

**ALJ SERVICES
MEMORANDUM OF UNDERSTANDING
OALP & EMSC**

Contract # [insert]

This Memorandum of Understanding (MOU) is entered into by and between the Office of Administrative Law Proceedings (OALP) and the Emergency Medical Services Commission (EMSC). In consideration of the mutual understandings and covenants set forth herein, the parties agree as follows:

- 1. Purpose/Preamble:** As the EMSC is a state agency that conducts administrative proceedings, which are subject to the jurisdiction of the OALP found in Ind. Code § 4-15-10.5-12 and which require the assignment of an administrative law judge (ALJ), this MOU is entered to set forth the expectations and responsibilities for each party regarding the provision of administrative proceedings by the OALP in accordance with applicable law and EMSC procedures.
- 2. Scope:** This MOU covers administrative proceedings for which the OALP has been granted jurisdiction pursuant to Ind. Code § 4-15-10.5-12. This includes, but is not limited to, the following matters:
 - a. Orders issued by the EMSC denying certification or licensure.
 - b. Waivers issued by the Indiana Department of Homeland Security under Ind. Code § 16-31-3-5.
 - c. Orders issued by the Indiana Department of Homeland Security denying or sanctioning a certificate or license or holder thereof under Ind. Code § 16-31-3-14 and 14.5.
 - d. Orders issued by the Indiana Department of Homeland Security sanctioning a person for practicing without a certificate or license under Ind. Code § 16-31-3-17.
- 3. Initiating Proceedings Before the OALP.**
 - a. Petitions for administrative review under Ind. Code § 4-21.5-3-7 may be filed directly with the OALP or the EMSC in accordance with Ind. Code § 4-21.5-3-1(h). Any petition for administrative review filed directly with the OALP will be promptly forwarded by the OALP to the EMSC for grant or denial in accordance with Ind. Code § 4-21.5-3-7.
 - i. If administrative review is granted by the EMSC, a copy of any order to be reviewed, the order granting review, and the petition for review shall be delivered to the OALP by completing the appropriate OALP webform. Upon receipt of granted review requests, an OALP ALJ will be assigned to administer the proceeding.
 - ii. If the EMSC denies a petition for review and the petitioner requests reconsideration of the denial, such request can be made to the EMSC or the OALP in accordance with Ind. Code § 4-21.5-3-1(h).
 1. Requests for reconsideration of the denial of review filed with the OALP will be automatically assigned to an OALP ALJ to conduct a preliminary hearing on whether the petitioner qualifies for review.

2. Qualifying requests received by the EMSC shall be filed by the EMSC with the OALP and shall include a copy of the order proposed to be reviewed, the petition for review, the order denying review, and a copy of the request for reconsideration. Upon receipt of this filing, an OALP ALJ will be assigned to conduct a preliminary hearing on whether the petition qualifies for review. If a determination is made that the petition qualifies for review, the OALP shall commence proceedings on the matter.
- b. For proceedings initiated under Ind. Code § 4-21.5-3-8, Ind. Code § 4-21.5-4-2(a)(2), or any other applicable law whereby proceedings are initiated not by the grant of a petition for review but the filing of a complaint or similar document, the EMSC shall initiate such proceeding by completing the appropriate OALP webform requesting assignment of an ALJ.
- c. Requests for hearings pursuant to Ind. Code § 4-21.5-4-4 may be filed directly with the OALP who will assign an ALJ upon receipt. If a request under this section is filed with the EMSC, the EMSC shall promptly complete the appropriate OALP form requesting assignment of an ALJ which shall include a copy of the order under review and the request for hearing.
4. **Service Information for OALP.** If directing persons to submit petitions for review or request for hearings directly with the OALP under item 3.a. or 3.c. of this MOU, the brief explanation of procedures for seeking administrative review contained in the order shall provide, along with any other requirements imposed by law, the following methods for service to the OALP:
 - a. **Electronic:**
By completing the webform for “Individuals or Entities: File a Petition for Review” located at this link: <https://www.in.gov/oalp/>
 - b. **Mail or Hand Delivery:**
Office of Administrative Law Proceedings
Indiana Government Center North
100 N. Senate Avenue Rm. N-802
Indianapolis, IN 46204
5. **Ultimate Authority.** The EMSC has ultimate authority over all EMSC proceedings and may expressly designate its ultimate authority to the OALP in this MOU or a later designation made in writing. Designations made by the EMSC, may be revoked at any time by providing written notice to the OALP.

The EMSC expressly designates the OALP as the ultimate authority for purposes of taking final agency action in the following instances:

- a. Proceedings conducted under Ind. Code Chapter 4-21.5-4.
- b. When dismissing the matter and entering a final order based on agreement of the parties.
- c. When dismissing the matter based on voluntary dismissal by Petitioner or Complainant.
- d. When dismissing a matter due to the order under review being rescinded.

Except where law provides otherwise, in all instances where the OALP is not the ultimate authority over a matter, an OALP action disposing of all issues in a proceeding will be issued as a nonfinal order which must be acted on by the ultimate authority or its designee in accordance with Ind. Code § 4-21.5-3-29.

- 6. Notice to the EMSC of Nonfinal and Final Orders Issued by the OALP.** The OALP will serve a copy of any nonfinal or final order it issues to the ultimate authority in addition to the parties to the matter. Unless later notified in writing by the FPBSC, the OALP shall send these orders to: emscertifications@dhs.in.gov.
- 7. Notice to the OALP of Final Written Orders.** The EMSC agrees to provide final orders on actions concerning a matter first heard by the OALP to the OALP upon issuance or no later than thirty (30) days after issuance by sending a copy of the order to OALP@oalp.IN.gov and titling the subject of the email as "FINAL AGENCY ACTION." In addition to providing a copy of the final order, the EMSC will also submit any objections, motions, transcripts, audio recordings, meeting minutes, or any other documents related to the ultimate authority's consideration of the matter prior to issuance of the final order. The OALP shall store these records for purposes of maintaining the official record of the proceeding.
- 8. Availability and Indexing of Final Orders.** Pursuant to Ind. Code § 4-21.5-3-32, agencies are required to index and make available for public inspection and copying all written final orders. For purposes of complying with Ind. Code § 4-21.5-3-32, the EMSC will retain its obligations under Ind. Code § 4-21.5-3-32.
- 9. Public Access to Records.** All documents (e.g. email, pleadings, notices, motions, orders, and exhibits) that are submitted to OALP are subject to the Indiana Access to Public Records Act, codified in Ind. Code Chapter 5-14-3. OALP has no authority to withhold disclosure of a document unless the record is excepted from disclosure in Ind. Code § 5-14-3-4. To ensure consistent application of the Indiana Access to Public Records Act, the parties shall consult each other and the EMSC shall make any preliminary determinations regarding the release of documents that may be deemed confidential under the laws administered by the EMSC.
- 10. Official Record of Administrative Proceedings to be Maintained by the OALP.** Pursuant to Ind. Code § 4-21.5-3-33, the EMSC is required to maintain an official record of each proceeding. The EMSC and the OALP agree that the OALP shall maintain the official record of each proceeding as described in IC § 4-21.5-3-33. The OALP will ensure the official record complies with all statutory requirements and will serve as the central agency from which an official record may be requested for judicial review or any other reason.
- 11. Additional Procedural or Other Terms Agreed to by the Parties.**
 - a. Upon notice by the EMSC to the ALJ assigned to a case, the EMSC may arrange for a court reporter to be present at a hearing to transcribe the hearing. The EMSC shall schedule and secure the court reporter's attendance for the hearing and shall bear the cost of the court reporter. The EMSC shall provide a digital copy of any transcription to the OALP upon completion and the OALP shall maintain the copy of the transcript with the official case record. The OALP shall ensure that any room reserved where a court reporter is

present shall be equipped with electrical outlets and space large enough to accommodate parties and the court reporter.

- b. Should the EMSC request a transcription of a hearing that was not attended by a court reporter, the OALP shall provide the EMSC with the audio of such proceeding and the EMSC may bear the cost of transcribing the audio record. The EMSC shall supply the OALP with a copy of any transcription produced to be maintained with the official case file.
 - c. In proceedings where an interpreter may be required, the OALP will provide a "proceeding interpreter" at no cost to the parties. This includes ensuring the presence of interpreters at any hearing or prehearing occurring before an OALP ALJ. However, unless a law provides otherwise, the OALP generally will not translate party documents as part of this service. Documents filed with the OALP in a foreign language are to be translated into English with sufficient proof that the translation is accurate. The filing party bears the cost of translating their document to English prior to filing it with the OALP. If necessary, the OALP will translate orders, notices, or other communications it issues. If issues arise during discovery regarding which party bears the burden of translation, those may be addressed in discovery orders issued in any particular proceeding, however, the OALP is not responsible for the costs of translation or the provisions of interpreters to facilitate the discovery process.
 - d. If a transcript is required to be prepared under Ind. Code 4-21.5-5-13(c) to complete the agency record for judicial review, the OALP will arrange for a third party to complete the transcript. However, prior to initiating transcription services by the third party, the petitioner for judicial review will be billed directly by the third party for the cost of the transcripts in accordance with Ind. Code § 4-21.5-5-13(d). If the petitioner is exempted from this charge by filing a statement under Ind. Code § 33-37-3-2, the OALP will be responsible for the costs.
- 12. Consideration.** The consideration during the term of this MOU is \$0. No monies shall be exchanged between the parties for the purposes set forth in this MOU.
- 13. Term.** This MOU shall commence upon execution and shall remain in effect until terminated or modified.
- 14. Termination.** This MOU may be terminated in whole or in part by either party, upon thirty (30) days' written notice.
- 15. Modification.** This MOU may be modified in whole or in part by a mutually agreed upon written amendment.
- 16. Changes in Law.** This MOU may be rendered null and void, in whole or in part, by changes in federal or state law. In such an event, each party agrees to notify the other as soon as possible.
- 17. Severability.** If any provision of this MOU is found unenforceable, the remaining provisions shall continue in full force and effect.

18. Cancellation by State Budget Agency. Though no funds are being exchanged in this MOU, if the Director of the State Budget Agency makes a written determination that funds are not appropriated or otherwise available to support continuation of this MOU, the MOU shall be cancelled. A determination by the Budget Director that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.

19. Notice to Parties.

- a. Notice to the OALP shall be given to:
Office of Administrative Law Proceedings
Attn: Deputy Director and General Counsel
Indiana Government Center North
100 North Senate Avenue, Suite N-802
Indianapolis, IN 46204
Email: ualp@ualp.in.gov

- b. Notice to the EMSC shall be given to:
Indiana Department of Homeland Security
Attn: Office of General Counsel
302 W. Washington St, Room E208
Indianapolis, IN 46204