

**27 NCAC 01B .0114 PROCEEDINGS BEFORE THE DISCIPLINARY HEARING COMMISSION:
GENERAL RULES APPLICABLE TO ALL PROCEEDINGS**

(a) Applicable Procedure - Except where specific procedures are provided by these rules, pleadings and proceedings before a hearing panel will conform as nearly as practicable with the requirements of the North Carolina Rules of Civil Procedure and for trial of nonjury civil cases in the superior courts. Any specific procedure set out in these rules controls, and where specific procedures are set out in these rules, the Rules of Civil Procedure will be supplemental only.

(b) Continuances - The chairperson of the hearing panel may continue any hearing for good cause shown. After a hearing has commenced, continuances will only be granted pursuant to Rule .0116(b).

(c) Appearance By or For the Defendant - The defendant may appear pro se or may be represented by counsel. The defendant may not act pro se if he or she is represented by counsel.

(1) Pro Se Defendant's Address - When a defendant appears in his or her own behalf in a proceeding, the defendant will file with the clerk, with proof of delivery of a copy to the counsel, an address at which any notice or other written communication required to be served upon the defendant may be sent, if such address differs from the address on record with the State Bar's membership department.

(2) Notice of Appearance - When a defendant is represented by an attorney in a proceeding, the attorney will file with the clerk a written notice of such appearance which will state his or her name, address and telephone number, the name and address of the defendant on whose behalf he or she appears, and the caption and docket number of the proceeding. Any additional notice or other written communication required to be served on or furnished to a defendant during the pendency of the hearing will be sent to defendant's attorney of record in lieu of transmission to the defendant.

(d) Filing Time Limits - Pleadings or other documents in formal proceedings required or permitted to be filed under these rules must be received for filing by the clerk of the commission within the time limits, if any, for such filing. The date of the receipt by the clerk, and not the date of deposit in the mail, is determinative.

(e) Form of Papers - All papers presented to the commission for filing will be on letter size paper (8 1/2 x 11 inches) with the exception of exhibits. The clerk will require a party to refile any paper that does not conform to this size.

(f) Subpoenas - The hearing panel will have the power to subpoena witnesses and compel their attendance, and to compel the production of books, papers, and other documents deemed necessary or material to any hearing as permitted in civil cases under the North Carolina Rules of Civil Procedure. Such process will be issued in the name of the hearing panel by its chairperson, or the chairperson may designate the secretary of the North Carolina State Bar to issue such process. The plaintiff and the defendant have the right to invoke the powers of the panel with respect to compulsory process for witnesses and for the production of books, papers, and other writings and documents.

(g) Admissibility of Evidence - In any hearing, admissibility of evidence will be governed by the rules of evidence applicable in the superior court of North Carolina at the time of the hearing. The chairperson of the hearing panel will rule on the admissibility of evidence, subject to the right of any member of the panel to question the ruling. If a member of the panel challenges a ruling relating to admissibility of evidence, the question will be decided by a majority vote of the hearing panel.

(h) Defendant as Witness - The defendant will, except as otherwise provided by law, be competent and compellable to give evidence for either party.

*History Note: Authority G.S. 84-23; 84-28; 84-28.1; 84-29; 84-30; 84-32(a);
Readopted Eff. December 8, 1994;
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2006; December 30, 1998; October 2, 1997.*