

SUBCHAPTER 08I - REVOCATION OF CERTIFICATES AND OTHER DISCIPLINARY ACTION

21 NCAC 08I .0101 DISCIPLINARY ACTION

(a) Any person may file a complaint with the Board against a CPA, pursuant to G.S. 150B, Article 3A for disciplinary action against a CPA for violations of G.S. 93 and this Chapter on forms provided by the Board that are on the Board's website at www.nccpaboard.gov and may be requested from the Board.

(b) The complaint shall set forth the facts upon which the complaint is based. The complainant shall confirm that he or she believes the facts stated in the complaint are true and that he or she is prepared to prove them at a hearing.

(c) The complaint shall be filed in the office of the Board. The Board's professional standards staff shall open a case file, notify the complainant of receipt of the complaint, notify and provide a copy of the complaint to the respondent named in the complaint, and conduct an investigation of the allegations in the complaint. Based upon the investigation and the recommendation of the Professional Standards Committee of the Board appointed by the Board President, and with the approval of the Board, the professional standards staff may do any of the following:

- (1) close the case without prejudice;
- (2) close the case with prejudice;
- (3) prepare a Consent Order;
- (4) apply to the courts for injunctive relief; or
- (5) prepare a proposed Hearing Notice.

The Professional Standards Committee shall determine whether the allegations in a case warrant applying to the courts for injunctive relief and whether the allegations in the proposed Hearing Notice, if proven, warrant a contested case proceeding pursuant to G.S. 150B-38 - 150B-42. A copy of any Hearing Notice filed and application for injunctive relief applied for shall be provided to the complainant in that matter.

(d) The Board shall notify the complainant and the respondent in any complaint filed with the Board of the disposition of the case and shall publish or announce the disciplinary action against a CPA.

*History Note: Authority G.S. 55B-12; 93-12(9);
Eff. February 1, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. April 1, 1994; May 1, 1989; June 1, 1985; October 1, 1984;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28, 2014;
Amended Eff. May 1, 2017.*

21 NCAC 08I .0102 PROCEDURE WHEN PETITION AGAINST BOARD MEMBER OR EMPLOYEE

If the person against whom a petition for disciplinary action is filed is a Board member or a Board employee, the Secretary-Treasurer or Executive Director shall immediately notify that person and every member of the Board of the petition. The person against whom the petition was filed shall not participate in considering or acting on the petition.

*History Note: Authority G.S. 55B-12; 93-12(9);
Eff. February 1, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. May 1, 1989; June 1, 1985; October 1, 1984;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28, 2014.*

21 NCAC 08I .0103 PUBLICATION OF FINDINGS

*History Note: Authority G.S. 55B-12; 93-12(9);
Eff. February 1, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. June 1, 1985;
Repealed Eff. May 1, 1989.*

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.

21 NCAC 08I .0105 REVOCATION OF CERTIFICATES

(a) When a certificate is revoked either for a specific period of time or permanently, the certificate holder shall return the certificate to the Board office within 15 days of receipt of notice of revocation.

(b) Pursuant to the provisions of 21 NCAC 8I .0004, the Board may issue a new certificate under a new number to anyone whose certificate has been revoked.

History Note: Authority G.S. 55B-12; 93-12(8); 93-12(9); 93-12(15); Eff. September 1, 1982;

*Amended Eff. August 1, 1998; July 1, 1987; October 1, 1984;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October
28, 2014.*

21 NCAC 08I .0106 OTHER PENALTIES

*History Note: Authority G.S. 55B-12; 93-12(7); 93-12(8); 93-12(9);
Eff. September 1, 1982;
Repealed Eff. May 1, 1989.*