

21 NCAC 48G .0517 MODIFICATION OF DECISION

(a) A person who has been disciplined by the Board may apply to the Board for modification of the discipline at any time after the effective date of the Board's decision imposing it; however, if any previous application has been made with respect to the same discipline, no additional application shall be considered before the lapse of one year following the Board's decision on that previous application. Provided, however, that an application to modify permanent revocation shall not be considered until after two years from the date of the original discipline, nor more often than two years after the Board's last decision on any prior application for modification.

(b) The application for modification of discipline shall be in writing, shall set out and shall demonstrate good cause for the relief sought.

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

- (1) that such person has not engaged in any conduct during the discipline period which, if that person had been licensed during such period, would have constituted the basis for discipline by the Board; and
- (2) that, with respect to any criminal conviction which constituted any part of the previous discipline, the person has completed the sentence imposed.

(d) In determining good cause, the Board may consider all 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.

(e) No application 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 suspended sentence, any of which are imposed as a result of having been convicted or plead to a criminal charge.

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

*History Note: Authority: G.S. 90-270.92; 150B-42;
Eff. August 1, 2002;*

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.