## 21 NCAC 21 .0515 DISCIPLINARY PROCEDURE

(a) Upon receipt of an investigation report and evaluation from the Board's investigator and peer review committee in accordance with Rule .0514 of this Section, the Board's Executive Director shall forward to the Chair of the Board (or to a member of the Board designated by the Chair) and the Board's counsel the investigation report, evaluation, and the supporting documentation along with the licensee's or registrant's written response to the complaint, if any.

(b) The Chair or his or her designee, in consultation with the Board's counsel, shall propose the disciplinary action for the violation revealed by the investigation, consistent with the provisions of G.S. 89E-19. The Chair (or a member of the Board designated by the Chair) may issue a summary suspension pursuant to G.S. 150B-3(c). The Chair or his or her designee, may also propose dismissal of the complaint.

(c) After review of the investigation report, evaluation, and supporting documentation, the Chair shall notify the licensee or registrant of the proposed disciplinary action by certified mail sent to the last known address of the licensee or registrant as indicated in the Board's official roster. This notification shall contain a summary of the alleged facts or conduct upon which the proposed disciplinary action is based, the effective date of the proposed disciplinary action, and an explanation of the licensee's or registrant's hearing rights pursuant to G.S. 150B, Article 3A. Notification for summary suspensions shall meet the requirements of G.S. 150B-3(c).

(d) Requests for hearing shall be submitted, in writing, at the Board's office no later than 5:00 p.m. on the 15<sup>th</sup> day after receipt of notification of proposed disciplinary action. If the licensee or registrant does not file a written request for hearing with the Board, the Board shall receive the Chair's recommendation on disciplinary action at its next meeting. If, after review of a summary of the facts of the case that does not include identifying information such as the licensee's name or license number, a majority of the Board agrees with the Chair's recommendation, the proposed disciplinary action shall become a final agency decision. If a majority of the Board does not agree with the Chair's recommendation, the Board shall review of the investigator's report without supporting documentation for the purpose of proposing an appropriate disciplinary action or dismissal. The Chair shall not participate in the deliberations or the voting with regard to either his or her recommendation or the Board's decision regarding a substitute disciplinary action. A new notice of proposed disciplinary action shall be sent to the licensee or registrant may file a request for hearing, in writing, at the Board's office no later than 5:00 p.m. on the 15<sup>th</sup> day after receipt of the new notice of proposed disciplinary action.

(e) The licensee or registrant may request a settlement conference; however, neither the request for settlement conference nor the Board's agreement to enter into settlement negotiations shall extend the 15-day deadline for requesting an opportunity for a hearing or any other deadlines in the hearing process. The Chair or his or her designee Chair is delegated authority to negotiate a settlement; however, the settlement agreement shall be approved by a majority of the members of the Board before the proposed disciplinary action will be rescinded.

(f) Upon receipt of written request for hearing, the Board may conduct an administrative hearing as authorized by G.S. 150B-38 or the Board may request the Office of Administrative Hearings to conduct the hearing as authorized by G.S. 150B-40. Hearings shall be conducted in accordance with the rules of this Chapter.

(g) A majority of the members of the Board other than the Chair or his or her designee shall render the final agency decision, in accordance with G.S. 150B-42, after a hearing on the proposed disciplinary action. The Chair or his or her designee who proposed the disciplinary action after a full review of the facts available to the investigator and peer review committee shall not participate in the discussion of the contested case and shall not vote on the final decision for disciplinary action. Nothing in this Rule shall prevent members of the Board from participating in the discussion and vote on a final agency decision with regard to proposed disciplinary action if they have reviewed the investigator's report without supporting documentation solely for the purpose of determining whether probable cause existed to support the allegations of violation and for the purpose of proposing an appropriate disciplinary action.

History Note: Authority G.S. 89E-5; 89E-19; 89E-20; 150B-3; 150B-38 through 150B-42; Temporary Adoption Eff. November 24, 1999; Eff. August 1, 2000; Amended Eff. April 1, 2003; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 16, 2014; Amended Eff. June 1, 2017.