

**21 NCAC 46 .2017      REAPPLICATIONS,      REINSTATEMENT,      REHEARING,      AND  
RECONSIDERATION**

(a) The following terms govern reapplication, reinstatement, rehearing, and other reconsideration requests from a final agency decision, unless otherwise expressly provided in that final agency decision:

- (1) No individual who holds a license, registration, or other privilege from the Board who has that license, registration, or other privilege either revoked or actively suspended indefinitely or for more than five years may petition for reinstatement, to have the revocation or suspended lifted, for reconsideration or rehearing, or otherwise for modification or rescinding the order, until at least five years from the effective date of the revocation or suspension.
- (2) No individual who has had an application for a license, registration, or other privilege from the Board denied may submit another application or petition for reconsideration or rehearing or otherwise for modification or rescinding the denial, until at least two years from the date of the most recent application that the Board denied. At that time, the individual must submit a new application for the Board to consider.
- (3) No permit holder who has had that permit either revoked or actively suspended indefinitely or for more than five years may submit another application or petition for reinstatement, to have the revocation or suspended lifted, for reconsideration or rehearing, or otherwise for modification or rescinding the order, until at least five years from the effective date of the revocation or suspension.
- (4) No proposed permit holder who has had an application for a permit denied may submit another application for a permit or petition for reconsideration or rehearing or otherwise for modification or rescinding the denial, until at least two years from the date of the most recent application that was denied. At that time, the proposed permit holder must submit a new application for the Board to consider.
- (5) If any license, registration, permit, or any other privilege is subject to a stayed suspension or an active suspension for a period of five years or shorter, the person holding that privilege may not submit another application, or petition for reinstatement, to have the suspension lifted, for reconsideration or rehearing, or otherwise for modification or rescinding the order, before the conclusion of that suspension.
- (6) For the purposes of Subparagraphs (3), (4), and (5) of this Paragraph, the Board shall treat a permit holder or proposed permit holder the same as a prior permit holder or proposed permit holder if either of the following two conditions is true:
  - (A) the permit holder or proposed permit holder has the same pharmacy manager and there is more than 10 percent common ownership as the prior permit holder or proposed permit holder; or
  - (B) the permit holder or proposed permit holder has 50 percent or more common ownership as the prior permit holder or proposed permit holder.

To determine common ownership under this Rule, the Board shall consider business entities to be identical to other business entities if there is more than a 50 percent common ownership. Furthermore, to determine common ownership under this Rule, the Board shall combine the interests of individuals with the interests of any business entities in which the individuals have more than a 10 percent interest, as well as with the interests of individuals in the same family.

(b) The Board may alter the terms provided in Paragraph (a) of this Rule, after applying the facts and circumstances of the matter and its application of the disciplinary provision in G.S. 90-85.38. Unless the Board expressly modifies these terms in the final agency decision, the terms of Paragraph (a) of this Rule apply to that decision.

(c) If a person submits a petition or application that does not meet the requirements set forth in this Rule, the Executive Director shall not schedule any hearing on the petition or application before the Board until the limits set forth in this Rule are satisfied.

(d) Upon a petition for reinstatement or to submit a new application permitted under this Rule, the Board will grant or reinstate a license, registration, permit, or other privilege only after a finding that the grant or reinstatement is appropriate under the Pharmacy Practice Act and the Board's rules and regulations. In making that decision, the Board will consider the gravity of the misconduct that caused the denial, suspension, or revocation; the applicant's history; the applicant's current ability to practice pharmacy with reasonable skill, competence, and safety to the public; and the applicant's conduct since the order of denial, suspension, or revocation.

*History Note: Authority G.S. 90-85.6; 90-85.38; 150B-38; 150B-40; 150B-42;*

*Eff. August 1, 2020.*