

19a-9-1. Definitions

Rules of Practice

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As used in sections 19a-9-2 through 19a-9-29 of the Regulations of Connecticut State Agencies:

- (1) "Adjudicating agency" means the agency with the responsibility of issuing the final decision or declaratory ruling in a given case.
- (2) "Agency" means the Department of Public Health, or any board or officer within said department authorized by law to make regulations or to determine contested cases.
- (3) "Applicant" means a person who has applied for licensure by the department.
- (4) "Board" means any professional board of examiners or commission created by statute within the department.
- (5) "Commissioner" means the Commissioner of Public Health or the Commissioner's designee.
- (6) "Complaint" means a formal statement of charges issued by the department.
- (7) "Contested case" has the meaning provided in section 4-166 of the Connecticut General Statutes.
- (8) "Day" means a calendar day.
- (9) "Department" means the Department of Public Health.
- (10) "Hearing officer" has the meaning provided in section 4-166 of the Connecticut General Statutes.
- (11) "Hearing panel" means a panel consisting of board members, designated by the board to conduct a hearing.
- (12) "Institution" means what is specified in subsection (a) of section 19a-490 of the Connecticut General Statutes.
- (13) "Intervenor" means a person, other than a party, who is allowed to participate in either a contested case or a hearing on a request for declaratory ruling, as set forth in section 4-177a of the Connecticut General Statutes, and section 19a-9-27 of the Regulations of Connecticut State Agencies.
- (14) "License" has the meaning provided in section 4-166 of the Connecticut General Statutes.
- (15) "Licensee" means a person who holds a license issued by the department.
- (16) "Notice of hearing" means the notice required to be provided to the parties pursuant to subsections (a) and (b) of section 4-177 and section 4-182(c), if applicable, of the Connecticut General Statutes.
- (17) "Party" has the meaning provided in section 4-166 of the Connecticut General Statutes.
- (18) "Person" has the meaning provided in section 4-166 of the Connecticut General Statutes.
- (19) "Petition" means a claim of violation of a statute or regulation committed by a health professional or institution or other entity under the jurisdiction of the agency or department, including an appeal filed with the commissioner pursuant to section 19a-535 or 19a-535a of the Connecticut General Statutes.
- (20) "Petitioner" means a person bringing a petition before the commissioner or department.
- (21) "Presiding officer" has the meaning provided in section 4-166 of the Connecticut General Statutes.
- (22) "Respondent" means any person who is the subject of a petition or against whom a statement of charges has been issued by the department.
- (23) "Request for a declaratory ruling" means a request made by any person for a ruling on the validity of any regulation or the applicability to specified circumstances of a provision of the general statutes, a regulation, or a final decision on a matter within the jurisdiction of the agency.
- (24) "Request for regulation making" means a request made by any person for the promulgation, amendment, or repeal of a regulation of the department.
- (25) "Statement of charges" means a formal complaint issued by the agency either after an investigation of a petition or at the department's own initiative.
(Effective September 4, 1997.)

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19a-9-2. Organization description

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- (a) The department operates under the direction of its commissioner who is appointed by the Governor.
- (b) The commissioner has the powers and duties specified in section 19a-2a and other provisions of the Connecticut General Statutes.
- (c) The principal office of the department and each board is located at and all communications should be addressed to the Department of Public Health, P. O. Box 340308, 410 Capitol Avenue, Hartford, Connecticut 06134-0308. This office is open from 8:30 a.m. to 4:30 p.m. Monday through Friday except legal holidays.
- (d) The public may inspect the regulations, decisions and all public records of each agency at the department's office. Requests for public information shall be in writing and submitted to the department at the address in subsection (c) of this section.
(Effective September 4, 1997.)

Rules of Practice

Receipt and Investigation of Petitions and Adjudication of Complaints

ARTICLE ONE

General Provisions

19a-9-3. Application and severability of regulations

- (a) Sections 19a-9-1 through 19a-9-29 of the Regulations of Connecticut State Agencies govern practices and procedures before the Department of Public Health and the various professional examining boards and commissions within the department, under the applicable laws of the State of Connecticut except where statutes and regulations otherwise provide.
- (b) Each regulation in the provisions of sections 19a-9-1 through 19a-9-29 of the Regulations of Connecticut State Agencies and every part of each such regulation is severable. The holding of any regulation or part thereof to be unconstitutional, void or ineffective for any reason shall not affect the validity, enforceability or constitutionality of any other regulation or part thereof.
(Effective September 4, 1997.)

19a-9-4. Waiver of rules

Where good cause appears, except where precluded by statute, the presiding officer or agency may permit deviation from sections 19a-9-1 through 19a-9-29 of the Regulations of Connecticut State Agencies.

(Effective September 4, 1997.)

19a-9-5. Construction

Sections 19a-9-1 through 19a-9-29 of the Regulations of Connecticut State Agencies shall be construed liberally by the agency or presiding officer to secure a just and efficient determination of the issues presented.

(Effective September 4, 1997.)

19a-9-6. Filing papers

- (a) General. All motions shall be submitted in writing stating the order or relief requested and the grounds therefor. A document or other writing is deemed submitted when personally delivered, mailed through the United States Postal Service or delivered in a manner specified by the agency and is deemed received when stamped by the agency as received.

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19a-9-7. Extension of time for filing

- (b) In all matters other than contested cases and declaratory ruling actions, all correspondence, motions, petitions, applications, and any other document governed by sections 19a-9-1 through 19a-9-29 of the Regulations of Connecticut State Agencies, except for those documents specified in subsection (d) of this section, shall be filed by delivering the original and two (2) copies by personal delivery or by United States mail addressed to the agency unless otherwise specified, and shall be deemed to have been filed on the date on which they are stamped received by the agency at its principal office. If any such document is to be considered at an agency meeting, it shall be filed no later than fourteen (14) days before the scheduled meeting. Any responsive document shall be filed no later than seven (7) days before any such meeting.
- (c) In contested cases and declaratory ruling actions, all correspondence, motions, answers, responses and any other document, except for those documents specified in subsection (d) of this section, shall be filed by delivering the original and two (2) copies by personal delivery or United States mail addressed to the department or in the manner specified in the agency's notice of hearing. Such documents shall be deemed to have been filed on the date on which they are stamped received by the agency at its principal office. Any party or intervenor shall also serve copies of such documents on all other parties and intervenors, identified by their names and addresses.
- (1) Documents filed in conjunction with a matter to be considered at an agency meeting shall be filed no later than fourteen (14) days before the scheduled agency meeting unless otherwise ordered by the agency or presiding officer. Responsive documents shall be filed no later than seven (7) days before the agency meeting unless otherwise ordered by the agency or presiding officer.
 - (2) Documents filed before a hearing commences shall be filed within fourteen (14) days after the date of the notice of the hearing. Any response shall be filed within fourteen (14) days after such document is filed.
 - (3) Documents filed after a hearing commences or an agency meeting has been held in which the matter is considered, shall be filed and responded to within the time determined by the presiding officer or agency. If a response time has not been determined by the presiding officer or agency, a response shall be filed not later than five business days after such document is filed.
- (d) Subsections (b) and (c) of this section shall not apply to motions for summary suspension, proposed consent orders, proposed interim consent orders, pre-hearing review documents, and motions to withdraw charges.
(Effective September 4, 1997; Amended effective December 8, 2004.)

19a-9-7. Extension of time for filing

Upon application, for good cause shown, the presiding officer or adjudicating agency may extend the time within which any document may be filed.

(Effective September 4, 1997.)

19a-9-8. Date due when due date falls on a date the department is closed

If the last day of any statutory or regulatory time frame falls on a day on which the department is closed, any paper may be filed or any required action may be taken on the next business day the department is open. Such filing or action shall be deemed to have the same legal effect as if done prior to the expiration of the time frame.

(Effective September 4, 1997.)

19a-9-9. Who may file a petition**ARTICLE TWO
Procedure for filing Petitions, Requests for Declaratory
Rulings and rulemaking, and Appeals of Orders
Issued by Local Directors of Health****19a-9-9. Who may file a petition**

Any person may file a petition whenever that person has cause to believe that any health professional or institution licensed by the department, or other entity under the jurisdiction of the department, has been engaged or is engaging in any practice that violates a statute or regulation.
(Effective September 4, 1997.)

19a-9-10. Petition contents

- (a) A petition shall be in writing and shall contain the following:
- (1) the full name and address of the petitioner;
 - (2) the full name and address of the respondent;
 - (3) a plain and simple statement of the facts, events or actions on which the claim is based;
 - (4) the date and approximate time of the alleged violation; and,
 - (5) the location where the alleged violation occurred.
- (b) A petition shall not be deemed defective solely because of the absence of one or more of the items contained in subsection (a) of this section.
(Effective September 4, 1997.)

19a-9-11. Modification or withdrawal of a petition

A petition, or any part thereof, may be withdrawn or modified by the petitioner with the consent of the department upon such conditions as the department may deem proper.
(Effective September 4, 1997.)

19a-9-12. Requests for declaratory rulings

Any interested person may submit a request to the agency for a declaratory ruling regarding the validity of any regulation, or applicability to specified circumstances of a provision of the general statutes, a regulation, or a final decision on a matter within the jurisdiction of the agency. The submittal shall conform to the requirements of subsection 19a-9-6(a), and a copy shall be sent to any person that the requester knows or has reason to believe may be substantially affected by the declaratory ruling. It shall contain a detailed statement of the person's interest in such matter and the facts relevant thereto, and the names and addresses of persons to whom it was sent. The agency may request the submission of such additional facts as it deems necessary, and may conduct a hearing.

(Effective September 4, 1997.)

19a-9-13. Request for regulation

Requests for the promulgation, amendment or repeal of a regulation shall be in writing and contain the reasons for the requested action. The department shall act in the manner specified in section 4-174 of the Connecticut General Statutes.

(Effective September 4, 1997.)

19a-9-14. Appeals of orders issued by a town, city, borough, or district director of health

- (a) Any person aggrieved by an order issued by a town, city, borough, or district director of health may appeal said order to the commissioner.

19a-9-15. Agency's authority to investigate, refer and dismiss petitions and requests for declaratory rulings

- (b) The notice of appeal shall be filed with the commissioner not later than three business days after the date of such person's receipt of such order.
- (c) The notice of appeal shall state:
 - (1) the name, address, and telephone number of the person claiming to be aggrieved;
 - (2) the name of the issuing authority;
 - (3) the way in which the order adversely affects the person claiming to be aggrieved;
 - (4) the order being appealed; and
 - (5) the grounds for appeal.
- (d) Telephonic notice of appeal to the office of the commissioner shall be satisfactory as the initial notice of appeal, provided written notice of appeal from the person claiming to be aggrieved is received by the department within ten (10) days of the telephonic notice.
- (e) An appeal from an order issued by a town, city, borough, or district director of health shall be a de novo proceeding conducted in accordance with the regulations governing contested cases as set forth in sections 19a-9-1 through 19a-9-29 of the Regulations of Connecticut State Agencies.
- (f) Any order issued by a town, city, borough, or district director of health shall include notice of the right to appeal which shall indicate the name and telephone number of the commissioner or the commissioner's designee, and shall be accompanied by copies of sections 19a-9-8 and 19a-9-14 of the Regulations of Connecticut State Agencies.
(Effective September 4, 1997.)

**ARTICLE THREE
Investigations**

19a-9-15. Agency's authority to investigate, refer and dismiss petitions and requests for declaratory rulings

- (a) The agency may initiate and conduct any investigation that the agency deems necessary within the agency's jurisdiction.
- (b) If, after receipt or investigation of a petition or request for a declaratory ruling, the agency determines that it lacks jurisdiction or that there is insufficient evidence to establish the alleged violation, it shall dismiss the petition or request. The agency shall notify the petitioner or the person making the request, and any respondent who is the subject of the investigation, in writing, of the dismissal. The agency may, in the exercise of discretion, refer any petition or request to another person, agency, or department within the executive or judicial branch.
(Effective September 4, 1997.)

19a-9-16. Applications for reconsideration of dismissals of petitions and requests for declaratory rulings

A petitioner or a person who requests a declaratory ruling may request reconsideration of a dismissal by the agency within ten (10) days from the date of the notice of the dismissal. The request shall be in writing and shall specify the grounds upon which it is based. New or previously unknown evidence may then be considered.
(Effective September 4, 1997.)

**ARTICLE FOUR
Post-Investigative Procedures**

19a-9-17. Designation of hearing entity

If the agency determines that the evidence is sufficient to issue a statement of charges or to hold a hearing on a request for a declaratory ruling, or if the legal rights, duties or privileges of a party

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19a-9-18. Notice of hearing

are required by statute to be determined by the commissioner or an agency after an opportunity for hearing, the adjudicating agency may designate a hearing officer, a member of the agency or a hearing panel to conduct a hearing, unless otherwise provided by statute.

(Effective September 4, 1997.)

19a-9-18. Notice of hearing

- (a) All notices of hearing shall be in writing and shall comply with the provisions of subsections (a) and (b) of section 4-177 and subsection (c) of section 4-182, if applicable, of the Connecticut General Statutes, as they may be amended from time to time.
 - (b) A notice of hearing shall be delivered to all designated parties and intervenors or their authorized representative personally or by United States mail, certified or registered, postage prepaid, return receipt requested.
 - (c) A notice of hearing shall be effective if delivered or sent to the party's last known address of record on file with the department. If such notice is not actually received by a party, or if the party is not currently licensed, service shall be deemed sufficient provided that the department or board, if applicable, has made all reasonable efforts to effectuate notice.
- (Effective September 4, 1997.)

19a-9-19. Filing of answer in a contested case

- (a) An answer shall be in writing, signed by a respondent or his or her authorized representative, and shall be filed with the agency within fourteen (14) days from the date of the notice of the hearing, or such other time specified in the notice of hearing.
 - (b) An answer shall contain a specific denial, admission, or denial of any knowledge sufficient to form a belief regarding each allegation of the complaint, and a statement of any facts or claims that may constitute a defense.
 - (c) Any allegation not answered in accordance with subsection (b) of this section shall be deemed admitted.
 - (d) An answer shall contain the mailing address and telephone number of the respondent, and the mailing address and telephone number of the respondent's authorized representative, if any.
- (Effective September 4, 1997.)

19a-9-20. Failure to file answer in a contested case

The presiding officer shall proceed with the hearing at the time and place specified in the notice of hearing, notwithstanding any failure of the respondent to file an answer within the time provided. If no answer has been timely filed, the allegations shall be deemed admitted.

(Effective September 4, 1997.)

19a-9-21. Acceleration of hearings

With the approval of the presiding officer, the parties to any proceeding may consent by written stipulation to a hearing earlier than that provided in the notice of the hearing.

(Effective September 4, 1997.)

19a-9-22. Joinder of proceedings

Two (2) or more hearings on requests for declaratory rulings, or two (2) or more contested cases against a respondent may be joined together by the presiding officer in the presiding officer's discretion, provided that in hearings conducted pursuant to sections 19a-535 and 19a-535a of the Connecticut General Statutes, as they may be amended from time to time, two (2) or more proceedings may be joined only when the sole issue involved is one of federal or state law or policy.

(Effective September 4, 1997.)

19a-9-23. Continuation of hearing

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19a-9-24. Hearings

The presiding officer may continue a hearing from day to day or adjourn it to a later date or to a different place by announcement thereof at the hearing or by other appropriate notice, at the presiding officer's discretion.

(Effective September 4, 1997.)

ARTICLE FIVE

Hearing Procedures for Contested Cases and Declaratory Ruling Proceedings

19a-9-24. Hearings

Hearings shall be conducted in accordance with Chapter 54 of the Connecticut General Statutes. The rules of evidence shall be as prescribed in section 4-178 of the Connecticut General Statutes.

(Effective September 4, 1997.)

19a-9-25. Powers and duties of the presiding officer

The presiding officer shall rule on all motions and preside at the hearing. If a hearing is held before less than a majority of the members of a board who are authorized by law to render a final decision, a majority of the members of a board shall review all rulings on dispositive motions and shall render the final decision. If a hearing is held before a hearing officer or hearing panel authorized to issue a final decision, the hearing officer or hearing panel shall also rule on all dispositive motions. If the hearing officer or hearing panel is authorized to issue a proposed final decision, the hearing officer or hearing panel shall issue proposed rulings on dispositive motions. Proposed rulings on dispositive motions shall be reviewed at the same time and in the same manner as proposed final decisions.

(Effective September 4, 1997.)

19a-9-26. Designation of parties

- (a) Designation as a party in contested cases. In addition to any parties designated in the agency's notice of hearing, the presiding officer may designate other parties in accordance with applicable law.
- (b) Designation as a party in actions for declaratory rulings. Any person who proposes to be admitted as a party to an action for a declaratory ruling shall file a written request to be so designated with the adjudicating agency, and shall mail copies of the request to all parties and intervenors not later than seven (7) days before the date of the hearing of the proceeding. The request shall state:
 - (1) the name and address and telephone number of the person filing the request and that of the person's authorized legal representative, if any;
 - (2) the manner in which the person making the request claims to be substantially and specifically affected by the proceeding;
 - (3) the factual and legal issues to be addressed in the proceeding;
 - (4) the relief sought;
 - (5) the statutory or other authority for such relief; and
 - (6) a summary of any evidence that the person making the request intends to present.

(Effective September 4, 1997.)

19a-9-27. Designation as an intervenor

- (a) Request to participate. A request to participate as an intervenor in a contested case or declaratory ruling hearing shall be in writing and mailed to the agency and all parties and intervenors at least five (5) days before the date of the hearing.
- (b) Contents of request. The request of the proposed intervenor shall:
 - (1) state such person's name and address;

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19a-9-28. Notice of appearance in contested cases and actions for declaratory ruling and proceedings

- (2) state the interest affected by the proceeding;
 - (3) describe the manner and extent to which such person proposes to participate in the hearing;
 - (4) describe the manner in which such participation will furnish assistance to the agency in resolving the issues; and
 - (5) summarize any evidence such person proposes to offer.
- (c) Designation as intervenor. The presiding officer shall determine whether and to what extent the proposed intervenor may participate in the hearing, taking into account whether such participation will furnish assistance to the agency in resolving the issues. (Effective September 4, 1997.)

19a-9-28. Notice of appearance in contested cases and actions for declaratory ruling and proceedings

Each party and intervenor or their duly authorized representative shall file a written notice of appearance with the presiding officer prior to the commencement of the hearing. (Effective September 4, 1997.)

19a-9-29. Miscellaneous provisions

- (a) Order of presentation in actions for declaratory rulings. The order of presentation shall be determined by the presiding officer at the time of the hearing.
- (b) Order of presentation in contested cases. The order of presentation shall be determined by the presiding officer at the time of the hearing, and shall provide the parties with the rights and privileges set forth in sections 4-177 et seq., of the Connecticut General Statutes, as they may be amended from time to time.
- (c) Limiting testimony. The presiding officer may limit the number of witnesses or the time for testimony upon a particular issue in the course of any hearing in order to avoid unnecessary cumulative evidence.
- (d) Limitation of direct case in actions for declaratory rulings. The direct case of any party shall consist substantially of the written statement in the request for declaratory ruling, and the exhibits and other materials annexed thereto unless the presiding officer shall rule otherwise for good cause shown.
- (e) Upon request of any party or intervenor or on his own motion, the presiding officer may require any party or other participant who proposes to offer technical or expert written testimony to provide such testimony to any or all other parties or intervenors, and to prefile such testimony with the presiding officer, prior to or during the course of the hearing. Such prefiled written testimony may subsequently be received in evidence, with the same force and effect as though it were stated orally by the witness who has given the evidence, provided that each witness shall be present at the hearing at which the prefiled written testimony is offered, shall adopt the written testimony under oath and shall be available for cross examination as directed by the presiding officer. Prior to its admission such written testimony shall be subject to objections by parties.
- (f) Improper conduct. The presiding officer may exclude from the hearing room or from further participation in the proceedings any person who engages in improper conduct during the hearing.
- (g) Nothing in sections 19a-9-1 through 19a-9-29 of the Regulations of Connecticut State Agencies shall be construed as limiting the ability of the presiding officer to make such orders as will aid in the just, economic, and efficient resolution of a case.
- (h) Unless otherwise ordered by the presiding officer, any party who wishes to challenge a proposed final decision under section 4-179 of the Connecticut General Statutes shall file exceptions or a brief or request oral argument, within twenty-one(21) days of the mailing of the decision. Any party who wishes to present a brief or requests oral argument in support of a proposed final decision shall do so within thirty-five (35) days of the mailing of the decision.

19a-9-29. Miscellaneous provisions

(Effective September 4, 1997.)