

## **21 NCAC 29 .0613        SUBPOENAS**

- (a) Requests for subpoenas for the attendance and testimony of witnesses or for the production of documents, either at a hearing or for the purposes of discovery, shall be made in writing to the Board and shall identify any document sought with specificity, and shall include the full name and home or business address of all persons to be subpoenaed and, if known, the date, time, and place for responding to the subpoena. The Board shall issue the requested subpoenas within three days of receipt of the request.
- (b) Subpoenas shall contain: the caption of the case; the name and address of the person subpoenaed; the date, hour and location of the hearing in which the witness is commanded to appear; a particularized description of the books, papers, records or objects the witness is directed to bring with him to the hearing, if any; the identity of the party on whose application the subpoena was issued; the date of issue; the signature of the presiding officer or his designee; and 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) Any person receiving a subpoena from the Board may object thereto by filing a written objection to the subpoena with the Board's office.
- (d) The objection shall include a concise, but complete, statement of reasons why the subpoena should be revoked 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 so disruptive as to be unreasonable in light of the significance of the evidence sought, or other undue hardship.
- (e) Any such objection to a subpoena must be served on the party who requested the subpoena simultaneously with the filing of the objection with the Board.
- (f) The party who requested the subpoena may file a written response to the objection within five working days. The written response shall be served by the requesting party on the objecting witness simultaneously with filing the response with the Board.
- (g) 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 challenging the subpoena, and may notify any other party or parties of an open hearing, to be scheduled as soon as practicable, at which time evidence and testimony may be presented, limited to the narrow questions raised by the objection and response.
- (h) Promptly after the close of such hearing, a majority of the Board members with voting authority, or an administrative law judge assigned to the case pursuant to G.S. 150B-40(e), 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.74F-6; 150B-38; 150B-40;  
                         Temporary Adoption Eff. May 28, 2003;  
                         Eff. May 1, 2004;  
                         Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 2,  
                         2016.*