

CHAPTER 32 - NORTH CAROLINA MEDICAL BOARD

SUBCHAPTER 32A - ORGANIZATION

21 NCAC 32A .0101 LOCATION

The location of the office of the North Carolina Medical Board is 3127 Smoketree Court, Raleigh, North Carolina 27604.

History Note: Authority G.S. 90-2;
Eff. February 1, 1976;
Amended Eff. July 1, 2004; August 1, 2002; September 1, 1995; July 1, 1993; May 1, 1989;
Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016;
Amended Eff. December 1, 2020.

21 NCAC 32A .0102 PURPOSE

21 NCAC 32A .0103 STRUCTURE

History Note: Authority G.S. 90-2; 90-3; 90-16;
Eff. February 1, 1976;
Amended Eff. November 1, 1982;
Repealed Eff. May 1, 1989.

21 NCAC 32A .0104 MEETINGS

The Board meets at scheduled intervals to carry out Board business. Other meetings may be called by the President of the Board or upon written request of the majority of the members of the Board.

History Note: Authority G.S. 90-5; 90-5.1;
Eff. February 1, 1976;
Amended Eff. May 1, 1990; May 1, 1989;
Readopted Eff. July 1, 2017.

21 NCAC 32A .0105 REQUIREMENT EXCEPTION

21 NCAC 32A .0106 PROVISIONS FOR PETITION FOR A RULE CHANGE

History Note: Authority G.S. 90-6; 90-11; 150B-20;
Eff. February 1, 1976;
Amended Eff. September 1, 1995; May 1, 1989; November 1, 1985;
Repealed Eff. August 1, 2002.

21 NCAC 32A .0107 DECLARATORY RULINGS

History Note: Authority G.S. 150B-17;
Eff. February 1, 1976;
Amended Eff. May 1, 1989; November 1, 1985;
Repealed Eff. February 1, 2007.

21 NCAC 32A .0108 RECORDS ON FILE

History Note: Authority G.S. 150-13;
Eff. February 1, 1976;
Repealed Eff. May 1, 1989.

21 NCAC 32A .0109 FORMS

History Note: Authority G.S. 90-11;

Eff. November 1, 1985;
Repealed Eff. May 1, 1989.

21 NCAC 32A .0110 DISCARDING APPLICATION MATERIAL

History Note: Authority G.S. 90-6;
Eff. September 1, 1986;
Repealed Eff. May 1, 1989.

21 NCAC 32A .0111 REQUEST FOR DECLARATORY RULING

(a) All requests for declaratory rulings shall be written and mailed to the Board at 1203 Front Street, Raleigh, North Carolina 27609. The envelope containing the request shall bear the notation: "REQUEST FOR DECLARATORY RULING."

(b) Each Request for Declaratory Ruling shall include the following information:

- (1) the name and address of the person requesting the ruling;
- (2) the statute or rule to which the request relates;
- (3) a concise statement of the manner in which the requesting person is affected by the statute or rule or its potential application to that person;
- (4) a statement whether an oral hearing is desired and, if so, the reason.

History Note: Authority G.S. 90-5.1; 150B-4;
Eff. February 1, 2007;
Readopted Eff. July 1, 2017.

21 NCAC 32A .0112 DISPOSITION OF REQUEST

(a) Upon receipt of a Request for Declaratory Ruling, the Board shall determine whether a ruling is appropriate under the facts stated.

(b) When the Board determines that the issuance of a declaratory ruling is inappropriate, the Board shall notify, in writing, the person requesting the ruling, stating the reasons for the denial of the request.

(c) The Board shall decline to issue a declaratory ruling where:

- (1) there has been a similar controlling factual determination made by the Board in a contested case;
- (2) the rule-making record shows that the factual issues raised by the request were specifically considered prior to adoption of the rule;
- (3) the subject-matter of the request is involved in pending litigation in any state or federal court in North Carolina;
- (4) the subject-matter of the request involves matters which are currently being investigated by the Board;
- (5) the subject matter of the request involves matters which are currently being adjudicated in a noticed disciplinary or denial hearing heard before the Board or the Office of Administrative Hearings; or
- (6) the petitioner fails to show that the circumstances are so changed since the adoption of the statute or rule that a ruling is warranted.

History Note: Authority G.S. 150B-4;
Eff. February 1, 2007;
Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016;
Amended Eff. July 1, 2022.

21 NCAC 32A .0113 PROCEDURE FOR DECLARATORY RULING

Prior to issuing a declaratory ruling, the Board shall give notice of the declaratory ruling proceedings to any person(s) it deems appropriate and shall direct that fact-finding proceedings appropriate to the circumstances of the particular request be conducted. The proceedings may consist of written submissions, an oral hearing, or other proceedings.

History Note: Authority G.S. 150B-4;

Eff. February 1, 2007;
Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.

21 NCAC 32A .0114 SUSPENSION OF AUTHORITY TO EXPEND FUNDS

In the event the Board's authority to expend funds is suspended pursuant to G.S. 93B-2(d), the Board shall continue to issue and renew licenses and all fees tendered shall be placed in an escrow account maintained by the Board for this purpose. Once the Board's authority is restored, the funds shall be moved from the escrow account into the general operating account.

History note: Authority G.S. 93B-2(d);
Eff. March 1, 2011;
Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.

21 NCAC 32A .0115 PETITION FOR RULE-MAKING

(a) Any person submitting a petition to adopt, amend, or repeal a rule by the Board shall address a petition to the Board's Rule Making Coordinator at the office address in 21 NCAC 32A .0101.

- (1) The petition shall contain the following:
 - (A) for petitions to adopt or amend a rule, a draft of the proposed rule or amendment;
 - (B) a statement of the effect of the requested rule change, including any effect of the new rule on existing rules; and
 - (C) the name and address of the petitioner.
- (2) The petition may contain the following:
 - (A) the reason for the proposal; or
 - (B) any data supporting the rule proposal.

(b) Within 120 days of submission of the petition, the Board shall render a final decision. If the decision is to grant the petition, the Board shall initiate a rule-making proceeding by issuing a notice as provided for in G.S. 150B-20(c). If the decision is to deny the petition, the Board shall send the petitioner written notice of the decision. The notice shall state the reasons for denying the petition and refer to the appeal rights set forth in G.S. 150B-20(d).

History Note: Authority G.S. 90-5.1; 150B-20;
Eff. December 1, 2022.