

21 NCAC 10 .0503 DETERMINATION OF PROBABLE CAUSE

(a) General. Complaints deemed likely to have occurred, based on the findings of the Investigative Report, shall be referred to the Chiropractic Review Committee. The committee shall hold a hearing to determine whether there is probable cause to believe a violation of the laws governing Chiropractic has occurred.

(b) Composition of Chiropractic Review Committee. The committee shall be composed of:

- (1) the secretary of the Board of Examiners. If the secretary is unable to attend a specific probable cause hearing, he or she may designate another physician member of the Board to serve and assume his or her duties at said hearing;
- (2) an alternate Board member. "Alternate Board member" means:
 - (A) a former Board member selected by the secretary;
 - (B) a current Board member selected by the secretary; or
 - (C) a licensee selected by the secretary from among those who, at any election held pursuant to Rule .0103(c) of this Chapter, have been elected nominees for Board membership but not appointed to the Board.

(c) Notice of hearing. The secretary shall provide notice of the probable cause hearing in accordance with G.S. 150B-38(b).

(d) Conduct of Probable Cause Hearing. The secretary, or designee per Subparagraph (b)(1) of this Rule, shall preside over the probable cause hearing. The Chiropractic Review Committee may consider evidence at the probable cause hearing that would not be admissible if offered at the hearing in a contested case.

(e) Action by the Chiropractic Review Committee. After examining the evidence presented at the probable cause hearing, the Chiropractic Review Committee shall dispose of each charge in a complaint as follows:

- (1) If no probable cause exists to believe that a violation of G.S. 90-154 has occurred, the charge shall be dismissed;
- (2) If probable cause exists to believe that a violation of G.S. 90-154 has occurred, and if the Committee and licensee at issue fail to resolve the matter through settlement, the case shall be considered a "contested case" and set for hearing before either the Board, or an Administrative Law Judge at the NC Office of Administrative Hearings, in accordance with G.S. 150B-40.

*History Note: Authority G.S. 90-141; 90-143; 90-154;
Eff. December 1, 1988;
Amended Eff. October 1, 2016;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019;
Amended Eff. January 1, 2020.*