

657—36.2(155A,272C) Investigations.

36.2(1) General. The board may, upon receipt of a written or verbal complaint or upon its own motion pursuant to other evidence received by the board, review and investigate alleged acts or omissions that the board reasonably believes constitute cause under applicable law or administrative rules for licensee, registrant, or permittee discipline.

36.2(2) Reporting of judgments or settlements. Each licensee or registrant shall report to the board every adverse judgment in a malpractice action to which the pharmacy, pharmacist, pharmacist-intern, or pharmacy technician is a party, and every settlement of a claim alleging malpractice. The report must be filed within 30 days from the date of the judgment or settlement.

36.2(3) Reporting of acts or omissions. Each licensee or registrant having firsthand knowledge of acts or omissions set forth in subrule 36.1(4) shall report to the board within 30 days of initially acquiring the information those acts or omissions committed by another person licensed to practice pharmacy or registered to practice as a pharmacist-intern or as a pharmacy technician. The report shall include the name and other available information identifying the licensee or registrant and the date, time, and place of the incident.

36.2(4) Confidentiality of investigative files. Complaint files, investigation files, and all other investigation reports and investigative information in the possession of the board or its employees or agents that relate to licensee, permittee, or registrant discipline shall be privileged and confidential pursuant to Iowa Code section 272C.6(4).

36.2(5) Investigation of allegations. In order to determine if probable cause exists for a disciplinary hearing, the board, the executive secretary/director, or someone designated by the executive secretary/director shall cause an investigation to be made into the allegations of the complaint. The licensee, registrant, or permittee complained of shall be given the opportunity to present to the investigator a position or defense respecting the allegations of the complaint prior to the commencement of a contested case.

36.2(6) Investigatory subpoena powers. The board is authorized by law to subpoena books, papers, records, and any other real evidence, whether or not privileged or confidential under law, to help determine whether a contested case proceeding (hearing) should be commenced.

36.2(7) Investigative report. Upon completion of the investigation, the investigator(s) shall prepare a report for the board's consideration. The report may contain the position or defense of the respondent, discuss jurisdiction, and set forth any legal arguments and authorities that appear applicable to the case.

36.2(8) Board consideration. The board shall review all investigations. Participation in the review shall not bar any board member from participating in any subsequent disciplinary proceeding.

a. Board action. After reviewing an investigation, the board may either institute a disciplinary proceeding by filing one or more statements of charges, send a confidential letter of education or administrative warning to the licensee, registrant or permittee, request additional investigation, or close the case without further investigation.

b. Confidential action. If the board determines that formal disciplinary action is not warranted, the board may send a confidential letter of education or administrative warning to the licensee, registrant or permittee. The purpose of a confidential letter of education or administrative warning is to alert the licensee, registrant or permittee to possible violations of Iowa law or board rules so that the licensee, registrant or permittee may address the issues. Confidential letters of education and administrative warnings do not constitute formal disciplinary action and are not public records. The board shall maintain a copy of the confidential letter of education or administrative warning in the confidential investigative file regarding the licensee, registrant or permittee. Confidential letters of education and administrative warnings may be used as evidence against a licensee, registrant or permittee in future administrative hearings.