Sec. 11. (a) Upon receipt of the review panel's recommendation, **which must include analysis of strengths and weaknesses and justification for the recommendation,** the state board shall make one (1) of the following determinations as to the accreditation status of the school:

- (1) Full accreditation status, with ~~the next review being~~

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conducted ~~five (5)~~ **three (3)** years after the state board's determination of full accreditation, **if the school meets requirements for accreditation under section 4 of this rule.**

~~(2) Full accreditation status with the next review being conducted earlier than five (5) years after the state board's determination of full accreditation.~~

~~(3) Probationary accreditation status with the next review being conducted one (1) year after the state board's determination of probationary accreditation.~~

(2) Provisional accreditation status, with review conducted at least annually after the state board's determination of provisional accreditation, if both of the following are determined:

(A) The school meets the requirements for accreditation under section 4(1) of this rule.

(B) The school is placed in the academic watch (priority) category of school improvement and performance under 511 IAC 6.2-6-5.

(3) Provisional accreditation status, with review conducted at least annually after the state board's determination of provisional accreditation status, if both of the following are determined:

(A) The school meets the requirements for accreditation under section 4(1) of this rule.

(B) The school is in the first or second year after initial placement in the academic probation (high priority) category of school improvement and performance under 511 IAC 6.2-6-5.

(4) Probationary accreditation status, with review conducted at least annually after the state board's determination of probationary accreditation status, if, in the third year or subsequent year after initial placement in the academic probation (high priority) category of school improvement and performance under 511 IAC 6.2-6-5, the school remains in the academic probation (high priority) category of school improvement and performance.

~~(b) The state board shall not accord full accreditation status to a school that does not comply with the legal standards described in 511 IAC 6.1-2, 511 IAC 6.1-3, 511 IAC 6.1-4, 511 IAC 6.1-5, 511 IAC 6.1-6, and 511 IAC 6.1-7. If a school is accorded provisional accreditation status or probation accreditation status for failure to comply with legal standards under section 4(1) of this rule, the state board and department shall note that the status was accorded for a reason other than school performance. (Indiana State Board of Education; 511 IAC 6.1-1-11; filed Jan 9, 1989, 11:00 a.m.: 12 IR 1186; readopted filed Oct 12, 2001, 12:55 p.m.: 25 IR 937; filed Feb 20, 2002, 9:43 a.m.: 25 IR 2235)~~

SECTION 12. 511 IAC 6.1-1-11.5 IS AMENDED TO READ AS FOLLOWS:

511 IAC 6.1-1-11.5 Review of fully accredited school

Authority: IC 20-1-1-6; IC 20-1-2-18
Affected: IC 20-1-1.2

Sec. 11.5. (a) The department shall appoint a review panel to conduct an evaluation of a school that has been awarded full accreditation status if the department verifies, prior to the school's next review date, that:

(1) The school is not in substantial compliance with the legal standards for accreditation under section 4(1) of this rule. ~~or~~

(2) The school has ~~for two (2) consecutive years; failed to meet its expected performance levels under section 4(2) of this rule been placed in one (1) of the following categories of school improvement and performance under 511 IAC 6.2.6.5 [sic., 511 IAC 6.2-6-5]:~~

(A) Academic watch (priority).

(B) Academic probation (high priority).

~~(b) Sections 8 7 through 11 of this rule apply to an on-site evaluation a review under this section. (Indiana State Board of Education; 511 IAC 6.1-1-11.5; filed Sep 11, 1997, 8:55 a.m.: 21 IR 395; filed Feb 20, 2002, 9:43 a.m.: 25 IR 2236)~~

SECTION 13. 511 IAC 6.1-1-13 IS AMENDED TO READ AS FOLLOWS:

511 IAC 6.1-1-13 Action by the state board

Authority: IC 20-1-1-6; IC 20-1-2-18
Affected: IC 20-1-1.2-15

Sec. 13. The state board shall accord probationary accreditation status to a school corporation with one (1) or more probationary schools that fail:

(1) to make progress; ~~in any of the three (3) years the school(s) is on probationary accreditation status;~~ or
(2) to achieve full accreditation status at the end of three (3) years.

~~(Indiana State Board of Education; 511 IAC 6.1-1-13; filed Jan 9, 1989, 11:00 a.m.: 12 IR 1187; readopted filed Oct 12, 2001, 12:55 p.m.: 25 IR 937; filed Feb 20, 2002, 9:43 a.m.: 25 IR 2236)~~

SECTION 14. 511 IAC 6.1-1-13.5 IS AMENDED TO READ AS FOLLOWS:

511 IAC 6.1-1-13.5 Action by state board on nonpublic school or charter school

Authority: IC 20-1-1-6; IC 20-1-2-18
Affected: IC 20-1-1-6; IC 20-5.5

Sec. 13.5. (a) The state board shall revoke the accreditation status of a nonpublic school ~~accorded probationary accreditation status that fails to:~~

~~(1) make progress in any of the three (3) years the school is on probationary status; or~~
~~(2) achieve full accreditation status at the end of three (3) years;~~

or a charter school under IC 20-5.5 if, in the fifth year after initial placement in the academic probation (high priority) category of school improvement and performance under

511 IAC 6.2-6-5, the school remains in the academic probation (high priority) category of school improvement and performance.

(b) If the accreditation status of a nonpublic school is revoked under subsection (a), the school may not seek accreditation until the school year in which the school normally would have been reviewed had the school been accorded full accreditation status rather than probationary accreditation status. (*Indiana State Board of Education; 511 IAC 6.1-1-13.5; filed Sep 11, 1997, 8:55 a.m.: 21 IR 395; filed Feb 20, 2002, 9:43 a.m.: 25 IR 2236*)

SECTION 15. 511 IAC 6.1-1-15 IS AMENDED TO READ AS FOLLOWS:

511 IAC 6.1-1-15 Right of appeal

Authority: IC 20-1-1-6; IC 20-1-1.2-18
Affected: IC 20-1-1.2-7; IC 20-1-1.2-17

Sec. 15. (a) If a school or school corporation is accorded probationary accreditation status under section 11 or 13 of this rule, the governing body of the school corporation may appeal that determination to the state board.

(b) If a school or school corporation is accorded probationary accreditation status, the department shall provide assistance to that school or school corporation to achieve full accreditation status.

(c) If a school is accorded probationary accreditation status, the completion of the school improvement plan under IC 20-1-1.2-7(a)(2)(G) and section 12 of this rule must involve parents, administrators, teachers, and other members of the community. (*Indiana State Board of Education; 511 IAC 6.1-1-15; filed Jan 9, 1989, 11:00 a.m.: 12 IR 1187; readopted filed Oct 12, 2001, 12:55 p.m.: 25 IR 937; filed Feb 20, 2002, 9:43 a.m.: 25 IR 2237*)

SECTION 16. 511 IAC 6.1-2-1 IS AMENDED TO READ AS FOLLOWS:

511 IAC 6.1-2-1 General requirements

Authority: IC 20-1-1-6; IC 20-1-1.2-18
Affected: IC 20-1-1.2-1

Sec. 1. Each school shall comply with the rules of:
(1) the state board under 511 IAC 2;
(2) (1) the fire prevention and building safety commission;
(3) (2) the state board department of health; and
(4) (3) the Indiana occupational safety and health administration. (*Indiana State Board of Education; 511 IAC 6.1-2-1; filed Jan 9, 1989, 11:00 a.m.: 12 IR 1187; readopted filed Oct 12, 2001, 12:55 p.m.: 25 IR 937; filed Feb 20, 2002, 9:43 a.m.: 25 IR 2237*)

SECTION 17. 511 IAC 6.1-2-6 IS AMENDED TO READ AS FOLLOWS:

511 IAC 6.1-2-6 Student services

Authority: IC 20-1-1-6; IC 20-1-1.2-18
Affected: IC 20-1-1.2-1

Sec. 6. Each school shall provide ~~pupil personnel~~ student services under ~~511 IAC 4-1-511 IAC 4-1.5~~. (*Indiana State Board of Education; 511 IAC 6.1-2-6; filed Jan 9, 1989, 11:00 a.m.: 12 IR 1188; readopted filed Oct 12, 2001, 12:55 p.m.: 25 IR 937; filed Feb 20, 2002, 9:43 a.m.: 25 IR 2237*)

SECTION 18. 511 IAC 6.1-3-1 IS AMENDED TO READ AS FOLLOWS:

511 IAC 6.1-3-1 Student instructional day

Authority: IC 20-1-1-6; IC 20-1-1.2-18
Affected: IC 20-1-1.2-1; IC 20-10.1-2-1

Sec. 1. (a) Each school corporation shall conduct at least one hundred eighty (180) student instructional days for all students grades 1 through 12.

(b) A student instructional day consists of a minimum of five (5) hours of instructional time in grades 1 through 6 and six (6) hours of instructional time in grades 7 through 12.

(c) Instead of conducting a full student instructional day, a school corporation may provide the equivalent amount of instructional time by conducting partial student instructional days.

(d) Instructional time is time in which students are participating in an approved course, curriculum or educationally related activity under the direction of a teacher. Instructional time includes a reasonable amount of passing time between classes within a single school building or on a single school campus. Instructional time does not include lunch or recess.

(e) An educationally related activity is a non-classroom activity, such as a field trip or convocation that meets all of the following:

- (1) Is consistent with and promotes the educational philosophy and goals of the school corporation and the state board.
- (2) Facilitates the attainment of specific educational objectives.
- (3) Is a part of the goals and objectives of an approved course or curriculum.
- (4) Represents a unique educational opportunity.
- (5) Has been approved in writing by the local superintendent or the superintendent's designee.
- (6) Cannot reasonably occur without interrupting the school day.

Each school corporation shall maintain a record of educationally related activities. The record is open to public inspection and must contain a description of the activity and a statement of the educational objectives of the activity.

(f) If a school corporation's calendar includes at least nine

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hundred ten (910) hours of instructional time for students in grades 1 through 6, the school corporation may dismiss students in grades 1 through 6 for no more than ten (10) hours during the school year for the purpose of conducting parent-teacher conferences. Students may not be dismissed for a full day for the purpose of conducting parent-teacher conferences.

(g) If a school corporation's calendar includes at least one thousand ninety-two (1,092) hours of instructional time for students in grades 7 through 12, the school corporation may dismiss students in grades 7 through 12 for no more than twelve (12) hours during the school year for the purpose of conducting teacher conferences with the parents of those students. Students may not be dismissed for a full day for the purpose of conducting parent-teacher conferences.

(h) If a school corporation has valid educational reasons, such as scheduling final examinations, for permitting students in grade 12 to attend school for fewer than one hundred eighty (180) days during the school year, the corporation may submit its proposed schedule for those students to the department of education for review and approval.

(i) This section applies to every accredited school as well as to every school corporation.

(j) **For accreditation purposes**, the department may grant a waiver of the ~~penalty imposed by IC 20-10-1-2-1(d)~~ **requirements of this section** for a particular number of student instructional days if:

- (1) a school corporation applies to the department for a waiver ~~of the penalty imposed under IC 20-10-1-2-1(d)~~ for a specific number of cancelled student instructional days; and
- (2) each of the particular number of instructional days requested to be waived was cancelled due to extraordinary circumstances.

(k) The department shall consider the following factors in determining if extraordinary circumstances justify granting a waiver under subsection (i):

- (1) The reason(s) for not making up the cancelled instructional days.
- (2) The length and amount of instructional time in the school calendar.
- (3) The reason(s) the days were cancelled.
- (4) The date the cancelled days occurred.
- (5) The number of cancelled days.
- (6) The number of schools affected.
- ~~(7) The existence of a current collective bargaining agreement which was in effect prior to the applicability of P.L. 390-1987 and which prohibits the school corporation from making up cancelled student instructional days.~~

(l) A decision of the department under this section may be appealed to the state board. (*Indiana State Board of Education; 511 IAC 6.1-3-1; filed Jan 9, 1989, 11:00 a.m.: 12 IR 1188;*

readopted filed Oct 12, 2001, 12:55 p.m.: 25 IR 937; filed Feb 20, 2002, 9:43 a.m.: 25 IR 2237)

SECTION 19. 511 IAC 6.1-4-1 IS AMENDED TO READ AS FOLLOWS:

511 IAC 6.1-4-1 Pupil/teacher ratio

Authority: IC 20-1-1-6; IC 20-1-1.2-18

Affected: IC 20-1-1.2-1

Sec. 1. The average pupil/teacher ratio for a single school shall be in accordance with ~~511 IAC 6-2-1(b)(2)~~ **not exceed 30/1. Pupil/teacher ratios shall be figured on a full-time equivalency basis only on regular classroom teachers assigned to instruction.** (*Indiana State Board of Education; 511 IAC 6.1-4-1; filed Jan 9, 1989, 11:00 a.m.: 12 IR 1190; readopted filed Oct 12, 2001, 12:55 p.m.: 25 IR 937; filed Feb 20, 2002, 9:43 a.m.: 25 IR 2238)*

SECTION 20. 511 IAC 6.1-5-7 IS AMENDED TO READ AS FOLLOWS:

511 IAC 6.1-5-7 Special education

Authority: IC 20-1-1-6; IC 20-1-1.2-18

Affected: IC 20-1-1.2-1; IC 20-1-6

Sec. 7. Each school corporation shall provide special education to ~~handicapped~~ students **with disabilities** in accordance with ~~511 IAC 7-1-1~~ **511 IAC 7.** (*Indiana State Board of Education; 511 IAC 6.1-5-7; filed Jan 9, 1989, 11:00 a.m.: 12 IR 1192; readopted filed Oct 12, 2001, 12:55 p.m.: 25 IR 937; filed Feb 20, 2002, 9:43 a.m.: 25 IR 2238)*

SECTION 21. 511 IAC 6.1-5-9 IS ADDED TO READ AS FOLLOWS:

511 IAC 6.1-5-9 Homework policy required

Authority: IC 20-1-1-6; IC 20-1-1.2-18

Affected: IC 20-1-1.2-1

Sec. 9. Each school and school corporation shall adopt, implement, and communicate to teachers, parents, and students a written homework policy to reinforce the concept that homework is an out-of-school assignment that contributes to the educational process of the student. Homework shall be viewed as an extension of class work and related to the objectives of the curriculum. (*Indiana State Board of Education; 511 IAC 6.1-5-9; filed Feb 20, 2002, 9:43 a.m.: 25 IR 2238)*

SECTION 22. 511 IAC 6.1-5-10 IS ADDED TO READ AS FOLLOWS:

511 IAC 6.1-5-10 Retaining student for athletic purposes prohibited

Authority: IC 20-1-1-6; IC 20-1-1.2-18

Affected: IC 20-1-1.2-1

Sec. 10. Each school and school corporation shall adopt and enforce a written policy that prohibits retaining a

student in a grade level for the sole purpose of improving the student's ability to participate in extracurricular athletic programs. (*Indiana State Board of Education; 511 IAC 6.1-5-10; filed Feb 20, 2002, 9:43 a.m.: 25 IR 2238*)

SECTION 23. THE FOLLOWING ARE REPEALED: 511 IAC 6-2-1; 511 IAC 6.1-1-12; 511 IAC 6.1-7.

LSA Document #01-212(F)

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TITLE 828 STATE BOARD OF DENTISTRY

LSA Document #01-241(F)

DIGEST

Amends 828 IAC 1-1-2, 828 IAC 1-1-3, 828 IAC 1-1-6, 828 IAC 1-1-8, 828 IAC 1-1-9, 828 IAC 1-1-10, and 828 IAC 1-1-12 concerning the examination for licensure to practice dentistry. Amends 828 IAC 1-1-18 concerning advertising; content. Amends 828 IAC 1-1-21 concerning remedial education. Amends 828 IAC 1-1-23 concerning illegal, unlawful, incompetent, or fraudulent conduct; reporting procedures. Amends 828 IAC 1-2-1, 828 IAC 1-2-2, 828 IAC 1-2-3, 828 IAC 1-2-6, 828 IAC 1-2-8, 828 IAC 1-2-9, 828 IAC 1-2-10, and 828 IAC 1-2-12 concerning the examination for licensure to practice dental hygiene. Amends 828 IAC 1-2-14 concerning remedial education. Amends 828 IAC 1-3-1, 828 IAC 1-3-4, and 828 IAC 1-3-5. Repeals 828 IAC 1-1-4, 828 IAC 1-1-11, 828 IAC 1-2-4, and 828 IAC 1-2-11. Effective 30 days after filing with the secretary of state.

828 IAC 1-1-2
828 IAC 1-1-3
828 IAC 1-1-4
828 IAC 1-1-6
828 IAC 1-1-8
828 IAC 1-1-9
828 IAC 1-1-10
828 IAC 1-1-11
828 IAC 1-1-12
828 IAC 1-1-18
828 IAC 1-1-21
828 IAC 1-1-23
828 IAC 1-2-1

828 IAC 1-2-2
828 IAC 1-2-3
828 IAC 1-2-4
828 IAC 1-2-6
828 IAC 1-2-8
828 IAC 1-2-9
828 IAC 1-2-10
828 IAC 1-2-11
828 IAC 1-2-12
828 IAC 1-2-14
828 IAC 1-3-1
828 IAC 1-3-4
828 IAC 1-3-5

SECTION 1. 828 IAC 1-1-2 IS AMENDED TO READ AS FOLLOWS:

ARTICLE 1. LICENSURE OF DENTISTS AND DENTAL HYGIENISTS

Rule 1. Dentists; Licensure by Examination

828 IAC 1-1-2 Application forms; time for filing required documents

Authority: IC 25-14-1-13

Affected: IC 25-14-1-3; IC 25-14-1-16

Sec. 2. (a) The applicant for examination must complete the application on forms prescribed and provided by the board. All statements contained in the application must be verified by the applicant. The verified application, all examination fees, and other documents that the board may require ~~shall be delivered~~ **must be submitted** to the board office at least ~~thirty (30)~~ **forty-five (45)** days prior to the first day of the examination.

(b) Proof that the applicant is a graduate of a dental school that is recognized by the board must be submitted to the board at least seven (7) days prior to the examination. The following documents must be submitted:

- (1) An official transcript showing the date the degree was conferred.
- (2) An official diploma or a certificate of completion signed by the dean of the applicant's professional school and the registrar of the university or college.

(State Board of Dentistry; PT 1, Rule 2; filed Aug 10, 1973, 11:00 a.m.: Rules and Regs. 1974, p. 49; filed May 16, 1977, 10:10 a.m.: Rules and Regs. 1978, p. 191; filed Oct 16, 1985, 3:57 p.m.: 9 IR 520; filed Oct 12, 1993, 5:00 p.m.: 17 IR 400; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Feb 28, 2002, 3:17 p.m.: 25 IR 2239)

SECTION 2. 828 IAC 1-1-3 IS AMENDED TO READ AS FOLLOWS:

828 IAC 1-1-3 Examinations required for licensure

Authority: IC 25-14-1-13

Affected: IC 25-14-1-3

Sec. 3. (a) In order to obtain an Indiana license to practice dentistry, each candidate must pass a three (3) part examination which includes the following:

- (1) All sections of the national dental board examination.
- (2) A clinical-practical examination, which ~~includes may~~ **include** a written section.
- (3) A written examination covering Indiana law relating to the practice of dentistry and dental hygiene.

(b) A passing score must be obtained on all sections of the national board dental examination before any candidate may take the clinical-practical or law examinations. *(State Board of Dentistry; PT 1, Rule 3; filed Aug 10, 1973, 11:00 a.m.: Rules and Regs. 1974, p. 49; filed May 16, 1977, 10:10 a.m.: Rules and Regs. 1978, p. 192; filed Apr 19, 1991, 3:00 p.m.: 14 IR*

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1726; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Feb 28, 2002, 3:17 p.m.: 25 IR 2239)

SECTION 3. 828 IAC 1-1-6 IS AMENDED TO READ AS FOLLOWS:

828 IAC 1-1-6 National board examination; dental and dental hygiene law examinations

Authority: IC 25-14-1-13

Affected: IC 25-14-1-13

Sec. 6. (a) A passing score on a national board ~~theory~~ dental examination, as approved by the board, must be attained by the candidate before the candidate will be permitted to take the clinical-practical portion of the examination **and the written examination covering Indiana law relating to the practice of dentistry and dental hygiene.**

(b) Passage of the Indiana dental and dental hygiene law examination with a **grade score** of at least seventy-five percent (75%) (75) is mandatory before the candidate may be licensed. Candidates failing the law examination may retake the law examination at a time, date, and place to be set by the board not sooner than thirty (30) days from the time the law examination was last taken.

(c) ~~Candidates failing the written section of the clinical-practical examination only may retake the written section of the clinical-practical examination at a time, date, and place to be set by the board not sooner than thirty (30) days from the time the clinical-practical examination was last taken.~~ (State Board of Dentistry; PT 1, Rule 6; filed Aug 10, 1973, 11:00 a.m.: Rules and Regs. 1974, p. 50; filed May 16, 1977, 10:10 a.m.: Rules and Regs. 1978, p. 192; filed Apr 12, 1984, 8:34 a.m.: 7 IR 1520; filed Nov 7, 1986, 9:00 a.m.: 10 IR 431; filed Apr 19, 1991, 3:00 p.m.: 14 IR 1726; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Feb 28, 2002, 3:17 p.m.: 25 IR 2240)

SECTION 4. 828 IAC 1-1-8 IS AMENDED TO READ AS FOLLOWS:

828 IAC 1-1-8 Supplies for examinations; duty to provide

Authority: IC 25-14-1-13

Affected: IC 25-14-1-3

Sec. 8. ~~The Board will provide manuscripts for the examinations.~~ The candidate will provide all patients instruments and materials for the examinations. (State Board of Dentistry; PT 1, Rule 8; filed Aug 10, 1973, 11:00 a.m.: Rules and Regs. 1974, p. 50; filed May 16, 1977, 10:10 a.m.: Rules and Regs. 1978, p. 192; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Feb 28, 2002, 3:17 p.m.: 25 IR 2240)

SECTION 5. 828 IAC 1-1-9 IS AMENDED TO READ AS FOLLOWS:

828 IAC 1-1-9 Conduct during written examinations

Authority: IC 25-14-1-13

Affected: IC 25-14-1-3

Sec. 9. ~~Conduct of candidates during examinations.~~ The candidates are not allowed to leave the room nor move about in the room during ~~an a~~ **written** examination without permission. No other paper or books, other than the **written** examination ~~manuscripts, and answer sheet,~~ shall be used in examination room for any purpose whatsoever. (State Board of Dentistry; PT 1, Rule 9; filed Aug 10, 1973, 11:00 a.m.: Rules and Regs. 1974, p. 50; filed May 16, 1977, 10:10 a.m.: Rules and Regs. 1978, p. 192; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Feb 28, 2002, 3:17 p.m.: 25 IR 2240)

SECTION 6. 828 IAC 1-1-10 IS AMENDED TO READ AS FOLLOWS:

828 IAC 1-1-10 Dismissal of candidate for use of unfair assistance

Authority: IC 25-14-1-13

Affected: IC 25-14-1-3

Sec. 10. ~~Use of unfair assistance during examination.~~ The board reserves the right to dismiss any candidate who may be detected in using, or attempting to use, any unfair assistance for himself **or herself** or another candidate. (State Board of Dentistry; PT 1, Rule 10; filed Aug 10, 1973, 11:00 a.m.: Rules and Regs. 1974, p. 50; filed May 16, 1977, 10:10 a.m.: Rules and Regs. 1978, p. 192; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Feb 28, 2002, 3:17 p.m.: 25 IR 2240)

SECTION 7. 828 IAC 1-1-12 IS AMENDED TO READ AS FOLLOWS:

828 IAC 1-1-12 Failure; reexamination

Authority: IC 25-14-1-13

Affected: IC 25-14-1-3

Sec. 12. (a) If the candidate fails in securing a passing **grade score** in only one (1) section of the clinical-practical examination, the candidate will be required to retake that section only, provided that the candidate return for one (1) of the two (2) next succeeding examinations. If the candidate does not take and pass the failed section on one (1) of the next two (2) available examination dates, a new application must be filed and all sections of the clinical-practical examination must be retaken.

(b) If the candidate fails in two (2) or more parts of the clinical-practical examination, the candidate must take an entire new clinical-practical examination.

(c) If the candidate fails the same section of the clinical-practical examination three (3) times, the entire clinical-practical examination must be retaken. (State Board of Dentistry; PT 1, Rule 12; filed Aug 10, 1973, 11:00 a.m.: Rules and Regs. 1974, p. 50; filed May 16, 1977, 10:10 a.m.: Rules and Regs. 1978, p. 193; filed Apr 19, 1991, 3:00 p.m.: 14 IR 1726; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Feb 28, 2002, 3:17 p.m.: 25 IR 2240)

SECTION 8. 828 IAC 1-1-18 IS AMENDED TO READ AS FOLLOWS:

828 IAC 1-1-18 Advertising; content

Authority: IC 25-13-1-5; IC 25-14-1-13; IC 25-14-4-9

Affected: IC 25-1-9; IC 25-14-1; IC 25-14-4-4

Sec. 18. (a) Fees for any or all dental services may be advertised; however, violation of any of the provisions in this section may be construed as false, misleading, or deceptive.

(b) An advertisement of a fee for a dental service must include a specified period for which that fee shall be in effect, or that service must remain available at or below that fee for a minimum period of ninety (90) days following the final advertisement for that service, unless that service is found to be detrimental to the health of the public.

(c) A service advertised as routine or with a stated fee must include all components of providing that service without additional charges added thereto or without additional unstated restrictions.

(d) Discount offers for a dental service are permissible for advertising only when:

- (1) the nondiscounted or full price and the final discounted price are also disclosed in the advertisement; and
- (2) such discount is not contingent upon the procurement of additional patients, potential patients, or the purchase of additional services.

The dates a discount will be in force must be clearly identified.

(e) When an office charges a range of fees for a dental service, any advertisement of the fee for that service must disclose the range and include a listing of all of the factors which cause the fee to vary.

(f) A dentist may advertise as being a specialist in, or limiting practice to, a particular field of dentistry in:

- (1) dental public health;
- (2) endodontics;
- (3) oral and maxillofacial pathology;
- (4) oral and maxillofacial radiology;**
- ~~(4)~~ **(5) oral and maxillofacial surgery;**
- ~~(5)~~ **(6) orthodontics and dentofacial orthopedics;**
- ~~(6)~~ **(7) pediatric dentistry;**
- ~~(7)~~ **(8) periodontics; or**
- ~~(8)~~ **(9) prosthodontics;**

provided the dentist has graduated from an accredited advanced dental educational program.

(g) An accredited advanced dental educational program is one that meets the requirements and standards of:

- (1) The Commission on Dental Accreditation Standards for Advanced Specialty Education Programs in General Practice Residency Dentistry published in December 1998, revised January 1993 by 2001.**

~~(2) The Commission on Dental Accreditation American Dental Association, which shall not include any later amendments or editions; or is listed in the May 1993 edition of Advanced Dental Educational Programs of the Commission on Dental Accreditation of the American Dental Association, which shall not include any later amendments or editions. Standards for Advanced Specialty Education Programs in General Practice Residency published in 2001.~~

(3) The Commission on Dental Accreditation Standards for Advanced Specialty Education Programs in Dental Public Health, published in 2001.

(4) The Commission on Dental Accreditation Standards for Advanced Specialty Education Programs in Endodontics published in 2001.

(5) The Commission on Dental Accreditation Standards for Advanced Specialty Education Programs in Oral and Maxillofacial Pathology published in 2001.

(6) The Commission on Dental Accreditation Standards for Advanced Specialty Education Programs in Oral and Maxillofacial Radiology published in 2001.

(7) The Commission on Dental Accreditation Standards for Advanced Specialty Education Programs in Oral and Maxillofacial Surgery published in 2001.

(8) The Commission on Dental Accreditation Standards for Advanced Specialty Education Programs in Orthodontics and Dentofacial Orthopedics published in 2001.

(9) The Commission on Dental Accreditation Standards for Advanced Specialty Education Programs in Pediatric Dentistry published in 2001.

(10) The Commission on Dental Accreditation Standards for Advanced Specialty Education Programs in Periodontics published in 2001.

(11) The Commission on Dental Accreditation Standards for Advanced Specialty Education Programs in Prosthodontics published in 2001.

The requirements and ~~These~~ standards and list of accredited programs are hereby incorporated by reference and made applicable to this section. ~~A copy~~ **Copies** of the standards and requirements and list of accredited programs shall be available for public inspection at the offices of the Health Professions Bureau, 402 West Washington Street, Room ~~044~~, **W041**, Indianapolis, Indiana 46204. Copies of the standards and requirements and list of accredited programs are available from the entity originally issuing the incorporated matter, the Commission on Dental Accreditation, American Dental Association, 211 East Chicago Avenue, Chicago, Illinois 60611.

~~(g)~~ **(h)** As used in this section, "specialist" pertains to this section only for the purpose of defining advertising and must not be randomly applied to any other law or rule of IC 25-14.

~~(h)~~ **(i)** This section does not preclude or limit any dentist from offering and performing any treatment to any patient as prescribed by IC 25-14.

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(j) All dentists who have claimed to be dental specialists, or hold themselves out to be engaged in a dental practice limited to any of the dental specialties in subsection (f), without regard to the matter incorporated by reference in subsection (f), and can document such claim to have acted as such prior to January 1, 1965, may continue to act as such under the protection of this rule.

(k) A dentist who is not considered a specialist by this section and who wishes to announce the services available in his or her practice may announce the availability of those services so long as he or she avoids any communications that express or imply specialization. The dentist shall also state that the services are being provided by a general dentist. No dentist shall announce available services in any way that would be false or misleading in any material respect.

(l) The factors of availability such as hours of practice and office locations may be advertised provided that any such advertisement must include the names of all practitioners providing dental services at each location.

(m) An advertisement indicating that superior services, better materials, or more skillful care are available in a particular office or by a group of practitioners may be deceptive.

(n) Guarantees or warranties, whether expressed or implied, regarding the successful outcome of treatment, length of service, or durability of materials may be deceptive if advertised. Any testimonials or endorsements such as character witness, benefits of treatment, or expressions of appreciation may be misleading when advertised.

(o) A referral service shall only advertise a dentist as a specialist if such dentist has complied with subsections (f) through (k) and has presented such referral service with verification of compliance. An advertisement for a dentist not complying with subsections (f) through (k) may only claim the dentist may provide routine dental services and other services and that the dentist is not to be considered a specialist.

(p) Referral services shall provide disclaimers in compliance with IC 25-14-4-4. A disclaimer shall be written for advertisements placed in written media, audio for radio advertisements, and both audio and visual for television advertisements.

(q) Advertising in any media by a referral service must not lead consumers to believe that they are receiving an impartial referral based on all dentists in the area instead of only those dentists participating in the referral service. (*State Board of Dentistry; 828 IAC 1-1-18; filed Apr 14, 1983, 9:40 a.m.: 6 IR 1084; filed Jan 16, 1986, 3:17 p.m.: 9 IR 1364; filed Aug 29, 1986, 2:30 p.m.: 10 IR 21; filed Aug 9, 1994, 2:45 p.m.: 17 IR 2867; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Feb 28, 2002, 3:17 p.m.: 25 IR 2241*)

SECTION 9. 828 IAC 1-1-21 IS AMENDED TO READ AS FOLLOWS:

828 IAC 1-1-21 Remedial education

Authority: IC 25-14-1-3; IC 25-14-1-13

Affected: IC 25-14-1-3

Sec. 21. A candidate for dental licensure shall complete remedial education following the failure of two (2) or more clinical examinations prior to being permitted to retake the examination. The assignment of remedial education, either academic and/or clinical, shall be in the subject or subjects previously failed. Courses to be taken shall be submitted to the board for prior approval by the board and certification that they were successfully completed shall be submitted to the board. The certification shall be signed by the dean **or the dean's appointed representative** of the dental school where the courses were taken. All courses shall be taken in board approved schools. All courses shall be completed and the certification shall be submitted **by the deadline for at least seven (7) days prior to the next examination the candidate is sitting for next; has applied to take.** (*State Board of Dentistry; 828 IAC 1-1-21; filed Jan 16, 1986, 3:17 p.m.: 9 IR 1366; filed Feb 3, 1987, 12:30 p.m.: 10 IR 1273; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Feb 28, 2002, 3:17 p.m.: 25 IR 2242*)

SECTION 10. 828 IAC 1-1-23 IS AMENDED TO READ AS FOLLOWS:

828 IAC 1-1-23 Illegal, unlawful, incompetent, or fraudulent conduct; reporting procedures

Authority: IC 25-14-1-13

Affected: IC 25-1-9; IC 25-14-1

Sec. 23. (a) A dentist who has a reasonable belief based upon personal knowledge that another dentist has engaged in illegal, unlawful, incompetent, or fraudulent conduct in the practice of dentistry shall promptly report such conduct to a peer review committee, 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 dentist and the matter. This subsection does not prohibit a dentist from promptly reporting the conduct directly to the board ~~of dental examiners.~~ **or to the consumer protection division of the office of the attorney general of Indiana.**

(b) A dentist who has personal knowledge of any person engaged in, or attempting to engage in, the unauthorized practice of dentistry shall promptly report such conduct to the board ~~of dental examiners.~~ **or to the consumer protection division of the office of the attorney general of Indiana.**

(c) A dentist who voluntarily submits to, or is otherwise undergoing, a course of treatment for addiction, severe dependency upon alcohol, other drugs, or controlled substances, or

psychiatric impairment, where such treatment is sponsored or supervised by an impaired practitioner's committee of a state, regional, or local organization of professional health care providers, or where such treatment is sponsored or supervised by an impaired practitioner's committee of a hospital, shall be exempt from reporting to a peer review committee as set forth in subsection (a) or to the board of ~~dental examiners~~ **or to the consumer protection division of the office of the attorney general of Indiana** for so long as:

- (1) the dentist is complying with the course of treatment;
- (2) the dentist is making satisfactory progress; and
- (3) the dentist has not engaged in illegal, unlawful, incompetent, or fraudulent conduct in the practice of dentistry beyond the practitioner's addiction, severe dependency upon alcohol, other drugs, or controlled substances, or psychiatric impairment.

(d) If the dentist fails to comply with, or fails to make satisfactory progress in, the course of treatment, the chief administrative officer, the designee of the chief administrative officer, or any member of the impaired practitioner's committee shall promptly report such facts and circumstances to the board of ~~dental examiners~~ **or to the consumer protection division of the office of the attorney general of Indiana**.

(e) This section shall not, in any manner whatsoever, directly or indirectly, be deemed or construed to prohibit, restrict, limit, or otherwise preclude the board of ~~dental examiners~~ from taking such action as it deems appropriate or as may otherwise be provided by law. (*State Board of Dentistry; 828 IAC 1-1-23; filed Oct 5, 1993, 5:00 p.m.: 17 IR 199; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Feb 28, 2002, 3:17 p.m.: 25 IR 2242*)

SECTION 11. 828 IAC 1-2-1 IS AMENDED TO READ AS FOLLOWS:

Rule 2. Dental Hygienists; Licensure by Examination

828 IAC 1-2-1 Qualifications of applicants; accredited and approved dental hygiene schools

Authority: IC 25-13-1-5
Affected: IC 25-13-1-6

Sec. 1. All applicants for licensure to practice dental hygiene must have graduated from an accredited and approved dental hygiene school and must submit certification of having completed within the prior year an American Red Cross or American Heart Association ~~cardio-pulmonary~~ **cardiopulmonary** resuscitation course or such course as may be approved by the board. An **accredited and approved dental hygienist hygiene** school is one ~~which that~~ requires the following:

- (1) Graduation from high school or equivalent training.
- (2) Two (2) academic years in a dental ~~hygienist~~ **hygiene** school ~~which that~~ presents a curriculum, including, at least, the following subjects:

- (A) Anatomy, general and ~~dental~~ **oral**.
- (B) Pharmacology.
- (C) Microbiology **and immunology**.
- (D) Radiology.
- (E) Physiology.
- (F) Preventive dentistry.
- (G) ~~Clinical practice~~ **Dental hygiene science**.
- (H) Histology.
- (I) Chemistry.
- (J) Dental materials.
- (K) ~~Laboratory procedures~~ **Periodontology**.
- (L) ~~Diet and~~ Nutrition.
- (M) Pathology, **general and oral**.
- (N) **Oral and written communication**.
- (O) **Psychology**.
- (P) **Sociology**.
- (Q) **Community dental health**.

(*State Board of Dentistry; PT 2, Rule 1; filed Aug 10, 1973, 11:00 a.m.: Rules and Regs. 1974, p. 51; filed Nov 7, 1980, 12:45 p.m.: 3 IR 2190; filed Oct 12, 1993, 5:00 p.m.: 17 IR 401; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Feb 28, 2002, 3:17 p.m.: 25 IR 2243*)

SECTION 12. 828 IAC 1-2-2 IS AMENDED TO READ AS FOLLOWS:

828 IAC 1-2-2 Application forms; time for filing required documents

Authority: IC 25-13-1-5
Affected: IC 25-13-1-4

Sec. 2. (a) The applicant for examination must complete the application on forms prescribed and provided by the board. **The applicant shall verify** all statements contained in the application. ~~shall be verified by the applicant~~. The verified application, all examination fees, and other documents that the board may require ~~shall must be delivered~~ **submitted** to the board office at least ~~thirty (30)~~ **forty-five (45)** days prior to the first day of the examination.

(b) Proof that the applicant is a graduate of a school ~~for of~~ **dental hygienists hygiene** that is recognized by the board must be submitted to the board at least seven (7) days prior to the examination. The following documents must be submitted:

- (1) An official transcript showing the date the degree was conferred.
- (2) An official diploma or a certificate of completion signed by the dean and the registrar of the applicant's school.

(*State Board of Dentistry; PT 2, Rule 2; filed Aug 10, 1973, 11:00 a.m.: Rules and Regs. 1974, p. 52; filed Oct 16, 1985, 3:57 p.m.: 9 IR 522; filed Oct 12, 1993, 5:00 p.m.: 17 IR 401; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Feb 28, 2002, 3:17 p.m.: 25 IR 2243*)

SECTION 13. 828 IAC 1-2-3 IS AMENDED TO READ AS FOLLOWS:

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828 IAC 1-2-3 Examinations required for licensure

Authority: IC 25-13-1-5

Affected: IC 25-13-1-4; IC 25-13-1-7

Sec. 3. (a) In order to obtain an Indiana license to practice dental hygiene, each candidate must pass a three (3) part examination which includes the following:

- (1) All sections of the national dental hygiene board examination.
- (2) A clinical-practical examination, which ~~includes~~ **may include** a written portion.
- (3) A written examination covering Indiana law relating to the practice of dentistry and dental hygiene.

(b) A passing score must be obtained on all sections of the national board dental hygiene examination before any candidate may take the clinical-practical or law examinations. (*State Board of Dentistry; PT 2, Rule 3; filed Aug 10, 1973, 11:00 a.m.: Rules and Regs. 1974, p. 52; filed Apr 19, 1991, 3:00 p.m.: 14 IR 1727; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Feb 28, 2002, 3:17 p.m.: 25 IR 2244*)

SECTION 14. 828 IAC 1-2-6 IS AMENDED TO READ AS FOLLOWS:

828 IAC 1-2-6 National board examination; dental and dental hygiene law examination

Authority: IC 25-13-1-5

Affected: IC 25-13-1-4; IC 25-13-1-7

Sec. 6. (a) A passing score on a national board dental hygiene examination, as approved by the board, must be attained by the candidate before the candidate will be permitted to take the clinical-practical portion of the examination **and the written examination covering Indiana law relating to the practice of dentistry and dental hygiene.**

(b) Passage of the Indiana dental and dental hygiene law examination with a ~~grade score~~ of at least seventy-five percent (75%) (75) is mandatory before the candidate may be licensed. Candidates failing the law examination may retake the law examination at a time, date, and place to be set by the board not sooner than thirty (30) days from the time the law examination was last taken.

(c) Candidates failing the written ~~radiology section of the clinical-practical~~ **clinical practice** examination only may retake the written ~~radiology section of the clinical-practical~~ **clinical practice** examination at a time, date, and place to be set by the board not sooner than thirty (30) days from the time the clinical-practical examination was last taken. (*State Board of Dentistry; PT 2, Rule 6; filed Aug 10, 1973, 11:00 a.m.: Rules and Regs. 1974, p. 52; filed Apr 12, 1984, 8:34 a.m.: 7 IR 1521; filed Nov 7, 1986, 9:00 a.m.: 10 IR 431; filed Apr 19, 1991, 3:00 p.m.: 14 IR 1727; filed Jan 28, 1992, 5:00 p.m.: 15 IR 1014; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Feb 28, 2002, 3:17 p.m.: 25 IR 2244*)

SECTION 15. 828 IAC 1-2-8 IS AMENDED TO READ AS FOLLOWS:

828 IAC 1-2-8 Supplies for examinations; duty to provide

Authority: IC 25-13-1-5

Affected: IC 25-13-1-7

Sec. 8. ~~The Board will provide manuscripts for the examinations.~~ The candidates will provide all patients instruments and materials for the examinations. (*State Board of Dentistry; PT 2, Rule 8; filed Aug 10, 1973, 11:00 a.m.: Rules and Regs. 1974, p. 52; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Feb 28, 2002, 3:17 p.m.: 25 IR 2244*)

SECTION 16. 828 IAC 1-2-9 IS AMENDED TO READ AS FOLLOWS:

828 IAC 1-2-9 Conduct during examinations

Authority: IC 25-13-1-5

Affected: IC 25-13-1-7

Sec. 9. ~~Conduct of the candidates during examinations.~~ Candidates are not allowed to leave the room nor move about in the room during ~~an~~ **a written** examination without permission. No other paper or books, other than the **written** examination, ~~manuscripts~~, shall be used in examination room for any purpose whatsoever. (*State Board of Dentistry; PT 2, Rule 9; filed Aug 10, 1973, 11:00 a.m.: Rules and Regs. 1974, p. 53; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Feb 28, 2002, 3:17 p.m.: 25 IR 2244*)

SECTION 17. 828 IAC 1-2-10 IS AMENDED TO READ AS FOLLOWS:

828 IAC 1-2-10 Dismissal of candidate for use of unfair assistance

Authority: IC 25-13-1-5

Affected: IC 25-13-1-7

Sec. 10. ~~Use of unfair assistance during examination.~~ The board reserves the right to dismiss any applicant who may be detected in using, or attempting to use, any unfair assistance for herself **or himself** or another candidate. (*State Board of Dentistry; PT 2, Rule 10; filed Aug 10, 1973, 11:00 a.m.: Rules and Regs. 1974, p. 53; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Feb 28, 2002, 3:17 p.m.: 25 IR 2244*)

SECTION 18. 828 IAC 1-2-12 IS AMENDED TO READ AS FOLLOWS:

828 IAC 1-2-12 Failure; reexamination

Authority: IC 25-13-1-5; IC 25-14-1-13

Affected: IC 25-13-1-4; IC 25-13-1-7; IC 25-14-1-1; IC 25-14-1-3

Sec. 12. (a) If the candidate fails in securing a passing ~~grade~~ **score** in only one (1) section of the clinical-practical examination, the candidate will be required to retake that section only, provided that the candidate return for one (1) of the two (2) next

succeeding examinations. If the candidate does not take and pass the failed section on one (1) of the next two (2) available examination dates, a new application must be filed and all sections of the clinical-practical examination must be retaken.

(b) If the candidate fails in two (2) or more parts of the clinical-practical examination, the candidate must take an entire new clinical-practical examination.

(c) If the candidate fails the same section of the clinical-practical examination three (3) times, the entire clinical-practical examination must be retaken. (*State Board of Dentistry; PT 2, Rule 12; filed Aug 10, 1973, 11:00 a.m.: Rules and Regs. 1974, p. 53; filed Nov 7, 1980, 12:45 p.m.: 3 IR 2190; filed Apr 25, 1983, 8:52 a.m.: 6 IR 1086; filed Apr 19, 1991, 3:00 p.m.: 14 IR 1727; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Feb 28, 2002, 3:17 p.m.: 25 IR 2244*)

SECTION 19. 828 IAC 1-2-14 IS AMENDED TO READ AS FOLLOWS:

828 IAC 1-2-14 Remedial education

Authority: IC 25-13-1-5
Affected: IC 25-13-1-5

Sec. 14. A candidate for dental hygiene licensure shall complete remedial education following the failure of two (2) or more clinical examinations prior to being permitted to retake the examination. The assignment of remedial education, either academic and/or clinical, shall be in the subject or subjects previously failed. Courses to be taken shall be submitted to the board for prior approval by the board and certification that they were successfully completed shall be submitted to the board. The certification shall be signed by the dean **or the dean's appointed representative** of the dental hygiene school where the courses were taken. All courses shall be taken in board approved schools. All courses shall be completed and the certification shall be submitted ~~by the deadline for at least seven (7) days prior to the next examination the candidate is sitting for next. has applied to take.~~ (*State Board of Dentistry; 828 IAC 1-2-14; filed Jan 16, 1986, 3:17 p.m.: 9 IR 1366; filed Feb 3, 1987, 12:30 p.m.: 10 IR 1273; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Feb 28, 2002, 3:17 p.m.: 25 IR 2245*)

SECTION 20. 828 IAC 1-3-1 IS AMENDED TO READ AS FOLLOWS:

Rule 3. Dentists and Dental Hygienists; Licensure by Endorsement

828 IAC 1-3-1 Licensure by endorsement; credentials; examination and interview

Authority: IC 25-13-1-5; IC 25-14-1-13
Affected: IC 25-13-1-7; IC 25-13-1-17; IC 25-14-1-16

Sec. 1. (a) **Licensure by endorsement** ~~certification~~ may be granted to an applicant who meets the ~~educational and certifica-~~

~~tion licensure~~ requirements of the ~~Indiana state board, of dental examiners;~~ only upon the basis of a valid ~~certificate which license that~~ has been obtained by regular state board examination, in any other state having and maintaining a standard of examination for ~~certification licensure~~ and of laws regulating such practice within the state, substantially equivalent to Indiana, of which fact the board shall be the sole judge.

(b) Any person holding a valid, unrevoked and unexpired ~~certificate license~~ to practice dentistry and has maintained an active dental practice for not less than five (5) years out of the last nine (9) years immediately prior to submitting the application, and who is reputable as a dentist and deposits with the board the required credentials to be considered for endorsement.

(c) Any person holding a valid, unrevoked and unexpired ~~certificate license~~ to practice dental hygiene and has maintained an active dental hygiene practice for not less than five (5) years out of the last seven (7) years immediately prior to submitting the application, and who is reputable as a dental hygienist and deposits with the board the required credentials to be considered for endorsement.

(d) Required credentials **for dental and dental hygiene applicants** must include:

- (1) Completed application and ~~endorsement~~ fee (not returnable).
- (2) Shall submit to the state board of dental examiners his diploma from a dental college recognized by the Indiana state board of dental examiners: **A copy of the applicant's current cardiopulmonary resuscitation card, signed by the applicant.**
- (3) National board final ~~grade score~~ card or equivalent.
- (4) Transcripts from ~~pre-dental~~ and dental **or dental hygiene** schools.
- (5) ~~Certified statements of Verification of license status from each dental examining and certification state health care professional licensing board of states in which applicant is certified: or has been licensed.~~
- (6) Affidavits of at least three (3) practicing dentists verifying ~~your the applicant's~~ active, moral, and ethical practice of dentistry for the past five (5) years or the ethical practice of dental hygiene for the past five (5) years.
- (7) ~~Statement from applicant stating that he will appear for interview at the request of the board:~~

(e) Applicant shall be interviewed and examined in the laws of Indiana relating to dentistry and dental hygiene and after careful evaluation of application and qualifications; applicant ~~MAY~~ be required to take such other portions of the Indiana examination as the board ~~MAY~~ deem necessary and pass such examination to the satisfaction of the board; as is required of other applicants for certification to practice dentistry or dental hygiene in the state of Indiana.

(f) (e) The same standard of educational requirements applies

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to applicants for certification licensure through endorsement as for certification licensure by examination.

(g) (f) An applicant who has previously failed an examination for certification licensure administered by the Indiana state board of dental examiners is not eligible to apply for endorsement, until such applicant has passed all portions of the examination in which he or she failed or provides the board with proof that additional training has been received in the subjects of the failure.

(h) At the discretion of the Indiana state board of dental examiners the applicant MAY be issued a certificate to practice dentistry or dental hygiene in the state of Indiana. (*State Board of Dentistry; Endorsement Certification; filed Oct 8, 1974, 9:15 a.m.: Rules and Regs. 1975, p. 233; filed Jan 12, 1984, 11:32 a.m.: 7 IR 698; filed Aug 29, 1986, 2:30 p.m.: 10 IR 22; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Feb 28, 2002, 3:17 p.m.: 25 IR 2245*)

SECTION 21. 828 IAC 1-3-4 IS AMENDED TO READ AS FOLLOWS:

828 IAC 1-3-4 Dental licensure by endorsement; failure to renew expired license

Authority: IC 25-14-1-13

Affected: IC 25-14-1-10; IC 25-14-1-16

Sec. 4. The holder of a license which that has expired under IC 25-14-1-10 for failure to renew may not apply for licensure by endorsement under IC 25-14-1-16(b) and this rule if the holder of the license has practiced dentistry in Indiana during the period of time while the license was expired. (*State Board of Dentistry; 828 IAC 1-3-4; filed Feb 4, 1994, 5:00 p.m.: 17 IR 1094; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Feb 28, 2002, 3:17 p.m.: 25 IR 2246*)

SECTION 22. 828 IAC 1-3-5 IS AMENDED TO READ AS FOLLOWS:

828 IAC 1-3-5 Dental hygiene licensure by endorsement; failure to renew expired license

Authority: IC 25-13-1-5

Affected: IC 25-13-1-8; IC 25-13-1-17

Sec. 5. The holder of a license which that has expired under IC 25-13-1-8 for failure to renew may not apply for licensure by endorsement under IC 25-13-1-17(a) and this rule if the holder of the license has practiced dental hygiene in Indiana during the period of time while the license was expired. (*State Board of Dentistry; 828 IAC 1-3-5; filed Feb 4, 1994, 5:00 p.m.: 17 IR 1094; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Feb 28, 2002, 3:17 p.m.: 25 IR 2246*)

SECTION 23. THE FOLLOWING ARE REPEALED: 828 IAC 1-1-4; 828 IAC 1-1-11; 828 IAC 1-2-4; 828 IAC 1-2-11.

LSA Document #01-241(F)

Notice of Intent Published: 24 IR 3660

Proposed Rule Published: October 1, 2001; 25 IR 170

Hearing Held: January 4, 2002

Approved by Attorney General: February 13, 2002

Approved by Governor: February 27, 2002

Filed with Secretary of State: February 28, 2002, 3:17 p.m.

Incorporated Documents Filed with Secretary of State: None

TITLE 844 MEDICAL LICENSING BOARD OF INDIANA

LSA Document #01-183(F)

DIGEST

Adds 844 IAC 4-2-2 to establish fees for licensure as a medical doctor or osteopathic doctor. Repeals 844 IAC 4-2-1. Effective 30 days after filing with the secretary of state.

844 IAC 4-2-1

844 IAC 4-2-2

SECTION 1. 844 IAC 4-2-2 IS ADDED TO READ AS FOLLOWS:

844 IAC 4-2-2 Board fees

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

Affected: IC 25-22.5-1-1.1

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

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

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

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

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

SECTION 2. 844 IAC 4-2-1 IS REPEALED.

LSA Document #01-183(F)

Notice of Intent Published: 24 IR 2727

Proposed Rule Published: August 1, 2001; 24 IR 3778

Hearing Held: August 23, 2001
Approved by Attorney General: January 23, 2002
Approved by Governor: February 6, 2002
Filed with Secretary of State: February 11, 2002, 4:32 p.m.
Incorporated Documents Filed with Secretary of State: None

TITLE 844 MEDICAL LICENSING BOARD OF INDIANA

LSA Document #01-245(F)

DIGEST

Adds 844 IAC 6-2-2 concerning fees related to licensure as a physical therapist and certification as a physical therapist's assistant. Repeals 844 IAC 6-2-1. Effective 30 days after filing with the secretary of state.

844 IAC 6-2-1

844 IAC 6-2-2

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

844 IAC 6-2-2 Fees

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

Affected: IC 25-27-1-7

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

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

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

SECTION 2. 844 IAC 6-2-1 IS REPEALED.

LSA Document #01-245(F)

Notice of Intent Published: 24 IR 3661

Proposed Rule Published: November 1, 2001; 25 IR 501

Hearing Held: December 6, 2001

Approved by Attorney General: January 16, 2002

Approved by Governor: January 30, 2002

Filed with Secretary of State: February 11, 2002, 4:35 p.m.

Incorporated Documents Filed with Secretary of State: None

TITLE 844 MEDICAL LICENSING BOARD OF INDIANA

LSA Document #01-246(F)

DIGEST

Adds 844 IAC 10-2-2 concerning fees related to licensure as an occupational therapist and certification as an occupational therapy assistant. Repeals 844 IAC 10-2-1. Effective 30 days after filing with the secretary of state.

844 IAC 10-2-1

844 IAC 10-2-2

SECTION 1. 844 IAC 10-2-2 IS ADDED TO READ AS FOLLOWS:

844 IAC 10-2-2 Fees

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

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

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

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

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

SECTION 2. 844 IAC 10-2-1 IS REPEALED.

LSA Document #01-246(F)

Notice of Intent Published: 24 IR 3661

Proposed Rule Published: November 1, 2001; 25 IR 501

Hearing Held: December 6, 2001

Approved by Attorney General: January 16, 2002

Approved by Governor: January 30, 2002

Filed with Secretary of State: February 11, 2002, 4:40 p.m.

Incorporated Documents Filed with Secretary of State: None

TITLE 844 MEDICAL LICENSING BOARD OF INDIANA

LSA Document #01-247(F)

DIGEST

Adds 844 IAC 12-2-2 concerning fees related to certification as a hypnotist. Repeals 844 IAC 12-2-1. Effective 30 days after filing with the secretary of state.

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844 IAC 12-2-1 844 IAC 12-2-2

SECTION 1. 844 IAC 12-2-2 IS ADDED TO READ AS FOLLOWS:

844 IAC 12-2-2 Fees

Authority: IC 25-20.5-1-9

Affected: IC 25-20.5-1

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

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

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

SECTION 2. 844 IAC 12-2-1 IS REPEALED.

LSA Document #01-247(F)

Notice of Intent Published: 24 IR 3661

Proposed Rule Published: November 1, 2001; 25 IR 502

Hearing Held: December 6, 2001

Approved by Attorney General: January 16, 2002

Approved by Governor: January 30, 2002

Filed with Secretary of State: February 11, 2002, 4:37 p.m.

Incorporated Documents Filed with Secretary of State: None

TITLE 925 MERIDIAN STREET PRESERVATION COMMISSION

LSA Document #01-70(F)

DIGEST

Adds 925 IAC 2 to establish new rules governing the procedures of the Meridian Street Preservation Commission. Repeals 925 IAC 1 [IC 4-22-2.5, 925 IAC 1 expired January 1, 2002.]. Effective 30 days after filing with the secretary of state.

925 IAC 2

SECTION 1. 925 IAC 2 IS ADDED TO READ AS FOLLOWS:

ARTICLE 2. GENERAL PROVISIONS

Rule 1. Definitions

925 IAC 2-1-1 Definitions

Authority: IC 36-7-11.2-27

Affected: IC 36-7-11.2

Sec. 1. (a) The definitions in this rule apply throughout this article and are in addition to the definitions in IC 36-7-11.2.

(b) "Act" is defined as IC 37-7-11.2 [sic., IC 36-7-11.2].

(c) "Case" means any matter subject to a determination by the commission for which an application or petition has been properly filed.

(d) "Certificate" means a certificate of appropriateness issued by the commission.

(e) "Commission" means the Meridian Street preservation commission as established by IC 36-7-11.2.

(f) "Rezoning" means amending the zoning map to change the zoning district classification. (Meridian Street Preservation Commission; 925 IAC 2-1-1; filed Mar 4, 2002, 3:00 p.m.: 25 IR 2248)

Rule 2. Public Hearings; Meetings

925 IAC 2-2-1 Time and location of public hearings and meetings

Authority: IC 36-7-11.2-27

Affected: IC 36-7-11.2-31

Sec. 1. Regular meetings, designated as public hearings of the commission, shall be held at 4 p.m. on the third Tuesday of each month. If such regular meeting day falls on a legal holiday, the meeting shall be held on the following Tuesday. The commission shall determine the location of the following regular meeting at the immediately preceding regular meeting. (Meridian Street Preservation Commission; 925 IAC 2-2-1; filed Mar 4, 2002, 3:00 p.m.: 25 IR 2248)

925 IAC 2-2-2 Notice of special meetings

Authority: IC 36-7-11.2-27

Affected: IC 36-7-11.2-31

Sec. 2. Written notice of a special meeting is not required if the time of the special meeting is fixed at a previous regular meeting. However, notice shall be posted on the public notice bulletin board in the lobby of the Indianapolis Marion County City-County Building. (Meridian Street Preservation Commission; 925 IAC 2-2-2; filed Mar 4, 2002, 3:00 p.m.: 25 IR 2248)

925 IAC 2-2-3 Meetings and hearings open to public

Authority: IC 36-7-11.2-27

Affected: IC 5-14-1.5; IC 36-7-11.2-31

Sec. 3. All regular or special meetings and hearings of the commission shall be open to the public. (Meridian Street Preservation Commission; 925 IAC 2-2-3; filed Mar 4, 2002, 3:00 p.m.: 25 IR 2248)

925 IAC 2-2-4 Vote by ballot; public access

Authority: IC 36-7-11.2-27

Affected: IC 5-14-3; IC 36-7-11.2

Sec. 4. (a) In all cases for certificates of appropriateness, variances, zoning ordinances, and zoning amendments, the commission's vote shall be by written ballot.

(b) The result of the vote shall be announced immediately after it is tallied and, in the case of a split decision, the names of commission members voting against an application or petition shall be announced. A commissioner may be asked for the basis of his or her vote.

(c) All ballots shall remain on file in the office of the commission and are public records. (*Meridian Street Preservation Commission; 925 IAC 2-2-4; filed Mar 4, 2002, 3:00 p.m.: 25 IR 2248*)

925 IAC 2-2-5 Appearance; testimony of agent or attorney; written submissions

Authority: IC 36-7-11.2-27
Affected: IC 36-7-11.2-28; IC 36-7-11.2-34

Sec. 5. (a) At hearings before the commission, any party may appear in person, by representative, or by attorney.

(b) An attorney or other representative of any party, petitioner, or remonstrator may testify to facts within that person's own knowledge relating to the issues of the case. In such cases, all parties appearing before the commission shall be sworn and be subject to questions from the commission.

(c) Plans, photographs, letters, petitions, or other nonverbal information in support of or opposition to an application or petition may be submitted to the commission prior to the hearing by submitting such information to the chairman of the commission, who shall make all such information part of the public record. (*Meridian Street Preservation Commission; 925 IAC 2-2-5; filed Mar 4, 2002, 3:00 p.m.: 25 IR 2249*)

925 IAC 2-2-6 Notice of continuances

Authority: IC 36-7-11.2-27
Affected: IC 36-7-11.2

Sec. 6. No notice of continuance must be given to interested parties if a case is continued at a hearing for which proper notice was given. (*Meridian Street Preservation Commission; 925 IAC 2-2-6; filed Mar 4, 2002, 3:00 p.m.: 25 IR 2249*)

925 IAC 2-2-7 Evidence; time allowed; order of presentation

Authority: IC 36-7-11.2-27
Affected: IC 36-7-11.2-34

Sec. 7. (a) Petitioners and remonstrators, respectively, shall each be permitted a total of fifteen (15) minutes, as described in subsections (b), (c), and (d) [subsections (b) through (d)], for the presentation of evidence, statements, and argument at the public hearing of every case by the commission.

(b) Petitioners and persons appearing in support of a case shall first have a cumulative of ten (10) minutes for the

presentation of evidence, statements, and argument in support of the matter being considered.

(c) Remonstrators and persons appearing in opposition to a case shall then have fifteen (15) minutes for the presentation of evidence, statements, and argument in opposition to the matter being considered.

(d) The petitioner shall then be permitted five (5) minutes for rebuttal and a closing statement. Rebuttal shall include only evidence, statements, or argument to rebut the opposing party's presentation.

(e) The commission members may ask questions of all parties and witnesses at any time during the presentation of evidence and after the close of evidence presented under subsections (b) through (d). The time taken to respond to questions from commission members shall not be counted against the time allocated to either side under subsections (b) through (d).

(f) The chair or a majority of the commission shall have authority to extend the times specified in subsections (a) through (d). (*Meridian Street Preservation Commission; 925 IAC 2-2-7; filed Mar 4, 2002, 3:00 p.m.: 25 IR 2249*)

925 IAC 2-2-8 Application fees

Authority: IC 36-7-11.2-27
Affected: IC 36-7-11.2-49

Sec. 8. (a) Fees to be paid by persons filing a petition with the commission for a certificate of appropriateness are set for the following classifications:

- (1)** Certificate of appropriateness for construction of a new building, one hundred dollars (\$100).
- (2)** Certificate of appropriateness for demolition or removal of a building or a portion of a building, one hundred dollars (\$100).
- (3)** Certificate of appropriateness for renovation or alteration or addition to an existing building, one hundred dollars (\$100).
- (4)** Certificate of appropriateness for new swimming pools, driveways, walkways, patios, fences, removal of trees, or other site improvements that do not include buildings, fifty dollars (\$50).

(b) Persons filing a petition with the commission for prior approval of a variance shall pay a fee of one hundred dollars (\$100).

(c) Persons filing a petition with the commission for a recommendation to the city of Indianapolis metropolitan development commission regarding the amendment or adoption of a zoning ordinance shall pay a fee of one hundred dollars (\$100).

(d) Fees are cumulative and shall be paid for each

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classification of request contained in a single petition. For example, the filing fees for a petition requesting:

- (1) a variance of development standards;
 - (2) a certificate of appropriateness for removal of a building;
 - (3) a certificate of appropriateness for alteration to an existing building; and
 - (4) a certificate of appropriateness for a patio;
- will be three hundred fifty dollars (\$350).

(e) Fees shall be due at the time of filing a case, and the commission shall consider a case only if the fee has been paid in full. Prior to filing a case, the commission may consider a request to reduce the fees, and a majority of the commissioners present and voting at the meeting may vote to reduce the fee for good cause shown. In no event shall the fee be reduced to less than fifty dollars (\$50).

(f) In addition to the filing fees set forth above, petitioner shall at the time of filing pay the estimated cost of newspaper advertising, which advertisement shall be placed by the commission.

(g) If the commission has not otherwise set a fee under this rule for a type of application or petition, the fee shall be fifty dollars (\$50). (*Meridian Street Preservation Commission; 925 IAC 2-2-8; filed Mar 4, 2002, 3:00 p.m.: 25 IR 2249*)

925 IAC 2-2-9 Conduct of parties

Authority: IC 36-7-11.2-27
Affected: IC 36-7-11.2-26

Sec. 9. Every person appearing before the commission shall abide by the order and direction of the commission's chair or presiding officer. (*Meridian Street Preservation Commission; 925 IAC 2-2-9; filed Mar 4, 2002, 3:00 p.m.: 25 IR 2250*)

925 IAC 2-2-10 Testimony under oath or affirmation

Authority: IC 36-7-11.2-27
Affected: IC 33-16-4-1; IC 36-7-11.2-36

Sec. 10. All testimony before the commission shall be given under oath or affirmation, administered by a person authorized by the chair or presiding officer and who has the authority to administer the oath or affirmation pursuant to IC 33-16-4-1. (*Meridian Street Preservation Commission; 925 IAC 2-2-10; filed Mar 4, 2002, 3:00 p.m.: 25 IR 2250*)

Rule 3. Zoning Matters

925 IAC 2-3-1 Petition for a zoning variance, zoning ordinance adoption, or amendment

Authority: IC 36-7-11.2-27
Affected: IC 36-7-11.2

Sec. 1. The petitioner for any zoning variance, zoning ordinance adoption, or amendment shall file with the chair

an original and nine (9) complete copies of the petition with all exhibits. (*Meridian Street Preservation Commission; 925 IAC 2-3-1; filed Mar 4, 2002, 3:00 p.m.: 25 IR 2250*)

Rule 4. Certificate of Appropriateness

925 IAC 2-4-1 Certificate of appropriateness required; exceptions

Authority: IC 36-7-11.2-27
Affected: IC 36-7-11.2-61

Sec. 1. A certificate of appropriateness from the commission is required prior to the construction, reconstruction, alteration, or demolition of any structure or feature on any Meridian Street property, except that no certificate shall be required for the following:

- (1) Normal repair and maintenance work consonant with proper upkeep of the property and which does not alter original materials, patterns, dimensions, location, style, size, and type.
- (2) Interior decoration, interior remodeling, and interior renovation not involving a change in the use of the property.
- (3) Removal of chain-link fences.
- (4) Installation or removal (except for healthy trees) of plant materials, provided they were not required in a previously issued certificate of appropriateness.
- (5) Installation of low borders on planting beds.
- (6) Installation of ground lighting in back yards.
- (7) Facade illumination that illuminates only the subject property.
- (8) Security lights mounted on buildings or installed by Indianapolis Power and Light on existing utility poles at the rear of properties that are deflected light sources and not visible from the street.
- (9) Incandescent wall or ceiling mounted light fixtures at the rear entrances of a building.
- (10) Fixtures in the public right-of-way placed there by governmental agencies, such as mail collection boxes and traffic regulation devices.
- (11) Temporary accessory items in rear yards, including garden furniture, children's play equipment, and small doghouses.
- (12) Reroofing of any roof surface, provided that any new materials match those of the previous in composition, size, shape, color, and texture.
- (13) Alteration of any flat roof when no change is visible from the ground.
- (14) Repointing of mortar joints with mortar matching in composition, color, and texture to the original.
- (15) Replacement of deteriorated wood siding or trim if less than five percent (5%) of any facade and if replacement wood matches the original exactly.
- (16) Removal of siding made of aluminum, vinyl, particle board, asphalt, asbestos, plywood, hardboard, or synthetic masonry.

- (17) Installation of interior storm windows and interior stained glass.
- (18) Replacement of missing or broken glass with new glass to match the previous.
- (19) Installation of visually unobtrusive exterior storm windows and doors provided no alterations are made to the opening and they are not attached to, or cover, any exterior trim.
- (20) Repainting with appropriate colors for the historic architectural styles represented in the area.
- (21) Window air conditioning units requiring no alteration to the window or opening and on a nonprimary facade.
- (22) Air conditioning equipment and meter boxes on the rear of a house and not visible from the street.
- (23) HVAC and utility equipment on roofs if not visible from the front of the property at street level.
- (24) Burial of electric, telephone, and television cable requiring no new utility poles.
- (25) Aboveground installation of utility cables at the rear of the structure when underground service is not available.
- (26) Exterior surface-mounted vents, such as those for dryers, heaters, bathrooms, and kitchens, if no larger than one (1) square foot and not visible from the street.
- (27) Replacement of any utility pole with one (1) of matching materials and of equal or lesser height and for the same use.

(Meridian Street Preservation Commission; 925 IAC 2-4-1; filed Mar 4, 2002, 3:00 p.m.: 25 IR 2250)

925 IAC 2-4-2 Application for certificates of appropriateness
Authority: IC 36-7-11.2-27
Affected: IC 36-7-11.2-34

Sec. 2. (a) The applicant for a certificate shall file with the chair one (1) original and nine (9) complete copies the application with all exhibits.

- (b) An application for a certificate shall:
 - (1) State the name and address of the petitioner, who may or may not be the owner of the subject property.
 - (2) State the name of the owner or owners and street address of the property that is the subject of the application.
 - (3) Describe, in detail, the following:
 - (A) The work to be done.
 - (B) The change resulting from such work, if any, in architectural features of the structure upon which such work is to be done.
 - (C) The nature and type of materials to be employed, specifying which such materials will be external and visible upon completion of the work.
 - (D) The name of the person who prepared plans.

- (c) The application shall be accompanied by the following:
 - (1) A current photograph of the property taken from Meridian Street, if the work will be visible from Meridian Street.

- (2) A photograph depicting the location of the work to be done and clearly showing all features to be altered or affected.
- (3) A site plan indicating the accurate distance between the proposed construction and all property lines if new construction is proposed.
- (4) If appropriate to the type of work being proposed, accurate drawings, with dimensions, showing the property or structure before and after the work for which the certificate is sought.
- (5) Samples, pamphlets, or other information explaining the materials to be used.

(Meridian Street Preservation Commission; 925 IAC 2-4-2; filed Mar 4, 2002, 3:00 p.m.: 25 IR 2251)

925 IAC 2-4-3 Notice of application for certificate of appropriateness
Authority: IC 36-7-11.2-27
Affected: IC 36-7-11.2-7

Sec. 3. (a) Any person who files an application for a certificate shall, within ten (10) days after such filing, serve notice upon all interested parties defined in IC 36-7-11.2-7.

- (b) Notice shall be personally served or mailed, first class postage prepaid, and include the following:
 - (1) The full name and address of the person filing the application.
 - (2) The street address of the property that is the subject of the application.
 - (3) A description of the type of work proposed to be performed.
 - (4) The date, time, and place of the meeting at which the application will be considered by the commission.

(Meridian Street Preservation Commission; 925 IAC 2-4-3; filed Mar 4, 2002, 3:00 p.m.: 25 IR 2251)

925 IAC 2-4-4 Hearing on application; expedited consideration
Authority: IC 36-7-11.2-27
Affected: IC 14-3-3.2-17; IC 36-7-11.2-61

Sec. 4. (a) No certificate shall be approved or denied without a hearing.

- (b) The commission may consider, but not conclusively rule on, an application for a certificate at a regular or special meeting for which proper notice of the application has not been given, provided reasonable notice to interested parties can be demonstrated and a majority of those present and voting at the meeting agree to consider the matter.
- (Meridian Street Preservation Commission; 925 IAC 2-4-4; filed Mar 4, 2002, 3:00 p.m.: 25 IR 2251)

Rule 5. Dismissal; Withdrawal; Redocketing of Cases

925 IAC 2-5-1 Dismissal of cases
Authority: IC 36-7-11.2-27
Affected: IC 36-7-11.2-46

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Sec. 1. (a) A majority vote of the commission members present and voting at the meeting may dismiss a case for want of prosecution or for lack of jurisdiction.

(b) Dismissal of a case does not prevent a person from reapplying at any time in the future.

(c) No fees paid to the commission for an application or petition shall be refunded after dismissal, except by a majority vote of the members present and voting at a regular meeting. (*Meridian Street Preservation Commission; 925 IAC 2-5-1; filed Mar 4, 2002, 3:00 p.m.: 25 IR 2251*)

925 IAC 2-5-2 Withdrawal of cases; redocketing

Authority: IC 36-7-11.2-27

Affected: IC 36-7-11.2-28

Sec. 2. (a) Any person who has filed a case may withdraw such case from commission consideration at any time before or during a hearing, but not after the chair has called for a vote.

(b) Withdrawn cases may be docketed as a new case at any time, provided all filing and notice requirements are met.

(c) No fees paid to the commission for a case subsequently withdrawn shall be refunded except by a majority vote of the members present and voting at a regular meeting. (*Meridian Street Preservation Commission; 925 IAC 2-5-2; filed Mar 4, 2002, 3:00 p.m.: 25 IR 2252*)

925 IAC 2-5-3 Adverse decisions; redocketing

Authority: IC 36-7-11.2-27

Affected: IC 36-7-11.2-28

Sec. 3. (a) No case that has been decided adversely against an applicant or petitioner shall again be placed on the docket for consideration within a period of six (6) months from the date of the adverse decision.

(b) Upon motion to permit redocketing adopted by six (6) affirmative votes, the commission may decide to consider such a case in less than six (6) months.

(c) In determining whether or not to consider a case that was previously decided adversely against an applicant or petitioner, the commission shall take into account evidence that the request is substantially different from the denied petition or application, especially with respect to those aspects of the request that caused the commission to deny it. (*Meridian Street Preservation Commission; 925 IAC 2-5-3; filed Mar 4, 2002, 3:00 p.m.: 25 IR 2252*)

Rule 6. General Conduct of Business

925 IAC 2-6-1 Officers of commission; selection; presiding officer

Authority: IC 36-7-11.2-27

Affected: IC 36-7-11.2-26

Sec. 1. (a) The commission may elect by majority vote of those present and voting a vice chair from among its members at any regular or special meeting.

(b) The vice chair shall preside at meetings in the event that the chair is absent, is disabled, or has chosen to abstain from hearing and voting on a case or has otherwise disqualified himself or herself from hearing and voting on a case.

(c) The commission may elect by majority vote of those present and voting a secretary/treasurer from among its members at any regular or special meeting.

(d) The chair shall preside at all meetings at which he or she is present unless he or she has chosen to disqualify himself or herself or has abstained from hearing and voting on a matter.

(e) In the event that neither the chair nor the vice chair is available to preside at a meeting, the chair, or the vice chair in the absence of the chair, shall assign the duty of presiding officer to another member of the commission. (*Meridian Street Preservation Commission; 925 IAC 2-6-1; filed Mar 4, 2002, 3:00 p.m.: 25 IR 2252*)

925 IAC 2-6-2 Points of order and procedure; chair's authority

Authority: IC 36-7-11.2-27

Affected: IC 4-21.5; IC 36-7-11.2-26

Sec. 2. The chair, subject to IC 36-7-11.2 and IC 4-21.5, shall decide all points of order or procedure unless otherwise directed by a majority of the commission present and voting at the meeting. (*Meridian Street Preservation Commission; 925 IAC 2-6-2; filed Mar 4, 2002, 3:00 p.m.: 25 IR 2252*)

925 IAC 2-6-3 Prohibited contact regarding pending cases

Authority: IC 36-7-11.2-27

Affected: IC 36-7-11.2

Sec. 3. (a) No information pertaining to a pending case shall be discussed by, with, or in the presence of any commission member, and no person shall contact any commission member, orally or in writing, in advance of a public hearing on a case in an effort to influence such member's votes, except as follows:

(1) Plans, photographs, letters, petitions, or other nonverbal information in support or opposition of an application or petition may be submitted to the commission prior to the hearing by submitting such information to the chair of the commission, who shall make all such information part of the public record.

(2) The chair, or his or her designee, may provide to commission members in advance of a public hearing copies of applications, plans, photographs, letters, petitions, planning facts, and other nonverbal documentation

submitted in support or opposition of an application or petition, provided the information is part of the public record.

(3) Prior to the hearing, verbal communication between the chair and applicants or petitioners shall be limited to procedural issues related to filing, documentation, notification, and hearing procedures.

(b) The applicant, petitioner, interested parties, or any attorney of record shall be informed of all letters, petitions, or other nonverbal communication received by the chair or by any other member of the commission at the public hearing and shall be provided a copy in accordance with Indiana's access to public records laws. (*Meridian Street Preservation Commission; 925 IAC 2-6-3; filed Mar 4, 2002, 3:00 p.m.: 25 IR 2252*)

925 IAC 2-6-4 Commissioner investigation

Authority: IC 36-7-11.2-27

Affected: IC 36-7-11.2-37

Sec. 4. (a) Before voting on a case, the petitioner or applicant, an interested party, or a commission member may request the case to be continued so that an investigative committee of commission members may have the opportunity to investigate the site and the facts of the case.

(b) If a majority of the commissioners present and voting at the meeting concur with the request, the commission may chose two (2) or three (3) commission members to serve on a committee to proceed with an investigation and report its findings to the commission at the hearing to which the case has been continued.

(c) There shall not be less than two (2) or more than three (3) members chosen for an investigative committee, and all members of the committee must be present during any visit to the site or fact investigation.

(d) While undertaking its investigation of the facts, the committee may:

(1) visit the site;

(2) talk to the petitioner or applicant and persons involved in developing the petitioner's plans in order to obtain a clear understanding of the submitted proposal and any alternative the petitioner wishes to propose; and

(3) talk with professionals about the facts of the case.

(e) While investigating, the committee shall not:

(1) make any determination;

(2) make any comments on the facts of the case or express any opinion on the investigation or recommendations that may be made to the commission; or

(3) commit any or all commission members to any opinion or action.

(f) Nothing contained in this rule shall be construed to prohibit an individual commissioner from doing a drive-by or walk-by site inspection provided that there is no communication with any interested party or petitioner. (*Meridian Street Preservation Commission; 925 IAC 2-6-4; filed Mar 4, 2002, 3:00 p.m.: 25 IR 2253*)

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