

Investigative Procedure Continued

- The committee reviews and actively pursues the investigation to a legal and logical conclusion. This consists of the Investigator collecting information and evidence regarding the complaint. The investigator then submits a report to the committee for review. Once all the questions from the committee have been answered, the committee votes on the case conclusion.
- Once probable cause has been met, a hearing will be scheduled and the parties notified at least twenty-one (21) days in advance. If the complaint does not establish probable cause, the case is closed with the respondent and complainant both being notified.
- For cases progressing to hearing, a consent order is usually offered to the respondent in lieu of a hearing. If the respondent agrees to the proposed consent order, the entire Board (with the exception of the Investigative Committee Board Member) votes to accept, reject, or amend the consent order. If a consent order is not accepted by either the respondent or the Board, the case proceeds to a formal hearing.

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Alabama State Board
of Respiratory
Therapy

TURNING THE LIGHT ON



Complaint, Investigation, and Disciplinary Procedure

Mission

The legislature finds and declares that the practice of respiratory therapy in Alabama affects the public health, safety and welfare of citizens of Alabama. It, therefore, should be subject to regulation and control, in the public interest to protect the citizenry against the unauthorized, unqualified, and improper administration of respiratory therapy and from unprofessional or unethical conduct by persons licensed to practice respiratory therapy. (§ 34-27B-1).

**Alabama State Board of
Respiratory Therapy**
www.asbrt.alabama.gov

Complaint, Investigation, and Disciplinary Procedures



The complaint, investigation, and disciplinary process has probably been the area most misunderstood about the Board. The most common question asked is, “Why can’t you arrest Respiratory Therapists?” The

answer is two-fold. First, we must receive a written complaint in order to investigate. Assumptions are sometimes made that the Board knows about all individuals who may be in violation, when in fact, chances are good that the allegation has never been reported to the Board. The Board has to prove that it hasn’t acted in renegade fashion and just decided to investigate someone arbitrarily. This is why the law requires written complaints. Also, the complainant must be willing to testify because the law provides that everyone has a right to face their accuser. Second, in order to arrest, meaning an immediate and mandatory cease and desist, the Board would have to have police authority providing for arrest power. The Board does not have this authority in our enabling statute and in fact only two (2) boards in Alabama do.

What the Board can do (upon receipt of a written complaint by an individual willing to testify) is send our Investigator to obtain evidence regarding the complaint. This evidence is then sent to the

Investigative Committee to determine if probable cause has been met. If probable cause is met, the Board will hold a disciplinary hearing in front of an Administrative Law Judge. The Administrative Law Judge then makes a ruling in the matter and sends the Order to the Board. Once the Final Order has been agreed to, it is sent to the Respondent (or defendant) and the end result is posted on the Board web site at www.asbrrt.alabama.gov and in the *ASBRT Newslines*. After this process has been completed, the Board can take the matter to Circuit Court if the Respondent has not complied with the Board’s order.

The above procedure is the mechanism for stopping individuals who operate illegally under existing law. Although not as quick and dramatic as a police arrest, it is legal and effective serving the Board’s purpose of protecting the public.

The enabling act of the Board provides that any person who violates the act, upon conviction, shall be guilty of a Class B misdemeanor. Section 34-27-B-8 authorizes the Board to refuse to renew a license, suspend or revoke a license, impose probationary conditions, or impose an administrative fine of five hundred dollars (\$500) per violation upon an applicant or licensee being found guilty of unprofessional conduct that has endangered, or is likely to endanger, the health, welfare, or safety of the public.



How to File A Complaint

1. Download a Consumer Complaint Form at www.asbrrt.alabama.gov.
2. Complete this form in its entirety—completing all questions and signing. Additional information may be attached.
3. Mail, fax, or e-mail this complaint to the Board office (these numbers and address are listed at the bottom of this page).
4. Upon receipt of your complete complaint form, you will receive a letter of confirmation from the Board office.

I’ve Filed a Complaint—Now What?

1. If needed for investigation purposes, the Board Investigator may contact the complainant for an interview.
2. The complainant will be notified upon the investigative conclusion of the case. If the complaint is substantiated by the evidence, a hearing will be scheduled and the complainant contacted to testify. The complainant will also be notified of the Final Order of the case. Should the complaint not be substantiated by the evidence, the complainant will also be notified in writing.

Investigative Procedure

1. Upon receipt of a complaint, an investigative file is opened establishing a case number and the Investigative Committee
2. The Investigative Committee consists of the following: One Board Member (rotates), Legal Counsel, Executive Director, and Investigator. The Board Member serving on this committee abstains from voting when the case is reviewed by the entire Board. This is done in order to ensure due process and to avoid any appearance of impropriety. (cont’d)



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