

27 NCAC 01B .0119 EFFECT OF A FINDING OF GUILT IN ANY CRIMINAL CASE

(a) **Conclusive Evidence of Guilt** - A certified copy of the conviction of an attorney for any crime or a certified copy of a judgment entered against an attorney where a plea of guilty, nolo contendere, or no contest has been accepted by a court will be conclusive evidence of guilt of that crime in any disciplinary proceeding instituted against a member. For purposes of any disciplinary proceeding against a member, such conviction or judgment shall conclusively establish all elements of the criminal offense and shall conclusively establish all facts set out in the document charging the member with the criminal offense.

(b) **Interim Suspension** - Any member who has been convicted of, pleads guilty to, pleads no contest to, or is found guilty by a jury of a criminal offense showing professional unfitness in any state or federal court may be suspended from the practice of law as set out below.

- (1) The counsel shall file with the clerk of the commission and serve upon the member a motion for interim suspension accompanied by proof of the conviction, plea, or verdict.
- (2) The member shall have ten days in which to file a response.
- (3) The chairperson of the commission may hold a hearing to determine whether the criminal offense is one showing professional unfitness and whether, in the chairperson's discretion, interim suspension is warranted. In determining whether interim suspension is warranted, the chairperson may consider harm or potential harm to a client, the administration of justice, the profession, or members of the public, and impact on the public's perception of the profession. The parties may present additional evidence pertaining to harm or to the circumstances surrounding the offense, but the member may not collaterally attack the conviction, plea or verdict.
- (4) The chairperson shall issue an order containing findings of fact and conclusions of law addressing whether there is a qualifying conviction, plea, or verdict, and whether interim suspension is warranted, and either granting or denying the motion.
- (5) If the member consents to entry of an order of interim suspension, the parties may submit a consent order of interim suspension to the chairperson of the commission.
- (6) The provisions of Rule .0128(c) of this Subchapter will apply to the interim suspension.

*History Note: Authority G.S. 84-23; 84-28;
Readopted Eff. December 8, 1994;
Amendments Approved by the Supreme Court: September 22, 2016; February 3, 2000; December 30, 1998; March 6, 1997; November 7, 1996.*