

SENATE BILL No. 412

DIGEST OF INTRODUCED BILL

Citations Affected: IC 10-14; IC 16-31-3-14.

Synopsis: Emergency management. Requires the state emergency management agency to establish a program to certify emergency management organizations and professional emergency managers. Requires a county emergency management organization or interjurisdictional disaster agency in which a county participates to be certified as an emergency management organization. Requires a county emergency management and disaster director to be certified as a professional emergency manager.

Effective: July 1, 2004.

Wyss, Lutz L

January 12, 2004, read first time and referred to Committee on Transportation and Homeland Security.

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Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

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SENATE BILL No. 412



A BILL FOR AN ACT to amend the Indiana Code concerning state police, civil defense and military affairs.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 10-14-3-17, AS ADDED BY P.L.115-2003,
- 2 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2004]: Sec. 17. (a) A political subdivision is:
- 4 (1) within the jurisdiction of; and
- 5 (2) served by;
- 6 a department of emergency management or by an interjurisdictional
- 7 agency responsible for disaster preparedness and coordination of
- 8 response.
- 9 (b) A county shall:
- 10 (1) maintain:
- 11 (A) a county emergency management advisory council; and
- 12 (B) a county emergency management organization **that is**
- 13 **certified as an emergency management organization under**
- 14 **IC 10-14-10;** or
- 15 (2) participate in an interjurisdictional disaster agency that:
- 16 (A) except as otherwise provided under this chapter, may have
- 17 jurisdiction over and serve the entire county; **and**



1 **(B) is certified as an emergency management organization**
 2 **under IC 10-14-10.**
 3 **(c) The following are not required to be certified as emergency**
 4 **management organizations under IC 10-14-10 until July 1, 2009:**
 5 **(1) A county emergency management organization that exists**
 6 **on July 1, 2004.**
 7 **(2) An interjurisdictional disaster agency in which a county**
 8 **participates, that exists on July 1, 2004.**
 9 **This subsection expires July 2, 2009.**
 10 ~~(c)~~ **(d) The county emergency management advisory council**
 11 **consists of the following individuals or their designees:**
 12 (1) The president of the county executive or, if the county
 13 executive does not have a president, a member of the county
 14 executive appointed from the membership of the county
 15 executive.
 16 (2) The president of the county fiscal body.
 17 (3) The mayor of each city located in the county.
 18 (4) An individual representing the legislative bodies of all towns
 19 located in the county.
 20 (5) Representatives of private and public agencies or
 21 organizations that can assist emergency management considered
 22 appropriate by the county emergency management advisory
 23 council.
 24 (6) One (1) commander of a local civil air patrol unit in the
 25 county or the commander's designee.
 26 ~~(d)~~ **(e) The county emergency management advisory council shall**
 27 **do the following:**
 28 (1) Exercise general supervision and control over the emergency
 29 management and disaster program of the county.
 30 (2) Select or cause to be selected, with the approval of the county
 31 executive, a county emergency management and disaster director
 32 who:
 33 (A) has direct responsibility for the organization,
 34 administration, and operation of the emergency management
 35 program in the county; ~~and~~
 36 (B) is responsible to the chairman of the county emergency
 37 management advisory council;
 38 **(C) must be a full-time employee of:**
 39 **(i) the county; or**
 40 **(ii) two (2) counties acting jointly under IC 36-1-7; and**
 41 **(D) must be certified as a professional emergency manager**
 42 **in accordance with IC 10-14-9.**

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1 **(f) An individual who is employed by a county as the county**
2 **emergency management and disaster director on July 1, 2004, may**
3 **continue to act as the county emergency management and disaster**
4 **director until July 1, 2008, without being certified as a professional**
5 **emergency manager or obtaining a provisional certificate under**
6 **IC 10-14-9. This subsection expires July 2, 2008.**

7 ~~(e)~~ **(g)** Notwithstanding any provision of this chapter or other law to
8 the contrary, the governor may require a political subdivision to
9 establish and maintain a disaster agency jointly with one (1) or more
10 contiguous political subdivisions with the concurrence of the affected
11 political divisions if the governor finds that the establishment and
12 maintenance of an agency or participation in one (1) is necessary by
13 circumstances or conditions that make it unusually difficult to provide:

- 14 (1) disaster prevention;
- 15 (2) preparedness;
- 16 (3) response; or
- 17 (4) recovery services;

18 under this chapter.

19 ~~(f)~~ **(h)** A political subdivision that does not have a disaster agency
20 and has not made arrangements to secure or participate in the services
21 of an agency shall have an emergency management director designated
22 to facilitate the cooperation and protection of that political subdivision
23 in the work of:

- 24 (1) disaster prevention;
- 25 (2) preparedness;
- 26 (3) response; and
- 27 (4) recovery.

28 ~~(g)~~ **(i)** The county emergency management and disaster director and
29 personnel of the department may be provided with appropriate:

- 30 (1) office space;
- 31 (2) furniture;
- 32 (3) vehicles;
- 33 (4) communications;
- 34 (5) equipment;
- 35 (6) supplies;
- 36 (7) stationery; and
- 37 (8) printing;

38 in the same manner as provided for personnel of other county agencies.

39 ~~(h)~~ **(j)** Each local or interjurisdictional agency shall:

- 40 (1) prepare; and
- 41 (2) keep current;

42 a local or interjurisdictional disaster emergency plan for its area.

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1 (†) (k) The local or interjurisdictional disaster agency shall prepare
2 and distribute to all appropriate officials a clear and complete written
3 statement of:
4 (1) the emergency responsibilities of all local agencies and
5 officials; and
6 (2) the disaster chain of command.
7 (†) (l) Each political subdivision may:
8 (1) appropriate and expend funds, make contracts, obtain and
9 distribute equipment, materials, and supplies for emergency
10 management and disaster purposes, provide for the health and
11 safety of persons and property, including emergency assistance to
12 the victims of a disaster resulting from enemy attack, provide for
13 a comprehensive insurance program for its emergency
14 management volunteers, and direct and coordinate the
15 development of an emergency management program and
16 emergency operations plan in accordance with the policies and
17 plans set by the federal emergency management agency and the
18 state emergency management agency;
19 (2) appoint, employ, remove, or provide, with or without
20 compensation:
21 (A) rescue teams;
22 (B) auxiliary fire and police personnel; and
23 (C) other emergency management and disaster workers;
24 (3) establish:
25 (A) a primary; and
26 (B) one (1) or more secondary;
27 control centers to serve as command posts during an emergency;
28 (4) subject to the order of the governor or the chief executive of
29 the political subdivision, assign and make available for duty the
30 employees, property, or equipment of the political subdivision
31 relating to:
32 (A) firefighting;
33 (B) engineering;
34 (C) rescue;
35 (D) health, medical, and related services;
36 (E) police;
37 (F) transportation;
38 (G) construction; and
39 (H) similar items or services;
40 for emergency management and disaster purposes within or
41 outside the physical limits of the political subdivision; and
42 (5) in the event of a national security emergency or disaster

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1 emergency as provided in section 12 of this chapter, waive
2 procedures and formalities otherwise required by law pertaining
3 to:

- 4 (A) the performance of public work;
- 5 (B) the entering into of contracts;
- 6 (C) the incurring of obligations;
- 7 (D) the employment of permanent and temporary workers;
- 8 (E) the use of volunteer workers;
- 9 (F) the rental of equipment;
- 10 (G) the purchase and distribution of supplies, materials, and
11 facilities; and
- 12 (H) the appropriation and expenditure of public funds.

13 SECTION 2. IC 10-14-9 IS ADDED TO THE INDIANA CODE AS
14 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
15 1, 2004]:

16 **Chapter 9. Professional Emergency Manager Certification**

17 **Sec. 1. As used in this chapter, "county organization" means a**
18 **county emergency management organization established and**
19 **maintained by a county under IC 10-14-3-17.**

20 **Sec. 2. As used in this chapter, "disaster agency" means an**
21 **interjurisdictional disaster agency in which a county participates**
22 **under IC 10-14-3-17.**

23 **Sec. 3. As used in this chapter, "disaster director" means a**
24 **county emergency management and disaster director.**

25 **Sec. 4. As used in this chapter, "manager" refers to a**
26 **professional emergency manager certified under this chapter.**

27 **Sec. 5. As used in this chapter, "state agency" means the state**
28 **emergency management agency.**

29 **Sec. 6. Except as provided in IC 10-14-3-17(f) and section 7 of**
30 **this chapter:**

- 31 (1) a disaster director must be certified as a manager under
32 this chapter; and
- 33 (2) a county organization or a disaster agency must be
34 supervised by a disaster director who is certified as a manager
35 under this chapter.

36 **Sec. 7. (a) A vacancy in a position of disaster director may be**
37 **filled for a period of not more than two (2) years by an individual**
38 **with a provisional certification.**

39 **(b) On written request of the county emergency management**
40 **advisory council, the state agency may issue a provisional**
41 **certification to an individual who has been selected to fill a vacancy**
42 **in a position of disaster director.**

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1 (c) A provisional certification expires on the earliest of the
 2 following:
 3 (1) The date the individual vacates the position of disaster
 4 director for the county that requested the provisional
 5 certification.
 6 (2) The date the individual obtains certification as a manager
 7 under this chapter.
 8 (3) Two (2) years after the date the provisional certification is
 9 issued.
 10 Sec. 8. (a) To be certified as a manager, an individual must:
 11 (1) meet the standards for education and training established
 12 by the state agency; and
 13 (2) successfully complete a written competency examination
 14 approved by the state agency.
 15 (b) A manager certificate expires two (2) years after the date of
 16 its issuance. To renew a certificate, a manager must meet the
 17 education and training renewal standards established by the state
 18 agency.
 19 (c) A manager must comply with the standards established by
 20 the state agency.
 21 Sec. 9. (a) A manager shall keep the state agency informed of the
 22 county organization or disaster agency that employs or supervises
 23 the manager's activities.
 24 (b) A manager shall report to the agency any action by a person,
 25 an organization, or other entity that may justify the revocation or
 26 suspension of a certificate issued by the state agency to the person,
 27 organization, or other entity.
 28 Sec. 10. The state agency shall require an individual to
 29 complete:
 30 (1) education and training requirements for certification as a
 31 manager; and
 32 (2) continuing education and training requirements to
 33 maintain certification as a manager;
 34 that are set by the state agency.
 35 Sec. 11. (a) An education and training course, including a
 36 continuing education and training course, must be:
 37 (1) approved by the state agency; and
 38 (2) conducted by an instructor who meets qualifications
 39 established by the state agency.
 40 (b) A person may not offer or conduct:
 41 (1) an education and training course to fulfill requirements
 42 for certification as a manager; or

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1 (2) a continuing education and training course that is
 2 represented as a course for maintaining manager
 3 certification;
 4 unless the course is approved by the state agency and each
 5 instructor meets the qualifications established by the state agency.
 6 Sec. 12. (a) The state agency shall adopt rules under IC 4-22-2
 7 to implement this chapter.
 8 (b) The rules adopted by the state agency may establish more
 9 than one (1) level of certification for managers with different
 10 education and training standards, competency examinations, and
 11 continuing education requirements for each level established.
 12 Sec. 13. An individual who violates this chapter is subject to
 13 IC 10-14-11.
 14 Sec. 14. An individual who violates this chapter commits a Class
 15 C infraction. Each day of violation constitutes a separate
 16 infraction.
 17 SECTION 3. IC 10-14-10 IS ADDED TO THE INDIANA CODE
 18 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2004]:
 20 **Chapter 10. Certification of Emergency Management**
 21 **Organizations**
 22 Sec. 1. As used in this chapter, "county organization" means a
 23 county emergency management organization established and
 24 maintained under IC 10-14-3-17.
 25 Sec. 2. As used in this chapter, "disaster agency" means an
 26 interjurisdictional disaster agency in which a county participates
 27 under IC 10-14-3-17.
 28 Sec. 3. As used in this chapter, "disaster director" means a
 29 county emergency management and disaster director.
 30 Sec. 4. As used in this chapter, "manager" refers to a
 31 professional emergency manager certified under IC 10-14-9.
 32 Sec. 5. As used in this chapter, "state agency" means the state
 33 emergency management agency.
 34 Sec. 6. A county organization or disaster agency must meet the
 35 standards established by the state agency to be certified as an
 36 emergency management organization.
 37 Sec. 7. (a) An emergency management organization certificate
 38 expires two (2) years after the date of its issuance.
 39 (b) A certified emergency management organization must meet
 40 the renewal requirements established by the state agency to renew
 41 a certificate.
 42 Sec. 8. A certified emergency management organization must be

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operated in a safe, an efficient, and an effective manner in accordance with the following requirements and with the standards established by the state agency:

(1) If the county establishes a county organization, the county shall have an emergency management advisory council in accordance with IC 10-14-3-17(d).

(2) An ordinance, resolution, or other measure adopted by: (A) a county to establish a county emergency management organization or emergency management program; or (B) a disaster agency to establish an emergency management program;

is not effective until it is approved by the state agency.

(3) The disaster director of a certified emergency management organization must be:

(A) certified as a manager under IC 10-14-9; and (B) a full-time employee of:

(i) the county; or (ii) two (2) counties acting jointly under IC 36-1-7.

(4) A certified emergency management organization must have a current disaster emergency plan in accordance with IC 10-14-3-17(h). The plan must meet the standards established by the state agency.

(5) The state agency may require the submission of periodic reports from a certified emergency management organization. A certified emergency management organization must submit the reports in the manner and with the frequency required by the state agency.

(6) A certified emergency management organization shall report to the state agency the actions of a person, an organization, or an entity that may justify the revocation or suspension of a certificate issued by the state agency to the person, organization, or entity.

Sec. 9. The state agency shall adopt rules under IC 4-22-2 to implement this chapter.

Sec. 10. A county organization or disaster agency that violates this chapter is subject to IC 10-14-11.

Sec. 11. A county organization or disaster agency that violates this chapter commits a Class C infraction. Each day of violation constitutes a separate infraction.

SECTION 4. IC 10-14-11 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

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Chapter 11. Sanctions

Sec. 1. As used in this chapter, "certificate holder" means a person who holds any certificate issued under IC 10-14-9 or IC 10-14-10.

Sec. 2. As used in this chapter, "person" means an individual, a county emergency management organization, or an interjurisdictional disaster agency.

Sec. 3. As used in this chapter, "state agency" means the state emergency management agency.

Sec. 4. A person holding a certificate issued under IC 10-14-9 or IC 10-14-10 must comply with the applicable standards and rules established under those chapters. A certificate holder is subject to disciplinary sanctions under section 5 of this chapter, if the state agency determines that the certificate holder:

- (1) engaged in or knowingly cooperated in fraud or material deception in order to obtain a certificate, including cheating on a certification examination;**
- (2) engaged in fraud or material deception in the course of professional services or activities;**
- (3) falsified or knowingly allowed another person to falsify attendance records or certificates of completion of continuing education courses required under IC 10-14-9 or IC 10-14-10 or rules adopted under IC 10-14-9 or IC 10-14-10;**
- (4) has been or is convicted of a felony;**
- (5) has been or is convicted of a misdemeanor, if the act that resulted in the conviction has a direct bearing on determining if the certificate holder should be entrusted to act as a professional emergency manager;**
- (6) fails to comply and maintain compliance with or violates any applicable provision, standard, or other requirement of IC 10-14-9 or IC 10-14-10 or rules adopted under IC 10-14-9 or IC 10-14-10;**
- (7) continues to practice if the certificate holder becomes unfit to practice due to addiction to, abuse of, or dependency on alcohol or other drugs that endanger the public by impairing the certificate holder's ability to practice safely;**
- (8) assists another person in committing an act that would constitute a ground for disciplinary sanction under this chapter; or**
- (9) allows a certificate issued by the state agency to be:**
 - (A) used by another person; or**
 - (B) displayed to the public when the certificate is expired,**

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inactive, invalid, revoked, or suspended.

Sec. 5. The state agency may issue an order under IC 4-21.5-3-6 to impose at least one (1) of the following sanctions if the state agency determines that a certificate holder is subject to disciplinary sanctions under section 4 of this chapter:

- (1) Revocation of a certificate holder's certificate.
- (2) Suspension of a certificate holder's certificate.
- (3) Issuance of a letter of reprimand.

Sec. 6. The state agency may deny certification to an applicant who would be subject to disciplinary sanctions under section 5 of this chapter if the applicant were a certificate holder or has practiced without a certificate in violation of the law. In this denial of certification, the state agency may prohibit the applicant from reapplying for a certificate for a length of time established by the state agency.

Sec. 7. A decision of the state agency under section 5 or 6 of this chapter may be appealed to the state agency under IC 4-21.5-3-7.

Sec. 8. The state agency may temporarily suspend a certificate under IC 4-21.5-4 before a final adjudication or during the appeals process if the state agency finds that a certificate holder would represent a clear and immediate danger to the public's health, safety, or property if the certificate holder were allowed to continue to practice.

Sec. 9. The state agency may reinstate a certificate that has been suspended under this chapter if the state agency is satisfied that the applicant is able to practice with reasonable skill, competency, and safety to the public. As a condition of reinstatement, the state agency may impose disciplinary or corrective measures authorized under this chapter.

Sec. 10. The state agency may not reinstate a certificate that has been revoked under this chapter.

Sec. 11. The state agency must be consistent in the application of sanctions authorized under this chapter. Significant departures from prior decisions involving similar conduct must be explained in the state agency's findings and orders.

Sec. 12. A certificate holder may not surrender the certificate holder's certificate without the written approval of the state agency, and the state agency may impose any conditions appropriate to the surrender or reinstatement of a surrendered certificate.

Sec. 13. The state agency shall adopt rules under IC 4-22-2 to implement this chapter.

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1 SECTION 5. IC 16-31-3-14, AS AMENDED BY P.L.205-2003,
2 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2004]: Sec. 14. (a) A person holding a certificate issued under
4 this article must comply with the applicable standards and rules
5 established under this article. A certificate holder is subject to
6 disciplinary sanctions under subsection (b) if the state emergency
7 management agency determines that the certificate holder:

8 (1) engaged in or knowingly cooperated in fraud or material
9 deception in order to obtain a certificate, including cheating on a
10 certification examination;

11 (2) engaged in fraud or material deception in the course of
12 professional services or activities;

13 (3) advertised services or goods in a false or misleading manner;

14 (4) falsified or knowingly allowed another person to falsify
15 attendance records or certificates of completion of continuing
16 education courses required under this article or rules adopted
17 under this article;

18 (5) is convicted of a crime, if the act that resulted in the
19 conviction has a direct bearing on determining if the certificate
20 holder should be entrusted to provide emergency medical
21 services;

22 (6) is convicted of violating IC 9-19-14.5;

23 (7) fails to comply and maintain compliance with or violates any
24 applicable provision, standard, or other requirement of this article
25 or rules adopted under this article;

26 (8) continues to practice if the certificate holder becomes unfit to
27 practice due to:

28 (A) professional incompetence that includes the undertaking
29 of professional activities that the certificate holder is not
30 qualified by training or experience to undertake;

31 (B) failure to keep abreast of current professional theory or
32 practice;

33 (C) physical or mental disability; or

34 (D) addiction to, abuse of, or dependency on alcohol or other
35 drugs that endanger the public by impairing the certificate
36 holder's ability to practice safely;

37 (9) engages in a course of lewd or immoral conduct in connection
38 with the delivery of services to the public;

39 (10) allows the certificate holder's name or a certificate issued
40 under this article to be used in connection with a person who
41 renders services beyond the scope of that person's training,
42 experience, or competence;

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1 (11) is subjected to disciplinary action in another state or
 2 jurisdiction on grounds similar to those contained in this chapter.
 3 For purposes of this subdivision, a certified copy of a record of
 4 disciplinary action constitutes prima facie evidence of a
 5 disciplinary action in another jurisdiction;
 6 (12) assists another person in committing an act that would
 7 constitute a ground for disciplinary sanction under this chapter;
 8 or
 9 (13) allows a certificate issued by the commission to be:
 10 (A) used by another person; or
 11 (B) displayed to the public when the certificate is expired,
 12 inactive, invalid, revoked, or suspended.
 13 (b) The state emergency management agency may issue an order
 14 under IC 4-21.5-3-6 to impose one (1) or more of the following
 15 sanctions if the state emergency management agency determines that
 16 a certificate holder is subject to disciplinary sanctions under subsection
 17 (a):
 18 (1) Revocation of a certificate holder's certificate for a period not
 19 to exceed seven (7) years.
 20 (2) Suspension of a certificate holder's certificate for a period not
 21 to exceed seven (7) years.
 22 (3) Censure of a certificate holder.
 23 (4) Issuance of a letter of reprimand.
 24 (5) Assessment of a civil penalty against the certificate holder in
 25 accordance with the following:
 26 (A) The civil penalty may not exceed five hundred dollars
 27 (\$500) per day per violation.
 28 (B) If the certificate holder fails to pay the civil penalty within
 29 the time specified by the state emergency management agency,
 30 the state emergency management agency may suspend the
 31 certificate holder's certificate without additional proceedings.
 32 (6) Placement of a certificate holder on probation status and
 33 requirement of the certificate holder to:
 34 (A) report regularly to the state emergency management
 35 agency upon the matters that are the basis of probation;
 36 (B) limit practice to those areas prescribed by the state
 37 emergency management agency;
 38 (C) continue or renew professional education approved by the
 39 state emergency management agency until a satisfactory
 40 degree of skill has been attained in those areas that are the
 41 basis of the probation; or
 42 (D) perform or refrain from performing any acts, including

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1 community restitution or service without compensation, that
2 the state emergency management agency considers appropriate
3 to the public interest or to the rehabilitation or treatment of the
4 certificate holder.

5 The state emergency management agency may withdraw or
6 modify this probation if the state emergency management agency
7 finds after a hearing that the deficiency that required disciplinary
8 action is remedied or that changed circumstances warrant a
9 modification of the order.

10 (c) If an applicant or a certificate holder has engaged in or
11 knowingly cooperated in fraud or material deception to obtain a
12 certificate, including cheating on the certification examination, the
13 state emergency management agency may rescind the certificate if it
14 has been granted, void the examination or other fraudulent or deceptive
15 material, and prohibit the applicant from reapplying for the certificate
16 for a length of time established by the state emergency management
17 agency.

18 (d) The state emergency management agency may deny certification
19 to an applicant who would be subject to disciplinary sanctions under
20 subsection (b) if that person were a certificate holder, has had
21 disciplinary action taken against the applicant or the applicant's
22 certificate to practice in another state or jurisdiction, or has practiced
23 without a certificate in violation of the law. A certified copy of the
24 record of disciplinary action is conclusive evidence of the other
25 jurisdiction's disciplinary action.

26 (e) The state emergency management agency may order a certificate
27 holder to submit to a reasonable physical or mental examination if the
28 certificate holder's physical or mental capacity to practice safely and
29 competently is at issue in a disciplinary proceeding. Failure to comply
30 with a state emergency management agency order to submit to a
31 physical or mental examination makes a certificate holder liable to
32 temporary suspension under subsection (i).

33 (f) Except as provided under ~~subsection~~ **subsections (a) and (g)** and
34 section 14.5 of this chapter, a certificate may not be denied, revoked,
35 or suspended because the applicant or certificate holder has been
36 convicted of an offense. The acts from which the applicant's or
37 certificate holder's conviction resulted may be considered as to whether
38 the applicant or certificate holder should be entrusted to serve the
39 public in a specific capacity.

40 (g) The state emergency management agency may deny, suspend, or
41 revoke a certificate issued under this chapter if the individual who
42 holds or is applying for the certificate is convicted of any of the

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- 1 following:
- 2 (1) Possession of cocaine, a narcotic drug, or methamphetamine
- 3 under IC 35-48-4-6.
- 4 (2) Possession of a controlled substance under IC 35-48-4-7(a).
- 5 (3) Fraudulently obtaining a controlled substance under
- 6 IC 35-48-4-7(b).
- 7 (4) Manufacture of paraphernalia as a Class D felony under
- 8 IC 35-48-4-8.1(b).
- 9 (5) Dealing in paraphernalia as a Class D felony under
- 10 IC 35-48-4-8.5(b).
- 11 (6) Possession of paraphernalia as a Class D felony under
- 12 IC 35-48-4-8.3(b).
- 13 (7) Possession of marijuana, hash oil, or hashish as a Class D
- 14 felony under IC 35-48-4-11.
- 15 (8) Maintaining a common nuisance under IC 35-48-4-13.
- 16 (9) An offense relating to registration, labeling, and prescription
- 17 forms under IC 35-48-4-14.
- 18 (10) Conspiracy under IC 35-41-5-2 to commit an offense listed
- 19 in subdivisions (1) through (9).
- 20 (11) Attempt under IC 35-41-5-1 to commit an offense listed in
- 21 subdivisions (1) through (10).
- 22 (12) An offense in any other jurisdiction in which the elements of
- 23 the offense for which the conviction was entered are substantially
- 24 similar to the elements of an offense described by subdivisions (1)
- 25 through (11).
- 26 (h) A decision of the state emergency management agency under
- 27 subsections (b) through (g) may be appealed to the commission under
- 28 IC 4-21.5-3-7.
- 29 (i) The state emergency management agency may temporarily
- 30 suspend a certificate holder's certificate under IC 4-21.5-4 before a
- 31 final adjudication or during the appeals process if the state emergency
- 32 management agency finds that a certificate holder would represent a
- 33 clear and immediate danger to the public's health, safety, or property if
- 34 the certificate holder were allowed to continue to practice.
- 35 (j) On receipt of a complaint or information alleging that a person
- 36 certified under this chapter or IC 16-31-3.5 has engaged in or is
- 37 engaging in a practice that is subject to disciplinary sanctions under
- 38 this chapter, the state emergency management agency must initiate an
- 39 investigation against the person.
- 40 (k) The state emergency management agency shall conduct a
- 41 factfinding investigation as the state emergency management agency
- 42 considers proper in relation to the complaint.

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1 (l) A complaint and information pertaining to the complaint are
2 confidential until the state emergency management agency issues
3 an order concerning the complaint under IC 4-21.5-3-6 or
4 IC 4-21.5-4. Until such an order is issued, a person employed by the
5 state emergency management agency may not disclose or further
6 the disclosure of information concerning the complaint unless the
7 disclosure is required:

- 8 (1) by the order of an administrative law judge or a court; or
9 (2) for advancement of an investigation.

10 (m) The state emergency management agency may reinstate a
11 certificate that has been suspended under this section if the state
12 emergency management agency is satisfied that the applicant is able to
13 practice with reasonable skill, competency, and safety to the public. As
14 a condition of reinstatement, the state emergency management agency
15 may impose disciplinary or corrective measures authorized under this
16 chapter.

17 (n) The state emergency management agency may not reinstate
18 a certificate that has been revoked under this chapter.

19 (o) The state emergency management agency must be consistent
20 in the application of sanctions authorized in this chapter. Significant
21 departures from prior decisions involving similar conduct must be
22 explained in the state emergency management agency's findings or
23 orders.

24 (p) A certificate holder may not surrender the certificate holder's
25 certificate without the written approval of the state emergency
26 management agency, and the state emergency management agency may
27 impose any conditions appropriate to the surrender or reinstatement of
28 a surrendered certificate.

29 (q) For purposes of this section, "certificate holder" means a
30 person who holds:

- 31 (1) an unlimited certificate;
32 (2) a limited or probationary certificate; or
33 (3) an inactive certificate.

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