

North Carolina Board *of* Occupational Therapy

Investigation Procedure

The North Carolina Board of Occupational Therapy is assigned the duty and power to conduct investigations of complaints, subpoena individuals and records, and do all other things necessary and proper to discipline persons licensed under the North Carolina Occupational Therapy Practice Act. (NCOT Practice Act N.C.G.S. 90-270.69, et seq.) This Investigation Procedure describes the actions the Board takes when a complaint against a licensee is received by the Board. The Investigation Procedure is intended to assure the Public that the Board and its individual members follow a consistent process for acknowledging, investigating, and determining the appropriate outcome for each complaint it receives.

- 1) The Board will make available on its website a complaint form and directions for how to file a complaint. Use of the complaint form is not required, but the complaint must be submitted in writing (e.g., by mail, email, or direct delivery to the Board office.) The Board does not accept anonymous complaints. Under HIPPA, the Board is a health oversight agency to which release of protected health information is a permitted disclosure without patient authorization. 45 CFR 164.512(d).
- 2) The person making the complaint is referred to as the "complainant." The person who the complaint is against is referred to as the "respondent."
- 3) Upon receipt of the complaint, the Board will:
 - a. Respond in writing to the complainant within 10 business days to acknowledge receipt of the complaint;
 - b. Notify the respondent in writing within 10 business days that a complaint has been filed against the respondent, to include a short and plain statement of the facts alleged;
 - c. Establish and maintain a confidential case file and tracking system of all records related to the complaint.
- 4) Legal counsel and one other OT/OTA Board member, assigned per a 6-month rotating schedule, will review the complaint and any accompanying documents within 15 business days of receipt. The review should determine:
 - a. If the complaint alleges a violation of the Practice Act or Rule by the respondent. If the case does not allege a violation of the Practice Act or Rule, the complaint will be dismissed and complainant and respondent will be notified.
 - b. If the complaint alleges a violation of the Practice Act or Rules, legal counsel and the assigned Board member will determine if there is sufficient evidence to proceed with an investigation. If sufficient evidence exists to proceed with an investigation:
 1. The Board will notify complainant and respondent in writing that an investigation will be conducted.
 2. Legal counsel and the assigned Board member will gather additional evidence to substantiate or refute the complaint.
 3. Complainant and respondent will have access to all records related to the case.
 4. If respondent admits to the alleged violations, Legal Counsel and assigned Board member will develop and propose a disciplinary action for decision by the Board at its next meeting.

5. If, at the conclusion of the investigation, Legal Counsel and assigned Board member determine there was no violation of the Practice Act or Rule, the complaint will be dismissed and complainant and respondent will be notified in writing.
 6. If, at the conclusion of the investigation, the respondent denies the alleged violations, which are supported by the evidence, a formal hearing will be conducted by the Board. The Board member assigned to the complaint investigation will not participate in the hearing or the Board's deliberations or ruling.
 - a. A notice of hearing will be sent to respondent and complainant. The notice includes a statement of the date, hour, place and nature of the hearing, a reference to the particular sections of the Practice Act or Rules involved and a short and plain statement of the facts alleged. The notice also affords the respondent the option of an informal meeting with the Legal Counsel and the assigned Board member to discuss whether the matter can be resolved without a hearing.
 - b. The hearing is conducted according to the Administrative Procedures Act in open session of the next available Board meeting.
 - c. The respondent and complainant are notified of the Board's ruling within 15 business days following the hearing.
- 5) If a disciplinary action, Order or Consent Order is entered:
- a. The Board will ensure all requirements of the action are timely completed.
 - b. A record of the disciplinary action will remain in the licensee's file.
 - c. The disciplinary action will be posted on the Board website.
 - d. The disciplinary action will be reported to:
 - i. National Board for Certification in Occupational Therapy (NBCOT)
 - ii. Healthcare Integrity and Protection Data Bank (HIP-DB)