

**Effective 5/10/2016**

**61-2e-401 Division authority -- Immunity.**

- (1)
  - (a) In addition to a power or duty expressly provided in this chapter, the division may:
    - (i) receive and act on a complaint including:
      - (A) taking action designed to obtain voluntary compliance with this chapter, including the issuance of a cease and desist order if the person against whom the order is issued is given the right to petition the board for review of the order; or
      - (B) commencing an administrative or judicial proceeding on the division's own initiative;
    - (ii) investigate an entity required to be registered under this chapter, regardless of whether the entity is located in Utah;
    - (iii) employ one or more investigators, clerks, or other employees or agents if:
      - (A) approved by the executive director; and
      - (B) within the budget of the division; and
    - (iv) issue a subpoena that requires:
      - (A) the attendance and testimony of a witness; or
      - (B) the production of evidence.
  - (b)
    - (i) A court of competent jurisdiction shall enforce, according to the practice and procedure of the court, a subpoena issued by the division.
    - (ii) The division shall pay any witness fee, travel expense, mileage, or any other fee required by the service statutes of the state where the witness or evidence is located.
  - (c) A failure to respond to a request by the division in an investigation under this chapter is considered to be a separate violation of this chapter, including:
    - (i) failing to respond to a subpoena;
    - (ii) withholding evidence; or
    - (iii) failing to produce a document or record.
- (2)
  - (a) If a person is found to have violated this chapter or a rule made under this chapter, the person shall pay the costs incurred by the division to copy a book, paper, contract, document, or record required under this chapter, including the costs incurred to copy an electronic book, paper, contract, document, or record in a universally readable format.
  - (b) If a person fails to pay the costs described in Subsection (2)(a) when due, the person's registration is automatically suspended:
    - (i) beginning the day on which the payment of costs is due; and
    - (ii) ending the day on which the costs are paid.
- (3) The division is immune from a civil action or criminal prosecution for initiating or assisting in a lawful investigation of an act or participating in a disciplinary proceeding under this chapter if the division takes the action:
  - (a) without malicious intent; and
  - (b) in the reasonable belief that the action is taken pursuant to the powers and duties vested in the division under this chapter.

Amended by Chapter 384, 2016 General Session