

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.

SENATE ENROLLED ACT No. 223

AN ACT to amend the Indiana Code concerning professions and occupations.

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

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

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

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

- (1) a complaint filed by:
 - (A) a member of any of the boards listed in section 1 of this chapter; or
 - (B) the Indiana professional licensing agency; or



C
O
P
Y

(2) a complaint filed under IC 25-1-5-4.

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

(1) The director shall make an initial determination as to the merit of each complaint. A copy of a complaint having merit shall be submitted to the board having jurisdiction over the licensee's regulated occupation, that board thereby acquiring jurisdiction over the matter except as otherwise provided in this chapter.

(2) The director shall through any reasonable means notify the licensee of the nature and ramifications of the complaint and of the duty of the board to attempt to resolve the complaint through negotiation.

(3) The director shall report any pertinent information regarding the status of the complaint to the complainant.

(4) The director may investigate any written complaint against a licensee. The investigation shall be limited to those areas in which there appears to be a violation of statutes governing the regulated occupation.

(5) The director has the power to subpoena witnesses and to send for and compel the production of books, records, papers, and documents for the furtherance of any investigation under this chapter. The circuit or superior court located in the county where the subpoena is to be issued shall enforce any such subpoena by the director.

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

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

(1) under law; or

(2) for the advancement of an investigation.

SECTION 4. IC 25-22.5-2-5, AS AMENDED BY P.L.1-2006, SECTION 446, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. **Except for a penalty under section 8 of this chapter**, the funds obtained from registration and penalty fees shall, upon receipt thereof, be accounted for and paid over

C
o
p
y



by the agency to the treasurer of state and be placed in the general fund of the state. The expenses of the board shall be paid from the general fund upon appropriation being made therefor in the manner required by law for the making of such appropriations. The amount to be expended by the board shall not exceed the amount collected by the board from all sources.

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

- (1) Licensure renewal fraud.**
- (2) Improper termination of a physician and patient relationship.**
- (3) Practicing with an expired medical license.**
- (4) Providing office based anesthesia without the proper accreditation.**
- (5) Failure to perform duties required for issuing birth or death certificates.**

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

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

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

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

**C
O
P
Y**



general fund.

SECTION 6. An emergency is declared for this act.

**C
o
p
y**



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

C
O
P
Y

