

21 NCAC 40 .0214 COMPLAINTS; PRELIMINARY DETERMINATIONS

(a) Complaints may be lodged against any dispensing optician or Board registrant, including registered and non-registered businesses, and shall be submitted to the Board in writing with complainant's name, address, and contact information.

(b) A complaint shall be handled initially by the Board's Director, who may recommend to the Board to dismiss it as unfounded or trivial.

(c) Unless the complaint is dismissed pursuant to Paragraph (b) of this Rule, the Director shall notify the accused of the complaint in writing. Correspondence from the Board shall be deemed to have been received if mailed to either the home or business address of the dispensing optician or Board registrant provided by the individual and shown in the records of the Board, or by available public record for non-registered businesses. The correspondence shall require a written response within 20 days from the date of the Board's notification to the accused.

(d) If the accused does not respond to or denies the circumstances and accusations, the Board's Director shall investigate the allegations contained in the complaint, and may recommend to the Board to dismiss the complaint as unfounded or trivial, or may refer the complaint to a Disciplinary Committee for review. The Chair of the Board shall appoint a Disciplinary Committee of no less than two licensee Board members, who shall hear the Director's initial review of complaints and, if determined by the Director to be more than unfounded or trivial, shall hear the complaint, evidence and investigative findings and make preliminary determinations and recommendations to the Board that one of the following actions be taken:

- (1) the charges be dismissed as unfounded or trivial;
- (2) a Board reprimand be issued to the accused, in a case of admission of guilt;
- (3) if the accused is willing, a compromise be accepted which may include probation, civil penalty, disciplinary action, other penalties as permitted in G.S. 90-249.1 or a combination thereof; or
- (4) the case be presented to the Board, excluding Board members on the Disciplinary Committee, for a contested case hearing.

(e) The Board is not required to follow the recommendations of the Disciplinary Committee.

(f) Probation cessation shall be conditioned upon the optician or registrant's compliance with all provisions of G.S. 90, Article 17, or Title 21, Chapter 40, of the North Carolina Administrative Code for the period imposed, with suspension, revocation, or refusal to renew or reinstate a license, or loss of registrant's training time or revocation of registration upon failure to comply with the conditions.

History Note: Authority G.S. 90-239; 90-249(8); 90-249.1; Eff. March 1, 1993; Amended Eff. September 1, 2012; August 1, 1998; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.