
SENATE BILL No. 223

DIGEST OF INTRODUCED BILL

Citations Affected: IC 25-1-7; IC 25-22.5-2-8.

Synopsis: Medical licensing board investigations. Authorizes the medical licensing board of Indiana (board) to investigate and assess civil penalties for specified violations by licensed physicians. Requires the division of consumer protection within the office of the attorney general to forward complaints for specified violations to the board unless certain circumstances are met. Allows a physician who is determined by the board to have committed a violation to appeal the board's determination. Establishes the physician compliance fund consisting of penalties assessed and collected by the board for violations determined by the board through investigations. Makes an appropriation.

Effective: July 1, 2011.

Miller

January 5, 2011, read first time and referred to Committee on Health and Provider Services.

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First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

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SENATE BILL No. 223



A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations and to make an appropriation.

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

1 SECTION 1. IC 25-1-7-3 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2011]: Sec. 3. (a) **Except as provided in**
3 **subsection (b)**, the division is responsible for the investigation of
4 complaints concerning licensees.

5 (b) **The medical licensing board of Indiana shall investigate a**
6 **complaint concerning a physician licensed under IC 25-22.5 and a**
7 **violation specified in IC 25-22.5-2-8. The division shall forward a**
8 **complaint concerning a physician licensed under IC 25-22.5 and a**
9 **violation specified in IC 25-22.5-2-8 to the medical licensing board**
10 **of Indiana for investigation by the board. However, if the**
11 **complaint includes a violation in addition to a violation specified in**
12 **IC 25-22.5-2-8, the division shall investigate the complaint in its**
13 **entirety and notify the medical licensing board of Indiana of the**
14 **investigation.**

15 SECTION 2. IC 25-1-7-5, AS AMENDED BY P.L.206-2005,
16 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 JULY 1, 2011]: Sec. 5. (a) Subsection (b)(1) does not apply to:



- 1 (1) a complaint filed by:
- 2 (A) a member of any of the boards listed in section 1 of this
- 3 chapter; or
- 4 (B) the Indiana professional licensing agency; or
- 5 (2) a complaint filed under IC 25-1-5-4.

6 (b) **Except as provided in section 3(b) of this chapter**, the director
 7 has the following duties and powers:

- 8 (1) The director shall make an initial determination as to the merit
- 9 of each complaint. A copy of a complaint having merit shall be
- 10 submitted to the board having jurisdiction over the licensee's
- 11 regulated occupation, that board thereby acquiring jurisdiction
- 12 over the matter except as otherwise provided in this chapter.
- 13 (2) The director shall through any reasonable means notify the
- 14 licensee of the nature and ramifications of the complaint and of
- 15 the duty of the board to attempt to resolve the complaint through
- 16 negotiation.
- 17 (3) The director shall report any pertinent information regarding
- 18 the status of the complaint to the complainant.
- 19 (4) The director may investigate any written complaint against a
- 20 licensee. The investigation shall be limited to those areas in which
- 21 there appears to be a violation of statutes governing the regulated
- 22 occupation.
- 23 (5) The director has the power to subpoena witnesses and to send
- 24 for and compel the production of books, records, papers, and
- 25 documents for the furtherance of any investigation under this
- 26 chapter. The circuit or superior court located in the county where
- 27 the subpoena is to be issued shall enforce any such subpoena by
- 28 the director.

29 SECTION 3. IC 25-1-7-10, AS AMENDED BY P.L.1-2007,
 30 SECTION 167, IS AMENDED TO READ AS FOLLOWS
 31 [EFFECTIVE JULY 1, 2011]: Sec. 10. (a) **Except as provided in**
 32 **section 3(b) of this chapter**, all complaints and information pertaining
 33 to the complaints shall be held in strict confidence until the attorney
 34 general files notice with the board of the attorney general's intent to
 35 prosecute the licensee.

36 (b) A person in the employ of the office of attorney general or any
 37 of the boards, or any person not a party to the complaint, may not
 38 disclose or further a disclosure of information concerning the
 39 complaint unless the disclosure is required:

- 40 (1) under law; or
- 41 (2) for the advancement of an investigation.

42 SECTION 4. IC 25-22.5-2-5, AS AMENDED BY P.L.1-2006,

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1 SECTION 446, IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2011]: Sec. 5. **Except for a penalty under**
3 **section 8 of this chapter**, the funds obtained from registration and
4 penalty fees shall, upon receipt thereof, be accounted for and paid over
5 by the agency to the treasurer of state and be placed in the general fund
6 of the state. The expenses of the board shall be paid from the general
7 fund upon appropriation being made therefor in the manner required by
8 law for the making of such appropriations. The amount to be expended
9 by the board shall not exceed the amount collected by the board from
10 all sources.

11 SECTION 5. IC 25-22.5-2-8 IS ADDED TO THE INDIANA CODE
12 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
13 1, 2011]: **Sec. 8. (a) The board shall implement a program to**
14 **investigate and assess a civil penalty of not more than one thousand**
15 **dollars (\$1,000) against a physician licensed under this article for**
16 **the following violations:**

- 17 (1) **Licensure renewal fraud.**
- 18 (2) **Failure to timely provide copies of patient medical records.**
- 19 (3) **Overcharging for copies of patient medical records.**
- 20 (4) **Improper release of confidential patient information.**
- 21 (5) **Failure to change address with the board.**
- 22 (6) **Failure to maintain accurate patient records.**
- 23 (7) **Improper termination of a physician and patient**
24 **relationship.**
- 25 (8) **Misleading advertising concerning specific board**
26 **certification.**
- 27 (9) **Practicing with an expired medical license.**
- 28 (10) **Providing office based sedation without the proper**
29 **accreditation.**
- 30 (11) **Failure to perform duties required for issuing birth or**
31 **death certificates.**

32 (b) **An individual who is investigated by the board and found by**
33 **the board to have committed a violation specified in subsection (a)**
34 **may appeal the determination made by the board in accordance**
35 **with IC 4-21.5.**

36 (c) **The physician compliance fund is established to provide**
37 **funds for administering and enforcing the investigation of**
38 **violations specified in subsection (a). The fund shall be**
39 **administered by the Indiana professional licensing agency. Money**
40 **in the fund is continually appropriated to the Indiana professional**
41 **licensing agency for purposes of this section.**

42 (d) **The expenses of administering the physician compliance**

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1 **fund shall be paid from the money in the fund. The fund consists of**
2 **penalties collected through investigations and assessments by the**
3 **board concerning violations specified in subsection (a). Money in**
4 **the fund at the end of a state fiscal year does not revert to the state**
5 **general fund.**

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