CALIFORNIA ARCHITECTS BOARD

Proposed Language

Adopt Section 137 of Division 2, Title 16 of the California Code of Regulations to read as follows:

§137 Complaint Disclosure

(a) The Board shall establish and maintain a complaint history report to provide members of the public with complaint information that has been filed with the Board against persons that are licensed by the Board or unlicensed persons that are subject to its jurisdiction.

(b) A complaint that is determined to meet the criteria listed in subsection (e) shall be incorporated into the complaint history report no later than ten (10) days after the conditions of disclosure have been met. Complaint history reports, when feasible and to the extent required or permitted by law, may be made available in writing and by telephone.

Any person may request a complaint history report by telephone, in person, or in writing (including fax, email, and Internet). Such requests for information shall be responded to within ten (10) days.

(c) The complaint history report shall contain information about complaints meeting the conditions of disclosure listed in subsection (e) and, if applicable, shall include:

(1) License status and history;
(2) Total number of complaints meeting conditions of disclosure;
(3) Date and nature of the complaints;
(4) Total number of disciplinary, enforcement and public corrective actions taken by the Board;
(5) Brief summary of disciplinary, enforcement and public corrective actions taken by the Board and Citations that have been satisfactorily resolved shall be reported as such;
(6) Current status of pending Accusations, Statement of Issues, and Citations filed by the Board;
(7) Current status of criminal prosecution resulting from a complaint received by the Board;
(8) Information which is statutorily mandated to be disclosed;
(9) A description of the type of public information not included in the report, i.e., civil judgements, criminal convictions, unsubstantiated complaints; and

(10) Disclaimers indicating the report does not constitute endorsement or non-endorsement of a person, and that the report may not contain all available information.

(d) (1) The complaint history report shall not include any personal information about the complainant or the person against whom the complaint was filed.
(2) Disclosure of a pending Accusation, Statement of Issues, or Citation against a person under investigation or in the process of legal action shall contain a disclaimer stating that the pending administrative action(s) against the person is/are alleged and no final legal determination has yet been made. The report may also include further disclaimers, or cautionary statements, regarding such pending cases.

(e) The Board shall disclose complaint information in a complaint history report when the executive officer or his or her designee has determined that one or more of the following have occurred:

(1) The complaint(s) is serious and that disclosure could provide protection to the public;
(2) The complaint(s) has resulted in a Citation being issued and served;
(3) Disclosure of "pattern" complaints may protect the consumer and/or prevent additional harm to the public;
(4) The complaint(s) has been referred to the Attorney General for filing of an Accusation or Statement of Issues; or
(5) The complaint(s) has been referred to other law enforcement entity for prosecution.

(f) Information about a complaint shall not be disclosed in the complaint history report if it is determined by the executive officer or his or her designee that any of the following apply:

(1) Disclosure is prohibited by statute or regulation;
(2) Disclosure might compromise an investigation or prosecution; or
(3) Disclosure might endanger or injure the complainant or a third party.

NOTE: Authority cited: Section 5526 Business and Professions Code. Reference: Sections 125.9, 129(e), 148, 5510.15, and 5560 Business and Professions Code, and section 6253 Government Code.