
PRELIMINARY DRAFT
No. 3462

PREPARED BY
LEGISLATIVE SERVICES AGENCY
2005 GENERAL ASSEMBLY

DIGEST

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, 2005.



A BILL FOR AN ACT to amend the Indiana Code concerning public safety.

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

1 SECTION 1. IC 10-14-3-17 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17. (a) A political
3 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**
18 (B) **is certified as an emergency management organization**
19 **under IC 10-14-10.**

20 (c) **The following are not required to be certified as emergency**
21 **management organizations under IC 10-14-10 until July 1, 2010:**

- 22 (1) **A county emergency management organization that exists**
23 **on July 1, 2005.**
24 (2) **An interjurisdictional disaster agency in which a county**
25 **participates that exists on July 1, 2005.**

26 **This subsection expires July 2, 2010.**

27 ~~(c)~~ (d) The county emergency management advisory council
28 consists of the following individuals or their designees:

- 29 (1) The president of the county executive or, if the county
30 executive does not have a president, a member of the county
31 executive appointed from the membership of the county



- 1 executive.
- 2 (2) The president of the county fiscal body.
- 3 (3) The mayor of each city located in the county.
- 4 (4) An individual representing the legislative bodies of all towns
- 5 located in the county.
- 6 (5) Representatives of private and public agencies or
- 7 organizations that can assist emergency management considered
- 8 appropriate by the county emergency management advisory
- 9 council.
- 10 (6) One (1) commander of a local civil air patrol unit in the
- 11 county or the commander's designee.
- 12 ~~(d)~~ (e) The county emergency management advisory council shall
- 13 do the following:
- 14 (1) Exercise general supervision and control over the emergency
- 15 management and disaster program of the county.
- 16 (2) Select or cause to be selected, with the approval of the county
- 17 executive, a county emergency management and disaster director
- 18 who:
- 19 (A) has direct responsibility for the organization,
- 20 administration, and operation of the emergency management
- 21 program in the county; ~~and~~
- 22 (B) is responsible to the chairman of the county emergency
- 23 management advisory council;
- 24 **(C) must be a full-time employee of:**
- 25 **(i) the county; or**
- 26 **(ii) two (2) counties acting jointly under IC 36-1-7; and**
- 27 **(D) must be certified as a professional emergency manager**
- 28 **under IC 10-14-9.**
- 29 **(f) An individual who is employed by a county as the county**
- 30 **emergency management and disaster director on July 1, 2005, may**
- 31 **continue to act as the county emergency management and disaster**
- 32 **director until July 1, 2009, without being certified as a professional**
- 33 **emergency manager or obtaining a provisional certificate under**
- 34 **IC 10-14-9. This subsection expires July 2, 2009.**
- 35 ~~(e)~~ (g) Notwithstanding any provision of this chapter or other law to
- 36 the contrary, the governor may require a political subdivision to
- 37 establish and maintain a disaster agency jointly with one (1) or more
- 38 contiguous political subdivisions with the concurrence of the affected
- 39 political divisions if the governor finds that the establishment and
- 40 maintenance of an agency or participation in one (1) is necessary by
- 41 circumstances or conditions that make it unusually difficult to provide:
- 42 (1) disaster prevention;
- 43 (2) preparedness;
- 44 (3) response; or
- 45 (4) recovery services;
- 46 under this chapter.



1 ~~(h)~~ **(h)** A political subdivision that does not have a disaster agency
 2 and has not made arrangements to secure or participate in the services
 3 of an agency shall have an emergency management director designated
 4 to facilitate the cooperation and protection of that political subdivision
 5 in the work of:

- 6 (1) disaster prevention;
- 7 (2) preparedness;
- 8 (3) response; and
- 9 (4) recovery.

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

- 12 (1) office space;
- 13 (2) furniture;
- 14 (3) vehicles;
- 15 (4) communications;
- 16 (5) equipment;
- 17 (6) supplies;
- 18 (7) stationery; and
- 19 (8) printing;

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

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

- 22 (1) prepare; and
- 23 (2) keep current;

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

25 ~~(i)~~ **(k)** The local or interjurisdictional disaster agency shall prepare
 26 and distribute to all appropriate officials a clear and complete written
 27 statement of:

- 28 (1) the emergency responsibilities of all local agencies and
 29 officials; and
- 30 (2) the disaster chain of command.

31 ~~(j)~~ **(l)** Each political subdivision may:

- 32 (1) appropriate and expend funds, make contracts, obtain and
 33 distribute equipment, materials, and supplies for emergency
 34 management and disaster purposes, provide for the health and
 35 safety of persons and property, including emergency assistance to
 36 the victims of a disaster resulting from enemy attack, provide for
 37 a comprehensive insurance program for its emergency
 38 management volunteers, and direct and coordinate the
 39 development of an emergency management program and
 40 emergency operations plan in accordance with the policies and
 41 plans set by the federal emergency management agency and the
 42 state emergency management agency;
- 43 (2) appoint, employ, remove, or provide, with or without
 44 compensation:
 - 45 (A) rescue teams;
 - 46 (B) auxiliary fire and police personnel; and



- 1 (C) other emergency management and disaster workers;
 2 (3) establish:
 3 (A) a primary; and
 4 (B) one (1) or more secondary;
 5 control centers to serve as command posts during an emergency;
 6 (4) subject to the order of the governor or the chief executive of
 7 the political subdivision, assign and make available for duty the
 8 employees, property, or equipment of the political subdivision
 9 relating to:
 10 (A) firefighting;
 11 (B) engineering;
 12 (C) rescue;
 13 (D) health, medical, and related services;
 14 (E) police;
 15 (F) transportation;
 16 (G) construction; and
 17 (H) similar items or services;
 18 for emergency management and disaster purposes within or
 19 outside the physical limits of the political subdivision; and
 20 (5) in the event of a national security emergency or disaster
 21 emergency as provided in section 12 of this chapter, waive
 22 procedures and formalities otherwise required by law pertaining
 23 to:
 24 (A) the performance of public work;
 25 (B) the entering into of contracts;
 26 (C) the incurring of obligations;
 27 (D) the employment of permanent and temporary workers;
 28 (E) the use of volunteer workers;
 29 (F) the rental of equipment;
 30 (G) the purchase and distribution of supplies, materials, and
 31 facilities; and
 32 (H) the appropriation and expenditure of public funds.

33 SECTION 2. IC 10-14-9 IS ADDED TO THE INDIANA CODE AS
 34 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 35 1, 2005]:

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

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

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

43 **Sec. 3. As used in this chapter, "disaster director" means a**
 44 **county emergency management and disaster director selected or**
 45 **designated under IC 10-14-3-17.**

46 **Sec. 4. As used in this chapter, "manager" refers to a**



1 professional emergency manager certified under this chapter.

2 Sec. 5. As used in this chapter, "state agency" means the state
3 emergency management agency established by IC 10-14-2-1.

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

6 (1) a disaster director must be certified as a manager under
7 this chapter; and

8 (2) a county organization or disaster agency must be
9 supervised by a disaster director who is certified as a manager
10 under this chapter.

11 Sec. 7. (a) A vacancy in a position of disaster director may be
12 filled for not more than two (2) years by an individual with a
13 provisional certificate.

14 (b) On written request of the county emergency management
15 advisory council, the state agency may issue a provisional
16 certificate to an individual who has been selected to fill a vacancy
17 in a position of disaster director.

18 (c) A provisional certificate expires on the earliest of the
19 following:

20 (1) The date the individual vacates the position of disaster
21 director for the county that requested the provisional
22 certificate.

23 (2) The date the individual obtains certification as a manager
24 under this chapter.

25 (3) Two (2) years after the date the provisional certificate is
26 issued.

27 Sec. 8. (a) To be certified as a manager, an individual must:

28 (1) meet the standards for education and training established
29 by the state agency; and

30 (2) successfully complete a written competency examination
31 approved by the state agency.

32 (b) A manager certificate expires two (2) years after the date the
33 certificate is issued. To renew a certificate, a manager must meet
34 the education and training renewal standards established by the
35 state agency.

36 (c) A manager must comply with the standards established by
37 the state agency.

38 Sec. 9. (a) A manager shall keep the state agency informed of the
39 operations of the county organization or disaster agency that
40 employs the manager or supervises the manager's activities.

41 (b) A manager shall report to the agency any action by a person,
42 an organization, or other entity that may justify the revocation or
43 suspension of a certificate issued by the state agency to the person,
44 organization, or other entity.

45 Sec. 10. The state agency shall require an individual to
46 complete:



1 (1) education and training requirements for certification as a
2 manager; and

3 (2) continuing education and training requirements to
4 maintain certification as a manager;

5 that are set by the state agency.

6 Sec. 11. (a) An education and training course used to fulfill the
7 requirements of section 10 of this chapter, including a continuing
8 education and training course, must be:

9 (1) approved by the state agency; and

10 (2) conducted by an instructor who meets qualifications
11 established by the state agency.

12 (b) A person may not offer or conduct:

13 (1) an education and training course to fulfill requirements
14 for certification as a manager; or

15 (2) a continuing education and training course that is
16 represented as a course for maintaining manager
17 certification;

18 unless the course is approved by the state agency and each
19 instructor meets the qualifications established by the state agency.

20 Sec. 12. (a) The state agency shall adopt rules under IC 4-22-2
21 to implement this chapter.

22 (b) The rules adopted by the state agency may establish more
23 than one (1) level of certification for managers with different:

24 (1) education and training standards;

25 (2) competency examinations; and

26 (3) continuing education requirements;

27 established for each level.

28 Sec. 13. An individual who violates this chapter is subject to
29 IC 10-14-11.

30 Sec. 14. An individual who violates this chapter commits a Class
31 C infraction. Each day of violation constitutes a separate
32 infraction.

33 SECTION 3. IC 10-14-10 IS ADDED TO THE INDIANA CODE
34 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
35 JULY 1, 2005]:

36 **Chapter 10. Certification of Emergency Management**
37 **Organizations**

38 Sec. 1. As used in this chapter, "county organization" means a
39 county emergency management organization established and
40 maintained under IC 10-14-3-17.

41 Sec. 2. As used in this chapter, "disaster agency" means an
42 interjurisdictional disaster agency in which a county participates
43 under IC 10-14-3-17.

44 Sec. 3. As used in this chapter, "disaster director" means a
45 county emergency management and disaster director selected or
46 designated under 10-14-3-17.



1 **Sec. 4.** As used in this chapter, "manager" refers to a
2 professional emergency manager certified under IC 10-14-9.

3 **Sec. 5.** As used in this chapter, "state agency" means the state
4 emergency management agency established by IC 10-14-2-1.

5 **Sec. 6.** A county organization or disaster agency must meet the
6 standards established by the state agency to be certified as an
7 emergency management organization.

8 **Sec. 7. (a)** An emergency management organization certificate
9 expires two (2) years after the date the certificate is issued.

10 **(b)** A certified emergency management organization must meet
11 the renewal requirements established by the state agency to renew
12 a certificate.

13 **Sec. 8.** A certified emergency management organization must be
14 operated in a safe, efficient, and effective manner in accordance
15 with the following requirements and with the standards established
16 by the state agency:

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

20 **(2)** An ordinance, a resolution, or other measure adopted by:

21 **(A)** a county to establish a county emergency management
22 organization or an emergency management program; or

23 **(B)** a disaster agency to establish an emergency
24 management program;

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

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

28 **(A)** certified as a manager under IC 10-14-9; and

29 **(B)** a full-time employee of:

30 **(i)** the county; or

31 **(ii)** two (2) counties acting jointly under IC 36-1-7.

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

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

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

46 **Sec. 9.** The state agency shall adopt rules under IC 4-22-2 to



1 implement this chapter.

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

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

7 SECTION 4. IC 10-14-11 IS ADDED TO THE INDIANA CODE
 8 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 9 JULY 1, 2005]:

10 **Chapter 11. Sanctions**

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

14 **Sec. 2. As used in this chapter, "person" means:**

- 15 (1) an individual;
- 16 (2) a county emergency management organization established
 17 and maintained under IC 10-14-3-17; or
- 18 (3) an interjurisdictional disaster agency in which a county
 19 participates under IC 10-14-3-17.

20 **Sec. 3. As used in this chapter, "state agency" means the state**
 21 **emergency management agency established by IC 10-14-2-1.**

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

- 27 (1) engaged in or knowingly cooperated in fraud or material
 28 deception in order to obtain a certificate, including cheating
 29 on a certification examination;
- 30 (2) engaged in fraud or material deception in the course of
 31 professional services or activities;
- 32 (3) falsified or knowingly allowed another person to falsify
 33 attendance records or certificates of completion of continuing
 34 education courses required under IC 10-14-9 or IC 10-14-10
 35 or rules adopted under IC 10-14-9 or IC 10-14-10;
- 36 (4) has been or is convicted of a felony;
- 37 (5) has been or is convicted of a misdemeanor, if the act that
 38 resulted in the conviction has a direct bearing on determining
 39 if the certificate holder should be entrusted to act as a
 40 professional emergency manager;
- 41 (6) fails to comply and maintain compliance with or violates
 42 any applicable provision, standard, or other requirement of
 43 IC 10-14-9 or IC 10-14-10 or rules adopted under IC 10-14-9
 44 or IC 10-14-10;
- 45 (7) continues to practice if the certificate holder becomes unfit
 46 to practice due to addiction to, abuse of, or dependency on



1 alcohol or other drugs that endanger the public by impairing
2 the certificate holder's ability to practice safely;

3 (8) assists another person in committing an act that would
4 constitute a ground for disciplinary sanction under this
5 chapter; or

6 (9) allows a certificate issued by the state agency to be:

7 (A) used by another person; or

8 (B) displayed to the public when the certificate is expired,
9 inactive, invalid, revoked, or suspended.

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

14 (1) Revocation of a certificate holder's certificate.

15 (2) Suspension of a certificate holder's certificate.

16 (3) Issuance of a letter of reprimand.

17 Sec. 6. The state agency may deny certification to an applicant
18 who would be subject to disciplinary sanctions under section 5 of
19 this chapter if the applicant:

20 (1) were a certificate holder; or

21 (2) has practiced without a certificate in violation of the law.

22 In this denial of certification, the state agency may prohibit the
23 applicant from reapplying for a certificate for a period established
24 by the state agency.

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

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

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

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

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

45 Sec. 12. A certificate holder may not surrender the certificate
46 holder's certificate without the written approval of the state



1 **agency. The state agency may impose any conditions appropriate**
 2 **to the surrender or reinstatement of a surrendered certificate.**

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

5 SECTION 5. IC 16-31-3-14 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) A person
 7 holding a certificate issued under this article must comply with the
 8 applicable standards and rules established under this article. A
 9 certificate holder is subject to disciplinary sanctions under subsection
 10 (b) if the state emergency management agency determines that the
 11 certificate holder:

12 (1) engaged in or knowingly cooperated in fraud or material
 13 deception in order to obtain a certificate, including cheating on a
 14 certification examination;

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

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

18 (4) falsified or knowingly allowed another person to falsify
 19 attendance records or certificates of completion of continuing
 20 education courses required under this article or rules adopted
 21 under this article;

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

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

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

30 (8) continues to practice if the certificate holder becomes unfit to
 31 practice due to:

32 (A) professional incompetence that includes the undertaking
 33 of professional activities that the certificate holder is not
 34 qualified by training or experience to undertake;

35 (B) failure to keep abreast of current professional theory or
 36 practice;

37 (C) physical or mental disability; or

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

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

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



- 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
 43 community restitution or service without compensation, that
 44 the state emergency management agency considers appropriate
 45 to the public interest or to the rehabilitation or treatment of the
 46 certificate holder.



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

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

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

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

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

36 (g) The state emergency management agency may deny, suspend, or
37 revoke a certificate issued under this chapter if the individual who
38 holds or is applying for the certificate is convicted of any of the
39 following:

- 40 (1) Possession of cocaine, a narcotic drug, or methamphetamine
41 under IC 35-48-4-6.
- 42 (2) Possession of a controlled substance under IC 35-48-4-7(a).
- 43 (3) Fraudulently obtaining a controlled substance under
44 IC 35-48-4-7(b).
- 45 (4) Manufacture of paraphernalia as a Class D felony under
46 IC 35-48-4-8.1(b).



- 1 (5) Dealing in paraphernalia as a Class D felony under
 2 IC 35-48-4-8.5(b).
- 3 (6) Possession of paraphernalia as a Class D felony under
 4 IC 35-48-4-8.3(b).
- 5 (7) Possession of marijuana, hash oil, or hashish as a Class D
 6 felony under IC 35-48-4-11.
- 7 (8) Maintaining a common nuisance under IC 35-48-4-13.
- 8 (9) An offense relating to registration, labeling, and prescription
 9 forms under IC 35-48-4-14.
- 10 (10) Conspiracy under IC 35-41-5-2 to commit an offense listed
 11 in subdivisions (1) through (9).
- 12 (11) Attempt under IC 35-41-5-1 to commit an offense listed in
 13 subdivisions (1) through (10).
- 14 (12) An offense in any other jurisdiction in which the elements of
 15 the offense for which the conviction was entered are substantially
 16 similar to the elements of an offense described by subdivisions (1)
 17 through (11).
- 18 (h) A decision of the state emergency management agency under
 19 subsections (b) through (g) may be appealed to the commission under
 20 IC 4-21.5-3-7.
- 21 (i) The state emergency management agency may temporarily
 22 suspend a certificate holder's certificate under IC 4-21.5-4 before a
 23 final adjudication or during the appeals process if the state emergency
 24 management agency finds that a certificate holder would represent a
 25 clear and immediate danger to the public's health, safety, or property if
 26 the certificate holder were allowed to continue to practice.
- 27 (j) On receipt of a complaint or information alleging that a person
 28 certified under this chapter or IC 16-31-3.5 has engaged in or is
 29 engaging in a practice that is subject to disciplinary sanctions under
 30 this chapter, the state emergency management agency must initiate an
 31 investigation against the person.
- 32 (k) The state emergency management agency shall conduct a
 33 factfinding investigation as the state emergency management agency
 34 considers proper in relation to the complaint.
- 35 **(l) A complaint and information pertaining to the complaint are**
 36 **confidential until the state emergency management agency issues**
 37 **an order concerning the complaint under IC 4-21.5-3-6 or**
 38 **IC 4-21.5-4. Until such an order is issued, a person employed by the**
 39 **state emergency management agency may not disclose or further**
 40 **the disclosure of information concerning the complaint unless the**
 41 **disclosure is required:**
- 42 **(1) by the order of an administrative law judge or a court; or**
 43 **(2) for advancement of an investigation.**
- 44 (†) (m) The state emergency management agency may reinstate a
 45 certificate that has been suspended under this section if the state
 46 emergency management agency is satisfied that the applicant is able to



1 practice with reasonable skill, competency, and safety to the public. As
2 a condition of reinstatement, the state emergency management agency
3 may impose disciplinary or corrective measures authorized under this
4 chapter.

5 ~~(m)~~ **(n)** The state emergency management agency may not reinstate
6 a certificate that has been revoked under this chapter.

7 ~~(n)~~ **(o)** The state emergency management agency must be consistent
8 in the application of sanctions authorized in this chapter. Significant
9 departures from prior decisions involving similar conduct must be
10 explained in the state emergency management agency's findings or
11 orders.

12 ~~(o)~~ **(p)** A certificate holder may not surrender the certificate holder's
13 certificate without the written approval of the state emergency
14 management agency, and the state emergency management agency may
15 impose any conditions appropriate to the surrender or reinstatement of
16 a surrendered certificate.

17 ~~(p)~~ **(q)** For purposes of this section, "certificate holder" means a
18 person who holds:

- 19 (1) an unlimited certificate;
20 (2) a limited or probationary certificate; or
21 (3) an inactive certificate.

