

440-RICR-10-00-1

TITLE 440 – CONTRACTORS’ REGISTRATION AND LICENSING BOARD

CHAPTER 10 – GENERAL ADMINISTRATION, REGISTRATION, LICENSING, AND FILING CLAIMS

SUBCHAPTER 00 – N/A

PART 1 – General Rules and Regulations for Applications, Registration, Licensing, Claims, Violations, and Administrative Hearings

1.1 Authority

This Part is promulgated pursuant to the Rhode Island Contractors’ Registration and Licensing Board Law, R.I. Gen. Laws Chapter 5-65; the Rhode Island Home Inspector Licensing Law, R.I. Gen. Laws Chapter 5-65.1; the Rhode Island Well-Drilling, Pump Installers, and Water-Filtration Contractors Licensing Law, R.I. Gen. Laws Chapter 5-65.2; the Rhode Island Underground Utility Contractors’ Licensing Law, R.I. Gen. Laws Chapter 5-65.3; and the Rhode Island Commercial Roofing Licensing Law, R.I. Gen. Laws Chapter 5-73.

1.2 PURPOSE

- A. The purpose of this Part is to establish provisions, qualifications, and procedures for registering and licensing those disciplines governed by the Contractors’ Registration and Licensing Board: including but not limited to contractors, home inspectors, well-drillers, pump installers, water filtration contractors, underground utility contractors and commercial roofers.
- B. The purpose of the Part is also to promote public safety, health and welfare by providing a mechanism to ensure that all persons conducting business in the regulated disciplines within the State of Rhode Island have the requisite skills, training, and experience necessary to safely and adequately conduct those activities within the state.
- C. This Part shall also govern the complaint process and the conduct of adjudicatory proceedings commenced before the Board after July 1, 2019. This Part shall be liberally construed to further the fair, prompt and orderly administration and determination of complaints and adjudicatory proceedings in conformity with the Rhode Island Administrative Procedures Act. To the extent that any part of these Rules are inconsistent with applicable law or the terms of any other rule or regulation promulgated by the Board, the applicable law and/or the terms of such other rule or regulation shall be deemed to apply.

- D. As applicable and/or required, or unless otherwise indicated, all persons subject to the registration or licensing requirements of the Contractors' Registration and Licensing Board must comply with the provisions of this Part and the following:
1. Contractors and subcontractors: R.I. Gen. Laws Chapter 5-65 and Part 2 of this Subchapter.
 2. Underground Utility Contractors: R.I. Gen. Laws Chapter 5-65.3 and Part 3 of this Subchapter.
 3. Commercial Roofing Contractors: R.I. Gen. Laws Chapter 5-73 and Part 4 of this Subchapter.
 4. Well Drilling, Pump Installers, and Water Filtration Contractors: R.I. Gen. Laws Chapter 5-65.2 and Part 5 of this Subchapter.
 5. Home Inspectors: R.I. Gen. Laws Chapter 5-65.1 and Part 6 of this Subchapter.

1.3 Incorporated Materials

Reserved

1.4 General Definitions

- A. In addition to the terms defined in R.I. Gen. Laws § 5-65-1 and Parts 2, 3, 4, 5, and 6 of this Subchapter, the following terms shall have the following meanings:
1. "Agent of service" or "Registered agent" means a business or individual designated by the registrant/licensee upon whom any process, notice, or demand required or permitted by law to be served upon the corporation or individual registrant/licensee may be served. An attorney licensed and located in Rhode Island or a company listed by the Rhode Island Secretary of State may serve as an agent of service.
 2. "Applicant" means any person seeking to obtain a registration or license that is issued by the Contractors' Registration and Licensing Board.
 3. "Architect" and the "practice of architecture" are defined in R.I. Gen. Laws § 5-1-2.
 4. "Board" or "CRLB" means the contractors' registration and licensing board established pursuant to the provisions of § 5-65-14 or its designees.
 5. "Building officials" means the officials charged with the administration and enforcement of the Rhode Island State Building Code.

6. "Claim" means the portion of a complaint that requests the imposition of monetary damages and/or restitution.
7. "Commercial Contractor" means a contractor who does not regularly in the course of his or her or its business as a contractor engage in construction activities as contemplated in R.I. Gen. Laws Chapter 5-65 on residential structures.
8. "Complainant" means an individual who files a complaint.
9. "Complaint" means a formal allegation against another person.
10. "Condominium" is defined in R.I. Gen. Laws § 34-36.1-1.03(7).
11. "Contested Case" means an adjudicatory proceeding before a Hearing Officer in which the legal rights, duties or privileges of a Party are determined in accordance with R.I. Gen. Laws § 42-35-9.
12. "Continuing education credit" means the credit unit awarded after a person receives instruction related to the discipline for which that person is registered/licensed with the Board. Different disciplines may require a different number of credit units to maintain a registration/license, and the credit must be issued by a Board approved provider to be valid.
13. "Contract" means the written or oral agreement between the client and the registered/licensed person or person required to be registered/licensed, describing the responsibilities and duties of each party and the fee to be paid.
14. "Contractor" is defined in R.I. Gen. Laws § 5-65-1(4)(i)
15. "Department" means the Department of Business Regulation.
16. "Developer" means a person who owns property and contracts with a general contractor to construct, improve, or alter one or more buildings or structures on the land for the purpose of selling or leasing those buildings or structures, and who is required to be registered with the Board pursuant to R.I. Gen. Laws § 5-65-1(4)(i).
17. "Director" means the Director of the Department of Business Regulation or the Director's designee.
18. "Employee" means an individual who works for wages or salary and is not an independent contractor.
19. "Employer" means a legal entity that controls and directs a worker in return for payment of wages or salary as a means of compensation.

20. "Engineer," the "practice of engineering" and "professional engineer" are defined in R.I. Gen. Laws § 5-8-2.
21. "Expungement" means the removal, deletion or erasing of information from a registrant's or licensee's record that is accessible to the public.
22. "Flipping" means the process of purchasing, renovating, and attempting to sell the property for a quick profit.
23. "Good standing" means an applicant who does not have any unresolved claims, violations, penalties or fines with the Board for any registration/license held by the applicant or its principal, nor with any other municipal, state, or federal regulatory authority in Rhode Island or elsewhere.
24. "Inactive registration/license" means a registration/license that has lapsed, expired, or has been suspended, surrendered, or revoked.
25. "Incapacity" or "Incapacitated" means an ailment that renders an active registrant/licensee unable to perform the work of the discipline for which they are registered/licensed,
26. "Independent Contractor" means a person or entity contracted to perform work for—or provide services to—another entity as a non-employee.
27. "License" means any type of License issued by the Board granting permission to engage in certain activities.
28. "Licensee" means a holder of a license issued by the Board.
29. "Occupancy" means, but is not limited to, the time of issuance of a certificate of occupancy or the time of receipt of a letter of completion of the construction by the Building Official.
30. "Owner" means any person or his/her agent who holds title or other rights to a property.
31. "Party" or "Parties" means each Person named or admitted as a Party, or properly seeking and entitled as of right to be admitted as a Party in a Contested Case.
32. "Permits" means documentation that must be obtained from the state or local building department of each city or town in which work is to be performed prior to the commencement of work.
33. "Person" is defined in R.I. Gen. Laws 5-65-1(11) and includes any individual, partnership, corporation, limited liability company, association,

governmental subdivision, public or private organization or any other entity however formed.

34. "Reasonable Cause" means there exists a set of facts of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs which would induce a reasonably intelligent and prudent person to believe that a violation(s) of law, rule, or regulation has occurred.
35. "Registrant" means a holder of a registration issued by the Board.
36. "Registration" means any type of registration issued by the Board granting permission to engage in certain activities.
37. "Residence/residential building" means a structure that consists of one or more dwelling units.
38. "Respondent" means a Party against whom a complaint has been filed against or a violation has issued.
39. "Responsible person" means the individual, corporate member, or partner of a business entity who is responsible for the actions of the entity, the individuals employed by the entity, and for any violations of law, rule, or regulation that occur under the registration/license.
40. "Revoke" means the termination of a registration or license by the Board.
41. "Structure" is defined in R.I. Gen. Laws § 5-65-1 and includes modular and mobile homes at the time they are placed on support blocking or permanent foundations in the place they will be used.
42. "State of Emergency shall mean any State of Emergency declared by the Governor of the State of Rhode Island pursuant to R.I. Gen. Laws § 30-15-9 or other applicable state statute."
423. "Subcontractor" means a person or entity who has a contract, either oral or written, not with the owner of the structure but with a registrant/licensee or one who is required to be registered/licensed, to perform work subject to the Board's authority, and who is responsible for a specific portion of the project.
434. "Violation" means an action that breaks or acts against a relevant statute, rule, regulation, standard, order, registration, and/or license.
445. "Wages" is defined in R.I. Gen. Laws § 28-14-1(4).
456. "Work period" means the time period from the date a contract is entered into until the date the contracted work is substantially completed by the

original registrant/licensee, or if not substantially completed, the date work by the original registrant/licensee ceased.

1.5 General Administration and Procedures

A. Delivery of Notices

1. Time for response to all notices sent by the Board shall run from the date of mailing from the Board, utilizing calendar days.
2. In accordance with R.I. Gen. Law § 5-65-6, Notices of Violation, Final Orders, and a Notices of Hearing shall be considered delivered when deposited in the United States mail and/or sent registered or certified or post office receipt secured to the last known address of record.

B. Change of Address

The registrant/licensee must notify the Board of any change of mailing address or email address in writing and within ten (10) days of the date upon which the change of address occurs for the duration of the registration/license and for one (1) year following the date that the registration/license expires or otherwise becomes inactive.

C. Public Records and Information Requests

1. Requests for information filed in accordance with the R.I. Access to Public Records Act, R.I. Gen. Laws Chapter 38-2.
2. In general, the Board and/or its staff may provide information that includes, but is not limited to the following:
 - a. Whether or not the person is or has ever been registered/licensed;
 - b. The registration/license number(s);
 - c. The business name(s) used by the entity of record with the Board;
 - d. Type of business organization (i.e. individual proprietorship, partnership, LLC, corporation or joint venture);
 - e. Personal name(s) of owners, partners, or corporate officers;
 - f. Last known address of the registrant/licensee;
 - g. Expiration date or date upon which the registration/license became inactive and the reason it became inactive;
 - h. The date the person first became registered/licensed;

- i. Status of the registration/license, history of compliance with the education requirements, validity of insurance and/or bond, and the insurance or bonding company name (as provided to the Board by the registrant/licensee); and
 - j. Number, status, type, date filed, and fines or awards of proposed orders, final orders, claims, violations, or notices of hearings on record.
- 3. If no claims or violations have been recorded, or if it appears to the Board that the person about whom the inquiry is being made is unregistered/unlicensed, the requesting party will be advised as such.

D. Certification of Registration/License

- 1. The Board shall provide a certification of registration/license relating to a specific person upon written request and payment of the required fee. This certification will include the following information:
 - a. Registration/license number(s);
 - b. Name of the registered/licensed person and any business name(s) on file with the Board;
 - d. Type of business (i.e., individual proprietorship, partnership, LLC, corporation or joint venture);
 - e. Name(s) of owner(s), partner(s), or corporate officer(s) provided to the Board; and
 - f. Pertinent dates and actions in the registration/license history.

E. Filing Fees and Record Changes:

- 1. The Board may impose the following charges for records and filing fees:

Public Record Requests	Fee set by R.I. Gen. Laws Chapter 38-2
Complaint Form	\$25.00 (exempt for state and municipal agencies)
Appeals to the Board	\$20.00
Expungement Request	\$20.00 for first matter, \$5.00 for each additional matter made under the same request.

Late Fee \$50.00

Returned Check Fee \$35.00

2. The Board shall not refund fees or civil penalties, unless an administrative error occurred.

1.6 General Registration and Licensing Requirements

1.6.1 Registration / License Required

- A. Every person who engages in a discipline governed by the Board, listed in §§ 1.1 and 1.2(A) of this Part, must be properly registered or licensed with the Contractors' Registration and Licensing Board prior to engaging in those activities.
- B. No person subject to the provisions of this Subchapter shall provide services, offer to the public their services, or represent that they possess a registration/license unless that person possesses a valid registration/license, unless authorized to do so by the Board.
- C. Any person who fails to properly obtain a registration or license in their respective discipline, as required, is subject to penalties for operating without a registration or license.
- D. For purposes of completing an application in either paper or electronic form, for a permit to conduct activities subject to this Subchapter, the actual applicant does not need to possess a registration/license, as long as the applicant is acting on behalf a validly registered/licensed contractor and it will be the registered/licensed contractor who is doing the work.
- E. Officer/Partner Cards/Certificates shall no longer be issued. All current cards/certificates shall expire on December 31, 2019.
- F. All Registration/License requirements must be maintained and kept current for the duration of the Registration/License.

1.6.2 Transfer of Registration/License Prohibited

Any registration/license issued to an individual contractor, subcontractor, or business entity is for the exclusive use of that individual or entity and is non-transferrable.

1.6.3 Display of Registration/License Number

- A. All Persons subject to the provisions of this Subchapter shall display their registration/license number in a conspicuous manner on all forms of advertising,

including but not limited to newsprint classified advertising, newsprint display advertising, pamphlets, telephone directory space ads, online ads, website ads, social media ads, business vehicles, and display ads.

- B. Advertising in any form by an unregistered/unlicensed person shall be prohibited, including alphabetical or classified directory listings, vehicles, business cards, and all other forms of advertisements.
- C. Registration/license numbers must be included on all written contracts, proposals, and invoices.
- D. The wearing of company apparel is exempt from the requirement to include the registration/license number.

1.6.4 Business Entity Registrations / Licenses

- A. Any corporation, LLC, or partnership which meets the registration/ licensing requirements may obtain a registration/license upon approval by the Board. The registrant/licensee shall be identified as the responsible person on the application.
- B. The responsible person is required to meet all applicable requirements for registration/licensing, including, but not limited to providing evidence of the required insurance and bond and maintaining the required continuing education credit. If the listed responsible person disaffiliates from the business entity or becomes unregistered/unlicensed, the business entity must identify a new responsible person who meets the registration/licensing requirements of that discipline in accordance with § 1.6.7 of this Part.
- C. Corporate Documents:
 - 1. If the registrant/licensee is required to be registered with, and certified by, the Rhode Island Secretary of State, the applicant must provide the names of the corporate officers and a copy of the corporate papers filed with the Secretary of State as part of its application.
 - 2. The registrant/licensee is required to notify the Board of any lapse or revocation of corporate status with the Secretary of State.

1.6.5 Nonresident Persons / Registered Agent

No registration/license shall be issued to a nonresident applicant until he or she has filed with the Board a power of attorney constituting and appointing a registered agent upon whom all processes in any action or legal proceeding against him or her may be served, and in the power of attorney agrees that any lawful process against him or her which may be served upon his or her registered agent is of the same force and validity as if served on the nonresident applicant,

and that the force continues irrevocably in force until such time as the Board has been duly notified in writing of any change to that status.

1.6.6 Change of Registration

- A. Registered individuals or business entities may make application to the Board for a change in their registration. Upon approval by the Board, the former registration number may be transferred to the new registration.
- B. When such a change is made, the new registrant shall be responsible for any claims and violations made against the former registrant that are within the jurisdiction of the Board.
- C. Nothing within this section shall be construed to limit the availability of any other remedies available to the Board or complainant.

1.6.7 Effect on Registration/License Due to Loss of Responsible Person

- A. If the responsible person disaffiliates or otherwise becomes incapacitated, the entity's registration/license shall remain valid until the next examination, or until such times as the Board allows.
- B. It shall be the sole responsibility of the entity to appoint a new responsible person that satisfies the registration/license requirements of this Subchapter.
- C. In no event, shall the registration/license remain valid for longer than six (6) months after the disaffiliation or incapacitation of the responsible person, without satisfying the registration/licensing requirements of this Subchapter.

1.7 Applications for Registration/Licensure

Unless otherwise indicated in R.I. Gen. Laws Chapters 5-65, 5-65.1, 5-65.2, 5-65.3, 5-73, and/or Parts 2, 3, 4, 5, and 6 of this Subchapter, the following provisions shall apply to all persons subject to this Subchapter.

1.7.1 General Application

- A. All persons applying for registration/license by the Board shall submit an application in a manner as prescribed by the Board, meet all pre-registration/licensing requirements, and submit the applicable fee, prior to obtaining registration/licensure.
- B. The Board may reject an incomplete application and return the application with an explanation of the deficiencies.
- C. All applicants for a registration/license, whether for initial or renewal, shall acknowledge the following "statement" by affixing their signature to the application prior to the application being considered by the Board.

1. "I acknowledge, understand, and agree that if a complaint is filed against me, I will attend and participate, in good faith, with any attempts to resolve the complaint by the Board, including, but not limited to informal resolutions, formal resolutions, and the administrative hearing process. My failure to do so may result in the imposition of fines against me and/or the suspension or revocation of my registration/licensure.

D. All registration/license applications shall be submitted via mail, on-site dropbox, or in-person via appointment only. Walk in renewals will not be accepted.

1.7.2 Examination

- A. As required, applicants shall pass such examination as the Board deems necessary to test the applicant's knowledge and skills prior to engaging in a discipline regulated by the Board.
- B. Examinations will be conducted at least three times a year by an approved third-party testing company. Testing locations, dates, times, and fees will be posted on the Board's website.
- C. Upon successful completion of the examination, the applicant must submit a copy of their exam certification to the Board with his/her application.
- D. If an applicant does not successfully complete the examination, he/she may retake the examination in accordance with the third-party testing company's policies.

E. The Board or the Director may defer or waive the examination requirements for applicants/registrants/licensees whose educational or training requirements are not only an examination in the event that a state of emergency has been declared by the Governor or for good cause shown by the applicant/registrar/licensee.

1.7.3 Effective Date / Term

- A. Registrations/licenses issued pursuant to this Subchapter are effective upon issuance by the Board.
- B. Registrations/licenses are valid for two (2) years from the date issued, unless the registrations/licenses were granted with an examination waiver.
- C. Any registrations/licenses granted with an examination waiver will expire 90 days after the State of Emergency has been lifted, unless the applicant/registrar/licensee submits successful completion of the examination to the Board.
- DG. The Board or the Director may extend the date of registration/license expiration in the event that a state of emergency has been declared by the Governor.

1.7.4 Renewal and Reissuance of Registration/License

- A. A registration/license may be renewed by the same procedure provided for an original registration/license, upon application, payment of the fee, and any additional supplemental information the Board may require.
- B. Unless ordered by the Board, written examinations and pre-education requirements are not a required component of renewal.
- C. A registration/license which has been voluntarily and temporarily surrendered shall be reinstated at no additional charge if reinstatement occurs within the registration/license period and there are no outstanding claims and/or violations pending. If there are outstanding claims or violations pending, the claims and/or violations must be resolved prior to reinstatement.
- D. A registration/license which has been revoked or suspended may be reissued or reinstated upon written request to the Board and satisfaction of all other requirements as ordered by the Board.
- E. The Board has the discretion to conditionally reissue or reinstate a registration/license which has been revoked or suspended in a manner not inconsistent with the general laws and provisions of this Subchapter.
- F. It is the responsibility of the registrant/licensee to ensure that the requirements for renewal, including timeliness, are met.
- G. Effective March 17, 2020, there shall be a sixty (60) day extension on the time to file a renewal application
- H. All registration/license renewal applications shall be submitted via mail, on-site dropbox, or in-person via appointment only. Walk in renewals will not be accepted.

1.7.5 Lapsed Registration/License

- A. A registration/license is deemed to have lapsed when it has not been renewed on/or before its expiration date. During this time, the person shall not solicit, perform, or offer to perform contracting services.
- B. If a registration/license becomes invalid or lapsed, any registration/ license card(s) and/or registration/license certificates must be returned to the Board within five (5) business days.
- C. If a registration/license lapses for more than six (6) months, the person shall be required to meet the requirements for an original registration, including application, examination, pre-educational requirements, and payment of the fee,

in addition to any back fees, penalties, and any additional supplemental information the Board may require.

D. Waiver of Requirements Upon a Showing of Good Cause

1. The Board may consider granting a waiver of the renewal requirements for lapsed licenses upon a showing of good cause.
2. The request shall be in writing and shall state the reasons for the waiver.
3. Good cause includes, but is not limited to, illness, incapacitation, disability, (which is supported by a medical documentation) or military service.

1.7.6 Military Service Registration/License:

A. Military Service Member

1. In accordance with R.I. Gen. Laws § 5-87-1, applicants who are members of the military service and possess a registration/license from another state may provide proof of education, training, or service completed as a member of the Armed Forces or Reserves of the United States, the National Guard of any state, the Military Reserves of any state, or the Naval Militia of any state and evidence of their out-of-state registration/license.
2. The Board will consider whether the education, training, and/or service is substantially equivalent to the requirements of this state. If so, the Board will attempt to expedite the issuance of the appropriate registration/license to the applicant.
3. If the Board determines that the education, training, and service are not substantially equivalent to the requirements of this state, the Board may issue the service member a temporary registration/license for a period of time sufficient to allow the applicant to complete any specific requirements to obtain registration/licensure in this state.

B. Military Service Member's Spouse:

1. In accordance with R.I. Gen. Laws § 5-88-1, the Board will expedite the issuance of registrations/licenses for applicants:
 - a. Who are registered/licensed in another state to perform contracting services in a state other than Rhode Island;
 - b. Whose spouse is a member of the Armed Forces of the United States;

- c. Whose spouse is the subject of a military transfer to Rhode Island; and
 - d. Who left employment to accompany their spouse to Rhode Island, may apply to the Board for a registration/license based on the out of state registration/license.
- 2. If the Board determines that the out of state registration/license is substantially equivalent to the requirements of this state, the Board may issue the applicant a registration/license.
- 3. If the Board determines that the out of state registration/license is not substantially equivalent to the requirements of this state, the Board may issue the applicant a temporary registration/license for a period of time sufficient to allow the applicant to complete any specific requirements to obtain registration/licensure in this state.

1.8 Education Requirements – Pre-Registration/License and Continuing Education

1.8.1 Scope

The Board adopts the following education standards and requirements for persons registered/licensed with the Board. The Board may have third-party vendors or providers assist in the management of educational programs.

1.8.2 Specifications

- A. If applicable, as a condition of applying for, or renewing a registration/license issued by the Board, the educational requirements specified for that discipline must be met.
- B. If the registrant/licensee holds another registration/license issued by the Board, educational credits may be used to satisfy the education requirements for all registrations/licenses held by the same person. The registrant/licensee will be required to provide proof of completion of the education credits from Board-approved courses.
- C. Documentation of all credit hours must be submitted to the Board at the time of application for, or renewal of, a registration/license.
- D. One (1) credit hour of education is equal to fifty (50) minutes of instruction by a Board-approved provider.

1.8.3 Qualifying Education

- A. Each registrant/licensee must obtain his/her pre-education and/or continuing education credits through a Board-approved provider.
- B. Courses must pertain to the subject matter of the discipline for which the person holds the registration/license.
- C. Subject matter not acceptable for pre- or continuing education credit includes, but is not limited to:
 - 1. Mechanical office and business skills such as typing, speed reading or memory improvement;
 - 2. Physical well-being or personal development, such as motivation, stress management, time management, dress for success; or
 - 3. Meetings held in conjunction with the general business of the registrant/licensee.

1.8.4 Course Materials and Fees

Each applicant/registant/licensee shall be responsible for the cost of all course-related fees and acquiring any course materials used in any pre-education or continuing education course. This requirement may include the acquisition of a current publication of codes and/or standards or rules that may be applicable to the applicant/registant/licensee's discipline.

1.8.5 Proof of Educational Course Completion/Compliance

- A. The applicant/registant/licensee is responsible for demonstrating compliance with and completion of the pre-education and continuing education requirements.
- B. The applicant/registant/licensee is required to provide proof of course completion to the Board for both initial registration/licensure and renewal of registration/licensure.
- C. The applicant/registant/licensee must retain the original documents for his/her current registration period and for three (3) years following the completion of the course(s).
- D. Course certificates shall include:
 - 1. the name, date, and identifying number of the course;
 - 2. the number of credit hours completed;
 - 3. the contact information of the provider and the instructor;

4. any accreditation information; and
5. the signature of the instructor.

1.8.6 Educational Requirements

- A. The specific requirements for the individual disciplines can be found as follows:
1. Contractors and subcontractors: R.I. Gen. Laws Chapter 5-65 and Part 2 of this Subchapter.
 2. Underground Utility Contractors: R.I. Gen. Laws Chapter 5-65.3 and Part 3 of this Subchapter.
 3. Commercial Roofing Contractors: R.I. Gen. Laws Chapter 5-73 and Part 4 of this Subchapter.
 4. Well Drilling, Pump Installers, and Water Filtration Contractors: R.I. Gen. Laws Chapter 5-65.2 and Part 5 of this Subchapter.
 5. Home Inspectors: R.I. Gen. Laws Chapter 5-65.1 and Part 6 of this Subchapter.

1.8.7 Exceptions to Education Requirements

- A. The Board or the Director may defer or waive some, or all, of the pre-education or continuing education requirements in the event that a state of emergency has been declared by the Governor or for good cause shown by the applicant/registrant/licensee. Good cause may include, but not be limited to, illness, incapacitation, disability, (which is supported by a medical documentation) or military service.
- B. Upon request and payment of a one-hundred dollar (\$100.00) fee to the Board, a registrant/licensee may be granted one (1) time, within a two (2)-year renewal cycle, a six (6) month deferral to complete his/her continuing education requirements.
- C. Commercial Contractors are exempt from the Education Requirements of this Subchapter.

1.8.8 Violations for Failing to Complete Education Requirements

The Board may revoke, suspend, or refuse to issue, reinstate, or reissue a registration/license if the applicant/registrant/licensee has failed to complete or maintain the required pre-education or continuing education credits.

1.8.9 Educational Course Providers

- A. The Board shall review, assess, approve and/or deny applications for educational course providers, instructors, and training curriculum. As necessary, information shall be presented to the full Board for consideration.
- B. Educational Course Providers
 - 1. All providers of educational courses must first be authorized and approved by the Board. A current list of approved providers and courses shall be maintained on the Board's website.
 - 2. Educational course provider permits are valid for two (2) years and expire biannually on the date of issuance.
 - 3. Each authorized Provider must designate one individual as an authorized agent. The authorized agent shall:
 - a. Maintain records documenting attendance of students;
 - b. Notify the Board of any change in the address or telephone number of the authorized provider or any change of the authorized agent within seven days of such change; and
 - c. Ensure that only qualified instructors are permitted to teach the curriculum that contributes toward certification for registration, licensure, and/or continuing education.
 - 4. Each authorized provider shall provide to the Board a list of all directors and owners of the school, including their names, addresses and license numbers, if applicable, and shall maintain the record of those directors and owners for at least three (3) years.
 - 5. The Board may suspend, revoke, fine, or refuse to renew the permit of any provider that fails to adhere to the laws pertaining to registration/licensure, this regulation, or a directive of the Board, including:
 - a. Failure to maintain records as required by this § 1.8 of this Part;
 - b. Failure to notify the Board of any change of address or telephone number of the authorized agent;
 - c. Failure to provide the Board with copies of or access to requested information;
 - d. Failure to use the exact name of the authorized provider on any postings, advertisements, solicitations, or any other medium of communication;

- e. Obtaining a provider permit by false pretenses or substantial misrepresentation or omission;
- f. Any misleading or untruthful advertising;
- g. Discriminating against an individual based on any protected class designated in the Rhode Island Fair Housing Practices Act, R.I. Gen. Laws § 34-37-1 et seq.;
- h. Failing to provide the appropriate certification of completion to an individual completing the curriculum for registration, licensure, or continuing education; and/or
- i. Providing certification of completion to an individual who has not completed such curriculum.

C. Educational Course Provider Application

- 1. Provider Application: To become a Board-approved course provider, either as an organizational provider or an individual provider, the applicant shall submit an application to the Board, on a form as approved by the Board, that contains the following information:
 - a. Name of training provider;
 - b. Business identifying number (FEIN#);
 - c. Length of time providing educational courses;
 - d. Physical address;
 - e. Phone number;
 - f. E-mail address;
 - g. Website address;
 - h. Type of instruction (on-line, instructor led or both);
 - i. Business or individual resume (basic description of business, credentials qualifying the company or organization as a trainer);
 - k. Insurance coverage and policy number (must have at least one million dollars (\$1,000,000) in liability coverage); and
 - k. A breakdown of the costs of any fees that will be charged to the student, exclusive of books and materials;

D. Certification

Each applicant for a Provider permit shall attest under the pains and penalties of perjury that they understand and agree to abide by the laws and regulations that govern educational requirements.

E. Application Fee

The fee for all new and renewal Educational Course Provider permits is two-hundred and fifty (\$250) dollars.

F. Upon approval of the Education Course Provider application, the Provider shall be assigned an identification number.

G. Additional Requirements

1. Any facility where courses will be taught shall be compliant with the American with Disabilities Act, 42 U.S.C. § 12101 et seq.
2. Any facility where courses will be taught shall be adequately lighted, heated/cooled, void of distractions as much as possible, be equipped with the teaching/learning equipment necessary to enhance learning (such as media projectors, TV/VCR, marker board and/or other safety equipment needed for instruction), have sufficient seating for attendees, and have easily accessible restrooms available.
3. All information collected from or provided by any applicant/registrant/licensee shall not be shared or provided to any third party without the express written approval and consent of the applicant/registrant/licensee.
4. Upon request, the Provider shall supply the Board with a list of applicants/registrants/licensees who have completed the course, including the applicant's name, registration/license number, and date of attendance and/or completion.
5. Educational Providers shall require that each course attendee present a photo identification card and affix their signature to the attendance roster.

1.8.10 Educational Courses

A. Requirements for Course Approval

1. Requests for course approvals must be provided to the Board at least thirty (30) days in advance of the date of instruction.
2. The request must include:
 - a. A detailed course outline with hours spent in each subject area;
 - b. Descriptions of the texts and materials utilized in the course;

- c. Copies of tests, examinations or other materials used to evaluate student performance; and
 - d. A list of instructors and their resumes.
- 3. Courses must consist of at least one (1) credit hour of instruction.
 - a. Each hour of credit must contain a minimum of fifty (50) minutes of instruction.
- 4. Courses must be taught by a CRLB approved provider as set forth in § 1.8.9 of this Part.
- 5. Courses must substantially relate to the work of the registrants/licensees that it seeks to provide education for.
- 6. For each approved course, the provider must maintain, and make readily available to the Board for a period of three years upon request;
 - a. The materials provided in § 1.8.10(A)(2) of this Part;
 - b. Copies of student evaluations of the course; and/or
 - c. Copies of certificates issued to students.

B. Course Approval Fee

- 1. The fee for all new and renewal course approvals is one-hundred (\$100) dollars per course.
- 2. This fee shall be waived for governmental organizations and non-profit entities, upon sufficient proof of non-profit status. (i.e. 501(c)(3), annual financial report, or IRS Form 990)
- 3. Approved courses shall be valid for five (5) years and must be resubmitted for approval upon expiration.

C. Instructor Qualification.

- 1. No person may act as an instructor unless such person holds a registration/license and is in good standing with the Board for the discipline in which the course is offered for.
- 2. The Board may authorize any person to act as an instructor, notwithstanding the requirements of § 1.8 of this Part, if the person demonstrates that they have the equivalent qualifications to those required by this section. Equivalent qualifications may include, but are not limited to, the following:

- a. Demonstrated knowledge in a particular subject matter;
 - b. Appointment to the faculty of an accredited college, university or trade school; or
 - c. Current teaching certificate with demonstrated industry specific knowledge or experience.
 3. Instructors may employ specialists to teach particular portions of the curriculum and such specialists need not obtain authorization from the Board. Specialists may not be employed to teach the entire curriculum.
 4. Current or prior registrants/licensees whose registrations/licenses have been suspended or revoked as a result of disciplinary action by the Board, or the regulatory authority in another state, shall not qualify for approval as an instructor.
- D. Course/Instructor Evaluations:
1. The Provider shall distribute and review course/instructor evaluation forms at the completion of each course.
 2. Evaluation forms shall include a contact name and phone number for the Contractors' Registration and Licensing Board where complaints can be filed.
 3. Evaluation forms shall be maintained by the provider for a period of three (3) years following the course completion date.
- E. Instructor Credit:
1. Board-approved pre-education and continuing education course instructors may use their course instruction to satisfy the continuing education requirement.
 2. Instructors must provide the Board with evidence of what Board-approved courses were taught, when the course(s) were taught, and how many credit hours were taught.
 3. Instructors will receive credit for teaching a particular course only once per renewal cycle.
 4. A maximum of two (2) Instructor Credit hours may be used per renewal cycle.

1.8.11 Violation for Operating as Non-Approved Provider

Any individual or organization who acts as a provider or instructor without being properly approved by the Board, or who provides the Board with any falsified information or documentation, may be prevented from obtaining future approval as a provider or instructor.

1.8.12 Penalties for Provider Noncompliance

Any provider or instructor who violates these requirements or falsifies documentation may be subject to having their provider or instructor status revoked. A provider or instructor with a revoked status may petition the Board for reinstatement.

1.9 Complaints

1.9.1 Duty to Participate

All persons who are registered/licensed, or who are required to be registered/licensed, shall participate and make good faith efforts to resolve all complaints, violations, and/or contested cases within the jurisdiction of the Board. Failure to do so shall result in the Board taking action against the respondent, to the extent allowable by law, including suspension or revocation of a contractor's registration/license, without which an individual cannot work as a contractor in the state.

1.9.2 Complaints Generally

- A. Complaints shall only be accepted for work or services performed within the boundaries of the State of Rhode Island, or for materials or equipment supplied or rented for fabrication into or use upon structures located within the boundaries of the State of Rhode Island. Unless otherwise specified, the Board shall only accept complaints from complainants who can demonstrate standing to bring the complaint.
- B. A complaint may be made by any Person against any registrant/licensee or any Person who is required to be registered/licensed but is not registered/licensed by the Board. Such statement of complaint shall be in writing, signed by the complainant, and made on a form as required by the Board.
- C. A complaint may contain an allegation of a claim and/or violations.
- D. When submitting a complaint, complainants are encouraged to provide copies of all supporting documentation, including but not limited to:
 - 1. Written contracts and agreements;
 - 2. Invoices;
 - 3. Billings;

4. Estimates;
5. Receipts;
6. Cancelled checks;
7. Court or arbitration information/judgments; and
8. Notices of counter claims by respondents.

D. Initial Acceptance or Denial of Complaint. The Board shall make an initial determination as to whether the complaint is within the Board's jurisdiction and meets the requirements of R.I. Gen. Laws Chapter 5-65. If jurisdiction exists and the requirements for acceptance are met, the Board shall process the complaint. If jurisdiction does not exist, and/or the requirements for acceptance are not met, the Board shall deny the complaint.

E. Complaints Based on Valid Contract Containing an Arbitration Clause

1. A complaint for work performed pursuant to a valid contract which contains a requirement that the parties resolve their dispute through an arbitration process, shall not be accepted by the Board, unless both parties, within forty-five (45) days of the filing of the complaint, agree in writing to waive the arbitration clause and consent to the jurisdiction of the Board for resolution of the dispute.
2. If the dispute is resolved through arbitration, the decision may be submitted to the Board for consideration of whether the decision establishes the basis for disciplinary action against the registration/license of the contractor, not inconsistent with any applicable general laws and/or this Subchapter.

F. Limitations on Complaint Process

1. If the investigation determines that the potential monetary damages and/or restitution exceeds ten-thousand dollars (\$10,000), in accordance with R.I. Gen. Laws § 5-65-12(b), the Board may refuse to continue processing the claim and refer the complainant to Superior Court.
2. If the Hearing Officer determines that a violation of R.I. Gen. Laws Chapters 5-65, 5-65.1, 5-65.2, 5-65.3, 5-73, and/or Parts 1-6 of this Subchapter has occurred, the Hearing Officer may;
 - a. Order that a registrant/licensee complete any unfinished work;
 - b. Return a deposit if no work has commenced;
 - c. Issue fines;

- d. Suspend or revoke a registration/license; and/or
 - e. Order the contractor to take additional educational classes if necessary.
- 3. A Hearing Officer cannot order the Respondent to pay monetary damages and/or restitution. However, the payment of monetary damages and/or restitution can be agreed to by the Parties as part of any settlement/agreement.
 - 4. If applicable, a claim may be brought in the Superior Court, pursuant to R.I. Gen. Laws § 5-65-12.1.

1.9.3 Board Initiated Investigations

- A. The Board, on its own authority, may initiate an investigation and take action against:
 - 1. A registrant/licensee;
 - 2. An applicant for a registration/license or for renewal of a registration/license;
 - 3. Any Person who is required to be registered/licensed but is not registered/licensed; and/or
 - 4. Any Person who is subject to the regulatory authority of the Board.
- B. All such actions shall be upon such terms and conditions as are permitted under applicable law and this Subchapter.

1.9.4 The Board's Right to Refuse and/or Dismiss Complaints

- A. The Board may, in its sole discretion, refuse to accept, or at any time refuse to continue processing a complaint if:
 - 1. The complaint involves a contract that is administered, reviewed, and inspected by a local, state, or federal agency when disbursement or administration of the contract sum is contingent upon the approval of that agency;
 - 2. The complainant fails to respond to the Board's written requests for information or documentation within a time period specified by the Board;
 - 3. The complainant does not allow access to the property for investigation purposes;
 - 4. The Board determines that based on the nature or complexity of the issues, the amount in controversy, and/or legal issues presented, a court

of competent jurisdiction or an alternate forum is more suited to adjudicate the matter;

5. The same issues involved in the complaint have been submitted by either party to a court, arbitration, or other forum authorized by law to affect a resolution prior to the administrative hearing;
 6. The facts and issues of the complaint are substantially the same as those in a complaint previously filed by the same complainant, unless the complaint concerns a repair previously ordered by the Board;
 7. The Board determines that the person against whom the complaint is filed is capable of complying with the recommendations made by the Board relative to the claim, but the complainant does not permit the respondent to comply with those recommendations; or
 8. The Board determines that the value of the damages due to the complainant is less than that owed to the respondent under the terms of the contract.
- B. If at any time during the complaint process the complainant accepts a valid promissory note from the Registrant/Licensee as settlement of the claim, the Board shall dismiss the claim. Dismissal of the claim will be final, and the claim will not be reopened.

1.10 Notice of Accepted Complaints and Initial Board Investigation

- A. The Board shall give notice to all Parties of the acceptance of a complaint. The notice shall include:
1. A reference to the particular sections of the statutes and rules involved; and,
 2. A short and plain statement of the matters asserted.
- B. Initial Board Investigation
1. The Board may conduct an initial investigation and make attempts to informally resolve the matter between the Parties. If the matter can be resolved informally, the agreement shall be reduced to writing and signed by the Parties.
 2. The initial Board investigation and attempts to informally resolve the matter shall be completed within sixty (60) days of acceptance of the complaint. Time may be extended for good cause, but in no event shall the

matter remain at the initial investigation stage for more than ninety (90) days.

3. If the matter is not resolved within sixty (60) days, or extended for good cause, it shall be referred to the Hearing Officer for further administrative proceedings in accordance with § 1.11 of this Part.

1.11 Pre-hearing Conferences/Alternative Dispute Resolution

1.11.1 Pre-Hearing Conferences

- A. It is the policy of the Board to encourage the use of prehearing conferences to make more effective use of hearing time.
- B. The Director or the Hearing Officer may, with reasonable written notice, require that all Parties attend a prehearing conference and/or attempt alternative dispute resolution to resolve the matter and/or consider the following:
 1. The simplification, narrowing, and clarification of the issues;
 2. The possibility of obtaining written stipulations, admissions, agreements with respect to the introduction of documents or similar agreements which will avoid unnecessary proof;
 3. The identification of witnesses and the limitation of the number of witnesses;
 4. The possibility of agreement disposing of all or any of the issues in dispute;
 5. The consideration of outstanding motions;
 6. The status of settlement negotiations, if any;
 7. The use of pre-filed testimony, where appropriate;
 8. Any matters of discovery, including limitation of data requests, document requests, or other discovery or resolving disputes as to the scope of discovery;
 9. Scheduling of hearings; and
 10. Any such other matters as may aid in the final disposition of the proceeding.

1.11.2 Alternative Dispute Resolution

- A. It is the policy of the Board to also encourage the use of alternative dispute resolution to resolve a complaint.

B. Mediation

1. Mediation is a means by which a trained impartial third person assists the Parties in reaching a settlement/agreement.
2. The mediator is appointed by the Director and has no decision-making authority. If the mediator is an attorney, the mediator cannot provide legal advice to the parties.
 - a. No Hearing Officer assigned to the matter shall serve as the mediator.
3. If an agreement/settlement is reached between the parties, the mediator may assist in preparing the written settlement/agreement to be signed by the Parties.
4. Mediation shall be conducted pursuant to the requirements of R.I. Gen. Laws § 9-19-44.

C. Consented to Final Order

1. A consented to Final Order is a settlement/agreement reached between the parties with the assistance of the Hearing Officer. Unlike mediation, the Hearing Officer may actively participate and assist the Parties in reaching the settlement/agreement.
2. The Hearing Officer is appointed by the Director. The Hearing Officer cannot provide legal advice to the Parties.
3. If an agreement/settlement is reached between the parties, the Hearing Officer shall prepare a Consented to Final Order, which shall be reduced to writing and signed by the Parties and the Hearing Officer.

1.11.3 Pre-Hearing/Alternative Dispute Resolution Procedures

- A. All Parties shall attend/participate in the prehearing conference and/or alternative dispute resolution fully prepared to discuss all matters related to the proceedings. Failure of any Party to attend the prehearing conference and/or alternative dispute resolution may constitute a waiver of all objections to any order or ruling issued as a result of the prehearing conference and/or alternative dispute resolution unless good cause is shown.
- B. At the sole discretion of the Hearing Officer, the Parties may be permitted to waive the prehearing conference and/or alternative dispute resolution by filing with the Hearing Officer a stipulation prior to the prehearing conference and/or alternative dispute resolution that contains the following:
 1. Agreement to the issues in the matter,

2. An agreed to discovery schedule,
 3. Three (3) agreed to possible dates for a hearing, and
 4. Any other agreements as to matters contained in § 1.11.1(B) of this Part.
- C. In the discretion of the Hearing Officer, with agreement of the parties, prehearing conferences, conference hearings, alternative dispute resolution, or status hearings may be held by telephone, electronically, or by any other means.
- D. Alternative Dispute Resolution sessions shall be conducted via teleconference other electronic means whenever possible. In-person sessions shall be conducted only when the ability to utilize teleconferencing or other electronic means is unavailable or burdensome as agreed to by the Parties.

1.11.4 Administrative Hearings Based on Contested Cases

- A. If the Parties cannot reach an agreement with the assistance of the Hearing Officer, with the consent of both Parties, the Parties may request that the Hearing Officer decide the issues by conducting an administrative hearing in accordance with § 1.14 of this Part.
1. Emergency hearings shall be conducted as required. An emergency hearing is a hearing that determines the status of a registrant or licensee who is alleged to be acting to the detriment of the health, welfare and safety of the general public.
 2. All other hearings shall be scheduled once the State of Emergency is lifted.
- B. Upon conclusion of the administrative hearing, the Hearing Officer will issue a Final Order.
- C. A Final Order issued pursuant to this subsection may be appealed in accordance with § 1.13.2 of this Part.

1.12 Violations

1.12.1 Authority

- A. In accordance with R.I. Gen. Laws Chapters 5-65, 5-65.1, 5-65.2, 5-65.3, 5-73, and this Subchapter, investigative members of the Board may issue violations to registrants/licensees, or those required to be registered/licensed with the Board, for violations of statute, or any Part of this Subchapter.
- B. The Board may also immediately suspend or revoke any registration or license for just cause when the registrant/licensee is acting to the detriment of the health, welfare and safety of the general public. Under this provision revocation and

suspension may be extended beyond the initial thirty (30) days after the opportunity for an administrative hearing has occurred.

1.12.2 Procedure for Investigating and Processing Violations

- A. Notices of Violation shall be issued for, but are not limited to, the following conduct
1. Court judgment against a contractor;
 2. Claims;
 3. Disciplinary action;
 4. Lack of insurance policy/coverage;
 5. Lack of workers' compensation coverage;
 6. Lack of minimum bond or proof of bonding capacity;
 7. Improper advertising;
 8. Hiring non-registered/non-licensed contractor(s) or subcontractor(s);
 9. No registration/license number on contract;
 10. No registration/license number in advertisement;
 11. No mechanics' lien release form/notice provided in contract;
 12. No right of rescission clause;
 13. Action filed by entity such as building official, municipality, another agency, etc.;
 14. Failure to list employee(s);
 15. Violation of State Building Code;
 16. Violation of rule, regulation or order of the Board;
 17. Working under an invalid, revoked, or suspended registration/license;
 18. Registrant/licensee engaged in conduct dishonest or fraudulent conduct;
 19. Working under another person's registration/license number;
 20. Lien filed whereby registrant/licensee wrongfully failed to perform a contractual duty to pay person claiming lien;

21. Registrant/licensee made false statements on application or to investigative staff;
22. Engaged in any act, conduct, or practice which violates this Subchapter;
23. Knowingly making a false or fraudulent statement on an application;
24. Failure to provide list of sub-contractors or employees;
25. Failure to comply with the disclosure requirements; and/or
26. Failure to comply with the educational requirements.

1.12.3 Notice of Violation

- A. When a violation occurs, a written Notice of Violation shall be issued to the Registrant/Licensee in accordance with R.I. Gen. Law § 5-65-6.
- B. The Notice of Violation shall contain:
 1. The identifying information of the respondent;
 2. The grounds for issuance;
 3. The fine amount and due date of payment; and
 4. The respondent's right to appeal.

1.12.4 Fines/Penalties

- A. Monetary fines and administrative penalties shall be imposed in accordance with R.I. Gen. Laws Chapter 5-65.
- B. In determining the appropriate fine(s) and/or penalties to impose, the Board shall look to past precedence of the Board for guidance and may consider any mitigating or aggravating circumstances as known to the Board at the time of the determination. Such circumstances may include, but are not limited to the following:
 1. The presence of lack of past violations;
 2. The Respondent's acceptance of responsibility and candor with the Board;
 3. The egregiousness of the violation; and/or
 4. Harm to the public.
- C. Any fines assessed against the respondent are due and payable upon the issuance of the Notice of Violation(s), unless otherwise agreed to by the Board.

The Board may initiate its own collection proceedings and actions pursuant to applicable law. Interest may be assessed on the amount due in the final order in accordance with applicable law

- D. For matters that are appealed pursuant to §§ 1.13.1 and 1.13.2 of this Part, the Hearing Officer and/or the Board may address, modify, and/or impose fines for additional violations or matters based on the evidence presented.

1.12.5 Court Judgements/Arbitration Awards - Effect on Registration/License

- A. A judgment/award issued by a forum other than the Board may serve as the basis for disciplinary action against a registrant/licensee.
- B. The judgment/award must be provided to the Board within ninety (90) days of entry in its original forum. Upon receipt of a timely filed court judgment/arbitration award, the Board may issue a notice of hearing and schedule an administrative hearing to take action against the registrant/licensee, utilizing the judgment/award as the basis for such action.

1.13 Appeals

1.13.1 Appeal of Notice of Violation to Hearing Officer

- A. The issuance of a Notice of Violation may be appealed to the Hearing Officer by requesting a hearing in writing to the Board within twenty (20) days of the date of mailing or issuance of the Notice of Violation.
 - 1. If timely filed, the Hearing Officer shall hold an administrative hearing in accordance with § 1.15 of this Part.
 - 2. Upon conclusion of the hearing, the Hearing Officer shall issue a Final Order.
 - 3. In accordance with R.I. Gen. Law § 5-65-6, a Final Order shall be considered delivered when deposited in the United States mail and/or sent registered or certified or post office receipt secured to the last known address of record.
- B. If the Board does not receive a written request for an Appeal within twenty (20) days of the date of mailing the Notice of Violation, and the Respondent has not paid and/or complied with its requirements, the Notice of Violation shall automatically convert to a Final Order.
- C. Appeals/Requests for Hearings which are timely filed, shall be scheduled once the State of Emergency has been lifted. All enforcement and fines due shall be stayed until such time as the hearing officer has issued an appeal decision.

1.13.2 Appeal of Final Order by the Hearing Officer to the Full Board

- A. A Final Order issued pursuant to §§ 1.11.4 or 1.13.1 of this Part, may be appealed to the Full Board by requesting an appeal in writing to the Board within twenty (20) days of the date of mailing or issuance of the Final Order.
- B. If timely filed, the Full Board shall hear the appeal during one of its Board meetings, pursuant to the Open Meetings Act, R.I. Gen. Laws Chapter 42-46.
- C. Board Consideration of Appeal:
 - 1. Members of the Full Board shall only consider evidence presented to the Hearing Officer, issues raised in the appeal, and written and/or oral argument relative to the Final Order issued by the Hearing Officer.
 - 2. Time allowed for oral argument may be limited by the Board.
 - 3. The Board will not consider new or additional evidence.
 - 4. The Board may allow the Board staff investigator to report on his/her investigative findings.
- D. Upon conclusion of the testimony and consideration of the evidence and argument, the Board shall issue a decision affirming, modifying, dismissing, or remanding the violation back to the Hearing Officer.
- E. In accordance with R.I. Gen. Law § 5-65-6, the decision shall be considered delivered when deposited in the United States mail and/or sent registered or certified or post office receipt secured to the last known address of record.
- F. Decisions of the Full Board may be appealed to the Superior Court in accordance with § 1.13.3 of this Part.
- G. Appeals which are timely filed, shall be scheduled once the State of Emergency has been lifted. All enforcement and fines due shall be stayed until such time as the hearing officer has issued an appeal decision.

1.13.3 Appeal of Decision by the Full Board to the Superior Court

Pursuant to R.I. Gen. Laws § 42-35-15, any Party aggrieved by a decision of the Full Board may file an appeal with the Superior Court.

1.14 Criminal Prosecution

Once all appeal rights have been extinguished, if a Respondent fails to comply with a Final Order, or a decision of the Full Board, the Board may refer the case to the Office of the Attorney General for criminal prosecution.

1.15 Administrative Hearings

Administrative hearings shall comply with the requirements of R.I. Gen. Laws Chapter 42-35, the enabling acts of the Board, and this Subchapter.

1.15.1 Notice of Hearing:

- A. A notice of administrative hearing shall comply with R.I. Gen. Laws § 42-35-9(b).
- B. Unless otherwise agreed to by the Board and the parties, the Board shall schedule administrative hearings before a hearing officer no sooner than twenty (20) calendar days from the date the parties are notified of the hearing.
- C. In accordance with R.I. Gen. Law § 5-65-6, a notice of hearing shall be considered delivered when deposited in the United States mail and/or sent registered or certified or post office receipt secured to the last known address of record.
- D. For administrative hearings related to the notice of violation, the Hearing Officer is the appropriate forum. For an appeal related to a Final Order of the Hearing Officer, the appropriate forum is the Full Board.

1.15.2 Representation

- A. Appearances.
 - 1. The Board shall notify each Party that each Party may retain legal counsel admitted in the State of Rhode Island.
 - 2. Individuals and partners of partnerships may appear pro se if they choose. Corporations may be represented by an officer in the corporation, even if not a member of the state bar.
 - 3. If a Party is not representing themselves, the Party must be represented by a member, in good standing, of the Bar of the State of Rhode Island, or by an out of state attorney who has been admitted pro hac vice by the Superior Court or by the appropriate court, unless exempted pursuant to R.I. Gen. Laws § 11-27-11.
 - 4. All attorneys must conform to the standards of ethical conduct required of practitioners before the courts of the State of Rhode Island.
- B. Appearances of Present and Former Employees of the Board.
 - 1. No person who is currently an employee or member of the Board may appear before the Board or Department on behalf of any Person, or to represent any Person, or act as an expert witness before the Board or

Department, except in the performance of his/her official duties as an employee or member of the Board.

2. No person having been so employed, or as a member of the Board may, within one (1) year after said employment has ceased, appear before the Board or Department on behalf of any other Person, or to represent any Person, or act as an expert witness before the Board or Department.

1.15.3 Filing of Pleadings and Other Documents

- A. All pleadings and other documents filed in any Contested Case shall, whenever possible, state the file number, if any, the title of the proceeding and the name of the Person on whose behalf the filing is made.
- B. Form and Size. All pleadings and other documents filed, except those documents which are kept in a smaller or larger format during the ordinary course of business, are to be submitted on 8½ by 11 inch paper. At the discretion of the Hearing Officer or Board, filings may be made by telecopier, facsimile, or by electronic mail or any other manner or means approved by the Hearing Officer. If filings are made electronically, the Party shall also file a hard copy of any such electronic filing. All documents must include, if applicable, the Rhode Island Bar number, address, telephone number, facsimile number and email address of each attorney and pro se litigant. All papers shall be filed during Regular Business Hours. The Board or Department's date stamp shall be presumptive of the actual date of filing.
- C. Signature. The original copy of each pleading shall be signed and dated by the Party on whose behalf the pleading is made or by the Party's authorized representative. This signature shall constitute a certification that the individual has read the document, knows the contents thereof and to the best of his/her knowledge believes that such statements are true, that it is not interposed for delay and that if the pleading has been signed by an authorized representative, he/she has full power and authority to do so.
- D. Construction. All pleadings shall be liberally construed and errors or defects therein which do not mislead or affect the substantial rights of the Parties involved may be disregarded.

1.15.4 Service

- A. Service Upon Parties and Others. A copy of all pleadings and other documents filed in any proceeding governed by this Part shall be served upon all other Parties.
- B. Manner of Service. Unless otherwise ordered or authorized by the Hearing Officer, Board, or Department, service under this Part shall be made upon a Party or upon the Party's attorney, in accordance with R.I. Gen. Laws § 5-65-6.

- C. Certificate of Service. There shall accompany and be included in the original of each pleading filed with the Board or Department a certificate of service showing service on all Parties.
- D. Date of Certificate to Govern. In addition to the provisions of § 1.12.5 of this Part, the time for response to all pleadings shall commence as of the date of the certificate of service. However, if service is made by mail, then one (1) day shall be added to the prescribed period.

1.15.5 Time

- A. Computation. Unless otherwise specifically provided by law, computation of any time period referred to in this Part shall begin with the first day following the act which initiates the running of the time period (including Saturday, Sunday and legal holidays). The last day of the time period so computed is to be included unless it is a Saturday, Sunday or legal holiday or any other day on which the Board is closed, in which case the period shall run until the end of Regular Business Hours of the next following business day.
- B. Extensions of Time. It shall be within the discretion of the Hearing Officer, for good cause shown, to extend any time limit. All requests for extensions of time shall be made by written motion filed with the Hearing Officer before the expiration of the applicable time period unless waived by the Hearing Officer.
- C. Continuances. Except as otherwise provided by law, the Hearing Officer may, at any time, with or without request, continue or adjourn a prehearing conference or a hearing. If a Party requests a continuance, the Hearing Officer may direct the Party to seek the assent of the other Party(ies) prior to deciding whether to grant such request. If the Hearing Officer grants a continuance at the request of a Party(ies), the Hearing Officer may direct the Party(ies) requesting the continuance to immediately notify all other Parties of record and if deemed necessary to prepare an order. If such an order is made, the continuance will only be effective when the notification to all other parties of record has been made.

1.15.6 Motions

- A. General. Any Party may request that the Hearing Officer enter any order or action not inconsistent with law or this Part. The types of motions made shall be those which are permissible under these Rules and the Rhode Island Superior Court Rules of Civil Procedure ("Super. R. Civ. P.").
- B. Presentation/Objections to Motions. Motions may be made in writing at any time before or after the commencement of a prehearing conference or hearing, and/or they may be made orally during a prehearing conference or hearing. Each motion shall set forth and/or state the grounds for the desired order or action and state whether oral argument is requested. Within ten (10) days after a written motion is filed with the Hearing Officer and served on the opposing Party(ies), a

Party opposing said motion must file a written objection to the granting of the motion, and shall, if desired, request oral argument. All written motions and objections shall be accompanied by a written memorandum specifying the legal and factual basis for the Party's position.

- C. Action on Motion. The Hearing Officer shall, if he/she/it determines oral argument on the motion is warranted, give notice of the time and place for such argument. The Hearing Officer may rule on a motion without argument if the motion involves a matter as to which the presentation of testimony or oral argument would not advance the Hearing Officer's understanding of the issues involved or if disposition without argument would best serve the public interest. The Hearing Officer may act on a motion when all Parties have responded thereto, or the deadline for response has passed, whichever comes first.

1.15.7 Discovery

- A. General. The Board favors prompt and complete disclosure and exchange of information and encourages informal arrangements among the Parties for this exchange. It is the Board's policy to encourage the timely use of discovery as a means toward effective presentations at hearing and avoidance of the use of cross-examination at hearing for discovery purposes.
- B. Procedure. Any Party, by written request served upon all other Parties, may request the other Party to produce for inspection, copying or photocopying document, object or tangible thing which are relevant to the subject matter of the hearing
- C. Hearing Delay. No hearing shall be continued to permit the completion of discovery unless due diligence is shown.
- D. Discovery Schedule. At the discretion of the Hearing Officer, the discovery schedule shall be set at the prehearing conference. The Hearing Officer may amend such discovery schedule at the request of a party or on his or her own volition.
- E. Written Discovery. Written discovery as set forth in the Superior Court Rules of Civil Procedure is allowed but may be limited by the Hearing Officer.
- F. Types of Discovery. Any other types of discovery as set forth in the Superior Court Rules of Civil Procedure may be allowed in the discretion of the Hearing Officer.
- G. Discovery Disputes. Objections to discovery requests shall be made pursuant to the Superior Court Rules of Civil Procedure. If there is a dispute between the Parties relating to a Party's failure to respond to discovery, the Party requesting the discovery shall comply with file a Motion to Compel Discovery with the Hearing Officer.

- H. A Party is not required to file discovery responses with the Hearing Officer unless otherwise ordered by the Hearing Officer.

1.15.8 Subpoenas

Upon application of any Party, subpoenas requiring the attendance and testimony of witnesses and to compel the production and examination of papers, books, accounts, documents, records, certificates and other evidence that may be necessary or proper for the determination and decision of any question before the forum may be issued by the Director upon submission to the Hearing Officer. Except as may be otherwise provided by law, including, without limitation, the provisions of R.I. Gen. Laws § 42-14-11, in cases where a subpoena is not honored, the Director may elect to make application to the State of Rhode Island Superior Court for an order to show cause why the Person who failed to honor the subpoena shall not be held in contempt and for such further relief as may be appropriate. The Hearing Officer may, on its own initiative, or on motion of any of the Parties or witnesses, issue such protective orders, grant such motions to quash and grant other motions as justice or fairness may require.

1.15.9 Evidence

- A. Rules of Evidence. Irrelevant, immaterial or unduly repetitious evidence shall be excluded in all proceedings wherein evidence is taken. While the rules of evidence as applied in civil cases in the Superior Courts of this state shall be followed to the extent practicable, the Hearing Officer shall not be bound by the technical evidentiary rules. Evidence not otherwise admissible may be admitted, unless precluded by statute, when necessary to ascertain facts not reasonably susceptible of proof under the rules, if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. The rules of privilege recognized by law shall apply. Objections to evidentiary offers may be made and shall be noted in the record.
- B. Exhibits, Copies. In all cases wherein evidence is taken, exhibits may be introduced in the form of copies or excerpts, if the original is not readily available. Upon request, a Party shall be given an opportunity to compare the copy with the original.
- C. Administrative Notice. In all proceedings wherein evidence is taken, notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the Board or Department's specialized knowledge; but Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any report or data required by law or regulation to be filed with the Board or Department, and they shall be afforded an opportunity to contest the material so noticed. The Board or Department's experience, technical competence and specialized knowledge may be utilized in the evaluation of the

evidence. The burden is on the Party requesting the Board or Department's notice to produce the documents or other matter for the Hearing Officer's review.

- D. Board Employees, Agents and Consultants. The Board or Department may employ the use of Board employees, agents, and consultants to assist him/her in the evaluation of any evidence introduced at the hearing. In the Hearing Officer's discretion, these persons may be present at the hearing.
- E. Oath. All testimony shall be under oath or by affirmation.

1.15.10 Conduct of Hearings

- A. General. Hearings shall be as informal as may be reasonable and appropriate under the circumstances. All Parties, witnesses and other Persons at a hearing shall conduct themselves in a manner consistent with the standards of decorum commonly observed in any courtroom. Where such decorum is not observed, the forum may take appropriate action including ejectment or adjournment, if necessary.
- B. Duties of Hearing Officer. The Hearing Officer shall conduct the hearing, make all decisions regarding admission or exclusion of evidence or any other procedural matters and either administer oaths to all witnesses or ask the stenographer to do so.
- C. Order of Proceedings. Except as otherwise required by law, it shall be the usual practice that the Board or the complainant shall open. Where evidence is peculiarly within the knowledge of one Party, or in cases in which contested cases have been consolidated or where there are multiple Parties, the Hearing Officer may, in its discretion, direct who shall open and shall further designate the order of presentation.
- D. Rights of Parties. Parties shall have the right to present evidence, cross-examine witnesses, object, make motions, and present arguments.
- E. Record of Proceedings.
 - 1. A complete record of the proceedings shall be recorded on audiotape, or at the discretion of the Hearing Officer, by stenographic record. In the event the Hearing Officer orders a stenographic record, the Hearing Officer shall declare which Party or Parties shall bear the cost thereof. Any Party may on his, her or its own initiative order a stenographic record made of the proceedings. The requesting Party shall incur all costs associated therewith. The Hearing Officer shall be provided, at no cost, with the original of the stenographic record and Board Counsel shall be provided with a copy at no cost. Any Party may request a copy of the audiotape record of the proceedings. The requesting Party shall bear the cost thereof.

2. If a Party chooses to appeal a final Board Decision to Superior Court pursuant to R.I. Gen. Laws Chapter 42-35 and the Superior Court requires a transcript of the hearing, said Party shall be responsible for having the transcript prepared by an independent person or company at his, her or its expense within twenty (20) days of filing the appeal.
- F. Public Hearings. Except as required by law, all hearings are to be open to the public. In general, any Person who is not a Party to a proceeding may, in the discretion of the Hearing Officer, be permitted to make oral or submit written statements on any issues relevant to the proceeding.
 - G. Close of Proceedings. At the conclusion of the evidence, the Hearing Officer may, in its discretion, permit the Parties to argue orally and/or to submit written briefs. The Hearing Officer may direct that proposed findings of fact and conclusions of law be submitted by the Parties. The record in the proceeding shall close after oral argument, the deadline for the filing of the briefs, or upon such date as may be set by the Hearing Officer. No evidence shall be admitted thereafter, unless otherwise ordered by the Hearing Officer. The Hearing Officer may in any case require either Party, with appropriate notice to the other Party, to submit additional evidence in any matter relevant to the hearing.
 - H. Waiver of Hearing. In any proceeding, if the Parties agree to waive the hearing, the forum may dispose of the matter upon the pleadings and other submittals of the Parties.
 - I. Dispositions. Unless otherwise precluded by law, disposition may be made of any contested case at any time by stipulation, consent agreement, consent order, default, or dismissal by the forum. A joint request for a stay of the hearing for the purpose of preparing documents relevant to the above shall be forwarded to the forum and may be granted within the sound discretion of the forum.

1.15.11 Decisions

All decisions rendered by the Hearing Officer shall be in writing or placed on the record and shall comply with the requirements of R.I. Gen. Laws § 42-35-12.

1.16 Expungements

- A. The Board may consider the expungement of claims or violations upon written request of a registrant/licensee. The petition will not be considered unless submitted on the prescribed form along with the appropriate fee pursuant to R.I. Gen. Laws. § 5-65-10(g).
- B. The Board may consider evidence, testimony and support, and objections from any interested Party, including, but not limited to:
 1. Volume and/or frequency of claims or violations;

2. Severity of offenses;
 3. Code violations cited;
 4. Present record;
 5. Time since last incident; and
 6. Other court cases.
- C. Matters which have resulted in a conviction in a court of competent jurisdiction shall not be considered for expungement by the Board.
- D. The Board will not consider a request for expungement if the applicant has pending actions on the applicant's registration/license.
- E. An administrative hearing resulting in judgment for the respondent may be expunged.
- F. Partial expungement of the respondent's record may be granted at the Board's discretion.
- G. Upon investigation by the Board's investigative staff, an invalid claim, a claim that is deemed frivolous in nature, or a claim in which the claimant failed to notify the registrant of deficiencies in a timely manner, may be expunged.
- H. Expungements shall be scheduled once the State of Emergency has been lifted.

1.17 Default

If any Party to a proceeding fails to answer a complaint, plead, appear at a prehearing conference or hearing or otherwise fails to prosecute or defend an action as provided by these Rules, the Hearing Officer or Board may enter a default judgment against the defaulting Party or take such action based on the pleadings and/or other evidence submitted by the non-defaulting Party as the forum deems appropriate. Challenge to such an order shall be made as a motion for reconsideration per § 1.15.6 of this Part.

1.18 Disqualification; Incapacity of Hearing Officer

- A. Disqualification. Any Party may make a motion to the Director requesting that he/she disqualify or remove the Hearing Officer from the proceeding. The motion shall be accompanied by an affidavit setting forth the reasons for the disqualification. In the event that the motion to disqualify is granted, the Director shall assign another Hearing Officer to the matter.
- B. Incapacity. When the Hearing Officer becomes incapacitated or unavailable to complete a hearing and/or render a decision, the hearing shall be conducted,

and/or the decision shall be rendered by a substitute Hearing Officer appointed by the Director. If any party objects to the substitution, that party must prove prejudice by presentation of argument and evidence to the substitute Hearing Officer. If the substitute Hearing Officer finds that the objecting party will be prejudiced, the substitute Hearing Officer will issue an order making such findings and will hear the matter de novo.

1.19 Miscellaneous Provisions

- A. Intervention. Any Person claiming a right to intervene or an interest of such a nature that intervention is necessary or appropriate to the administration of the statute under which the proceeding is brought may seek to intervene in any proceeding. Intervention may be initiated by filing a motion to intervene with the forum. The motion shall set out clearly and concisely the facts from which the nature of the movant's alleged right of interest can be determined, the grounds for the proposed intervention and the position of the movant in the proceeding.
- B. Ex Parte Consultations. No Person who is a Party to or a participant in any proceeding before the Board or the Party's counsel, employee, agent or any other individual acting on the Party's behalf, shall communicate ex parte with the Board about any matter related to the proceeding, and the Board shall not request or entertain any such ex parte communications. The prohibitions contained above do not apply to those communications which relate solely to general matters of procedure and scheduling.
- C. Consolidation. The Hearing Officer may, in his/her discretion, consolidate or combine several matters for purposes of hearing or other proceedings, when he/she finds that sufficient common issues of fact or law or both are involved.
- D. Plural. Words in the singular number include the plural, and vice-versa, except where the context otherwise requires or where a contrary result appears from necessary implication.
- E. Appointment of Board Counsel. At any time during a complaint hearing, the forum may request that the Director appoint Board Counsel to prosecute the case on behalf of the complainant.
- F. Statutes. If any statute has different requirements than those contained within this Regulation, the statute shall be controlling.
- G. Public Documents. The Board reserves the right to publish in any form any public document.

1.20 Hearings - Public Information

- A. Access to public records shall be governed in accordance with R.I. Gen. Laws § 38-2-1 et seq. All hearings are conducted pursuant to the Administrative

Procedures Act, R.I. Gen. Laws § 42-35-1 et seq. Except where the Director, his or her designee or the Hearing Officer directs otherwise, upon the opening of the prehearing conference all pleadings, orders, communications, exhibits and other documents filed with the forum shall become public records. Any claim of privilege shall be governed by the policy underlying the Access to Public Records Act, with the burden of proof resting on the party claiming the privilege.

- B. Any Party may request a preliminary finding that some or all of the information is not a public document under the Access to Public Records Act. A preliminary finding that some documents are privileged shall not preclude the Board from later determining that those documents are public in accordance with R.I. Gen. Laws Chapter 38-2.
- C. Claims of privilege shall be made by filing a written request with the Board. One copy of the original documents, boldly indicating on the front page, "Contains Privileged Information – Do Not Release," shall be filed specifically identifying the information for which the privilege is sought, along with a description of the grounds upon which the Party is claiming a privilege. If a document is filed electronically, it shall contain a statement that the information has been redacted; however, the original document must be filed as delineated above.
- D. The Board shall retain the documents for which privilege is asserted to exist in a secure, non-public file until a determination is made as to whether to grant the request for privileged treatment.
- E. Any person, whether or not a Party, may apply to the Board for release of the information, pursuant to R.I. Gen. Laws Chapter 38-2, the Access to Public Records Act.

1.21 Publication of Orders and Notices

The publication of all orders issued by the board and notices of hearing shall comply with the requirements of R.I. Gen. Laws § 5-65-25.

1.22 Equal Access to Justice for Small Business

- A. Pursuant to R.I. Gen. Laws § 42-92-1 et seq., the Hearing Officer shall award reasonable litigation expenses incurred by the prevailing party in connection with Board hearings, if the Hearing Officer finds that all of the following conditions are met:
 - 1. That there was no reasonable basis in fact or law for the Board's position; and
 - 2. The adjudicatory proceedings involved loss of benefits, the imposition of a fine, the suspension or revocation of a registration, license, or permit, or which may result in the compulsion or restriction of activities; and

3. The prevailing party must be either:
 - a. An individual whose net worth is less than five hundred thousand dollars (\$500,000) at the time the adjudication is initiated; or
 - b. An individual, partnership, corporation, association, or private organization doing business and located in the state, which is independently owned and operated, not dominant in its field, and which employs no more than one hundred (100) persons at the time the adjudication is initiated; and
 4. The prevailing party must request reimbursement not later than thirty (30) days following the issuance of the written order.
- B. A request for an award must be in writing and sufficiently set forth:
1. Compliance with § 1.22(A)(1), (2), (3), and (4) of this Part; and
 2. The costs incurred in defending against the unreasonable adjudicatory proceedings, including, but not limited to, attorney's fees and witness fees.
- C. If found to be applicable, the Hearing Officer shall issue a supplementary order directing the Board to pay reasonable litigation expenses, as limited by R.I. Gen. Laws § 42-92-2(6).

1.23 Severability

If any section, term, or provision of this Regulation should be declared invalid for any reason, the remaining sections, terms, and/or provisions shall remain in full force and effect.