



NORTH CAROLINA RESPIRATORY CARE BOARD
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DISCIPLINARY MANUAL

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NORTH CAROLINA RESPIRATORY CARE BOARD DISCIPLINARY MANUAL

INTRODUCTION	1
FILING A COMPLAINT	2
PROCESSING A COMPLAINT	3
BASIC PRINCIPLES OF THE DISCIPLINARY PROCESS	4
DISCIPLINE PROCESS FLOW CHART	6
OVERVIEW OF BOARD SANCTIONS	7
LETTER OF CONCERN	8
REPRIMAND	9
SUSPENSION	10
SUMMARY SUSPENSION OF LICENSE	11
REVOCAION OF LICENSE	12
APPLICATION OF PROBATION INSTEAD OF REVOCATION OR SUSPENSION OF LICENSE	13
PRACTICING WITH A LAPSED LICENSE / EMPLOYING A PRACTITIONER WITH A LAPSED LICENSE	14
PRACTICING WITHOUT A LICENSE / EMPLOYING A PRACTITIONER WITHOUT A LICENSE	15
OBTAINING RECORDS FOR INVESTIGATION	16
REIMBURSING WITNESS EXPENSES	17
REPORTING OF DISCIPLINARY ACTIONS	18
EXPUNGING A LICENSEE'S RECORD OF A VIOLATION OR SANCTION	19
DISCIPLINE GLOSSARY	20

INTRODUCTION

The North Carolina Respiratory Care Board will process complaints, conduct investigations, hold disciplinary hearings, and issue disciplinary sanctions according to the policies and procedures approved by the Board.

The policies and procedures in this manual describe internal procedures of the Board, and do not constitute administrative rules that are subject to the rulemaking procedures outlined in the North Carolina Administrative Procedure Act, codified in Chapter 150B of the General Statutes. They are subject to change by majority vote of the Board at any time.

When any of the disciplinary policies are changed, the Board will publish notice of the change and post the revised policy on its website. In addition, the Board will mail notice of the change and a copy of the revised policy to any person or organization that has previously submitted a written request to receive such notices.

All disciplinary actions taken by the Board will be reported in the NEWSLETTER and on the Board Website. In addition, as required by federal law, a report of certain actions will be made to the Healthcare Integrity and Protection Data Bank (HIPDB) maintained by the U.S. Department of Health and Human Services. Pursuant to 45 CFR 61.7, the Board will report to the HIPDB any revocation or suspension of a licensee's license, as well as any other sanction that results in the loss of the individuals participation in Federal or State health care programs..

The Board will also report any disciplinary actions to the National Databank maintained by the National Board for Respiratory Care.

The information to be provided in these reports will include:

Name, address, date of birth and/or Social Security number

Type of license (Active or Provisional)

License number

Final Board action

Charges/information/administrative complaint

If there has been a voluntary surrender of the license, a copy of notice from the licensee indicating voluntary surrender

FILING A COMPLAINT

DATE EFFECTIVE: September 10, 2002

DATE (S) REVISED:

PURPOSE: To establish procedures for filing a complaint

Complaints about licensees or those who may be practicing Respiratory Care without a license shall be filed with the Board Office. These complaints should identify facts or circumstances that relate to a violation of the Respiratory Care Practice Act, or of another North Carolina statute or of the Board's rules.

Procedure for filing a complaint:

The complaint should be submitted in writing, and be delivered to the Board Office by mail, private carrier, or in person. Persons submitting complaints by fax, e-mail, telephone, or voice mail will be asked to submit an original signed written complaint as well. The complaint may be submitted by letter or by using of the "COMPLAINT FORM".

Complaints should document:

- The name, mailing address and phone number of the person filing the complaint;
- The name of the licensee or person involved, and the name and location of each organization where the licensee or any other person that is the subject of the Complaint practices; and
- A detailed description of the alleged behavior or incident that is the subject of the Complaint, including identification of date, time, and location, of each alleged behavior or incident, as well as the identity of other individuals with information about the alleged behavior or incident, and the identity and location of any pertinent documents, if known.

Anonymous complaints will be accepted. However, a complainant's unwillingness to provide identity may have an impact on the Board's analysis of the Complaint.

Access to information about a Complaint by members of the Public:

While under investigation by the Board, a complaint is a confidential matter. However, the Board cannot guarantee complainants that their identity will remain confidential if disclosed to the Board. If the Board schedules a formal hearing on a complaint, that hearing and any decision of the Board becomes part of the permanent file of the licensee involved, and is public record.

PROCESSING A COMPLAINT

DATE EFFECTIVE: September 10, 2002

DATE (S) REVISED: January 6, 2005

PURPOSE: To establish procedures for the handling of complaints.

The Executive Director will inform the Investigation and Informal Settlement Committee Chair of the receipt of a complaint within 72 hours of receiving a Complaint.

Upon receipt of a Complaint, a Complaint file will be opened and the Executive Director will conduct an Initial Review of the Complaint to determine whether there is sufficient information presented to go forward with an investigation. This Initial Review consists of determining if the information presented meets the elements necessary to proceed with further inquiry. To determine if an investigation of a complaint is warranted, the Executive Director will analyze whether the acts alleged in the Complaint, if true, would constitute a violation of the North Carolina Respiratory Care Practice Act, or of another North Carolina statute or the Board's rules. If there is no violation found following investigation, the Executive Director will confer with the Investigation and Informal Settlement Committee Chair and/or Board Chair at which time the Complaint file may be closed. If closed the complainant and the subject of the Complaint will be notified, and no further action will be taken.

If the Executive Director in conference with the Investigation and Informal Settlement Committee Chair and/or Board Chair concludes that the preponderance of the information shows that a violation has occurred, the Executive Director will input the information into the NCRCB Complaint database and assign a case number.

The Executive Director shall notify the person by certified mail that an investigation has been initiated. A notice will be sent by First Class Certified mail to the licensee's address in the records of the Board, and if possible, this notice will be sent no later than 10 days after the decision to begin the investigation; but the investigation will not be delayed pending the Licensee's receipt of the notice. The letter will contain a summary of the complaint, and enclose The Basis Principles of the Disciplinary Process, The Discipline Flow Chart, and Board contact information.

The investigation will be performed by the Executive Director or Board Investigator as directed by and with the help of the Chair of the Investigation and Informal Settlement Committee. The investigation will follow the Basic Principles of the Disciplinary Process that are adopted as part of this policy.

The licensee or other subject of the investigation may be invited to an Investigation and Informal Settlement Committee interview. The Executive Director may subpoena other witnesses or medical records for review during the interview.

After the issuance of a Letter of Investigation the verification status in the NCRCB Database will be changed to "Contact Board".

BASIC PRINCIPLES OF THE DISCIPLINARY PROCESS

Upon receipt of any complaint about a Licensee, the Executive Director in conference with the Investigation and Informal Settlement Committee Chair and/or Board Chair will review the Complaint and make a determination whether the information is credible. If it is determined that the Complaint presents credible information of a violation of the Respiratory Care Practice Act, or of the Board's rules, then an investigation shall begin.

Any investigation of a Licensee will be conducted professionally, fairly, and as expeditiously as possible in light of the circumstances. The Licensee will be treated with courtesy and respect.

All investigations will be conducted by the Executive Director, or Board Investigator. Investigation results will be put in writing when feasible.

The Licensee will be notified by certified mail when the Board has begun an investigation. A notice will be sent First Class Certified mail to the licensee's address in the records of the Board, and if possible, this notice will be sent no later than 10 days after the decision to begin the investigation; but the investigation will not be delayed pending the Licensee's receipt of the notice.

Each investigation will focus on identifying any credible evidence of a violation of the Respiratory Care Practice Act or of the Board's rules identified from a review of the Complaint; but if credible evidence of other violations comes to light during an investigation, the Board will pursue investigating those matters, even if not mentioned in the initial Complaint. The Licensee will be notified of any such new matters.

The Licensee may be invited to submit written information in response to the matters stated under investigation, and the license may be invited to attend an interview. The Licensee has the right to refuse to be interviewed or to provide written statements to the Board. However, if the Licensee refuses an interview, or to provide any other information, the Informal Settlement and Investigation Committee will make a recommendation for disposition based on the other credible information obtained by Board staff in the investigation. Failure to cooperate with the investigation will not stop the Board from proceeding.

The Licensee has the right to be represented by an attorney, and the attorney may accompany the Licensee to any interview with the Board.

The Licensee will receive a full explanation of the allegations being investigated at the beginning of the interview, before any substantive questions are asked. At the time of interview, the Licensee has the right to view all documents in the Board's possession related to the case, and to do so before responding to any questions. An Interview shall be conducted by the Chair of the Investigation and Informal Settlement Committee. The persons present during the Licensee's interview shall be Licensee, counsel, the Chair of the Investigation and Informal Settlement Committee, Board Chair appointed committee member, the Executive Director, Board Investigator(s), Board Counsel, and where deemed appropriate and in the interest of the Board, the Board Chair or a single member designated by the Chair also may

attend. However, any Board member attending shall be disqualified from participation in any disciplinary hearing that is based on the matters addressed in the Complaint or reviewed in the investigation.

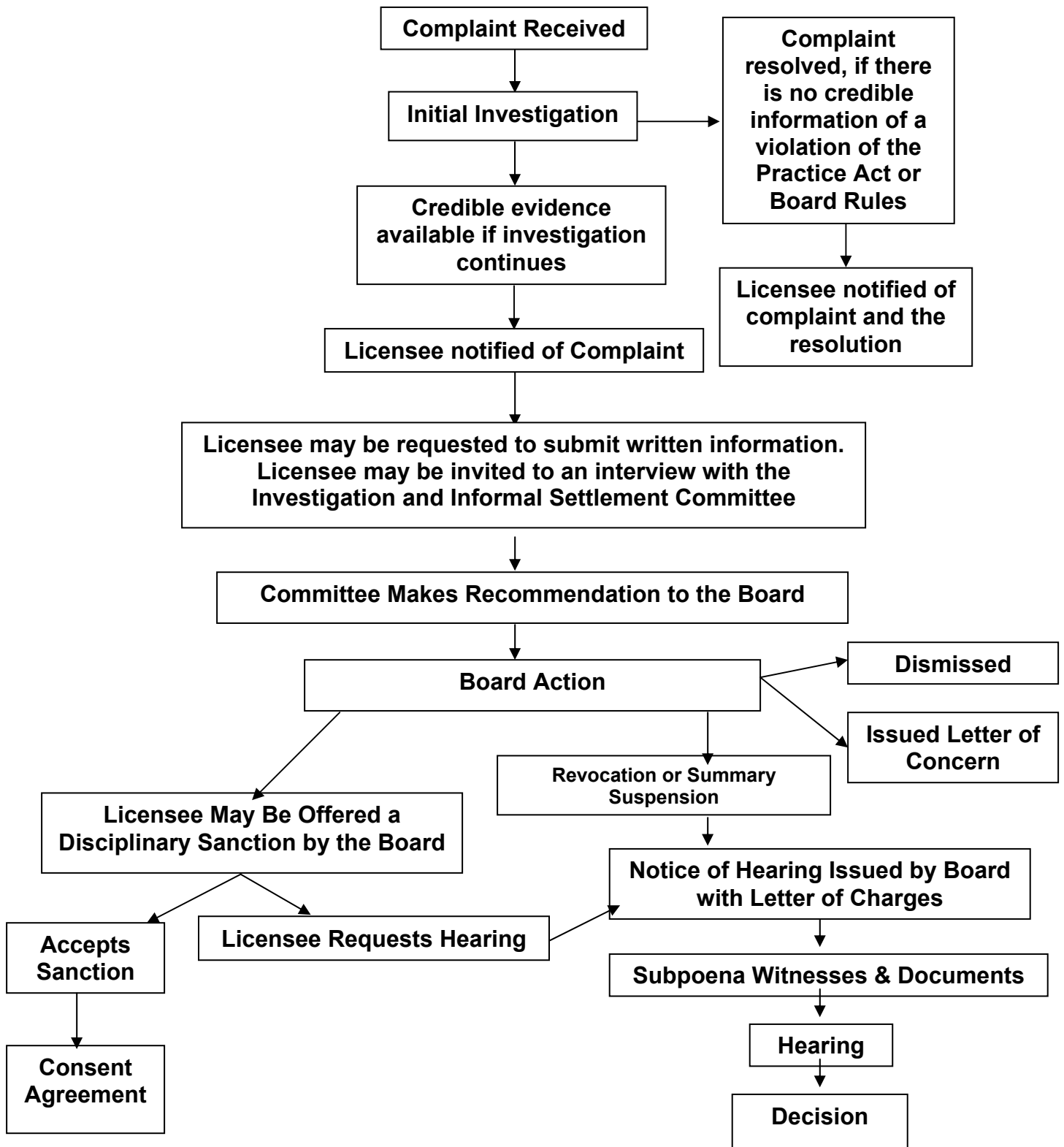
If sufficient evidence exists that the subject has violated the Respiratory Care Practice Act, another North Carolina statute, or the Board's Rules, the committee may recommend to the Board, at the next scheduled meeting, to offer the subject a sanction against his his/her license. The Board may accept the recommendation of the committee or approve another sanction to be offered the subject. The Executive Director or the Investigation and Informal Settlement Committee Chair will contact the subject as soon as possible after the Board meeting to offer the sanction. If the subject agrees to the sanction a consent order will be drawn up by the Executive Director or Board Counsel for the subject's signature.

After the consent order is signed, the Executive Director will enter the summary of findings and sanction into the licensee's NCRCB Database file; and to make such reports to HIPDB and NBRC Databank as are appropriate.

If the licensee does not agree to the sanction or the Board's determines not to offer a disciplinary sanction to the licensee, the Board will issue notice to the licensee of its action on the license, and Notice of an Administrative Hearing will be issued.

If the Board issues notice of an administrative hearing, no notice will be issued to HIPDB or the NBRC Databank until the conclusion of the process.

DISCIPLINE PROCESS FLOW CHART



OVERVIEW OF BOARD SANCTIONS

DATE EFFECTIVE: September 10, 2002

DATE (S) REVISED:

PURPOSE: To define the levels of sanctions that may be utilized to discipline a licensee.

The following are the sanctions authorized by the North Carolina Respiratory Care Board to discipline a licensee. The Investigational and Informal Settlement Committee is authorized to recommend sanctions to the Board as part of a consent agreement with a licensee.

Letter of Concern
Reprimand
Probation
Suspension
Summary Suspension
Revocation

A Suspension may be stayed with a period of Probation that includes conditions or limitations on the scope, or the weekly amount of time that the licensee may practice, or other conditions that the licensee must follow to continue the practice of Respiratory Care during the period of Probation. However, if the Licensee fails to comply with any of the conditions imposed or limitations imposed on the Scope of Practice, then the Board may immediately end the probationary period and reinstate the suspension. The Board may impose other conditions or limitations on a licensee after reinstatement of licensure following suspension or revocation.

Probationary Conditions or Limitations include but are not limited to the following:

- Monitoring
- Restricted of Practice
- Direct Supervision
- Additional Continuing Education Requirement
- Education Course Work
- Statute and Rules Study and Exam
- Completion of a Chemical Dependency Program
- Psychological Evaluation
- Competency Examination

When another jurisdiction takes disciplinary action against a licensee, based on findings of fact and a violation of the other jurisdiction's statutes or rules which also would be a violation of the Board's statutes or rules, then the Board may summarily impose the same or lesser disciplinary action upon the licensee after receipt of a certified copy of the other jurisdiction's action.

LETTER OF CONCERN

DATE EFFECTIVE: September 10, 2002

DATE (S) REVISED:

PURPOSE: To establish guidelines for issuing a Letter of Concern

A Letter of Concern is a written communication between the Board and the licensee that serves as a warning that a standard or code of conduct has been breached, but the conduct does not arise to the level of a violation of the Respiratory Care Practice Act.

A Letter of Concern may be issued by the Executive Director to an individual or agency at the direction of the Board following an Informal Settlement and Investigational Committee meeting or an Administrative Hearing. The letter may be directed to a specific individual or to a facility/agency. It is a non-disciplinary action, and is not considered public information.

A Letter of Concern will be issued following an investigation if the Investigation and Informal Settlement Committee, acting on behalf of the Board, or the full Board, believes that there is insufficient evidence to support disciplinary action against the licensee, but there is sufficient evidence for the committee or the Board to notify the licensee that continuing the activities which led to the complaint being submitted to the Board may result in action against the licensee.

REPRIMAND

DATE EFFECTIVE: September 10, 2002

DATE (S) REVISED:

PURPOSE: To establish guidelines for issuing a Reprimand

A Reprimand is a formal sanction that expresses concern about the actions of a licensee but does not restrict the right to practice respiratory care.

A Reprimand may be issued by the Executive Director to an individual or agency at the direction of the Board following an Informal Settlement and Investigational Committee meeting or an Administrative Hearing. The letter may be directed to a specific individual licensee. A Reprimand is considered public information and will be reported to the data bank.

A Reprimand may be offered by the Board to a licensee if there is sufficient evidence that a violation of the statute and/or rules has occurred, but the violation is not of sufficient seriousness to warrant suspension or revocation of the license.

SUSPENSION

DATE EFFECTIVE: September 10, 2002

DATE (S) REVISED: January 6, 2005

PURPOSE: To establish guidelines for issuing a Suspension

When the Board determines it is appropriate, it may offer to a Licensee the sanction of a suspension of the license for a fixed period of time up to twelve months, with the understanding that at the end of the specified period of time, and with the completion of any additional attached conditions including but not limited to completion of continuing education courses or monitoring of particular areas of practice or conduct, the license will automatically be reinstated and reissued upon the Licensee's payment of the standard cost for the issuance of a replacement or renewal license.

SUMMARY SUSPENSION OF LICENSE

DATE EFFECTIVE: September 10, 2002

DATE (S) REVISED:

PURPOSE: To establish guidelines for issuing a Summary Suspension

Summary Suspension of a license may be commenced, if the Board finds that the public health, safety and welfare may be jeopardized by the continued practice of a licensee. At any point that the Board believes that such an action is warranted, an emergency meeting will be called by the Board Chair. The emergency meeting may be carried out by telephone conference, and notice provided to interested parties and those media outlets that have expressed an interest in being notified of such developments. All interested parties will be provided a way to monitor the discussion at the meeting.

Notice of the Summary Suspension will be sent to the Licensee by registered mail, return receipt requested; but in addition, the Executive Director may make other efforts, through other means of communication such as telephone, facsimile, e-mail, and otherwise, to communicate directly to the Licensee and any organization employing the Licensee with regard to the Summary Suspension of the license.

Upon issuance of a Summary Suspension, the Board shall also notify the Licensee that it is scheduling a Revocation hearing, as provided in the policy on Revocations.

REVOCACTION OF LICENSE

DATE EFFECTIVE: September 10, 2002

DATE (S) REVISED:

PURPOSE: To establish guidelines for a Revocation of a License

Revocation entails loss of the right to practice respiratory care for a specified period of time. A new license may be issued after the specified period, after the licensee has petitioned for reinstatement providing sufficient evidence of fitness to re-enter practice, and compliance with any conditions imposed by the Board at the time of the revocation.

Upon a determination by the Board that a license should be revoked, a notice shall be sent to the Licensee advising the Licensee that a hearing will be scheduled on this matter, and identifying the time and place that the Board will conduct the hearing; or indicating that the hearing will be conducted under the auspices of the North Carolina Office of Administrative Hearings (OAH), and referring the Licensee to OAH for information about the scheduling of the hearing.

The Licensee may apply to the Board, if it is conducting the hearing, or to OAH, when applicable, to subpoena witnesses or subpoena the production of documents for the hearing. The Licensee may be represented by counsel at the hearing and call witnesses to offer testimony, and may present documentary evidence, that is relevant and material to the matters charged. At the hearing, the Board will present its evidence and the Board will have the burden of demonstrating, by the greater weight of the evidence, that the matters referenced in the Letter of Charges are true and correct.

With the notice of hearing, the Board also shall include a Letter of Charges providing specific information about the facts and circumstances leading to the decision to initiate the revocation action, and identifying the particular portions of the North Carolina statutes or rules that provide the basis for the revocation action.

APPLICATION OF PROBATION INSTEAD OF REVOCATION OR SUSPENSION OF LICENSE

DATE EFFECTIVE: September 10, 2002

DATE (S) REVISED:

PURPOSE: To establish guidelines for Utilizing Probationary Remedies Against a Licensee Instead of Suspension or Revocation of the License

The Board may determine that it is appropriate to allow a licensee to continue to practice and not revoke or suspend the licensee's license. In assessing the appropriateness of a probationary penalty, the Board will consider all the facts and circumstances of the conduct at issue and the licensee's prior practice. In particular, the Board will review the nature, severity, and scope of the violation, the degree and scope of harm to patients and to the overall reputation of respiratory care, and the nature of the motivations of the licensee that led to the conduct in question.

Further, in assessing the overall appropriateness of probation and in defining the appropriate duration of the probation, the Board also will review the licensee's professional practice, prior history of violations of the Respiratory Care Practice Act or the Board's rules, especially prior violations of the provisions that relate directly to the conduct then in question, and also whether any probationary condition that might be imposed will provide sufficient safeguards to ensure the safety and welfare of the public as well as the successful remediation of the licensee's conduct. A probationary sanction may be invoked for a period up to 36 months. Probation may be offered to a licensee by the Board as part of the issuance of a new license after a revocation or the reinstatement of a license after a suspension. Failure to comply with the stated conditions is grounds for suspension or revocation of the license.

Probationary Conditions or Limitations include but are not limited to the following:

- Monitoring
- Restriction of Practice
- Direct Supervision
- Additional Continuing Education Requirement
- Education Course Work
- Statute and Rules Study and Exam
- Completion of a Chemical Dependency Program
- Psychological Evaluation
- Competency Examination

PRACTICING WITH A LAPSED LICENSE / EMPLOYING A PRACTITIONER WITH A LAPSED LICENSE

DATE EFFECTIVE: September 10, 2002

DATE (S) REVISED: January 6, 2005

PURPOSE: To establish the procedures for disciplining a person practicing Respiratory Care with a lapsed license, or a licensee who employs someone with a lapsed license

The Board authorizes the Executive Director to offer the option of a Reprimand to a licensee practicing respiratory care with a lapsed license or to a licensee employing a person with a lapsed license. A reprimand becomes part of the licensee's file. Issuance of a Reprimand is public information that will be published in the Board's Newsletter and posted on its website. The sanction shall also include the presumptive civil penalties and disciplinary cost authorized by 21 NCAC 61 .0309 and 21 NCAC 61 .0310.

The Executive Director is authorized to offer the option of a Reprimand in lieu of an Interview with the Investigation and Informal Settlement Committee as follows:

For practicing RCP's and Supervising RCP's when the license has lapsed less than 90 days, the Executive Director may issue a Letter of Reprimand. The lapsed licensee will be required to submit the Renewal fee, and Late Renewal fee, before a new license is issued that authorizes continuing the practice of Respiratory Care. The licensee must pay the civil penalties and disciplinary cost within 90 of signing of the Consent Order.

Practicing RCP's with a license that has lapsed longer than 90 days must appear before the Investigation and Informal Settlement Committee.

A Respiratory Care Practitioner who accepts a respiratory care administration position supervising other respiratory care personnel is accountable for ensuring that all such personnel are properly licensed, and will do the following:

- Immediately upon assuming responsibilities of the position, verify that a system exists to verify licensure of practitioners supervised by the position.
- Within fourteen (14) days of assuming responsibilities of the position, verify the licenses of all supervised respiratory care personnel.
- Thereafter, assure that the licenses of all supervised respiratory care personnel are current and valid. The supervisor must report to the Board any RCP found practicing with a lapsed license within 72 hours of the discovery. The Board authorizes the Executive Director to waive sanctioning of the supervisor if he/she reports the lapsed licensee within 14 days of the violation.

In each case involving the above action, the Executive Director shall report the organization where the violations occurred to the appropriate State Agency, Department, Board or Commission that licenses the organization and to the Centers for Medicare and Medicaid Services.

PRACTICING WITHOUT A LICENSE / EMPLOYING A PRACTITIONER WITHOUT A LICENSE

DATE EFFECTIVE: September 10, 2002

DATE (S) REVISED: January 6, 2005

PURPOSE: To establish the procedures for disciplining a person practicing Respiratory Care without a license.

The Executive Director is authorized, after consultation with the Board Counsel, to apply to Superior Court for an order enjoining an individual who is practicing Respiratory Care without a license. In making this determination, the Executive Director and counsel will be guided by the principles and reasoning set forth in the Board's prior declaratory rulings.

A Respiratory Care Practitioner who accepts a respiratory care administration position supervising other respiratory care personnel is accountable for ensuring that all such personnel are properly licensed, and will do the following:

- Immediately upon assuming responsibilities of the position, verify that a system exists to verify licensure of practitioners supervised by the position;
- Within fourteen (14) days of assuming responsibilities of the position, verify the licenses of all supervised respiratory care personnel.

Thereafter, assure that the licenses of all supervised respiratory care personnel are current and valid. The supervisor must report to the Board any person found practicing without a license within 72 hours of the discovery. In each case involving the above action, the Executive Director will:

Send a letter explaining the situation to the organization where the individual works. Report the organization to the appropriate State Agency, Department, Board or Commission that licenses the organization.

OBTAINING RECORDS FOR INVESTIGATION

DATE EFFECTIVE: September 10, 2002

DATE (S) REVISED: January 6, 2005

PURPOSE: To establish procedures for obtaining medical records needed to conduct an investigation or for other purposes.

Subpoenas may be issued by the Board for the production of records, including medical records. The Board Chair, Executive Director or Board Counsel is authorized by the Board to sign subpoenas needed for investigation purposes and administrative hearings.

Each subpoena will identify the pertinent document or medical records needed by the Board. A time shall be specified in the subpoena by which the documents shall be produced. The return date shall be at least two weeks before a scheduled Interview or Hearing.

Two certified copies of the records should be provided. One certified copy should be presented in a sealed envelope to be opened during the Administrative Hearing. Upon receipt of the two certified copies, the Board's attorney will review the unsealed certified copy for completeness.

In issuing subpoenas and other requests for documents, the Board shall make every effort to limit its request to the minimum necessary information required in order to complete its investigation and will also otherwise comply with the Privacy Rule adopted by the United States Department of Health and Human Services and codified at 45 CFR § 164.500 *et seq.*

REIMBURSING WITNESS EXPENSES

DATE EFFECTIVE: September 10, 2002

DATE (S) REVISED:

PURPOSE: To establish the procedures for the reimbursement of witness expenses.

Witnesses requested to appear on behalf of the Board will be reimbursed for actual expenses at the state rate for mileage, meals and lodging.

An information sheet will be supplied to all witnesses at the time a subpoena or other request to testify is issued.

Reimbursement for lodging will only be authorized if the witness lives more than 200 miles as the crow flies from the location of the hearing.

Requests for reimbursement should be made within fifteen (15) days of appearing as a witness.

All reimbursement requests must be submitted on a form supplied by the Board and the original itemized receipt must be attached. The Executive Director will check the expense form, verify if correct and reimburse the witness within 30 days of receipt of a correct expense form. A copy of the expense form shall be attached to the subpoena and placed in the licensee's file.

REPORTING OF DISCIPLINARY ACTIONS

DATE EFFECTIVE: September 10, 2002

DATE (S) REVISED: January 6, 2005

PURPOSE: To establish a procedure for reporting disciplinary actions to the public, the Healthcare Integrity and Protection Data Bank (HIPDB) maintained by the U.S. Department of Health and Human Services and to the National Board for Respiratory Care (NBRC) National Databank.

All disciplinary actions taken by the Board will be reported in the NEWSLETTER and on the Board Website. In addition, as required by federal law, a report of certain actions will be made to the Healthcare Integrity and Protection Data Bank (HIPDB) maintained by the U.S. Department of Health and Human Services. Pursuant to 45 CFR 61.7, the Board will report to the HIPDB any revocation or suspension of a licensee's license, as well as any other sanction that results in the loss of the individuals participation in Federal or State health care programs..

The Board will also report any disciplinary actions to the National Databank maintained by the National Board for Respiratory Care.

The information to be provided includes:

Name, address, date of birth and/or Social Security number

Type of license (Active or Provisional)

License number

Final Board action

Charges/information/administrative complaint

If there has been a voluntary surrender of the license, a copy of notice from the licensee indicating voluntary surrender

EXPUNGING A LICENSEE'S RECORD OF A VIOLATION OR SANCTION

DATE EFFECTIVE: September 10, 2002

DATE (S) REVISED: July 3, 2003

PURPOSE: To establish a procedure for expunging a licensee's record of a violation or sanction

Under appropriate circumstances, the Board will consider whether, after the lapse of at least one year and documentation of satisfactory performance by a licensee that was subject to prior discipline, the record of the licensee's prior discipline should be expunged from the licensee's file. This expunging of prior violations shall not be available in the case of a prior revocation of a license; but it shall be available in cases where a licensee's license has been suspended, or where a licensee has received a letter of reprimand or has had a period of probation applied.

In those cases where the Board determines that expunging a licensee's record of a prior disciplinary sanction is appropriate, all references to the prior discipline shall be removed from the licensee's file and no record of the discipline shall be made available to the public. Upon inquiry by any member of the public or of the press with regard to the prior history of a licensee, the board will respond that it has no record of a violation by the licensee.

In addition, the Board shall not consider any evidence of the prior violation in any subsequent investigation or proceedings against the licensee.

DISCIPLINE GLOSSARY

EXPUNGED RECORD: A licensee's record will be cleared and no further record of a previous violation will be maintained by the Board or otherwise made available to the public. The licensee's record is expunged and the licensee cleared from the consequences of the prior violation of the Respiratory Care Practice Act that is at issue. Expunction may be granted if the licensee has received a single Reprimand for employing an unlicensed person or practicing respiratory care without a license and there have been no additional substantiated complaints received by the Board during the previous year.

Abuse means the willful infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish.

Chemical Dependency Program means a program designed for practitioners who are chemically dependent; have violated the Respiratory Care Practice Act; and, requested an Informal Settlement Conference or Administrative Hearing. Such practitioners may be placed on Probation as long as compliance with the program is maintained.

Comity: When a person licensed to practice respiratory care is also licensed in another jurisdiction and that other jurisdiction takes disciplinary action against a licensee; and that action is based on findings of fact that demonstrate a violation of the other jurisdiction's statutes or rules, which also would be a violation of the Board's statutes or rules, then the Board may summarily impose the same or lesser disciplinary action upon receipt of the other jurisdiction's action.

Fraud means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or some other person. It includes any act that constitutes fraud under applicable Federal or State Law.

Harm means physical or mental damage or injury

Investigation and Informal Settlement Committee: The committee authorized by the Board to investigate, with the help of the Executive Director and others designated by the Board, all complaints received concerning a licensee. After an investigation the committee is authorized to propose, to the Board, a sanction to be offered to a licensee. The committee will also investigate any applicants that the Board designates for investigation.

Letter of Concern is a communication between the Board, or its designee, and the licensee that serves as a warning that a standard or code of conduct has been breached. It generally would be used in the case of a minor violation of the Respiratory Care Practice Act or Board Rules.

Monitoring is the process of allowing a licensee to return to respiratory care practice by requiring compliance with conditions of probation, such as requiring quarterly performance reports. The monitoring may be for a specific number of months or for the duration of the probation. An individual must be employed as a licensed respiratory care practitioner to satisfy the monitoring requirements.

Potential Harm means behavior that is capable of resulting in actual physical or mental damage or injury.

Probation: When a sanction is applied with probation, the license is retained by the licensee, who may continue to practice, but with specific conditions and requirements on the licensee that must be met and which will be monitored in a manner defined by the Board in order to continue to practice respiratory care. Failure to comply with the stated conditions is grounds for suspension of the license.

Reprimand is a formal sanction that expresses concern about the actions of a licensee but does not restrict the right to practice respiratory care.

Restricted Practice: The process of allowing a licensee to return to respiratory care practice by requiring compliance with conditions of probation by restricting practice to exclude supervisory activities, home health care practice, critical care practice or other particular practice areas or procedures that the Board has determined might create risks or problems. The restriction may be for a specific number of months or for the duration of the probation.

Revocation: Loss of the right to practice respiratory care for a specified period of time. A new license may be issued after the specified period, after the licensee has petitioned for reinstatement, providing sufficient evidence of fitness to re-enter practice, and compliance with any conditions imposed by the Board at the time of the revocation.

Sanction means any disciplinary action taken against a license by the Board.

Summary Suspension: Summary suspension of a license may be commenced, if the Board finds that the public health, safety and welfare may be jeopardized by the continued practice of a licensee. At any point that the Board believes that such an action is warranted, an emergency meeting will be called by the Board Chair. The emergency meeting may be carried out by telephone conference, and notice provided to interested parties and those media outlets that have expressed an interest in being notified of such developments. All interested persons will be provided a way to follow the events at the emergency meeting.

Voluntary Surrender: A formal action ratified by the Board, in which a license holder relinquishes his/her rights to practice respiratory care. A Voluntary Surrender may occur anytime in an investigation prior to an interview with the Investigation and Informal Settlement Committee or for a time-specified period following the interview with the Investigation and Informal Settlement Committee.