

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Dietetics/Nutrition

RULE CITATION: 21 NCAC 17 .0119

DEADLINE FOR RECEIPT: Thursday, May 7, 2015

NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

What is the purpose of (a)?

In (b), you say the written address must be addressed to the Board. Do you have another Rule you can cite to with the Board's contact information or could you add that here?

I suggest that you begin (b)(1) through (4) and (c)(1) though (3) with lowercase letters.

In (b)(2) and (3), the statute allows for declaratory rulings for orders, as well.

In (b)(3), the request can also be for validity of the rule. Other agencies have said language such as, " a concise statement as to whether the request is for a ruling on the validity of a rule or on the applicability of a statute, rule, or order to a given factual situation;" You may wish to use similar language to capture everything governed by the statute.

In (c)(1), who will make the determination for "substantially similar" facts?

In (c)(3), is this if the Board is a party? If not, how will the Board know about it?

In the History Note, please put the statutes in numerical order.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: April 23, 2015

Proposed Adoption for Publication in the Register

1 21 NCAC 17 .0119 is proposed for adoption with changes as published in 29:14 NCR 1701-1702:

2

3 **21 NCAC 17.0119 DECLARATORY RULINGS**

4 (a) The issuance of a declaratory ruling by the Board is governed by G.S. 150B-4.

5 (b) A request for a declaratory ruling shall be in writing and addressed to the Board. The request shall contain
6 the following information:

7 (1) The name and address of the person requesting the ruling;

8 (2) The statute or rule to which the request relates;

9 (3) A concise statement of the manner in which the person has been, or may be aggrieved by the
10 statute or rule; and

11 (4) A statement as to whether a hearing is desired, and if desired, the reason therefore.

12 (c) The Board shall refuse to issue a declaratory ruling under the following circumstances:

13 (1) When the Board has already made a controlling decision on substantially similar facts in a
14 contested case.

15 (2) When the facts underlying the request for a ruling on a rule were specifically considered at the
16 time of the adoption of the rule in question; or

17 (3) When the subject matter of the request is involved in pending litigation in North Carolina.

18

19 *History Note:* *Authority G.S. 150B-4; 90-356(2)*

20 *Eff. ~~May 1, 2015~~ June 1, 2015.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Dietetics/Nutrition

RULE CITATION: 21 NCAC 17 .0120

DEADLINE FOR RECEIPT: Thursday, May 7, 2015

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

What is the purpose of (a)?

If you need (a), I recommend deleting "for" before "the Board's response" on line 4.

I suggest beginning (b)(1) through (6) with lowercase letters.

In (b)(1), do you mean for the individual to submit the text of the proposed rule(s) for adoption or amendment? If so, why not just state that?

I suggest beginning (b)(2) and (3) with "a statement of the ..."

Aren't (b)(5) and (6) if they are known? If you are always requiring it, what is your authority to do so?

In (c), rearrange the sentence to state, "the Board shall make a decision to grant or deny the petition based upon a study..."

And what is meant on line 15 by "any other relevant information"? As determined by whom, the Board?

In the History Note, please arrange the statutes in numerical order.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: April 23, 2015

Proposed Adoption for Publication in the Register

1 21 NCAC 17 .0120 is proposed for adoption with changes as published in 29:14 NCR 1701-1702:

2

3 **21 NCAC 17.0120 PETITIONS FOR ADOPTION, AMENDMENT OR REPEAL OF RULES**

4 (a) The procedure for petitioning the Board to adopt, amend, or repeal a rule and for the Board’s response is
5 governed by G.S. 150B-20.

6 (b) Rule-making petitions shall be sent to the Board. No special form is required, but the petitioner shall state
7 his or her name and address. The petition shall include:

8 (1) A draft of any proposed rule or amendment to a rule;

9 (2) The reasons for the proposal;

10 (3) The effect of the proposal on existing rules or decisions;

11 (4) Any data supporting the proposed rule change;

12 (5) Practices likely to be affected by the proposed rule change; and

13 (6) Persons likely to be affected by the proposed rule change.

14 (c) The Board, based on a study of the facts stated in the petition, whether the public interest will be better served
15 by granting or denying the petition, and any other relevant information, shall make a decision as to whether
16 to grant or deny the petition.

17

18 *History Note: Authority G.S. 150B-20; 90-356(2)*

19 *Eff. ~~May 1, 2015~~ June 1, 2015.*

20

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Dietetics/Nutrition

RULE CITATION: 21 NCAC 17 .0121

DEADLINE FOR RECEIPT: Thursday, May 7, 2015

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

Please use 1.5 spacing in this Rule (see Rule 26 NCAC 02C .0108(1)(g))

Do you need "individual" on line 4?

Again, do people know how to contact the Board?

In the History Note, please put the statutes in numerical order.

I take it you all are not charging a fee for sending notice through the mail?

Also in the History Note, I think you mean "G.S. 150B-21.2(d)" rather than "G.S. 150B-20"

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: April 23, 2015

Proposed Adoption for Publication in the Register

1 21 NCAC 17 .0121 is proposed for adoption with changes as published in 29:14 NCR 1701-1702:

2

3 **21 NCAC 17.0121** **RULE MAKING NOTICE**

4 Persons or agencies desiring to receive individual notice of the Board’s rule making shall file a written request with
5 the Board furnishing their name, mailing address, and electronic mailing address, if applicable.

6

7 *History Note:* *Authority G.S. 150B-20; 90-356(2);*

8 *Eff. ~~May 1, 2015~~ June 1, 2015.*