230-RICR-10-00-2

TITLE 230 - DEPARTMENT OF BUSINESS REGULATION

CHAPTER 10 – CENTRAL OPERATIONS

SUBCHAPTER 00 - N/A

PART 2 – Rules of Procedure for Administrative Hearings

2.1 Authority

This Regulation is promulgated pursuant to R.I. Gen. Laws §§ 42-14-17, and 42-92-4.

2.2 Purpose

A. This Regulation is adopted for the purpose of assisting in carrying out the functions, powers and duties assigned to the Department of Business Regulation.

B. This Regulation shall govern the conduct of administrative adjudicatory proceedings commenced before the Department after its effective date. This Regulation shall be liberally construed to further the fair, prompt and orderly administration and determination of adjudicatory proceedings in conformity with the Rhode Island Administrative Procedures Act, R.I. Gen. Laws Chapter 42-35. To the extent that any part of this Regulation is inconsistent with applicable law or the terms of any other regulation promulgated by the Department, the applicable law and/or the terms of such other regulation shall be deemed to apply.

2.3 Definitions

A. When used in this Regulation, the following words, except as otherwise required by the context, shall have the following meaning:

1. "APA" means the Rhode Island Administrative Procedures Act, R.I. Gen. Laws Chapter 42-35.

2. "Contested Case" means as defined in R.I. Gen. Laws § 42-35-1.

3. "Department" means the Department of Business Regulation or any Division or Office thereof.

4. "Director" means the Director of the Department or their designee.

5. "Hearing Officer" or "Presiding Officer" means the individual(s) authorized by law or duly designated by the Director to conduct hearings, write decisions and make recommendations to the Director in Contested Cases, including the Director if they choose to hear the matter themselves.

6. "License" means an authorization issued by the Department (sometimes referred to as a license, permit, certificate, approval, registration, charter) granting permission required by law to engage in certain activities.

7. "Licensee" means any holder of a License.

8. "Party" or "Parties" means each Person named as a Respondent and any other Person admitted as a Party in a Contested Case.

9. "Person" means any individual, partnership, corporation, limited liability company, association, governmental subdivision, public or private organization or any other entity however formed.

10. "Respondent" means a Party who is the subject of an administrative action pursuant to § 2.4 of this Part.

11. "Writing" means includes electronic writings if the parties have agreed to conduct the transaction by electronic means in accordance with R.I. Gen. Laws § 42-127.1-7.

2.4 Department Investigations

A. Department Investigations. Upon receipt of a complaint regarding a Licensee or any Person required to be licensed, or on its own authority, the Department may initiate an investigation and take action:

1. Against a Licensee,

2. Against an applicant for a License or for renewal of a License,

3. Against any Person who is required to be licensed but is not licensed, and

4. Against any Person who is subject to the regulatory authority of the Department.

5. All such actions shall be upon such terms and conditions as are permitted under applicable law and the regulations adopted pursuant thereto.

B. Responses to Complaints and Investigations

1. The Department may require a Licensee or Person required to be licensed to file a response to a complaint, question, or other request within fifteen

(15) business days, or within any other time frame specified by the Department or otherwise required by law.

2.5 Notice of Contested Case

A. Notice Required. The Department shall give notice ("Notice") to all Respondents of the initiation of a Contested Case. The Notice, which may but is not required to be in the form of an order to show cause, shall be designed to afford an opportunity for hearing to all parties pursuant to the APA.

B. Hearings. If the Notice schedules a prehearing conference and/or a hearing, the Respondent must comply with the Notice or be subject to a default in accordance with § 2.21 of this Part. If the Notice informs the Respondent of its right to a hearing upon request, the Respondent must follow the requirement of the Notice and request a hearing, or it will be subject to default in accordance with § 2.21 of this Part.

1. If the Respondent requests a hearing in response to a Notice, the Department shall then provide an additional Notice to the Respondent with the date and time of a prehearing conference, an order appointing a Presiding Officer and, to the extent not included in the first Notice, the legal and factual information that forms the basis for the relief sought by the Department.

C. Contents of Notice: The Notice shall comply with the APA.

2.6 Prehearing Conferences

A. It is the policy of the Department to encourage the use of prehearing conferences as a means of making more effective use of hearing time and to otherwise aid in the disposition of the proceeding or the settlement thereof. Prehearing conferences and status conferences may be held remotely in accordance with § 2.15(K) of this Part.

B. The Director or the Presiding Officer may, with reasonable written notice, require that all Parties attend a prehearing conference to 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. Such other matters as may aid in the final disposition of the proceeding.

C. All Parties shall attend the prehearing conference fully prepared to discuss all matters related to the proceedings. Failure of any Party to attend the prehearing conference may constitute a waiver of all objections to any order or ruling issued as a result of the prehearing conference unless good cause is shown.

D. At the sole discretion of the Presiding Officer, the Parties may be permitted to waive the prehearing conference by filing with the Presiding Officer a stipulation prior to the prehearing conference 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 § 2.6(B) of this Part.

2.7 Representation

A. Appearances.

1. The Department shall notify each Party that each Party may retain legal counsel admitted in the State of Rhode Island. Said notification shall be set forth in the Department's order appointing a Presiding Officer.

2. Individuals, and partners of partnerships, may appear *pro se* if they choose. Corporations may not appear *pro se*.

3. If a Party is not appearing *pro se*, the Party must be represented by a member in good standing of the Bar of the State of Rhode Island or by out of state attorneys 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 Department.

1. No person who is currently an employee of the Department may appear before the Department on behalf of any Person or to represent any Person or act as an expert witness before the Department except in the performance of their official duties as an employee of the Department.

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

2.8 Filing of Pleadings and Other Documents

A. Title. All pleadings and other documents filed with the Department in any Contested Case shall, whenever possible, state the file number, the title of the proceeding and the name of the Person on whose behalf the filing is made.

B. Form. All pleadings and other documents filed with the Department shall be filed by electronic mail or other electronic means determined by the Department, or by any other manner or means approved by the Presiding Officer. All documents must include, if applicable, the Rhode Island Bar number, address, telephone number, and e-mail address of each attorney and *pro se* litigant. Electronic receipt by the Department shall be presumptive of the actual date of filing.

C. Signature. The electronic 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 their 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, that representative has full power and authority to do so. The signature on the pleading may be handwritten or electronic, at the discretion of the signatory.

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.

2.9 Service

A. Service Upon Respondent and Parties. A copy of all pleadings and other documents filed in any proceeding governed by this Regulation shall be served upon all Parties.

B. Manner of Service.

1. Service of a Notice pursuant to § 2.5(A) of this Part shall be made upon a Party's last known address on file with the Department if the Party is a

Licensee. If the Party is a non-licensee, service of a Notice pursuant to § 2.5(A) of this Part shall be made upon the Party's last known address which the Department reasonably believes will result in actual delivery to the Party.

2. As to all other pleadings, unless otherwise ordered by the Presiding Officer, service under this Regulation shall be made upon a Party or upon the Party's attorney by electronic delivery to the electronic address supplied by the Party in the pleadings.

3. Service upon persons who have not yet made an appearance shall be the same as is required for service of a Notice.

4. Service by mail is complete upon mailing.

C. Certificate of Service. There shall accompany and be included in the original of each pleading filed with the Department a certificate of service showing service on all Parties.

D. Date of Certificate to Govern. In addition to the provisions of § 2.10(A) of this Part, the time for response to all pleadings shall commence as of the date of the certificate of service.

2.10 Time

A. Computation. Unless otherwise specifically provided by law, computation of any time period referred to in this Regulation 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 Department is not open for business, in which case the period shall run until the next following business day.

B. Extensions of Time. It shall be within the discretion of the Presiding 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 Presiding Officer before the expiration of the applicable time period unless waived by the Presiding Officer. The Presiding officer may grant or deny such motions on the basis of the written request and without a full hearing.

C. Continuances. Except as otherwise provided by law, the Presiding Officer may, in their discretion, continue any proceeding or hearing in the matter. If a Party requests a continuance, that request should indicate whether or not the other Party(ies) assents to such request. If the continuance is granted the requesting party must immediately notify all other Parties of record and if deemed necessary prepare an order. The continuance will only be effective when the notification to all other parties of record has been made.

2.11 Motions

A. General. Any Party may request that the Presiding Officer enter any order or action not inconsistent with law or this Regulation. The types of motions made shall be those which are permissible under this Regulation 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 including orally at any in person or remote proceeding in the matter. Each motion shall set forth 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 Presiding 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 Presiding Officer shall, if they determine oral argument on the motion is warranted, give notice of the time and place for such argument. The Presiding 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 Presiding Officer's understanding of the issues involved or if disposition without argument would best serve the public interest. The Presiding Officer may act on a motion when all Parties have responded thereto, or the deadline for response has passed, whichever comes first.

2.12 Discovery

A. General. The Department favors prompt and complete disclosure and exchange of information and encourages informal arrangements among the Parties for this exchange. It is the Department's policy to encourage the timely use of discovery as a means toward effective presentations at hearing.

B. Procedure. Any Party, by written request served upon all other Parties, may request any discovery allowed under the Super. R. Civ. P. Discovery may be limited by the Presiding Officer.

C. Hearing Delay. No hearing shall be continued to permit the completion of discovery unless due cause is shown.

D. Discovery Schedule. At the discretion of the Presiding Officer, the discovery schedule shall be set at the prehearing conference. The Presiding Officer may amend such discovery schedule at the request of a party or on their own volition.

E. Discovery Disputes. Objections to discovery requests shall be made pursuant to Super. R. Civ. P. 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 Super. R. Civ. P. 37(a)(2) prior to filing a Motion to Compel Discovery with the Presiding Officer.

F. A Party is not required to file discovery responses with the Presiding Officer unless the discovery response is used in the proceeding or otherwise ordered by the Presiding Officer, consistent with the Super. R. Civ. P. R. 5(d).

2.13 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 Presiding Officer may be issued by the Director upon submission to the Presiding 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 Presiding Officer may, *sua sponte*, 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.

2.14 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 Presiding 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 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 Department, and they shall be afforded an opportunity to contest the material so noticed. The Presiding Officer's experience, technical competence and specialized knowledge may be utilized in the evaluation of the evidence. The burden is on the Party requesting the Presiding Officer's notice to produce the documents or other matter for the Presiding Officer's review.

D. Department Employees, Agents and Consultants. The Presiding Officer may use Department employees, agents and consultants to assist in the evaluation of any evidence introduced at the hearing. No *ex parte* consultation is allowed, and all such employees, agents and consultants shall be presented as witnesses and be subject to cross examination in the proceedings.

E. Oath. All testimony shall be under oath or by affirmation.

F. Testimony. At the discretion of the Presiding Officer, an adverse inference may be drawn by an assertion by a witness or a Party of their Fifth Amendment rights under the U.S. Constitution.

2.15 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 a courtroom. Where such decorum is not observed, the Presiding Officer may take appropriate action including ejectment or adjournment, if necessary. Hearings and status conferences may be held remotely in accordance with § 2.15(K) of this Part.

B. Duties of Presiding Officer. The Presiding 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 Department 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 Presiding Officer may, in their 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 by either audio or video. At the discretion of the Presiding Officer the proceeding may be

recorded by stenographic record. In the event the Presiding Officer orders a stenographic record, the Presiding Officer shall declare which Party or Parties shall bear the cost thereof. Any Party may on its own initiative order a stenographic record made of the proceedings. The requesting Party shall incur all costs associated therewith and provide a copy of the original stenographic record, at no cost, to the Presiding Officer. When the stenographic record is requested by the Respondent, a copy shall be provided to the Department Counsel at no cost to the Department. Any Party may request a copy of the audio or video recording of the proceedings. The requesting Party shall bear the cost thereof.

2. If a Party chooses to appeal a final Departmental decision to Superior Court pursuant to the APA and the Superior Court requires a transcript of the hearing, said appealing Party shall be responsible for having the transcript prepared in a manner acceptable to the Superior Court at the appealing Party's 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, whether held in person or by remote means as approved by the Presiding Officer. In general, any Person who is not a Party to a proceeding may, in the discretion of the Presiding 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 Presiding Officer may, in their discretion, permit and/or require the Parties to argue orally and/or to submit written briefs. The Presiding Officer may, within their discretion, 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 Presiding Officer. No evidence shall be admitted thereafter, unless otherwise ordered by the Presiding Officer. The Presiding 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 Presiding Officer 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, default or dismissal by the Presiding Officer. A joint request for a stay of the hearing or dismissal of proceedings based on a resolution shall be forwarded to the Presiding Officer and may be granted within the sound discretion of the Presiding Officer.

J. Consent Agreements. The Department has discretion to enter into a consent agreement with a Party(ies) to resolve a matter without an administrative hearing.

A consent agreement is valid if signed by an authorized Department representative. A consent agreement may be approved by the Presiding Officer and/or Director, but Presiding Officer and/or Director approval as signatory is not required. If a consent agreement is entered into by the Parties a copy shall be forwarded to the Presiding Officer. Consent agreements are public records pursuant to the Access to Public Records Act, R.I. Gen. Laws § 38-2-1 *et seq*.

K. Nothing herein shall be construed to prohibit the Department, in its discretion, from holding a hearing or any component of a hearing by means of remote access (telephone, video conference or any other means), subject to the APA and any other statutes applicable to the particular type of hearing or subject matter. The Department may follow any relevant Superior Court procedural rules, protocols and/or orders as it determines to be reasonable in the context of an administrative proceeding.

2.16 Penalties

A. In determining the appropriate penalty to impose on a Party found to be in violation of a statute(s) or regulation(s), the Presiding Officer shall look to past precedence of the Department for guidance and may consider any mitigating or aggravating circumstances.

1. Mitigating circumstances may include, but shall not be limited to, the following: the Party's licensing history, i.e., the absence of prior disciplinary actions; the Party's acceptance of responsibility for any violations; the Party's cooperation with the Department; and the Party's willingness to give a full, trustworthy, honest explanation of the matter at issue.

2. Aggravating circumstances may include, but shall not be limited to, the following: the Party's prior disciplinary history; the Party's lack of cooperation and/or candor with the Department; the seriousness of the violation; whether the Party's act undermines the regulatory scheme at issue; whether there has been harm to the public; and whether the Party's act demonstrates dishonesty, untrustworthiness, or incompetency.

B. The finding of mitigating factors will not necessarily lead to a reduction in the penalty imposed if the circumstances of the violations found by the Presiding Officer are such that they do not warrant a reduction in penalty.

2.17 Decisions

All decisions rendered by the Presiding Officer at the conclusion of a hearing shall be in writing and shall comply with the requirements of the APA. If the Director has chosen to appoint someone else as a Presiding Officer, the decision of the Presiding Officer shall be reviewed by the Director who shall enter an order adopting, modifying or rejecting the decision of the Presiding Officer. The

decision and order shall be delivered to all Parties with a notice indicating the right to take an appeal of the decision and order to the Superior Court pursuant to the APA.

2.18 Publication of License Suspensions and Revocations

Any final decision and order of the Director is public and may be published or distributed as deemed necessary to adequately inform the public of the action taken. All decisions and consent agreements may be posted on the Department's website.

2.19 Reconsideration

A. At any time after the issuance of a final order of the Director, any Party may, for good cause shown, by motion, petition the Director to reconsider the final order. The petitioner shall file their motion within twenty (20) days of the issuance of the final order and shall set forth the grounds upon which they rely. The Director may grant the motion for reconsideration within their discretion and shall order such relief as they deem appropriate under the circumstances.

B. The Director shall not entertain a motion for reconsideration filed more than twenty (20) days after entry of the final decision, unless the Presiding Officer finds good cause to entertain said motion.

2.20 Judicial Review

Any Party aggrieved by a final written order of the Director may file a complaint with the Superior Court pursuant to the APA. In the absence of a timely appeal, the order or decision of the Director shall become final and no further administrative appeal may be taken.

2.21 Default

If any Party to a proceeding fails to plead, appear at a prehearing conference or hearing or otherwise fails to prosecute or defend an action as provided by this Regulation, the Presiding Officer may enter a default judgment against the defaulting Party, take such action based on the pleadings and/or other evidence submitted by the non-defaulting Party as the Presiding Officer deems appropriate in their sole discretion or take such other action as the Presiding Officer deems appropriate in their sole discretion. Challenge to such an order shall be made as a motion for reconsideration pursuant to § 2.19 of this Part.

2.22 Disqualification; Incapacity of Presiding Officer

A. Disqualification. Any Party may make a motion to the Director requesting that they disqualify or remove the Presiding Officer from the proceeding. The motion shall be accompanied by an affidavit setting forth the reasons for the

disqualification. If the motion to disqualify is granted, the Director shall assign another Presiding Officer to the matter.

B. Incapacity. When the Presiding 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 Presiding 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 Presiding Officer. If the substitute Presiding Officer finds that the objecting party will be prejudiced, the substitute Presiding Officer will issue an Order making such findings and will hear the matter *de novo*.

2.23 Miscellaneous

A. Intervention. A request to intervene consistent with Super. R. Civ. P. Rule 24 may be initiated by filing a motion to intervene with the Presiding Officer.

B. *Ex Parte* Consultations. No Person who is a Party to or a participant in any proceeding before the Department or the Party's counsel, employee, agent or any other individual acting on the Party's behalf, shall communicate *ex parte* with the Presiding Officer or the Director about any matter related to the proceeding, and the Presiding Officer and/or the Director shall not request or entertain any such *ex parte* communications. The prohibitions contained above do not apply to those communications which relate to hearing schedules, procedural matters and general information about how hearings are conducted.

C. Consolidation. The Presiding Officer may, in their discretion, consolidate or combine several matters for purposes of hearing or other proceedings, when they find 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.

2.24 Protective Orders

Motions for protective orders shall be filed in accordance with § 2.11 of this Part.

2.25 Equal Access to Justice for Small Businesses

A. Pursuant to R.I. Gen. Laws § 42-92-1 *et seq*., the Presiding Officer shall award reasonable litigation expenses incurred by the prevailing party in connection with Departmental hearings, if the Presiding Officer finds that all of the following conditions are met:

1. That there was no reasonable basis in fact or law for the Department’s position; and

2. The adjudicatory proceedings involved loss of benefits, the imposition of a fine, the suspension or revocation of a 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, detailing:

   a. Compliance with §§ 2.25(A)(1), (2), (3), and (4) of this Part; and

   b. The costs incurred in defending against the unreasonable adjudicatory proceedings, including, but not limited to, attorney's fees and witness fees.

B. If found to be applicable, the Presiding Officer shall issue a supplementary order directing the Department to pay reasonable litigation expenses, as limited by R.I. Gen. Laws § 42-92-2(6).

2.26 Application Review for Individuals Convicted of a Crime

Applications by a person who has been convicted of a crime or crime(s) for an occupational license, permit, certificate, or registration issued by the Department shall be reviewed consistent with R.I. Gen. Laws § 28-5.1-14. To the extent that any Department regulation conflicts with § 2.26 of this Part, the provisions of § 2.26 of this Part control.

2.27 Severability

If any section, term, or provision of this Regulation should be adjudged invalid for any reason, that judgment should not effect, impair, or invalidate any remaining section, term, or provision, which shall remain in full force and effect.