

Plc 202.12 “Hearing” means a component of a proceeding, through which the regulatory authority receives testimony, evidence, arguments, or comments, or any combination thereof. ***The term includes hearings conducted in-person and hearings conducted in-person with remote participation.***

Plc 202.19 “Oral adjudicative hearing” means a trial-type hearing that is part of an adjudicative proceeding and is held at a specific time for the purpose of receiving live testimony from witnesses, together with any evidence and argument that is presented. The term includes oral adjudicative hearings conducted in-person and conducted in-person with remote participation.

Plc 202.1920 “Oral public hearing” means a legislative-type hearing that is part of a non-adjudicative proceeding, that is held for the purpose of receiving oral or written comments, or both, from the public. ***The term includes oral public hearings conducted in-person and conducted in-person with remote participation.***

{renumber Plc 202.20 as Plc 202.21}

Plc 202.2122 “Participant” means:

{no changes to (a)}

(b) For a non-adjudicative proceeding, any person who attends ***or otherwise participates in*** the oral public hearing or submits comments in writing on paper or by e-mail, or both.

Plc 202.2223 “Participants” means:

{no changes to (a)}

(b) For a non-adjudicative proceeding, the collective group of individuals who attend ***or otherwise participate in*** the public hearing held on the matter or provide comments orally or in writing on paper or by e-mail, or any combination thereof.

{renumber Plc 202.23 through Plc 202.28 as Plc 202.24 through Plc 202.29}

Plc 202.30 “Remote participation” means participating in an in-person hearing via electronic means from a location other than that at which the hearing is being conducted.

{renumber Plc 202.29 as Plc 202.31}

Unclear: Below outline some instances a person can appear via telephone. Consider, "via electronic means or, if specially specified in these rules, via telephone".

Plc 202.32 “Via electronic means” means using a video teleconference electronic meeting platform that enables all participants to communicate with each other contemporaneously, such as, but not limited to, WebEx®, Zoom®, GoToMeeting®, or GoToWebinar®.

{renumber Plc 202.30 as Plc 202.33}

Plc 206.06 Commencement of Adjudicative Proceedings.

{no changes to (a)}

(b) The notice commencing an adjudicative proceeding shall:

{no changes to (1)-(5)}

(6) Specify the date, ***and time, and location*** of an initial prehearing conference if one has already been scheduled, ***together with the telephone number or log-in information to be used to participate in the prehearing conference;***

{no changes to (7)-(12)}

Unclear: To address the comment below, if the second part applies, consider inserting "either through webcam or telephone,"

Unclear: above you define "remote participation as participating via electronic means, and "via electronic means" as only using "video teleconference electronic meeting platform". If you meant to say that prehearing conferences can occur via telephone without the meeting platform, need to adjust the definition of "via electronic means" to include telephone. If you meant that the number is provided by the "meeting platform" in addition to the link to appear via webcam, should change the "or" to "and", and adjust the definition of "via electronic means" as recommended in the comment above. However, after reading through the rule, I see now that prehearing conferences are to be done via telephone or via electronic means [Plc 206.17 (b)], so if telephone without the electronic meeting platform is allowed, should update the definition of "remote participation" to include participation just via telephone, see comment above.

Plc 206.07 Initiation and Conduct of Emergency Proceedings.

{no changes to (a)-(d)}

(e) ***Except as provided in (f), below, a***At a hearing held pursuant to (b), above, the prosecutor shall have the burden of proof by a preponderance of the evidence that:

(1) ~~A~~allowing the respondent to remain in practice pending a full adjudication of the matter poses a threat to public health, safety, or welfare, based on the nature and severity of the alleged violations from which the matter arose,~~that;~~ ***and***

(2) ***The threat to public health, safety, or welfare*** outweighs the respondent's interests in continuing to practice,~~provided that~~

(f) ~~If~~ applicable law establishes different elements of proof, the prosecutor shall have the burden of proof by a preponderance of the evidence on each such element.

(~~f~~g) The license suspension shall be continued pending a full adjudication of the matter only if the prosecutor meets the burden of proof established in (e) ***or (f), above, as applicable.***

(~~g~~h) If, as a result of the hearing held pursuant to (b), above, the regulatory authority continues the license suspension pending a full adjudication of the matter, the regulatory authority shall conduct a full evidentiary hearing to determine final disciplinary action within 60 days of the date of the initial emergency suspension unless extended pursuant to (~~h~~i) or (~~i~~j), below, provided the license shall remain suspended pending completion of the adjudication.

(~~h~~i) {no changes to intro, (1), or (2)}

(~~i~~j) If a hearing is delayed pursuant to (~~h~~i), above, the presiding officer shall schedule a prehearing conference to request a status report from the prosecutor and the respondent within 120 days of the initial emergency suspension and at intervals no shorter than 60 days and no longer than 90 days thereafter until a full adjudicative hearing is scheduled.

Plc 206.08 Methods of Proceeding - Generally.

{no changes to (a)}

(b) If the participants do not agree to one of the methods of proceeding in (a), above, the matter shall proceed to an ***oral*** adjudicative hearing.

(c) For proceedings in any of the professions listed in Plc 201.02(b), the ***oral*** adjudicative hearing shall be conducted either by the executive director alone or, if the executive director determines that the expertise of the advisory committee or advisory board members, as applicable, is necessary, by a panel consisting of the executive director and a minimum of 2 members of the relevant advisory committee or advisory board.

(d) For proceedings in any other professions, the ***oral*** adjudicative hearing shall be conducted in accordance with applicable law, including but not limited to RSA 310-A:1-I, II, reprinted in Appendix C.

{no changes to (e)}

(f) ***If a participant has reason to participate remotely, the participant shall file a motion no later than the deadline for filing a witness list, or as much in advance as possible based on the circumstances, which motion shall be granted if the presiding officer determines that:***

(1) ***The participant has access to equipment necessary to enable remote participation; and***

(2) ***The participant has demonstrated a compelling reason or justification, including but not limited to circumstances beyond the participant's control that impair the participant's ability to attend the hearing in person.***

Plc 206.17 Prehearing Conferences.

{no changes to (a)}

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(b) The prehearing conference shall be conducted by telephone or via electronic means unless one or more of the participants objects to doing so.

{redesignate (b) as (c) and (c) as (d); no changes to text}

Plc 206.24 Burden and Standard of Proof.

{no changes to (a)-(c)}

(d) In a hearing held pursuant to Plc 206.07(b) to determine whether to continue an emergency suspension pending a full adjudication, the prosecutor shall have the burden of proof as stated in Plc 206.07(e) or (f), as applicable.

{no changes to (e)-(g)}

Plc 206.29 Motion for Reconsideration or Rehearing.

{no changes to (a)-(c)}

(d) The motion shall be granted if the movant demonstrates by a preponderance of the evidence that:

(1) The law was applied incorrectly;

(2) The facts on which the decision is based are not supported by the record; or

(3) Another compelling reason exists to reconsider the matter, including but not limited to new material evidence becoming available or material evidence that was offered was improperly excluded.

(e) If the petition is not filed within the time specified in (a), above, or if the movant does not meet the standard for granting the motion specified in (d), above, then:

(1) The motion shall be denied; and

(2) An order denying the motion shall be:

a. Served on the participants in accordance with Plc 206.11; and

b. Effective on the date it is served.

(f) If the motion is not denied, the presiding officer shall forward the motion and any response(s) received to the regulatory authority for consideration.

(g) The regulatory authority shall issue a decision on reconsideration after fully considering the motion and any responses thereto, which reconsideration shall include a hearing on the issues identified in the motion if the regulatory authority determines a hearing to be necessary to a full consideration of the issues.

(h) A final order upon reconsideration shall be:

(1) Served on the participants in accordance with Plc 206.11; and

(2) Effective on the date it is served.

(i) Successive petitions for reconsideration or rehearing shall not be permitted.

(~~d~~) {no changes to text}

Plc 210.05 Action on Petition for Declaratory Ruling.

{no changes to (a)-(b)}

(c) If additional information is requested from the petitioner and is not received in time for a decision to be made and declaratory ruling issued within 60 days of receipt of the petition, the regulatory authority shall request the petitioner to agree to an extension as provided in RSA 541-A:29, IV. If the petitioner does not agree to an extension ***and a reasoned decision cannot be made without the information requested from the petitioner***, the petition shall be denied and no declaratory ruling shall be issued.

{no changes to (d)-(g)}