

27 NCAC 01D .1006 THE HEARING

(a) Nature of Inquiry: Suspension - When the matter being heard involves the question of whether a member's license shall be suspended for noncompliance, the purpose of the hearing shall be to determine, as a matter of fact:

- (1) whether the member was in compliance with the requirements of the rules at the time the board made its determination;
- (2) if the member was not in compliance, whether there is good cause why his or her license should not be suspended.

(b) Nature of Inquiry: Reinstatement - When the matter being heard involves the question of whether the license of a suspended member shall be reinstated, the purpose of the hearing shall be to determine, as a matter of fact:

- (1) whether the continuing legal education deficiency which gave rise to the member's suspension had been cured at the time the board made its determination that it had not been cured;
- (2) if the deficiency had been cured at the time the board made its determination, whether the suspended member had paid the required reinstatement fee at the time the board made its determination.

(c) The Forum - A matter before the committee for a hearing shall be heard by a panel of three members of the committee, one of whom shall serve as the presiding member, designated as provided in Rule .1007 of this Section.

(d) Member's Right to be Heard - A member whose license is the subject of a hearing shall have the right to:

- (1) to appear personally at the hearing;
- (2) to speak and be heard at the hearing on any aspect of the matter being heard;
- (3) submit for consideration relevant written materials, including a written statement of explanation, at any time prior to or during the hearing;
- (4) be represented by counsel at the hearing.

(e) Information from the Board:

- (1) The panel shall consider the written materials described in Rule .1003 of this Section transmitted by the board to the committee.
- (2) A member of the board, or other person authorized by the board, may attend the hearing and may present oral or written information and argument on any aspect of the matter being heard.

(f) Effect of Board's Findings on Issues of Accreditation and Approval - When the board has determined that a member has failed to comply with the requirements of the rules or that a suspended member has failed to cure a deficiency, upon its finding that credits essential to compliance or reinstatement were acquired in a course or program that was not properly accredited or approved:

- (1) the board's finding that the course or program was not properly accredited or approved shall be presumed by the panel to be correct; and
- (2) the member may rebut the presumption of correctness by satisfying the panel that the course or program had in fact been properly accredited or approved; or
- (3) the member may rebut the presumption of correctness by satisfying the panel that the board acted contrary to its rules in failing to accredit or approve the course or program.

(g) Deliberations of the Panel - The panel shall conduct its deliberations, make its determinations, and adopt its recommendations in private.

(h) Decision of the Panel - The panel shall consider a matter in accord with the process described in Rules .1008 and .1009 of this Section and shall put its determinations and recommendations in writing.

History Note: Authority G.S. 84-23; Order of the NC Supreme Court, dated October 7, 1987, 318 N.C. 711; Adopted Eff. December 8, 1994.