

27 NCAC 01D .1008 SUSPENSION HEARING: PROCESS FOR DETERMINING A MATTER INVOLVING THE QUESTION OF SUSPENSION

When the matter before the panel is one involving the question of whether a member shall be suspended for failing to comply with the requirements of the rules, the panel shall proceed as follows:

- (1) Examination for Basis for Noncompliance Determination - The panel first shall examine the written information transmitted by the board to the committee, and shall determine whether that information provides a basis for the board's determination that the member had failed to comply with the requirements of the rules at the time the board made its determination.
- (2) When There Is No Basis for Noncompliance Determination - If the written information from the board provides no basis for a determination of noncompliance, the panel shall determine that the member is in compliance and shall report to the committee a recommendation that the member not be suspended.
- (3) When There Is Some Basis for Noncompliance Determination - If the written information from the board provides some basis for a determination of noncompliance, the panel then shall consider all information submitted to the panel or to the board by the member bearing on the issue of whether the member was in compliance with the requirements of the rules at the time the board made its determination.
- (4) Assessing the Information on the Issue of Compliance:
 - (a) Based on all the information before it, the panel shall determine whether it is persuaded that the member was not in compliance with the requirements of the rules at the time the board made its determination.
 - (b) In assessing the information on compliance, when the board's determination of noncompliance is based upon its finding that credits essential to compliance were acquired in a course or program that was not properly accredited or approved, the panel shall give that finding and any rebuttal information from the member the consideration described in Rule .1006(f) of this Section.
- (5) When the Panel Makes a Determination of Compliance - If the panel is not persuaded that the member was not in compliance with the requirements of the rules at the time the board made its determination it shall determine that the member is in compliance and shall report to the committee a recommendation that the member not be suspended.
- (6) When the Panel Makes a Determination of Noncompliance - If the panel is persuaded that the member was not in compliance with the requirements of the rules at the time the board made its determination, the panel then shall consider all information submitted to the panel or to the board by the member and submitted by the board to the panel bearing on the issue of whether there is good cause why the member's license should not be suspended.
- (7) When the Panel Determines That There Is Good Cause - If the panel is satisfied that there is good cause that the member's license should not be suspended, it shall determine that there is good cause and shall report to the committee a recommendation that the member's license not be suspended.
- (8) When the Panel Determines That There Is Not Good Cause - If the panel is not satisfied that there is good cause why the member's license should not be suspended, it shall determine that there is not good cause and shall report to the committee a recommendation that the member's license be suspended.

History Note: Authority G.S. 84-23; Order of the NC Supreme Court, dated October 7, 1987, 318 N.C. 711; Readopted Eff. December 8, 1994.