

**CONFERENCE COMMITTEE REPORT  
DIGEST FOR ESB 223**

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

**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 about 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. Specifies reports that the board is required to make to the National Practitioner Data Bank concerning disciplinary action taken by the board, and prohibits the board from reporting specified administrative penalties. **(This conference committee report makes the bill effective upon passage and removes language that: (1) redefined "class I child care home" to include full-day kindergarten level children among the three additional school age children that a class I child care home could serve during the school year; and (2) required the legislative council to assign a committee to study issues concerning the need for surety bonds for certain Medicaid transportation providers to cover overpayments and false claims.)**

**Effective:** Upon passage.

# CONFERENCE COMMITTEE REPORT

**MADAM PRESIDENT:**

*Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill No. 223 respectfully reports that said two committees have conferred and agreed as follows to wit:*

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:  
2 SECTION 1. IC 25-1-7-3 IS AMENDED TO READ AS FOLLOWS  
3 [EFFECTIVE UPON PASSAGE]: Sec. 3. **(a) Except as provided in**  
4 **subsection (b), the division is responsible for the investigation of**  
5 **complaints concerning licensees.**  
6 **(b) The medical licensing board of Indiana shall investigate a**  
7 **complaint concerning a physician licensed under IC 25-22.5 and a**  
8 **violation specified in IC 25-22.5-2-8. The division shall forward a**  
9 **complaint concerning a physician licensed under IC 25-22.5 and a**  
10 **violation specified in IC 25-22.5-2-8 to the medical licensing board**  
11 **of Indiana for investigation by the board. However, if the**  
12 **complaint includes a violation in addition to a violation specified in**  
13 **IC 25-22.5-2-8, the division shall investigate the complaint in its**  
14 **entirety and notify the medical licensing board of Indiana of the**  
15 **investigation.**  
16 SECTION 2. IC 25-1-7-5, AS AMENDED BY P.L.206-2005,  
17 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
18 UPON PASSAGE]: Sec. 5. (a) Subsection (b)(1) does not apply to:  
19 (1) a complaint filed by:  
20 (A) a member of any of the boards listed in section 1 of this  
21 chapter; or  
22 (B) the Indiana professional licensing agency; or

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

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

32 (b) A person in the employ of the office of attorney general or any  
 33 of the boards, or any person not a party to the complaint, may not  
 34 disclose or further a disclosure of information concerning the  
 35 complaint unless the disclosure is required:

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

38 SECTION 4. IC 25-22.5-2-5, AS AMENDED BY P.L.1-2006,  
 39 SECTION 446, IS AMENDED TO READ AS FOLLOWS  
 40 [EFFECTIVE UPON PASSAGE]: Sec. 5. **Except for a penalty under**  
 41 **section 8 of this chapter**, the funds obtained from registration and  
 42 penalty fees shall, upon receipt thereof, be accounted for and paid over  
 43 by the agency to the treasurer of state and be placed in the general fund  
 44 of the state. The expenses of the board shall be paid from the general  
 45 fund upon appropriation being made therefor in the manner required by  
 46 law for the making of such appropriations. The amount to be expended  
 47 by the board shall not exceed the amount collected by the board from  
 48 all sources.

49 SECTION 5. IC 25-22.5-2-8 IS ADDED TO THE INDIANA CODE  
 50 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE  
 51 UPON PASSAGE]: **Sec. 8. (a) The board shall implement a**

1 program to investigate and assess a civil penalty of not more than  
2 one thousand dollars (\$1,000) against a physician licensed under  
3 this article for the following violations:

4 (1) Licensure renewal fraud.

5 (2) Improper termination of a physician and patient  
6 relationship.

7 (3) Practicing with an expired medical license.

8 (4) Providing office based anesthesia without the proper  
9 accreditation.

10 (5) Failure to perform duties required for issuing birth or  
11 death certificates.

12 (b) An individual who is investigated by the board and found by  
13 the board to have committed a violation specified in subsection (a)  
14 may appeal the determination made by the board in accordance  
15 with IC 4-21.5.

16 (c) In accordance with the federal Health Care Quality  
17 Improvement Act (42 U.S.C. 11132), the board shall report a  
18 disciplinary board action that is subject to reporting to the  
19 National Practitioner Data Bank. However, the board may not  
20 report board action against a physician for only an administrative  
21 penalty described in subsection (a). The board's action concerning  
22 disciplinary action or an administrative penalty described in  
23 subsection (a) shall be conducted at a hearing that is open to the  
24 public.

25 (d) The physician compliance fund is established to provide  
26 funds for administering and enforcing the investigation of  
27 violations specified in subsection (a). The fund shall be  
28 administered by the Indiana professional licensing agency.

29 (e) The expenses of administering the physician compliance fund  
30 shall be paid from the money in the fund. The fund consists of  
31 penalties collected through investigations and assessments by the  
32 board concerning violations specified in subsection (a). Money in  
33 the fund at the end of a state fiscal year does not revert to the state  
34 general fund.

35 SECTION 6. An emergency is declared for this act.

(Reference is to ESB 223 as reprinted April 12, 2011.)

**Conference Committee Report**  
**on**  
**Engrossed Senate Bill 223**

**S**igned by:

---

Senator Miller  
Chairperson

---

Representative Crouch

---

Senator Breaux

---

Representative Welch

**Senate Conferees**

**House Conferees**