

27 NCAC 01D .1802 DENIAL, REVOCATION, OR SUSPENSION OF CONTINUED CERTIFICATION AS A SPECIALIST

(a) Denial of Continued Certification. The board, upon its initiative or upon recommendation of the appropriate specialty committee, may deny continued certification of a specialist, if the applicant does not meet the requirements as found in Rule .1721(a) of this Subchapter.

(b) Revocation and Suspension of Certification as a Specialist. The board shall revoke the certification of a lawyer as provided in Rule .1723(a) of this Subchapter and may revoke or suspend the certification of a lawyer as provided in Rule .1723(b) of this Subchapter.

(c) Notification of Board Action. The executive director shall notify the lawyer of the board's action to grant or deny continued certification as a specialist upon application for continued certification pursuant to Rule .1721(a) of this Subchapter, or to revoke or suspend continued certification pursuant to Rule .1723(a) or (b) of this Subchapter. If the board's action is unfavorable, the notification shall set forth the grounds for the action and shall notify the lawyer of the right to a hearing if allowed by these rules.

(d) Request for Hearing. Within 14 days of the date of the notice from the executive director of the board that the lawyer has been denied continued certification pursuant to Rule .1721(a) of this Subchapter or that certification has been revoked or suspended pursuant to Rule .1723(b) of this Subchapter, the lawyer must request a hearing before the board in writing. There is no right to a hearing upon automatic revocation pursuant to Rule .1723(a) of this Subchapter.

(e) Hearing Procedure. Except as set forth in Rule .1802(f) below, the procedures set forth in Rule .1801(d) of this Subchapter shall be followed when a lawyer requests a hearing regarding the denial of continued certification pursuant to Rule .1721(a) of this Subchapter or the revocation or suspension of certification under Rule .1723(b) of this Subchapter.

(f) Burden of Proof: Preponderance of the Evidence. A three-member panel of the board shall apply the preponderance of the evidence rule in determining whether the lawyer's certification should be continued, revoked, or suspended. The burden of proof is upon the lawyer.

(g) Notification of Board's Decision. After the hearing, the board shall timely notify the lawyer of its decision regarding continued certification as a specialist. If the board's decision is unfavorable, the notification shall set forth the grounds for the decision and the lawyer's appeal rights under Rule .1804 of this Subchapter.

*History Note: Authority G.S. 84-23;
Readopted Eff. December 8, 1994;
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