

CHAPTER 3. DISCIPLINARY PROCEDURES

SUBCHAPTER 3. FILING AND DISPOSITION OF COMPLAINTS

140:3-3-2. Procedures for complaints against chiropractic physicians

- (a) Any person may submit to the Board a complaint against a chiropractic physician. In the event a complaint is initiated by a member of the Board or the Advisory Committee and such complaint involves the member of the Board or the Advisory Committee to the extent that such member of the Board or Advisory Committee cannot render an impartial decision in the matter, the member of the Board or Advisory Committee shall recuse himself from further action, investigation or other matter related to said complaint.
- (b) The Board shall make available a form which may be used for the filing of complaints.
- (c) Each complaint reviewed by the Board shall be investigated and a written report made to the Board as set forth in subsections (e), (f),(g) and (h) of this section within twenty-four (24) months of receipt of the complaint by the Advisory Committee. No member of the Board shall review any complaint or discuss any complaint with any member of the Advisory Committee or any other person, including the complainant and the chiropractic physician named in the complaint, except that the Board may review the written report of the Advisory Committee as provided in (e), (f), and (g) of this section.
 - (1) No member of the Advisory Committee or the investigator may, in any way, discuss any complaint or the details therein with any person without order from the Board or a Court of competent jurisdiction. Discussion or disclosure of any complaint or information therein by an Advisory Committee member or investigator may result in that Advisory Committee member's removal from the investigation committee and other such sanctions as the Board deems appropriate.
 - (2) The amount of time for investigation of a complaint received by the Board by the Advisory Committee may be thirty-six (36) ~~extended beyond the twenty-four (24)~~ month period of time upon a showing of good cause by either the complainant and /or the chiropractic physician named in the complaint.
- (d) Upon receipt of the complaint, the Advisory Committee or investigator shall provide the chiropractic physician named in the complaint with a notice of the complaint and shall require said chiropractic physician to provide a written response to the complaint within twenty (20) days of mailing of a copy of the notice to said chiropractic physician. The failure of a chiropractic physician to respond to such a request of the Advisory Committee or investigator shall be grounds for disciplinary action by the Board. In addition, the chiropractic physician named in the complaint shall not contact, attempt to contact or allow anyone else to contact the person(s) who filed the complaint or whom the chiropractic physician named in the complaint believes may have filed the complaint.
- (e) It shall be the duty of the Advisory Committee or investigator to investigate the complaint fully and in a manner consistent with due process requirements and the APA. At the conclusion of the investigation, the Advisory Committee or investigator shall submit a written report to the Board detailing the findings and determination if the Advisory Committee or investigator shall make a recommendation in its written report as to further action by the Board. The Advisory Committee may assign a complaint to an individual investigator employed by the Board on a part-time or full-time basis.

- (f) The written report of the Advisory Committee or investigator shall be drafted so as to keep anonymous the name of the Complainant and the chiropractic physician named in the complaint. The report shall include a brief recitation of the facts of the complaint and a statement whether the Advisory Committee or investigator found competent evidence to support the allegations contained in the complaint.
- (g) The Board shall review the report of the Advisory Committee or investigator at a meeting of the Board, provided, however that the Board's review of the report shall not be conducted as a hearing and the Board shall not hear testimony or receive evidence. Upon review of the report, the Board may:
 - (1) dismiss the complaint if the Board finds there is not reasonable cause to believe that there was a violation of the Chiropractic Practice Act;
 - (2) issue a letter of concern, pursuant to 140:3-3-3, to the chiropractic physician named in the complaint if the Board finds that there is reasonable cause to believe that said chiropractic physician has committed a violation, but such violation, if proven, is not of such a nature as to warrant the imposition of a penalty by the Board; or
 - (3) initiate an individual proceeding, pursuant to 140:3-3-4, against the chiropractic physician named in the complaint if the Board finds that there is reasonable cause to believe that said chiropractic physician has committed a violation and that such violation, if proven, is of such a nature as to warrant the imposition of a penalty by the Board.
- (h) In the event the Board votes to issue a letter of concern in regard to a complaint, it shall thereupon be the duty of the Advisory Committee or investigator to provide the board sufficient details as to the nature of the complaint so as to assist the Board to render a meaningful letter of concern.