

## **21 NCAC 68 .0602 COMPLAINT PROCEDURES**

(a) Initiation. Any individual with personal knowledge that any person has violated the code of ethics, any other rules of the Board, or G.S. 90, Article 5C may file a complaint against the substance abuse professional by submitting a written complaint.

(b) Form. The complaint shall be in writing, stating the nature of the alleged offense and signed by the complainant. The complaint shall include:

- (1) The name, address, and telephone number of the complainant;
- (2) The name and address of the person against whom the complaint is made;
- (3) A statement of the facts that describes the allegations against the person.

(c) The complaint shall be investigated as set out in Rule .0603.

(d) Following an investigation of the complaint, the ethics chairperson shall try to reach a settlement through informal procedures pursuant to G.S. 150B-22.

(e) Once the ethics committee concludes there is a basis to schedule a disciplinary hearing before the Board, the committee chairperson shall notify the person against whom the complaint is made. The notice to the respondent shall include the following:

- (1) State the section(s) of the code of ethics, other rules of the Board, or G.S. 90, Article 5C which the complaint alleges has been violated;
- (2) Direct that the respondent reply in writing and by certified mail within 15 days of receipt of this notice;
- (3) Inform the respondent that failure to respond in writing within 15 days may result in revocation of credential.

(f) Whenever practicable, notice shall be given by personal service or by certified mail at the last known address of the respondent. If given by certified mail, it shall be deemed to have been given on the delivery date appearing on the return receipt.

(g) If notice cannot be given either by personal service or by certified mail, a notice that a complaint has been brought against the respondent shall then be given by publication. A party that cannot with due diligence be served by personal delivery or certified mail may be given notice to respond to a complaint by publication. Service of notice by publication shall consist of publishing a notice by publication once a week for three successive weeks in a newspaper that is qualified for legal advertising in accordance with G.S. 1-597 and G.S. 1-598 and circulated in the area where the party to be served is believed by the serving party to be located, or if there is no reliable information concerning the location of the party then in a newspaper circulated in the county of respondent's last address provided to the Board by the respondent. There shall be mailed to the party at or immediately prior to the first publication a copy of the notice to respond by publication to the respondent's last known address. Upon completion of such service there shall be filed with the Board by the ethics committee chairperson an affidavit showing the publication and mailing substantially in accordance with the requirement of G.S. 1-75.10(2), the circumstances warranting the use of service by publication, and information, if any, regarding the location of the party served. The notice shall include a statement by the Board that a complaint has been made against the respondent that is scheduled to be heard by the Board within 90 days. The notice shall inform respondent that respondent shall be given 30 days from the date of the last date of publication in which to respond to the service by publication for the purpose of notifying the Board of respondent's whereabouts. Response shall be made in writing to the Board at the address provided by the Board in its notice. If respondent provides the Board with information whereby respondent can be served by the deadline specific in the notice, the Board shall provide notice either personally or by certified mail as provided in Paragraph (d) of this Rule. Failure of respondent notified by publication of a complaint brought by the Board shall be treated as a failure of respondent to reply to the charges.

(h) Failure of the respondent to reply to the charges, including each specific allegation, may be considered an admission of the facts contained in the allegation(s).

*History Note: Authority G.S. 90-113.30; 90-113.33; 90-113.44; 113.45;  
Temporary Adoption Eff. October 23, 1995 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;  
Eff. February 1, 1996;  
Amended Eff. April 1, 2011; August 1, 1998.*