



## **North Carolina Board of Dietetics/Nutrition**

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### **FILING A COMPLAINT**

The North Carolina Board of Dietetics/Nutrition (the NCBDN) is charged with the *mission of protecting the health, safety, and welfare of the citizens* of North Carolina from harmful nutrition practice by providing for the licensure and regulation of persons engaged in the practice of dietetics/nutrition and by establishing educational standards for those persons. The Board has a duty to investigate all complaints that it receives alleging violation of Article 25 of Chapter 90 of the North Carolina General Statutes (the Dietetics Practice Act) and the rules of the Board. The General Statutes of North Carolina and the Administrative Code establish protocols for the review of complaints and set grounds for possible disciplinary action. The following generally describes the process of an investigation.

#### ***How are complaints received?***

Per 21 NCAC 17.0116 of the North Carolina Administrative Code, anyone may file a complaint with the NCBDN alleging that a person has committed an action prohibited by the Dietetics/Nutrition Practice Act or the rules of the Board. Without admissible evidence substantiating the complainant's allegations, it is unlikely that the Board will be able to pursue further action, therefore the NCBDN does not accept anonymous complaints.

The complaint form is available online by visiting: <https://complaints.ncbdn.org/>. If unable to utilize the online form, you may contact the NCBDN office and request that a form be sent to you. When completing the complaint form, provide as much information as possible, including the attachment of any supporting documentation.

#### ***Procedure for Investigation and Review of Complaints:***

In fulfilling its responsibilities under N.C. General Statute § 90-356 and regulation 21 NCAC 17.0116, the Board investigates all complaints it receives. Upon receipt of a complaint, the Executive Director/Secretary generally adheres to the following process unless the public health, safety, or welfare requires otherwise.

Upon receipt, the complaint is logged into a database and assigned a complaint number. The Executive Director/Secretary conducts a preliminary review of the complaint and determines whether the alleged actions come within the NCBDN's jurisdiction.

So long as the alleged actions appear to fall within the NCBDN's jurisdiction, and if the allegation(s) are legally valid on their face, a letter outlining the allegation(s) and requesting a response is sent to the individual against whom the complaint is made (the "respondent"). It is generally requested that the respondent respond within 30 days from the date of the correspondence.

Following receipt of the requested response, the Executive Director/Secretary, along with the Complaint Committee, (and if necessary, in consultation with the NCBDN's attorney) review the

Complaint along with the respondent's statement and determines if further investigation is necessary. If determined to assist in the investigation, the complainant may be sent a copy of the respondent's response.

If further investigation is required, the Executive Director/Secretary gathers whatever additional information is necessary and prepares a summary report of the investigative findings for the Complaint Committee.

Together, the Executive Director/Secretary and the Complaint Committee, (in consultation, if necessary, with the NCBDN's attorney) determine if it appears a violation of the Dietetics/Nutrition Practice Act and/or Board's rules has occurred. If the Complaint Committee believes no violation has occurred, the Committee may instruct the Executive Director/Secretary to dismiss the complaint. If there is insufficient evidence to determine whether or not a violation of the Board's statute or rules occurred, the Committee may instruct the Executive Director/Secretary to close the complaint, and, if appropriate, provide the respondent with further education regarding the requirements of the Dietetics/Nutrition Practice Act.

If the Executive Director/Secretary and Complaint Committee conclude that there is probable cause to believe a violation has occurred that necessitates action, the Executive Director/Secretary may:

- per, N.C.G.S. § 90-366 & 367, make application to any appropriate court for an order enjoining violations of the Dietetics Practice Act, and/or if necessary, provide evidence of violation of the Dietetics/Nutrition Practice Act to a legal authority of the State; or
- per, N.C.G.S. § 90-363, propose an enforcement action, as authorized by law, against the licensee or applicant for licensure. Per 21 NCAC 17.0116(g), upon the completion of an investigation and review with legal counsel, the Board shall issue a Letter of Charges to the licensee or applicant for licensure which begins the formal process of an enforcement action. The Letter of Charges provides an opportunity for a settlement conference at which the parties may agree upon a consent order to resolve the complaint rather than proceeding to a formal hearing.
  - A case becomes a contested case after the Board and the applicant or licensee do not agree to a resolution of the dispute through a settlement conference, and either the Board or the applicant or licensee requests a contested case hearing.

The length of time necessary to resolve a complaint depends upon the nature of the complaint and its complexity, and other matters pending before the Board.

Whenever a complaint is dismissed or a complaint file closed, per 21 NCAC 17.0116(e), the Executive Director/Secretary provides a summary report of the final action to the Board, the complainant, and the accused party.

***\*\*\*\* While the foregoing generally describes the handling of complaints, Article 3A, Chapter 150B of the North Carolina General Statutes and the Board's rule, 21 NCAC 17.0116, govern the process. \*\*\*\****