

## **27 NCAC 01D .0904 REINSTATEMENT FROM SUSPENSION**

### **(a) Compliance Within 30 Days of Service of Suspension Order.**

A member who receives an order of suspension for failure to comply with an obligation of membership may preclude the order from becoming effective and shall not be required to file a formal reinstatement petition or pay the reinstatement fee if the member shows within 30 days after service of the suspension order that the member has done the following:

- (1) fulfilled the obligations of membership set forth in the order;
- (2) paid the administrative fees associated with the issuance of the suspension order, including the costs of service;
- (3) paid any other delinquency shown on the financial records of the State Bar including outstanding judicial district bar dues;
- (4) signed and filed CLE annual report forms as required by Rule .1522 of this subchapter;
- (5) completed CLE hours as required by Rules .1518 and .1522 of this subchapter; and
- (6) filed any IOLTA certification required by Rule .1319 of this subchapter.

### **(b) Reinstatement More than 30 Days after Service of Suspension Order.**

At any time more than 30 days after service of an order of suspension on a member, a member who has been suspended for failure to comply with an obligation of membership may petition the council for an order of reinstatement.

### **(c) Definition of "Year."**

As used in this rule, a year is a 365 day period of time unless a calendar year is specified.

### **(d) Requirements for Reinstatement**

#### **(1) Completion of Petition**

The member must provide the information requested on a petition form prescribed by the council and must sign the petition under oath.

#### **(2) CLE Requirements Before Suspended**

Unless the member was exempt from such requirements pursuant to Rule .1517 of this subchapter or is subject to the requirements in paragraph (d)(4) of this rule, the member must satisfy the minimum continuing legal education (CLE) requirements, as set forth in Rule .1518 of this subchapter, for the calendar year in which the member was suspended (the "subject year") if such transfer occurred on or after July 1 of the subject year, including any deficit from a prior year that was carried forward and recorded in the member's CLE record for the subject year. The member shall also sign and file any delinquent CLE annual report form.

#### **(3) Additional CLE Requirements**

If more than one year has elapsed between the effective date of the suspension order and the date upon which the reinstatement petition is filed, the member must complete 12 hours of approved CLE for each year that the member was suspended up to a maximum of seven years. The CLE must be completed within two years prior to filing the petition. For each 12-hour increment, 2 hours must be earned by attending courses in the areas of professional responsibility and/or professionalism. If during the period of suspension the member complied with mandatory CLE requirements of another state where the member is licensed, those CLE credit hours may be applied to the requirements under this provision without regard to whether they were taken during the two years prior to filing the petition.

#### **(4) Bar Exam and MPRE Requirement If Suspended Seven or More Years**

(A) If seven years or more have elapsed between the effective date of the suspension order and the date that the petition is filed, the member satisfy the following requirements in lieu of the CLE requirements in paragraphs (d)(2) and (d)(3):

- (1) attainment of a passing score, within nine months following an order conditionally granting the petition, on a regularly-scheduled Uniform Bar Examination prepared by the National Conference of Bar Examiners;
- (2) successful completion, within nine months following an order conditionally granting the petition, of the State-Specific Component prescribed by the North Carolina Board of Law Examiners; and
- (3) attainment of a passing score, within nine months following an order conditionally granting the petition, on a regularly-scheduled Multistate Professional Responsibility Examination administered by the National Conference of Bar Examiners.

- (B) A member may offset the suspended status period for the purpose of calculating the seven years necessary to actuate the requirements of paragraph (A) as follows:
- (1) Active Licensure in Another State. Each year of active licensure in another state during the period of suspension shall offset one year of suspension for the purpose of calculating the seven years necessary to actuate the requirements of paragraph (A). If the member is not required to satisfy the requirements of paragraph (A) as a consequence of offsetting, the member shall satisfy the CLE requirements set forth in paragraph (d)(3) for each year that the member was suspended up to a maximum of seven years.
  - (2) Military Service. Each calendar year in which a suspended member served on full-time, active military duty, whether for the entire calendar year or some portion thereof, shall offset one year of suspension for the purpose of calculating the seven years necessary to actuate the requirements of paragraph (A). If the member is not required to satisfy the requirements of paragraph (A) as a consequence of offsetting, the member shall satisfy the CLE requirements set forth in paragraph (d)(3) for each year that the member was suspended up to a maximum of seven years.
- (5) Character and Fitness to Practice  
The member must have the moral qualifications, competency and learning in the law required for admission to practice law in the state of North Carolina, and must show that the member's resumption of the practice of law will be neither detrimental to the integrity and standing of the Bar or the administration of justice nor subversive of the public interest.
- (6) Payment of Fees, Assessments and Costs  
The member must pay all of the following:
- (A) a reinstatement fee in an amount to be determined by the Council or a \$250.00 reinstatement fee if suspended for failure to comply with CLE requirements;
  - (B) all membership fees, Client Security Fund assessments, and late fees owed at the time of suspension and owed for the year in which the reinstatement petition is filed;
  - (C) all district bar annual membership fees owed at the time of suspension and owed for the year in which the reinstatement petition is filed;
  - (D) all attendee fees, fines and penalties owed the Board of Continuing Legal Education at the time of suspension and attendee fees for CLE courses taken to satisfy the requirements of paragraphs (d)(2) and (3) above;
  - (E) any costs assessed against the member by the chairperson of the Grievance Committee, the Disciplinary Hearing Commission, and/or the secretary or council of the North Carolina State Bar; and
  - (F) all costs incurred by the North Carolina State Bar in suspending the member, including the costs of service, and in investigating and processing the application for reinstatement.
- (7) Pro Hac Vice Registration Statements  
The member must file any overdue pro hac vice registration statement for which the member was responsible.
- (8) IOTLA Certification  
The member must complete any IOLTA certification required by Rule .1319 of this subchapter.
- (9) Wind Down of Law Practice During Suspension  
The member must demonstrate that the member fulfilled the obligations of a disbarred or suspended member set forth in Rule .0128 of Subchapter 1B during the 30 day period after the effective date of the order of suspension, or that such obligations do not apply to the member due to the nature of the member's legal employment.

(e) Procedure for Review of Reinstatement Petition.

The procedure for review of the reinstatement petition shall be as set forth in Rule .0902(c)-(f) above.

(f) Reinstatement by Secretary of the State Bar.

At any time during the year after the effective date of a suspension order, a suspended member may petition for reinstatement pursuant to paragraphs (b) and (c) of this rule and may be reinstated by the secretary of the State Bar upon a finding that the suspended member has complied with or fulfilled the obligations of membership set forth in the order; there are no issues relating to the suspended member's character or fitness; and the suspended member has paid the costs of the suspension and reinstatement procedure including the costs of service and the reinstatement fee.

Reinstatement by the secretary is discretionary. If the secretary declines to reinstate a member, the member's petition shall be submitted to the Administrative Committee at its next meeting and the procedure for review of the reinstatement petition shall be as set forth in Rule .0902(c)-(f).

(g) Reinstatement from Disciplinary Suspension.

Notwithstanding the procedure for reinstatement set forth in the preceding paragraphs of this Rule, if an order of reinstatement from disciplinary suspension is granted to a member pursuant to Rule .0129 of Subchapter 1B of these rules, any outstanding order granting inactive status or suspending the same member for failure to fulfill the obligations of membership under this section shall be dissolved and the member shall be reinstated to active status.

(h) Denial of Petition.

When a petition for reinstatement is denied by the council in a given calendar year, the member may not petition again until the following calendar year. The reinstatement fee, costs, and any fees paid pursuant to paragraph (d)(6) shall be retained. However, the State Bar membership fee, Client Security Fund assessment, and district bar membership fee assessed for the year in which the application is filed shall be refunded.

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