

Chapter Opt 10

PROCEDURE

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Note: Section 227.015, Wis. Stats., directs each agency to prescribe by rule the form and content of, and procedure for submission, consideration, and disposition of petitions for the promulgation, amendment, or repeal of a rule.

Opt 10.01 Petitions for promulgation of a rule. (1) **FORM.** Petitions must be in written form.

(2) **CONTENT.** All petitions shall contain a statement of the rule desired, the purpose of the rule, detailed reasons for adoption of the rule, and details of any specific or general cases in which it shall apply.

(3) **PROCEDURE FOR SUBMISSION.** All petitions must be presented to the secretary of the board in written form.

(4) **PROCEDURE FOR CONSIDERATION.** Petitions will be considered at the first subsequent meeting of the board.

(5) **PROCEDURE FOR DISPOSITION.** Petitions may be granted by majority vote of the entire board.

Opt 10.02 Petitions for amendments of a rule. (1) The form, content, procedure for submission, consideration and disposition shall be the same as for promulgation of a rule.

Opt 10.03 Petitions for repeal of a rule. (1) **FORM.** Petitions must be in written form.

(2) **CONTENT.** Petitions shall contain a statement of the rule in effect, objections to the rule and weakness of the present rule, and the effects of repealing the rule.

(3) **PROCEDURE FOR SUBMISSION.** Petitions for repeal from persons not members of the board must be presented to the president or secretary of the board at least 30 days prior to the meeting date.

(4) **PROCEDURE FOR CONSIDERATION.** Petitions will be considered at the first subsequent meeting of the board.

(5) **PROCEDURE FOR DISPOSITION.** (a) Rules may be repealed by majority vote of the entire board.

(b) Final action may be postponed pending further investigation or hearings or for consultation with the office of attorney general.

Note: Section 227.06, Wis. Stats., directs each agency to prescribe by rule the form and content and procedure for submission, consideration and disposition of petitions for declaratory rulings as to the applicability of a specific rule to the petitioner.

Opt 10.10 Petitions for declaratory rulings as to the applicability of a specific rule. (1) **FORM.** Petitions must be in written form.

(2) **CONTENT.** A petition must contain the following: (a) Statement of rule involved.

(b) A complete statement containing all details and facts of the specific case.

(c) The effects of the rule on this case.

(3) **PROCEDURE FOR SUBMISSION.** All petitions must be presented to the secretary of the board in written form.

(4) **PROCEDURE FOR CONSIDERATION.** (a) The secretary may: 1. Issue a declaratory ruling based on past decisions and interpretations. 2. Consult the board. 3. Consult the office of attorney general.

(5) **PROCEDURE FOR DISPOSITION.** The secretary of the board shall inform the petitioner in writing of the official ruling and if the petitioner requests, the matter shall be referred to the board for further consideration.

Note: Section 227.08, Wis. Stats., directs each agency to adopt rules governing the form, content and filing of pleadings, the form, the content, and service of notice, the conduct or pre-hearing conferences and other necessary rules of procedure and practice.

Opt 10.20 Procedure governing pleadings. (1) **FORM.** Pleadings shall be in written form.

(2) **CONTENT.** (a) The complaint shall contain a plain statement of the cause of complaint, naming the person or persons complained against, with a reference to the applicable rule of the board or law governing the same and the demand for appropriate action by the board.

(b) The answer, other than admissions of the allegations of the complaint, shall state the defense of the respondent including mitigating circumstances, if any.

(c) All pleadings must be verified unless an admission of the allegations may subject a party to prosecution for a felony.

(3) **FILING.** Three copies of all original pleadings shall be filed with the secretary of the board.

Opt 10.21 Procedure for service of notice. (1) **FORM.** All notices shall be in written form.

(2) **CONTENT.** All notices shall clearly state the time, place and purpose.

(3) **NOTICE AND SERVICE.** Notice and service shall conform to section 153.09 (1), Wis. Stats.

Opt 10.22 Prehearing conferences. Prehearing conferences to determine the advisability or necessity of holding a formal hearing may be held at the convenience of the parties and shall be conducted by such member or members of the board as may be designated by the board for such purpose. A record shall be kept and preserved of any agreement as to the issues or stipulation or admission of fact which may be made at such conference. Such record shall be attached to the file and constitute a part of the official record of the case.

Opt 10.23 Procedure and practice. Procedure and practice shall conform with section 153.09 (1), Wis. Stats.