

Summary of Procedure for Disciplinary Hearings Before the North Carolina Board of Massage and Bodywork Therapy

1. The Board office receives a written complaint about an LMBT.
2. The Board administrator reviews the complaint.
3. The Board administrator writes to the complainant advising that the complaint has been received and will be investigated.
4. An attorney for the Board then reviews the complaint.
5. The attorney for the Board writes a letter to the LMBT and advises that a complaint has been filed with the Board, advises the LMBT of the nature of the complaint or encloses a copy of the complaint, and asks the LMBT to respond in writing to the allegations in the complaint within a specified period of time.
6. When the LMBT responds to the complaint, the attorney for the Board reviews the response and determines whether to send a copy of the response to the complainant for further information.
7. Once the attorney for the Board is satisfied both sides have had an opportunity to present their viewpoints and any documentation, the attorney further determines whether there is a factual dispute between the parties. If there is a factual dispute, a Notice of Hearing is sent to the LMBT advising the LMBT of the time, date, and location of the hearing. A copy of the Notice of Hearing is also sent to the complainant.
8. In the event the LMBT does not respond to the complaint, a Notice of Hearing is sent to the LMBT.

9. The Notice of Hearing also advises that the LMBT may meet with the attorney for the Board to discuss the allegations and to see if an agreement can be reached which resolves the issue without the necessity of a formal hearing before the Board.
10. If the LMBT requests and attends an informal meeting, the attorney advises the LMBT of the disciplinary hearing procedure, the right to an attorney, the substance of the allegations, possible disciplinary actions based on the allegations, and answers the questions of the LMBT.
11. If an agreement is reached during the informal meeting, the terms are reduced to writing by virtue of a proposed Letter of Reprimand or Consent Order.
12. The proposed Letter of Reprimand or Consent Order is sent to the LMBT for review and signature and when returned to the Board is placed on the next agenda of the Board.
13. If the Board agrees with the recommendation of the attorney for the Board, the Chair of the Board signs the Letter of Reprimand or Consent Order and a copy is sent to the LMBT and the complainant.
14. If the LMBT chooses not to meet with the attorney for the Board, the attorney will still explain the allegations of the complaint, the disciplinary hearing procedure, the right of the LMBT to seek legal counsel and will answer any questions posed by the LMBT.
15. The matter then proceeds to a formal hearing before the Board at the date, time and place set forth in the Notice of Hearing.
16. At the hearing before the Board, the attorney for the Board presents witnesses and documentation supporting the complainant and other information discovered during the investigative process, whether in support of the allegations of the complaint or not.

17. The LMBT or the LMBT's attorney then presents evidence to the Board refuting or in contradiction to the allegations of the complaint.
18. All witnesses that appear before the Board are subject to cross-examination by the LMBT or attorneys.
19. The Board, with the Chair presiding, hears all the evidence presented on behalf of the Board and the LMBT.
20. After hearing all the testimony and receiving any documentation, the Board meets in Closed Session to discuss the evidence and to determine whether the LMBT has violated any provision of the Massage and Bodywork Therapy Practice Act or Rules of the Board.
21. If the Board determines the LMBT has violated any provision of the Massage and Bodywork Therapy Practice Act or any Rule of the Board, the Board determines the appropriate disciplinary action to be taken and advises the Board attorney to prepare an appropriate Order.
22. The Order shall contain Findings of Fact, Conclusions of Law, and the determination of the Board as to what disciplinary action(s) shall be taken.
23. If the Board determines the LMBT has not violated any provision of the Massage and Bodywork Therapy Practice Act or any Rule of the Board, the Board directs the Board attorney to prepare an Order dismissing the complaint.
24. If the LMBT disagrees with any Order of the Board, the LMBT may file a complaint in the Superior Court of Wake County or in the Superior Court of the LMBT's county of residence within 30 days of the date the Order was entered. The purpose of the complaint is to seek judicial review of the Order of the Board.

25. A Superior Court judge will review the record established before the Board, hears oral arguments from counsel for the Board and from the LMBT or LMBT's attorney, and will determine if the Board had sufficient evidence to enter its Order.
26. The Superior Court judge will then affirm the Order, send the matter back to the Board for further proceedings, or make some other appropriate ruling.