

Title 25. State Government
Chapter IV. Generally, Department of Health
Subchapter A. Generally
Part 10. Rules for Declaratory Orders

Codification Notes. This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"Promulgated Under the Authority of Arkansas Code Annotated §§ 25-15-206 and 25-15-215"

"101. PURPOSE AND AUTHORITY

(a) The Department of Health is tasked with adopting rules for declaratory orders under Ark. Code Ann. § 25-15-206, and may use model rules under § 25-15-215."

"Effective November 11, 2023"

"CERTIFICATION

This will certify that the foregoing revisions to the Rules for Declaratory Orders were adopted by the State Board of Health of Arkansas at a regular session of said Board held in Little Rock, Arkansas, on the 26th of January, 2023.

Jennifer Dillaha, MD
Secretary of Arkansas State Board of Health
Director of the Arkansas Department of Health"

Subpart 1. Generally

25 CAR § 10-101. Definition.

As used in this part, "declaratory order" means a manner of resolving a controversy or answering questions or doubts concerning the applicability of statutory provisions, rules, or orders over which the agency has authority.

Authority. Arkansas Code § 25-15-206.

25 CAR § 10-102. Purpose and use of declaratory orders.

(a) A petition for declaratory order may be used only to resolve questions or doubts as to how the statutes, rules, or orders may apply to the petitioner's particular circumstances.

(b) A declaratory order is not the appropriate means for:

- (1) Determining the conduct of another person; or
- (2) Obtaining a policy statement of general applicability from an agency.

(c) A petition or declaratory order must describe the potential impact of statutes, rules, or orders upon the petitioner's interests.

Authority. Arkansas Code § 25-15-206.

25 CAR § 10-103. Filing a petition for declaratory orders.

The process to obtain a declaratory order is begun by filing with the Department of Health's Office of General Counsel a petition that provides the following information:

(1) The name, address, telephone number, and facsimile number of the petitioner;

(2) The name, address, telephone number, and facsimile number of the attorney of the petitioner;

(3) The statutory provision or provisions, agency rule or rules, or agency order or orders on which the declaratory order is sought;

(4) A description of how the statutes, rules, or orders may substantially affect the petitioner and the petitioner's particular set of circumstances, and the question or issue on which petitioner seeks a declaratory order;

- (5) The signature of the petitioner or petitioner's attorney;
- (6) The date; and
- (7) Request for a hearing, if desired.

Authority. Arkansas Code § 25-15-206.

25 CAR § 10-104. Department of Health disposition.

(a) The Department of Health may hold a hearing to consider a petition for declaratory order.

(b) If a hearing is held, it shall be conducted in accordance with:

- (1) Arkansas Code §§ 25-15-208 and 25-15-213; and
- (2) The department's rules for adjudicatory hearings.

(c) The department may rely on the statements of fact set out in the petition without taking any position with regard to the validity of the facts.

(d) Within ninety (90) days of the filing of the petition, the department will render a final order denying the petition or issuing a declaratory order.

Authority. Arkansas Code § 25-15-206.