SECTION .0800 – INVESTIGATIVE PROCESS

21 NCAC 61 .0801 RECEIVING AND PROCESSING COMPLAINTS

(a) Any person who has a concern or adverse information about the conduct or competence of a person licensed by the Board or of a person who has applied to the Board for a license may present a complaint to the Board.

(b) Complaints may be delivered to the Board by transmitting a paper copy of the completed complaint by mail, hand-delivery, or other means to the Board's office; by sending the completed complaint form to the email account identified on the Board's website; or by completing the complaint form online on the Board's website at www.ncrcb.org.

(c) Each complaint shall identify the sender of the complaint, provide the sender's contact information, and set forth specific facts known to the sender relating to the conduct or competence of each person who is the subject of the complaint.

(d) Upon receipt of a complaint, the Board's staff shall confirm receipt of the complaint to the sender and shall send each person who is a subject of the complaint, using the mail or electronic mail address of record in the Board's records for each person, a summary of the complaint.

(e) Investigations may be conducted by the Board staff or by other persons authorized by the Board.

(f) The Board staff shall assign a case number to the initial complaint, review the contents of the complaint, and conduct a preliminary review of information to determine whether an individual's conduct or competence relates to the Respiratory Care Practice Act or the Board's rules.

(g) If preliminary information in the complaint does not relate to an individual's conduct or competence related to the Respiratory Care Practice Act or the Board's rules, the Board staff shall close the case and send a notice to the sender and to each person who was the subject of the complaint and no further action shall be taken by the Board.

(h) If the information about an individual's conduct or competence is related to the Respiratory Care Practice Act or the Board's rules, Board staff shall open an investigative file and begin an investigation of the matters described in the complaint.

(i) If the Board staff concludes from the information received that it is possible that there has been a violation of the Respiratory Care Practice Act or the Board's rules, the Board staff shall place the matter on the quarterly schedule of the Board's investigative committee and issue notice to each person who is the subject of the investigation, requesting that each person attend the committee meeting to be interviewed.

(j) When a matter comes before the investigative committee, the committee shall conduct an interview with each person whose conduct or competence is the subject of the investigation if he or she is willing to be interviewed.

(k) The Board shall authorize the Investigative Committee to make a recommendation at the next quarterly Board meeting if the complaint is not resolved by the Investigative Committee.

(l) The Board shall consider the investigative committee recommendation on unresolved complaints at the next regularly scheduled meeting and shall determine whether to:

(1) conduct further investigation of particular aspects of the matter;
(2) close the case;
(3) issue a consent order to a subject of an investigation, specifying disciplinary sanctions to be applied and, if the consent order is not accepted, issue a notice of hearing;
(4) issue a notice of hearing to a subject, specifying disciplinary sanctions; or
(5) apply to the courts for injunctive relief, refer a matter to a district attorney for prosecution, or take other actions, including reporting matter to appropriate state or federal agencies.

(m) A copy notice of hearing shall be sent to the complainant.

(n) Notification of the Board's final decision shall be sent to the complainant.

History Note: *Authority G.S. 90-652(2)(5);*
Eff. July 1, 2018.