

27 NCAC 01B .0133 CONFIDENTIALITY

(a) Allegations of Misconduct or Alleged Disability - Except as otherwise provided in this rule and G.S. 84-28(f), all proceedings involving allegations of misconduct by or alleged disability of a member will remain confidential until

- (1) a complaint against a member has been filed with the secretary after a finding by the Grievance Committee that there is probable cause to believe that the member is guilty of misconduct justifying disciplinary action or is disabled;
- (2) the member requests that the matter be made public prior to the filing of a complaint;
- (3) the investigation is predicated upon conviction of the member of or sentencing for a crime;
- (4) a petition or action is filed in the general courts of justice;
- (5) the member files an affidavit of surrender of license; or
- (6) a member is transferred to disability inactive status pursuant to Rule .0122(g). In such an instance, the order transferring the member shall be public. Any other materials, including the medical evidence supporting the order, shall be kept confidential unless and until the member petitions for reinstatement pursuant to Rule .0122(c), unless provided otherwise in the order.

(b) Disciplinary Complaints Filed Pursuant to Rule .0113(j)(4), .0113(l)(4) or .0113(m)(4)- The State Bar may disclose that it filed the complaint before the Disciplinary Hearing Commission pursuant to Rule .0113(j)(4), .0113(l)(4) or .0113(m)(4):

- (1) after proceedings before the Disciplinary Hearing Commission have concluded; or
- (2) while proceedings are pending before the Disciplinary Hearing Commission, in order to address

(c) Letter of Warning or Admonition - The previous issuance of a letter of warning, formerly known as a letter of admonition, or an admonition to a member may be revealed in any subsequent disciplinary proceeding.

(d) Attorney's Response to a Grievance - This provision will not be construed to prohibit the North Carolina State Bar from providing a copy of an attorney's response to a grievance to the complaining party where such attorney has not objected thereto in writing.

(e) Law Enforcement or Regulatory Agency - This provision will not be construed to prohibit the North Carolina State Bar from providing information or evidence to any law enforcement or regulatory agency.

(f) Chief Justice's Commission on Professionalism - This provision will not be construed to prevent the North Carolina State Bar, with the approval of the chairperson of the Grievance Committee, from notifying the Chief Justice's Commission on Professionalism of any allegation of unprofessional conduct by any member.

(g) Lawyer Assistance Program - This provision will not be construed to prevent the North Carolina State Bar from notifying the Lawyer Assistance Program of any circumstances that indicate a member may have a substance abuse or mental health issue.

(h) Other Jurisdictions - This provision will not be construed to prohibit the North Carolina State Bar, with the approval of the chairperson of the Grievance Committee, from providing information concerning the existence of a letter of caution, letter of warning, or admonition to any agency that regulates the legal profession in any other jurisdiction so long as the inquiring jurisdiction maintains the same level of confidentiality respecting the information as does the North Carolina State Bar.

(i) National Discipline Data Bank - The secretary will transmit notice of all public discipline imposed and transfers to disability inactive status to the National Discipline Data Bank maintained by the American Bar Association.

(j) Client Security Fund Board of Trustees - The secretary may also transmit any relevant information to the Client Security Fund Board of Trustees to assist the Client Security Fund Board in determining losses caused by dishonest conduct of members of the North Carolina State Bar.

History Note: Authority G.S. 84-23;

Readopted Eff. December 8, 1994;

Amendments Approved by the Supreme Court: September 22, 2016; October 9, 2008; March 6, 2002; November 7, 1996; February 20, 1996.