

21 NCAC 08I .0104 MODIFICATION OF DISCIPLINE

(a) A person whose certificate or CPA firm whose registration has been permanently revoked by the Board may apply to the Board for modification of the discipline at any time after five years from the date of the original discipline. If an application for modification of discipline is denied, the person or CPA firm may re-apply three years thereafter.

(b) The application for modification of discipline shall be in writing and show good cause for the relief sought. The application for a person shall be accompanied by three or more supporting recommendations, made under oath, from CPAs who have personal knowledge of the facts relating to the revocation and of the activities of the applicant since the discipline was imposed. The application for a CPA firm shall be accompanied by three or more supporting recommendations, made under oath, for each CPA partner, CPA member, or CPA shareholder from CPAs who have personal knowledge of the facts relating to the revocation and of the activities of the CPA partner, CPA member, or CPA shareholder since the discipline was imposed.

(c) "Good cause" as used in Paragraph (b) of this Rule means that the applicant is rehabilitated with respect to the conduct that was the basis of the discipline. Evidence demonstrating such rehabilitation shall include evidence that:

- (1) the person has not engaged in any conduct during the discipline period that, if that person had been licensed or registered during such period, would have constituted the basis for discipline pursuant to G.S. 93-12(9);
- (2) the person has completed the sentence imposed with respect to any criminal conviction that constituted any part of the previous discipline; and
- (3) restitution has been made to any aggrieved party with respect to a court order, civil settlement, lien or other agreement.

(d) In determining good cause, the Board may consider all of the applicant's activities since the disciplinary penalty was imposed, the offense for which the applicant was disciplined, the applicant's activities during the time the applicant was in good standing with the Board, the applicant's rehabilitative efforts, restitution to damaged parties in the matter for which the penalty was imposed, and the applicant's general reputation for truth and professional probity. For the purpose of this Paragraph, "applicant" shall, in the case of a CPA firm, include CPA partners, CPA members, or CPA shareholders.

(e) Any person who applies for a modification of discipline and for a new certificate after revocation shall, in addition to the other requirements of this Section, comply with all qualifications and requirements for initial certification as identified by the Board that existed at the time of the original application.

(f) No application for a new certificate or for modification of discipline shall be considered while the applicant is serving a sentence for any criminal offense. Serving a sentence includes incarceration, probation (supervised or unsupervised), parole, or conditionally suspended sentence, any of which are imposed as a result of having been convicted or having pled to a criminal charge.

(g) An application shall be ruled upon by the Board on the basis of the recommendations and evidence submitted in support thereof. However, the Board may make additional inquiries of any person or persons, or request additional evidence it deems appropriate.

(h) As a condition for a new certificate or modification of discipline, the Board may impose terms and conditions it considers suitable to ensure the licensee's or CPA firm's future compliance with the statutory and rule requirements of the Board including the rules of Professional Ethics and Conduct as set forth in 21 NCAC 08N.

History Note: Authority G.S. 55B-12; 57D-2-02; 93-2; 93-12(3); 93-12(7a); 93-12(7b); 93-12(9); Eff. September 1, 1982; Temporary Amendment Eff. September 15, 1983, for a period of 108 days to expire January 1, 1984; Amended Eff. January 1, 2014; April 1, 1999; August 1, 1998; February 1, 1996; April 1, 1994; March 1, 1990; May 1, 1989; Readopted Eff. February 1, 2016.