

21 NCAC 48G .0512 SUBPOENAS

(a) Requests for subpoenas for the attendance and testimony of witnesses or for the production of documents, either pursuant to an investigation, a Board proceeding, at a hearing, or for the purposes of discovery, shall be made in writing to the Board, shall identify any document sought with specificity, and shall include the full name, home or business address of all persons to be subpoenaed, and the date, time, and place for responding to the subpoena. The Board may deny the issuance of any subpoena that is determined by the Board to have the intent of harassing or intimidating a witness. The Board Chair or Executive Director of the Board shall issue the requested subpoenas within three business days of receipt of the request.

(b) Subpoenas shall contain:

- (1) the caption of the case or the name of the licensee or matter being investigated;
- (2) the name and address of the person subpoenaed;
- (3) the date, hour, and location of the hearing in which the witness is commanded to appear;
- (4) a particularized description of the books, papers, records, or objects the witness is directed to bring to the hearing, if any;
- (5) the identity of the party on whose application the subpoena was issued;
- (6) the date of issue;
- (7) the signature of the presiding officer or his designee; and
- (8) a "return of service". The "return of service" form, as filled out, shall show the name and capacity of the person serving the subpoena, the date on which the subpoena was delivered to the person directed to make service, the date on which service was made, the person on whom service was made, the manner in which service was made, and the signature of the person making service.

(c) Subpoenas for the production of documents for copying or inspection, the subpoena shall contain a particularized description of the books, papers, records or objects to be produced.

(d) Subpoenas shall be served as provided by the Rules of Civil Procedure, G.S. 1A-1, Rule 4. The cost of service, fees, and expenses of any witnesses or any documents subpoenaed shall be paid by the party requesting the subpoena. The subpoena shall be issued in duplicate, with a "return of service" form attached to each copy. A person serving the subpoena shall fill out the "return of service" form for each copy and properly return one copy to the Board with the attached "return of service" form completed.

(e) Any person receiving a subpoena from the Board may object by filing a written objection with the Board's office within 10 business days of receipt of the subpoena. The objection shall include a concise statement of reasons why the subpoena should be quashed or modified. These reasons may include lack of relevancy of the evidence sought, or any other reason sufficient in law for holding the subpoena invalid, such as that the evidence is privileged, that appearance or production would be unduly burdensome as determined by the Board in light of the significance of the evidence sought, or other undue hardship.

(f) Any objection to a subpoena shall be served on the party who requested the subpoena simultaneously with the filing of the objection with the Board.

(g) The party who requested the subpoena may file a written response to the objection within 10 business days after receipt of the objection. The written response shall be filed with the Board and served by the requesting party on the objecting witness.

(h) After receipt of the objection and response thereto, if any, the Board shall issue a notice to the party who requested the subpoena and the party objecting to the subpoena, and may notify any other party or parties of an open hearing before the presiding officer, to be scheduled as soon as practicable. At the hearing, evidence and testimony may be presented, limited to the narrow questions raised by the objection and response.

(i) Within 30 days after the close of such hearing, the presiding officer shall rule on the challenge and issue a written decision. A copy of the decision shall be issued to all parties and made a part of the record.

History Note: Authority G.S. 90-270.92; 90-270.92(10); 150B-39; 150B-40;
Eff. October 1, 1995;
Amended Eff. February 1, 2015; August 1, 2002;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.