**Section 1285.215 Complaint Handling Procedure**

a) The following definitions shall apply to this Part:

1) "Initial claim" shall mean an allegation made against a physician or physician assistant that results in a preliminary analysis to determine whether the Division should conduct a further investigation.

2) "Complaint" shall mean the initial claim made against a physician or physician assistant that results in an inquiry or investigation. To become a complaint, an initial claim must present a potential violation of Section 22 of the Act and must not be barred by the statute of limitations or be precluded by some other inherent defect that would prevent the Division from being able to prove an Act violation. An inherent defect is the absence of something necessary for something to be complete. An inherent defect includes, but is not limited to, complainants' refusal to provide necessary medical records so that an investigation may be conducted or completed. The Chief of Medical Investigations shall determine within 30 days whether an initial claim shall become a complaint.

3) "Formal Complaint" shall mean the motion of the Division or the Disciplinary Board or the verified complaint in writing of any person alleging facts that would constitute grounds for the revocation or other disciplinary action of the license of a physician or physician assistant under Section 22 of the Act.

b) Initial claims against physicians and physician assistants may be made in writing, by telephone, or in person. All initial claims shall be recorded by the Division and forwarded to the Chief of Medical Investigations for review. Upon receipt of an initial claim, the Division shall provide to complainants:

1) A brochure that provides information about the complaint process, the role of the Division, the reasons for disciplinary action, and other commonly asked questions, to be included in the first mailing sent to the complainant, along with verification that an initial claim was received and forwarded to the Chief of Medical Investigations.

2) The opportunity to review the Division's characterization of the initial claim and indicate any areas believed to be inaccurate.

3) Information as to why an initial claim will not become a complaint and a final opportunity to correct any deficiencies in the initial claim.

c) After review, the Chief of Medical Investigations will determine whether an initial claim will become a complaint. If an initial claim does not become a complaint, then the Chief of Medical Investigations shall submit his/her determination and any accompanying analysis of the initial claim to the Complaint Committee with a recommendation for closure.

d) After review the Chief of Medical Investigations, in conjunction with a Medical Coordinator, will determine that a complaint is ready for immediate consideration by the Complaint Committee for prosecution potential.

e) No initial claim or complaint shall be deemed closed except upon recommendation of the Complaint Committee and approval by the Disciplinary Board.

f) At any time during an investigation the Division may enter into negotiations to resolve issues informally by way of a consent order. Factors to be considered in deciding whether to enter settlement negotiations shall include, but not be limited to: sufficient investigation of the case; whether there was physical harm or injury to a patient; relative severity of the respondent's alleged conduct; and, past practices of the Division.

g) Disqualification of a Disciplinary Board Member

1) A Disciplinary Board member shall disqualify himself/herself from consideration of a complaint or formal complaint when he/she determines that he/she has a conflict of interest or prejudice that would prevent him/her from being fair and impartial.

2) Participation in the initial stages of the handling of a complaint, including participation on the Complaint Committee and in informal conferences, shall not bar a Disciplinary Board member from future board participation or decisionmaking relating to that complaint.

(Source: Amended at 29 Ill. Reg. 18823, effective November 4, 2005)