

## **IC 25-20.2-8**

### **Chapter 8. Disciplinary Proceedings; Enforcement**

#### **IC 25-20.2-8-1**

##### **Disciplinary actions**

Sec. 1. The board may take disciplinary actions against or impose sanctions on a licensee under IC 25-1-11 for any of the following:

- (1) Disclosing information concerning the results of a home inspection without the approval of a client or the client's legal representative, except under a court order.
- (2) Accepting compensation for the same service from more than one (1) party without the consent of all interested parties.
- (3) Accepting commissions or allowances, directly or indirectly, from other parties dealing with the licensee's client in connection with any repair work recommended in the licensee's home inspection report.
- (4) Accepting compensation, directly or indirectly, from the licensee's client in connection with any repair work recommended in the licensee's home inspection report.
- (5) Failing to disclose to a client information about a business interest of the licensee that may affect the client in connection with any work for which the licensee is responsible.
- (6) Knowingly making a false or misleading representation about:
  - (A) the condition of a residential dwelling for which the licensee has performed or has contracted to perform a home inspection; or
  - (B) the extent of the services the licensee has performed or will perform.
- (7) Committing a felony in the course of the practice of home inspection or committing any act constituting a violation of IC 25-20.2-5-2(a)(1)(C).
- (8) Violating any provisions of this article or rules adopted by the board under this article.
- (9) Making a false or misleading representation:
  - (A) in a license or renewal application form; or
  - (B) in information provided to the board.
- (10) Failing to pay any fees or fines required by this article.
- (11) Failing to continuously maintain the insurance or other evidence of financial responsibility required by this article.
- (12) Communicating to the public false or misleading information about the type of license held by the licensee.
- (13) Engaging in a course of lewd or immoral conduct in connection with the delivery of services to clients.
- (14) Failing to complete the continuing education requirements established by the board.

*As added by P.L.145-2003, SEC.7.*

#### **IC 25-20.2-8-2**

##### **Disciplinary hearings**

Sec. 2. The procedures set forth in IC 4-21.5 govern the board's conduct of disciplinary hearings.

*As added by P.L.145-2003, SEC.7.*

### **IC 25-20.2-8-3**

#### **License suspension**

Sec. 3. The board may summarily suspend a license for up to ninety (90) days before a final adjudication or during an appeal of the board's determination if the board finds that the licensee would represent a clear and immediate danger to the public's health, safety, or property if allowed to perform home inspections. The summary suspension may be renewed upon a hearing before the board for up to ninety (90) days.

*As added by P.L.145-2003, SEC.7.*

### **IC 25-20.2-8-4**

#### **Show cause order; cease and desist order**

Sec. 4. (a) If the board determines that an individual not licensed under this article is engaged in or believed to be engaged in activities for which a license is required under this article, the board may issue an order to that individual requiring the individual to show cause why the individual should not be ordered to cease and desist from such activities. The show cause order must set forth a date, time, and place for a hearing at which the affected individual may appear and show cause why the individual should not be subject to licensing under this article.

(b) If the board, after a hearing, determines that the activities in which the individual is engaged are subject to licensing under this article, the board may issue a cease and desist order that identifies the individual and describes activities that are the subjects of the order.

(c) A cease and desist order issued under this section is enforceable in circuit courts.

*As added by P.L.145-2003, SEC.7.*

### **IC 25-20.2-8-5**

#### **Criminal violations; amount of fee or compensation added to penalty; separate violations**

Sec. 5. (a) An individual who:

- (1) performs or offers to perform home inspections for compensation without being licensed as a home inspector and without being exempt from licensing under law;
- (2) presents as the individual's own the license of another;
- (3) intentionally gives false or materially misleading information to the board or to a board member in connection with licensing matters;
- (4) impersonates another licensee;
- (5) uses an expired, a suspended, a revoked, or an otherwise restricted license; or
- (6) otherwise violates this article;

commits a Class B infraction.

(b) When entering a judgment for an infraction under this section, the court shall add to any penalty imposed the amount of any fee or other compensation earned by the individual in the commission of the infraction.

(c) Each transaction involving activities defined by this article constitutes a separate violation of this section.

*As added by P.L.145-2003, SEC.7.*

#### **IC 25-20.2-8-6**

##### **Prove compliance in action to collect fee or other compensation**

Sec. 6. In all actions for the collection of a fee or other compensation for performing home inspections, the party seeking relief must allege and prove that, at the time the cause of action arose, the party seeking relief was not in violation of section 5 of this chapter.

*As added by P.L.145-2003, SEC.7.*

#### **IC 25-20.2-8-7**

##### **Judicial review**

Sec. 7. An individual who applies for a license or a licensee who is aggrieved by an order or a determination of the board is entitled to a judicial review under IC 4-21.5.

*As added by P.L.145-2003, SEC.7.*

#### **IC 25-20.2-8-8**

##### **Board legal adviser**

Sec. 8. The attorney general shall act as the legal adviser for the board and provide any legal assistance necessary to carry out this article.

*As added by P.L.145-2003, SEC.7.*