

RULE 18 DECLARATORY ORDERS

18.1 ISSUANCE OF DECLARATORY ORDERS

To the extent any licensee or other interested party has questions concerning the applicability of any rule, statute, or order enforced by the Board, the licensee or interested party may submit a written petition to the Executive Director for a declaratory order. The petition should include a recitation of all facts relevant to the subject matter of the inquiry. The Executive Director shall present the written request to the Board within ninety (90) days of receipt thereof, unless good cause requires a longer period, along with the Executive Director's proposed response to the request. The Board shall approve, modify or reject the Executive Director's proposed response within thirty (30) days of receipt thereof from the Executive Director, unless good cause requires a longer period.

18.2 DECLARATORY ORDERS APPROVED BY THE BOARD

No declaratory orders prepared under this Rule by the Executive Director or by the Board's staff or counsel, whether in draft or final form, shall be valid, official or of any effect unless and until such order has been approved by the Board. The Executive Director's response to a request for a declaratory order shall be prepared by the Executive Director in consultation with the Board's legal counsel, as appropriate, and presented by the Executive Director to the Board for consideration.

18.3 FORM OF DECLARATORY ORDERS

Declaratory orders shall set forth the assumed facts upon which the orders are based. The Board shall accept the facts presented in the petition and any supplement to the petition as true for purposes of formulating the declaratory order. Such assumed facts shall not constitute formal findings of fact by the Board.

Declaratory Orders shall address only the application of a rule, statute, or order enforced by the Board to an intended or contemplated, future course of conduct. The declaratory order shall interpret the applicable law or rule as applied to the facts presented, and shall not address the legality of any past or present conduct.

The identity of the requesting person shall be disclosed in the declaratory order.

If the facts and circumstances provided in the petition are insufficient in detail to enable the Board to render a declaratory order, the Board shall request supplementary information from the petitioner to enable the Board to render such order. If such supplementary information is still insufficient or is not provided, the Board shall so state and shall not render a declaratory order based upon what it considers to be insufficient detail. The timeframes outlined in this Rule shall reset upon receipt of any supplement to the petition.

18.4 RECORDS

The Executive Director shall provide a copy of each declaratory order to the requesting party and to each member of the Board. The Executive Director shall keep the original order along with a copy of the original request for the declaratory order and any information or documents provided to the Board by the requesting party for a period of three years after final disposition of the declaratory order. Copies of all documents considered by the Board, the staff, or counsel in the drafting or rendering of a declaratory order shall be retained by the Executive Director and kept in the file for that particular declaratory order.

18.5 EFFECT OF ORDERS

The Board may reconsider, withdraw, or amend prior orders upon request of a licensee or other interested party, or on its own motion, upon approval by the Board. Upon receipt of a request for reconsideration, withdrawal, or amendment of a prior declaratory order, or, upon passage of the Board's own motion to reconsider, withdraw, or amend a prior declaratory order, written notice of the request or passed motion shall be mailed to the original petitioner at the last address for that party provided to the Board. The original petitioner shall be given 30 days from the date of mailing to provide a written response. If the Board ultimately withdraws or amends the prior declaratory order, written notice of the change shall be mailed to the original petitioner at the last address for that party provided to the Board.