

**NOTICE OF INTENT TO ADOPT RULE IN THE GEORGIA STATE BOARD OF
PHARMACY RULES,
RULE 480-40-.04 WITNESS LISTS AND RESPONDENT STATEMENTS, AND NOTICE
OF PUBLIC HEARING**

TO ALL INTERESTED PERSONS AND PARTIES:

Notice is hereby given that pursuant to the authority set forth below, the Georgia State Board of Pharmacy (hereinafter "Board") proposes adoption of new Georgia Board of Pharmacy Rules, Rule 480-40-.04 WITNESS LISTS AND RESPONDENT STATEMENTS (hereinafter "proposed amendments").

This notice, together with an exact copy of the proposed amendments and a synopsis of the proposed amendments, is being forwarded to all persons who have requested, in writing, that they be placed on an interested parties list. A copy of this notice, an exact copy of the rule including the proposed amendments, and a synopsis of the rule including the proposed amendments may be reviewed during normal business hours of 8:00 a.m. to 5:00 p.m. Monday through Friday, except official State holidays, at the Department of Community Health at 2 Martin Luther King, Jr. Drive SE, East Tower, 11th Floor, Atlanta, GA 30334. These documents will also be available for review on the Georgia State Board of Pharmacy's web page at www.gbp.georgia.gov.

A public hearing is scheduled to begin at 9:00 AM on December 13, 2023 at Department of Community Health, 2 Martin Luther King, Jr. Drive SE, East Tower, 11th Floor, Atlanta, Georgia 30334 to provide the public an opportunity to comment upon and provide input into the proposed amendments. At the public hearing, anyone may present data, make a statement, comment or offer a viewpoint or argument whether orally or in writing. Lengthy statements or statements of a considerable technical or economic nature, as well as previously recorded messages, must be submitted for the official record. Oral statements should be concise and will be limited to 5 minutes per person. Additional comments should be presented in writing. Written comments are welcome. To ensure their consideration, written comments must be received prior to December 6, 2023. Written comments should be addressed to the Executive Director of the Georgia State Board of Pharmacy at 2 Martin Luther King, Jr. Drive SE, East Tower, 11th Floor, Atlanta, GA 30334. You may email your comments to elacefield@dch.ga.gov.

The proposed amendments will be considered for adoption by the Georgia State Board of Pharmacy at its meeting scheduled to begin at 9:00 AM on December 13, 2023 at Department of Community Health, 2 Martin Luther King, Jr. Drive SE, East Tower, 11th Floor, Atlanta, Georgia 30334. According to the Department of Law, State of Georgia, the Georgia State Board of Pharmacy has the authority to adopt the proposed amendments pursuant to authority contained in O.C.G.A. §§ 26-4-27.

At its meeting on July 19, 2023, the Board voted that the formulation and adoption of these rule amendments do not impose excessive regulatory cost on any licensee and any cost to comply with the proposed amendments cannot be reduced by a less expensive alternative that fully accomplishes the objectives of O.C.G.A §§ 26-4-27, 26-4-28, 16-13-22.

Also, at its meeting on July 19, 2023, the Board voted that it is not legal or feasible to meet the objectives of O.C.G.A §§ 26-4-27, 26-4-28, 16-13-22 to adopt or implement differing actions for businesses as listed at O.C.G.A. § 50-13-4(a)(3)(A), (B), (C) and (D). The formulation and adoption of this chapter will impact every licensee in the same manner, and each licensee is independently licensed, owned and operated and dominant in the field of pharmacy.

For further information, contact the Board office at 404-651-8000.

This notice is given in compliance with O.C.G.A. §50-13-4.

This 13 day of November, 2023.



Eric R. Lacefield
Executive Director
Georgia Board of Pharmacy

Posted: November 13, 2023.

**SYNOPSIS OF PROPOSED GEORGIA STATE BOARD OF PHARMACY RULE
RULE 480-40-.04 WITNESS LISTS AND RESPONDENT STATEMENTS**

Purpose: To amend the rule to update the address of the Board's administrative offices to reflect relocation of same.

Main Features: Updated the address of the Board's administrative offices.

**TEXT OF PROPOSED GEORGIA STATE BOARD OF PHARMACY RULE
RULE 480-40-.04 WITNESS LISTS AND RESPONDENT STATEMENTS**

NOTE: Struck through text is proposed to be deleted. Underlined text is proposed to be added.

Text of the proposed rule is attached hereto.

Rule 480-40-.04. Witness Lists and Respondent Statements

- (1) Should a party seek a list of the names of witnesses, including experts, whom another party expects to call or may call on its behalf, the party seeking the list must communicate the request in writing (by mail, personal service, or electronically) to the other party at least fourteen (14) days prior to the hearing. Such a request must also be filed with the Executive Director, Board of Pharmacy, ~~2 Peachtree Street, 6th Floor, Atlanta, GA 303032~~ Martin Luther King, Jr. Drive SE, East Tower, 11th Floor, Atlanta, GA 30334. The party of whom the information is requested shall, within a reasonable time prior to the commencement of the hearing but at least ten (10) days prior to the hearing, provide such a list to the requester.
- (2) The parties may also, within a reasonable period of time prior to the hearing, exchange copies of documents and designate documents already in the possession of the other party which are intended to be introduced as evidence at the hearing. Upon request, the parties shall make available to each other for inspection, copying, testing or sampling any tangible item intended to be introduced as evidence, within a reasonable period of time prior to the hearing. Where a party seeks documents or other evidence already in the possession of the other party which are intended to be introduced as evidence at the hearing, the party seeking the documents must communicate a request for the evidence in writing (by mail, personal service, or electronically) to the other party at least fourteen (14) days prior to the hearing. Such a request must also be filed with the Executive Director, Board of Pharmacy, ~~2 Peachtree Street, 6th Floor, Atlanta, GA 303032~~ Martin Luther King, Jr. Drive SE, East Tower, 11th Floor, Atlanta, GA 30334. The party of whom the information is requested shall, within a reasonable time prior to the commencement of the hearing but at least ten (10) days prior to the hearing, provide such evidence to the requester or file a motion seeking an order to quash the request.
- (3) If a licensee makes a general or specific written request to the Board for exculpatory, favorable, or arguably favorable evidence that is relative to pending allegations concerning the licensee, the Board must furnish the requested information, indicate that no such information exists, or refuse to furnish the information requested prior to a hearing.
 - (a) The Board is not required to furnish information made confidential by state or federal law, until such requested information has been determined to be exculpatory, favorable, or arguably favorable pursuant to the *in camera* procedure specified in part (b) of this subsection.
 - (b) Once the Board has furnished exculpatory, favorable, or arguably favorable information, has indicated that no such information exists, or has refused to furnish such information, a licensee may request a prehearing in camera inspection of the remainder of the investigative file by the Board or its designee. The Board or its designee shall furnish the licensee with all material that would aid in the licensee's defense that is exculpatory, favorable, or arguably favorable. The Board or its designee shall seal a copy of the entire investigative file in order to preserve it in the event of an appeal.
- (4) If a party refuses to or neglects to produce documents, evidence, witness lists or statements in accordance with a request pursuant to 480-40-.04(1) or 480-40-.04(2), the Board or its designee may issue an order compelling production by motion of the requester or on its own motion. Where the party of whom information is requested has filed a motion to quash the

request for production pursuant to 480-40-.01 and 480-40-.04(2), the Board or its designee may issue an order to quash the request for production upon good cause shown by the party requesting such an order. If a party subsequently refuses to or neglects to produce the requested materials in spite of an order compelling it to do so, the Board or its designee shall have the same rights and powers given the court under the Georgia Civil Practice Act. The Board or its designee may certify the facts to the Superior Court of Fulton County or any county where the offense is committed for appropriate action, including a finding of contempt. The Board or its designee shall have the power to issue writs of *feri facias* in order to collect fines imposed for violation of a lawful order of the Board or its designee.

- (5) The parties shall be required to confer either in person or by telephone, in reasonable advance of a scheduled hearing date but at least seven (7) days prior to the hearing, in a good faith attempt to reach an agreement as to the admissibility of any documents or tangible items intended to be offered in evidence for either side. The parties may stipulate as to any matter of fact and such stipulation will satisfy a party's burden of proving the fact alleged. The parties shall be encouraged to reach pre-hearing stipulations which could facilitate adjudication of the case. The Board or its designee, upon its own motion or upon the request of either party, may schedule a pre-hearing conference to hear and rule on motions or other preliminary matters, or otherwise facilitate adjudication of the case.

Authority: O.C.G.A. §§ 26-4-27, 26-4-28, 50-13-13.