

## **21 NCAC 56 .1302 UNLAWFUL PRACTICE BY AN UNLICENSED PERSON**

(a) General. Alleged unlawful practice by an unlicensed person shall be subject to Board investigation and enforcement, to include applying for relief by injunction or referral to an agency of the State for appropriate legal action.

(b) Preferring Charges. Any person who believes that any person or business (party) is in violation of the acts specified in G.S. 89C may prefer charges against that person or business, in the form of a complaint, completed to the best of that individual's knowledge and belief, in the form of a complaint, along with providing corroborative evidence that helps support the charges. An optional complaint form is provided by the Board to aid in filing the complaint.

(c) Preliminary Determination:

- (1) Upon receipt of a filed charge that meets requirements of G.S. 89C and the rules of the Board a case shall be opened. Other information indicating that a party is in violation of the provisions of G.S. 89C or the rules of the Board may be a basis for opening a case by the Board.
- (2) A field investigation may be performed if determined necessary by the Executive Director in order to obtain additional information and evidence.
- (3) If the Executive Director determines that charges are corroborated by evidence, a written notice and explanation of the charge shall be forwarded to the person or business against whom the charge is made and a response is requested, within 15 days, to show compliance with G.S. 89C. Notice of the charge and of the alleged facts or alleged conduct shall be given personally or by certified mail, return receipt requested.
- (4) After preliminary evidence has been obtained, the matter shall be referred to the Board's review committee, which is made up of the following individuals:
  - (A) one member of the Board;
  - (B) the legal counsel of the Board; and
  - (C) the Executive Director of the Board or Assistant Executive Director if designated by the Executive Director.
- (5) Upon review of the available evidence, the review committee shall recommend to the Board that:
  - (A) the investigation be continued and the party be notified with an explanation of the charge(s) and given an opportunity to provide a response to show compliance with G.S. 89C;
  - (B) the charge be dismissed as unfounded or trivial;
  - (C) a letter be issued informing of the possible violation of G.S. 89C and that further action may be pursued under G.S. 89C-23; or
  - (D) the matter be referred to an appropriate agency for necessary legal action.

(d) Board Decision. Notice of decision by the Board on recommendations of the review committee shall be given to the party submitting the charge.

*History Note: Authority G.S. 89C-10; 89C-23;  
Eff. February 1, 1976;  
Readopted Eff. September 29, 1977;  
Amended Eff. August 1, 2011; August 1, 2000; August 1, 1998; May 1, 1994; April 1, 1989;  
January 1, 1982;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019;  
Amended Eff. July 1, 2020.*