

## **IC 25-2.1-9**

### Chapter 9. Complaints

#### **IC 25-2.1-9-1**

##### **Investigation of complaints**

Sec. 1. (a) The board may, upon receipt of a complaint or other information suggesting a violation of this article or IC 25-1-11, conduct an investigation to determine whether a violation has occurred.

(b) The board shall investigate any complaint made by the board of accountancy of another state against the holder of a CPA certificate issued under this article who offers or renders services in that state.

*As added by P.L.30-1993, SEC.7. Amended by P.L.179-1997, SEC.3; P.L.128-2001, SEC.41.*

#### **IC 25-2.1-9-2**

##### **Investigation by investigating officer; report; confidentiality of information**

Sec. 2. (a) The board may designate a member or other individual of appropriate competence to serve as investigating officer to conduct an investigation.

(b) After the completion of an investigation, the investigating officer shall file a report with the board.

(c) Unless the board has determined that there is reason to believe that the subject of an investigation has violated this article or IC 25-1-11, the report of the investigating officer, the complaint, if any, the testimony and documents submitted in support of the complaint or gathered in the investigation, and the fact of pendency of the investigation are confidential information and may not be disclosed to any individual except law enforcement authorities and, to the extent necessary to conduct the investigation, the subject of the investigation, individuals whose complaints are being investigated, and witnesses questioned in the course of the investigation.

*As added by P.L.30-1993, SEC.7. Amended by P.L.179-1997, SEC.4.*

#### **IC 25-2.1-9-3**

##### **Disposition of complaint**

Sec. 3. (a) If the board has reason to believe that the subject of an investigation has committed a violation of this article or IC 25-1-11:

- (1) the board shall direct that a complaint be issued under IC 25-1-7, if the subject of the investigation is a licensee; and
- (2) the board shall take appropriate action under IC 25-1-7-14, if the subject of the investigation is not a licensee.

(b) Subsection (a) does not prohibit the board from taking an action permitted under IC 25-1 or IC 25-2.1-8-2, including an action under the following:

- (1) IC 25-1-4-5 (conditional license and other actions related to continuing education or lapsed license).
- (2) IC 25-1-6-4 (refusal to issue a license or placement on

probationary status).

(c) If the board does not proceed under subsection (a) or (b), the board shall close the matter and may release the information only with the consent of the individual or firm that was under investigation.

*As added by P.L.30-1993, SEC.7. Amended by P.L.179-1997, SEC.5; P.L.84-2010, SEC.20; P.L.197-2011, SEC.82.*

#### **IC 25-2.1-9-4**

#### **Peer review rating of fail; definitions; peer review after June 30, 2012**

Sec. 4. (a) This section applies to a licensee that receives a peer review rating of fail on a peer review report issued after June 30, 2012, for a peer review conducted under IC 25-2.1-5-8.

(b) The following definitions apply throughout this section:

(1) "Administering entity" refers to the oversight body established or sanctioned by the board to conduct a peer review program.

(2) "Director" refers to the director of the division of consumer protection in the office of the attorney general.

(3) "Oversight committee" refers to a committee of licensees who are not board members that is designated by the board to receive a report.

(4) "Report" refers to a peer review report described in subsection (a), including any description of the deficiencies on which the peer review rating of fail is based.

(c) The board shall provide the director with the name and contact information for the administering entity.

(d) Not more than thirty (30) days after the issuance of a report, the administering entity shall make the report available to the oversight committee. The oversight committee may forward the report to the director. Receipt of the report shall be treated under IC 25-1-7-4, IC 25-1-7-5, and IC 25-1-7-6 as a complaint submitted by the board. If, after conducting an investigation, the director believes that a licensee should be subjected to disciplinary sanctions by the board, the director shall report the director's determination to the attorney general. Upon receiving the director's report, the attorney general may prosecute the matter, on behalf of the state of Indiana, before the board. IC 25-1-7-7(b) does not apply to a determination related to a complaint filed under this section.

(e) The administering entity and the peer review committee issuing a report shall cooperate with an investigation under IC 25-1-7 of a complaint filed under this section and with any resulting proceeding, including compliance with any request for access to or production of the proceedings, records, and work papers of the review committee by the director, the office of the attorney general, or a party to any proceeding initiated as a result of the filing of a complaint under this section. However, all complaints and information pertaining to a complaint are confidential until the attorney general files notice with the board of the attorney general's

intent to prosecute a licensee under IC 25-1-7-7. Any meeting of the board, the oversight committee, or a designee of the board or oversight committee that is required in an investigation conducted before the attorney general files notice of intent to prosecute shall be conducted as an executive session under IC 5-14-1.5-6.1.

*As added by P.L.197-2011, SEC.83.*

#### **IC 25-2.1-9-5**

##### **Peer review immunity**

Sec. 5. An:

- (1) entity administering a quality review program before July 1, 2012, or a peer review program after June 30, 2012;
- (2) officer, member, or employee of an entity administering a quality review program before July 1, 2012, or a peer review program after June 30, 2012;
- (3) employee or member of a quality review committee before July 1, 2012, or a peer review committee after June 30, 2012; and
- (4) entity in which or for which a member of a quality review committee (before July 1, 2012) or peer review committee (after June 30, 2012) is a sole proprietor, a partner, a shareholder, a member, or an employee;

is immune from civil liability that would otherwise arise from communications, supervision, findings, recommendations, evaluations, reports, opinions, or other actions taken or omissions occurring in good faith in the course and scope of the duties of a quality review administering entity (before July 1, 2012) or peer review administering entity (after June 30, 2012) or a quality review committee (before July 1, 2012) or peer review committee (after June 30, 2012) that arise under this article, including the rules adopted by the board. The immunity granted under this section includes immunity for an act or omission related to any part of a quality review conducted under this article before July 1, 2012, that becomes part of a peer review conducted or peer review report issued after June 30, 2012.

*As added by P.L.197-2011, SEC.84.*