

SUBCHAPTER 48H - RULEMAKING AND ADMINISTRATIVE HEARING PROCEDURES

SECTION .0100 - AVAILABILITY OF RULES

21 NCAC 48H .0101 DISTRIBUTION OF RULES

History Note: Authority G.S. 90-270.26;
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. October 28, 1979;
Repealed Eff. December 30, 1985.

21 NCAC 48H .0102 INSPECTION OF RULES

History Note: Authority G.S. 90-270.26; 150B-11; 150B-62;
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. February 1, 1996; May 1, 1988;
Repealed Eff. July 1, 2013.

21 NCAC 48H .0103 ADOPTION OF MODEL ACT

History Note: Authority G.S. 90-270.26;
Eff. December 30, 1985;
Repealed Eff. May 1, 1988.

21 NCAC 48H .0104 CONTESTED CASES

History Note: Authority G.S. 150B-11; 150B-14(a)(b); 150B-38(h);
Eff. May 1, 1988;
Amended Eff. April 1, 1989;
Repealed Eff. October 1, 1995.

SECTION .0200 - PETITION FOR RULES

21 NCAC 48H .0201 PETITION FOR RULEMAKING HEARING

21 NCAC 48H .0202 CONTENTS OF PETITION

21 NCAC 48H .0203 DISPOSITION OF PETITION

History Note: Authority G.S. 90-270.26; 150A-16;
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. October 28, 1979;
Repealed Eff. December 30, 1985.

SECTION .0300 - NOTICE OF RULEMAKING HEARING

21 NCAC 48H .0301 TIMING OF NOTICE

21 NCAC 48H .0302 NOTICE OF MAILING LIST

History Note: Authority G.S. 90-270.26; 90-270.28; 150A-12; 150A-12(a);

Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. October 28, 1979;
Repealed Eff. December 30, 1985.

SECTION .0400 - RULEMAKING HEARINGS

21 NCAC 48H .0401	LOCATION
21 NCAC 48H .0402	TIME LIMIT
21 NCAC 48H .0403	PRESIDING OFFICER: POWERS AND DUTIES
21 NCAC 48H .0404	REQUEST TO PARTICIPATE
21 NCAC 48H .0405	WRITTEN SUBMISSIONS
21 NCAC 48H .0406	FINAL DECISION TO ADOPT OR REJECT PROPOSED RULE
21 NCAC 48H .0407	STATEMENT OF REASON FOR DECISION

History Note: Authority G.S. 90-270.26; 150A-12; 150A-12(a); 150A-12(e);
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. October 28, 1979;
Repealed Eff. December 30, 1985.

SECTION .0500 - DECLARATORY RULINGS

21 NCAC 48H .0501	SUBMISSION OF REQUEST FOR RULING
21 NCAC 48H .0502	DISPOSITION OF REQUESTS

History Note: Authority G.S. 90-270.26; 150A-17;
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. October 28, 1979;
Repealed Eff. December 30, 1985.

SECTION .0600 - ADMINISTRATIVE HEARING PROCEDURES

21 NCAC 48H .0601	RIGHT TO HEARING
21 NCAC 48H .0602	REQUEST FOR HEARING
21 NCAC 48H .0603	NOTICE OF HEARING
21 NCAC 48H .0604	LOCATION OF HEARING
21 NCAC 48H .0605	ANSWER
21 NCAC 48H .0606	INTERVENTION
21 NCAC 48H .0607	SUBPOENA
21 NCAC 48H .0608	REQUEST FOR RECORDS
21 NCAC 48H .0609	STIPULATIONS
21 NCAC 48H .0610	BOARD'S DECISION

History Note: Authority G.S. 90-270.26; 90-270.36; 150A-3; 150A-23; 150A-23(d);
150A-24; 150A-25; 150A-27; 150A-28; 150A-31; 150A-36;
Eff. February 1, 1976;
Amended Eff. August 6, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. October 28, 1979;
Repealed Eff. December 30, 1985.

SECTION .0700 - ADOPTION OF RULES

21 NCAC 48H .0701 PETITIONS

- (a) Any person wishing to submit a petition to the Board requesting the adoption, amendment or repeal of a rule shall file the petition with the Board's executive director.
- (b) The petition shall contain the following information:
- (1) a proposed text of the rule to be adopted or amended or a citation to the rule to be repealed;
 - (2) a statement of the reason for the proposal, including statutory authority;
 - (3) effect of the proposed rule change on the practice of physical therapy;
 - (4) any data supporting the proposal;
 - (5) name, address and telephone number of each petitioner.
- (c) The Board shall consider whether to grant or deny a petition at its next regularly scheduled meeting following receipt of a completed petition, but in any event, no more than 120 days after a completed petition is filed with the Board.

History Note: Authority G.S. 90-270.92; 150B-20;
Eff. October 1, 1995;
Amended Eff. August 1, 1998; February 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

21 NCAC 48H .0702 MAILING LIST

- (a) Any person desiring to be placed on the mailing list for the Board's rulemaking notices may file a request with the Board in writing, furnishing the name and mailing address of the person to whom the notice is to be sent.
- (b) The Board will charge an annual fee of ten dollars (\$10.00) to each person on the mailing list for copying and mailing costs. A person shall remain on the list so long as the annual fee is paid.

History Note: Authority G.S. 90-270.92; 150B-21.1;
Eff. October 1, 1995;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

21 NCAC 48H .0703 HEARINGS

- (a) Any person making oral comments may submit a written copy of the presentation prior to or at the hearing.
- (b) In order to allow for a full and fair opportunity for persons who wish to make oral comments at a rulemaking hearing to speak, the presiding officer shall be entitled to impose time limits on the length of presentations. The presiding officer shall inform persons making oral comments of any time limits deemed necessary to accomplish a full and effective public hearing on the proposed rule.
- (c) Any person may file a written submission with the Board up to and including the day of the hearing, unless a longer period is stated in the particular notice or an extension of time is granted following notice. A written submission must clearly state the rule or proposed rule to which the comments are addressed and must also include the name and address of the person submitting it.
- (d) The authority of the presiding officer shall include, but not be limited to, the following:
- (1) ensuring a record is made of the proceedings;
 - (2) control of the order and recognition of speakers;
 - (3) elimination of repetitious presentations; and
 - (4) general management of the hearing.
- (e) The Board's chair shall designate a Board member or a staff member to serve as presiding officer.

History Note: Authority G.S. 90-270.92; 150B-21.2;
Eff. October 1, 1995;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

21 NCAC 48H .0704 DECLARATORY RULINGS

- (a) All requests for a declaratory ruling shall be in writing and submitted to the Board's Executive Director and must include the following information:
- (1) name and address of person requesting declaratory ruling;

- (2) statute or rule to which request relates;
 - (3) statement of the manner in which the person requesting declaratory ruling is aggrieved by the rule or statute or its potential application; and
 - (4) the consequences of a failure to issue a declaratory ruling.
- (b) Whenever the Board for good cause finds that issuance of a declaratory ruling is undesirable, it may refuse to issue one. The person requesting the declaratory ruling shall be furnished with a full and complete statement from the Board as to why the request is being denied.

History Note: Authority G.S. 90-270.92; 150B-4;
Eff. October 1, 1995;
Amended Eff. August 1, 1998;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.