

Procedures for Reconsideration and Appeal of Adverse Accreditation Decisions

These Procedures are effective with respect to all requests for Reconsideration and Appeal which are received by the North Carolina Medical Society (NCMS) on or after January 1, 2023. NCMS reserves the right to amend this Policy at any time.

A. RECONSIDERATION of an Adverse Action

1. “Adverse Action” shall mean a reduction of a provider’s accreditation to Probation or Nonaccreditation. A NCMS decision to take an Adverse Action against a provider shall be sent to the provider as a Notice of Adverse Action (“Notice of Adverse Action”). A notice sent by NCMS pursuant to the NCMS Policy Regarding Inquiries and Allegations of Noncompliance which contains the elements required by the following sentence shall constitute a Notice of Adverse Action. The NCMS Notice will describe the basis for the Adverse Action and advise the provider of the provider’s opportunity to file a request for reconsideration (a “Reconsideration”) with the NCMS; provided, however that a provider shall have no right to a Reconsideration or Appeal if NCMS takes an Adverse Action pursuant to the first paragraph of Section E of the NCMS Policy Regarding Inquiries and Allegations of Noncompliance, and a Provider shall only have a right to an Appeal, and not a right to Reconsideration, in the event of an Immediate Suspension implemented by NCMS pursuant to Section F of the NCMS Policy Regarding Inquiries and Allegations of Noncompliance (an “Immediate Suspension”).
2. A provider’s request for Reconsideration (if any) must be submitted in writing to the NCMS by the provider (or the provider’s representative) within thirty (30) calendar days of the receipt of the Notice of Adverse Action. Otherwise, the Adverse Action decision made by the NCMS becomes final.
3. The provider’s request for Reconsideration must include all documents, data and information in support of its request for Reconsideration, and all materials must be submitted in writing. Except for instances of an immediate suspension of a provider’s accreditation pursuant to Section F of the NCMS Policy Regarding Inquiries and Allegations of Noncompliance, which does not permit the provider to seek Reconsideration, the accreditation status of the provider, during the process of reconsideration, shall remain as it was prior to the Adverse Action decision.
4. A Reconsideration related to an accreditation review of a provider will be based upon the provider’s entire continuing medical education program as it existed at the time of the Notice of Adverse Action.

5. NCMS will review the provider's Reconsideration submission (as well as any other relevant data and information) and will render a written decision which either sustains, amends or reverses the Adverse Action decision. The NCMS will issue a Reconsideration decision and send the provider notice of the Reconsideration decision.

B. APPEAL of an Adverse Reconsideration

1. If, following the Reconsideration, the NCMS sustains all or part of the Adverse Action, the provider ("Appellant") may request a hearing (an "Appeal") within: thirty (30) calendar days following the date of receipt of the notice of Adverse Action Reconsideration decision before an Appeal Board. The provider also may request an Appeal if NCMS takes an Adverse Action consisting of an Immediate Suspension. The request for an Appeal shall include a statement of reasons for appealing the decision of the NCMS. Appeals may be based only on the grounds that the NCMS's decision was: (1) arbitrary, capricious, or otherwise not in accordance with the accreditation standards and procedures of the NCMS, or (2) not supported by substantial evidence. If a written request for an Appeal is not received by the NCMS within thirty (30) calendar days following the date of provider's receipt of the notice of Adverse Action Reconsideration decision, or within fifteen (15) calendar days of a notice of Immediate Suspension, the Adverse Action of the NCMS will be final.
2. The accreditation status of the Appellant, during the process of Appeal, shall remain as it was prior to the Adverse Action decision; provided, however, that the accreditation status of a provider who is subject to an Immediate Suspension shall be nonaccreditation during the process of the Appeal.
3. The Appeal Board shall be composed of three members to be appointed by the Chair of the NCMS according to the following procedures:

A list of seven (7) individuals, qualified and willing to serve as members of the Appeal Board, shall be prepared under the direction of the NCMS. Within twenty (20) calendar days of receipt of notification of the Appeal, the list shall be sent by written communication to the Appellant. The Appellant may eliminate up to two (2) names from the list to make up the Appeal Board and shall notify the Chair of the NCMS of its selection within ten (10) calendar days of its receipt of the list. The NCMS shall then select the three (3) individuals from the names still remaining on the list who shall constitute the Appeal Board and shall notify the Appellant of the names of the persons selected. No person who served on the Decision Committee or who took action regarding the matter under Appeal shall serve on the Appeal Board.
4. Hearings, requested in conformity with these procedures, shall take place no later than ninety (90) calendar days following the appointment of an Appeal Board. The hearing shall take place in Raleigh, NC, at a location determined by the NCMS.
5. At least forty-five (45) calendar days prior to the hearing, the Appellant shall be notified of the time and place of the hearing as determined by the NCMS in its sole discretion. Upon payment of copying charges as determined by NCMS in its sole discretion, the Appellant has the right to request and obtain copies of the Appellant's NCMS file as it existed at the time of the Notice of Adverse Action; provided, however, that any reports from an independent reviewer shall be redacted so as to not reveal the identity of the independent

reviewer. The record on appeal considered by the Appeal Board will be limited to documents and data which were considered as part of the Adverse Action, the contents of the provider's file as of the Adverse Action, and any materials submitted by the provider as part of the Reconsideration process.

6. Written statements may be submitted to the Appeal Board prior to the hearing on a schedule determined by the Appeal Board and at the hearing.
7. At any hearing before the Appeal Board, the representatives of the Appellant may be accompanied by counsel, make oral presentations, offer testimony, and present such information which is relevant to the record on Appeal. The Appellant may request that a representative of the NCMS appear as a witness to be examined with respect to the subject of the Appeal, if the Appellant submits such request at least thirty (30) calendar days prior to any such hearing.
8. The NCMS may appoint one or more representatives to attend the hearing, and NCMS's representatives may be accompanied by counsel, make oral presentations, offer testimony, and present such information which is relevant to the record on Appeal. NCMS's representatives and/or NCMS's counsel may examine the Appellant's representatives. The hearing need not be conducted according to the rules of law relating to the examination of witnesses or the presentation of evidence. The Chair of the Appeal Board shall make all determinations on procedural matters and all determinations on the admissibility of information sought to be presented.
9. The NCMS may, in its sole discretion, appoint a non-voting Chair of the Appeal Board to act as a Hearing Officer; this person may be in addition to the three (3) member Appeal Board, and does not need to be an individual from the list described in Section B.3.
10. The Appeal Board shall submit a written recommendation on the accreditation status of the Appellant for consideration by the Board of Directors of the NCMS at its first meeting which occurs at least three (3) days following receipt of the recommendation of the Appeal Board. The decision by the Board of Directors of the NCMS as to the accreditation status of the Appellant shall be final, and the decision shall be effective immediately upon delivery of notice to Appellant of the NCMS Board action. No person who served as a member of the Decision Committee or the Appeal Board regarding an Adverse Action shall participate in the deliberations or vote of the NCMS Board regarding such Adverse Action.
11. Expenses of the Appeal Board shall be shared equally by the Appellant and the NCMS, and the Appellant must submit payment for half the estimated Appeal costs as determined by NCMS in its sole discretion at least thirty (30) calendar days prior to the hearing. If payment is not received by the due date: (a) the Appellant will have failed to comply with these Procedures; (b) no further action will be taken on the Appeal because of failure to comply with these Procedures; and (c) the Adverse Action will not be modified and shall be final and not subject to further appeal. The expenses of witnesses requested by the Appellant shall be the responsibility of the Appellant. The expenses of the representatives of the NCMS, who appear at the request of the NCMS, shall be borne by the NCMS. Expenses of any representatives of the NCMS, who appear at the request of the Appellant, shall be the responsibility of the Appellant. The Appellant shall not have a right to appear in person at the meeting of the Board of Directors of the NCMS.

C. Manner of Communication

Written communication to the NCMS related to these Procedures must be sent in a manner that confirms receipt (e.g., email, USPS certified mail Return Receipt Requested, FEDEX-type courier), and addressed to: Executive Vice President & Chief Executive Officer, North Carolina Medical Society, 222 N. Person Street, Raleigh, NC 27601. All written communications sent by the NCMS relating to these Procedures shall be in a manner that confirms receipt (e.g., email, USPS certified mail Return Receipt Requested, FEDEX-type courier), and addressed to the NCMS contact specified by the provider in NCMS's records.