



**James Allen, M.D., 01039584A** – Dr. Allen did not appear for his scheduled personal appearance regarding his renewal application and was not represented by counsel.

The Board reviewed the documentation concerning Dr. Allen's licenses in Maryland, Florida and Hawaii. All three States have denied either his initial application or license renewal.

After discussion the Board moved to DENY Dr Allen's license renewal.

Barai/Lankford, 5/0/0

**Aaron Ament, M.D., 01060357A** – Dr. Ament appeared before the Board regarding a positive response on his renewal application and was not represented by counsel.

Dr. Ament informed the Board that the military has at this time revoked his clinical privileges. He will be appealing this decision.

After discussion Dr. Ament requested to withdraw his license renewal.

After discussion the Board moved to APPROVE Dr. Ament's request to withdraw his renewal.

Beeson/Lankford, 5/0/0

**Cynthia Ellis, M.D., 01034480A** – Dr. Ellis appeared before the Board regarding a positive response on her renewal application and was represented by Robert Saint.

In 1999 Dr. Ellis went to RUSH and was diagnosed with chemical dependency. She then entered into a contract with ISMA. In 2000 she had a relapse and returned to RUSH. She has had continued sobriety until her relapse in 2007. She signed a new contract with ISMA. ISMA has asked that she refrain from working as a Physician for a period of one year. June 21, 2007 was her last contact with a patient.

After discussion the Board moved to RENEW Dr. Ellis' license renewal on INDEFINITE PROBATION with the following terms:

- May not practice in Indiana. In 2008 she may petition for a modification to allow practice in Indiana.
- Maintain compliance with her ISMA contract
- Monthly reports to the Board concerning her medical practice status

Dr. Ellis stated that she understood and agreed to the Indefinite Probation and the terms of the probation.

Beeson/Akre, 5/0/1, with Dr. Barot abstaining

**Jon Girard, M.D., Initial Application** – Dr. Girard appeared before the Board regarding a positive response on his initial application for licensure and was not represented by counsel.

While a freshman in college in 1998, Dr. Girard and some friends came up with a scheme to counterfeit twenty (20) dollar bills. He stated that he spent a few of them and then felt guilty about doing so. He gave his back to one of the other individual's involved. He was later arrested by the Department of the Treasury due to his involvement with this counterfeiting scheme. One November 7, 2002 he pled guilty in a plea agreement where he received a three (3) years house arrest sentence. He was released from the house arrest after one (1) year. He is currently a third (3<sup>rd</sup>) year chief resident in internal medicine in Dayton Ohio.

He has not had any other criminal or civil matters and he does not have any malpractice actions.

After discussion the Board moved to APPROVE Dr. Girard's application for issuance.

Barai/Lankford, 5/0/0

**John Heidingsfelder, M.D., 01037311A** – Dr. Heidingsfelder appeared before the Board regarding a positive response on his renewal application and was represented by Kelly Green.

A hearing is schedule before the Board in December regarding Dr. Heidingsfelder.

After discussion the Board moved to NEITHER RENEW NOR DENY but to REFER THIS MATTER TO THE ATTORNEY GENERAL'S OFFICE for an investigation. Dr. Heidingsfelder's license status will remain valid to practice while reviewed until the conclusion of the investigation or the hearing in December.

Lankford/Barot, 5/0/0

**Oranu Ibekie, M.D., 01054231A** – Dr. Ibekie appeared before the Board regarding a positive response on his renewal application and was represented by Mike Roth.

Mr. Roth explained to the Board that Dr. Ibekie along with nine (9) other co-defendants have been indicted for fraudulent billing at the AIA Institute. This

indictment occurred in the State of Illinois and at this time a trial date has not been set.

After discussion the Board moved to NEITHER RENEW NOR DENY but to REFER THIS MATTER TO THE ATTORNEY GENERAL'S OFFICE for further investigation. Dr. Ibekie's license status will remain valid to practice until the conclusion of the investigation.

Lankford/Akre, 5/0/0

**Othman Jibril, D.O., 02002426A** – Dr. Jibril did not appear for his scheduled personal appearance regarding the positive response on his renewal application and was not represented by counsel.

The Board took note that Dr. Jibril has not submitted documentation concerning the positive response on his renewal application and has not appeared for his scheduled personal appearance.

After discussion the Board moved to DENY Dr. Jibril's license renewal.

Lankford/Akre, 5/0/0

**John Jurig, M.D., 01039534A** – Dr. Jurig did not appear before the Board as he is scheduled for a final hearing next month on a disciplinary matter.

After discussion the Board moved to NEITHER RENEW NOR DENY but to REFER THIS MATTER TO THE ATTORNEY GENERAL'S OFFICE for further investigation. Dr. Jurig's license status will remain valid to practice until the conclusion of the investigation or his hearing.

Lankford/Akre, 5/0/0

**Michael Kelley, M.D., 01054774A** – Dr. Kelley did not appear for his scheduled personal appearance regarding documentation received by the Board on his renewal application and was not represented by counsel.

After discussion the Board moved to APPROVE Dr. Kelley's license renewal.

Lankford/Akre, 5/0/0

**Efren Lopez, M.D., 01022244A** – Dr. Lopez did not appear for his scheduled personal appearance regarding a positive response on his renewal application and was not represented by counsel.

Dr. Lopez's documentation sent to the Board indicated that he has not seen a patient since 1989.

After discussion the Board moved to DENY Dr. Lopez's license renewal.

Akre/Lankford, 5/0/0

**William Powers, M.D., 01021214A** – Dr. Powers did not appear for his scheduled personal appearance regarding documentation received by the Board on his renewal application and was not represented by counsel.

The Board reviewed the report submitted by Indiana State Board of Health.

After discussion the Board moved to APPROVE Dr. Powers' license renewal and requested that a complaint be filed with the Attorney General's Office for further investigation of this matter.

Huddleston/Lankford, 5/0/0

**Tristan Stonger, M.D., 01031765A** – Dr. Stonger did appear for his scheduled personal appearance regarding documentation received by the Board and was represented by Robert Saint.

The Board reviewed the malpractice panel information.

After discussion the Board moved to NEITHER RENEW NOR DENY but to REFER THIS MATTER TO THE ATTORNEY GENERAL'S OFFICE for investigation. Dr. Stonger's license status will remain valid to practice until the conclusion of the investigation.

Lankford/Akre, 5/0/0

**Charles Test, M.D., 01013765A** – Dr. Test did not appear for his scheduled personal appearance regarding documentation received by the Board and was not represented by counsel.

After discussion the Board moved to DENY Dr Test's license renewal.

Barai/Lankford, 5/0/0

**Neil Winston, M.D., 01048601A** – Dr. Winston did appear for his scheduled personal appearance regarding a positive response on his renewal application and was not represented by counsel.

Dr. Winston informed the Board that this information was discussed on his 2005 renewal. Since he began his practice in 1984 he has only had one (1) malpractice judgment.

After discussion the Board moved to APPROVED Dr. Winston's license renewal.

Barai/Barot, 5/0/0

**Andrew Zabiega, M.D., 01058596A** – Dr. Zabiega did appear for his scheduled personal appearance regarding documentation received by the Board regarding his renewal application and was not represented by counsel.

After discussion the Board moved to NEITHER RENEW NOR DENY but to REFER THIS MATTER TO THE ATTORNEY GENERAL'S OFFICE for investigation. Dr. Zabiega's license status will remain valid to practice until the conclusion of the investigation.

Lankford/Akre, 5/0/0

### **ADMINISTRATIVE HEARINGS**

The following administrative hearings were continued:

**Helmut Ahlert, M.D., 01059114A, Cause No. 2006 MLB 0052**

**Terry A. Crafton, M.D., 01032882A, Cause No. 2007 MLB 0010**

**John Allen Heidingsfelder, M.D., License No. 01037311A, Cause No. 2006 MLB 0037**

**Stephanie Colson Sharpe, M.D., License No. 01051569A, Cause No. 2007 MLB 0017**

Respondent did appear in person and was not represented by counsel regarding an Order to Show Cause scheduled before the Board. The State of Indiana was represented by Elizabeth Kiefner, Deputy Attorney General and the court reporter sworn in for this matter was Sherri Rutledge with Andy Rutledge Reporting. Michael Rinebold, Board Director and Dr. Fricke, ISMA were sworn in as witnesses.

Dr. Sharpe informed the Board that she had a relapse in May 2007. She explained that she took a total of four (4) doses of a fellow co-workers medication for a headache. She thought it was Tylenol when in fact it was actually a narcotic prescription drug the co-worker also had. This did not show up in her UDS with ISMA, but she also requested a hair screen and it was positive. She stated that she is seeing Dr. Moe for her recovery.

Dr. Fricke informed the Board that he believes her current course of therapy is appropriate and feels that she should not practice. At this time her ISMA contact has been amended to include hair screens.

After having considered the evidence presented, testimony of the witness and taking official notice of its file in this matter the Board moved to continue Dr.

Sharpe's license on INDEFINITE PROBATION with an added requirement of quarterly hair analysts with a report sent to the Board.

Barai/Huddleston, 6/0/0

**Subu Dubey, M.D., License No. 01039971A, Cause No. 2004 MLB 0052**

Respondent did not appear in person and was not represented by counsel regarding a Final Hearing scheduled before the Board. The State of Indiana was represented by Mark Mader, Deputy Attorney General and the court reporter sworn in for this matter was Sherri Rutledge with Andy Rutledge reporting. Michael Rinebold, Board Director was sworn in as a witness for the State.

After having considered the evidence presented, testimony of the witness and taking official notice of its file in this matter the Board moved to issue a NOTICE OF PROPOSED DEFAULT.

Lankford/Beeson, 5/1/1, with Mr. Huddleston objecting and Dr. Barai abstaining

**Mohamed Mekawy, M.D., License No. 01057839A, Cause No. 2007 MLB 0024**

Respondent did not appear in person and was not represented by counsel regarding a Petition for Summary Suspension scheduled before the Board. The State of Indiana was represented by Elizabeth Kiefner, Deputy Attorney General and the court reporter sworn in for this matter was Sherri Rutledge with Andy Rutledge Reporting. Michael Rinebold, Board Director, Officer Chris A. Anderson, Patient One and Patient Ones Wife were all sworn in as witnesses for the State.

Chris Anderson is a Law Enforcement Officer with the Arkansas State Police. Officer Anderson submitted a sworn statement to the Board of his investigation involving Dr. Mekaway and his internet prescribing through USAchoice.com. Officer Anderson also informed the Board that the address Dr. Mekaway is using is an Indiana address and it is actually a business address for Mailboxes Etc.

Patient One stated that he has never met or spoke to Dr. Mekaway yet he received an order of prescription drugs from Dr. Mekaway in his name, but the package was mailed to his neighbor's house. The prescription had his name, his wife's birth date and factious height and weight information on the label.

Patient Ones Wife testified that she did order the prescription in her husbands name and had it mailed to the neighbor's address so her husband wouldn't find out. She also used her husband's credit card for the internet purchase. She also stated that she has never met or spoke to Dr. Mekaway.

Mr. Rinebold testified that he received information from the California Board of Medicine that they are investigating an overdose of prescribed medications that were prescribed by Dr. Mekaway.

Ms. Kiefner informed the Board that there were 1,500 prescriptions issued in the last month under Dr. Mekaway's name.

After having considered the evidence presented, testimony of the witnesses and taking official notice of its file in this matter the Board moved to place the Respondent's license on SUMMARY SUSPENSION for a period of ninety (90) days.

Huddleston/Barai, 7/0/0

**Kirnjot Singh, M.D., License No. 01047531A, Cause No. 2007 MLB 0005**

Respondent did appear in person and was represented by Peter Pogue regarding a Final Hearing scheduled before the Board. The State of Indiana was represented by Elizabeth Kiefner, Deputy Attorney General and the court reporter sworn in for this matter was Sherri Rutledge with Andy Rutledge Reporting.

Let the record reflect that Dr. Navin Barot recused himself for the following hearing.

An agreement between the Respondent, his counsel and the Attorney General's Office was presented to the Board by Elizabeth Kiefner, Deputy Attorney General. The agreement included INDEFINITE PROBATION for a period of one (1) year with the following terms:

- Must keep the Board informed of his home address, mailing address and phone number; his place of employment, employment phone number and name of supervisor; his occupation title, work schedule and the number of hours worked per week.
- Must provide a copy of this order to his employer and any institution where he holds privileges and they must sign the order and return to the Board within seven (7) days.
- He must have a chaperone with all female patients. His chaperone shall keep a log of the female patients (initials only) that he sees and submit the log to the Board monthly.
- Must attend a comprehensive in-person continuing education class on patient boundaries of at least ten (10) hours in length and submit proof of attendance to the Board within ninety (90) days.
- Must receive a comprehensive psychological evaluation by a board certified psychologist and submit a copy of the report to the Board within ninety (90) days. He must provide the selected psychologist with a copy of the order prior to the evaluation. He also must follow all recommendations from the reporting psychologist.
- He must report any patient complaint against him to the Board within twenty-four (24) hours of such complaint.

After having considered the evidence presented and taking official notice of its file in this matter the Board moved to APPROVE the amended agreement. The Board considered the Respondent's license renewal and APPROVED it for renewal on Indefinite Probation.

Lankford/Akre, 3/0/2, with Dr's Barai and Barot abstaining

**Elmer Manalo, M.D., License No. 01040595A, Cause No. 2007 MLB 0025**

Respondent did appear before the Board and was represented by Maryann Wunger regarding a Petition for Summary Suspension scheduled before the Board. The State of Indiana was represented by Elizabeth Kiefner, Deputy Attorney General and the court reporter sworn in for this matter was Sherri Rutledge with Andy Rutledge Reporting.

An agreement between the Respondent, his counsel and the Attorney General's Office was presented to the Board by Elizabeth Kiefner, Deputy Attorney General. The agreement included SUMMARY SUSPENSION for a period of ninety (90) days.

After having considered the evidence presented and taking official notice of its file in this matter the Board moved to ACCEPT the agreement.

Barai/Lankford, 6/1/0, with Dr. Barot objecting

**DISCUSSION**

Board forms committee to research issues surrounding lasers, liposuction and pain management/prescribing practices: The Board appointed Thomas Akre, D.O. as chair to lead the committee through the task of collecting information, research and meetings with interested parties concerning issues surrounding the use of lasers (particularly in medical spas), office based liposuction and pain management. Dr. William H. Beeson was also asked to participate as a special appointee to the committee.

Huddleston/Holt, 7/0/0

Proposal to modify 844 IAC 4-4.5-12(3): The Board voted to work towards modifying the Indiana Administrative Rule which requires all applicants to pass the USMLE within seven years and allowing no more than five attempts at each step. The Board discussed a new requirement of allowing ten years and reducing the number of attempts to pass to three per step.

Lankford/Holt, 7/0/0

Distinguished Hoosier Award Presentation: Mr. Rinebold presented a Distinguished Hoosier Award from Governor Daniels to William Beeson, M.D., Vice President for his distinguished 9 years of service to the State of Indiana.

Appointment of new Board Designee: The Board voted to appoint Dr. Holt as the new designee to the Attorney General's Office. Dr. Holt accepted the position with the understanding that he would disburse the referrals out to the other Board members willing to participate.

Lankford/Huddleston, 7/0/0

Vice President Election: The Board voted to install Stephen Huddleston, Consumer member as the Vice President. He will complete Dr. Beeson's Vice Presidency term through December 2007. This is Dr. Beeson's last meeting as his term has expired.

Holt/Lankford, 6/0/0  
(Mr. Huddleston did not vote)

Proposal to support FSMB's association with the Center for Disease Control's information collection efforts: The Board voted to approve Mr. Rinebold to work with the FSMB in an effort to supply necessary information to them from the Board.

Barot/Lankford, 5/0/0

Proposal to support FSMB's project to distribute "Responsible Opioid Prescribing: A Physician's Guide" to Indiana Physicians: The Board voted to approve the FSMB to distribute the booklet to Indiana Physicians once FSMB has secured financing for the distribution.

Lankford/Huddleston, 5/0/0

## **RULES**

### **RULES AND REGULATIONS OF THE MEDICAL LICENSING BOARD OF INDIANA LSA DOCUMENT #06-561(F)**

The following is the sequence of events concerning the adoption of proposed rules of the Medical Licensing Board of Indiana:

- Posting Notice of Intent to adopt a rule in the Indiana Register **DIN:** 20061213-IR-844060561NIA: 12/13/2006
- Publication of Notice of Hearing in the Indiana Register: 20070627-IR-844060561PHA: 6/27/2007
- Publication of Notice of Public Hearing in the Indianapolis Star: 6/22/07
- Publication of Change of Notice of Hearing in the Indiana Register **DIN:** 20070829-IR-844060561CHA: 8/29/2007
- Publication of Change of Notice of Hearing in the Indianapolis Star: 09/07/07
- IEDC comments published on the website of the Medical Licensing Board of Indiana: 09/13/07
- Acknowledgement of IEDC comments: 9/27/07

The Medical Licensing Board held a public hearing on September 27, 2007 at 11:20 a.m., as required by IC 4-22-2-1 et seq.

The following members of the public testified in favor of the proposed rules: Ron Downs, M.D., Harriet Hamer, M.D., Jeff Pearcy, Theresa Griffin, Carolyn Kurtz, Mike Dye

The following members of the public testified against the proposed rules:

David Shepherd

The Board, on September 27, 2007, considered the comments of the public, considered the comments of the IEDC, and voted 6-0-1 to adopt the following proposed rules with technical amendments:

844 IAC 5-5

**TITLE 844 MEDICAL LICENSING BOARD OF INDIANA**

LSA Document #06-561(F)

DIGEST

Adds 844 IAC 5-5 to establish standards for procedures performed in office-based settings that require moderate sedation/analgesia, deep sedation/analgesia, general anesthesia, or regional anesthesia. Effective 30 days after filing with the Publisher.

**IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses**

**844 IAC 5-5**

SECTION 1. 844 IAC 5-5 IS ADDED TO READ AS FOLLOWS:

**Rule 5. Standards for Procedures Performed in Office-based Settings That Require Moderate Sedation/Analgesia, Deep Sedation/Analgesia, General Anesthesia, or Regional Anesthesia**

**844 IAC 5-5-1 Purpose**

**Authority: IC 25-22.5-2-7**

**Affected: IC 25-22.5**

**Sec. 1. This rule establishes standards for procedures performed in office-based settings that require:**

- (1) moderate sedation/analgesia;**
- (2) deep sedation/analgesia;**
- (3) general anesthesia; or**
- (4) regional anesthesia.**

*(Medical Licensing Board of Indiana; 844 IAC 5-5-1)*

**844 IAC 5-5-2 Application of rule**

**Authority: IC 25-22.5-2-7**

**Affected: IC 25-22.5**

**Sec. 2. Except as provided in section 15 of this rule, this rule does not apply to:**

- (1) local anesthesia;**
- (2) topical anesthesia;**
- (3) superficial nerve blocks; or**
- (4) minimal sedation/anxiolysis.**

*(Medical Licensing Board of Indiana; 844 IAC 5-5-2)*

**844 IAC 5-5-3 "Accreditation agency" defined**

**Authority: IC 25-22.5-2-7**

**Affected: IC 25-22.5**

**Sec. 3. As used in this rule, "accreditation agency" means a public or private organization that is approved to issue certificates of accreditation to office-based settings by the board under this rule. *(Medical Licensing Board of Indiana; 844 IAC 5-5-3)***

**844 IAC 5-5-4 "American Society of Anesthesiologists Physical Status Classification System" defined**

**Authority: IC 25-22.5-2-7**

**Affected: IC 25-22.5**

**Sec 4. As used in this rule, "American Society of Anesthesiologists (ASA) Physical Status Classification System" refers to the following classifications:**

- (1) P1 - A normal healthy patient.**
- (2) P2 - A patient with mild systemic disease.**
- (3) P3 - A patient with severe systemic disease.**
- (4) P4 - A patient with severe systemic disease that is a constant threat to life.**
- (5) P5 - A moribund patient who is not expected to survive without the operation.**
- (6) P6 - A declared brain-dead patient whose organs are being removed for donor purposes.**

*(Medical Licensing Board of Indiana; 844 IAC 5-5-4)*

**844 IAC 5-5-5 "Anesthesia" defined**

**Authority: IC 25-22.5-2-7**

**Affected: IC 25-22.5**

**Sec. 5. As used in this rule, "anesthesia" includes the following:**

- (1) Moderate sedation/analgesia.**
- (2) Deep sedation/analgesia.**

**(3) General anesthesia.**

**(4) Regional anesthesia.**

*(Medical Licensing Board of Indiana; 844 IAC 5-5-5)*

**844 IAC 5-5-6 "Deep sedation/analgesia" defined**

**Authority: IC 25-22.5-2-7**

**Affected: IC 25-22.5**

**Sec. 6. (a) As used in this rule, "deep sedation/analgesia" means a drug-induced depression of consciousness during which patients cannot be easily aroused but respond purposefully following repeated or painful stimulation. For purposes of this rule, reflex withdrawal from a painful stimulus is not considered a purposeful response.**

**(b) The following are conditions that a patient under deep sedation/analgesia may experience:**

**(1) The ability to independently maintain ventilatory function may be impaired.**

**(2) Patients may require assistance in maintaining a patent airway, and spontaneous ventilation may be inadequate.**

**(3) Cardiovascular function is usually maintained.**

*(Medical Licensing Board of Indiana; 844 IAC 5-5-6)*

**844 IAC 5-5-7 "General anesthesia" defined**

**Authority: IC 25-22.5-2-7**

**Affected: IC 25-22.5**

**Sec. 7. (a) As used in this rule, "general anesthesia" means a drug-induced loss of consciousness during which patients are not arousable, even by pain stimulation.**

**(b) The following are conditions that a patient under general anesthesia may experience:**

**(1) The ability to independently maintain ventilatory function is often impaired.**

**(2) Patients often require assistance in maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function.**

**(3) Cardiovascular function may be impaired.**

*(Medical Licensing Board of Indiana; 844 IAC 5-5-7)*

**844 IAC 5-5-8 "Health care provider" defined**

**Authority: IC 25-22.5-2-7**

**Affected: IC 25-22.5**

**Sec. 8. As used in this rule, "health care provider" means an individual licensed or legally authorized by this state to provide health care services. (*Medical Licensing Board of Indiana; 844 IAC 5-5-8*)**

**844 IAC 5-5-9 "Immediate presence" defined**

**Authority: IC 25-22.5-2-7**

**Affected: IC 25-22.5**

**Sec. 9. As used in this rule, "immediate presence" means, at a minimum, that the directing practitioner must be:**

- (1) physically located within the office-based setting;**
- (2) prepared to immediately conduct hands-on intervention if needed; and**
- (3) not engaged in activities that could prevent the practitioner from being able to immediately intervene and conduct hands-on interventions if needed.**

*(Medical Licensing Board of Indiana; 844 IAC 5-5-9)*

**844 IAC 5-5-10 "Local anesthesia" defined**

**Authority: IC 25-22.5-2-7**

**Affected: IC 25-22.5**

**Sec. 10. As used in this rule, "local anesthesia" means a transient and reversible loss of sensation in a circumscribed portion of the body produced by:**

- (1) a local anesthetic agent; or**
- (2) cooling a circumscribed area of the skin.**

**The term includes subcutaneous infiltration of an agent. (*Medical Licensing Board of Indiana; 844 IAC 5-5-10*)**

**844 IAC 5-5-11 "Minimal sedation/anxiolysis" defined**

**Authority: IC 25-22.5-2-7**

**Affected: IC 25-22.5**

**Sec. 11. As used in this rule, "minimal sedation/anxiolysis" means a drug-induced state during which a patient responds normally to verbal commands. Although cognitive function and coordination may be impaired, ventilatory and cardiovascular functions are usually not affected. (*Medical Licensing Board of Indiana; 844 IAC 5-5-11*)**

**844 IAC 5-5-12 "Moderate sedation/analgesia" defined**

**Authority: IC 25-22.5-2-7**

**Affected: IC 25-22.5**

**Sec. 12. (a) As used in this rule, "moderate sedation/analgesia" (also sometimes called "conscious sedation") means a drug-induced depression of consciousness during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation.**

(b) The following are conditions that a patient under moderate sedation/analgesia may experience:

(1) No interventions are required to maintain a patent airway, and spontaneous ventilation is adequate.

(2) Cardiovascular function is usually maintained.

*(Medical Licensing Board of Indiana; 844 IAC 5-5-12)*

**844 IAC 5-5-13 "Office-based setting" defined**

Authority: IC 25-22.5-2-7

Affected: IC 16-21-2; IC 25-22.5

Sec. 13. As used in this rule, "office-based setting" means any:

(1) facility;

(2) clinic;

(3) center;

(4) office; or

(5) other setting;

where procedures are performed that require moderate sedation/analgesia, deep sedation/analgesia, general anesthesia, or regional anesthesia. The term does not include a hospital operated by the federal government or a setting licensed under IC 16-21-2 as a hospital, ambulatory surgical center, abortion clinic, or birthing center.

*(Medical Licensing Board of Indiana; 844 IAC 5-5-13)*

**844 IAC 5-5-14 "Practitioner" defined**

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5

Sec. 14. As used in this rule, "practitioner" has the meaning set forth in 844 IAC 5-1-1(14). *(Medical Licensing Board of Indiana; 844 IAC 5-5-14)*

**844 IAC 5-5-15 "Regional anesthesia" defined**

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5

Sec. 15. (a) As used in this rule, "regional anesthesia" means the administration of anesthetic agents to a patient to interrupt nerve impulses without the loss of consciousness and includes the following:

(1) Major conduction blocks, such as:

(A) epidural;

(B) spinal; and

(C) caudal;

blocks.

(2) Peripheral nerve blocks, such as:

(A) brachial;

(B) lumbar plexus;

(C) peribulbar; and

- (D) retrobulbar;  
blocks.**
- (3) Intravenous regional anesthesia, such as Bier blocks.**

**(b) Notwithstanding section 2 of this rule, a superficial nerve block or application of a local anesthetic agent in which the total dosage administered exceeds the recommended maximum dosage per body weight described in the manufacturer's package insert shall be considered regional anesthesia for purposes of this rule. (*Medical Licensing Board of Indiana; 844 IAC 5-5-15*)**

**844 IAC 5-5-16 "Rescue" defined**

**Authority: IC 25-22.5-2-7  
Affected: IC 25-22.5**

**Sec. 16. As used in this rule, "rescue" means an intervention by a practitioner proficient in airway management and advanced life support. In rescuing a patient, the practitioner must:**

**(1) correct adverse physiologic consequences of the deeper-than-intended level of sedation, such as:**

- (A) hypoventilation;**
- (B) hypoxia; and**
- (C) hypotension; and**

**(2) return the patient to the originally intended level of sedation.**

*(Medical Licensing Board of Indiana; 844 IAC 5-5-16)*

**844 IAC 5-5-17 "Superficial nerve block" defined**

**Authority: IC 25-22.5-2-7  
Affected: IC 25-22.5**

**Sec. 17. As used in this rule, "superficial nerve block" means an agent placed in the proximity of any nerve or group of nerves outside of the vertebral canal to produce a loss of sensation in an anatomic or circumscribed area. For purposes of this rule, the term is limited to:**

- (1) ankle;**
- (2) metacarpal;**
- (3) digit; and**
- (4) paracervical;**

**blocks. (*Medical Licensing Board of Indiana; 844 IAC 5-5-17*)**

**844 IAC 5-5-18 "Topical anesthesia" defined**

**Authority: IC 25-22.5-2-7  
Affected: IC 25-22.5**

**Sec. 18. As used in this rule, "topical anesthesia" means a transient and reversible loss of sensation to a circumscribed area produced by an anesthetic agent**

**applied directly or by spray to the skin or mucous membranes.** (*Medical Licensing Board of Indiana; 844 IAC 5-5-18*)

**844 IAC 5-5-19 Standards for procedures performed in office-based settings**

**Authority: IC 25-22.5-2-7**

**Affected: IC 25-22.5**

**Sec. 19. (a) Because sedation is a continuum, it is not always possible to predict how an individual patient will respond. Practitioners intending to produce a given level of sedation must be able to rescue a patient whose level of sedation becomes deeper than initially intended. Practitioners administering deep sedation/analgesia in an office-based setting, or directing or supervising the administration of deep sedation/analgesia in an office-based setting, must be able to rescue patients who enter a state of general anesthesia. Practitioners administering moderate sedation/analgesia in an office-based setting, or directing or supervising the administration of moderate sedation/analgesia in an office-based setting, must be able to rescue patients who enter a state of deep sedation/analgesia.**

**(b) Practitioners administering regional anesthesia, or supervising or directing the administration of regional anesthesia, must be knowledgeable about the risks of regional anesthesia and the interventions required to correct any adverse physiological consequences that may occur in the administration of regional anesthesia.**

**(c) A health care provider may not administer or monitor an anesthetic agent containing alkylphenols in an office-based setting unless the health care provider is:**

**(1) trained in the administration of general anesthesia; and**

**(2) not involved in the conduct of the procedure.**

*(Medical Licensing Board of Indiana; 844 IAC 5-5-19)*

**844 IAC 5-5-20 Accreditation required**

**Authority: IC 25-22.5-2-7**

**Affected: IC 25-22.5**

**Sec. 20. After January 1, 2010, a practitioner may not perform or supervise a procedure that requires anesthesia in an office-based setting unless the office-based setting is accredited by an accreditation agency approved by the board under this rule.** (*Medical Licensing Board of Indiana; 844 IAC 5-5-20*)

**844 IAC 5-5-21 Approval of accreditation agencies; requirements**

**Authority: IC 25-22.5-2-7**

**Affected: IC 25-22.5**

**Sec. 21. In approving accreditation agencies to perform accreditation of office-based settings, the board shall ensure that the certification program, at a**

minimum, includes standards for the following aspects of an office-based setting's operations:

(1) Anesthesia, as follows:

- (A) The level of anesthesia administered shall be appropriate for the:
- (i) patient;
  - (ii) procedure;
  - (iii) clinical setting;
  - (iv) education and training of the personnel; and
  - (v) equipment available.

Practitioners shall select patients for procedures in office-based settings using anesthesia by criteria, including the American Society of Anesthesiologists (ASA) Physical Status Classification System, and so document.

(B) The choice of specific anesthetic agents and techniques shall focus on providing anesthesia that will:

- (i) be safe, effective, and appropriate; and
- (ii) respond to the specific needs of patients while also ensuring rapid recovery to normal function with appropriate efforts to control postoperative pain, nausea, or other side effects.

(C) A health care provider administering anesthesia shall be licensed, qualified, and working within the provider's scope of practice. In those cases in which a nonphysician provider administers the anesthesia, the provider must be:

- (i) under the direction and supervision of a practitioner as required by IC 25-22.5-1-2(a)(20); or
- (ii) under the direction of and in the immediate presence of a practitioner as required by IC 25-22.5-1-2(a)(13), if the provider is a certified registered nurse anesthetist.

(D) A:

- (i) health care provider who administers anesthesia; and
- (ii) practitioner who:
  - (AA) performs a procedure that requires anesthesia; or
  - (BB) directs or supervises the administration of anesthesia;

in an office-based setting shall maintain current training in advanced resuscitation techniques, such as advanced cardiac life support (ACLS) or pediatric advanced life support (PALS), as applicable. At least one (1) person with ACLS or PALS training should be immediately available until the patient is discharged.

(E) In addition to the health care provider performing the procedure, sufficient numbers of qualified health care providers, each working within the individual provider's scope of practice, must be present to:

- (i) evaluate the patient;
- (ii) assist with the procedure;
- (iii) administer and monitor the anesthesia; and
- (iv) recover the patient.

**Other health care providers involved in the delivery of procedures in an office-based setting that require anesthesia, at a minimum, shall maintain training in basic cardiopulmonary resuscitation.**

**(F) Patients who have preexisting medical or other conditions who may be at particular risk for complications shall be referred to:**

- (i) a hospital;**
- (ii) an ambulatory surgical center; or**
- (iii) another office-based setting appropriate for the procedure and the administration of anesthesia.**

**(G) The practitioner administering the anesthesia, or supervising or directing the administration of anesthesia as required by clause (C), shall do the following:**

- (i) Perform a preanesthetic examination and evaluation or ensure that it has been appropriately performed by a qualified health care provider.**
- (ii) Develop the anesthesia plan or personally review and concur with the anesthesia plan if the plan has been developed by a certified registered nurse anesthetist (CRNA).**
- (iii) Remain physically present during the operative period and be immediately available until the patient is discharged from anesthesia care for diagnosis, treatment, and management of complications or emergencies.**
- (iv) Assure provision of appropriate postanesthesia care.**

**(H) Patient assessment shall occur throughout the preprocedure, periprocedure, and postprocedure phases. The assessment shall:**

- (i) address not only physical and functional status, but also physiological and cognitive status; and**
- (ii) be documented in the medical record.**

**The procedure and anesthesia shall be properly documented in the medical record.**

**(I) Physiologic monitoring of patients shall be appropriate for the type of anesthesia and individual patient needs, including continuous monitoring or assessment of the following:**

- (i) Ventilation.**
- (ii) Cardiovascular status.**
- (iii) Body temperature.**
- (iv) Neuromuscular function and status.**
- (v) Patient positioning.**
- (vi) Oxygenation using a quantitative technique such as pulse oximetry.**

**When general anesthesia is used, equipment to assess exhaled carbon dioxide must also be available.**

**(J) Provisions shall be made for a reliable source of the following:**

- (i) Oxygen.**
- (ii) Suction.**
- (iii) Resuscitation equipment.**

**(iv) Emergency drugs.**

**(2) Procedures, as follows:**

**(A) Procedures shall be provided by qualified health care providers in an environment that promotes patient safety.**

**(B) Procedures to be undertaken shall be within the:**

**(i) scope of practice, training, and expertise of the health care providers; and**

**(ii) capabilities of the facilities.**

**(C) The procedure shall be of a duration and degree of complexity that will permit patients to recover and be discharged from the office-based setting in less than twenty-four (24) hours.**

**(D) Provisions shall be made for appropriate ancillary services on site or in another predetermined location. Ancillary services shall be provided in a safe and effective manner in accordance with accepted ethical professional practice and statutory requirements. These services include, but are not limited to:**

**(i) pharmacy;**

**(ii) laboratory;**

**(iii) pathology;**

**(iv) radiology;**

**(v) occupational health; and**

**(vi) other associated;**

**services.**

**(3) Facilities and equipment, as follows:**

**(A) The office-based setting shall:**

**(i) be clean and properly maintained and have adequate lighting and ventilation;**

**(ii) be equipped with the appropriate medical equipment, supplies, and pharmacological agents that are required in order to provide:**

**(AA) anesthesia;**

**(BB) recovery services;**

**(CC) cardiopulmonary resuscitation; and**

**(DD) other emergency services;**

**(iii) have:**

**(AA) appropriate firefighting equipment;**

**(BB) signage;**

**(CC) emergency power capabilities and lighting; and**

**(DD) an evacuation plan;**

**(iv) have the necessary:**

**(AA) personnel;**

**(BB) equipment; and**

**(CC) procedures;**

**to handle medical and other emergencies that may arise in connection with services provided; and**

**(v) comply with:**

**(AA) applicable federal, state, and local laws and codes and regulations, and provisions must be made to accommodate disabled individuals in compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.); and**

**(BB) federal and state laws and regulations regarding protection of the health and safety of employees.**

**(B) The space allocated for a particular function or service shall be adequate for the activities performed.**

**(C) In locations where anesthesia is administered, there shall be appropriate anesthesia apparatus and equipment to allow appropriate monitoring of patients. All equipment shall be maintained, tested, and inspected according to the manufacturer's specifications. Backup power sufficient to ensure patient protection in the event of an emergency shall be available. There shall be sufficient space to:**

- (i) accommodate all necessary equipment and personnel; and**
- (ii) allow for expeditious access to patients and all monitoring equipment.**

**(D) When anesthesia services are provided to infants and children, the required:**

- (i) equipment;**
- (ii) medications; and**
- (iii) resuscitative capabilities;**

**shall be appropriately sized for children.**

**(E) All equipment used in patient care, testing, or emergency situations shall be inspected, maintained, and tested:**

- (i) on a regular basis; and**
- (ii) according to manufacturers' specifications.**

**(F) Appropriate emergency equipment and supplies shall be readily accessible to all patient service areas.**

**(G) Efforts shall be made to eliminate hazards that might lead to:**

- (i) slipping;**
- (ii) falling;**
- (iii) electrical shock;**
- (iv) burns;**
- (v) poisoning; or**
- (vi) other trauma.**

**(H) Procedures shall be implemented to:**

- (i) minimize the sources and transmission of infections; and**
- (ii) maintain a sanitary environment.**

**(I) A system shall be in place to:**

- (i) identify;**
- (ii) manage;**
- (iii) handle;**
- (iv) transport;**
- (v) treat; and**

- (vi) dispose of;  
hazardous materials and wastes, whether solid, liquid, or gas.  
(J) Smoking must be prohibited in all patient care areas.

*(Medical Licensing Board of Indiana; 844 IAC 5-5-21)*

#### **844 IAC 5-5-22 Practitioners requirements**

**Authority: IC 25-22.5-2-7**

**Affected: IC 25-22.5**

(a) A practitioner who performs a procedure that requires anesthesia in an office-based setting, or who directs or supervises the administration of anesthesia in an office-based setting, must have:

- (1) admitting privileges at a nearby hospital;
- (2) a transfer agreement with another practitioner who has admitting privileges at a nearby hospital; or
- (3) an emergency transfer agreement with a nearby hospital.

(b) A practitioner who performs a procedure that requires anesthesia in an office-based setting, or who directs or supervises the administration of anesthesia in an office-based setting, shall ensure that a patient's informed consent for the nature and objectives of the anesthesia planned and procedure to be performed is obtained in writing before the procedure is performed. The informed consent shall be:

- (1) obtained after a discussion of the risks, benefits, and alternatives; and
- (2) documented in the patient's medical record.

(c) Written procedures for credible peer review to determine the appropriateness of the following shall be established and reviewed at least annually:

- (1) Clinical decision making.
- (2) Overall quality of care.

(d) Agreements with local emergency medical service (EMS) shall be in place for purposes of transfer of patients to the hospital in case of an emergency. EMS agreements shall be re-signed at least annually.

(e) A practitioner who performs a procedure that requires anesthesia in an office-based setting, or who directs or supervises the administration of anesthesia in an office-based setting, shall show competency by maintaining privileges at an accredited or licensed hospital or ambulatory surgical center, for the procedures they perform in the office-based setting. Alternatively, the governing body of the office-based setting is responsible for a peer review process for privileging practitioners based on nationally recognized credentialing standards.

(f) A practitioner who performs a procedure that requires anesthesia in an office-based setting, or who directs or supervises the administration of anesthesia in an office-based setting, shall have appropriate education and training.

*(Medical Licensing Board of Indiana; 844 IAC 5-5-22)*

On the date of the public hearing, the Board directed the Executive Director of the Indiana Professional Licensing Agency to submit the original copy of the rules to the Attorney General of Indiana for approval as to legality. The Office of the Attorney General is requested to submit the rules to the Governor for approval. The Executive Director is then to file the original copy with the Publisher.

### **REVIEW OF INITIAL APPLICATIONS**

The Board reviewed the positive response information on the following applicants and approved them for issuance:

Aous Al-Khalid, M.D.	Eugene Anandapa, M.D.	Robert Cattani, M.D.
David Henry, M.D.	Matthew Cooper, M.D.	Srinivas Jolepalem, M.D.

The Board reviewed the positive response information on the following applicants and requested that they personally appear before the Board:

Charles Grassie, M.D.	Robert Patterson, M.D.	Edwin Pratt, M.D.
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The Board reviewed the following Physician Assistant Prescriptive Authority applications and approved for issuance of prescriptive authority:

Laurel Adams, P.A., 10000723A	Brandon Aiman, P.A., 10000592A
Diane Barber, P.A., 10000306A	Jana Bartels, P.A., 10000800A
Kara Baumann, P.A., 10000620A	Joann Beecher, P.A., 10000363A
Stephen Bell, P.A., 10000624A	Lowell Bengero, P.A., 10000579A
Thomas Blastic, P.A., 10000823A	Gregory Broyles, P.A., 10000104A
Katherine Buchanan, P.A., 10000456A	Corynn Cannon, P.A., 10000644A
Elizabeth Casper, P.A., 10000848A	Stephanie Corbitt, P.A., 10000864A
Suzanne Cornelius, P.A., 10000691A	Rebecca Corpuz, P.A., 10000911A
Bret Cornn, P. A., 10000310A	Tamara Dunwiddie, P.A., 10000795A
Erin Ehninger, P.A., 10000704A	Elizabeth Golden, P.A., 10000674A
Jonathan Green, P.A., 10000335A	Nancy Hanna, P.A., 10000146A
John Hannaford, P.A., 10000922A	Beth Harding, P.A., 10000525A
Matthew Hasselman, P.A., 10000538A	Neal Hoffman, P.A., 10000038A
Frank Kiefer, P.A., 10000044A	Carrie Klingman, P.A., 10000717A
Jason Kolkmeier, P.A., 10000717A	William Latimer, P.A., 10000447A
Michael McBride, P.A., 10000037	Andrea Moll, P.A., 10000817A
Ann Morris, P.A. initial app	Robert Muller, P.A., 10000769A
Angela Newby, P.A., 10000457A	Linda Prokai, P.A., 10000162A
Christopher Pruitt, P.A., 10000646A	Christina Race, P.A., 10000471A

Kristine Rednour, P.A., 10000727A  
Christopher Rockey, P.A., 10000591A  
Thomas Sandin, P.A., 10000475A  
Callie Seidl, P. A., 10000790A  
Constantina Sloffer, P.A., 10000349A  
Thomas Spindler, P.A., 10000161A  
Gina Topper, P.A., 10000344A  
Kimberly Vogt, P. A., 10000939A  
Angela Williamson, P.A., 10000206A  
David Wulff, P.A., 10000305A

Jill Reisman, P.A., 10000734A  
Jason Roth, P.A., 10000474A  
Kevin Schmidt, P.A., 10000460A  
Richard Shults, P.A., 10000348A  
Christopher Smalley, P.A., 10000676A  
Rick Storie, P.A., 10000302A  
Jeanne Tuchscherer, P.A. initial app  
Michael Wemhoff, P.A., 10000377A  
Peter Wright, P.A., 10000436A

There being no further business the Board adjourned at 4:45 p.m.

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Worthe Holt, Jr., M.D., President

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Navin Barot, M.D., Secretary