

1 21 NCAC 32A .0112 is proposed for adoption as follows:

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3 **21 NCAC 32A .0112 DISPOSITION OF REQUEST**

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

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

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

9 (1) there has been a similar controlling factual determination made by the Board in a contested case;

10 (2) the rule-making record shows that the factual issues raised by the request were specifically
11 considered prior to adoption of the rule; or

12 (3) the subject-matter of the request is involved in pending litigation in any state or federal court in
13 North Carolina;

14 ~~(4) the subject-matter of the request involves matters which are currently being investigated by the~~
15 ~~Board;~~

16 ~~(5) the subject matter of the request involves matters which are currently being adjudicated in a noticed~~
17 ~~disciplinary or denial hearing heard by the Board or the Office of Administrative Hearings; or~~

18 ~~(4)(6)~~ the petitioner fails to show that the circumstances are so changed since the adoption of the statute
19 or rule that a ruling is warranted.

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

22 *Eff. February 1, 2007;*

23 *Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1,*
24 *2016.*

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