

193G—5.6(17A,272C,544C) Investigation procedures.

5.6(1) *Disciplinary committee.* The board chairperson may annually appoint, as needed, two to three members of the board to serve on the board's disciplinary committee to review and process disciplinary complaints. The disciplinary committee is a purely advisory body that reviews complaint files referred by the board administrator, generally supervises the investigation of complaints, and makes recommendations to the full board on the disposition of complaints. Members of the committee may not personally investigate complaints, but they may review the investigative work product of others in formulating recommendations to the board.

5.6(2) *Committee screening of complaints.* Upon the referral of a complaint from the board administrator or from the full board, the committee determines whether the complaint presents facts that, if true, suggest that a registrant may have violated a law or rule enforced by the board. If the committee concludes that the complaint does not present facts that suggest such a violation or that the complaint does not otherwise constitute an appropriate basis for disciplinary action, the committee will refer the complaint to the full board with the recommendation that the complaint be closed with no further action. If the committee determines that the complaint does present a credible basis for disciplinary action, the committee may either immediately refer the complaint to the full board recommending that a disciplinary proceeding be commenced or initiate a disciplinary investigation.

5.6(3) *Committee procedures.* If the committee determines that additional information is necessary or desirable to evaluate the merits of a complaint, the committee may assign an investigator or expert consultant, appoint a peer-review committee, provide the registrant an opportunity to appear before the disciplinary committee for an informal discussion as described in rule 193G—6.9(17A,272C,544C) or request that board staff conduct further investigation. Upon completion of an investigation, the investigator, expert consultant and peer-review committee or board staff will present a report to the committee. The committee will review the report and determine what further action is necessary. The committee may do any of the following:

- a. Request further investigation.
- b. Determine there is not probable cause to believe a disciplinary violation has occurred and refer the case to the full board with the recommendation of closure.
- c. Determine there is probable cause to believe that a law or rule enforced by the board has been violated but that disciplinary action is unwarranted on other grounds and refer the case to the full board with the recommendation of closure. The committee may also recommend that the registrant be informally cautioned or educated about matters that could form the basis for disciplinary action in the future.
- d. Determine there is probable cause to believe a disciplinary violation has occurred and refer the case to the full board with the recommendation that the board initiate a disciplinary proceeding (contested case).

5.6(4) *Subpoena authority.* Pursuant to Iowa Code sections 17A.13(1) and 272C.6(3), the board is authorized in connection with a disciplinary investigation to issue subpoenas to compel witnesses to testify or persons to produce books, papers, records and any other real evidence, whether or not privileged or confidential under law, that the board deems necessary as evidence in connection with a disciplinary proceeding or relevant to the decision of whether to initiate a disciplinary proceeding. Board procedures concerning investigatory subpoenas are set forth in rule 481—503.5(17A,272C).

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