

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
SUBCHAPTER a: ADMINISTRATIVE RULES

PART 1110
RULES OF PRACTICE IN ADMINISTRATIVE HEARINGS

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- 44 1110.APPENDIX A Caption for a Case Filed by the Division
- 45 1110.APPENDIX B Caption for a Petition for Restoration
- 46 1110.APPENDIX C Caption for an Application for Licensure

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48 AUTHORITY: Implementing Section 5-10(a)(i) of the Illinois Administrative Procedure Act [5
49 ILCS 100] and authorized by Section 2105-15(7) of the of the Civil Administrative Code of
50 Illinois (Department of Financial and Professional Regulation Law) [20 ILCS 2105].

51
52 SOURCE: Rules of Practice in Administrative Hearings in the Department of Registration and
53 Education and before committees of said Department, effective February 5, 1975; codified at 5
54 Ill. Reg. 11019; emergency amendment at 6 Ill. Reg. 2270, effective January 29, 1982, for a
55 maximum of 150 days; amended at 6 Ill. Reg. 8214, effective June 28, 1982; Part repealed new
56 Part adopted at 9 Ill. Reg. 1110, effective January 9, 1985; transferred from Chapter I, 68 Ill.
57 Adm. Code 110 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code
58 1110 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1,
59 1988, at 12 Ill. Reg. 2964; amended at 28 Ill. Reg. 7642, effective May 21, 2004; amended at 43
60 Ill. Reg. 9969, effective September 13, 2019; emergency amendment at 44 Ill. Reg. 19537,
61 effective December 2, 2020, for a maximum of 150 days; amended at 45 Ill. Reg. 4476, effective
62 March 24, 2021; amended at 48 Ill. Reg. 13602, effective August 30, 2024; amended at 50 Ill.
63 Reg. _____, effective _____.

64
65 **Section 1110.10 Definitions**

66
67 "Address of Record" means the address and/or email address required to be on
68 file with the Department's Licensure Maintenance Unit by a licensee or, in the
69 case of an unlicensed person, the most recent publicly ascertainable address or
70 email address.

71
72 "Administrative Law Judge" or "ALJ" means an attorney licensed to practice law
73 in the State of Illinois who has been designated by the Director to conduct any
74 hearings governed by this Part. For the purposes of this Part, "Administrative
75 Law Judge" means the same as "Hearing Officer" as referenced in the DFPR Law
76 or in any Act administered by the Division.

77
78 "Applicant" means a person who submitted an application for a license,
79 registration or other credential issued by the Division.

80
81 "Board" means any Board or Committee created or existing under the DFPR Law
82 or other Acts as advisory Boards or Committees to the Secretary or Director.

83
84 "Clerk of the Court" means the person or unit designated by the Division to
85 receive filings and to date stamp them.

87 "Department" means the Department of Financial and Professional Regulation.

88

89 "DFPR Law" means the Department of Financial and Professional Regulation
90 Law of the Civil Administrative Code of Illinois [20 ILCS 2105].

91

92 "Director" means the Director of the Division of Professional Regulation or the
93 Director of the Division of Real Estate or duly appointed Acting Director, with
94 the authority delegated by the Secretary.

95

96 "Division" means the Division of Professional Regulation or the Division of Real
97 Estate within the Department, as the context indicates.

98

99 "Formal Hearing" means a formal proceeding that is conducted on the record
100 before an Administrative Law Judge during which the parties present evidence
101 and make arguments regarding appropriate action on a contested matter.

102

103 "Hearing" means any hearing authorized to be held in the Department or before
104 any of its several Boards within the Division, an Administrative Law Judge, the
105 Director or the Secretary by ~~the~~ DFPR Law or any and all other applicable
106 statutes at any time in force in the State of Illinois.

107

108 "Informal Conference" means a meeting between a licensee or applicant, a board
109 member if applicable, and Division representative which provides a licensee or
110 applicant information and statements in furtherance of an agreed disposition.

111

112 "Indigent Person" has the meaning given in subdivision (a)(2) of Section 5-105 of
113 the Code of Civil Procedure. [5 ILCS 100/10-25.1]

114

115 "Interpretive Assistance" means services that involve listening to a
116 communication in one language and orally converting that communication into
117 another language while retaining the same meaning. [5 ILCS 100/10-25.1]

118

119 "Licensee" means any holder of ~~or applicant for~~, a license, registration or other
120 credential issued by the Division. "Licensee" also includes an unlicensed person
121 or entity who claims to hold ~~holds himself or herself out to be~~ a licensee ~~licensee~~ or
122 engages in a licensed activity. For purposes of this definition, a license,
123 registration or credential issued by the Division may be active, inactive, expired
124 or in any other status.

125

126 "Limited English Proficient Person" means someone who speaks a language other
127 than English as their primary language and has a limited ability to read, write,
128 speak, or understand English and requires the assistance of a foreign interpreter
129 to effectively communicate in a legal proceeding. [5 ILCS 100/10-25.1]

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"Petitioner" is a party who, by written petition, seeks relief or licensure under any provision of the statutes of the State of Illinois or any rule, order or determination of the Division. The party seeking licensure may also be identified as "applicant".

"Respondent" is a person, firm, association, partnership, corporation, limited liability company or other legal entity against whom a complaint or notice initiating a proceeding is filed or to whom an order or complaint is directed by the Division.

"Secretary" means the Secretary of Financial and Professional Regulation.

"Unlicensed Person" means any person who has never held a license and who is not an applicant for licensure.

(Source: Amended at 50 Ill. Reg. _____, effective _____)

Section 1110.20 Institution of a Contested Case by the Division

- a) A contested case is instituted by the Division when a Complaint and Notice of Preliminary Hearing are filed with the Clerk of the Court and mailed or emailed to the Respondent's address of record.
- b) A Complaint shall be in writing, signed by a Chief of Prosecution, and shall include a clear statement of the acts or omissions alleged to violate a statute or rule and the citation of the particular Sections of the substantive and procedural statutes and rules involved. Any allegation of a violation of a statute or rule under the administration of the Department that is premised on a violation of another State or federal statute or rule shall identify that State or federal statute or rule.
- c) The Notice of Preliminary Hearing shall be in writing and shall contain the date, time, place and nature of the hearing to be held, shall refer to the Division's Rules of Practice, and shall comply with the Notice requirements of Section 1110.70.
- d) A contested case is also instituted by the Division when a Notice of Intent to Refuse to Renew or a Notice of Intent to Deny is filed with the Clerk of the Court and mailed or emailed to the Respondent's or Applicant's address of record.
- e) A Notice of Intent to Refuse to Renew and a Notice of Intent to Deny shall be in writing and signed by a Chief of Prosecution, shall include a clear statement of the acts or omissions alleged to violate a statute or rule, and shall include the citation of the particular Sections of the substantive or procedural statutes and rules involved. Any allegation of a violation of a statute or rule under the

administration of the Department that is premised on a violation of another State or federal statute or rule shall identify that State or federal statute or rule. It shall notify the Respondent or Applicant~~licensee~~ that ~~they~~~~the licensee~~ must request a hearing to contest the notice within 30 days after service and, if a request is not filed within that time, the Director may issue an order refusing renewal of the license or refusing the issuance of a license. Upon receipt by the Clerk of the Court of a properly completed request for hearing, a case will be docketed and notice sent to the Respondent or Applicant setting forth the date, time and place of hearing.

- f) The procedures for Rules to Show Cause for each profession are described in the applicable professional Act. If the Division is seeking a civil penalty for unlicensed practice, the Division shall file a Complaint and Notice of Preliminary Hearing in the same manner as set forth in this Section.
- g) Any Notice of Preliminary Hearing, ~~or~~ Notice of Intent to Refuse to Renew, or Notice of Intent to Deny prepared under the provisions of this Section pertaining to a person licensed under the Real Estate License Act of 2000 [225 ILCS 454] shall also be addressed to and served upon that person's managing broker and sponsoring broker.
- h) All Notices pursuant to this Section shall comply with the interpretive assistance requirements of Section 1110.45.

(Source: Amended at 50 Ill. Reg. _____, effective _____)

Section 1110.30 Petition for Restoration or Request for Hearing~~Institution of a Contested Case by Petitioner~~

- a) A ~~contested case is instituted by a~~ Petitioner may file when a Petition for Hearing is filed with the Clerk of the Court a Petition for Restoration when seeking restoration of a license that was revoked, suspended, placed on an indefinite probation, or placed in refuse to renew.
- b) A Petitioner may file with the Clerk of the Court, a Request for Hearing pursuant to a Notice of Intent to Deny or a Notice of Intent to Refuse to Renew.
- cb) In a case in which a Petitioner is seeking restoration of a license that was revoked or suspended or placed in refuse to renew or for termination of an indefinite probation, the Petition for Restoration~~Hearing~~ shall be in writing, signed by the Petitioner, and shall set forth:
 - 1) The number of the license that was suspended, revoked, or placed in

- 216 refuse to renew, or placed on probation;
217
218 2) The docket number of the case that resulted in discipline;
219
220 3) The date on which the suspension, revocation, or placed in refuse to
221 renew, or probation was ordered;
222
223 4) Whether the order that suspended, revoked, or placed in refuse to renew,
224 or placed that license on probation ~~the license~~ was appealed, and if so,
225 whether a stay of the imposition of discipline was granted by any
226 reviewing court;
227
228 5) All dates and types of employment held since the discipline was imposed;
229
230 6) All continuing or remedial education completed since the discipline was
231 ordered;
232
233 7) If the Petitioner has sought medical treatment, psychotherapy or
234 counseling since the discipline was ordered, and if rehabilitation is relied
235 upon as a basis for petitioning that the license be restored or the probation
236 terminated, the name and address of the treating professional, and whether
237 the Petitioner consents to disclosure by the professional of matters that are
238 relevant to whether the Petitioner is fit to resume practice;
239
240 8) Any conviction or arrest followed by a charge since the discipline was
241 ordered; ~~and~~
242
243 9) Date and disposition of any other petitions for restoration filed since the
244 discipline was ordered; and;
245
246 10) A statement that they have satisfied all conditions and terms imposed by
247 the professional act and rules under which the Petitioner is licensed
248 relating to restoration from discipline, including the minimum time
249 imposed, if any, by the discipline.
250
251 11) Any petition not conforming to the requirements of this Section may not
252 be docketed or may be stricken.
253
254 de) A Notice of an Intent to Deny Licensure shall be in writing, signed by a Chief of
255 Prosecution, and shall include a clear statement of the acts or omissions alleged to
256 violate a statute or rule, and citation of the statute or rule that forms the basis for
257 the denial. The Notice shall notify the licensee that he or she must request a
258 hearing to contest the notice within 30 days after service and, if a request is not

259 ~~filed within that time, the Director may issue an order denying the license~~
260 ~~application.~~ In a case in which the Petitioner, also referred to as the applicant,
261 seeks to contest a decision by the Division to deny the application for licensure,
262 the Petition for Hearing ~~shall~~ will be in writing, signed by the Petitioner, and shall
263 ~~set forth:~~ will state with specificity the particular reasons why the applicant
264 ~~believes that the action by the Division to deny licensure was incorrect.~~

- 265
- 266 1) The application number and license type being denied;
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- 268 2) The docket number of the case that resulted in the Notice of Intent to
269 Deny;
- 270
- 271 3) The date on which the Notice of Intent to Deny was entered; and
- 272
- 273 4) The reasons, stated with specificity, why the applicant believes that the
274 action by the Department to deny licensure is incorrect.
- 275
- 276 5) Any petition not conforming to the requirements of this Section may not
277 be docketed or may be stricken.
- 278

279 e) In a case in which the Petitioner, also referred to as the licensee, seeks to contest a
280 decision by the Division to refuse to renew a license, the Petition for Hearing
281 shall be in writing, signed by the Petitioner, and shall set forth:

- 282
- 283 1) The license number and license type being denied;
- 284
- 285 2) The docket number of the case that resulted in the Notice of Refuse to
286 Renew;
- 287
- 288 3) The date on which the Notice of Refuse to Renew was issued; and
- 289
- 290 4) The reasons, stated with specificity, why the Petitioner believes that the
291 action by the Department to refuse to renew is incorrect.
- 292
- 293 5) Any petition not conforming to the requirements of this Section may not
294 be docketed or may be stricken.
- 295

296 f) In a case in which the Petitioner seeks a hearing to contest the factual basis of an
297 automatic suspension imposed pursuant to the terms of a consent order, the
298 Petition shall be in writing, signed by the Petitioner, and filed pursuant to the
299 terms of the consent order.

300

301 g) Upon receipt by the Clerk of the Court of a properly completed Petition for

302 Restoration or a Request for Hearing, a case will be docketed, and notice sent to
303 the Petitioner setting forth the date, time and place of hearing.

304 (Source: Amended at 50 Ill. Reg. _____, effective _____)
305

306
307 **Section 1110.45 Interpretive and Translational Assistance**
308

- 309 a) A self-represented litigant, a witness, or a litigant who is an indigent person has
310 the right to request interpretive assistance to participate in or understand any
311 formal proceeding conducted orally before an ALJ, and this person may make
312 such request at any time during the proceeding.
313
- 314 b) If no request for interpretive assistance is made throughout the formal proceeding
315 but the ALJ reasonably believes that the person is eligible to receive interpretive
316 assistance and is of limited English proficiency, the ALJ shall inquire if the
317 person needs assistance to participate or understand the proceeding.
318
- 319 c) The ALJ may require a person to provide reasonable information necessary to
320 determine whether the person is an indigent person for purposes of determining
321 the availability of interpretive assistance. The ALJ shall determine whether, and
322 the manner in which, interpretive assistance will be provided. The decision of the
323 ALJ shall be made part of the record of the proceeding.
324
- 325 d) The Department shall provide interpretive assistance and do so in a manner
326 consistent with Sections 10-25.1(c) of the Illinois Administrative Procedure Act,
327 to a self-represented litigant, a witness, or litigant who is an indigent person that
328 requests, or needs interpretive assistance in accordance with this Section. This
329 applies to a formal proceeding conducted orally before an ALJ and concerns
330 substantive issues other than those related to procedural rules, processes, or
331 scheduling.
332
- 333 e) The Department may provide interpretative assistance and do so in a manner
334 consistent with Section 10-25.1(d) of the Illinois Administrative Procedure Act, to
335 a self-represented litigant, a witness, or a litigant who is an indigent person that
336 requests, or needs, interpretative assistance in accordance with this Section when
337 the formal proceeding conducted orally before an ALJ concerns only procedural
338 rules, processes, or scheduling.
339
- 340 f) The ALJ shall ensure that all persons appointed to provide interpretive assistance
341 pursuant to paragraph (d) or (e) of this Section comply with the requirements of
342 Section 10-25.1(e) of the Illinois Administrative Procedure Act. The ALJ shall
343 hear any requests for the appointment of a different interpreter in accordance with
344 Section 10-25.1(f) of the Illinois Administrative Procedure Act.

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- g) A request for interpretive assistance at a proceeding shall not be cause for delay, and if the requestor fails to appear at the hearing after requesting interpretive assistance, the request shall be deemed waived. If the requestor who fails to appear is the Petitioner or Respondent, the Department shall proceed pursuant to Section 1110.100.
- h) Every initial notice for which a person is entitled to a hearing under the applicable act, shall include an enclosure written in, at a minimum, English, Arabic, Cantonese, Gujarati, Korean, Mandarin, Polish, Russian, Spanish, Tagalog, Urdu, Ukrainian, and Vietnamese, which notifies the recipient of the ability for a party of the recipient's agent to request interpretive assistance to participate in or understand the hearing and to receive language access services for translating the contents of the notice. For Cantonese and Mandarin languages interpretation will be provided in Simplified Chinese or Traditional Chinese.
- i) A request to receive a written or sight translation of the initial notice must be made within seven days after service of the notice. If the request for translation involves a Notice of Intent to Deny or a Notice of Intent to Refuse to Renew, the request for translation shall be construed as a request for hearing. If a request for translation involves a Complaint, then the requirement of filing an Answer to the Complaint pursuant to Section 1110.120 of these Rules is stayed until a translation is provided.
- j) If a request for written or sight translation of the initial notice is not received by the Department within seven days after service, it shall be deemed a waiver of the right to translate the contents of the initial notice.
- k) The Department need not provide interpretive assistance, sight translation, written translation, or other language access services to a person other as in this Section 1110.45, however nothing in Section 1110.45 prevents the Department from providing such services within its discretion.

(Source: Added at 50 Ill. Reg. _____, effective _____)

Section 1110.50 Form and Filing of Documents

- a) All documents filed or submitted to the Division in a contested case shall be typewritten on 8½- by 11-inch white paper. The first page of each document shall set forth the names of the parties and the docket number assigned to the case by the Division. Petitions for Hearing that are filed before a docket number is assigned shall contain a space for entry of the assigned number. (See the Appendices.)

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- b) All Notices, Complaints, Answers, Petitions, motions, responses, replies and other papers in the nature of a pleading shall be filed with, and date stamped by the Clerk of the Court. A copy of any motion, response, reply, or similar document shall also be provided to the opposing party and/or the opposing party's counsel of record or the assigned Division counsel, as applicable.

(Source: Amended at 50 Ill. Reg. _____, effective _____)

Section 1110.60 Service

- a) Service of any document may be by mail, email, or by personal delivery. Service may ~~also~~ be made ~~by email~~ to the Respondent, Petitioner, Applicant, or licensee to the address or email address of record. Service upon an unlicensed person may ~~only~~ be made by mail, email, or personal delivery to the most recent publicly ascertainable address ~~or by personal delivery~~. Service by email to the assigned Division counsel may be addressed to ~~the his or her~~ email address appearing on any pleading.
- b) Proof of service by mail or personal delivery will be attached to the original of any document served. Proof of service by email shall be the emailed notice to which the document is attached. In the absence of evidence to the contrary, the date shown on the proof of service shall be deemed the date of service. Proof of service may be verified by certification as provided for in Section 1-109 of the Code of Civil Procedure [735 ILCS 5].
- c) If service is by email, the Division shall maintain a copy of the sent email and shall verify within one business day that the transmission of the email has not been rejected or has failed. In the event of rejection or failure, absent correction of an erroneous email address, service shall be made by mail.

(Source: Amended at 50 Ill. Reg. _____, effective _____)

Section 1110.70 Notice of Preliminary Hearing

- a) The Notice of Preliminary Hearing shall include:
 - 1) *A statement of the time, place and nature of the hearing;*
 - 2) *A statement of the legal authority and jurisdiction under which the hearing is to be held;*
 - 3) *A reference to the particular Sections of the substantive and procedural*

431 *statutes and rules involved;*

432
433 4) *Except when a more detailed statement is otherwise provided for by law, a*
434 *short and plain statement of the matters asserted, the consequences of a*
435 *failure to respond, and the official file or other reference number.*

436
437 5) *To the extent such information is available, the names, phone numbers,*
438 *email addresses and mailing addresses of the administrative law judge or*
439 *designated agency contact, parties, and all other persons to whom the*
440 *agency gives notice of the hearing unless otherwise confidential by law. [5*
441 *ILCS 100/10-25(a)]*

442
443 6) A statement that the purpose of the Preliminary Hearing is to set a date on
444 which all parties expect to be prepared to proceed with their cases and to
445 rule on any preliminary motions that are presented.

446
447 7) The ability for a party or the recipient's agent to request interpretive
448 assistance to participate in or understand the hearing and to receive
449 language access services for translating the contents of the notice in
450 compliance with Section 1110.45.

451
452 b) The Notice of Preliminary Hearing shall include a copy of the complaint, if any.

453
454 c) Except as otherwise provided by statute, the Respondent or Petitioner will be
455 given at least 20 days' notice prior to the first date set for the preliminary hearing
456 or hearings, as the case may be. Once notice is given, it will thereafter be the
457 responsibility of the Respondent or Petitioner to know subsequent hearing dates.

458
459 d) Nothing in this Section will prevent the Division from scheduling a hearing within
460 20 days after the date on which the Director summarily suspends a license
461 pending proceedings.

462
463 e) Any contention that improper notice was given will be deemed waived unless it is
464 raised by the Respondent or Petitioner prior to argument on any other motion or,
465 if no other motions are presented, prior to the commencement of opening
466 statements.

467
468 (Source: Amended at 50 Ill. Reg. _____, effective _____)

469
470 **Section 1110.80 Negotiations and Agreed Dispositions**

471
472 a) The Division and the Respondent or Petitioner may stipulate to facts and that
473 stipulation may be used or otherwise admitted at the hearing.

474
475 b) The Division and the Respondent or Petitioner may enter into a written agreement
476 providing for disciplinary or nondisciplinary action against the Respondent or
477 Petitioner the granting or restoration of a license as a settlement and disposition of
478 the complaint or petition. The written agreement may also be signed by a Board
479 member from the relevant Board. The written agreement shall be considered the
480 Findings of Fact, Conclusions of Law, and Recommendation to the Director. If
481 the Director approves the written agreement, it shall be entered in the same
482 manner as any other Order of the Director and shall constitute a final decision. If
483 the Director rejects the written agreement, the Respondent or Petitioner shall then
484 be entitled to a hearing on the merits. It shall not be a bar to participation in the
485 hearing by a Board member that ~~they had~~~~he or she has~~ previously considered a
486 proposed agreement under this Section. A proposed written agreement not
487 accepted by all parties or rejected by the Director shall be deemed confidential as
488 an unsuccessful attempt to settle and shall not be referenced or included in any
489 future pleading or proceeding.

490
491 c) Participation in an informal conference shall not be a basis to exclude Board
492 members from deliberating with the full Board on an Administrative Law Judge's
493 Report and Recommendation in a contested matter.

494
495 d) Statements made during informal conferences are confidential, including
496 proposed dispositions and shall not be used or admitted in any proceeding
497 regarding the allegations.

498
499 (Source: Amended at 50 Ill. Reg. _____, effective _____)
500

501 **Section 1110.90 Representation**

502
503 a) A party may be represented by an attorney who is licensed in Illinois or by an
504 attorney otherwise permitted by law to practice in the State. Attorneys who
505 appear in a representative capacity must file written notice of appearance setting
506 forth:

507
508 1) The name, address, email address, telephone number and Supreme Court
509 registration number of the attorney;

510
511 2) The name, address and email address of the party represented; and

512
513 3) An affirmative statement indicating that the attorney is licensed in Illinois
514 or is appearing pro hac vice.

515
516 b) An attorney may withdraw from employment as a representative only upon filing

517 a motion for leave to withdraw in writing~~written notice to the Division and the~~
518 ~~licensee~~ stating the specific reasons for the withdrawal and providing notice to all
519 parties. The motion shall state the last known address and email address of the
520 party represented. The motion for withdrawal may be denied by the ALJ if the
521 granting of it would delay the trial of the case or otherwise be inequitable. Upon
522 entry of an order granting a motion for withdrawal, the withdrawing attorney shall
523 provide the client with a copy of all orders and pleadings from the proceeding in
524 their possession.

- 525
- 526 c) A law student licensed under Supreme Court Rule 711 may appear on behalf of
527 any party as permitted by Supreme Court Rule 711 and shall be subject to the
528 same requirements as an attorney.
- 529
- 530 d) Attorneys admitted to practice in states or jurisdictions other than the State of
531 Illinois may appear and be heard in a specific hearing pro hac vice as authorized
532 and in compliance with Supreme Court Rule 707. The attorney's appearance shall
533 include documentation as to ~~their~~his or her eligibility or qualification under
534 Supreme Court Rule 707.
- 535
- 536 e) Any individual may appear on ~~their~~his or her own behalf.
- 537
- 538 f) A corporation, limited liability company, professional limited liability company,
539 or partnership must appear by legal counsel, licensed to practice in the State of
540 Illinois or appearing pro hac vice.
- 541
- 542 g) Once an appearance is filed, a copy of all future filings shall be served upon the
543 counsel of record, unless that counsel has withdrawn. In addition to that service, a
544 copy may be served on the licensee or applicant.
- 545
- 546 h) The standard of conduct shall be the same as before the Courts of Illinois.
547 Attorneys appearing before the Division shall conform their conduct to the Illinois
548 Rules of Professional Conduct. In conforming their conduct~~Any failure to behave~~
549 ~~in a manner consistent with those standards of conduct or this Part will authorize~~
550 ~~an Administrative Law Judge to take the following actions:~~
- 551
- 552 1) A person shall not engage in any conduct that brings disorder or disruption
553 to the courtroom. Lawyers shall instruct their clients and witnesses
554 appearing in court of the proper conduct expected and required in court
555 and, to the best of their ability, prevent their clients and witnesses from
556 acting inappropriately;
- 557
- 558 2) A person shall not knowingly misrepresent, mischaracterize, misquote or
559 miscite facts or authorities in any oral or written communication to the

560 court;

561

562 3) A person shall not interrupt the court or opposing counsel, except when
563 necessary to make an effective objection;

564

565 4) Unless specifically permitted or invited by the court, parties shall not send
566 copies of correspondence between themselves to the court. This does not
567 include transmission of courtesy copies of pleadings to the court; and

568

569 5) Parties shall notify the other party and the court at the earliest possible
570 time when hearings or conferences are to be canceled or postponed. Early
571 notice avoids unnecessary travel and expense and may enable the court to
572 use the previously reserved time for other matters.

573

574 i) Any failure to behave in a manner consistent with those standards of conduct or
575 this Part will authorize an Administrative Law Judge to take appropriate action,
576 including but not limited to, the following:

577

578 1) Limitation of evidence;

579

580 2) Substitution of written argument in place of oral argument; ~~or~~

581

582 3) If warranted, report an attorney's misbehavior to the Attorney Registration
583 and Disciplinary Commission of the Illinois Supreme Court; ~~or~~

584

585 4) Exclusion of an attorney from the proceedings; or

586

587 5) Suspension or revocation of the attorney's right to appear before the
588 Administrative Law Judge.

589

590 j) If any of the actions authorized by subsection (h) are taken by the ALJ, it shall be
591 done as a matter of record, and the ALJ shall state for the record the specific
592 reasons for the action.

593

594 k) A party sanctioned under this Section may request the decision be reviewed by
595 the Director.

596

597 (Source: Amended at 50 Ill. Reg. _____, effective _____)

598

599 **Section 1110.100 Failure to Appear**

600

601 a) Failure of a Respondent, even if represented by an attorney, to appear at the time
602 and place set for formal hearing shall be deemed a waiver of the right to present

603 evidence unless otherwise reflected by order of the Administrative Law Judge.
604 After presentation by the Division of proof that the Respondent was given proper
605 notice and the Division has been given an opportunity to present evidence, the
606 ALJ shall make ~~a his or her~~ recommendation. When a Petitioner, even if
607 represented by an attorney, fails to appear at the time and place set for formal
608 hearing, the Petition for Restoration or Request for Hearing shall be dismissed.

- 609
- 610 b) If at the time of formal hearing, a Respondent has not filed an answer conforming
611 with the requirements of these Rules or otherwise file a responsive pleading, the
612 Respondent will be held in default, the allegations of the Complaint will be
613 deemed to have been admitted, and the Division will be given an opportunity to
614 present evidence.
- 615
- 616 c) If a Respondent or Petitioner fails to appear at a hearing upon requesting
617 interpretive assistance pursuant to Section 1110.45, the request for interpretive
618 assistance shall be deemed waived.

619
620 (Source: Amended at 50 Ill. Reg. _____, effective _____)

621

622 **Section 1110.110 Amendment, Withdrawal of Complaints and Petitions for Hearing**

- 623
- 624 a) The Complaint, Notice of Intent to Refuse to Renew, or Notice of Intent to Deny
625 a License may be amended at any time, except in the course of the hearing
626 without leave or approval of the Administrative Law Judge. An amended
627 Complaint or amended Notice shall be filed in the same manner as a Complaint.
- 628
- 629 b) If an amendment to the ~~amended~~ Complaint or Notice is sought after a formal ~~filed~~
630 ~~during the course of the~~ hearing ~~has commenced~~, it shall ~~also~~ be presented to the
631 Administrative Law Judge ~~for approval~~. ~~If the Administrative Law Judge~~
632 ~~approves the amendment, a~~ A continuance shall be granted ~~if whenever~~ the
633 amendment materially alters the Complaint or Notice, and ~~when~~ the Respondent
634 ~~or Petitioner~~ demonstrates that ~~they~~ ~~he or she~~ would ~~otherwise~~ be unduly
635 ~~prejudiced~~ ~~unable to properly prepare an Answer to the Amended Complaint or~~
636 ~~Notice or prepare his or her case.~~
- 637
- 638 c**b**) A Complaint, Notice or Petition for Hearing may be withdrawn at any time prior
639 to the hearing by the party who initiated it. After a hearing has begun, a
640 Complaint, Notice or Petition may be withdrawn only with leave of the ALJ.

641
642 (Source: Amended at 50 Ill. Reg. _____, effective _____)

643

644 **Section 1110.120 Requirement of an Answer; Defaults**

645

- 646 a) In contested cases involving a Complaint and unless otherwise provided by law,
 647 the Respondent shall file an Answer within 20 days after the date on which the
 648 Complaint was filed. The Answer shall be in writing, signed by the Respondent
 649 or ~~their~~~~his or her~~ representative, and shall contain a specific response to each
 650 allegation in the Complaint. The response to each allegation in the Complaint
 651 shall either admit or deny the allegation, or shall state that the Respondent has
 652 insufficient information to admit or deny the allegation. Any Answer not
 653 conforming to the requirements of this Section may be stricken, the inclusion of
 654 affirmative defenses, or providing narrative or context in answering the
 655 allegations may be stricken.
 656
- 657 b) Any Answer that states that the Respondent has insufficient information to admit
 658 or deny the allegation shall be accompanied by an affidavit attesting to the truth of
 659 this assertion.
 660
- 661 c) If the Respondent does not file an Answer conforming with the requirements of
 662 this Section or otherwise does not file a responsive pleading, on motion by the
 663 Division the Administrative Law Judge will cause to be issued a Notice to plead
 664 or be held in default. If, within 15 days after issuance of the Notice, the
 665 Respondent does not file an answer conforming with the requirements of this
 666 Section or otherwise file a responsive pleading, the Respondent will be held in
 667 default and the allegations of the Complaint will be deemed to have been
 668 admitted. Even when an Answer has been filed~~In a like manner~~, if a Respondent
 669 fails to appear for any scheduled hearing or proceeding without cause, the
 670 Respondent~~he or she~~ may be held in default and the allegations of the Complaint
 671 will be deemed to have been admitted.
 672
- 673 d) An Answer is not required to be filed if a request is made to receive a written or
 674 sight translation of Notice of Preliminary Hearing and Complaint within seven
 675 days after service of the Notice of Preliminary Hearing and Complaint by a self-
 676 represented litigant or an indigent person. The Administrative Law Judge may set
 677 the deadline for filing an Answer at the Preliminary Hearing.
 678
- 679 ~~e~~d) In all contested cases involving a Petition to Restore, the Petitioner's failure to
 680 appear, without cause, at a scheduled hearing to prosecute or pursue ~~the~~~~his or her~~
 681 petition may result in a default and/or the dismissal of the Petition by the ALJ.
 682
- 683 ~~f~~e) In contested cases involving a Notice of Intent to Refuse to Renew or Notice of
 684 Intent to Deny, the Respondent or Applicant shall file a request for a hearing to
 685 contest the Notice within 30 days after service. If a request is not filed within that
 686 time, the Director may issue an order refusing renewal or denial of the license. If
 687 a request for hearing is filed but the Respondent or Applicant fails to appear,
 688 without cause, at a scheduled hearing or proceeding to prosecute or pursue

689 ~~their~~his or her request, the ALJ may dismiss the request for want of prosecution
690 and refer the notice to the Director for action.

691
692 f) ~~In contested cases involving a Notice of Intent to Deny Licensure, the Applicant~~
693 ~~shall file a request for hearing to contest the Notice within 30 days after service.~~
694 ~~If a request is not filed within that time, the Director may issue an order denying~~
695 ~~the license. If a request for hearing is filed but the Applicant fails to appear,~~
696 ~~without cause, at a scheduled hearing to prosecute or pursue his or her request, the~~
697 ~~ALJ may dismiss the request for want of prosecution and refer the notice to the~~
698 ~~Director for action.~~

699
700 g) In a case involving a Tax Liability Order or a Workers Compensation Order, the
701 Respondent shall file a request for a hearing to contest the Order within 60 days
702 after the effective date of the Order. If a request for hearing is filed but the
703 Respondent fails to appear, without cause, at a scheduled hearing to prosecute or
704 pursue ~~their~~his or her request, the ALJ may dismiss the request for want of
705 prosecution and refer the Order to the Director for action.

706
707 h) In a case involving a Summary or Temporary Suspension, the Respondent shall
708 file an Answer to the Complaint no later than the day prior to the hearing. If the
709 Respondent does not file an Answer conforming with the requirements of this
710 Section or otherwise does not file a responsive pleading, they may be held in
711 default and the allegations of the Complaint will be deemed to have been
712 admitted. If a Respondent fails to appear for any scheduled hearing or proceeding
713 without cause, they may be held in default and the allegations of the Complaint
714 will be deemed to have been admitted.

715
716 i) In cases where the Respondent does not appear for a formal hearing on a
717 Complaint, the Department shall be given the opportunity to introduce any
718 evidence they deem appropriate.

719
720 j) In any contested case, an Affirmative Defenses pleading is not permitted.

721
722 k) For all contested cases, Tax Liability Orders, and Workers Compensation Orders,
723 a request to receive a written or sight translation of the initial notice must be made
724 within seven days after service of the notice and shall automatically be construed
725 as a Petition for Hearing notwithstanding that the request does not comply with
726 this Section or Part.

727
728 (Source: Amended at 50 Ill. Reg. _____, effective _____)

729
730 **Section 1110.125 Tax Default; Workers' Compensation; Repayment**

731

732 a) Upon notice from the Illinois Department of Revenue that a licensee or
733 applicant~~person~~ has failed to file a return, or to pay the tax, penalty, or interest, as
734 required by any tax Act administered by the Illinois Department of Revenue, the
735 Division of Professional Regulation or the Division of Real Estate of the
736 Department of Financial and Professional Regulation shall:

- 737
- 738 1) Issue~~issue~~ an order refusing to renew the license~~-of the person~~; or
 - 739 2) Issue~~issue~~ an order denying the application for licensure~~-of the person~~; or
 - 740 3) Issue~~issue~~ an order suspending the license~~-of the person~~.
- 741

742

743

744 b) Upon notice from the Illinois Workers' Compensation Commission or the Illinois
745 Department of Insurance that a licensee or applicant has failed to secure workers'
746 compensation obligations, pay a fine or penalty imposed, or comply with a
747 settlement reached with the Illinois Workers' Compensation Commission or the
748 Illinois Department of Insurance pursuant to Section 2105-15(g-5) of DFPR Law,
749 the Division of Professional Regulation or the Division of Real Estate of the
750 Department of Financial and Professional Regulation shall:

- 751
- 752 1) Issue an order refusing to renew or reinstate a license; or
 - 753 2) Issue an order denying the application for license; or
 - 754 3) Issue an order suspending or revoking the license.
- 755

756

757

758 cb) The Division shall take one of the actions set forth in subsection (a) or (b) upon
759 notification from the Illinois Department of Revenue, Illinois Workers'
760 Compensation Commission, or the Illinois Department of Insurance, of a
761 certification, signed by its Director or Chairman, or their designee, attesting to the
762 following:

- 763
- 764 1) If notification is received from the Department of Revenue, the amount of
765 any unpaid tax liability; and/or the years for which a return was not filed.
 - 766 2) If notification is received from the Workers' Compensation Commission
767 or the Department of Insurance of:~~the years for which a return was not~~
768 ~~filed.~~

769

770

771 A) Failure to secure workers' compensation obligations, and or;

772

773 B) Requiring payment of any fines or penalties, and/or

774

- 775 C) [Failure to discharge any obligation under a settlement relating to](#)
776 [the failure to secure workers' compensation obligations, and](#)
777
778 D) [In the manner required by subsections \(a\) and \(b\) of Section 4 of](#)
779 [the Worker's Compensation Act.](#)
780
781 de) Notification received from the Department of Revenue, [Workers' Compensation](#)
782 [Commission, or Department of Insurance,](#) including items set forth in subsection
783 [\(c\)](#) shall be considered prima facie evidence of a licensee's or applicant's failure
784 to comply with ~~any of the tax~~ laws administered by [those State agencies pursuant](#)
785 [to Section 2105-15 of DFPR Law](#)~~the Illinois Department of Revenue.~~
786
787 ed) The Division, pursuant to [Sections 20-ILCS-2105/2105-15\(g\) and \(g-5\) of DFPR](#)
788 [Law,](#) shall not be required to hold a hearing prior to or following ~~taking~~ any of the
789 actions set forth in subsection (a) [or \(b\),](#) except as provided in subsection [\(g\)](#)~~(f)~~.
790
791 fe) The Division shall forward notice of any order entered pursuant to this Section to
792 the licensee or applicant by mailing or emailing a copy of its order to the person's
793 address of record or email address of record with the Division, as defined by
794 [Section 20-ILCS-2105/2105-5 of DFPR Law.](#) The Notice shall include the
795 following information:
796
797 1) [That](#)~~that~~ the order shall be stayed for a period of 60 days from the date
798 signed; ~~and~~
799
800 2) [The](#)~~the~~ stay shall not be extended unless the licensee or applicant files a
801 request for a hearing with the Division in accordance with this Part to
802 dispute the matters contained in the order; ~~and~~.
803
804 3) [The ability for a party or the recipient's agent to request interpretive](#)
805 [assistance to participate in or understand the hearing and to receive](#)
806 [language access services for translating the contents of the notice in](#)
807 [compliance with Section 1110.45.](#)
808
809 gf) An order suspending or denying a license under ~~subsections~~ [subsection](#) (a) [or \(b\)](#)
810 shall be immediately stayed for a period of 60 days. After the expiration of the
811 60-day period, the Division shall change the license status to suspended, [revoked,](#)
812 or not renewed [or reinstated,](#) or application denied, unless the licensee/applicant
813 has filed a request for hearing prior to the expiration of the 60-day period. The
814 purpose of the hearing is to afford the licensee/applicant an opportunity to contest
815 the order on the basis that the licensee/applicant is in compliance with the ~~tax~~
816 laws administered by the Illinois Department of Revenue, [Illinois Workers'](#)

817 Compensation Commission, Illinois Department of Insurance, or that the ~~tax~~
818 matter has been resolved with those agencies~~the Illinois Department of Revenue~~.

819
820 1) The Division does not have the jurisdiction to determine the validity of the
821 ~~tax~~ matter, whether the requirements are fulfilled or the amount of any
822 liability, tax, penalty, fine, ~~or~~ interest assessment as these issues can only
823 be addressed by their respective agencies~~the Illinois Department of~~
824 ~~Revenue~~. If the contest of the order is denied or dismissed, the
825 suspension, revocation, refuse to renew or reinstate, or denial of licensure
826 shall become effective.

827
828 2) For workers' compensation orders, no license shall be suspended, revoked,
829 or denied until after the licensee is afforded any due process protection
830 provided by statute or rule under the Illinois Workers' Compensation
831 Commission or Illinois Department of Insurance.

832
833 hg) The Division shall restore or renew the license of a licensee that was suspended or
834 refused renewal, or issue the license of an applicant that was denied issuance
835 pursuant to a Tax Order in this Section, if the licensee or applicant has provided
836 proof of a satisfactory repayment record with the Illinois Department of Revenue
837 and if all other requirements of the Act and rules governing the profession for
838 which the license was issued or sought have been met.

839
840 ih) "Satisfactory Repayment Record" as used in this Section and in Section 20-ILCS
841 2105/2105-15(g) of DFPR Law shall mean submission of the following by the
842 Illinois Department of Revenue to the Division:

843
844 1) Documentation~~documentation~~ from the Illinois Department of Revenue
845 that the applicant or licensee who has been denied license issuance or
846 renewal or whose license has been suspended based upon Section 20-ILCS
847 2105/2105-15(g) has paid in full the final assessment of any tax, penalty,
848 or interest, as required by any tax Act administered by the Illinois
849 Department of Revenue; or

850
851 2) Documentation~~documentation~~ from the Illinois Department of Revenue
852 that the applicant or licensee who has been denied license issuance or
853 renewal or whose license has been suspended based upon Section 20-ILCS
854 2105/2105-15(g) has entered into and is in compliance with a payment
855 plan that has been accepted by the Illinois Department of Revenue.

856
857 j) The Division shall restore or renew the license of a licensee that was suspended,
858 revoked, refused renewal or reinstatement, or issue the license of an applicant that

859 was denied issuance pursuant to a Workers' Compensation Order in this Section,
860 if the licensee or applicant has provided the following:

- 861
- 862 1) Documentation from the Illinois Workers' Compensation Commission or
863 the Illinois Department of Insurance that the licensee or applicant's failure
864 to comply with subsections (a) and (b) of Section 4 of the Workers'
865 Compensation Act has been corrected or resolved to the agency's
866 satisfaction; and
- 867
- 868 2) Compliance with all other requirements of the Act and rules governing the
869 profession for which the license was issued or sought.
- 870

871 (Source: Amended at 50 Ill. Reg. _____, effective _____)

872

873 **Section 1110.130 Discovery**

874

- 875 a) Discovery shall not be the subject of motions presented to the Administrative Law
876 Judge, except when a motion is made alleging failure to comply with this
877 provision and requesting appropriate relief.
- 878
- 879 b) ~~By~~~~Upon written request served on the opposing party or by~~ order of the
880 Administrative Law Judge, any party shall be entitled to:
- 881
- 882 1) The name and address of any witness who may be called to testify,
883 including identification of any witness to be offered as an expert;
- 884
- 885 2) Copies of any document that may be offered as evidence;
- 886
- 887 3) A description of any other evidence that may be offered;
- 888
- 889 4) ~~Evidence~~~~Any nonprivileged evidence~~ in the Division's possession that
890 tends to support the Petitioner or Respondent's position or to demonstrate
891 a potential conflict of interest of a Department's witness; and
- 892
- 893 5) Copies of any Division investigative report created for the case.
- 894
- 895 c) The information listed in subsection (b) shall be provided as determined~~within 30~~
896 ~~days after service of a request or as otherwise directed~~ by an ALJ. ~~In the event~~
897 ~~that the Division withholds any evidence asserted to be privileged (see subsection~~
898 ~~(b)(4)), the Division shall give notice to the other party that it is doing so and~~
899 ~~provide a description of the evidence withheld. Notwithstanding any provision of~~
900 ~~this Section, the other party may file a motion regarding the Division's~~
901 ~~withholding of evidence asserted to be privileged.~~

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- d) Upon a written request served on the Respondent, at any time after a Complaint, Notice of Intent to Deny, or Notice of Intent to Refuse to Renew is filed, or at any stage of the hearing, the Respondent will be required to produce documents, books, records or other evidence that relate directly to conduct of the trade, occupation or profession.
- e) Nothing in this Section shall prevent the parties in a contested case from agreeing to a mutual exchange of information that is more extensive than what is provided for in this Section.
- f) This provision will be construed to impose a continuing obligation upon the parties to exchange new information as it becomes available.
- g) No depositions will be taken, interrogatories ~~proposed~~, or other discovery mechanism used without the mutual agreement of the parties.
- h) Service of notice upon a party ~~licensee~~ of the Division's intention to take ~~his or her~~ testimony at a formal hearing is sufficient to require the party's licensee's attendance at the formal hearing.

(Source: Amended at 50 Ill. Reg. _____, effective _____)

Section 1110.140 Subpoenas

- a) Upon request by the Respondent or Petitioner, the~~The~~ Chief Administrative Law Judge, or another Administrative Law Judge designated by the Chief, will issue subpoenas for the attendance of witnesses or production of books, records, documents, or other evidence.
- b) Any Respondent or Petitioner seeking issuance of a subpoena shall submit a request in writing to the Chief Administrative Law Judge and notify the assigned Department prosecutor of said request.
 - 1e) The request shall set forth facts to demonstrate that the documents or testimony sought are relevant to the issues contained in the Complaint, Notice of Intent to Deny, Notice of Intent to Refuse to Renew, or Petition pending before the Division and are not otherwise excludable by law or by rule.
 - 2d) A request for subpoena may be denied if insufficient information is provided in the request to make such a determination.

945 3) If the opposing party objects to any component of the subpoena request, a
946 written response specifying said objection(s) shall be filed within seven
947 days after the date the subpoena request was filed.

948
949 4) Upon refusal by an Administrative Law Judge to issue any subpoena, the
950 Respondent or Petitioner will be entitled to a hearing before another
951 Administrative Law Judge, to be conducted as a matter of record. The
952 Respondent or Petitioner shall be responsible for the court reporter's
953 attendance.

954
955 ce) Except for Division investigators, examiners, and profession coordinators who
956 participated in the investigation of the case, the Chief Administrative Law Judge
957 shall not generally issue subpoenas for the testimony of Department or Division
958 officers or employees or members of any Division Board.

959
960 f) ~~Upon refusal by an Administrative Law Judge to issue any subpoena, the licensee~~
961 ~~will be entitled to a hearing before another Administrative Law Judge, to be~~
962 ~~conducted as a matter of record.~~

963
964 dg) Service of subpoenas and payment of witness fees and expenses shall be as
965 provided in Section 2105-105 of the DFPR Law.

966
967 (Source: Amended at 50 Ill. Reg. _____, effective _____)

968
969 **Section 1110.150 Prehearings**

970
971 a) After a case is instituted, upon the written motion of any party, or on ~~their~~
972 ~~his or~~ ~~her~~ own motion, the Administrative Law Judge may direct the parties to attend a
973 prehearing.

974
975 b) Upon the request of any party, the prehearing will be conducted as a matter of
976 record. Participation by any Board member or an ALJ will not affect ~~the~~
977 ~~his or her~~ right to participate in a subsequent hearing on the matter. The requesting party
978 shall be responsible for the court reporter's attendance and costs.

979
980 c) The Respondent shall be required to attend the prehearing unless all parties agree
981 to a waiver of appearance. If the Respondent is unable to attend or does not
982 appear, the ALJ shall determine the hearing schedule at that time.

983
984 de) The purposes of the prehearing include:

- 985
986 1) Simplification of issues;

987

- 988 2) Limitation of issues;
- 989
- 990 3) Negotiating admissions or stipulations;
- 991
- 992 4) Limitation of witnesses ~~or evidence~~;
- 993
- 994 5) Exchange of exhibits;
- 995
- 996 6) Discussion of any other matter that may aid in efficient disposition of the
- 997 case; or
- 998
- 999 7) Agreed dispositions.

1000

1001 ~~ed~~) The parties shall be fully prepared to participate in a prehearing, which shall

1002 include:

1003

- 1004 1) Presentation~~presentation~~ of any prehearing motions;
- 1005
- 1006 2) Witness~~witness~~ and exhibit lists that list only those witnesses the party in
- 1007 good faith intends to call;
- 1008
- 1009 3) Disclosure~~disclosure~~ of expert witnesses; ~~and~~
- 1010
- 1011 4) Any~~any~~ other materials directed by an ALJ~~;~~:-
- 1012
- 1013 5) Requests for interpretive assistance; and
- 1014
- 1015 6) Possible agreed disposition.
- 1016

1017 (Source: Amended at 50 Ill. Reg. _____, effective _____)

1018

1019 **Section 1110.155 Remote Proceedings**

1020

- 1021 a) Preliminary hearings may be conducted remotely, either by teleconference or
- 1022 videoconference, provided that the Notice of Preliminary Hearing includes notice
- 1023 that the preliminary hearing will be conducted remotely and includes instructions
- 1024 for accessing the teleconference or videoconference system at the date and time
- 1025 set forth in the Notice of Preliminary Hearing.
- 1026
- 1027 b) By order of the Administrative Law Judge, any status hearing or prehearing may
- 1028 be conducted remotely, either by teleconference or videoconference. The parties
- 1029 shall be provided instructions for accessing the teleconference or videoconference
- 1030 system for the date and time of the scheduled status hearing or prehearing.

- 1031
1032 c) Upon motion of any party, or during the course of a prehearing, the ALJ may
1033 determine whether the pending matter may be suitable for a formal hearing by
1034 teleconference or videoconference, in whole or in part, as an alternative to in-
1035 person proceedings.
1036
- 1037 d) The parties may agree that the formal hearing will be conducted in its entirety by
1038 teleconference or videoconference or that a part or parts of the formal hearing will
1039 be conducted by teleconference or videoconference, including the testimony of a
1040 particular witness or witnesses. These agreements are subject to the approval of
1041 the ALJ by entry of an order.
1042
- 1043 e) In the absence of any such agreement of the parties, the ALJ may determine
1044 whether the formal hearing will be conducted in its entirety by teleconference or
1045 videoconference or that a part or parts of the formal hearing will be conducted by
1046 teleconference or videoconference, including the testimony of a particular witness
1047 or witnesses, or whether the proceedings or any part of the proceedings shall
1048 remain in-person. This determination shall be made by order of the ALJ. In
1049 making this determination, the ALJ may consider factors including, but not
1050 limited to, the following:
1051
- 1052 1) Preference of the parties;
 - 1053
 - 1054 2) Capabilities of participants to participate via video or telephone;
 - 1055
 - 1056 3) Whether the selected method is accessible for persons with health risks or
1057 disabilities;
 - 1058
 - 1059 4) Whether the participants have access to the internet;
 - 1060
 - 1061 5) Number of witnesses;
 - 1062
 - 1063 6) Volume of documents offered as exhibits;
 - 1064
 - 1065 7) Complexity of the Complaint or Petition;
 - 1066
 - 1067 8) Expected duration of the formal hearing;
 - 1068
 - 1069 9) Extent to which the credibility of any witness will be at issue;
 - 1070
 - 1071 10) Extent to which exhibits will be used to examine any witness; and
1072

- 1073 11) Any other consideration, such as undue hardship, that will impede or aid
1074 in the fair and efficient administration of the formal hearing process.
1075

1076 (Source: Amended at 50 Ill. Reg. _____, effective _____)
1077

1078 **Section 1110.160 Hearings**
1079

1080 All~~The sequence to be followed for all~~ contested cases shall proceed~~is~~ as follows:
1081

- 1082 a) Preliminary Hearing. The purpose is to set a date on which all parties expect to
1083 be prepared to proceed with their cases, and to rule on any preliminary motions
1084 that are presented.
1085
- 1086 b) Prehearings – Optional. The purposes are set forth in Section 1110.150.
1087
- 1088 c) Formal Hearings
1089
- 1090 1) Preliminary Matters – Motions, attempts to narrow issues or limit
1091 evidence.
1092
- 1093 2) Opening Statements – The party bearing the burden of proof proceeds
1094 first.
1095
- 1096 3) Case in Chief – Evidence is presented by the party bearing the burden of
1097 proof. Once a witness' direct testimony is completed, that witness is
1098 subject to cross-examination.
1099
- 1100 4) Defense – Evidence may be presented by the opposing party.
1101
- 1102 5) Closing Statements – The party bearing the burden of proof proceeds first,
1103 then the opposing party, then a final word by the party bearing the burden
1104 of proof.
1105
- 1106 d) In hearings for the sole purpose of determining the length of the automatic
1107 suspension of the licensee's license upon conviction or entry of a plea of guilty or
1108 nolo contendere in a criminal prosecution to a criminal health care or criminal
1109 insurance fraud offense requiring intent under Section 2105-170 of the DFPR
1110 Law, the licensee shall proceed first in opening statements and closing statements
1111 and shall present evidence in the case in chief.
1112
- 1113 e) A self-represented litigant, a witness, or a litigant who is an indigent person has
1114 the right to request and receive interpretive assistance to participate in or
1115 understand a hearing before an Administrative Law Judge at any time during the

course of proceedings in compliance with Section 1110.45 and the Illinois Administrative Procedure Act.

(Source: Amended at 50 Ill. Reg. _____, effective _____)

Section 1110.170 Administrative Law Judges

- a) In any contested case, the Director shall appoint and employ an attorney, licensed to practice in Illinois, to serve as Administrative Law Judge on behalf of the Board. The Director may also appoint and employ an attorney, licensed to practice in Illinois, to serve as ALJ to conduct any hearing in ~~their~~his or her stead. The ALJ shall be empowered to conduct the hearing, question witnesses, make rulings on motions and objections, and submit Findings of Fact, Conclusions of Law, and ~~their~~his or her recommendation to the Board or Director at the conclusion of the case.
- b) It shall not be a bar to employment as an Administrative Law Judge that the attorney is also a Department employee.

(Source: Amended at 50 Ill. Reg. _____, effective _____)

Section 1110.175 Disqualification of Administrative Law Judge

- a) An Administrative Law Judge may, on ~~their~~his/her own motion, recuse ~~themselves~~himself/herself from presiding over a matter due to conflict of interest or bias.
- b) At any time prior to the issuance of the Administrative Law Judge's final decision or recommendation, a party may file a motion to disqualify the ALJ for bias or conflict of interest. An adverse ruling made by an ALJ, in and of itself, shall not constitute bias or conflict of interest. The motion shall set forth the alleged grounds of bias or conflict of interest and shall include supporting affidavits. A different ALJ shall have 7 days after the motion was filed to enter a written ruling, which shall be served on all parties. An adverse ruling or rulings rendered against the party or its representative in any previous matter shall not, in and of themselves, constitute sufficient grounds for disqualification under this Section.
- c) If the motion to disqualify is denied, the moving party may request the decision be reviewed by the Director.

(Source: Amended at 50 Ill. Reg. _____, effective _____)

Section 1110.190 Burden of Proof

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- a) The burden of proof rests with the Division in all cases instituted by the Division by the filing of a Complaint or Notice of Intent to Refuse to Renew. A recommendation for discipline may be made by the Administrative Law Judge only when the Division establishes by clear and convincing evidence that the allegations of the Complaint or Notice are true.
- b) The burden of proof in all cases instituted by the filing of a Petition for Hearing rests with the Petitioner except as provided in this Section. ~~A~~The Petitioner seeking restoration from discipline must prove by a preponderance of the evidence that the license should be restored.
- c) An action may be commenced by the Division by the filing of a Notice of Intent to Deny issuance of a license or other credential.
 - 1) If the Notice of Intent to Deny alleges that the applicant has violated a disciplinary provision of the applicable professional Act, the Division has the burden of proof to prove by clear and convincing evidence that the alleged violation occurred. Upon the Division meeting this burden of proof, the Applicant then has the burden to prove by a preponderance of the evidence that the license or other credential should be granted. In any contested case in which the Notice of Intent to Deny alleges that the applicant has violated a disciplinary provision of the applicable professional Act, the sequence of the formal hearing shall be as if the Division has the burden of proof. This provision does not apply in any situation in which the relevant statute provides that no hearing shall be held.
 - 2) If the Notice of Intent to Deny notifies the applicant that ~~they do~~~~he or she does~~ not meet the minimum qualifications for a license or other credential and does not otherwise allege applicant has violated a disciplinary provision of the applicable professional Act, the applicant upon a request for hearing has the burden of proof to prove by a preponderance of the evidence that the qualifications have been met. This provision does not apply in any situation in which the relevant statute provides that no hearing shall be held.
 - 3) Upon a finding that the applicant was previously convicted of a felony or misdemeanor that may be grounds for refusing to issue a license or certification or to grant registration, the Administrative Law Judge or Board making a recommendation regarding a Notice of Intent to Deny shall consider the mitigating factors and evidence of rehabilitation contained in the applicant's record, when allowed by the DFPR Law, to

- 1202 determine whether a prior conviction will impair the ability of the
1203 Applicant to engage in the practice for which a license, certificate or
1204 registration is sought.
1205
1206 4) Upon review of a previous conviction of an initial applicant for the
1207 purpose of determining good moral character, the ALJ or Board making a
1208 recommendation regarding a Notice of Intent to Deny shall consider
1209 evidence of rehabilitation and mitigating factors in the applicant's record,
1210 when allowed by the DFPR Law.
1211
1212 d) Except as otherwise provided in this Section, a case instituted by the filing of a
1213 Notice to Refuse to Renew shall be handled in the same manner as a Complaint.
1214
1215 e) The burden of proof rests with the Division to prove by clear and convincing
1216 evidence that the alleged violation has occurred when a licensee or applicant files
1217 a Request for Hearing after they have~~he or she has~~ been subject to an automatic
1218 suspension or other discipline due to a violation of a term of a previous Director's
1219 Order or Consent Order.
1220
1221 f) No burden of proof applies in hearings conducted for the sole purpose of
1222 determining the length of an automatic indefinite suspension imposed pursuant to
1223 Section 2105-170 of the DFPR Law.
1224

1225 (Source: Amended at 50 Ill. Reg. _____, effective _____)
1226

1227 **Section 1110.200 Documents**
1228

- 1229 a) Business records shall be admissible. A business record is:
1230
1231 1) Relevant;
1232
1233 2) A memorandum, report, record or data compilation;
1234
1235 3) Made by a person with first-hand knowledge of the facts or from
1236 information transmitted by a person with knowledge of those matters;
1237
1238 4) Made at or near the time of the facts;
1239
1240 5) Made as part of the regular practice of the activity; and
1241
1242 6) Kept in the course of regularly conducted activity.
1243
1244 b) Any party may prove elements (a)(3) through (a)(6) by presentation of a sworn

1245 statement by an individual responsible for making or keeping those records.
1246 Business records include but are not limited to medical reports, ~~and~~ Illinois
1247 Department of Public Health or Department of Human Services records, and
1248 police reports. A hearsay statement within a business record will be admitted for
1249 the truth of the matter asserted if it is subject to a hearsay exception or otherwise
1250 would be admissible in civil cases in the circuit courts of this State, or if it is a
1251 type of evidence commonly relied upon by reasonably prudent persons in the
1252 conduct of their affairs. The ALJ may apply less evidentiary weight to statements
1253 not subject to cross examination.
1254

- 1255 c) Any party seeking introduction of a document will be allowed to offer a
1256 mechanical reproduction or photocopy~~photo-copy~~ of the original without any
1257 showing that the original is unavailable, upon representation of the party or
1258 attorney that the copy is a fair and accurate copy of the original.
1259

1260 (Source: Amended at 50 Ill. Reg. _____, effective _____)
1261

1262 **Section 1110.210 Motions**

- 1263
- 1264 a) Motions will be made in writing, unless otherwise allowed by the Administrative
1265 Law Judge prior to or during the course of a hearing. Written motions are limited
1266 to the following:
1267
- 1268 1) To request dismissal of a Complaint for failure to state facts that, if true,
1269 would form a sufficient basis for discipline.
 - 1270
 - 1271 2) To request sanctions in accordance with Section 1110.90 (Representation).
1272
 - 1273 3) To request sanctions in accordance with Section 1110.130 (Discovery).
1274
 - 1275 4) To request dismissal of a Petition for Restoration or Request for Hearing,
1276 for failure to comply with Section 1110.30 ~~(Institution of a Contested Case~~
1277 ~~by a Petitioner).~~
1278
 - 1279 5) To request dismissal of a Complaint, Notice of Intent to Deny, or Notice
1280 of Intent to Refuse to Renew when the Division's case has been concluded
1281 without sufficient evidence having been presented to form a basis for
1282 discipline. This motion may be made orally upon the Department resting
1283 its case.
1284
 - 1285 6) To request a continuance or extension of time to comply with any
1286 provision of this Part consistent with the expedited nature of
1287 administrative hearings.

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- 7) To request that a member of the Board be excluded from the hearing or deliberations, for prejudice.
 - 8) To request that an Order entered by the ALJ be vacated or modified.
 - 9) To request a prehearing.
 - 10) To request separation of cases joined by the Division.
 - 11) To request disqualification of an ALJ in accordance with Section 1110.175.
 - 12) To request a protective order to prevent exposure in the public domain of records or other information that is of a sensitive or confidential nature.
 - 13) To request that a Notice to Plead or Be Held in Default be issued upon failure to file an Answer or other responsive pleading in accordance with Section 1110.120(c).
 - 14) To compel discovery.
 - 15) To request that proposed evidence be allowed or prohibited (Motion in Limine).
 - 16) To dismiss a petition for hearing by a licensee or applicant subject to an automatic suspension or other discipline due to a violation of a term of a previous Director's order or consent order when that petition does not conform to the requirements of the Director's order or consent order.
- b) Any motion not enumerated above shall be stricken by the ALJ for failing to conform to the Administrative Hearing Rules.
- cb) When any motion is filed, the ALJ may allow oral argument if this is deemed necessary for a fuller understanding of the issues presented. When facts that are not part of the record in the case are alleged as a basis for the request, an affidavit will be attached to the motion setting forth those facts. Facts outside of the Complaint cannot be used to support a motion to dismiss for failure to state facts that, if true, would form a sufficient basis for discipline.
- de) Motions and any responses or replies shall be filed in accordance with Section 1110.50 with copies to the ALJ and other parties or their counsel. Unless

1330 otherwise directed by an ALJ, a party shall have 20 days from the date of service to
1331 respond to a motion and 10 days from date of service to reply to a response.
1332

1333 (Source: Amended at 50 Ill. Reg. _____, effective _____)
1334

1335 **Section 1110.220 Evidence**
1336

- 1337 a) *Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. The rules*
1338 *of evidence and privilege as applied in civil cases in the circuit courts of this State*
1339 *shall be followed. Evidence not admissible under those rules of evidence may be*
1340 *admitted, however, except when precluded by statute, if it is of a type commonly*
1341 *relied upon by reasonably prudent men in the conduct of their affairs. Objections*
1342 *to evidentiary offers may be made and shall be noted in the record. Subject to*
1343 *these requirements, when a hearing will be expedited and the interests of the*
1344 *parties will not be prejudiced, any part of the evidence may be received in written*
1345 *form. [5 ILCS 100/10-40(a)]*
1346
- 1347 b) Testimony shall be taken only on oath or affirmation. *Subject to the evidentiary*
1348 *requirements of this Section, a party may conduct cross-examination required for*
1349 *a full and fair disclosure of the facts. [5 ILCS 100/10-40(b)]*
1350
- 1351 c) All exhibits for any party shall be clearly marked for identification. A sufficient
1352 number of copies shall be made prior to the commencement of the hearing and
1353 when admitted into evidence by the ALJ.
1354
- 1355 d) Official notice may be taken of past hearings and of any matter of which the
1356 Circuit Courts of Illinois may take judicial notice. In addition, official notice may
1357 be taken of generally recognized technical or scientific facts within the Division's
1358 specialized knowledge. Parties shall be notified either before or during the
1359 hearing, or by reference in preliminary reports or otherwise, of the material
1360 noticed, including staff memoranda and data, and they shall be afforded an
1361 opportunity to contest the material so noticed. The Division's and the ALJ's
1362 experience, technical competence, and specialized knowledge may be utilized in
1363 the evaluation of the evidence.
1364
- 1365 e) If a licensee or applicant appears for a hearing and refuses to testify on the
1366 grounds that any answer ~~of his or hers~~ may tend to incriminate ~~them~~ him or her,
1367 the ALJ may take an adverse inference from the refusal to testify and shall
1368 consider the adverse inference in addition to other evidence. If a licensee or
1369 applicant appears and refuses to testify without asserting the right against self-
1370 incrimination, the ALJ shall enter any appropriate order as is required by the
1371 evidence and this Part.
1372

1373 f) The ALJ may, on ~~their~~~~his or her~~ own initiative or at the request of any party or
1374 witness, enter a protective order to prevent exposure in the public domain of
1375 records or other information that is of a sensitive or confidential nature.
1376

1377 (Source: Amended at 50 Ill. Reg. _____, effective _____)
1378

1379 **Section 1110.230 Adverse Witness**
1380

1381 a) Any party or witness may be called as an adverse witness. In such a case,
1382 examination of the witness will be allowed as if under cross-examination.
1383

1384 b) Upon ~~a~~ showing that a witness was called in good faith, and that the party calling
1385 ~~them~~~~him~~ is surprised by ~~the~~~~his~~ testimony, examination of the witness may
1386 proceed as if under cross-examination, and the testimony of the witness may be
1387 impeached by prior statements, or otherwise.
1388

1389 (Source: Amended at 50 Ill. Reg. _____, effective _____)
1390

1391 **Section 1110.240 Administrative Law Judge and Board Reports and Orders of the**
1392 **Director**
1393

1394 a) In every contested case, except for defaults, the Administrative Law Judge will
1395 file a written Report and Recommendation that contains Findings of Fact and
1396 Conclusions of Law with respect to the allegations contained in the Complaint,
1397 Notice of Intent to Deny, Notice of Intent to Refuse to Renew, ~~or~~ Petition for
1398 Restoration or Request for Hearing, unless the parties reach an agreed disposition.
1399

1400 b) When the recommendation is for discipline, the ALJ will include ~~his or her~~
1401 specific recommendation as to type and duration.
1402

1403 c) If the ALJ's Report is made to a Board, the Board shall review the Report and the
1404 record and issue its own Report adopting, rejecting or modifying the Findings of
1405 Fact, Conclusions of Law and/or Recommendation and making~~make~~ any other
1406 recommendation it deems appropriate to the Director.
1407

1408 d) After the Board or ALJ forwards the report to the Director, all parties will receive
1409 "Twenty Day Notice" with a copy of the report. Within 20 days after the Notice
1410 is sent, either party may request that a rehearing, or additional hearings, be
1411 ordered by the Director. A rehearing shall be ordered by the Director when the
1412 Director determines that substantial justice has not been done.
1413

1414 e) When a rehearing or additional hearings are requested, the request shall be in the
1415 form of a motion and shall state with specificity the reasons for the request. If it

1416 is alleged that new evidence is available that was not available at the time of the
1417 hearing, the affidavit shall describe the new evidence and reasons why it was not
1418 available for use at the hearing. The Division may file a response, which shall be
1419 filed within 20 days, and, if it does so, the opposing party~~licensee~~ may reply,
1420 which shall be filed within 10 days.

- 1421
- 1422 f) After a motion for rehearing has been filed and a response and reply has been
1423 filed or the time ~~therefor~~therefore has passed, the Director shall enter an Order
1424 ruling on any motion for rehearing. If the motion is denied, the Director, in the
1425 same Order, shall further adopt, reject or modify the Findings of Fact and
1426 Conclusions of Law of the ALJ or the Board or both, adopt or reject the
1427 recommendation of the Board or the ALJ, and enter a decision.
- 1428
- 1429 g) An Order of the Director granting a rehearing is not a final order as defined by the
1430 Administrative Review Law [735 ILCS 5/Art. III]. An Order of the Director
1431 denying a motion for rehearing and entering a decision on the merits of the case is
1432 a final Order as defined by the Administrative Review Law and is subject to
1433 judicial review.
- 1434
- 1435 h) The Director will not consider motions to reconsider or modify a decision made
1436 or Order entered. The proper avenue of relief is to file a complaint under the
1437 Administrative Review Law
- 1438
- 1439 i) Whenever the Director enters a final Order under this Section pertaining to a
1440 person licensed under the Real Estate License Act of 2000, the Order shall also be
1441 served upon the person's managing broker and sponsoring broker.
- 1442
- 1443 j) An order imposing a summary or temporary suspension entered simultaneously
1444 with the filing of a Complaint shall remain in effect until a final order is entered
1445 on the merits of the Complaint. A final order imposing discipline shall terminate
1446 the summary or temporary suspension and supersede the order imposing the
1447 summary or temporary suspension. If a final order finds no violation of the
1448 applicable Act or dismisses the Complaint or if the Department withdraws its
1449 Complaint, the order imposing a summary or temporary suspension shall be
1450 vacated.

1451 (Source: Amended at 50 Ill. Reg. _____, effective _____)

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1453

1454 **Section 1110.270 Variances**

1455

1456 The Director may grant variances from this Part in individual cases in which the Director~~he or~~
1457 ~~she~~ finds that:

1458

- 1459 a) The provision from which the variance is granted is not statutorily mandated.
- 1460
- 1461 b) No party will be injured by the granting of the variance.
- 1462
- 1463 c) The rule from which the variance is granted would, in the particular case, be
- 1464 unreasonable or unnecessarily burdensome.
- 1465

1466 (Source: Amended at 50 Ill. Reg. _____, effective _____)

1467

1468 **Section 1110.APPENDIX C Caption for an Application for Licensure**

1469

1470

STATE OF ILLINOIS

1471

1472

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

1473

DIVISION OF PROFESSIONAL REGULATION (or)

1474

DIVISION OF REAL ESTATE

1475

IN RE THE APPLICATION FOR LICENSURE OF)

(Name of Applicant) Applicant)

No.

1476

1477

1478

PETITION FOR HEARING

1479

OR

1480

NOTICE OF INTENT TO DENY

1481

1482

(Source: Amended at 50 Ill. Reg. _____, effective _____)