

21 NCAC 17 .0503 INVESTIGATIONS

(a) Once an investigative case is created, the Board staff, or its authorized Investigator, shall send each person who is the subject of an investigation, using the mail or electronic mail address of record in the Board's records for each person, or the mail or electronic mail address provided on the complaint form if the person is not in the Board's records, a summary of the complaint and a request for a written response.

(b) Licensees shall submit a written response to a complaint received by the Board within 45 days from the date the Board confirms the licensee's receipt of notice of the complaint. The Board shall grant up to an additional 30 days for the response where the licensee demonstrates good cause for the extension of time. The response shall contain accurate and complete information. Where a licensee fails to respond in the time and manner provided herein, the Board may proceed with making its decision in the absence of the licensee or information from the licensee, and the licensee may be held by the Board to be interfering with an investigation by willful misrepresentation of facts under 21 NCAC 17 .0114(19) in violation of G.S. 90-363(7).

(c) A summary of the complaint and a request for a written response sent to a person who is not an applicant for licensure or a licensee of the Board shall be accompanied by the following statement:

"You are hereby notified that the opinion expressed herein is not a legal determination. An occupational licensing board does not have the authority to order you to discontinue your current practices. Only a court may determine that you have violated or are violating any law and, if appropriate, impose a remedy or penalty for the violation. Further, pursuant to G.S. 150B-4, you may have the right, prior to initiation of any court action by the Board, to request a declaratory ruling regarding whether your particular conduct is lawful. You are further notified that any right to a declaratory ruling supplements any other legal rights that you may already have to establish the legality of your conduct with respect to the goods or services you offer or provide."

(d) The Board staff, or its authorized Investigator, shall investigate a complaint and shall provide the Board's Investigation Committee with an investigation report. The Investigative Committee shall review the report and shall determine to:

- (1) request further investigation of particular aspects of the matter;
- (2) request the individual who is the subject of the complaint meet with members of the Board to be interviewed if he or she is willing to be interviewed; or
- (3) accept the report and make a recommendation to the Board.

(e) The Board shall authorize the Investigative Committee to make a recommendation to the Board if an investigation is complete and the complaint is unresolved.

(f) The Board shall consider the Investigative Committee's recommendation and shall determine whether to:

- (1) conduct further investigation of particular aspects of the matter;
- (2) close or dismiss the case or issue a non-disciplinary letter of caution;
- (3) issue a consent order to the subject of an investigation, specifying any disciplinary sanctions to be applied and, if the consent order is not accepted, issue a notice of hearing;
- (4) issue a notice of hearing to a subject, specifying any disciplinary sanctions; or
- (5) apply to the courts for injunctive relief, refer a matter to a district attorney for prosecution, or take other actions, including reporting the matter to appropriate state or federal agencies.

(g) A copy of a notice of hearing shall be sent to the complainant.

(h) Whenever a complaint is dismissed or a complaint file is closed, notification of the Board's final decision shall be sent to the complainant, and the accused party.

History Note: *Authority G.S. 90-356; 90-363;*
 Eff. January 1, 2023.