

351—9.4(68B) Disciplinary remedies; administrative resolution of enforcement matters.

9.4(1) *Action after hearing.* If it is determined after a contested case proceeding that a violation of statute or rule under the board's jurisdiction has occurred, the board may impose any of the actions set out in Iowa Code section 68B.32D, including as a remedial action the assessment of direct costs related to the hearing for printing, postage, long-distance telephone charges, witness fees, and compensation paid to the presiding officer.

9.4(2) *Administrative resolution.* Violations may be handled by administrative resolution rather than through the full investigative and contested case proceeding process. The board may order administrative resolution by directing that the person take specified remedial action. The board may also order administrative resolution by issuing a letter of reprimand or by imposing a civil penalty as set out in subrule 9.4(7).

9.4(3) *Response to administrative resolution.* A person subject to board discipline may accept administrative resolution, but is not required to do so. If the person accepts the administrative resolution by complying with the directed remedial action or accepting a letter of reprimand, the matter shall be closed. If the person wishes to appeal the administrative resolution, the person shall make a written request for a contested case proceeding and shall submit the request within 30 days of the date of the correspondence informing the person of the board's decision.

9.4(4) *Statement of charges.* The board shall issue a statement of charges upon timely receipt of a request for a contested case proceeding to appeal the administrative resolution. The contested case shall be conducted in accordance with the provisions in 351—Chapter 11. The board's legal counsel shall have the burden of proving the violation. Failure to challenge the administrative resolution through a request for a contested case proceeding is a failure to exhaust administrative remedies for purposes of seeking judicial review.

9.4(5) *Automatic civil penalties.* The board may administratively resolve late-filed reports by the assessment of automatic civil penalties, subject to the civil penalty waiver process, as set out by board rule. The board may retain two dollars of any civil penalty that is ultimately not waived by the board or by a court of law as return receipts covering incidental costs such as printing and postage. The remainder of the civil penalty shall be deposited in the state general fund.

9.4(6) *Admonishment.* The board may admonish any person who it believes has committed a minor violation to exercise care. An admonishment is not discipline and is not subject to a contested case proceeding appeal.

9.4(7) *Civil penalty for violation.* If the board determines that probable cause exists to believe that a violation of any statute or rule under its jurisdiction has occurred, except for a late-filed disclosure report, the board may order administrative resolution of the violation by imposing a civil penalty not to exceed \$500. A person assessed a civil penalty may appeal the decision by requesting within 30 days of the date of the correspondence informing the person of the board's decision a contested case proceeding to be held under the process set out in subrule 9.4(4).

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