

RHODE ISLAND GOVERNMENT REGISTER
PUBLIC NOTICE OF PROPOSED RULEMAKING

**DEPARTMENT OF BUSINESS REGULATION (INCLUDES THE OFFICE OF THE
HEALTH INSURANCE COMMISSIONER)**

Title of Rule: Rules of Procedure for Administrative Hearings

Rule Identifier: 230-RICR-10-00-2

Rulemaking Action: Proposed Amendment

Important Dates:

Date of Public Notice: January 20, 2023

End of Public Comment: February 19, 2023

Rulemaking Authority:

R.I. Gen. Laws § 42-92-4

R.I. Gen. Laws § 42-14-17

Summary of Rulemaking Action:

This regulation sets forth the Departments Rules of Procedures for Administrative Hearings. These proposed amendments update out-of-date content, streamline and simplify procedures. Here is a summary of the non-technical, substantive amendments:

- § 2.1 – Insert pinpoint citations for regulatory authority.
- § 2.3 – Add definitions for “APA” and “Writing”. Add the term “Presiding Officer” to the definition of “Hearing Officer” and update the regulation throughout by replacing “hearing officer” with “presiding officer.” Delete definitions for terms that are not used in the regulation.
- § 2.4 – Simplify this section to focus on Department Investigations. The receipt of complaints is generally governed by each subject matter area under the Department’s jurisdiction.
- § 2.5 – Update section to match existing practice and clarify procedures. The process for complaint hearings has been consolidated into one contested hearing process.
- § 2.6 – Clarify that pre-hearing conferences, status conferences and hearings may be held remotely in the discretion of the presiding officer.
- § 2.8 – Modernize requirements for pleadings and other documents to reflect the use of electronic documents and email.
- § 2.9 – Make distinction between service of the Notice and other pleadings. Modernize requirements to allow for electronic service upon attorneys consistent with RI Court practices.
- § 2.10 – Add clarifying language for extensions and continuances.
- § 2.12 – Simplify discovery provisions by referring to any discovery allowed under the Superior Court Rules of Civil Procedure.
- § 2.14(D) – Clarify that no ex parte consultations are allowed between the presiding officer and Department Employees, Agents, and Consultants.
- § 2.15(E) – Clarify existing provisions. Update to reflect modern recording technology.
- § 2.15(F) – Clarify that hearings can be held through remote means as approved by the Presiding Officer.
- § 2.15(I) – Simplify settlements by only doing consent agreements.
- § 2.15(K) – Clarify that the Department has the discretion to hold hearings or any component of a hearing by remote access.
- § 2.18 – Streamline and clarify that decisions and consent agreements are public records.
- § 2.23 – Update for clarity, simplify language, delete paragraph E which is no longer applicable with the ending of complaint hearings. Paragraph F was deleted because it is unnecessary to state that statutes supersede regulations. Paragraph G was deleted because public records are covered by APRA.
- § 2.24 (original numbering) – Delete the separate provision regarding consent orders because they have been consolidated with Consent Agreements in § 2.15(J). Consent Agreements. The only difference between a Consent Agreement and Consent Order was the number of Departmental signatures required. There are no substantive differences to the settlement process for parties.
- § 2.25 (original numbering) – Delete the provisions regarding complaint hearing settlements because complaint hearings have been consolidated into the contested hearing process.
- § 2.24 (new numbering, previously 2.26) – This section previously combined APRA and Motions for Protective Orders. They are two separate things. The APRA provisions were deleted because APRA is a separate chapter of state law that applies to the Department and does not need to be restated in this regulation. The protective order provision was streamlined to refer to § 2.11 on motions. Thus, under this regulation protective orders may be requested in accordance with the Superior Court Rules of Civil Procedure.
- § 2.26 (new numbering) – Add this provision to refer to the 2020 Statutory changes regarding giving licensing applicants with criminal background a fair chance with respect to considering their eligibility for licensure.

Additional Information and Public Comments:

All interested parties are invited to request additional information or submit written or oral comments concerning the proposed amendment until February 19, 2023 by contacting the appropriate party at the address listed below:

Amy Stewart

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In accordance with R.I. Gen. Laws § 42-35-2.8, an oral hearing will be granted if requested by twenty-five (25) persons, by a governmental agency or by an association having at least twenty-five (25) members. A request for an oral hearing must be made within ten (10) days of the publication of this notice.

Regulatory Analysis Summary and Supporting Documentation:

These amendments streamline, update and simplify the Department's existing rules for the conduct of administrative hearings. This regulation is provided to attorneys and pro se respondents involved in enforcement actions or appeals with the Department. The amendments recognize the use of technology in the practice of law and government, providing for service of documents by email and the conduct of remote conferences and hearings. Overall, these amendments benefit small businesses who interact with the Department by providing simpler, modern procedures for the conduct of hearings and settlements.

In the development of the proposed amendment consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.

For full regulatory analysis or supporting documentation contact the agency staffperson listed above.