**20:41:10:05.03.  Disciplinary procedures.** Disciplinary procedures must be initiated by submission of a written complaint or by resolution of the board. Disciplinary procedures must be conducted as follows:

(1)  Each written complaint or board resolution for disciplinary investigation must be given to the board investigator or the disciplinary committee. The investigator shall forward a copy of the complaint to each committee member and shall investigate and prepare a report to be presented to the committee;

(2)  The investigator shall acknowledge receipt of the complaint;

(3)  The investigator shall notify the chiropractic physician, chiropractic radiographer, or chiropractic assistant that a complaint has been received and request a response within 15 days to be mailed to the investigator. The notice must include the basis for the complaint, including the name of the complaining party, and the name of the investigator assigned to investigate the complaint. A copy of these rules of procedure shall accompany the notice. The chiropractic physician, chiropractic radiographer, or chiropractic assistant shall promptly and appropriately respond to any request of the investigator or any committee member;

(4)  The investigator shall notify the complainant that the chiropractic physician, chiropractic radiographer, or chiropractic assistant has been notified of the allegations and requested to respond within 15 days and that the response shall be forwarded to the complainant;

(5)  The investigator shall prepare a report to present to the full committee for review. The report shall include the identity of the complainant, the allegations which form the basis of the complaint, the position of the chiropractic physician, chiropractic radiographer, or chiropractic assistant against whom the complaint is lodged, and the proposed action, if any, that should be taken with regards to the complaint;

(6)  Upon presentation of the report to the full committee, the committee shall review the report and act upon the information before it, in one of the following manners, namely:

(a)  Dismiss the complaint if frivolous or clearly unfounded in fact; or

(b)  Initiate an informal inquiry or take such further action as the committee deems appropriate;

(7)  If the committee dismisses the complaint, the investigator shall give notice to the complainant and the chiropractic physician, chiropractic radiographer, or chiropractic assistant that the complaint has been reviewed with the determination that no board action is warranted;

(8)  If the committee finds the complaint to have merit, the committee shall afford the chiropractic physician, chiropractic radiographer, or chiropractic assistant complained against a reasonable opportunity to state his position with respect to the allegations. The hearing must take the form of an informal conference between the committee and the individual complained against; and

(9)  After an informal inquiry, the committee may dismiss or, if the complaint has merit, refer to the full board for a formal hearing. In lieu of referral to the full board, the committee and the licensee or certificant may enter a remedial stipulation satisfactory to both the parties. If a remedial stipulation is entered, the referral may not take place if the terms of the remedial stipulation are completed and the committee shall notify the complainant that the matter has been resolved in this manner. The complainant is not entitled to a copy of the remedial stipulation.

Nothing in this section may be construed to limit the board's power to act itself, or through the disciplinary committee, or a subcommittee of the disciplinary committee consisting of the investigative officer, the executive director of the board, and one other member of the disciplinary committee, pursuant to SDCL 1-26-29.

**Source:** 25 SDR 80, effective December 6, 1998; 28 SDR 88, effective December 23, 2001; 33 SDR 66, effective October 23, 2006; 37 SDR 133, effective January 12, 2011; 47 SDR 41, effective October 12, 2020.

**General Authority:** SDCL 36-5-4, 36-5-15.2(1), 36-5-20(4), 36-5-28.

**Law Implemented:** SDCL 36-5-4, 36-5-15.2(2), 36-5-20(4), 36-5-28.