

SECTION .0600 - ADMINISTRATIVE HEARINGS: PROCEDURES

21 NCAC 66 .0601 COMMITTEE ON INVESTIGATIONS

- (a) Upon receipt of a charge alleging misconduct against a licensee or registrant of the Board, the Executive Director shall inform the accused party of the nature of the charges as filed with the Board.
- (b) The accused party shall respond to the charges by filing a written answer with the Board within 20 days of the receipt of the notification of charges.
- (c) The complaining party shall be provided with a copy of the accused party's answer and within 20 days from receipt thereof shall file a reply to the accused party's answer.
- (d) The charges as filed with the Board, the answer and reply may be referred to the Committee on Investigations (hereinafter referred to as "Committee"). The Committee shall consist of three members of the Board, one of whom shall serve as chairman.
- (e) The Committee shall investigate the complaint referred to it by the Board and as part of the investigation may:
 - (1) Assign the complaint to the Board's investigator who shall submit a written report to the Committee.
 - (2) Invite the complaining party and the accused party before the Committee to receive their oral statements, but neither party shall be compelled to attend.
 - (3) Conduct any other type of investigation as is deemed appropriate by the Committee.
- (f) Upon the completion of the investigation, the Committee shall determine whether or not there is probable cause to believe that the accused party has violated any standard of misconduct which would justify a disciplinary hearing based upon the grounds as specified in Article 11 of Chapter 90 of the North Carolina General Statutes or this Chapter.
- (g) If probable cause is found, the Committee shall direct the legal counsel for the Board to file a Notice of Hearing.
- (h) If probable cause is found, but it is determined that a disciplinary hearing is not warranted, the Committee may issue a reprimand to the accused party. A statement of such reprimand shall be mailed to the accused party. Within 15 days after receipt of the reprimand, the accused party may refuse the reprimand and request that Notice of Hearing be issued pursuant to Chapter 150B of the North Carolina General Statutes or this Chapter. Such refusal and request shall be addressed to the Committee and filed with the Executive Director for the Board. The legal counsel for the Board shall thereafter prepare and file a Notice of Hearing. If the letter of reprimand is accepted, a record of the reprimand shall be maintained in the office of the Board.
- (i) If no probable cause is found, the Committee shall dismiss the charges and prepare a statement of the reasons therefore which shall be mailed to the accused party and the complaining party.
- (j) If no probable cause is found, but it is determined by the Committee that the conduct of the accused party is not in accord with accepted professional practice or may be the subject of discipline if continued or repeated, the Committee may issue a letter of caution to the accused party stating that the conduct, while not the basis for a disciplinary hearing, is not professionally acceptable or may be the basis for a disciplinary hearing if repeated. A record of such letter of caution shall be maintained in the office of the Board.
- (k) A Board member who has served on the Committee is deemed disqualified to act as a presiding officer or member of the Board assigned to render a decision in any administrative disciplinary proceeding brought pursuant to a Notice of Hearing for which that member has sat in an investigative capacity as a member or chairman of the Committee.
- (l) The Board may assess and recover against persons holding licenses, limited licenses, temporary permits, faculty certificates, Zoo veterinary certificates or any certificates of registration issued by the Board, costs incurred by the Board for the following expenses, respectively, that have been incurred by the Board in the investigation, prosecution, hearing or other administrative action in final decisions or orders where those persons are found to have violated the Veterinary Practice Act or Administrative Rules of the Board:
 - (1) legal expenses, including reasonable attorney fees, incurred by the Board; and
 - (2) witness fees and statutorily-allowed expenses for witnesses; and
 - (3) direct costs of the Board in taking or obtaining of depositions of witnesses; and
 - (4) costs incurred by reason of administrative or staff time of employees of the Board directly attributable to the action leading to the final decision or order.

The costs assessed may be assessed pursuant to final decision or orders entered with or without the consent of the person holding the respective license, registration permit or certificate; no costs referred to in this Paragraph shall be assessed against a person holding a respective license, permit registration or certificate for an investigation or action in the nature of disciplinary action other than a final decision or order of the Board, unless and except expressly consented to by said person in a Consent Order approved by the Board.

(m) A civil monetary penalty of up to five thousand dollars (\$5,000) for each violation of Article 11, G.S. 90 or Board rule may be imposed and collected from a person holding a license (the word "license" is as defined in G.S. 90-187.8(a)) upon a finding by the Board of the relevant factor or factors in G.S. 90-187.8(b)(1) through (6). With respect to this subsection, the phrase "violation of Article 11, G.S. 90 or Board rule" shall be deemed to mean Article 11, G.S. 90, the Veterinary Practice Act, or the rules of the Board, and shall include final decisions, orders, and consent orders, letters of reprimand and other permitted disciplinary actions, but it expressly excludes letters of caution issued by the Board.

History Note: Authority G.S. 90-185(3); 90-185(6);
Eff. January 1, 1987;
Amended Eff. May 1, 1996; May 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.