

21 NCAC 63 .0608 DECISION OF BOARD

(a) Upon the conclusion of a disciplinary proceeding noticed pursuant to 21 NCAC 63 .0603 and if so moved by two Board members, the Board shall deliberate on whether an applicant, certificate holder, or licensee involved has violated a statute or rule the Board has the authority to enforce, and what appropriate disciplinary action, if any, should be taken against the applicant, certificate holder, or licensee involved.

(b) If the Board reaches a decision on the issues set forth in Paragraph (a) of this Rule immediately upon the conclusion of the disciplinary proceeding, the Board shall announce the decision but shall provide the parties with an opportunity to submit proposed findings of fact and exceptions to the decision to the Board's office within 15 days. The Board may allow additional time for good cause shown or upon mutual agreement by the parties. For purposes of this Rule, "good cause" shall be determined by the length of the hearing, the complexity of the issues involved, and the availability of the parties.

(c) If the Board does not reach a decision on the issues set forth in Paragraph (a) of this Rule immediately upon the conclusion of the disciplinary proceeding, the Board shall provide the parties an opportunity to submit proposed findings of fact and conclusions of law to the Board's office within fifteen days, unless additional time is allowed by the Board for good cause shown or upon mutual agreement by the parties. The Board shall deliberate on the issues set forth in Paragraph (a) of this Rule at its next Board meeting following the parties' deadline to submit the proposed findings of fact and conclusions of law.

(d) Following the expiration of the time allowed for the parties to submit proposed findings and exceptions, the Board shall make a written final agency decision in accordance with G.S. 150B-42.

(e) Disciplinary costs shall be assessed against an applicant, certificate holder, or licensee in a written final agency decision as set forth in G.S. 90B-11 when:

- (1) the licensee previously has rejected a consent order offered by the Board to resolve the disciplinary matter;
- (2) the licensee previously has been disciplined by the Board pursuant to G.S. 90B-11, previously received a non-disciplinary letter of caution, or previously received a non-disciplinary Consent Order from the Board for the same conduct at issue in disciplinary proceeding;
- (3) the Board finds that the licensee's conduct or defense at hearing was dilatory or not asserted in good faith; or
- (4) the Board denies, suspends, or revokes an application, certificate, or license.

Disciplinary costs shall equal three hundred dollars (\$300.00) per hour for time spent by the Board conducting a hearing that results in disciplinary action and for time spent by the Board deliberating on a disciplinary proceeding, with a minimum charge of three hundred dollars (\$300.00) for the first hour or portion thereof, and then prorated thereafter for each half-hour

*History Note: Authority G.S. 90B-6(h); 90B-11; 150B-38; 150-42;
Eff. September 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 19, 2015;
Amended Eff. October 1, 2021.*