

21 NCAC 61 .0310 CIVIL PENALTY PROCEDURES

(a) Citations. The Board, through its duly authorized representatives, shall issue a citation with respect to any violation for which a civil penalty may be assessed. Each citation shall be in writing and shall describe the nature of the violation, including a reference to the specific provision alleged to have been violated. The civil penalty, if any, shall attach at the time the citation is written. The citation shall include an order to correct any condition or violation which lends itself to corrections, as determined by the Board.

(b) Correction of Violation. Any licensee who has been issued a warning citation must present written proof satisfactory to the Board, or its executive director, that the violation has been corrected. This provision applies only to a licensee's first violation in any one year period for a violation with a first offense warning penalty. Proof of correction shall be presented to the Board, through its executive director, within 30 days of the date the warning citation was issued. The Board may extend for a reasonable period, the time within which to correct the warning citation in case of an illness or hospitalization or other exigent circumstances. Notices of correction filed after the prescribed date shall not be acceptable and the civil penalty shall be paid.

(c) Contested Case. Persons to whom a notice of violation or a citation is issued and a civil penalty assessed, may contest the civil penalty by filing written notice with the Board within 60 days of the receipt of the notice of violation or citation. The Board shall institute a contested case by sending a notice of hearing pursuant to G.S. 150B, Article 3A. The Board shall conduct a contested case hearing pursuant to G.S. 150B, Article 3A. The licensee's filing written notice with the Board shall stay the civil penalty until the Board renders a final agency decision in the contested case.

(d) Final Agency Decision. The Board, after the hearing has been concluded, may affirm, reduce, or dismiss the charges filed in the notice of hearing or any penalties assessed. In no event shall the civil penalty be increased.

(e) Cost of disciplinary action(s). The Board shall assess the costs of disciplinary actions against a person found to be in violation of the Respiratory Care Practice Act or rules adopted by the Board.

(f) Failure to File. If no written notice contesting the civil penalty is filed as set forth in Paragraph (c) of this Rule, the civil penalty becomes a final agency decision.

History Note: *Authority G.S. 90-666;*

Eff. March 1, 2004;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.