

#### **10A NCAC 14A .0103 DECLARATORY RULINGS**

(a) The Director of the Division of Health Service Regulation may issue declaratory rulings. All requests for declaratory rulings shall be written and submitted to: the Director, Division of Health Service Regulation, 809 Ruggles Drive, 2701 Mail Service Center, Raleigh, North Carolina, 27699-2701.

(b) All requests for a declaratory ruling shall include the following information:

- (1) the name and address of the petitioner;
- (2) a statement of all relevant facts if the person aggrieved requests a declaratory ruling as to the applicability to a statute, rule, or order of the Division;
- (3) the statute or rule to which the petition relates;
- (4) a statement regarding the petitioner's opinion as to any conflict or inconsistencies, if any, within the Division regarding an interpretation of the law or a rule adopted by the Division to which the petition relates;
- (5) a statement of the manner in which the petitioner is aggrieved by the rule or statute, or its potential application to him or her;
- (6) the consequences of a failure to issue a declaratory ruling; and
- (7) the petitioner's opinion as to the potential impact of the declaratory ruling on the public.

(c) Whenever the Director finds good cause exists to deny the request for declaratory ruling, he or she may deny the request to issue a declaratory ruling. In such a case, the Director shall notify the petitioner in writing of the decision to deny the request for declaratory ruling and shall state the reason for the denial.

(d) Good cause for the denial of a declaratory ruling request may include one of the following:

- (1) the person submitting the request is not a person aggrieved;
- (2) there is no conflict or inconsistency within the Division regarding an interpretation of the law or a rule adopted by the Division;
- (3) a situation where there has been similar controlling factual determination in a contested case;
- (4) if the request for declaratory ruling involves a factual context that was considered upon adoption of the rule being questioned as evidenced by the rulemaking record;
- (5) the factual representations are not specific to the statute or rule being questioned;
- (6) issuing the declaratory ruling will not serve the public interest; or
- (7) if circumstances stated in the request or otherwise known to the agency show that a contested case hearing would be appropriate.

(e) A declaratory ruling procedure may consist of written submissions, oral hearings, or such other procedure as the Director may select in a particular case if additional information may assist in determining whether to grant or deny the petition.

(f) The Director may issue notice to persons who might be affected by the ruling that written comments may be submitted or oral presentations received at a scheduled hearing if the Director finds such comments or presentations may provide additional information that will assist in determining whether to grant or deny the petition.

*History Note: Authority G.S. 150B-4;  
Eff. November 1, 1989;  
Amended Eff. November 1, 2010;  
Readopted Eff. July 1, 2019.*