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## Final Rules

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### TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #01-175(F)

#### DIGEST

Adds 405 IAC 2-3-1.2 concerning Medicaid penalties for transferring assets for less than fair market value. Specifies that the purchase of an annuity or similar arrangement is considered a transfer of assets for less than fair market value unless the annuity is irrevocable, commercially issued, actuarially sound, and provides substantially equal monthly payments with no balloon payment. Effective 30 days after filing with the secretary of state.

#### 405 IAC 2-3-1.2

SECTION 1. 405 IAC 2-3-1.2 IS ADDED TO READ AS FOLLOWS:

#### 405 IAC 2-3-1.2 Transfers involving annuities

Authority: IC 12-8-1-9; IC 12-8-6-5; IC 12-15-1-10  
Affected: IC 12-15-4

**Sec. 1.2. (a) For purposes of this section, “annuity” means a policy, certificate, contract, or other arrangement between two (2) or more parties whereby one (1) party pays a lump sum of money or other valuable consideration to the other party in return for the right to receive payments in the future.**

**(b) The purchase of an annuity, any instrument purporting to be an annuity, or any other arrangement that meets the definition of an annuity in subsection (a) shall be considered an uncompensated transfer of assets resulting in a penalty under section 1.1 of this rule unless the following criteria are met:**

- (1) The annuity is purchased from one (1) of the following:**
  - (A) An insurance company or another commercial company that sells annuities as part of the normal course of business; or**
  - (B) A nonprofit organization qualified under Section 501(c) of the Internal Revenue Code as amended.**
- (2) The annuity provides substantially equal monthly payments of principal and interest and does not have a balloon or deferred payment of principal or interest. Payments will be considered substantially equal if the total annual payment in any year varies by five percent (5%) or less from the payment in the previous year.**
- (3) The annuity will return the full purchase price within the purchaser’s life expectancy as determined by life expectancy tables published by the office.**

**(c) If an annuity complies with the criteria in subsection (b)(1) and (b)(2), but does not comply with [subsection] (b)(3), the uncompensated value of the transfer is the difference between the purchase price and the amount that the annuity will return within the purchaser’s life expectancy. If an annuity does not comply with one (1) or more**

**of the criteria in subsection (b)(1) or (b)(2), the uncompensated value is the entire purchase price.**

**(d) If an annuity is revocable or can be assigned to another person, it is considered an available resource for Medicaid eligibility purposes.**

**(e) This section applies to any annuity regardless of purchase date, except that the requirements in subsection (b)(1) and (b)(2) apply only to the following:**

**(1) Any annuity purchased on or after the later of:**

**(A) June 1, 2002; or**

**(B) the effective date of this rule.**

**(2) Any annuity regardless of purchase date, if the annuity is annuitized on or after the later of:**

**(A) June 1, 2002; or**

**(B) the effective date of this rule.**

*(Office of the Secretary of Family and Social Services; 405 IAC 2-3-1.2; filed May 1, 2002, 10:38 a.m.: 25 IR 2726)*

*LSA Document #01-175(F)*

*Notice of Intent Published: 24 IR 2725*

*Proposed Rule Published: September 1, 2001; 24 IR 4136*

*Hearing Held: October 4, 2001*

*Approved by Attorney General: April 15, 2002*

*Approved by Governor: April 30, 2002*

*Filed with Secretary of State: May 1, 2002, 10:38 a.m.*

*Incorporated Documents Filed with Secretary of State: None*

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### TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #01-372(F)

#### DIGEST

Amends 405 IAC 5-24-4 and 405 IAC 5-24-6 to revise reimbursement policy for pharmacy services in the Medicaid program, including adding a state maximum allowable cost schedule to the Medicaid reimbursement methodology for legend drugs. *NOTE: 405 IAC 5-24-4 and 405 IAC 5-24-6 were amended by LSA Document #01-22(F), printed at 25 IR 60. However, that final rule was preliminarily enjoined pursuant to an order issued on October 9, 2001, in the Marion Superior Court, Cause No. 49D05-0109-CP-1480, and those changes not implemented. NOTE: Under IC 4-22-2-29(a)(2), LSA Document #01-303, printed at 25 IR 847, was consolidated with this document. Effective 30 days after filing with the secretary of state.*

**405 IAC 5-24-4**

**405 IAC 5-24-6**

SECTION 1. 405 IAC 5-24-4, AS AMENDED AT 25 IR 60, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

**405 IAC 5-24-4 Reimbursement for legend drugs**

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2  
 Affected: IC 12-13-7-3; IC 12-15

Sec. 4. (a) The office shall reimburse pharmacy providers for covered legend drugs at the lowest of the following:

(1) The estimated acquisition cost (EAC) of the drug as of the date of dispensing, plus any applicable Medicaid dispensing fee.

(2) The maximum allowable cost (MAC) of the drug as determined by the Health Care Financing Administration under 42 CFR 447.332 as of the date of dispensing, plus any applicable Medicaid dispensing fee.

**(3) The state maximum allowable cost (MAC) of the drug as determined by the office as of the date of dispensing, plus any applicable Medicaid dispensing fee.**

~~(3)~~ (4) The provider's submitted charge, representing the provider's usual and customary charge for the drug, as of the date of dispensing.

(b) For purposes of this section, the Indiana Medicaid EAC is ~~ninety one (1)~~ **ninety one (1) of the following:**

**(1) for brand name drugs, eighty-six and one-half percent (~~90%~~) (86.5%);**

**(2) for generic drugs, eighty percent (80%);**

of the average wholesale price for each National Drug Code according to the Medicaid contractor's drug database file.

**(c) The state MAC is equal to the average actual acquisition cost per drug adjusted by a multiplier of at least 1.0. The actual acquisition cost will be determined using pharmacy invoices and other information that the office determines is necessary. The purpose of the multiplier is to ensure that the applicable state MAC rate is sufficient to allow reasonable access by providers to the drug at or below the established state MAC rate.**

**(d) OMPP will review state MAC rates on an ongoing basis and adjust the rates as necessary to reflect prevailing market conditions and ensure reasonable access by providers to drugs at or below the applicable state MAC rate.**

**(e) Pharmacies and providers that are enrolled in the Indiana Health Coverage Programs (IHCP) are required, as a condition of participation, to make available and submit to the OMPP or its designee acquisition cost information, product availability information, or other information deemed necessary by the OMPP for the efficient operation of the pharmacy benefit within the IHCP in the format requested by the OMPP or its designee. Providers will not be reimbursed for this information and will submit information to the OMPP or its designee within thirty (30) days following a request for such information unless the OMPP or its designee grants an extension upon written request of the pharmacy or provider. (Office of the Secretary**

*of Family and Social Services; 405 IAC 5-24-4; filed Jul 25, 1997, 4:00 p.m.: 20 IR 3345; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Aug 29, 2001, 9:50 a.m.: 25 IR 60 [NOTE: On October 9, 2001, the Marion Superior Court issued an Order in Cause No. 49D05-0109-CP-1480, enjoining the Family and Social Services Administration from implementing LSA Document #01-22(F), published at 25 IR 60.]; filed Apr 30, 2002, 10:59 a.m.: 25 IR 2727)*

SECTION 2. 405 IAC 5-24-6, AS AMENDED AT 25 IR 60, SECTION 2, IS AMENDED TO READ AS FOLLOWS:

**405 IAC 5-24-6 Dispensing fee**

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2; IC 12-15-21-3  
 Affected: IC 12-13-7-3; IC 12-15

Sec. 6. (a) For purposes of this rule, the Indiana Medicaid dispensing fee maximum is four dollars ~~(\$4)~~ **and ninety cents (\$4.90)** per legend drug.

(b) A maximum of one (1) dispensing fee per month is allowable per recipient per drug order for legend drugs provided to Medicaid recipients residing in Medicaid certified long term care facilities.

(c) The practice of split billing of legend drugs, defined as the dispensing of less than the prescribed amount of drug solely for the purpose of collecting more dispensing fees than would otherwise be allowed, is prohibited. In cases in which the pharmacist's professional judgment dictates that a quantity less than the amount prescribed be dispensed, the pharmacist should contact the prescribing practitioner for authorization to dispense a lesser quantity. The pharmacist must document the result of the contact and the pharmacist's rationale for dispensing less than the amount prescribed on the prescription or in the pharmacist's records. *(Office of the Secretary of Family and Social Services; 405 IAC 5-24-6; filed Jul 25, 1997, 4:00 p.m.: 20 IR 3345; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Aug 29, 2001, 9:50 a.m.: 25 IR 60 [NOTE: On October 9, 2001, the Marion Superior Court issued an Order in Cause No. 49D05-0109-CP-1480, enjoining the Family and Social Services Administration from implementing LSA Document #01-22(F), published at 25 IR 60.]; filed Apr 30, 2002, 10:59 a.m.: 25 IR 2727)*

*LSA Document #01-372(F)*

*Notice of Intent Published: 25 IR 407*

*Proposed Rule Published: January 1, 2002; 25 IR 1242*

*Hearing Held: January 24, 2002*

*Approved by Attorney General: April 11, 2002*

*Approved by Governor: April 26, 2002*

*Filed with Secretary of State: April 30, 2002, 10:59 a.m.*

*Incorporated Documents Filed with Secretary of State: None*

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## TITLE 412 INDIANA HEALTH FACILITIES COUNCIL

LSA Document #01-281(F)

### DIGEST

Adds 412 IAC 2 to establish standards to govern training, testing, and practice of qualified medication aides. Effective 30 days after filing with the secretary of state.

#### 412 IAC 2

SECTION 1. 412 IAC 2 IS ADDED TO READ AS FOLLOWS:

### ARTICLE 2. QUALIFIED MEDICATION AIDES

#### Rule 1. General Provisions

#### 412 IAC 2-1-1 "Qualified medication aide" or "QMA" defined

Authority: IC 16-28-1-7; IC 16-28-1-11  
Affected: IC 16-28-1

Sec. 1. As used in this rule, "qualified medication aide" or "QMA" means an individual who has satisfactorily completed the state-qualified medication aide course and test. (*Indiana Health Facilities Council; 412 IAC 2-1-1; filed Apr 30, 2002, 11:05 a.m.: 25 IR 2728*)

#### 412 IAC 2-1-2 "Supervised practicum" defined

Authority: IC 16-28-1-7; IC 16-28-1-11  
Affected: IC 16-28-1

Sec. 2. As used in this rule, "supervised practicum" means training in a long term care setting in which the QMA student demonstrates competency while dispensing and passing medications and/or applying/administering treatments under the direct supervision of a registered nurse or a licensed practical nurse. (*Indiana Health Facilities Council; 412 IAC 2-1-2; filed Apr 30, 2002, 11:05 a.m.: 25 IR 2728*)

#### 412 IAC 2-1-3 QMA training

Authority: IC 16-28-1-11  
Affected: IC 16-28-1

Sec. 3. A QMA program shall include, at a minimum, the following:

- (1) One hundred (100) hours of training to include sixty (60) hours of classroom instruction and forty (40) hours of supervised practicum.
- (2) Classroom training performed by a registered nurse who possesses a minimum of two (2) years of licensed nursing experience, of which at least one (1) year shall be in the provision of long term care facility services. Instructors shall have documentation of completion of an Indiana state department of health instructor QMA course.

(3) A curriculum that includes a review of the following areas:

(A) Communication and interpersonal skills, including communication with a cognitively impaired or combative resident as follows:

- (i) Techniques for addressing the unique needs and behaviors of individuals with dementia (Alzheimer's and others).
- (ii) Communicating with cognitively impaired residents.
- (iii) Understanding the behavior of cognitively impaired residents.
- (iv) Appropriate responses to behavior of cognitively impaired residents.
- (v) Methods of reducing the effects of cognitive impairments.

(B) Infection control/hand washing.

(C) Safety/emergency procedures, including the Heimlich maneuver.

(D) Resident independence.

(E) Resident rights.

(F) Abuse, neglect, and misappropriation of resident property.

(4) A curriculum that includes instruction and training on the scope of practice for a QMA, including, but not limited to, the following:

(A) Fundamentals of pharmacology.

(B) Medication orders.

(C) Care of long term residents and monitoring for effects of medication usage.

(D) Fundamentals of the following systems and medications affecting each system:

(i) Gastrointestinal.

(ii) Musculoskeletal.

(iii) Skin and sensory.

(iv) Urinary.

(v) Cardiovascular.

(vi) Respiratory.

(vii) Endocrine.

(viii) Male and female reproductive.

(ix) Nervous.

(E) Psychotherapeutic medications.

(F) Inflammation, infection, immunity, and malignant disease.

(G) Nutritional deficiencies.

(H) Principles of administering medications.

(I) Documentation of medication administration.

(J) Hand washing/standard precautions.

(K) Positioning of resident in preparation for medication/treatment administration, including the following:

(i) Supine position.

(ii) Lateral/Sim's position.

(iii) Fowlers positions.

(iv) Prone position.

(L) Obtaining temperature via oral, axillary, otic, or

- rectal route using a thermometer (glass and electronic).
- (M) Measurement of vital signs, including pulse, respiratory rate, and blood pressure.
- (N) Scope of practice of the QMA.
- (O) Reporting of observations to the licensed nurse and documentation of those observations in the medical record.
- (P) Clean technique in handling medications and dressings.
- (Q) Administration of oxygen per nasal cannula or nonsealing mask.
- (R) Obtaining oxygen saturation utilizing an oximeter.
- (S) Administration of medications per G-tube or J-tube.
- (T) Administration of medication via metered dose inhaler.
- (U) Hemocult testing.
- (V) Finger stick blood glucose testing.
- (W) Applying a dressing to a minor skin tear.
- (X) Applying a dressing to a healed G-tube or J-tube site.
- (Y) Emptying and changing colostomy bag.
- (Z) Instilling a commercially prepared disposal enema.
- (AA) Administering a sitz bath.
- (BB) Applying a cold dry compress.
- (CC) Conducting diabetic urine testing.
- (DD) Collecting fecal or urine specimens.

*(Indiana Health Facilities Council; 412 IAC 2-1-3; filed Apr 30, 2002, 11:05 a.m.: 25 IR 2728)*

**412 IAC 2-1-4 Means to assess progress**

Authority: IC 16-28-1-7; IC 16-28-1-11  
Affected: IC 16-28-1

Sec. 4. The training program shall use an evaluation system that appropriately assesses the student's ongoing progress. Documentation of the student's ongoing progress and competency during the training program must be available for review by the Indiana state department of health. *(Indiana Health Facilities Council; 412 IAC 2-1-4; filed Apr 30, 2002, 11:05 a.m.: 25 IR 2729)*

**412 IAC 2-1-5 Practicum**

Authority: IC 16-28-1-7; IC 16-28-1-11  
Affected: IC 16-28-1

Sec. 5. (a) The supervisor of the forty (40) hour practicum shall be a:

- (1) registered nurse licensed in Indiana; or
- (2) licensed practical nurse licensed in Indiana who has a minimum of one (1) year of licensed nursing experience.

(b) The supervised practicum shall be completed within three (3) months of completion of the classroom instruction.

(c) During the supervised practicum, students are required to demonstrate competency via return demonstra-

tion in the presence of the practicum supervisor, who, in turn, shall complete a state approved practicum checklist. Each checklist shall be completed with one hundred percent (100%) accuracy. A student shall have the opportunity to repeat said checklists until one hundred percent (100%) accuracy is obtained. *(Indiana Health Facilities Council; 412 IAC 2-1-5; filed Apr 30, 2002, 11:05 a.m.: 25 IR 2729)*

**412 IAC 2-1-6 Location for supervised practicum**

Authority: IC 16-28-1-7; IC 16-28-1-11  
Affected: IC 16-28-1

Sec. 6. (a) The site for the supervised practicum shall be a facility or unit operating under 410 IAC 16.2. The practicum training site shall have written approval from the Indiana state department of health every two (2) years.

(b) If the supervised practicum site is conducted at a location other than the site of the classroom training, a written agreement shall be in place stating the practicum is being conducted under appropriate supervision. *(Indiana Health Facilities Council; 412 IAC 2-1-6; filed Apr 30, 2002, 11:05 a.m.: 25 IR 2729)*

**412 IAC 2-1-7 Classroom requirements**

Authority: IC 16-28-1-7; IC 16-28-1-11  
Affected: IC 16-28-1

Sec. 7. (a) The classroom training may be provided by one (1) of the following:

- (1) A licensed long term care facility.
- (2) A program of an Indiana vocational school governed by the department of education or North Central Accreditation.
- (3) A program conducted by an accredited school of nursing.
- (4) A nonfacility based program.

(b) The classroom training site or program shall have necessary supplies and equipment to train QMAs.

(c) Maximum enrollment for any class size shall not exceed twenty (20) students.

(d) The classroom training site or program shall have written approval from the Indiana state department of health every two (2) years. *(Indiana Health Facilities Council; 412 IAC 2-1-7; filed Apr 30, 2002, 11:05 a.m.: 25 IR 2729)*

**412 IAC 2-1-8 QMA competency evaluation**

Authority: IC 16-28-1-7; IC 16-28-1-11  
Affected: IC 16-28-1

Sec. 8. (a) A QMA competency evaluation test shall be administered consisting of multiple choice questions requiring a passing score of eighty percent (80%) by the state-approved training entity. Ongoing revision of test

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questions may be necessary in an effort to maintain a valid exam that includes new medications and updated materials for various medication classifications. The application for competency exam shall be submitted within thirty (30) days of practicum completion.

(b) The competency evaluation test may be retaken three (3) times within one (1) year of the completion date of classroom training. Prior to the student applying to take the second or third test, the student shall provide documentation to the testing entity of additional training conducted by a registered nurse. However, if the student is unsuccessful after three (3) attempts, he or she shall repeat the training program in its entirety. Testing will be administered and scored by an entity under contract with the Indiana state department of health.

(c) The student has six (6) months from the completion of the sixty (60) hour classroom portion of the program to complete the forty (40) hour practicum and successfully pass the competency evaluation test, including the retake in case of initial failure.

(d) Graduate nursing students that do not pass the state nursing boards may function as a QMA after successfully completing the competency evaluation test with a passing score of eighty percent (80%).

(e) Nursing students who have completed a pharmacology class with a grade of "C" or above would be exempt from the classroom training; however, the student is required to complete the practicum and successfully complete the competency evaluation test. (*Indiana Health Facilities Council; 412 IAC 2-1-8; filed Apr 30, 2002, 11:05 a.m.: 25 IR 2729*)

### 412 IAC 2-1-9 Scope of practice

Authority: IC 16-28-1-7; IC 16-28-1-11

Affected: IC 16-28-1

Sec. 9. (a) The following tasks are within the scope of practice for the QMA unless prohibited by facility policy:

- (1) Observe and report to the facility's licensed nurse reactions and side effects to medications exhibited by a resident.
- (2) Measure and document vital signs prior to the administration of medication that could affect or change the vital signs. Report any abnormalities to the licensed nurse that would prohibit medication administration.
- (3) Administer regularly prescribed medication which the QMA has been trained to administer only after personally preparing (setting up) the medication to be administered. The QMA shall document in a resident's clinical record all medications that the QMA personally administered. The QMA shall not document in a resident's

clinical record any medication that was administered by another person or not administered at all.

(4) Initiate oxygen per nasal cannula or nonsealing mask only in an emergency. Immediately after the emergency, the QMA shall verbally notify the licensed nurse on duty or on call and appropriately document the action and notification.

(5) Obtain oxygen saturation utilizing an oximeter that has been calibrated by a licensed or certified professional and report results to the licensed nurse.

(6) Apply physician-ordered oral, ophthalmic, otic, nasal, vaginal, and rectal medications.

(7) Crush and administer medications if such preparation is appropriate per manufacturer's instructions or physician's order.

(8) Alter capsules if prescribed to be administered in this altered manner by the physician.

(9) Count, administer, and document controlled substances.

(10) Administer medications per G-tube or J-tube.

(11) Administer previously ordered pro re nata (PRN) medication only if authorization is obtained from the facility's licensed nurse on duty or on call. If authorization is obtained, the QMA must do the following:

(A) Document in the resident record symptoms indicating the need for the medication and time the symptoms occurred.

(B) Document in the resident record that the facility's licensed nurse was contacted, symptoms were described, and permission was granted to administer the medication, including the time of contact.

(C) Obtain permission to administer the medication each time the symptoms occur in the resident.

(D) Ensure that the resident's record is cosigned by the licensed nurse who gave permission by the end of the nurse's shift or, if the nurse was on call, by the end of the nurse's next tour of duty.

(12) Apply topical medication to minor skin conditions such as dermatitis, scabies, pediculosis, fungal-infection, psoriasis, eczema, first degree burn, stage one decubitus ulcer.

(13) Administer medication via metered dose inhaler.

(14) Conduct hemocult testing and report result to the licensed nurse.

(15) Conduct finger stick blood glucose testing (specific to the glucose meter used), reporting result to the licensed nurse.

(16) Apply a dressing to a minor skin tear that has been assessed by a licensed nurse.

(17) Provide ordered site care and apply a dressing to a healed G-tube or J-tube site.

(18) Empty and change colostomy bag.

(19) Instill a commercially prepared disposable enema (approximately one hundred twenty (120) milliliters or four and one-half (4.5) ounces) after the resident has been

assessed by the licensed nurse (for bowel sounds and potential impaction) and the licensed nurse has instructed the QMA to instill the enema.

(20) Administer a sitz bath, if ordered by the physician, and report any unusual observations to the licensed nurse.

(21) Apply a cold, dry compress as directed by the physician or by the licensed nurse in emergency situations requiring first-aid treatment.

(22) Conduct diabetic urine testing, for example, tablet, dipstick, or test tape methods.

(23) Collect fecal or urine specimens as ordered by the physician.

(24) Document in the clinical record the QMA observations, including what the QMA sees, hears, or smells and document what is reported to the QMA by the resident.

(b) The following tasks shall not be included in the QMA scope of practice:

(1) Administer medication by the injection route, including the following:

- (A) Intramuscular route.
- (B) Intravenous route.
- (C) Subcutaneous route.
- (D) Intradermal route.

(2) Administer medication used for intermittent positive pressure breathing (IPPD) treatments or any form of medication inhalation treatments, other than metered dose inhaler.

(3) Administer medication per nasogastric tube.

(4) Instill irrigation fluids of any type, including, but not limited to:

- (A) colostomy;
- (B) catheter; and
- (C) enema;

except as described in subsection (a)(19).

(5) Assume responsibility for receiving in writing or receive a verbal or telephone order.

(6) Administer a treatment that involves advanced skin conditions, including stage II, III, and IV decubitus ulcers.

*(Indiana Health Facilities Council; 412 IAC 2-1-9; filed Apr 30, 2002, 11:05 a.m.: 25 IR 2730)*

*LSA Document #01-281(F)*

*Notice of Intent Published: 24 IR 4015*

*Proposed Rule Published: January 1, 2002; 25 IR 1244*

*Hearing Held: January 23, 2002*

*Approved by Attorney General: April 11, 2002*

*Approved by Governor: April 26, 2002*

*Filed with Secretary of State: April 30, 2002, 11:05 a.m.*

*Incorporated Documents Filed with Secretary of State: None*

**TITLE 675 FIRE PREVENTION AND BUILDING SAFETY COMMISSION**

LSA Document #01-250(F)

DIGEST

Amends 675 IAC 12-3 concerning general administrative rules. Amends 675 IAC 15-1-22 concerning the special administrative rules for industrialized building systems and mobile structure systems. Amends 675 IAC 23-1-63 concerning the annual inspection fee schedule for amusement devices to update fees to reflect current expenses and to reflect administrative changes. Effective 30 days after filing with the secretary of state.

- |                |                 |
|----------------|-----------------|
| 675 IAC 12-3-2 | 675 IAC 12-3-8  |
| 675 IAC 12-3-3 | 675 IAC 12-3-10 |
| 675 IAC 12-3-4 | 675 IAC 12-3-12 |
| 675 IAC 12-3-5 | 675 IAC 15-1-22 |
| 675 IAC 12-3-6 | 675 IAC 23-1-63 |
| 675 IAC 12-3-7 |                 |

SECTION 1. 675 IAC 12-3-2 IS AMENDED TO READ AS FOLLOWS:

**675 IAC 12-3-2 Schedule of fees for site built construction**

Authority: IC 22-12-6-6

Affected: IC 22-12-6-4; IC 22-15-3-2

Sec. 2. (a) Every application for construction design release (ACDR) required by 675 IAC 12-6 shall be accompanied by payment to the state **Fire and Building Commissioner Services Fund** in an amount prescribed in this section.

(b) The design release fees shall be as follows:

<u>All Projects</u>	<u>Amount</u>
Filing Fee	<del>\$45</del> <b>\$69</b>
	plus
Processing Fee	<del>\$40</del> <b>\$69</b> minimum*
<b>TOTAL</b>	<del>\$85</del> <b>\$138</b> minimum*

\*The minimum processing fee only applies where the categorical processing fee is less than ~~\$50~~: ~~\$40~~: **\$69**.

(c) The categorical processing fees shall be as follows:

Category A (Normal Occupancy): All buildings and structures not specifically listed in Categories B, C, D, and E. The fee is ~~\$0.035~~ **\$0.040** times the gross square feet of floor area.

Category B (Minimal Occupancy–Area related): Generating plants, livestock sales, hangars, open parking structures, truck freight terminals, warehouses, refrigerated storage, and similar uses. The fee is ~~\$0.015~~ **\$0.020** times the gross square feet of floor area.

Category C (Cost related): Remodeling and renovation (no

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additions). The fee is ~~\$0.0017~~ **\$0.0020** times the construction cost. Not to exceed fees as specified for Categories A and B, calculated on the basis of the floor area of each affected story.

Category D (Minimal Occupancy–Cost related): Control towers, monuments, dust collectors, smoke stacks, towers, mausoleums, memorials, and similar uses, **grain elevators, concrete or asphalt plants, bulk product processing plants, and other occupied high volume low area structures**. The fee is ~~\$0.0011~~ **\$0.0001** times the construction cost.

Category E (Minimal Occupancy–Volume related): ~~Grain elevators, concrete or asphalt plants, bulk product processing plants, Swimming pools, and other occupied high volume low area structures~~. The fee is ~~\$0.0011~~ **\$0.010** times the gross cubic feet.

Category F (Flammable Liquid or Gas Facilities): Each initial installation of one (1) or more bulk storage tanks, piping or dispensing equipment for Class I, II, IIIA, and IIIB liquids, liquefied petroleum (LP) gas, or liquefied natural gas (LNG) or replacement of such tanks or piping at the same location. The fee is \$40 each tank.

(d) The special processing fees shall be as follows:

<u>Special Processing Fees</u>	<u>Amount</u>
(1) Each additional submission for a partially filed project <sup>1</sup>	<del>\$70</del> <b>\$115</b>
(2) Surcharge for late filing of plans and specifications in accordance with 675 IAC 12-6-8(c) <sup>2</sup>	<del>\$40</del> <b>\$69</b>
(3) Foundation release	<del>\$60</del> <b>\$115</b>
(4) Addenda and revisions, each system modified per submission (other than compliance corrections) <sup>3</sup>	<del>\$20</del> <b>\$35</b>
(5) Fire suppression systems	
<del>Basic system, any type</del>	<del>\$45</del>
<del>Plus each sprinkler head over 400 for water systems</del>	<del>\$0.10</del>
(6) Master plans, each series or structure	<del>\$120</del> <b>\$173</b>
(7) Incomplete project filing (mailed submissions only) <sup>4</sup>	<del>\$10</del> <b>\$12</b>
(8) Returned checks	<del>\$20</del> <b>\$35</b>
(9) Reinstatement or time extension of design release	<del>\$20</del> <b>\$23</b>

Notes:

<sup>1</sup>The regular filing and processing fees are paid with the initial submission of the ACDR.

<sup>2</sup>The surcharge fee, if not collected at the time the ACDR is filed, must be paid prior to issuance of any design release.

<sup>3</sup>Systems are architectural, structural, electrical, plumbing, mechanical (HVAC), and fire protection.

<sup>4</sup>Payable when missing documents are subsequently filed.

(e) The explanation of terms shall be as follows:

(1) Square footage (floor area) shall be determined by the outside dimensions of the building or structure. This shall include usable area under the horizontal projection of the roof or floor above such as porches, canopies, and balconies.

(2) Cubic footage (volume) shall be the gross volume of the building or structure as determined by the outside dimensions of the building or structure.

(3) Costs (construction) shall be the cost of the labor and materials required to perform the stated scope of construction. It need not include the cost of the land, interior furnishings, or processing equipment.

(f) The state building commissioner may authorize the refunding of any fee specified in this section which was paid or collected in error. (*Fire Prevention and Building Safety Commission; 675 IAC 12-3-2; filed Jan 29, 1986, 3:00 p.m.: 9 IR 1363, eff Mar 1, 1986; filed Feb 17, 1987, 3:15 p.m.: 10 IR 1386, eff Mar 1, 1987 [IC 4-22-2-36 suspends the effectiveness of a rule document for 30 days after filing with the secretary of state. LSA Document #86-152 was filed Feb 17, 1987.]; filed Jul 17, 1987, 2:45 p.m.: 10 IR 2700, eff Aug 1, 1987 [IC 4-22-2-36 suspends the effectiveness of a rule document for 30 days after filing with the secretary of state. LSA Document #87-54 was filed Jul 17, 1987.]; filed Jun 3, 1988, 2:15 p.m.: 11 IR 3555, eff Aug 1, 1988; filed Sep 27, 1989, 4:30 p.m.: 13 IR 294; filed Apr 22, 1996, 3:00 p.m.: 19 IR 2285; readopted filed Sep 11, 2001, 2:49 p.m.: 25 IR 530; filed Apr 16, 2002, 9:05 a.m.: 25 IR 2731*)

SECTION 2. 675 IAC 12-3-3 IS AMENDED TO READ AS FOLLOWS:

### 675 IAC 12-3-3 Fireworks display permit fee

Authority: IC 22-11-14-2; IC 22-12-6-6

Affected: IC 22-12-6

Sec. 3. An application for a permit to conduct a supervised public display of fireworks shall be accompanied by payment to the Fire and Building Services Fund in the amount of ~~zero~~ **sixty-nine dollars (\$69)** for each such permit. (*Fire Prevention and Building Safety Commission; 675 IAC 12-3-3; filed Jan 29, 1986, 3:00 p.m.: 9 IR 1364, eff Mar 1, 1986; filed Jul 15, 1991, 5:30 p.m.: 14 IR 2234; filed Apr 22, 1996, 3:00 p.m.: 19 IR 2286; readopted filed Sep 11, 2001, 2:49 p.m.: 25 IR 530; filed Apr 16, 2002, 9:05 a.m.: 25 IR 2732*)

SECTION 3. 675 IAC 12-3-4 IS AMENDED TO READ AS FOLLOWS:

### 675 IAC 12-3-4 Variance application fees

Authority: IC 22-12-6-6

Affected: IC 22-13-2-11

Sec. 4. (a) Every application for a variance from the rules of the commission shall be accompanied by payment to the Fire and Building Services Fund in an amount as follows:

Variance application filing fee:	<del>\$70</del> <b>\$138</b>
plus	
Plan examination and processing fee:	
Single code provision	<del>\$70</del> <b>\$138</b>
Each additional unrelated code provision	<del>\$40</del> <b>\$69</b>

(b) As used in this section, “unrelated code provision” means a provision of an adopted code or standard that covers subject matter that is not contingent upon or directly affecting the requirements of a different code provision for which a variance is being sought by the same applicant at the same time. (*Fire Prevention and Building Safety Commission; 675 IAC 12-3-4; filed Jul 17, 1987, 2:45 p.m.: 10 IR 2701, eff Aug 1, 1987 [IC 4-22-2-36 suspends the effectiveness of a rule document for 30 days after filing with the secretary of state. LSA Document #87-54 was filed Jul 17, 1987.]; filed Jun 3, 1988, 2:15 p.m.: 11 IR 3556, eff Aug 1, 1988; filed Jul 15, 1991, 5:30 p.m.: 14 IR 2234; filed Apr 22, 1996, 3:00 p.m.: 19 IR 2286; readopted filed Sep 11, 2001, 2:49 p.m.: 25 IR 530; filed Apr 16, 2002, 9:05 a.m.: 25 IR 2732*)

SECTION 4. 675 IAC 12-3-5 IS AMENDED TO READ AS FOLLOWS:

**675 IAC 12-3-5 Explosive magazine permit fee**

Authority: IC 22-12-6-6  
Affected: IC 22-14-4-4; IC 22-14-4-5

Sec. 5. (a) An application for issuance of a regulated explosive magazine permit shall be accompanied by payment to the Fire and Building Services Fund in an amount as follows:

Type 1, 4, or 5	each <del>\$0</del> <b>\$138</b>
Type 2, 3, or indoor	each <del>\$0</del> <b>\$69</b>

(b) An application to annually renew a regulated explosive magazine permit shall be accompanied by payment to the Fire and Building Services Fund in an amount as follows:

Type 1, 4, or 5	each <del>\$0</del> <b>\$69</b>
Type 2, 3, or indoor	each <del>\$0</del> <b>\$35</b>

(*Fire Prevention and Building Safety Commission; 675 IAC 12-3-5; filed Feb 1, 1988, 2:16 p.m.: 11 IR 1789; filed Jul 15, 1991, 5:30 p.m.: 14 IR 2235; filed Apr 22, 1996, 3:00 p.m.: 19 IR 2286; readopted filed Sep 11, 2001, 2:49 p.m.: 25 IR 530; filed Apr 16, 2002, 9:05 a.m.: 25 IR 2733*)

SECTION 5. 675 IAC 12-3-6 IS AMENDED TO READ AS FOLLOWS:

**675 IAC 12-3-6 Construction inspection fees**

Authority: IC 22-12-6-6; IC 22-13-2-13  
Affected: IC 22-15-2-6

Sec. 6. (a) This section applies to any Class 1 building or structure, for which a design release is required under 675 IAC 12-6, and is located within the jurisdiction of a political subdivision that has not established a program to periodically inspect, or cause to be inspected, construction as determined under 675 IAC 12-10-9.

(b) The fees collected under section 2 of this rule for a design release shall be increased by one (1) of the following amounts, whichever is greater:

- (1) ~~Forty-five~~ **Eighty** dollars (~~\$45~~): (**\$80**).
- (2) One-half (½) of the categorical processing fee, but not more than ~~six seven hundred fifty~~ **fifty** dollars (~~\$600~~) for the ~~twelve~~ (~~12~~) **month** period after the start of construction. (**\$750**).

(c) ~~The construction inspection fee shall be collected with the design release fee prescribed in section 2 of this rule. If the construction continues beyond twelve (12) months after the start of construction, the office of the state building commissioner shall collect an additional inspection fee of fifty dollars (\$50) for each additional month or portion thereof in which construction continues. For purposes of this subsection, the start of construction shall be deemed to be the date of the first inspection by the office of the state building commissioner after the commencement of construction as defined in IC 22-12-1-7. (Fire Prevention and Building Safety Commission; 675 IAC 12-3-6; filed Feb 1, 1988, 2:18 p.m.: 11 IR 1795, eff Apr 1, 1988; filed Apr 22, 1996, 3:00 p.m.: 19 IR 2287; filed Jan 30, 1998, 4:00 p.m.: 21 IR 2081; readopted filed Sep 11, 2001, 2:49 p.m.: 25 IR 530; filed Apr 16, 2002, 9:05 a.m.: 25 IR 2733)~~

SECTION 6. 675 IAC 12-3-7 IS AMENDED TO READ AS FOLLOWS:

**675 IAC 12-3-7 Statewide fire and building safety education fund**

Authority: IC 22-12-6-6  
Affected: IC 22-12-6-3; IC 22-12-6-4

Sec. 7. (a) This section applies to design release fees as established in section 2 of this rule. For each design release issued, ~~five twelve~~ **twelve** dollars (~~\$5~~) (**\$12**) of the filing fee is designated for deposit in the statewide fire and building safety education fund established in IC 22-12-6-3.

(b) ~~If, during the first twelve (12) month period after the effective date of this section and for each successive twelve (12) month period, the statewide fire and building safety education fund has on deposit an amount equal to forty thousand dollars (\$40,000); subsection (a) is suspended for the remainder of that twelve (12) month period. (Fire Prevention and Building Safety Commission; 675 IAC 12-3-7; filed Sep 27, 1989, 4:30 p.m.: 13 IR 295; readopted filed Sep 11, 2001, 2:49 p.m.: 25 IR 530; filed Apr 16, 2002, 9:05 a.m.: 25 IR 2733)~~

SECTION 7. 675 IAC 12-3-8 IS AMENDED TO READ AS FOLLOWS:

**675 IAC 12-3-8 Amusement and entertainment permit and inspection fees**

Authority: IC 22-12-6-7  
Affected: IC 22-12-6; IC 22-14-3-4



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Sec. 8. (a) An application for issuance of a permit for a regulated place of amusement or entertainment shall be accompanied by payment to the fire and building services fund in an amount as follows:

(1) Category A: Places where the occupant load is based entirely on fixed seating capacity and all planned amusement or entertainment activity utilizes a single floor plan described in 675 IAC 12-9-3(a)(2). Examples are theaters and auditoriums.

<u>Occupant Load</u>	<u>Fee</u>
1-99	\$ 45 <del>\$69</del>
100-499	\$ 65 <del>104</del>
500-999	\$ 85 <del>\$138</del>
1,000-4,999	<del>\$100</del> <del>\$173</del>
5,000-9,999	<del>\$125</del> <del>\$207</del>
10,000 or more	<del>\$150</del> <del>\$242</del>

(2) Category B: Places where the maximum occupant load is calculated under the method prescribed in the Indiana Building Code, 675 IAC 13. The occupant load may include persons seated in moveable seats or bleachers, fixed seating, persons standing, and combinations thereof. Examples include indoor stadiums, arenas, gymnasiums, halls, night-clubs, and other assembly type buildings or portions thereof. The application fee is calculated from the same schedule as Category A plus an additional ~~forty six~~ ~~nine~~ dollars (~~\$40~~) (~~\$69~~) for each seating configuration or arrangement described in the floor or site plans submitted with the application under 675 IAC 12-9-3(a).

(b) An application for issuance of a special event endorsement under IC 22-14-3-4 shall be accompanied by payment to the fire and building services fund in an amount of ~~forty-five~~ ~~sixty-nine~~ dollars (~~\$45~~) (~~\$69~~) for inspection of the place of amusement or entertainment. (*Fire Prevention and Building Safety Commission; 675 IAC 12-3-8; filed Jul 15, 1991, 5:30 p.m.: 14 IR 2235; filed Apr 22, 1996, 3:00 p.m.: 19 IR 2287; readopted filed Sep 11, 2001, 2:49 p.m.: 25 IR 530; filed Apr 16, 2002, 9:05 a.m.: 25 IR 2733*)

SECTION 8. 675 IAC 12-3-10 IS AMENDED TO READ AS FOLLOWS:

### 675 IAC 12-3-10 Fireworks retail stand permit fees

Authority: IC 22-12-6-8  
Affected: IC 22-12-5; IC 23-17

Sec. 10. (a) An application for a fireworks retail stand permit shall be accompanied by payment to the Fire and Building Services Fund as follows:

(1) 1 to 4 retail stands	\$0 <del>\$276</del>
(2) 5 to 10 retail stands	\$0 <del>\$552</del>
(3) 11 to 20 retail stands	\$0 <del>\$966</del>
(4) 21 to 50 retail stands	<del>\$0</del> <del>\$1,380</del>

plus ~~\$0~~ ~~\$35~~ for each stand more than 50.

(b) A nonprofit corporation incorporated under IC 23-7-1.1 (before its repeal on August 1, 1991) or IC 23-17 is

**exempt from the fees under this section.** (*Fire Prevention and Building Safety Commission; 675 IAC 12-3-10; filed Jul 15, 1991, 5:30 p.m.: 14 IR 2235; filed Apr 22, 1996, 3:00 p.m.: 19 IR 2287; readopted filed Sep 11, 2001, 2:49 p.m.: 25 IR 530; filed Apr 16, 2002, 9:05 a.m.: 25 IR 2734*)

SECTION 9. 675 IAC 12-3-12 IS AMENDED TO READ AS FOLLOWS:

### 675 IAC 12-3-12 Returned check fee

Authority: IC 22-12-6-6  
Affected: IC 22-12-6

Sec. 12. This section is applicable to all fees prescribed in this rule. There will be an additional surcharge of ~~twenty~~ ~~thirty-five~~ dollars (~~\$20~~) (~~\$35~~) for any returned check. (*Fire Prevention and Building Safety Commission; 675 IAC 12-3-12; filed Aug 10, 1994, 10:40 a.m.: 17 IR 2859; filed Jan 30, 1998, 4:00 p.m.: 21 IR 2082; readopted filed Sep 11, 2001, 2:49 p.m.: 25 IR 530; filed Apr 16, 2002, 9:05 a.m.: 25 IR 2734*)

SECTION 10. 675 IAC 15-1-22 IS AMENDED TO READ AS FOLLOWS:

### 675 IAC 15-1-22 Fees

Authority: IC 22-13-2-2; IC 22-13-2-13; IC 22-13-4-2  
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15

Sec. 22. (a) The design release fees for manufacture shall be as follows:

(1) System plan review:

(A) filing fee	\$15 <del>\$30</del>
(B) residential, add-a-room or duplex	\$185 <sup>+</sup> <del>\$320</del> <sup>1</sup>
(C) commercial	\$200 <sup>2</sup> <del>\$505</del> <sup>2</sup>

(2) System plan review (late filing):

(A) filing fee	\$30 <del>\$55</del>
(B) residential, add-a-room or duplex	\$325 <del>\$525</del>
(C) commercial	\$370 <del>\$552</del>

(3) Addenda:

(A) filing fee	\$15 <del>\$30</del>
(B) residential, add-a-room or duplex	\$50 <sup>+</sup> <del>\$85</del> <sup>1</sup>
(C) commercial	\$65 <sup>2</sup> <del>\$105</del> <sup>2</sup>

(4) Addenda (late filing):

(A) filing fee	\$35 <del>\$55</del>
(B) residential, add-a-room or duplex	\$85 <del>\$140</del>
(C) commercial	\$100 <del>\$165</del>

Notes:

<sup>1</sup>Includes only the original floor plan. A ~~ten~~ ~~fifty~~ dollar (~~\$10~~) (~~\$50~~) fee is charged for each additional floor plan. Crawl space or basement plans are considered to be floor plans.

<sup>2</sup>Includes not more than two (2) module units as a completed structure. A ~~ten~~ ~~fifty~~ dollar (~~\$10~~) (~~\$50~~) fee is charged for each additional module unit.

(b) The system prototype inspection fees (without a design release) shall be as follows:

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- (1) First module unit \$40 ~~\$70~~
- (2) Second module unit \$50 ~~\$85~~
- (3) Third module unit and each additional module unit thereafter \$65 ~~\$105~~

For the purposes of this subsection, "module unit" means a structure, or other entity, regarded as an elementary structural or functional constituent of a whole industrialized building system or mobile structure.

(c) The third party inspection authorization fees shall be as follows:

- (1) Original application for Indiana third party inspection authorization (if the original application for authorization is not granted, three hundred dollars (\$300) of the fee will be refunded) \$500 ~~\$830~~
- (2) Yearly third party inspection renewal \$340 ~~\$550~~

(d) Indiana seal of acceptance fees shall be as follows:

- (1) All applications for the Indiana seal of acceptance shall be accompanied by the proper fee which includes in-state inspection and monitoring.
- (2) Indiana seal of acceptance \$40 ~~\$65~~ per seal

(e) Fees for travel shall be as follows:

- (1) In-state or out-of-state reinspection \$25 ~~\$45~~ per hour
- (2) Out-of-state inspection or monitoring \$25 ~~\$45~~ per hour plus the actual expense incurred for the purpose of inspection or monitoring
- (3) Mileage for out-of-state inspection/reinspection or monitoring from base station to inspection site and return \$0.28 per mile

*(Fire Prevention and Building Safety Commission; 675 IAC 15-1-22; filed Mar 25, 1986, 1:44 p.m.: 9 IR 1979, eff Jun 15, 1986; filed Sep 13, 1988, 2:33 p.m.: 12 IR 319; filed Dec 22, 1988, 3:50 p.m.: 12 IR 1207; filed Sep 27, 1989, 4:30 p.m.: 13 IR 295; filed Apr 22, 1996, 3:00 p.m.: 19 IR 2288; filed Dec 11, 2000, 2:15 p.m.: 24 IR 1023; readopted filed Sep 11, 2001, 2:49 p.m.: 25 IR 530; filed Apr 16, 2002, 9:05 a.m.: 25 IR 2734)*

SECTION 11. 675 IAC 23-1-63 IS AMENDED TO READ AS FOLLOWS:

### 675 IAC 23-1-63 Annual inspection fees

**Authority:** IC 22-12-6-6; IC 22-13-2-9; IC 22-15-2-6; IC 22-15-7  
**Affected:** IC 22-13-2-3; IC 22-15-2-7; IC 36-7-2-9

Sec. 63. (a) The fee for an annual inspection of permanent and portable amusement devices except for those covered in subsection (b) shall be based on the size and complexity of the device as follows:

FEE	TYPE OF DEVICE	DESCRIPTION
<del>\$45</del> <b>\$144</b>	Kiddie	An amusement device designed for seventy-five pounds (75#) or less per passenger unit intended for use by children age twelve (12) and under.
<del>\$90</del> <b>\$144</b>	Major	An amusement device designed for seventy-five pounds (75#) or more intended for use by children above age twelve (12) and not listed as a spectacular amusement device.
<del>\$135</del> <b>\$144</b>	Spectacular	Includes the following list of amusement devices and any similar amusement device. Himalayas-Flying Bobs Sky Wheels Sky Divers Falling Stars High Rise, Roller Coaster Enterprise Log Flume Hang 10

(b) The fee for an annual inspection of passenger tramways, aerial tramways and lifts, surface lifts and tows shall be based on mode of transportation of passengers uphill, on the surface or above the surface.

MODE OF TRANSPORTATION	FEE-PER DRIVING MECHANISM
On Surface	<del>\$55</del> <b>\$144</b>
Above Surface	<del>\$110</del> <b>\$288</b>

(c) Reinspection fees shall be one-half (1/2) of the annual inspection fee.

(d) Subsequent inspection fee shall be ~~twenty one hundred~~ **(\$20) (\$100)** per device. *(Fire Prevention and Building Safety Commission; 675 IAC 23-1-63; filed Sep 19, 1986, 9:15 a.m.: 10 IR 251, eff Nov 1, 1986; filed Sep 13, 1988, 2:32 p.m.: 12 IR 318; readopted filed Sep 11, 2001, 2:49 p.m.: 25 IR 530; filed Apr 16, 2002, 9:05 a.m.: 25 IR 2735)*

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# Final Rules

## TITLE 828 STATE BOARD OF DENTISTRY

LSA Document #01-307(F)

### DIGEST

Adds 828 IAC 0.5-2-5 concerning fees related to the registration of mobile dental facilities and portable dental operations. Adds 828 IAC 4 concerning the conduct of mobile dental facilities and portable dental operations. Effective 30 days after filing with the secretary of state.

#### 828 IAC 0.5-2-5 828 IAC 4

SECTION 1. 828 IAC 0.5-2-5 IS ADDED TO READ AS FOLLOWS:

#### 828 IAC 0.5-2-5 Registration of mobile dental facilities and portable dental operations

Authority: IC 25-14-1-13  
Affected: IC 25-14

Sec. 5. The board shall charge and collect the following fees related to the registration of mobile dental facilities and portable dental operations:

- |                          |       |
|--------------------------|-------|
| (1) Application          | \$200 |
| (2) Registration renewal | \$100 |

(State Board of Dentistry; 828 IAC 0.5-2-5; filed May 2, 2002, 10:24 a.m.: 25 IR 2736)

SECTION 2. 828 IAC 4 IS ADDED TO READ AS FOLLOWS:

#### ARTICLE 4. MOBILE DENTAL FACILITIES AND PORTABLE DENTAL OPERATIONS

##### Rule 1. Applicability; Exceptions

#### 828 IAC 4-1-1 Applicability

Authority: IC 25-14-1-13  
Affected: IC 25-14

Sec. 1. This article applies to the operator of a mobile dental facility or portable dental operation who:

- (1) provides dental services; and
- (2) does not have a physically stationary office in the county where the services are provided.

(State Board of Dentistry; 828 IAC 4-1-1; filed May 2, 2002, 10:24 a.m.: 25 IR 2736)

#### 828 IAC 4-1-2 Exceptions

Authority: IC 25-14-1-13  
Affected: IC 25-13-1-10; IC 25-13-1-11; IC 25-14

Sec. 2. (a) Federal, state, and local governmental agencies are exempt from the requirements of this rule.

- (b) Dentists licensed to practice in Indiana who have not

registered with the board to operate a mobile dental facility or a portable dental operation may provide dental services through use of dental instruments, materials, and equipment taken out of a dental office without registering if the service is provided as emergency treatment for their patients of record.

#### (c) Dentists who:

- (1) do not operate a mobile dental facility or portable dental operation; or
- (2) are not employed by or independently contracting with a mobile dental facility or portable dental operation; may provide treatment for their patients of record in the county in which the dentist maintains a physically stationary office or in a county adjacent to the county in which the dentist maintains a physically stationary office if such services are provided outside the physically stationary office or outside the county of the physically stationary office fewer than thirty (30) days per year.

(d) Dental hygienists who are providing dental hygiene services, instruction, and in-service training in accordance with IC 25-13-1-10 and IC 25-13-1-11 of the dental hygienist practice act are exempt from the requirements of this rule. Furthermore, dental hygienists may provide dental hygiene services, instruction, and in-service training in accordance with IC 25-13-1-10 and IC 25-13-1-11 in a mobile dental facility or portable dental operation. (State Board of Dentistry; 828 IAC 4-1-2; filed May 2, 2002, 10:24 a.m.: 25 IR 2736)

#### Rule 2. Definitions

#### 828 IAC 4-2-1 Applicability

Authority: IC 25-14-1-13  
Affected: IC 25-14

Sec. 1. The definitions in this rule apply throughout this article. (State Board of Dentistry; 828 IAC 4-2-1; filed May 2, 2002, 10:24 a.m.: 25 IR 2736)

#### 828 IAC 4-2-2 "Mobile dental facility or portable dental operation" defined

Authority: IC 25-14-1-13  
Affected: IC 25-14

Sec. 2. "Mobile dental facility or portable dental operation" means either of the following:

- (1) Any self-contained facility in which dentistry will be practiced, which may be moved, towed, or transported from one (1) location to another.
- (2) Any nonfacility in which dental equipment, utilized in the practice of dentistry, is transported to and utilized on a temporary basis at an out-of-office location, including, but not limited to:
  - (A) other dentists' offices;
  - (B) patients' homes;

- (C) schools;
- (D) nursing homes; or
- (E) other institutions.

*(State Board of Dentistry; 828 IAC 4-2-2; filed May 2, 2002, 10:24 a.m.: 25 IR 2736)*

### **Rule 3. Registration**

#### **828 IAC 4-3-1 Application**

Authority: IC 25-14-1-13  
Affected: IC 25-14

**Sec. 1. (a)** In order to operate a mobile dental facility or portable dental operation, the operator shall register with the board.

**(b)** The applicant shall complete an application in the form and manner required by the board.

**(c)** The applicant shall pay the registration fee at the time of application as set by the board by rule.

**(d)** The applicant shall provide the board with evidence of compliance with the requirements of this rule.

**(e)** The applicant shall submit proof of radiographic equipment inspection with the application for registration. *(State Board of Dentistry; 828 IAC 4-3-1; filed May 2, 2002, 10:24 a.m.: 25 IR 2737)*

#### **828 IAC 4-3-2 Official business or mailing address**

Authority: IC 25-14-1-13  
Affected: IC 25-14

**Sec. 2. (a)** The operator of a mobile dental facility or portable dental operation shall maintain an official business or mailing address of record, which shall not be a post office box and which shall be filed with the board.

**(b)** The operator of a mobile dental facility or portable dental operation shall maintain an official telephone number of record, which shall be filed with the board.

**(c)** The board shall be notified within thirty (30) days of any change in the address or telephone number of record.

**(d)** All written or printed documents available from or issued by the mobile dental facility or portable dental operation shall contain the official address and telephone number of record for the mobile dental facility or portable dental operation.

**(e)** When not in transit, all dental and official records shall be maintained at the official office address of record. *(State Board of Dentistry; 828 IAC 4-3-2; filed May 2, 2002, 10:24 a.m.: 25 IR 2737)*

#### **828 IAC 4-3-3 Written procedures; communication facilities; conformity with requirements; driver requirements**

Authority: IC 25-14-1-13  
Affected: IC 12-15; IC 12-17.6; IC 25-14

**Sec. 3.** The operator of a mobile facility, mobile unit, or portable dental operation shall ensure the following:

**(1)** There is a written procedure for emergency follow-up care for patients treated in the mobile dental facility and that such procedure includes arrangements for treatment in a dental facility that is permanently established in the area where services were provided.

**(2)** The mobile dental facility has communication facilities that will enable the operator thereof to contact necessary parties in the event of a medical or dental emergency. The communications facilities must enable the patient or the parent or guardian of the patient treated to contact the operator for emergency care, follow-up care, or information about treatment received. The provider who renders follow-up care must also be able to contact the operator and receive treatment information, including radiographs.

**(3)** The mobile dental facility conforms to all applicable federal, state, and local laws, regulations, and ordinances dealing with radiographic equipment, flammability, construction, sanitation, zoning, infectious waste management, universal precautions, OSHA guidelines, and federal Centers for Disease Control Guidelines, and the applicant possesses all applicable county and city licenses or permits to operate the unit.

**(4)** The driver of the unit possesses a valid Indiana driver's license appropriate for the operation of the vehicle.

**(5)** No services are performed on minors without a signed consent form from the parent or guardian, which indicates that:

**(A)** if the minor already has a dentist, the parent or guardian should continue to arrange dental care through that provider; and

**(B)** the treatment of the child by the mobile dental facility may affect the future benefits that the child may receive under:

**(i)** private insurance;

**(ii)** Medicaid (IC 12-15); or

**(iii)** the children's health insurance program (IC 12-17.6).

**(6)** A mobile dental facility that accepts a patient and provides preventive treatment, including prophylaxis, radiographs, and fluoride, but does not follow-up with treatment when such treatment is clearly indicated, is considered to be abandoning the patient. Arrangements must be made for treatment services.

*(State Board of Dentistry; 828 IAC 4-3-3; filed May 2, 2002, 10:24 a.m.: 25 IR 2737)*

### 828 IAC 4-3-4 Physical requirements for mobile dental facility

Authority: IC 25-14-1-13  
Affected: IC 25-14

Sec. 4. The operator shall ensure that the mobile dental facility or portable dental operation has the following:

- (1) Ready access to a ramp or lift if services are provided to disabled persons.
- (2) A properly functioning sterilization system.
- (3) Ready access to an adequate supply of potable water, including hot water.
- (4) Ready access to toilet facilities.
- (5) A covered galvanized, stainless steel, or other noncorrosive container for deposit of refuse and waste materials.

*(State Board of Dentistry; 828 IAC 4-3-4; filed May 2, 2002, 10:24 a.m.: 25 IR 2738)*

### 828 IAC 4-3-5 Identification of personnel; notification of changes in written procedures; display of licenses

Authority: IC 25-14-1-13  
Affected: IC 25-14

Sec. 5. (a) The operator shall identify and advise the board in writing within thirty (30) days of any personnel change relative to all licensed dentists and licensed dental hygienists associated with the mobile dental facility or portable dental operation by providing the full name, address, telephone numbers, and license numbers where applicable.

(b) The operator shall advise the board in writing within thirty (30) days of any change in the written procedure for emergency follow-up care for patients treated in the mobile dental facility, including arrangements for treatment in a dental facility, which is permanently established in the area. The permanent dental facility shall be identified in the written procedure.

(c) Each dentist and dental hygienist providing dental services in the mobile dental facility or portable dental operation shall prominently display his or her Indiana dental or Indiana dental hygienist license in plain view of patients. *(State Board of Dentistry; 828 IAC 4-3-5; filed May 2, 2002, 10:24 a.m.: 25 IR 2738)*

### 828 IAC 4-3-6 Identification of location of services

Authority: IC 25-14-1-13  
Affected: IC 25-14

Sec. 6. (a) Each operator of a mobile dental facility or portable dental operation shall maintain a written or electronic record detailing for each location where services are provided:

- (1) the street address of the service location;
- (2) the dates of each session;
- (3) the number of patients served; and
- (4) the types of dental services provided and quantity of each service provided.

(b) The written or electronic record shall be made available to the board within ten (10) days of a request by the board. Costs for such records shall be borne by the mobile dental facility. *(State Board of Dentistry; 828 IAC 4-3-6; filed May 2, 2002, 10:24 a.m.: 25 IR 2738)*

### 828 IAC 4-3-7 Licensed dentist in charge

Authority: IC 25-14-1-13  
Affected: IC 25-14

Sec. 7. A mobile dental facility or portable dental operation shall at all times be in the charge of a dentist licensed to practice dentistry in Indiana. A dentist licensed to practice dentistry in Indiana shall be present at all times that clinical services are rendered. *(State Board of Dentistry; 828 IAC 4-3-7; filed May 2, 2002, 10:24 a.m.: 25 IR 2738)*

### 828 IAC 4-3-8 Prohibited operations

Authority: IC 25-14-1-13  
Affected: IC 25-13; IC 25-14

Sec. 8. The operator of a mobile dental facility or portable dental operation is prohibited from hiring, employing, allowing to be employed, or permitting to work in or about a mobile dental facility or portable dental operation, any person who performs or practices any occupation regulated under IC 25-13 or IC 25-14 who is not duly licensed by the board. *(State Board of Dentistry; 828 IAC 4-3-8; filed May 2, 2002, 10:24 a.m.: 25 IR 2738)*

### 828 IAC 4-3-9 Information for patients

Authority: IC 25-14-1-13  
Affected: IC 25-14

Sec. 9. (a) During or at the conclusion of each patient's visit to the mobile dental facility or portable dental operation, the patient shall be provided with an information sheet. If the patient has provided consent to an institutional facility to access the patient's dental health records, the institution shall also be provided with a copy of the information sheet. An institutional facility includes, but is not limited to, a long term care facility or school.

- (b) An information sheet shall include the following:
- (1) Pertinent contact information as required by this article.
  - (2) The name of the dentist and other dental staff who provided services.
  - (3) A description of the treatment rendered, including billed service codes and fees associated with treatment, and tooth numbers when appropriate.

**(4) If necessary, referral information to another dentist as required by this article.**

*(State Board of Dentistry; 828 IAC 4-3-9; filed May 2, 2002, 10:24 a.m.: 25 IR 2738)*

**828 IAC 4-3-10 Cessation of operations**

Authority: IC 25-14-1-13

Affected: IC 16-39; IC 25-14

**Sec. 10. (a) Upon cessation of operation by the mobile dental facility or portable dental operation, the operator shall notify the board within thirty (30) days of the last day of operations in writing of the final disposition of patient records and charts.**

**(b) If the mobile dental facility or portable dental operation is sold, a new registration application must be filed with the board.**

**(c) Upon choosing to discontinue practice or services in a community, the operator of a mobile dental facility or portable dental operation shall:**

**(1) notify all of the operator's active patients in writing, or by publication once a week for three (3) consecutive weeks in a newspaper of general circulation in the community, that the operator intends to discontinue the mobile dental facility's or portable dental operation's practice in the community; and**

**(2) encourage the patients to seek the services of another dentist.**

**(d) The operator shall make reasonable arrangements with the active patients of the mobile dental facility or portable dental operation for the transfer of the patient's records, including radiographs or copies thereof, to the succeeding practitioner or, at the written request of the patient, to the patient, in compliance with IC 16-39.**

**(e) As used in this section, "active patient" applies and refers to a person whom the mobile dental facility or portable dental operation has examined, treated, cared for, or otherwise consulted with during the two (2) year period prior to discontinuation of practice, or moving from or leaving the community.**

**(f) Nothing in this section supersedes the requirements of IC 16-39.** *(State Board of Dentistry; 828 IAC 4-3-10; filed May 2, 2002, 10:24 a.m.: 25 IR 2739)*

**828 IAC 4-3-11 Renewal of registration**

Authority: IC 25-14-1-13

Affected: IC 25-14

**Sec. 11. (a) The registration shall be renewed on March 1 of even-numbered years in the form and manner provided by the board.**

**(b) The registrant shall pay the registration renewal fee in an amount set by the board by rule.** *(State Board of Dentistry; 828 IAC 4-3-11; filed May 2, 2002, 10:24 a.m.: 25 IR 2739)*

**828 IAC 4-3-12 Failure to comply**

Authority: IC 25-14-1-13

Affected: IC 25-14

**Sec. 12. Failure to comply with state statutes or rules regulating the practice of dentistry, dental hygiene, and the operation of mobile dental facilities or portable dental operations shall subject the registrant and all practitioners providing services through a mobile dental facility or portable dental operation to disciplinary action.** *(State Board of Dentistry; 828 IAC 4-3-12; filed May 2, 2002, 10:24 a.m.: 25 IR 2739)*

*LSA Document #01-307(F)*

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**TITLE 856 INDIANA BOARD OF PHARMACY**

LSA Document #01-434(F)

**DIGEST**

Amends 856 IAC 1-27-1 concerning fees related to the practice of pharmacy. Effective 30 days after filing with the secretary of state.

**856 IAC 1-27-1**

SECTION 1. 856 IAC 1-27-1 IS AMENDED TO READ AS FOLLOWS:

**856 IAC 1-27-1 Fees**

Authority: IC 25-1-8-2; IC 25-26-13-4

Affected: IC 25-26-13

Sec. 1. (a) The fee for ~~the licensure by examination for~~ licensure as a registered pharmacist shall be a cost equal to the board's cost of purchasing the examination and an additional administrative fee of ~~twenty-five~~ **one hundred** dollars (~~\$25~~). ~~If the application for examination is not accepted by the board, all but the administrative fee will be refunded. (\$100).~~

(b) The fee for licensure as a registered pharmacist from another state by reciprocity (**also known as license transfer**)

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## Final Rules

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and without a full examination shall be ~~forty one hundred~~ dollars (~~\$40~~). If an applicant for reciprocity is not accepted by the board, only fifteen dollars (~~\$15~~) will be refunded: **(\$100)**.

(c) The fee for **taking or** retaking the state jurisprudence examination or the ~~state administered lab and oral~~ **practical** examination shall be twenty-five dollars (\$25).

(d) The fee for the renewal of a license as a registered pharmacist shall be ~~fifteen seventy-five~~ dollars (~~\$15~~) **(\$75)** per year. The board shall collect an additional five dollars (\$5) per year from each individual who renews a pharmacist license to fund a program to assist impaired pharmacists.

(~~e~~) The penalty fee for a registered pharmacist license that has lapsed shall be ten dollars (~~\$10~~) plus payment of all current fees.

(~~f~~) (e) The fee for a license as a pharmacist intern/extern shall be ten dollars (\$10). The renewal fee for such a license shall be ten dollars (\$10).

(~~g~~) (f) The fee for a **permit both an initial application and renewal** to operate ~~a an in-state~~ pharmacy shall be ~~twenty one hundred~~ dollars (~~\$20~~) **(\$100)** per year. When there is a change of ownership, a new permit must be obtained, and the fee shall be ~~fifteen fifty~~ dollars (~~\$15~~) per year: **(\$50)**. When there is a change of location, the current permit is updated and the fee is ~~fifteen fifty~~ dollars (~~\$15~~): **(\$50)**.

(h) The fee for the renewal of a permit to operate a pharmacy shall be twenty dollars (~~\$20~~) per year.

(i) The fee for a pharmacy permit that has lapsed shall be ten dollars (~~\$10~~) plus payment of all current fees.

(~~j~~) (g) The fee for certificate of qualifications, registration, and grades in any application for reciprocity to another state shall be ~~five ten~~ dollars (~~\$5~~): **(\$10)**.

(~~k~~) The (h) **There will be no** fee for the issuance of a duplicate **pharmacy** license or permit shall be ~~two~~ dollars (~~\$2~~): **There shall be no fee for a duplicate pharmacist pocket card license.**

(~~l~~) (i) The fee for a duplicate pharmacist's wall certificate shall be ten dollars (\$10).

(~~m~~) ~~There shall be no~~ (j) The fee for a complete compilation of the pharmacy laws **shall be ten dollars (\$10)**.

(~~n~~) (k) The fee for **both an initial registration and renewal** registration of a nonresident pharmacy shall be ~~twenty one hundred~~ dollars (~~\$20~~) **(\$100)** per year. (*Indiana Board of Pharmacy; Reg 29; filed Aug 30, 1977, 8:25 a.m.: Rules and Regs. 1978, p. 660; filed Mar 5, 1985, 2:42 p.m.: 8 IR 802; filed Nov 13, 1985, 3:08 p.m.: 9 IR 772; filed Apr 30, 1986, 9:43 a.m.: 9 IR 2204; filed Sep 8, 1987, 2:30 p.m.: 11 IR 95; filed Jul 24, 1991, 2:45 p.m.: 14 IR 2238; filed Jun 6, 1996, 9:00 a.m.: 19 IR 3106; filed May 29, 1998, 11:56 a.m.: 21 IR 3931; filed Aug 5, 1998, 3:48 p.m.: 21 IR 4535; filed Apr 16, 2002, 9:03 a.m.: 25 IR 2739*) NOTE: Renumbered Reg 30 by 1978 Amendment.

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