

HOUSE BILL No. 1309

DIGEST OF INTRODUCED BILL

Citations Affected: IC 25-1-11-12; IC 25-2.1; IC 34-30-2-98.3; IC 34-46-2-17.

Synopsis: Certified public accountants. Removes obsolete references to quality review as a condition of renewal of a permit to practice accountancy for a certified public accountant or public accounting firm. Requires a firm to submit a copy of the results of its most recently accepted peer review to the board of accountancy either directly or through the administering entity of the peer review program.

Effective: July 1, 2016.

VanNatter

January 12, 2016, read first time and referred to Committee on Employment, Labor and Pensions.



Second Regular Session of the 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

HOUSE BILL No. 1309

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 25-1-11-12, AS AMENDED BY P.L.197-2011,
2 SECTION 74, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2016]: Sec. 12. (a) The board may impose any of the
4 following sanctions, singly or in combination, if the board finds that a
5 practitioner is subject to disciplinary sanctions under sections 5
6 through 9 of this chapter:
7 (1) Permanently revoke a practitioner's license.
8 (2) Suspend a practitioner's license.
9 (3) Censure a practitioner.
10 (4) Issue a letter of reprimand.
11 (5) Place a practitioner on probation status and require the
12 practitioner to:
13 (A) report regularly to the board upon the matters that are the
14 basis of probation;
15 (B) limit practice to those areas prescribed by the board;
16 (C) continue or renew professional education approved by the
17 board until a satisfactory degree of skill has been attained in



1 those areas that are the basis of the probation;

2 (D) perform or refrain from performing any acts, including
3 community restitution or service without compensation, that
4 the board considers appropriate to the public interest or to the
5 rehabilitation or treatment of the practitioner; or

6 (E) satisfactorily complete a ~~quality review (before July 1,~~
7 ~~2012)~~ or peer review ~~(after June 30, 2012)~~ specified by the
8 board as a condition for termination of probationary status if
9 the practitioner is a licensee (as defined in IC 25-2.1-1-8).

10 (6) Assess a civil penalty against the practitioner for not more
11 than one thousand dollars (\$1,000) for each violation listed in
12 sections 5 through 9 of this chapter except for a finding of
13 incompetency due to a physical or mental disability.

14 (7) Order a practitioner to pay consumer restitution to a person
15 who suffered damages as a result of the conduct or omission that
16 was the basis for the disciplinary sanctions under this chapter.

17 (b) When imposing a civil penalty under subsection (a)(6), the board
18 shall consider a practitioner's ability to pay the amount assessed. If the
19 practitioner fails to pay the civil penalty within the time specified by
20 the board, the board may suspend the practitioner's license without
21 additional proceedings. However, a suspension may not be imposed if
22 the sole basis for the suspension is the practitioner's inability to pay a
23 civil penalty.

24 (c) The board may withdraw or modify the probation under
25 subsection (a)(5) if the board finds after a hearing that the deficiency
26 that required disciplinary action has been remedied or that changed
27 circumstances warrant a modification of the order.

28 SECTION 2. IC 25-2.1-1-8.7, AS ADDED BY P.L.197-2011,
29 SECTION 75, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
30 JULY 1, 2016]: Sec. 8.7. ~~(a)~~ "Peer review" means a study, an appraisal,
31 or a review of at least one (1) aspect of the professional work of:

32 (1) an individual who; or

33 (2) a firm in the practice of accountancy that;

34 attests or issues compilation reports, by at least one (1) individual who
35 holds a certificate from any state and possesses qualifications that meet
36 the applicable substantial equivalency standards and who is
37 independent of the individual or firm being reviewed. ~~The term~~
38 ~~includes any part of a quality review conducted before July 1, 2012;~~
39 ~~that becomes part of a peer review conducted or peer review report~~
40 ~~issued after June 30, 2012.~~

41 (b) ~~After June 30, 2012, any reference in any law, rule, or other~~
42 ~~document to "quality review" as that term was applied under this article~~



1 ~~before July 1, 2012, shall be treated as a reference to peer review.~~

2 SECTION 3. IC 25-2.1-2-15, AS AMENDED BY P.L.197-2011,
3 SECTION 77, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2016]: Sec. 15. The board may adopt rules under IC 4-22-2
5 governing the administration and enforcement of this article and the
6 conduct of licensees, including the following:

7 (1) The board's meetings and conduct of business.

8 (2) The procedure of investigations and hearings.

9 (3) The educational and experience qualifications required for the
10 issuance of certificates under this article and the continuing
11 professional education required for renewal of certificates under
12 IC 25-2.1-4.

13 (4) Rules of professional conduct directed to controlling the
14 quality and probity of the practice of accountancy by licensees,
15 including independence, integrity, and objectivity, competence
16 and technical standards, and responsibilities to the public and
17 clients.

18 (5) The actions and circumstances that constitute professing to be
19 a licensee in connection with the practice of accountancy.

20 (6) The manner and circumstances of use of the title "certified
21 public accountant" and the abbreviation "CPA".

22 (7) ~~Quality reviews (before July 1, 2012)~~ or Peer reviews (after
23 ~~June 30, 2012~~) that may be required to be performed under this
24 article.

25 (8) Methods of applying for and conducting the examinations,
26 including methods for grading examinations and determining a
27 passing grade required of an applicant for a certificate. However,
28 the board shall to the extent possible provide that the
29 examination, grading of the examination, and the passing grades
30 are uniform with those applicable in other states.

31 (9) Substantial equivalency.

32 (10) Administration of the accountant investigative fund
33 established by IC 25-2.1-8-4.

34 SECTION 4. IC 25-2.1-5-8, AS AMENDED BY P.L.197-2011,
35 SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
36 JULY 1, 2016]: Sec. 8. (a) The board shall adopt rules that require as
37 a condition to renew a permit under this chapter, that an applicant
38 undergo, not more than once every three (3) years, a quality review
39 (before July 1, 2012) or peer review (after June 30, 2012) conducted in
40 a manner the board specifies.

41 (b) The rules adopted under subsection (a) must:

42 (1) be adopted reasonably in advance of the time when a ~~quality~~



1 review (before July 1, 2012) or peer review (after June 30, 2012)
 2 first becomes effective;

3 (2) include reasonable provision for compliance by an applicant
 4 showing that the applicant has in the preceding three (3) years
 5 undergone a quality review (before July 1, 2012) or peer review
 6 (after June 30, 2012) that is a satisfactory equivalent to the quality
 7 review (before July 1, 2012) or peer review (after June 30, 2012)
 8 required under this section;

9 **(3) require the firm to submit a copy of the results of its most**
 10 **recently accepted peer review to the board either directly or**
 11 **through the administering entity; and**

12 ~~(3)~~ (4) require, with respect to quality reviews (before July 1,
 13 2012) or peer reviews (after June 30, 2012) under subdivision (2),
 14 that the quality review (before July 1, 2012) or peer review (after
 15 June 30, 2012) be subject to review by an oversight body
 16 established or sanctioned by the board that shall:

17 (A) comply with IC 25-2.1-9-4; and

18 (B) periodically report to the board on the effectiveness of the
 19 review program and provide to the board a listing of firms that
 20 have participated in a quality review (before July 1, 2012) or
 21 peer review (after June 30, 2012) program; and

22 ~~(4)~~ (5) subject to section 9 of this chapter and IC 25-2.1-9-4,
 23 require, with respect to quality reviews (before July 1, 2012) or
 24 peer reviews (after June 30, 2012) under subdivision (2), that:

25 (A) the proceedings, records, and work papers of a review
 26 committee are privileged and are not subject to discovery,
 27 subpoena, or other means of legal process or introduction into
 28 evidence in a civil action, arbitration, administrative
 29 proceeding, or Indiana board of accountancy proceeding; and

30 (B) a member of the review committee or individual who was
 31 involved in the quality review (before July 1, 2012) or peer
 32 review (after June 30, 2012) process is not permitted or
 33 required to testify in a civil action, arbitration, administrative
 34 proceeding, or board proceeding to matters:

35 (i) produced, presented, disclosed or discussed during, or in
 36 connection with, the quality review (before July 1, 2012) or
 37 with the peer review (after June 30, 2012) process; or

38 (ii) that involve findings, recommendations, evaluations,
 39 opinions, or other actions of the committee or a committee
 40 member.

41 SECTION 5. IC 25-2.1-5-9, AS AMENDED BY P.L.197-2011,
 42 SECTION 79, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2016]: Sec. 9. (a) Notwithstanding section 8(b)(4)(B) of this
 2 chapter, information, documents, or records that are publicly available
 3 are not immune from discovery or use in any civil action, arbitration,
 4 administrative proceeding, or board proceeding merely because they
 5 were presented or considered in connection with the **quality review**
 6 ~~(before July 1, 2012) or peer review (after June 30, 2012)~~ process.

7 (b) Any:

8 (1) materials prepared in connection with a particular engagement
 9 merely because they happen to subsequently be presented or
 10 considered as part of the **quality review (before July 1, 2012) or**
 11 **peer review (after June 30, 2012)** process; or

12 (2) dispute between review committees and individuals or firms
 13 subject to a **quality review (before July 1, 2012) or peer review**
 14 **(after June 30, 2012)** arising from the performance of the **quality**
 15 **review (before July 1, 2012) or peer review; (after June 30, 2012);**

16 **are is not privileged.**

17 SECTION 6. IC 25-2.1-9-4, AS ADDED BY P.L.197-2011,
 18 SECTION 83, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2016]: Sec. 4. (a) This section applies to a licensee that
 20 receives a peer review rating of fail on a peer review report issued after
 21 June 30, 2012, for a peer review conducted under IC 25-2.1-5-8.

22 (b) The following definitions apply throughout this section:

23 (1) "Administering entity" refers to the oversight body established
 24 or sanctioned by the board to conduct a peer review program.

25 (2) "Director" refers to the director of the division of consumer
 26 protection in the office of the attorney general.

27 (3) "Oversight committee" refers to a committee of licensees who
 28 are not board members that is designated by the board to receive
 29 a report.

30 (4) "Report" refers to a peer review report described in subsection
 31 (a), including any description of the deficiencies on which the
 32 peer review rating of fail is based.

33 (c) The board shall provide the director with the name and contact
 34 information for the administering entity.

35 (d) Not more than thirty (30) days after the ~~issuance of a report is~~
 36 **accepted by** the administering entity, **the administering entity** shall
 37 make the report available to the oversight committee. The oversight
 38 committee may forward the report to the director. Receipt of the report
 39 shall be treated under IC 25-1-7-4, IC 25-1-7-5, and IC 25-1-7-6 as a
 40 complaint submitted by the board. If, after conducting an investigation,
 41 the director believes that a licensee should be subjected to disciplinary
 42 sanctions by the board, the director shall report the director's



1 determination to the attorney general. Upon receiving the director's
 2 report, the attorney general may prosecute the matter, on behalf of the
 3 state of Indiana, before the board. IC 25-1-7-7(b) does not apply to a
 4 determination related to a complaint filed under this section.

5 (e) The administering entity and the peer review committee issuing
 6 a report shall cooperate with an investigation under IC 25-1-7 of a
 7 complaint filed under this section and with any resulting proceeding,
 8 including compliance with any request for access to or production of
 9 the proceedings, records, and work papers of the review committee by
 10 the director, the office of the attorney general, or a party to any
 11 proceeding initiated as a result of the filing of a complaint under this
 12 section. However, all complaints and information pertaining to a
 13 complaint are confidential until the attorney general files notice with
 14 the board of the attorney general's intent to prosecute a licensee under
 15 IC 25-1-7-7. Any meeting of the board, the oversight committee, or a
 16 designee of the board or oversight committee that is required in an
 17 investigation conducted before the attorney general files notice of
 18 intent to prosecute shall be conducted as an executive session under
 19 IC 5-14-1.5-6.1.

20 SECTION 7. IC 25-2.1-9-5, AS ADDED BY P.L.197-2011,
 21 SECTION 84, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 JULY 1, 2016]: Sec. 5. An:

23 (1) entity administering a ~~quality review program before July 1,~~
 24 ~~2012; or a peer review; program after June 30, 2012;~~

25 (2) officer, member, or employee of an entity administering a
 26 ~~quality review program before July 1, 2012; or a peer review~~
 27 ~~program; after June 30, 2012;~~

28 (3) employee or member of a ~~quality review committee before~~
 29 ~~July 1, 2012; or a peer review committee; after June 30, 2012;~~ and

30 (4) entity in which or for which a member of a ~~quality review~~
 31 ~~committee (before July 1, 2012) or peer review committee (after~~
 32 ~~June 30, 2012) is a sole proprietor, a partner, a shareholder, a~~
 33 ~~member, or an employee;~~

34 ~~is are~~ immune from civil liability that would otherwise arise from
 35 communications, supervision, findings, recommendations, evaluations,
 36 reports, opinions, or other actions taken or omissions occurring in good
 37 faith in the course and scope of the duties of a ~~quality review~~
 38 ~~administering entity (before July 1, 2012) or peer review administering~~
 39 ~~entity (after June 30, 2012) or a quality review committee (before July~~
 40 ~~1, 2012) or peer review committee (after June 30, 2012) that arise~~
 41 ~~under this article, including the rules adopted by the board. The~~
 42 ~~immunity granted under this section includes immunity for an act or~~



1 omission related to any part of a quality review conducted under this
 2 article before July 1, 2012; that becomes part of a peer review
 3 conducted or peer review report issued after June 30, 2012.

4 SECTION 8. IC 25-2.1-11-2, AS AMENDED BY P.L.197-2011,
 5 SECTION 85, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2016]: Sec. 2. Before reinstating a suspended certificate or
 7 permit under IC 25-1-11-14, the board may require the applicant to
 8 show successful completion of specified continuing professional
 9 education, and the board may make the reinstatement of a certificate or
 10 permit conditional on satisfactory completion of a quality review
 11 (before July 1, 2012) or peer review (after June 30, 2012) specified by
 12 the board.

13 SECTION 9. IC 25-2.1-14-2, AS AMENDED BY P.L.197-2011,
 14 SECTION 86, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2016]: Sec. 2. The information derived from or as the result
 16 of professional services is confidential and privileged. However, this
 17 section does not prohibit a certified public accountant, a public
 18 accountant, or an accounting practitioner from disclosing any data
 19 required to be disclosed by the standards of the profession:

- 20 (1) in rendering an opinion on the presentation of financial
 21 statements;
- 22 (2) in ethical investigations conducted by private professional
 23 organizations;
- 24 (3) in the course of quality reviews (before July 1, 2012) or peer
 25 reviews (after June 30, 2012) or an investigation or proceeding
 26 related to a quality review (before July 1, 2012) or peer review;
 27 (after June 30, 2012); or
- 28 (4) in making disclosure where the financial statements or the
 29 professional services of an accountant are contested.

30 SECTION 10. IC 25-2.1-14-5, AS AMENDED BY P.L.197-2011,
 31 SECTION 88, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 2016]: Sec. 5. (a) This chapter does not prohibit a temporary
 33 transfer of work papers or other material necessary to carry out quality
 34 reviews (before July 1, 2012) or peer reviews, (after June 30, 2012);
 35 conduct an investigation or proceeding related to a quality review
 36 (before July 1, 2012) or peer review, (after June 30, 2012); or comply
 37 with the disclosure of information under this chapter.

38 (b) A licensee is not required to keep any work paper beyond the
 39 period prescribed in any applicable statute.

40 SECTION 11. IC 34-30-2-98.3, AS ADDED BY P.L.197-2011,
 41 SECTION 125, IS AMENDED TO READ AS FOLLOWS
 42 [EFFECTIVE JULY 1, 2016]: Sec. 98.3. IC 25-2.1-9-5 (Concerning



1 immunity of an entity administering a ~~quality review (before July 1,~~
2 ~~2012) or peer review (after June 30, 2012)~~ program and members of a
3 ~~quality review committee (before July 1, 2012) or peer review~~
4 ~~committee). (after June 30, 2012)).~~
5 SECTION 12. IC 34-46-2-17, AS AMENDED BY P.L.197-2011,
6 SECTION 126, IS AMENDED TO READ AS FOLLOWS
7 [EFFECTIVE JULY 1, 2016]: Sec. 17. IC 25-2.1-5-8 (Concerning
8 proceedings, records, and work papers of a ~~quality review committee~~
9 ~~that conducts a quality review of an accounting firm before July 1,~~
10 ~~2012; or a peer review committee that conducts a peer review of an~~
11 ~~accounting firm). after June 30, 2012).~~

