

1 21 NCAC 65 .1001 is amended with Changes as published in Vol. 31, Issue 18, Page 1832:

2 **21 NCAC 65 .1001 INVESTIGATIONS OF SUSPECTED VIOLATIONS AND COMPLAINTS AND**  
3 **REPORTS**  
4

5 (a) The Board shall accept [self-reports,] from the licensee as a self-report, an employer agency, or the public ~~(a) It is~~  
6 ~~the policy of the Board to investigate reports and complaints of suspected malpractice, violations of Chapter 90C,~~  
7 ~~complaints, or incident reports of discipline by an employer and sanctions imposed by a credentialing organization or~~  
8 ~~a professional association to protect the health, safety and welfare of recreational therapy consumers. disciplinary~~  
9 ~~issues, [issues to include] including misconduct in the workplace or the community by any licensee.~~

10 (b) ~~The Board may require information from the licensee regarding any disciplinary action taken by an employer or~~  
11 ~~any sanctions issued to the licensee by a credentialing board or by a professional association. If this information~~  
12 ~~indicates suspected malpractice or ethical violations the Board will investigate the matter in the same manner as a~~  
13 ~~complaint and may, if the facts indicate that malpractice or ethical violation has occurred, issue sanctions or otherwise~~  
14 ~~discipline the licensee. The complainant shall submit a signed Board approved form that includes the information~~  
15 ~~required in Paragraph (c) of this Rule. [form.]~~ The form shall be filed electronically on the Board website at  
16 www.ncbrtl.org or by contacting the Board office by phone, [email] email, or mail for a form. The complainant shall  
17 [affirm] state he or she believes the facts stated in the complaint or report to be true.

18 (c) A complaint regarding a violation of the G.S. 90C or Rules and Regulations must shall be submitted in writing  
19 within 24-72 hours of occurrence or upon receipt of knowledge regarding a suspected occurrence and must document:  
20 document the following facts pertaining to the complaint or report:

- 21 (1) The name of the licensee or other person involved;
- 22 (2) A description of the alleged behavior or incident; and
  - 23 (1) the complainant first and last name;
  - 24 (2) the complainant address;
  - 25 (3) the complainant phone number;
  - 26 (4) the licensee first and last name;
  - 27 (5) the nature of the complaint and description of the alleged behavior or incident;
- 28 (3)(6) The if known, the name, mailing address, email address address, and phone number of the person  
29 filing the complaint. individual(s) (including co-workers and members of the public) [individual or  
30 respondent] involved in the complaint;
- 31 (7) if known, the name, work address, [address] and phone number of the supervisor of the individual  
32 being reported; and
- 33 (8) the signature [Signature] of complainant and statement of [attesting to] the truthfulness of the  
34 information.

35 (d) The Board staff [Staff] shall return any incomplete forms to the complainant. An incomplete complaint may be  
36 corrected and resubmitted. The complainant may correct the incomplete complaint and resubmit it to the Board.

37 (e) [The Board shall receive and] Upon receipt of the completed complaint, Board staff shall notify the complainant  
38 of receipt [of complaint] and open a file.

1 ~~(f) [(e)]~~ The Board shall not accept any anonymous complaints.

2 ~~(g) [(f)]~~ Complaints and reports ~~will shall~~ be reviewed by the Executive Director and Board ~~[Chair the Board Chair~~  
3 ~~and Board Executive Director shall determine if further investigation is needed.]~~ ~~Chair, who shall determine whether~~  
4 ~~further investigation is needed, based upon the facts in the complaint.~~

5 ~~(e)~~ Action on a complaint, a report of a suspected violation of any provision of Chapter 90C, or a report of discipline  
6 by an employer or sanction by a credentialing organization or a professional association consists of the following:

7 (1) The Board shall receive and acknowledge complaints, open a file and initiate complaint tracking.

8 (2) Complaints will be screened to determine jurisdiction and the type of response appropriate for the  
9 complaint.

10 (3) Investigation:

11 (A) If the facts do not clearly indicate a Chapter 90C violation, and the complaint can be  
12 handled without an investigation, the Board shall request that the licensee cease conduct  
13 that could result in a violation.

14 (B) If the facts clearly indicate a Chapter 90C violation, the Board shall initiate an  
15 investigation. The Board may utilize additional personnel such as licensees, law  
16 enforcement officials, or other technical personnel that may be required in a particular case.  
17 If a Board member is utilized in the investigation, care must be taken to observe due process  
18 by separating (1) investigation, (2) prosecution, and (3) hearings and final decision-  
19 making. No Board member shall participate in more than one of these three steps in the  
20 enforcement process.

21 (C) A confidential report of each investigation shall be prepared for the Board's review.

22 (4) Formal and Informal Hearings:

23 (A) The Board, after review of an investigative file, may schedule an informal meeting.

24 (B) If the matter cannot be resolved informally, then a formal hearing shall be held.

25 (C) Members of the Board shall not have communication with parties outside of the hearing  
26 about the case.

27 (5) Final Orders: As soon as possible, but at least within 60 days, the Board will issue its final decision  
28 in writing specifying the date on which it will take effect. The Board will serve one copy of the  
29 decision to each party to the hearing.

30 (6) Compliance: The Board Chair will initiate a follow up inquiry to determine that the orders of the  
31 Board are being obeyed.

32 (7) Formal hearings shall be conducted in accordance with G.S. 150B-38 et seq

33 ~~(f)~~ The following disciplinary sanctions regarding recreational therapists and recreational therapy assistants may,  
34 among others, be utilized by the Board:

35 (1) Denial of Application;

36 (2) Letter of Reprimand;

37 (3) Required remedial education;

- 1           (4)     ~~Probation;~~
- 2           (5)     ~~Suspension of license;~~
- 3           (6)     ~~Refusal of License Renewal;~~
- 4           (7)     ~~Revocation of license;~~
- 5           (8)     ~~Injunction.~~

6 ~~(g) The Board may request information from professional associations, professional review organizations, hospitals,~~  
7 ~~clinics or other institutions in which a licensee performs professional services, on possible chemical abuse, or~~  
8 ~~incompetent or unethical behavior.~~

9 ~~(h) The Board will provide notice of sanction taken by it to other public entities as necessary to ensure that other state~~  
10 ~~boards, enforcement authorities, and accrediting agencies receive the names of licensees disciplined.~~

11

12 *History Note:     Authority G.S. ~~90-24(8); 90C-32; 90C-24(a)(3); 90C-24(a)(8); 90C-32;~~*  
13 *Temporary Adoption Eff. December 1, 2005;*  
14 *Eff. January 1, 2007;*  
15 *Amended Eff. October 1, 2017.*

1 21 NCAC 65 .1002 is adopted with changes as published in Vol. 31, Issue 18, Pages 1833-1834:

2  
3 **21 NCAC 65 .1002 INVESTIGATIONS**

4 (a) After accepting a report or complaint as referenced in Rule ~~4001~~, .1001 of this Section, the Board shall require  
5 information from the licensee regarding any disciplinary action taken by an employer or any sanctions issued to the  
6 licensee by a credentialing board or by a professional association.

7 (b) The individual being reported shall submit the Board's ~~Incident Form~~ form located on the Board's website  
8 www.ncbrtl.org, ~~www.ncbrtl.org~~ located under the headings of Documents or ~~Complaints~~: Complaints. The form  
9 requires:

- 10 (1) the name of individuals ~~(clients)~~ (client names and identifying information to be de-identified) de-  
11 identified or blacked out present at the time of the incident;
- 12 (2) a description of the alleged behavior or incident;
- 13 (3) the individual's supervisor's name, mailing address, email address and phone ~~number~~: number;
- 14 (4) the copies of any written notes, or de-identified client records ~~involved~~: involved;
- 15 (5) the date and time of the incident; and
- 16 (6) if taken, a summary of employing agency's action in response to the incident.

17 ~~(c) The Board staff shall receive the information by mail at the Board's mailing address or by email at Board's email~~  
18 ~~address, open a file and assign a case number.~~ The individual shall send the form by mail to the Board's mailing  
19 address or via email to the Board's email address. The Board staff shall open a file and assign a case number.

20 (d) The Board staff shall request information from professional associations, professional review organizations, or  
21 facilities ~~in which~~ where a licensee performs professional services concerning the case.

22 ~~(e) The complainant may correct the incomplete complaint and resubmit to the Board.~~

23 ~~(e) (f) A confidential report of each investigation shall be prepared~~ The Executive Director shall prepare a report of  
24 each investigation for the Board's review.

25  
26 *History Note: Authority G.S. 90C-24(a)(3); 90-24(8); 90C-24(a)(8); 90C-32.*

27 *Eff: October 1, 2017.*

1 21 NCAC 65 .1003 is adopted with changes as published in Vol. 31, Issue 18, Page1834:  
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3 **21 NCAC 65 .1003 LETTER OF NOTIFICATION**

4 If the Board receives information that an individual may be practicing recreational therapy without a license, the Board  
5 shall issue a Letter of Notification. The Board shall inform the individual in writing that his or her practice may be  
6 considered within the recreational therapy scope of practice and ~~they~~ he or she could be found in violation if he or she  
7 continues to practice recreational therapy without a license. The Board shall refer the individual to Chapter 90C, ~~this~~  
8 ~~Chapter~~ the rules of this Chapter, and the NCBRTL Employment ~~Form~~ Form, which sets forth the Standards of  
9 Practice for Recreational Therapy in G.S. 90C-22(2).

10

11 *History Note: Authority G.S. 90C-22(2); 90C-32(6);*

12 *Eff: October 1, 2017.*

13

1 21 NCAC 65 .1004 is adopted with changes as published in Vol. 31, Issue 18, Page 1834:

2 **21 NCAC 65 .1004 UNAUTHORIZED PRACTICE**

3 (a) Except as otherwise authorized in ~~Section 34 of this Chapter~~ G.S. 90C-34, non-licensed individuals shall not:

4 (1) Practice, attempt to practice, supervise recreational therapy, or hold out any individual as being able  
5 to do any of these things in this State, without first having obtained a license ~~or authorization~~ from  
6 the Board for the individual performing services or being so held out;

7 (2) Use in connection with any individual's name any letters, words, codes, or insignia indicating or  
8 implying that the individual is a recreational therapist or recreational therapy assistant, unless the  
9 individual is licensed ~~or authorized~~ in accordance with this Chapter;

10 (3) Practice or attempt to practice recreational therapy as defined in ~~Section 22 of Chapter 90C~~ G.S.  
11 90C-22(2) and referenced in the ATRA Standards of Practice with a revoked, lapsed, or suspended  
12 license; or

13 (4) Aid, abet, or assist any unlicensed individual to practice recreational therapy in violation of this  
14 ~~Article;~~ Article.

15 (b) To determine whether an individual has engaged in the unauthorized practice of recreational therapy, the Board  
16 shall request the individual complete a NCBRTL Employment Form listing the duties performed by the individual  
17 being investigated.

18 (c) To the extent permitted by law, any individual found by the Board to be engaged in the unauthorized practice of  
19 recreational therapy shall be subject to the sanctions set forth in Rule ~~4003~~ .1006 of this Chapter.

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21 History Note: Authority G.S. 90C-22(2); 90C-24(a)(8); 90C-32; 90C-36; 90C-37;  
22 Eff. October 1, 2017.

23

1 21 NCAC 65 .1005 was published as 21 NCAC 65 .1006 but is adopted with changes as published in Vol. 31, Issue  
2 18, Page 1834:

3 **21 NCAC 65 ~~.1006~~ .1005 VIOLATIONS**

4 (a) Following an investigation, the Board shall determine whether a Compliance Violation has occurred.

5 (1) As used in this Section, ~~Rule~~ a "Compliance Violation" shall mean:

6 (A) A licensee's failure to pay required fee in accordance with Rule .0501 of this Chapter by  
7 the due date for Maintenance and ~~Renewal~~; Renewal/Continuing Education;

8 (B) A licensee's failure to submit Renewal/Continuing Education requirements by the Renewal  
9 due date prescribed by the Board and in accordance with Rules .0601 and .0602 of this  
10 Chapter; or

11 (C) A licensee practicing with an expired license for ~~less than one month~~; one month or less.

12 (2) The Board shall allow a licensee that it determines has committed a Compliance Violation to enter  
13 into a "Corrective Action Plan." The Corrective Action Plan shall require the licensee to submit  
14 missing documents, a Reinstatement ~~Application~~ Application, and ~~fee~~. ~~fee if license has expired~~ in  
15 accordance with Rule .0501 of this Chapter. Each violation shall require the licensee to attend a  
16 "NCBRTL Compliance and Ethics" training session by a date specified by the Board. The Board  
17 shall notify the individual of the date in a letter.

18 (b) Following an investigation, the Board shall determine whether a Practice Violation has occurred.

19 (1) As used in this Section, ~~Rule~~ a "Practice Violation" shall mean:

20 (A) Practicing Recreational Therapy without a license from the Board;

21 (B) Actions by a licensee that caused a client or patient actual or potential harm;

22 (C) A licensee practicing beyond the scope of practice for recreational therapy;

23 (D) A licensee's failure to follow the physician's orders as prescribed for a client or patient;

24 (E) A licensee's violation of the ATRA Code of Ethics in the Standards of Practice in  
25 accordance with Rules .0203 and .0204; or

26 (F) A licensee continuing to practice with an expired license for a period exceeding one month.

27 (2) In the event the Board determines that a licensee or other individual has committed a Practice  
28 Violation, the Board shall issue one or more of the disciplinary sanctions set forth in Rule .1005 of  
29 this Section.

30  
31 History Note: Authority G.S. 90C-32; 90C-36; 90C-37;

32 Eff: October 1, 2017.

1 21 NCAC 65 .1006 was published as 21 NCAC 65 .1005 but is adopted with changes as published in Vol. 31, Issue  
2 18, Page 1834:

3 **21 NCAC 65 .1006 .1005 SANCTIONS**

4 (a) Upon the Board's determination that an applicant or licensee (if the licensee has not entered into a corrective  
5 action plan) ~~and~~ has violated the rules set forth in this Chapter with a Compliance or Practice Violation or engaged in  
6 any conduct ~~set forth in~~ violating G.S. Chapter 90C, the Board may impose one or more of the following disciplinary  
7 sanctions:

- 8 (1) Denial of Application;
- 9 (2) Letter of Reprimand;
- 10 (3) Required Remedial Education;
- 11 (4) Restriction by Probation;
- 12 (5) Suspension of License;
- 13 (6) Revocation of License; or
- 14 (7) Request for Injunction.

15 (b) ~~When it has been determined a violation has occurred, on~~ On a case-by-case case-by-case basis, the Board may  
16 also impose restrictions and conditions on a licensee's practice including:

- 17 (1) restriction on the licensee's scope of practice;
- 18 (2) direct supervision of the licensee's practice;
- 19 (3) requiring the licensee to submit quarterly reports for a designated amount of time to the Board; or
- 20 (4) requiring the licensee to complete additional educational coursework.

21 (c) Information regarding disciplinary sanctions for any licensee shall be available on the Board's website,  
22 [www.ncbrtl.org](http://www.ncbrtl.org). The Board shall list the following:

- 23 (1) the name of the licensee;
- 24 (2) the agency;
- 25 (3) the infraction(s);
- 26 (4) the sanction(s) imposed by the Board; and
- 27 (5) the date(s) of imposition.

28

29 *History Note:* Authority G.S. ~~90C-24(8);~~ 90C-24(a)(8); 90C-32; 90-36; 90C-37;

30 Eff: October 1, 2017.

31



1 21 NCAC 65 .1007 is adopted with changes as published in Vol. 31, Issue 18, Page 1835:

2 **NCAC 65 .1007 HEARINGS**

3 (a) The individual may submit a request for a hearing in the Board's office. The request must be received by the  
4 Board within 30 days of the date such individual receives notice of the Board's action or proposed action.

5 (b) The written request must ~~include~~; include:

6 (1) a statement of request for a hearing before the Board:

7 (2) the name and address of the petitioner;

8 (3) a statement of the action taken by the Board that is being challenged;

9 (4) a statement of reason(s) the petitioner has been aggrieved; and

10 (5) a statement of any new information that ~~may be available~~. the petitioner thinks is relevant to the  
11 issue.

12 (c) The Board shall schedule the hearing within 60 days of receipt of the request.

13 (d) The Board shall serve one written copy of the decision to each party in the hearing.

14 (e) Formal hearings ~~must~~ shall be conducted in accordance with G.S. 150B-38.

15 *History Note: Authority G.S. ~~90C~~; 150B-38;*

17 *Eff: October 1, 2017.*

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