

Repeal Hcp 201 through Hcp 205, effective 12/3/08 (Document #9337), cited as follows:

~~[CHAPTER Hcp 200 PRACTICE AND PROCEDURE~~

~~PART Hcp 201 PURPOSE, SCOPE AND DEFINITIONS~~

~~— Hcp 201.01 Purpose and Scope. The board shall conduct various proceedings for the purpose of acquiring sufficient information to make fair and reasoned decisions on matters within its statutory jurisdiction, including decisions on applications for licensure or registration and complaints filed against licensees or registrants. These rules shall be construed to secure the just, efficient and accurate resolution of all board proceedings.~~

~~— Hcp 201.02 Definitions. Except where the context makes another meaning manifest, the following words shall have the meanings indicated when used in this chapter:~~

~~— (a) “Adjudicative proceeding” means “adjudicative proceeding” as defined in RSA 541-A:1, I, namely, “the procedures to be followed in contested cases, as set forth in RSA 541-A:31 through RSA 541-A:36” and Hcp 200.~~

~~— (b) “Complaint” means a written allegation of professional misconduct against a licensee or registrant.~~

~~— (c) “Contested case” means “contested case” as defined in RSA 541-A:1, IV, namely, “a proceeding in which the rights, duties, or privileges of a party are required by law to be determined by the board after notice and an opportunity for hearing.” The term does not include nonadjudicative investigations or rulemaking.~~

~~— (d) “Data” means all information other than argument, including oral or written descriptions, reports, maps, charts, drawings, photographs, audio or video recordings, computer programs, or computer printouts.~~

~~— (e) “File” means to place a document in the actual possession of the board.~~

~~— (f) “Hearing” means the receipt and consideration by the board of data or argument, or both, by methods which are appropriate to the nature and scope of the issues being decided by the board.~~

~~— (g) “Hearing counsel” means an individual appointed by the board under Hcp 206.15(d) or Hcp 210.03 to prosecute or investigate misconduct allegations in the public interest.~~

~~— (h) “Motion” means any request by a party to an existing adjudicative proceeding for an order or relief relating to that proceeding.~~

~~— (i) “Nonadjudicative investigation” means a formal or informal search by the board for data concerning matters within its jurisdiction, the result of which is other than a final determination of a person’s rights, duties or privileges.~~

~~— (j) “Order” means a document issued by the board:~~

- ~~(1) Establishing procedures to be followed in an adjudicative or nonadjudicative proceeding;~~
- ~~(2) Granting or denying a petition or motion;~~
- ~~(3) Requiring a person to do, or to abstain from doing, some thing; or~~
- ~~(4) Determining a person’s rights to a license or registration or other privilege established by RSA 137-F or the rules of this chapter.~~

~~— (k) “Petition” means an initial request to the board seeking action or relief, but does not include a license or registration application, a complaint against a licensee or registrant, or a motion.~~

~~— (l) “Presiding officer” means the board member or other individual to whom the board has delegated authority to preside over some or all aspects of an adjudicative or other proceeding.~~

~~— (m) “Proposed decision” means an initial or recommended decision made by a presiding officer pursuant to Hep 207.04 which is subject to review by the entire board.~~

~~— (n) “Rulemaking” means the procedures for formulating agency rules set forth in RSA 541-A:3.~~

~~— Hep 201.03 Failure to Comply with Procedural Rules or Orders.~~

~~— (a) Failure to comply with the rules of this chapter shall be grounds for:~~

~~(1) Refusing to accept or admit a noncompliant document for filing or refusing to consider a noncompliant oral petition or motion if such noncompliance prevents the board from properly evaluating the document or oral petition in question; or~~

~~(2) Accepting or admitting, or denying or not admitting, a noncompliant application, petition, motion, or exhibit on the condition that conformity with specific procedural requirements be achieved by a specified date following written notice from the board.~~

~~— (b) When a noncompliant pleading or other tendered information is not accepted or admitted by the board, or when conditions for the acceptance or admission of noncompliant information are not met, the board shall make a decision on the pending matter without considering the noncompliant information, unless the board notifies the parties that it has waived the rule in accordance with Hep 201.04.~~

~~— Hep 201.04 Waiver or Suspension of Procedural Rules or Orders. The board, upon its own initiative or upon the motion of any interested person, shall suspend or waive any procedural requirement or limitation imposed by this chapter upon reasonable notice to affected persons when the proposed waiver or suspension appears to be lawful, and would be more likely to promote the fair, accurate and efficient resolution of issues properly pending before the board than would adherence to a particular procedural rule or requirement. A motion for waiver or suspension of a procedural rule or order shall fully set forth the reasons for the requested relief.~~

~~PART Hep 202 APPEARANCES BEFORE THE BOARD~~

~~— Hep 202.01 Representatives.~~

~~— (a) A person appearing before the board shall represent himself or herself or be represented by a person who:~~

~~(1) Is an attorney holding a current and active New Hampshire license and has filed a written appearance with the board containing his or her business address and telephone number; or~~

~~(2) Is not a New Hampshire licensed attorney, and has not been convicted of a felony under the law of any state.~~

~~— (b) Appearances by non-attorneys who represent anyone before the board shall:~~

~~(1) Briefly describe the representative’s professional and character qualifications;~~

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- (2) Provide the representative’s daytime address and telephone number; and
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- (3) Be signed by both the proposed representative and the party who would be represented.
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- (c) Corporations, partnerships and other legal entities which are not natural persons may be represented by:
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 - (1) An attorney licensed in New Hampshire; or
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 - (2) An officer, director, or managing partner with express and unqualified written authority to act on behalf of the entity concerning the matter in question and has not been convicted of a felony in any state.
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~~PART Hep 203 TIME PERIODS~~

— ~~Hep 203.01 Computation of Time.~~ Any time period specified in this chapter shall begin with the day following the act, event, or default, and shall include the last day of the period, unless it is Saturday, Sunday, or state legal holiday, in which event the period shall run until the end of the next day which is not a Saturday, Sunday, or state legal holiday. When the period prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays, and state legal holidays shall be excluded from the computation.

— ~~Hep 203.02 Change in Allowed Times.~~ Except where a time period is fixed by statute, the board shall upon motion enlarge or shorten the time provided for the filing of any document, or advance or postpone the time set for any oral hearing, prehearing conference, or other activity, upon a finding that the moving party did not comply with the time period due to accident, mistake, or misfortune, and the probable injury to the moving party outweighs any detriment likely to be suffered by any other party. The board shall enlarge or shorten such time period on its own motion for reasons of its own convenience and provided that no participant suffers any detriment.

— ~~Hep 203.03 Limitations.~~ A motion to change time shall be filed at least 3 days before the scheduled date of the event in question.

~~PART Hep 204 FILING AND SERVICE OF DOCUMENTS~~

— ~~Hep 204.01 Filing Documents with the Board.~~

— (a) A document shall be considered filed when it is actually received at the board’s office and is facially in conformity with the board’s rules.

— (b) A document which is facially in violation of the board’s rules shall not be accepted for filing. Such submissions shall be returned to the sender without prejudice to subsequent acceptance if the deficiencies are corrected and the document is refiled within any applicable time period.

— (c) All correspondence, filings or communications intended for the board shall be addressed to the board’s office in care of its executive secretary.

— (d) All petitions, motions, exhibits, memoranda or other documents filed in connection with a request for board action shall be filed with an original and one copy unless the board directs otherwise.

— (e) Notwithstanding (d), above, only a single copy shall be filed of:

~~(1) Transmittal letters, requests for public information, or other routine correspondence not directed at formal board action;~~

~~(2) License or registration applications; and~~

~~(3) Complaints against licensees or registrants.~~

~~— (f) Failure to furnish the required number of copies shall result in a tendered document being returned as unacceptable for filing.~~

~~Hcp 204.02 Subscription and Veracity of Documents.~~

~~— (a) All complaints, petitions, motions, and replies filed with the board shall be signed and dated by the proponent of the document or, if the party appears by a representative, by the representative.~~

~~— (b) The signature on a document filed with the board shall constitute a certification that:~~

~~(1) The signer has read the document;~~

~~(2) The signer is authorized to file it;~~

~~(3) To the best of the signer's knowledge, information, and belief, there are good grounds to support it; and~~

~~(4) The document has not been filed for purposes of delay or harassment.~~

~~— (c) A willful violation of the representations contained in (b), above, shall, to the extent consistent with justice and the statutes administered by the board, result in the entry of an order adverse to the party committing the violation.~~

~~Hcp 204.03 Service of Documents.~~

~~— (a) Complaints against licensees or registrants shall be filed with the board without service upon the licensee/registrant against whom the allegations are made.~~

~~— (b) Applications shall be filed with the board without service upon other persons. Petitions for rulemaking and for declaratory rulings shall be served upon the board.~~

~~— (c) All objections, motions, replies, memoranda, exhibits, or other documents filed in connection with a request for board action shall be served by the proponent upon all interested parties by:~~

~~(1) Depositing a copy of the document in the United States mail, first class postage prepaid, addressed to the last address given to the board by the party being served, no later than the day the document is filed with the board; or~~

~~(2) Delivering a copy of the document in hand on or before the date it is filed with the board.~~

~~— (d) Notices, orders, decisions or other documents issued by the board in connection with requests for board action shall be served by the board upon all interested parties by either:~~

~~(1) Depositing a copy of the document, first class postage prepaid, in the United States mail, addressed to the last address given to the board by the party being served; or~~

~~(2) Delivering a copy of the document in hand to the party.~~

~~— (e) When a party has appeared by a representative, service shall be upon the representative.~~

~~— (f) Except for exhibits distributed at a prehearing conference or hearing, every document filed with the board, and required to be served upon the parties to an adjudicative proceeding, shall be accompanied by a certificate of service, signed by the person making service, attesting to the method and date of service, and the persons served.~~

~~PART Hep 205 PLEADINGS, COMPLAINTS AND MOTIONS~~

~~— Hep 205.01 Pleadings.~~

~~— (a) The only pleadings permitted shall be petitions and replies to petitions. Complaints against licensees/registrants shall be a particular type of petition and shall be subject to the additional requirements of Hep 205.02. Applications for licenses or registrations shall not be considered pleadings.~~

~~— (b) Petitions shall contain:~~

~~(1) The name and address of the petitioner;~~

~~(2) The name and address of the petitioner's representative, if any;~~

~~(3) A concise statement of the facts which the petitioner believes warrants the relief requested from the board;~~

~~(4) The description of the action which the petitioner wishes the board to take;~~

~~(5) A citation to any statutes, rules, orders, or other authority which the petitioner believes entitles the petitioner to the relief requested; and~~

~~(6) The signature and date required by Hep 204.02(a).~~

~~— (c) Replies to petitions shall contain:~~

~~(1) The name and address of the respondent;~~

~~(2) The name and address of the representative of the respondent, if any;~~

~~(3) A statement admitting or denying each fact alleged in the petition pursuant to Hep 205.01(b)(3);~~

~~(4) A statement admitting or denying the authority identified by the petitioner pursuant to Hep 205.01(b)(5);~~

~~(5) A concise statement of any additional or different facts which the respondent believes warrants the board acting in the manner requested by the respondent;~~

~~(6) A citation to any statutes, rules, orders or other authority, not identified in the petition, that the respondent believes has a bearing upon the subject matter of the petition or response;~~

~~(7) A description of the action which the respondent wishes the board to take; and~~

~~(8) The signature and date required by Hep 204.02(a).~~

~~— (d) Replies shall be filed within 10 days from the date of the filing of the petition.~~

~~— (e) For purposes of deciding whether to grant or deny a petition, any fact contained in the petition which is not denied in the reply, shall be deemed admitted by the respondent. A statement that the respondent lacks sufficient knowledge to admit or deny shall be treated as a denial.~~

~~— Hep 205.02 Complaints of Licensee or Registrant Misconduct.~~

~~— (a) Any person may file a complaint alleging misconduct by licensees or registrants in violation of RSA 137 F:17 or Hep 501 and such complaint shall be in writing and filed at the board's offices as specified in Hep 103.03(a).~~

~~— (b) Complainants shall set forth the following information:~~

~~(1) The name and address of the complainant;~~

~~(2) The name and, if known, the business address, of the licensee or registrant against whom the complaint is directed;~~

~~(3) The specific facts and circumstances which are believed to constitute professional misconduct; and~~

~~(4) The signature and date required by Hep 204.02(a).~~

~~— (c) A complaint shall be treated as an ex parte request for the initiation of disciplinary proceedings and the board shall then investigate the complaint pursuant to Hep 206.01. Pursuant to RSA 137 F:21, II, the information obtained in the investigation shall be exempt from public disclosure under RSA 91-A unless it subsequently becomes the subject of a disciplinary hearing.~~

~~— (d) A complaint shall be dismissed to the extent that it:~~

~~(1) Fails to state a cause of action; or~~

~~(2) Alleges a cause of action which arose more than 3 years prior to the filing of the complaint.~~

~~— (e) Unless previously dismissed pursuant to (d) above, or settled after investigation pursuant to Hep 206.02, a complaint shall be granted in whole or in part, by the board based upon the board's confidential evaluation of the information available to it. The substance of a complaint that has been granted shall be incorporated into a notice of hearing which commences a disciplinary hearing pursuant to Hep 207.02(b).~~

~~— Hep 205.03 Motions and Objections Thereto.~~

~~— (a) Motions and objections shall be in writing unless the circumstances from which the motion is made or the nature of the relief requested requires oral presentation upon short notice.~~

~~— (b) Motions shall state clearly and concisely:~~

~~(1) The purpose of the motion;~~

~~(2) The relief sought by the motion;~~

~~(3) The statutes, rules, orders, or other authority authorizing the relief sought by the motion;~~

~~(4) The facts claimed to constitute grounds for the relief requested by the motion; and~~

~~(5) If not made orally, the signature and date required by Hep 204.02(a).~~

~~— (c) Objections to motions shall state clearly and concisely:~~

- ~~(1) The defense of the party filing the objection;~~
- ~~(2) The action which the party filing the objection wishes the board to take on the motion;~~
- ~~(3) The statutes, rules, orders, or other authority relied upon in defense of the motion;~~
- ~~(4) Any facts which are additional to or different from the facts stated in the motion; and~~
- ~~(5) If not made orally, the signature and date required by Hcp 204.02(a).~~

~~— (d) An objection shall specifically admit or deny each fact contained in the motion. Failure to deny a fact shall constitute the admission of that fact for the purposes of the motion. In the event a party filing an objection lacks sufficient information to either admit or deny a fact contained in the motion, the party shall so state, specifically identifying such fact.~~

~~— (e) Motions shall be decided upon the writings submitted or, if the board determines that a hearing will assist in the resolution of factual disputes and will promote the purposes of these rules, after a hearing at which argument, testimonial evidence, or both, may be presented.~~

~~— (f) Objections to motions shall be filed with the board within 20 days of the filing of a motion. Failure to object to a motion within the time allowed shall constitute a waiver of objection to the motion.]~~

Repeal Hcp 206, effective 2/21/17 (Document #12111), as follows:

~~[PART Hcp 206 MISCONDUCT INVESTIGATIONS~~

~~— Hcp 206.01 Approval by the New Hampshire Department of Justice. Notwithstanding any other provision of this chapter, all subpoenas, investigations, appointments of legal counsel, experts, investigators, and other such investigatory provisions shall be approved by the State of New Hampshire department of justice, pursuant to RSA 137 F:21, I.~~

~~— Hcp 206.02 Misconduct Investigations:~~

~~— (a) The board shall conduct misconduct investigations through a board retained investigator to examine acts of possible misconduct which come to its attention through complaints or other means. The type, form, and extent of an investigation shall be determined by the investigator so appointed based upon the severity of the alleged misconduct, the availability of witnesses and information pertaining to the alleged misconduct, and the resources available to the board.~~

~~— (b) Within 10 days of the commencement of an investigation under this part, the investigator shall notify the licensee or registrant who is the subject of the investigation of the nature of the misconduct alleged. Within 20 days of such notification, the licensee or registrant shall, pursuant to RSA 137 F:21, IX, provide to the investigator a detailed and good faith written response to each such allegation of misconduct. The response shall address each allegation of misconduct by admitting or contesting each of the material facts alleged.~~

~~— (c) When a misconduct investigation occurs, the investigator retained by the board shall contact such persons and examine such records and other documents as are reasonably necessary to make a recommendation as to whether further board action should be taken on the allegations in question.~~

~~— (d) Investigations, including those based upon allegations in a complaint, shall be conducted on an ex parte basis.~~

~~— (e) The investigator shall make a written report of misconduct investigations which includes an assessment as to whether, pursuant to RSA 137 F:21, VIII, any part of the complaint fails to state a cause of action.~~

~~— Hcp 206.03 Post Investigation Settlements.~~

~~— (a) At any point during the investigation, the licensee or registrant may propose a settlement agreement which shall set forth all material facts involved in the allegations proposed to be resolved. Such proposed settlement agreement shall then be brought to the full board for its review.~~

~~— (b) Upon receiving the proposed settlement agreement, the board shall consider whether to approve it. Proposed settlement agreements shall be entertained until a notice of hearing is issued. Thereafter, negotiated resolution shall be accomplished by means of a consent decree.~~

~~— (c) Settlements under (a) above, shall not be granted if:~~

~~(1) The complainant has not been provided notice and an opportunity to submit written comments concerning the proposal in question;~~

~~(2) The board believes that material facts remain in dispute; or~~

~~(3) Facts in dispute are such that the board might impose a materially different sanction if additional relevant facts were known.~~

~~— Hcp 206.04 Access to Information Obtained in Misconduct Investigations.~~

~~— (a) Board investigations and all information obtained by the board as part of a misconduct investigation shall be exempt from public disclosure requirements of RSA 91-A pursuant to RSA 137 F:21, II, unless such information subsequently becomes the subject of a public disciplinary hearing.~~

~~— (b) Notwithstanding (a) above, and pursuant to RSA 137 F:21, II, reports and information obtained in a misconduct investigation shall be made available under the following circumstances and to the following persons:~~

~~(1) If it is sought by parties to any adjudicative proceeding resulting therefrom;~~

~~(2) If it is introduced as evidence in a disciplinary hearing; and~~

~~(3) If it is requested by:~~

~~a. Law enforcement agencies;~~

~~b. Certifying agencies of other jurisdictions;~~

~~c. Board investigators or prosecutors;~~

~~d. Expert witnesses or assistants retained by board prosecutors or investigators in the same or related disciplinary matters; or~~

~~e. A licensee or registrant, complainant, or other witness, when such disclosure would assist the board in investigating that allegation.~~

~~— Hcp 206.05 Procedure for Surrendering A License or Registration. An audiologist or hearing aid dealer may surrender a license or registration at any time in response to an investigation by returning the document to the board and providing a signed statement indicating such intent.~~

~~— Hcp 206.06 Effect of Voluntary License or Registration Surrender.~~

~~— (a) Neither non renewal or surrender of an audiology license or hearing aid registration shall preclude the board from investigating or completing a disciplinary proceeding based upon the audiologist's or hearing aid dealer's professional conduct while the license or registration was still in effect.~~

~~— (b) A licensed audiologist or registered hearing aid dealer who voluntarily surrenders a license or registration shall retain no right or privilege in a New Hampshire license or registration unless such a right or privilege is expressly preserved in the board order or in the settlement agreement that includes a voluntary surrender. Subject to the foregoing, a person who subsequently applies for audiology licensure or hearing aid dealer registration in New Hampshire after a voluntary surrender shall have the burden of proving compliance with all of the requirements then in effect for new applicants, including national examination and professional character requirements.~~

~~— (c) Surrender of a license or registration pursuant to a voluntary surrender order or pursuant to a settlement agreement shall not preclude the board from investigating disciplinary proceedings not expressly referenced in such order or settlement agreement.]~~

Repeal Hcp 207 through Hcp 210, effective 12/3/08 (Document #9337), as follows:

~~[PART Hcp 207 ADJUDICATIVE PROCEEDINGS~~

~~— Hcp 207.01 Applicability. This part shall govern all proceedings conducted by the board except rulemaking and nonadjudicative investigations.~~

~~— Hcp 207.02 Commencement of Proceedings.~~

~~— (a) The board shall commence an adjudicative proceeding by issuing a notice to the parties at least 15 days before the first scheduled hearing date or first prehearing conference.~~

~~— (b) The notice commencing an adjudicative proceeding shall:~~

- ~~(1) Identify the parties to the proceeding as of the date of the order and specify a deadline for the submission of petitions to intervene;~~
- ~~(2) Briefly summarize the subject matter of the proceeding, and identify the issues to be resolved;~~
- ~~(3) Specify the legal authority for the proposed action, and identify any applicable board rules;~~
- ~~(4) Specify the date by which, and the address where, appearances or motions by representatives shall be filed;~~
- ~~(5) Specify the date, time, and location of an initial prehearing conference or dates for an oral hearing;~~
- ~~(6) Identify the presiding officer for the proceeding, if other than the chairman of the board;~~

~~(7) Identify any special procedures to be followed;~~

~~(8) Identify any confidentiality requirements applicable to the proceeding;~~

~~(9) Indicate that each party has the right to have an attorney present to represent the party at his or her expense;~~

~~(10) Indicate that each party has the right to have the board provide, at the party's expense, a certified shorthand court reporter provided that any such request is made at least 10 days prior to the proceeding; and~~

~~(11) Contain such other information or attachments as is warranted by the circumstances of the case, including, but not limited to, orders consolidating or severing issues in the proceeding with other proceedings, and orders directing the production or exchange of documents.~~

~~Hep 207.03 Docketing, Service of Notice, Public Notice.~~

~~(a) The board shall assign each adjudicative proceeding a docket number, and serve the hearing notice upon all parties to the proceeding and the board's legal counsel in the civil bureau, department of justice. The hearing notice shall be served upon the respondent, and the complainant, if any, by means of certified mail.~~

~~(b) Service of all subsequent orders, decisions and notices issued by the board, including any amendments to the hearing notice, shall be served upon the parties, including any intervenors, by regular mail.~~

~~(c) Orders, notices, and decisions of the board, and motions, memoranda, exhibits, and other documents and data submitted to the board in a docketed case shall be kept in a docket file and made available for public inspection in the board's office except to the extent that confidentiality has been otherwise provided for by law.~~

~~Hep 207.04 Intervention.~~

~~(a) Petitions for intervention shall state with particularity:~~

~~(1) The petitioner's interest in the subject matter of the hearing;~~

~~(2) Why the interests of the parties and the orderly and prompt conduct of the proceeding would not be impaired; and~~

~~(3) Any other reasons why the petitioner should be permitted to intervene.~~

~~(b) A complainant may petition to intervene in any hearing held by the board that addresses the substance of the complaint that the complainant filed. However, unless the complainant's petition for intervention is granted or the complainant is called as a witness in the proceeding, the complainant shall have no role in the proceeding.~~

~~(c) Petitions for intervention shall be granted if the petitioner has a substantial interest in the proceeding, and if granting intervention will not prejudice a party or unduly delay the board's proceeding.~~

~~(d) Once granted leave to intervene, an intervenor shall take the proceeding as he or she finds it and no portion of the proceeding shall be repeated because of the fact of intervention. From the time of the granting of a petition to intervene, the intervenor shall be treated as a party and no distinction shall be maintained.~~

~~— Hep 207.05 Right to Counsel. Parties and witnesses in adjudicative proceedings shall have the right to be represented by legal counsel, but an attorney appearing on behalf of a party shall first file with the board a letter announcing his or her representation. Requests for appointment of counsel shall not be entertained, and the board shall have no responsibility for the legal expenses of any licensee, registrant, applicant, intervenor or witness.~~

~~— Hep 207.06 Prehearing and Other Informal Conferences.~~

~~— (a) At any time following the commencement of an adjudicative proceeding, the presiding officer, upon motion, or upon his or her own initiative, shall direct the parties to attend one or more prehearing conference when such a conference would aid in the disposition of the proceeding.~~

~~— (b) Matters which can be addressed at a prehearing conference shall include:~~

~~(1) The distribution of exhibits and written testimony, if any, to the parties;~~

~~(2) Opportunities and procedures for simplification of the issues;~~

~~(3) Possible amendments to the pleadings;~~

~~(4) Opportunities and procedures for settlement;~~

~~(5) Possible admissions of fact and authentication of documents to avoid unnecessary proof;~~

~~(6) Possible limitations on the number of witnesses, and possible limitations on the scheduling of witnesses;~~

~~(7) Possible changes to the standard procedures which would otherwise govern the proceeding;
and~~

~~(8) Other matters which might contribute to the orderly, prompt and fair resolution of the proceeding.~~

~~— (c) The board shall cause prehearing conferences to be recorded. Matters decided at a prehearing conference shall be reflected in an appropriate order.~~

~~— Hep 207.07 Discovery and Disclosure.~~

~~— (a) The board shall provide for the disclosure to the parties of any investigative report or other unprivileged information in the possession of the board that is reasonably related to the subject matter of the proceeding.~~

~~— (b) Parties shall attempt to agree among themselves concerning the mutual exchange of relevant information. If these efforts prove unsuccessful, a party wishing to initiate discovery against another party, shall, by motion, seek leave to do so and shall identify the exact type of discovery requested.~~

~~— (c) Discovery shall be permitted against a party when:~~

~~(1) The parties cannot adequately address specific relevant factual issues at the time fixed for the presentation of evidence, and addressing these issues at a subsequent time would place the requesting party at a material disadvantage;~~

~~(2) The requested method of discovery is reasonable, and the requested discovery would not cause material unfairness or unreasonable expense to any party; and~~

~~(3) The requesting party has acted diligently and the requested discovery would not unreasonably delay the proceeding.~~

~~Hcp 207.08 Subpoenas.~~

~~(a) Subpoenas for the attendance of witnesses or the production of evidence in investigations or adjudicative proceedings shall be issued upon the order of the board after approval by the department of justice pursuant to RSA 137 F:21, I.~~

~~(b) Motions to quash or modify a subpoena shall be entertained from the person to whom the subpoena is directed, if filed within 7 days after service of the subpoena, or one day before the date specified in the subpoena for compliance therewith, whichever is later. Such motions shall be denied for the same reasons that they are denied in the superior court. If the board denies the motion to quash or modify, in whole or in part, the person to whom the subpoena is directed shall comply with the subpoena, or any modification thereof, within the balance of time prescribed in the subpoena or within 3 days from the date of the board's order, whichever is later, unless the board expressly provides additional time to comply.~~

~~(c) A subpoena shall be served in any manner authorized by law. The date, time, and method of service shall be written on the reverse of the original copy of the subpoena by the person making service who shall then file that copy with the board.~~

~~(d) Should a person fail to comply with a subpoena issued pursuant to this section, the board shall take one or more of the following actions calculated to best encourage compliance or mitigate the harm caused by such non-compliance:~~

~~(1) Impose sanctions specific to any pending proceeding or investigation, including, but not limited to, entry of a default judgment as to some or all of the pending issues which is adverse to the noncompliant party;~~

~~(2) Institute a separate investigation against any noncompliant individual who is subject to the board's jurisdiction; or~~

~~(3) Continue with the proceeding and defer all, or part, of the subpoena enforcement issues.~~

~~Hcp 207.09 Evidence.~~

~~(a) The evidentiary privileges recognized by law in New Hampshire shall apply to adjudicative proceedings under this chapter.~~

~~(b) All data which will reasonably assist the board in arriving at the truth shall be admissible, but data which is irrelevant, immaterial, or unduly repetitious shall be excluded.~~

~~(c) Oral testimony shall be presented unless the board, upon a finding that written evidence would be more efficient and would not result in material prejudice, orders that some or all of the evidence be submitted in written form.~~

~~(d) If the board officially notices a fact, it shall so state, and permit any party, upon timely request, the opportunity to show the contrary.~~

~~— (e) Witnesses appearing before the board shall testify under oath or affirmation administered by the presiding officer.~~

~~— (f) Unless a timely request that the board provide a certified shorthand court reporter has been granted, the board shall cause an electronic or stenographic record to be made of hearings and prehearing conferences. This record shall be transcribed upon the request of a party who pays the estimated cost of transcription in advance. However, if the board elects to transcribe some or all of the record for its own use, the transcribed portions shall be included in the public docket file.~~

~~— Hep 207.10 Burden of Proof.~~

~~— (a) The party asserting the affirmative of a proposition shall have the burden of proving the truth of that proposition by a preponderance of the evidence.~~

~~— (b) Without limiting the generality of paragraph (a), above, all moving parties and all petitioners shall have the burden of persuading the board that their motion or petition should be granted.~~

~~— Hep 207.11 Methods of Proceeding. Unless all parties agree to a modification of the process, the board shall hold a trial type of evidentiary hearing with an opportunity for the subsequent submission of memoranda. Each party shall have the opportunity to call its own witnesses and to cross-examine other witnesses who testify at the evidentiary hearing.~~

~~— Hep 207.12 Inquiry By Presiding Officer or Board Members. The presiding officer shall make such inquiry of witnesses as the presiding officer believes necessary to develop a sound record for decision. Other board members participating in the proceeding shall also ask such questions and make such inquiries as each such board member deems necessary, subject to recognition by the presiding officer.~~

~~— Hep 207.13 Proposed Findings of Fact and Conclusions of Law. The presiding officer shall direct the parties to submit proposed findings of fact or conclusions of law if the presiding officer believes proposed findings or conclusions would be helpful to the board in deciding the case. If such an order is issued, individual rulings upon such proposed findings or conclusions shall be included as part of any proposed or final decision required to be issued in the proceeding.~~

~~— Hep 207.14 Decisions and Orders.~~

~~— (a) The board shall issue a decision and order based on:~~

~~(1) A hearing attended by a quorum of the board; or~~

~~(2) A written proposed consent decree.~~

~~— (b) The decision and order shall be in writing and dated.~~

~~— (c) A board member shall not participate in rendering a decision if he or she has not personally heard all of the testimony in the case, unless the disposition does not depend on the credibility of any witness and the record provides a reasonable basis for evaluating all testimony and other evidence.~~

~~— (d) If the presiding officer has been delegated the authority to draft a proposed decision and order, the presiding officer shall submit to the board a written proposed decision and order containing:~~

~~(1) The disposition proposed by the presiding officer;~~

~~(2) A statement of the reasons for the proposed disposition;~~

~~(3) Findings of fact and rulings of law necessary to the proposed disposition; and~~

~~(4) Any order necessary to effectuate the disposition.~~

~~(e) If a proposed disposition submitted pursuant to paragraph (d) is adverse to any party, the board shall:~~

~~(1) Serve a copy of it on each party; and~~

~~(2) Provide an opportunity to file objections and present briefs and oral arguments to the board.~~

~~(f) The board shall keep a final decision in its records for at least 5 years following their dates of issuance, unless the director of the division of records management and archives of the department of state sets a different retention period pursuant to rules adopted under RSA 5:40.~~

~~Hcp 207.15 Ex Parte Communications. Once an adjudicative proceeding has been commenced, no party shall communicate with any person assigned to render a decision or to make findings of fact and conclusions of law in a contested case concerning the merits of the case except upon notice to all parties and in accordance with the rules of this chapter. Additionally, no party shall cause any other person to make such communications or otherwise engage in conduct prohibited by RSA 541-A:36.~~

~~Hcp 207.16 Disciplinary Hearings.~~

~~(a) Adjudication of misconduct allegations shall be conducted in accordance with this part, as supplemented by the hearing order and possible prehearing and other appropriate procedural orders served upon the parties, which shall establish the particular scheduling and filing requirements applicable to each case.~~

~~(b) A hearing notice shall be subject to substantive amendment by the board at any time prior to the issuance of a final order provided that the parties receive at least 15 days notice and an opportunity to be heard on any new or materially different misconduct allegations to be decided in a particular disciplinary proceeding.~~

~~(c) When the board receives information indicating that a licensee or registrant has engaged in or is likely to engage in professional conduct which poses an immediate danger to public health, safety or welfare, the board shall issue an order pursuant to RSA 541-A:30, III which sets forth the alleged misconduct and immediately suspends the license or registration for up to 10 working days pending completion of an adjudicative proceeding on the specified issues.~~

~~(d) Immediate suspension orders under Hcp 207.16(c) shall be accompanied by a notice that complies with Hcp 207.02(b). The board shall, unless expressly waived by the licensee or registrant, hold a hearing within 10 working days of such order or the suspension shall be vacated.~~

~~(e) No hearing date established in a proceeding conducted under Hcp 207.16(c) shall be postponed at the request of the licensee or registrant unless the licensee or registrant also agrees to continue the suspension period pending issuance of the board's final decision.~~

~~(f) Prehearing conferences in disciplinary proceedings shall be public except to the extent that settlement discussions or other matters entitled to confidentiality are addressed.~~

~~— Hep 207.17 Continuances.~~

~~— (a) Any party in a hearing may make an oral or written motion that a hearing be postponed to a later date or time.~~

~~— (b) If a continuance is requested by a party, it shall be granted if the presiding officer determines that good cause has been demonstrated. Good cause shall include the unavailability of any party, witness or attorney or other representative necessary to conduct the hearing, the likelihood that a hearing will not be necessary because the parties have reached a settlement or any other circumstances that demonstrate that a continuance would assist resolving the case fairly.~~

~~— (c) If the later date, time and place are known at the time of the hearing that is being postponed, the date, time and place shall be stated on the record. If the later date, time and place are not known at the time of the hearing that is being postponed, the presiding officer shall issue a written scheduling order stating the date, time and place of the postponed hearing as soon as practicable.~~

~~PART Hep 208 PRESIDING OFFICER~~

~~— Hep 208.01 Designation.~~

~~— (a) Adjudicative proceedings commenced by the board shall be conducted by a presiding officer.~~

~~— (b) The board chairman shall serve as presiding officer unless he or she designates another board member to so serve or is otherwise not available to act as presiding officer, in which case the board shall select any other person who is available to act as presiding officer.~~

~~— (c) The presiding officer in an adjudicative proceeding shall be subject to replacement in the event that a majority of the board members present so vote in the interest of justice or in the event of the illness or unavailability of the board chairman.~~

~~— Hep 208.02 Authority of Presiding Officer.~~

~~— (a) The presiding officer shall possess all authority with respect to the procedural aspects of adjudicative proceedings which could be exercised by the board itself, including, but not limited to, the power to administer oaths and affirmations, direct the course of the proceeding, and decide scheduling, discovery, and other procedural issues.~~

~~— (b) Except as provided by Hep 208.05, the presiding officer shall receive no testimony or oral argument on the merits of the case unless a majority of the board members hearing the case is present.~~

~~— (c) Except in proceedings conducted pursuant to Hep 208.05, and consistent with the fair and orderly conduct of the proceeding, the presiding officer shall permit board members who are hearing the case and are present during an adjudicative proceeding to make inquiries of witnesses pursuant to Hep 207.12.~~

~~— (d) The presiding officer shall attempt to assist the parties in resolving the issues of the hearing through reaching a proposed consent decree. When a proposed consent decree has been agreed to by the parties, the presiding officer shall refer it to the board for decision, but shall not stay the proceeding merely because the board is deliberating on the proposed settlement decree.~~

~~— (e) The presiding officer shall not decide motions or enter orders which finally resolve any specific issue or issues which the board has designated for hearing. Potentially dispositive motions shall be referred to the board if the presiding officer believes that they have sufficient merit to warrant prompt consideration.~~

~~Otherwise, the presiding officer shall defer any ruling on dispositive motions until the close of the record and the issuance of the recommended decision.~~

~~— (f) If the presiding officer believes a default or similar final order should enter against a party, the presiding officer shall issue a written recommendation to the board, with service on the parties, and the board shall take appropriate action after allowing the parties 10 days to file objections thereto.~~

~~— Hep 208.03 Withdrawal of Presiding Officer.~~

~~— (a) Upon his or her own initiative or upon the motion of any party, the presiding officer shall withdraw from any adjudicative proceeding for good cause.~~

~~— (b) Good cause shall exist if the presiding officer:~~

~~(1) Has a direct interest in the outcome of the matter, including but not limited to, a financial or family relationship with any participant in the hearing;~~

~~(2) Has made statements or engaged in behavior which objectively demonstrates that he or she has prejudged the facts of the case; or~~

~~(3) Personally believes that he or she cannot fairly judge the facts of the case.~~

~~— (c) Mere knowledge of the issues or acquaintance with any participant in the hearing shall not constitute good cause for withdrawal.~~

~~— Hep 208.04 Exceptions to Interlocutory Rulings by the Presiding Officer.~~

~~— (a) The board shall not entertain interlocutory appeals of procedural or discovery orders made by the presiding officer. Contemporaneous exceptions to such rulings shall be unnecessary to preserve the objections of any party adversely affected.~~

~~— (b) Objections to adverse rulings by a presiding officer shall be brought to the attention of the board by including such objections in any exceptions taken to a proposed decision under Hep 208.05. When a proposed decision is not issued, such objections shall be presented to the board as a motion or as part of a closing memorandum submitted within 10 days from the close of the hearing.~~

~~— Hep 208.05 Proposed Decisions by the Presiding Officer.~~

~~— (a) The evidence shall be received by the board and the presiding officer shall be charged with preparing a written proposed decision with recommendations for the final disposition of the case and any pending motions. Such proposed decisions shall be served upon the parties and board members.~~

~~— (b) Exceptions and supporting memoranda of law directed to the full board shall be filed within 30 days from the date the proposed decision was served. Replies to exceptions and reply memoranda shall be filed within 15 days from the date of the document being replied to.~~

~~— (c) If a party wishes to present oral argument to the board, the party shall file a separate motion for oral argument within the time allowed for filing exceptions or replies to exceptions.~~

~~— (d) If no exceptions are filed to a proposed decision, the board shall, within 10 days following the deadline for filing exceptions, issue an order announcing that the initial decision shall be reviewed by the board on its own motion if any board member participating in the decision has concerns regarding questions~~

~~of fact or conclusions of law, or issue an order stating that the proposed decision shall automatically become the board's final decision on the 41st day following the date it was served upon the parties.~~

~~— (e) When the board has directed a presiding officer to receive evidence and enter a proposed decision, there shall be no communications between the presiding officer and the board members concerning the merits of the case, and the board members shall not participate in the questioning of witnesses at the hearing, as would otherwise be permitted by Hep 207.12.~~

~~PART Hep 209 RECONSIDERATION AND STAY~~

~~Hep 209.01 Motion for Reconsideration or Rehearing.~~

~~— (a) Final adjudicative orders of the board shall take effect on the date they are served upon the parties pursuant to Hep 204.03(c) unless such order specifies another date, in which case, the order shall take effect as specified therein.~~

~~— (b) Motions for reconsideration or rehearing shall be filed within 30 days after service of a final adjudicative order. The board shall make no distinction between the terms “reconsideration” and “rehearing.”~~

~~— (c) A motion for reconsideration shall:~~

~~(1) Include any memorandum of law the moving party wishes to submit;~~

~~(2) Identify each error of fact, error of reasoning, or erroneous conclusion of law contained in the final order which the moving party wishes reconsidered; and~~

~~(3) Concisely state the correct factual finding, correct reasoning, and correct conclusion of law urged by the moving party.~~

~~— (d) The board shall grant or deny the motion, or any part thereof, on its merits to the extent the motion has revealed material errors of fact, reasoning, or law in the board's prior decision. The board shall also treat the motion as one for reopening and order the receipt of such additional data or additional argument as it considers necessary to evaluate any newly discovered evidence or to cure any alleged procedural errors.~~

~~— Hep 209.02 Reconsideration on the Board's Own Motion. Within the time frame specified in Hep 209.01(b), the board shall correct, reconsider, revise or reverse any final action on its own motion if the board determines that such final action was incorrect. If the board's action is based upon the existing record, prior notice shall not be given to the parties. If further argument or data are necessary before making such an order, the board shall provide the parties with notice and an opportunity to be heard before any final revision is made in the board's previous action.~~

~~Hep 209.03 Stay of Board Orders.~~

~~— (a) Board actions shall be stayed only in response to a specific motion requesting a stay or by the board acting on its own motion.~~

~~— (b) A motion for stay shall be considered only if it is filed within the time period for requesting reconsideration specified by Hep 209.01(b), and shall demonstrate good cause sufficient to warrant the stay of an action by the New Hampshire superior court. The board shall determine what constitutes good cause,~~

~~which shall include, but not be limited to, circumstances which would justify the granting of a motion for reconsideration or rehearing within the meaning of Hep 209.01 and Hep 209.02.~~

~~— (c) Filing a motion for reconsideration shall not stay a board order. However, a motion for stay may be combined with a motion for reconsideration.~~

~~PART Hep 210 CONSOLIDATION AND SEVERANCE~~

~~— Hep 210.01 Consolidation. Adjudicative proceedings which involve the same, or substantially related issues, shall be consolidated for hearing or decision, or both, when fairness, accuracy and efficiency would be served by such an action. Consolidation shall be ordered in response to a timely motion from a party or on the board's own initiative.~~

~~— Hep 210.02 Severance. Whenever it shall appear to the board, upon motion or its own initiative, that injury to the substantial rights of a party or undue delay may be thereby avoided, the board shall, as fairness and efficiency permit, sever one or more issues from a proceeding, and dispose of those issues in another proceeding.~~

Repeal Hep 211, effective 2/21/17 (Document #12111), as follows:

~~[PART Hep 211 NONADJUDICATIVE INVESTIGATIONS AND INFORMATIONAL HEARINGS~~

~~— Hep 211.01 Informal Investigations:~~

~~— (a) Notwithstanding any other provision of this chapter, the board, within the limits of its authority, and acting through its members, officers and employees, or through independent contractors, shall make inquiry of any person and otherwise gather data and prepare reports describing the data obtained whenever:~~

~~(1) It receives data which leads it to believe that a material violation of any statute administered by the board, or of any rule of the board, has occurred, or is likely to occur; or~~

~~(2) It desires to obtain data for any other lawful purpose;~~

~~— (b) Informal investigations shall include all techniques and methods for gathering information which are appropriate to the circumstances of the case, including:~~

~~(1) Requests for additional information from the complainant;~~

~~(2) Requests for a release of relevant records belonging to or under the control of the complainant; and~~

~~(3) Face to face meetings with potential witnesses and interested persons.~~

~~— Hep 211.02 Formal Investigations:~~

~~— (a) Formal investigations shall be commenced for the purpose of obtaining documents, recording testimony, and otherwise gathering information relevant to matters within the board's jurisdiction when the board believes this technique would be more effective than an informal investigation.~~

~~— (b) Formal investigations shall be commenced by the issuance of an order of investigation containing:~~

- ~~(1) The statutory or regulatory authority for the investigation;~~
- ~~(2) Any statutes or rules believed to have been, or about to be, violated, or the possible regulatory action being contemplated by the board;~~
- ~~(3) The identity of the persons, or class of persons, which are the subject of the investigation;~~
- ~~(4) The general nature of the conduct being investigated;~~
- ~~(5) The identity of the investigating officer or committee;~~
- ~~(6) The date upon which the investigating officer shall report his or her findings and recommendations to the board; and~~
- ~~(7) Other provisions relevant to the issues under investigation and the time, place and manner in which the investigation is to be conducted.~~

~~— (c) The issuance of an order of investigation shall not commence a disciplinary hearing and shall not constitute an allegation of misconduct against a license or registration holder.~~

~~— Hep 211.03 Investigators. The board shall appoint a member of its staff, an investigator retained through the office of professional licensure and certification, an attorney, or a member of the board to conduct a formal or informal investigation.~~

~~— Hep 211.04 Informational Hearings.~~

~~— (a) The board shall conduct informational hearings to assist it in gathering information concerning policy matters, such as the proposing of board rules.~~

~~— (b) The board chair, acting chair, or another board member designated by the chair shall serve as the presiding officer at informational hearings and shall conduct all facets of the proceeding.~~

~~— (c) Sworn testimony shall not be received at informational hearings unless an order of investigation has been issued by the board.~~

~~— (d) The board shall establish the order and the length of the presentations made in informational hearings.}~~

Repeal Hcp 212.01 through Hcp 212.03, effective 12/3/08 (Document #9337), as follows:

~~[PART Hep 212 RULEMAKING~~

~~— Hep 212.01 How Adopted. A board rule, or any amendment or repeal thereof, shall be adopted by order after following the process provided by RSA 541 A: 3 for 8 year rules, RSA 541 A:18 for emergency rules, and RSA 541 A:18 for interim rules. Rules shall be proposed pursuant to a petition or on the board's own initiative.~~

~~— Hep 212.02 Petition for Rulemaking. A request for the commencement of a proceeding to adopt, amend or repeal a rule shall be submitted in the form of a petition which contains the following information:~~

~~— (a) A statement of the reason for the petitioner's interest in the subject matter of the proposed rule;~~

~~— (b) The text of the proposed rule or a statement of the particular results intended by the petitioner to flow from the implementation of the proposed rule;~~

~~— (c) If the petitioner proposes to amend or repeal an existing rule, an identification of the particular rule sought to be amended or repealed; and~~

~~— (d) Any data or argument the petitioner believes would be useful to the board in deciding whether to commence a rulemaking proceeding.~~

~~— Hcp 212.03 Disposition of Petition.~~

~~— (a) The board shall issue an order granting or denying a petition for rulemaking. If the petition is denied, the board shall state the reason therefore in the order.~~

~~— (b) The board shall deny a petition if:~~

~~(1) The preponderance of the data or argument fails to support the petition;~~

~~(2) It conflicts with an existing rule or statute, including RSA 137 F:1; or~~

~~(3) The board determines it lacks the authority for the rule change.~~

~~— (c) If the petition is granted, the board shall undertake to commence a rulemaking proceeding in accordance with RSA 541-A:3.]~~

Repeal Hcp 212.04 and Hcp 213, effective 2/21/17 (Document #12111), cited as follows:

~~{ — Hcp 212.04 Explanation after Adoption.~~

~~— (a) Any person may request an explanation regarding adoption of the rules pursuant to RSA 541-A:11, VII by submitting a request to the board within 30 days of the board's adoption of the rule.~~

~~— (b) The request shall be considered at the next scheduled board meeting and the board shall issue an explanation within 45 days after consideration.~~

PART Hcp 213 WAIVER OF SUBSTANTIVE RULES

~~— Hcp 213.01 Petitions for Waiver.~~

~~— (a) Unless granting it would conflict with any statutory provision, the board shall entertain a petition to waive any rule not covered by Hcp 201.04 upon the filing of a petition pursuant to Hcp 205.01(b) which clearly identifies the rule in question and sets forth specific facts and arguments which support the requested waiver. The petitioner shall file an original and 2 copies of the petition.~~

~~— (b) Petitions for waivers of substantive rules shall address all of the following:~~

~~(1) Whether adherence to the rule would, in the petitioner's view, cause the petitioner unnecessary or undue personal or financial hardship and a description of such hardship;~~

~~(2) Whether the requested waiver is necessitated due to neglect or misfeasance on the part of the petitioner;~~

~~(3) Whether waiver of the rule would be consistent with the statutes and rules administered by the board;~~

~~(4) Whether other good cause exists for waiving the rule; and~~

~~(5) Whether enforcement of the rule would injure third persons.~~

~~— (c) If examination of the petition reveals that other persons would be substantially personally or financially affected by the proposed relief, the board shall require service of the petition on such persons and advise them of their right to object to the petition pursuant to Hep 205.01(e).~~

~~— (d) The petitioner shall provide such further information or participate in such evidentiary or other proceedings as shall be ordered by the board after reviewing the petition and any replies received.~~

~~— (e) The board shall initiate a waiver of a substantive rule upon its own motion by providing affected parties with notice and an opportunity to be heard, and issuing an order which finds that a waiver would be consistent with the criteria of (b), above.~~

~~— (f) The board shall grant the petition for waiver if the board finds that the circumstances set forth in Hep 213.01(b)(1), (3) and (4) are present and further finds that the circumstances set forth in Hep 213.01(b)(2) and (5) are not present.]~~

Repeal Hep 214 through Hep 215, effective 12/3/08 (Document #9887), as follows:

~~[PART Hep 214 DECLARATORY RULINGS~~

~~— Hep 214.01 Petitions for Declaratory Rulings.~~

~~— (a) Petitions for a declaratory ruling on matters within the jurisdiction of the board shall be filed as a petition which meets the requirements of Hep 205.01(b) and also contains the following information:~~

~~(1) The exact ruling being requested; and~~

~~(2) The complete and material statutory and factual basis for the ruling, including any supporting affidavits or memoranda of law.~~

~~— Hep 214.02 Action on Petitions for Declaratory Rulings. The petitioner shall provide such further information as the board shall direct after reviewing the petition and any replies received.~~

~~PART Hep 215 RULEMAKING PUBLIC COMMENT HEARINGS~~

~~— Hep. The purpose of this part is to provide a uniform procedure for the conduct of public hearings at which comment from the general public will be solicited for evaluation and consideration by the board relative to rulemaking.~~

~~— Hep 215.02 Scope.~~

~~— (a) These rules shall apply to all hearings required by state law to be conducted by the department at which public comment shall be solicited, except that they shall not apply to adjudicative hearings.~~

~~— (b) If any requirement set by these rules conflicts with an applicable statute, such other authority shall control.~~

~~— Hep 215.03~~

~~(a) A public comment hearing concerning rulemaking shall be commenced by placing notice of the hearing in the “Rulemaking Register” so that it shall appear at least 20 days prior to the hearing date.~~

~~(b) Notice for rulemaking public comment hearings shall comply with RSA 541-A:6, I.~~

~~(c) Nothing in these rules shall prohibit the board from giving greater notice than the minimums set out in this part.~~

~~— Hep 215.04 Access.~~

~~(a) Public comment hearings shall be open to the print and electronic media.~~

~~(b) The moderator shall place limits on the activities of the media to avoid disruption in the following ways:~~

- ~~(1) Limit the number of media representatives when their presence is disproportionate to the number of citizens present and shall cause citizens to be excluded;~~
- ~~(2) Limit the placement of television cameras to certain locations in the hearing room; and~~
- ~~(3) Prohibit interviews from being conducted within the hearing room during the hearing.~~

~~— Hep 215.05~~

~~(a) The hearing shall be presided over by a moderator who shall be the board chairperson or a designee.~~

~~(b) The moderator shall:~~

- ~~(1) Call the hearing to order;~~
- ~~(2) Cause a recording of the hearing to be made;~~
- ~~(3) Place limits on the media to avoid disruption as set out in Hep 215.04(b);~~
- ~~(4) Recognize those who wish to be heard and establish the order thereof;~~
- ~~(5) Limit the time for each speaker, as set out in Hep 215.06(b);~~
- ~~(6) Remove or have removed any person who disrupts the hearing;~~
- ~~(7) Adjourn the hearing; and~~
- ~~(8) Provide opportunity for the submission of written comments.~~

~~— Hep 215.06 Participation.~~

~~(a) Any person who wishes to speak on the issue or issues which are the subject of the hearing shall place his or her name and address on a speakers' list before the last speaker on the list has finished speaking. All whose names appear on the speakers' list, as provided, shall be afforded reasonable time to speak at the~~

hearing. Reasonable time shall be determined considering the number of people who wish to be heard, the time and the availability of the facility.

— (b) The board, through the moderator, shall:

(1) Refuse to recognize a person who refuses to give his or her full name and address;

(2) When a group or organization wishes to comment, limit the group to no more than 3 spokespersons, provided that the members who are present shall be allowed to enter their names and addresses into the record as supporting the position by the group or organization;

(3) Revoke recognition of a speaker who speaks or acts in an abusive or disruptive manner; or

(4) Revoke recognition of a speaker who refuses to keep his comments relevant to the issue or issues which are the subject of the hearing.

— (c) Written comments may be submitted any time from the time notice has been published until the record has been closed by the moderator, which shall not be less than 7 calendar days after the hearing.

— (d) In the event that the number of speakers who wish to give oral testimony relevant to the issue or issues involved exceed that number which can be heard within a reasonable period of time subject to facility availability and length of the hearing, the hearing shall be reconvened pursuant to applicable provisions in RSA 541-A to afford such persons the opportunity to be heard. Speakers may elect to submit written testimony in lieu of additional oral hearing.]

Rule	Statute
Hcp 200 (repeal)	RSA 541-A:16, I(b)(2)
Hcp 201.01 (repeal)	RSA 541-A:8
Hcp 201.02 (repeal)	RSA 541-A:7 and RSA 541-A:8
Hcp 201.03 (repeal)	RSA 541-A:16, I(b)
Hcp 201.04 (repeal)	RSA 541-A:16, I(b)
Hcp 202 (repeal)	RSA 541-A:30-a, III(b)
Hcp 203 (repeal)	RSA 541-A:30-a, III(f)
Hcp 204 (repeal)	RSA 541-A:30-a, III(a)
Hcp 205.01 (repeal)	RSA 541-A:16, I(b)
Hcp 205.02 (repeal)	RSA 541-A:16, I(b)
Hcp 205.03 (repeal)	RSA 541-A:16, I(b)
Hcp 206 (repeal)	RSA 541-A:16, I(b)
Hcp 207.01 (repeal)	RSA 541-A:8
Hcp 207.02 (repeal)	RSA 541-A:31, III
Hcp 207.03 (repeal)	RSA 541-A:16, I(b)
Hcp 207.04 (repeal)	RSA 541-A:32
Hcp 207.05 (repeal)	RSA 541-A:16, I(b)
Hcp 207.06 (repeal)	RSA 541-A:32, V(b) – (d)
Hcp 207.07 (repeal)	RSA 541-A:30-a, III(c)
Hcp 207.08 (repeal)	RSA 541-A:16, I(b)
Hcp 207.09 (repeal)	RSA 541-A:33
Hcp 207.10 (repeal)	RSA 541-A:30-a, III(d) and (e)
Hcp 207.11 (repeal)	RSA 541-A:16, I(b)
Hcp 207.12 (repeal)	RSA 541-A:16, I(b)

Hcp 207.13 (repeal)	RSA 541-A:35
Hcp 207.14 (repeal)	RSA 541-A:16, I(b)
Hcp 207.15 (repeal)	RSA 541-A:36
Hcp 207.16 (repeal)	RSA 541-A:30, III
Hcp 207.17 (repeal)	RSA 541-A:30-a, III(h)
Hcp 208.01 (repeal)	RSA 541-A:1, XIV
Hcp 208.02 (repeal)	RSA 541-A:16, I(b)
Hcp 208.03 (repeal)	RSA 541-A:30-a, III(k)
Hcp 208.04 (repeal)	RSA 541-A:16, I(b)
Hcp 208.05 (repeal)	RSA 541-A:34
Hcp 209 (repeal)	RSA 541-A:30-a, III(i)
Hcp 210 (repeal)	RSA 541-A:16, I(b)
Hcp 211 (repeal)	RSA 541-A:16, I(b)
Hcp 212.01 – 21 2.03 (repeal)	RSA 541-A:16, I(c)
Hcp 212.04 (repeal)	RSA 541-A:16, I(b); RSA 541-A:11, VII
Hcp 213 (repeal)	RSA 541-A:16, I(b); RSA 541-A:22, IV
Hcp 214 (repeal)	RSA 541-A:16, I(d)
Hcp 215 (repeal)	RSA 541-A:16, I(b)(3)