

193F—8.11 (17A,272C,543D) Closing complaint files.

8.11(1) *Grounds for closing.* Upon the recommendation of the executive officer, the recommendation of the disciplinary committee, or on its own motion, the board may close a complaint file, with or without prior investigation. Given the broad scope of matters about which members of the public may complain, it is not possible to catalog all possible reasons why the board may close a complaint file. The following nonexclusive list is, however, illustrative of the grounds upon which the board may close a complaint file:

- a.* The complaint alleges matters outside the board's jurisdiction.
- b.* The complaint does not allege a reasonable or credible basis to believe that the subject of the complaint violated a law or rule enforced by the board.
- c.* The complaint is frivolous or trivial.
- d.* The complaint alleges matters more appropriately resolved in a different forum, such as civil litigation to resolve a contract dispute, or more appropriately addressed by alternative procedures, such as outreach education or rule making.
- e.* The matters raised in the complaint are situational, isolated, or unrepresentative of a licensee's typical practice, and the licensee has taken appropriate steps to ensure future compliance and prevent public injury.
- f.* Resources are unavailable or better directed to other complaints or board initiatives in light of the board's overall budget and mission.
- g.* While the evidence may reveal one or more appraisal standards about which the appraiser should be more vigilant in the future, the issues appear correctable, are not likely to recur with proper diligence in the development and reporting of future appraisals, and do not reveal impediments to competent practice in the future.
- h.* Other extenuating factors exist which weigh against the imposition of public discipline when considered in the context of the board's purpose and mission.

8.11(2) *Closing orders.* The board's executive officer may enter an order stating the basis for the board's decision to close a complaint file. If entered, the order shall not contain the identity of the complainant or the respondent and shall not disclose confidential complaint or investigative information.

If entered, a closing order will be indexed by case number and shall be a public record pursuant to Iowa Code subsection 17.3(1) "d." A copy of the order may be mailed to the complainant, if any, and to the respondent. The board's decision whether or not to pursue an investigation, to institute disciplinary proceedings, or to close a file is not subject to judicial review.

8.11(3) *Cautionary letters.* The board may issue a confidential letter of caution to a licensee when a complaint file is closed which informally cautions or educates the licensee about matters which could form the basis for disciplinary action in the future if corrective action is not taken by the licensee. Informal cautionary letters do not constitute disciplinary action, but the board may take such letters into consideration in the future if a licensee continues a practice about which the licensee has been cautioned.

8.11(4) *Reopening closed complaint files.* The board may reopen a closed complaint file if additional information arises after closure which provides a basis to reassess the merits of the initial complaint.