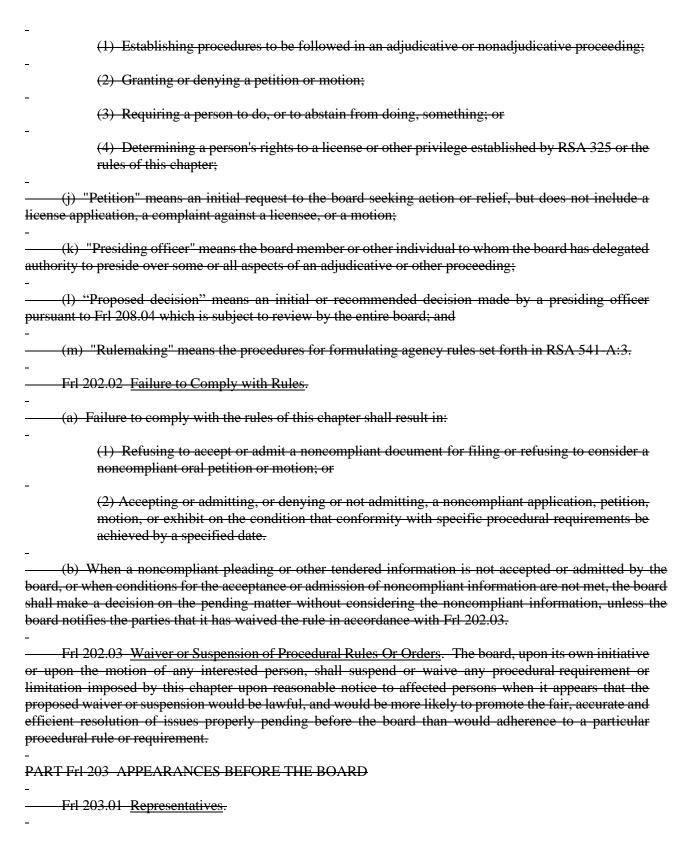
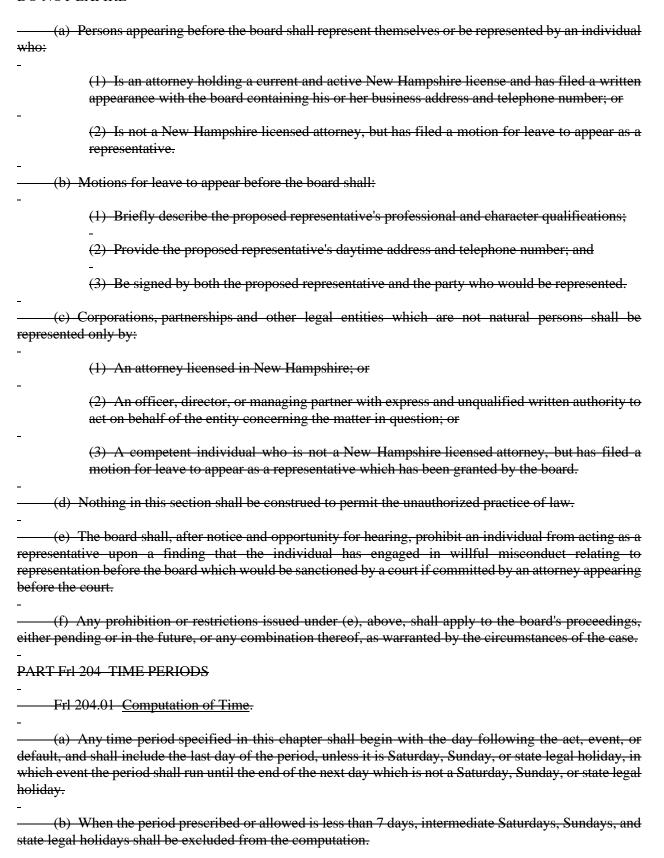
Change the chapter heading for Frl 2001 to read as follows:

CHAPTER Frl 200 RULES OF PRACTICE AND PROCEDURE

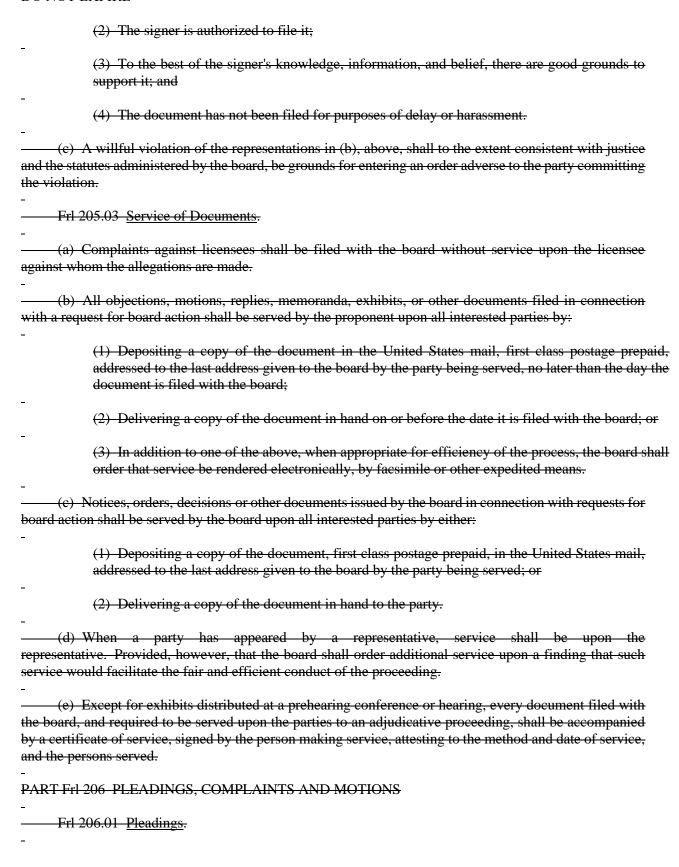
Repeal 201 through Frl 210, EFFECTIVE 6/24/11 (Document #9949-A), as follows:

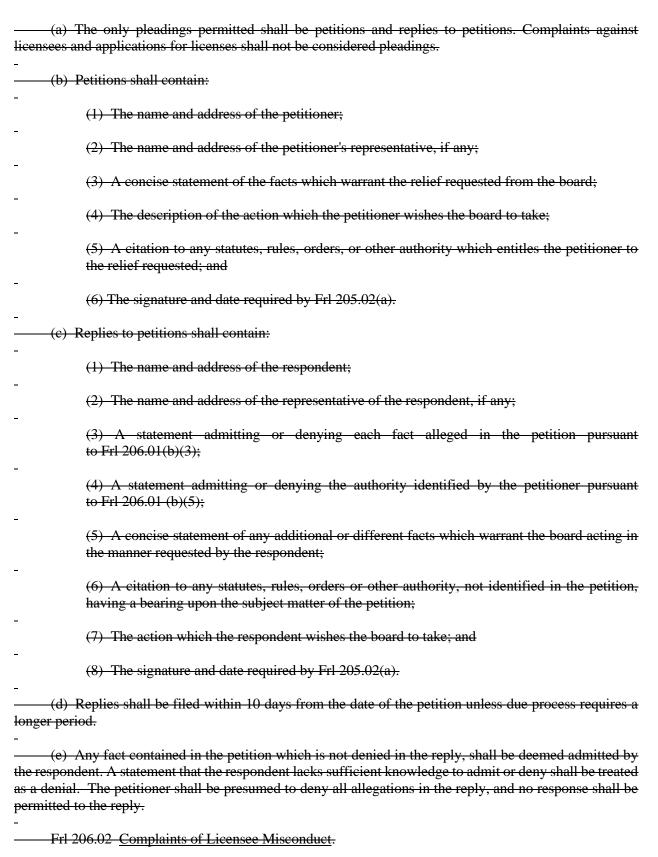
[PART Frl 201 PURPOSE AND SCOPE
Frl 201.01 <u>Purpose</u> . The board conducts proceedings for the purpose of acquiring sufficient information to make fair and reasonable decisions on matters within its statutory jurisdiction, including decisions on applications for licensure and complaints filed against licensees. The goal of these proceedings is to secure a just, efficient and accurate resolution.
Frl 201.02 <u>Scope</u> . The rules of this chapter shall apply to all administrative proceedings conducted by the board and shall be in addition to applicable requirement of RSA 541-A.
PART Frl 202 DEFINITIONS
Frl 202.01 <u>Definitions</u> . Except where the context makes another meaning manifest, the following words have the meanings indicated when used in this chapter:
(a) "Adjudicative proceeding" means any proceeding in which the rights, duties or privileges of a person are determined by the board, but does not include nonadjudicative investigations or rulemaking;
(b) "Complaint" means a written allegation of professional misconduct against a licensee of the board;
(c) "Data" means all information other than argument, including oral or written descriptions, reports, maps, charts, drawings, photographs, audio or video recordings, computer programs, or computer printouts;
(d) "File" means to place a document in the actual possession of the board;
(e) "Hearing" means the receipt and consideration by the board of data or argument, or both, by methods which are appropriate to the nature and scope of the issues being decided by the board;
(f) "Hearing counsel" means an individual appointed by the board under Frl 211.03 or Frl 211.03 to prosecute or investigate misconduct allegations in the public interest;
(g) "Investigation" means a formal or informal search by the board for data concerning matters within its jurisdiction, the result of which is other than a final determination of a person's rights, duties or privileges;
(h) "Motion" means any request by a party to an existing proceeding for an order or relief relating to that proceeding;
(i) "Order" means a document issued by the board:



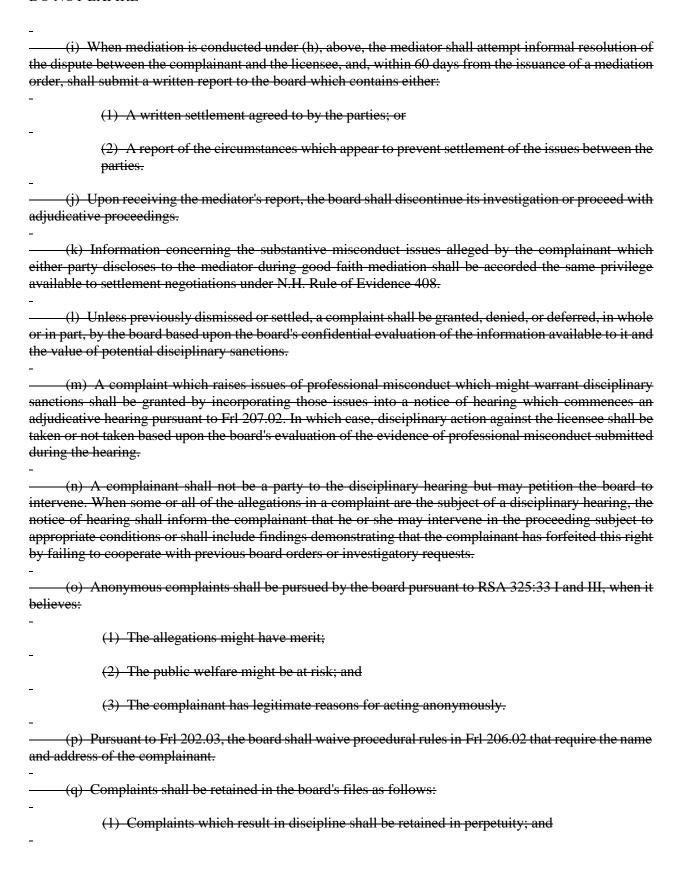


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Frl 204.02 Change in Allowed Times.
(a) Except where a time period is fixed by statute, the board shall, upon motion or upon its own initiative, enlarge or shorten the time provided for the filing of any document, or advance or postpone the time set for any oral hearing, prehearing conference, or other activity, for the purposes of efficiency and due process.
(b) A motion for a change of time shall be granted upon concurrence of all parties.
Frl 204.03 <u>Limitations</u> . A motion to change time shall not be filed within 3 business days of the event in question.
PART Frl 205 FILING AND SERVICE OF DOCUMENTS
Frl 205.01 Filing Documents with the Board.
(a) A document shall be considered filed when it is actually received at the board's office in Concord and conforms to the requirements of this chapter. A document tendered for filing which is patently and facially in violation of the board's rules shall not be accepted for filing.
(b) All correspondence, filings or communications intended for the board shall be addressed to the board's office in care of its administrative assistant.
(c) All petitions, motions, exhibits, memoranda or other documents filed in connection with a request for board action shall be filed with an original and 5 copies unless the board directs that a lesser number of copies be furnished.
——————————————————————————————————————
(1) Transmittal letters, requests for public information, or other routine correspondence not directed at formal board action;
(2) License applications; and
(3) Complaints against licensees.
(e) Failure to furnish the required number of copies shall result in a tendered document being returned as unacceptable for filing.
Frl 205.02 Subscription and Veracity of Documents.
(a) All complaints, petitions, motions, and replies filed with the board shall be signed and dated by the proponent of the document or, if the party appears by a representative, by the representative.
(b) The signature on a document filed with the board shall be certification that:
(1) The signer has read the document;

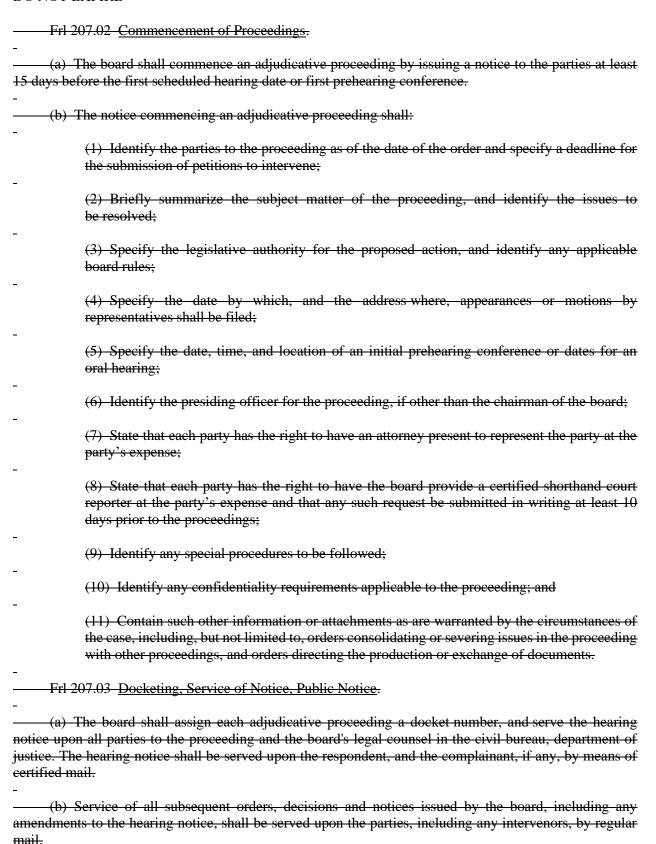




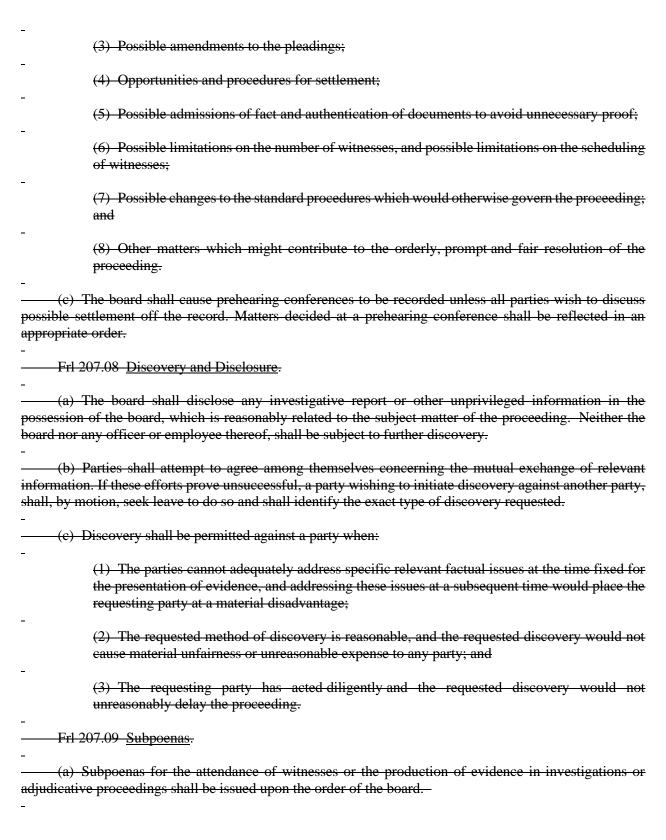
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(a) Complaints alleging misconduct by licensees in violation of RSA 325:32, II shall be in writing and filed at the board's office in Concord, New Hampshire.
(b) A complaint shall contain the following information:
(1) The name and address of the complainant;
(2) The name and business address of the licensee against whom the complaint is directed;
(3) The specific facts and circumstances which are believed to constitute professional misconduct; and
(4) The signature and date required by Frl 205.02(a).
(c) A complaint shall be treated as an ex parte request for the initiation of disciplinary proceedings by the board and shall be a confidential document subject to public disclosure only as provided by Frl 211.04(f).
(d) A complaint shall be dismissed upon a determination that it:
(1) Fails to state a cause of action;
(2) Alleges a time barred cause of action; or
(3) The complainant has unreasonably failed to respond to a request for further information or has otherwise failed to cooperate with a board investigation or hearing.
(e) The dismissal or withdrawal of a complaint shall not preclude the board from independently pursuing some or all of the allegations of misconduct alleged by the complainant.
(f) At any stage of the board's evaluation of the allegations in a complaint, the board shall, with the consent of the licensee, issue a final settlement decree or consent order which imposes discipline upon the licensee and terminates further disciplinary action in whole or in part.
(g) Action under (f) above, shall not be taken unless:
(1) The complainant receives notice and an opportunity to submit written comments concerning the proposed settlement or consent decree;
(2) There are no material facts in dispute between the licensee and the complainant; or
(3) The complainant's view of the facts, if true, would not, in the discretion of the board, result in the imposition of a greater disciplinary sanction against the licensee than that imposed by the proposed settlement or consent decree.
(h) At any time during the board's evaluation of the allegations in a complaint, the board shall elect to defer further disciplinary action if the licensee and the complainant participate in confidential mediation on a timely and good faith basis with a qualified mediator who is not affiliated with the board.

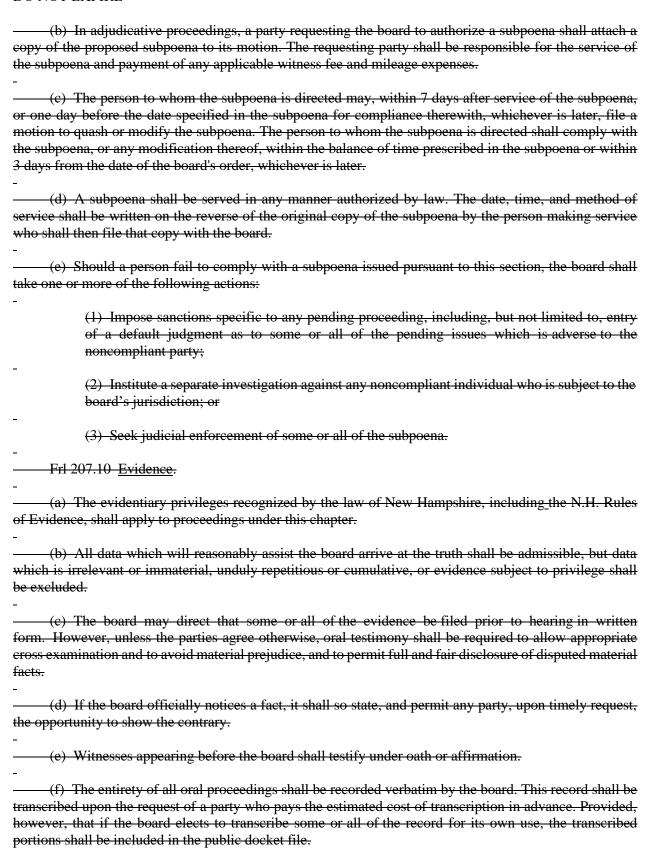


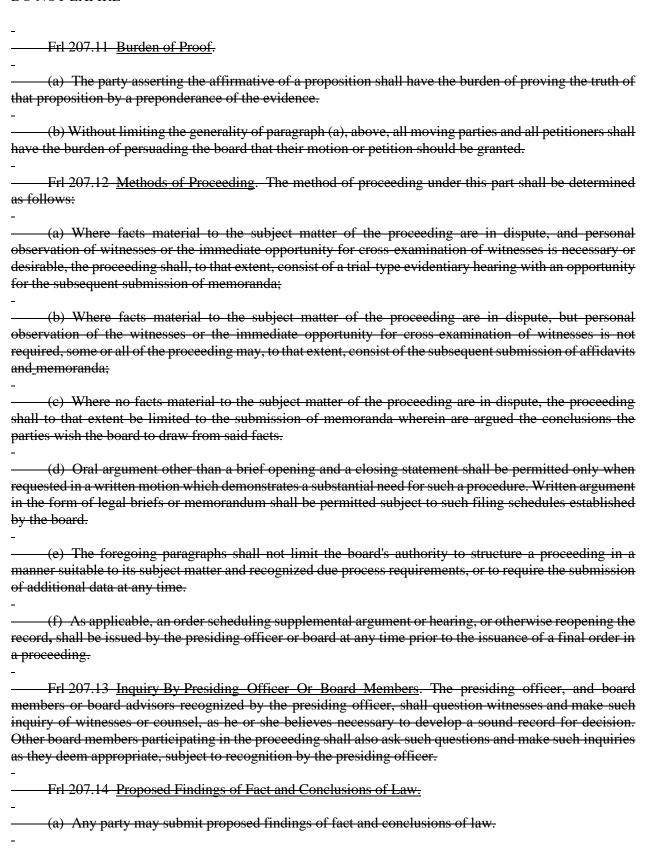
(2) All written decisions and orders shall be retained for 10 years, or longer if they are part of a developing pattern of behavior that might constitute professional misconduct pursuant to RSA 325:32 II.
Frl 206.03 Motions and Objections Thereto.
(a) Motions and objections shall be in writing unless the nature of the relief requested requires oral presentation upon short notice.
(b) Motions shall state clearly and concisely:
(1) The purpose of the motion;
(2) The relief sought by the motion;
(3) The statutes, rules, orders, or other authority authorizing the relief sought by the motion;
(4) The facts claimed to constitute grounds for the relief requested by the motion; and
(5) The signature and date required by Frl 205.02(a).
(c) Objections to motions shall state clearly and concisely:
(1) The defense of the party filing the objection;
(2) The action which the party filing the objection wishes the board to take on the motion;
(3) The statutes, rules, orders, or other authority relief upon in defense of the motion;
(4) Any facts which are additional to or different from the facts stated in the motion; and
(5) The signature and date required by Frl 205.02(a).
(d) An objection shall specifically admit or deny each fact contained in the motion. Failure to deny a fact shall constitute the admission of that fact for the purposes of the motion. In the event a party filing an objection lacks sufficient information to either admit or deny a fact contained in the motion, the party shall so state, specifically identifying such fact.
(e) Motions shall be decided upon the writings submitted. Repetitious motions shall not be submitted.
(f) Objections to motions shall be filed within 5 days after the filing of the motion. Failure to object to a motion within the time allowed shall constitute a waiver of objection to the motion.
PART Fr1 207 ADJUDICATIVE PROCEEDINGS
Frl 207.01 <u>Applicability</u> . This part shall govern all proceedings conducted by the board except rulemaking and nonadjudicative investigations.

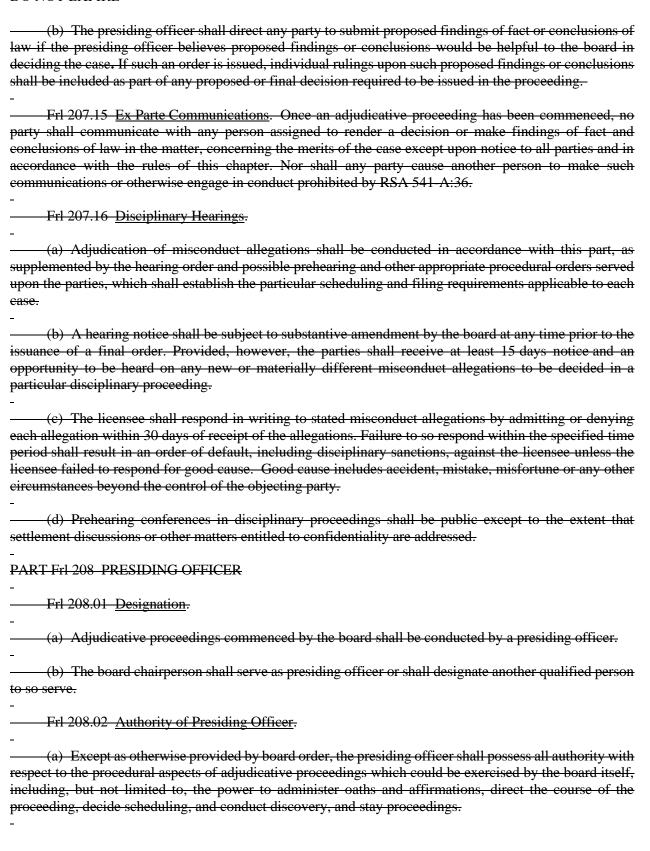


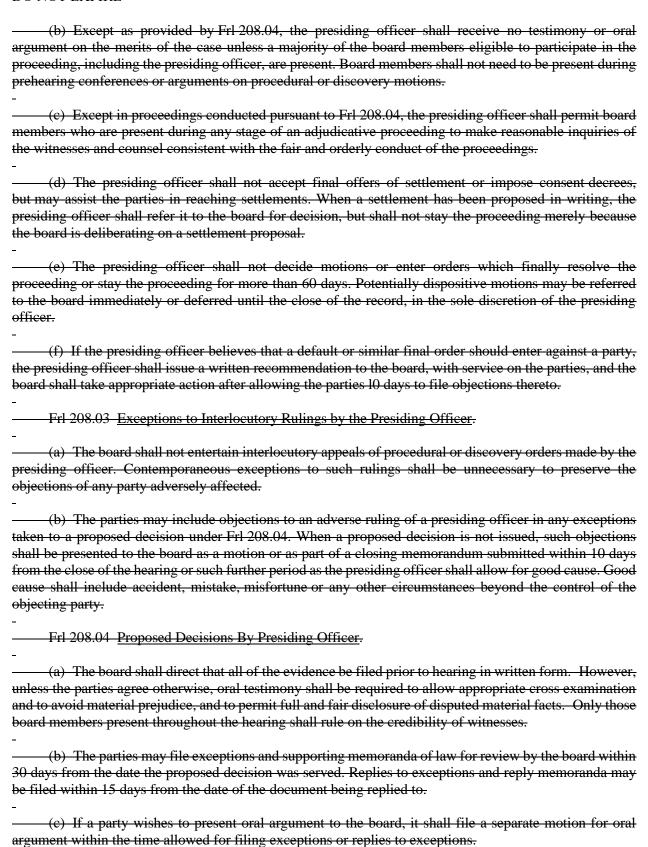
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(c) Orders, notices, and decisions of the board, and motions, memoranda, exhibits, and other				
documents and data submitted to the board in a docketed case shall be kept in a docket file and made				
available for public inspection in the board's office except to the extent that confidentiality has been				
otherwise provided for by law.				
- -				
Frl 207.04 Intervention.				
-				
(a) Petitions for intervention shall state with particularity:				
-				
(1) The petitioner's interest in the subject matter of the hearing;				
-				
(2) The petitioner's position with respect to the subject matter of the hearing;				
(3) Why the interests of the parties and the orderly and prompt conduct of the proceeding				
would not be impaired; and				
(4) Any other reasons why the petitioner should be permitted to intervene.				
-				
(b) Petitions for intervention shall be granted if the petitioner has a substantial interest in the				
proceeding and has been diligent with respect to requesting intervention, and if the petitioner's participation				
will not prejudice a party or unduly delay the proceeding.				
(c) Once granted leave to intervene, an intervenor shall take the proceeding as he or she finds it and				
no portion of the proceeding shall be repeated because of the fact of intervention.				
- E4 207 05 D-1 of Committing at Doord Stoff				
Frl 207.05 Roles of Complainants and Board Staff.				
- (a) Complainants alloging misconduct by a licensed individual shall have no role in any bearing				
(a) Complainants alleging misconduct by a licensed individual shall have no role in any hearing other than that of witness unless they petition for, and are granted, the right to intervene.				
other than that or writiess they petition for, and are granted, the right to intervene.				
- (b) Unless called as witnesses, board staff shall have no role in any hearing.				
- (b) Offices carried as withesses, board start shall have no fore in any nearing.				
Frl 207.06 Right to Counsel. Any party or intervenor in an adjudicative proceeding may be				
represented by counsel, but an attorney appearing on behalf of a party shall first file a letter announcing the				
fact of representation at the earliest date practical. Parties shall retain counsel at their own expense and requests for appointment of counsel shall not be entertained.				
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Frl 207.07 Prehearing and Other Informal Conferences.				
- I if 207.07 I teleding and other informal conferences.				
(a) At any time following the commencement of an adjudicative proceeding, the presiding officer,				
upon motion, or upon his or her own initiative, shall direct the parties to attend one or more prehearing				
conference when such a conference would aid in the disposition of the proceeding.				
-				
(b) The parties at prehearing conference shall address:				
- (-), F				
(1) The distribution of exhibits and written testimony, if any, to the parties;				
-				
(2) Opportunities and procedures for simplification of the issues;				

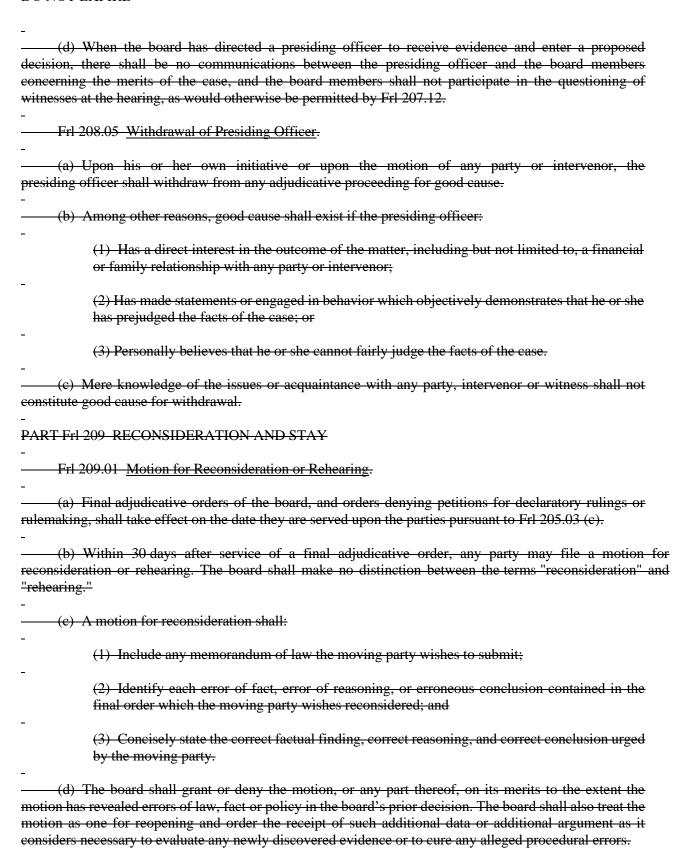




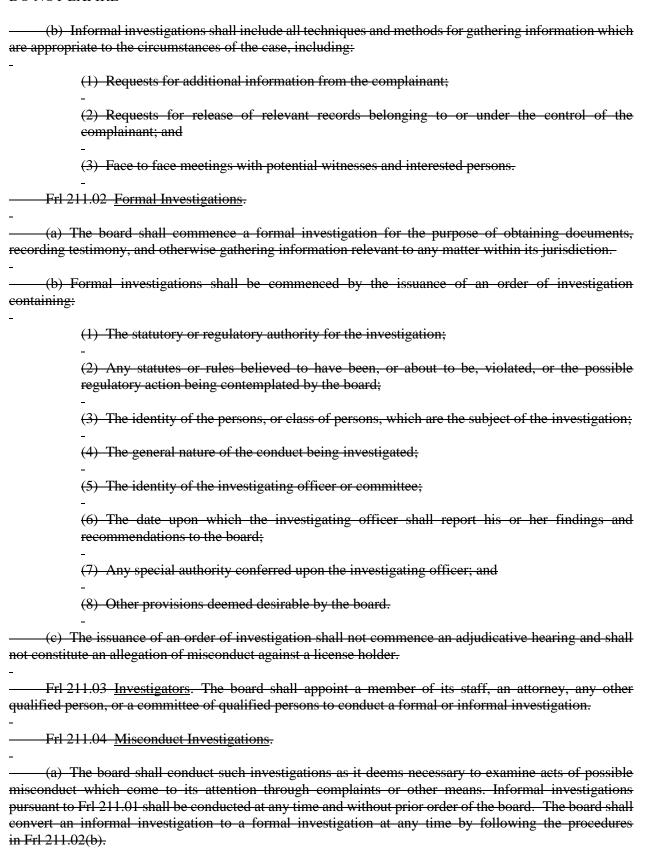


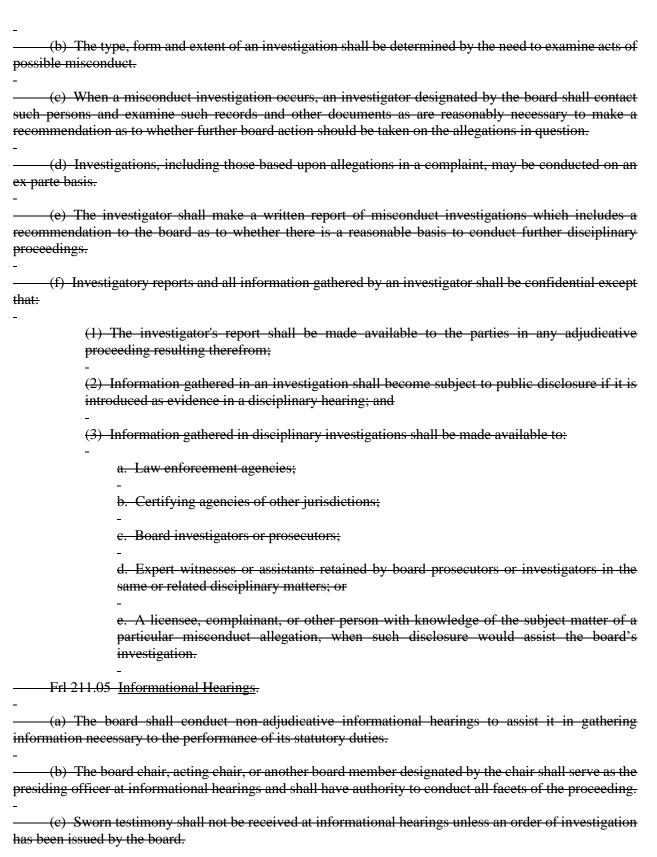






Frl 209.02 Reconsideration on the Board's Own Motion. Within the time frame specified in Frl 209.01(b), the board shall correct, reconsider, revise or reverse any final action on its own motion if the board discovers new facts that indicate such final action was incorrect. If the board's action is based upon the existing record, prior notice shall not be given to the parties. If further argument or data are necessary before making such an order, the board shall provide the parties with notice and an opportunity to be heard before any final revision is made in the board's previous action. Frl 209.03 Stay of Board Orders. (a) Board actions shall be stayed only in response to a specific request from a party or on the board's own motion. The mere filing of a motion for reconsideration shall not operate as a stay of any order, but it shall be permissible to combine a motion for stay with a motion for reconsideration. (b) A motion for stay shall be considered only if it is filed within the time period for requesting reconsideration specified by Frl 209.01(a), and shall demonstrate good cause sufficient to warrant the stay of an action by the New Hampshire Superior Court. PART Frl 210 CONSOLIDATION AND SEVERANCE Frl 210.01 Consolidation. Board proceedings which involve the same, or substantially related issues, shall be consolidated for hearing or decision, or both, when fairness, accuracy and efficiency would be served by such an action. Consolidation shall be ordered in response to a timely motion from a party or on the board's own initiative. Frl 210.02 Severance. The board shall sever one or more issues from a proceeding and dispose of those issues in another proceeding when doing so would materially promote the fairness, accuracy and efficiency of the proceeding. Severance shall be ordered in response to a timely motion from a party or on the board's own initiative. Repeal Frl 211, effective 11/20/18 (Document #12672), as follows: [PART Frl 211 NONADJUDICATIVE INVESTIGATIONS AND HEARINGS Frl 211.01 Informal Investigations. (a) Notwithstanding any other provision of this title, the board, within the limits of its authority, and acting through its members, officers and employees, or through independent contractors, shall make inquiry of any person and otherwise gather data, and prepare reports describing the data obtained whenever: (1) It receives data which leads it to believe that a violation of any statute administered by the board, or of any rule of the board, has occurred, or is likely to occur; or (2) It desires to obtain data for any other lawful purpose.

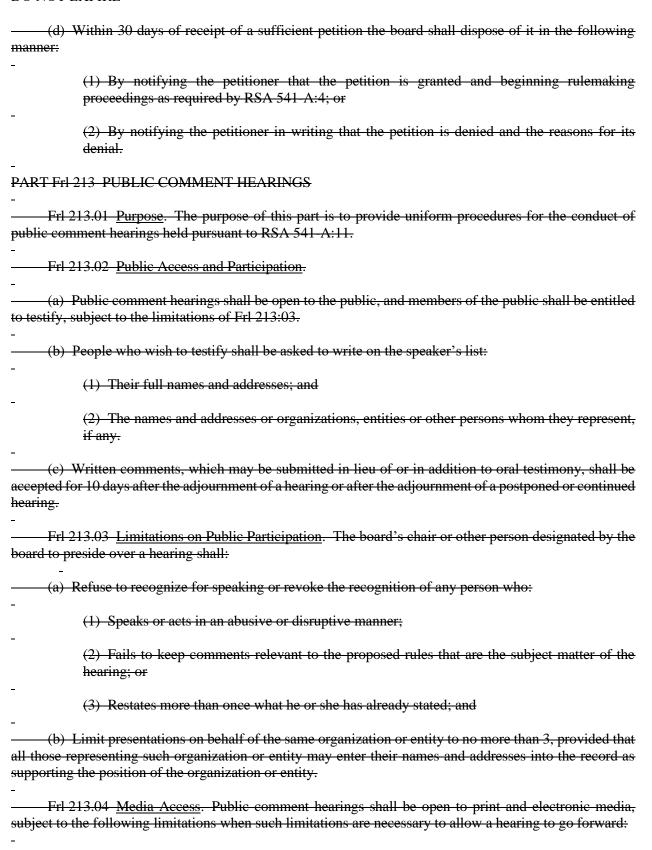




(d) The board shall establish the order and the length of the presentations made in informational hearings, and, consistent with any applicable statutes, limit the time allotted to each speaker.]

Repeal Frl 212 and Frl 213, effective 6/24/23 (Document #9949-A), as follows:

[PART Frl 212 RULEMAKING
Frl 212.01 How Adopted. A board rule, or any amendment or repeal thereof, shall be adopted in accordance with RSA 541 A:3. Rules shall be proposed by petition or on the board's own initiative.
Frl 212.02 Petition for Rulemaking. Any person may request the board to commence a proceeding for the purpose of adopting, amending, or repealing a rule by filing a petition which contains:
(a) A statement of the petitioner's interest in the subject matter of the proposed rule;
(b) The text of the proposed rule or a statement of the particular results intended by the petitioner to flow from the implementation of the proposed rule;
(c) If the petitioner proposes to amend or repeal an existing rule, an identification of the particular rule sought to be amended or repealed; and
(d) Any data or argument the petitioner believes would be useful to the board in deciding whether to commence a rulemaking proceeding.
Frl 212.03 <u>Disposition of Petition</u> .
(a) The board shall, by order, grant or deny a petition for rulemaking. Before issuing such an order, however, the board may require additional data or argument from the petitioner or other interested persons.
(b) The board shall grant the petition for rulemaking unless the adoption, amendment or repeal sought would result in:
(1) A rule that is not within the rulemaking authority of the board;
(2) Duplication of a rule or of a statutory provision;
(3) Inconsistency between the existing rules and the statutory mandate of the board;
(4) Inconsistency of one administrative rule with another; or
(5) Negatively impacting the board's ability to carry out the mandates of RSA 325.
(c) If the petition is denied, the board shall state the reason therefore in the order. If the petition is granted, the board shall undertake to commence a rulemaking proceeding in accordance with RSA 541-



(a) Limit	tation of the placement of cameras to specific locations within the hearing room; or
(b) Prohi	ibition of interviews conducted within the hearing room before or during the hearing.
Frl 213.0	5 <u>Conduct of Public Comment Hearings</u> .
	c comment hearings shall be presided over by the board chair or a board member in the subject area of the proposed rules who has been designated by the board to preside 2.
-	
(b) The (-	chair or other person presiding over a hearing shall:
(1)	Call the hearing to order;
_	Identify the proposed rules that are the subject matter of the hearing and provide copies of m upon request;
(3)	Cause a recording of the hearing to be made;
(4)	Recognize those who wish to be heard;
(5)	If necessary, establish limits pursuant to Frl 213.03 and Frl 213.04;
of a	If necessary to permit the hearing to go forward in an orderly manner, effect the removal a person who speaks or acts in a manner that is personally abusive or otherwise disrupts hearing;
- (7) -	If necessary, postpone or move the hearing; and
(8)	Adjourn or continue the hearing.
(c) A hea	aring shall be postponed in accordance with RSA 541-A:11, IV when:
	The weather is so inclement that it is reasonable to conclude that people wishing to attend hearing will be unable to do so;
(2) and	The board chair or other person designated by the board to preside over the hearing is ill unavoidably absent and a quorum is not present; or
(3)	Postponement will facilitate greater participation by the public.
	aring shall be moved to another location in accordance with RSA 541-A:11, V when the n is not able to accommodate the number of people who wish to attend the hearing.
(e) A hea 541-A:11, III w	aring shall be continued past the scheduled time or to another date in accordance with RSA then:
	The time available is not sufficient to give each person who wishes to speak a reasonable portunity to do so; or

(2) The capacity of the room in which the hearing is to be held does not accommodate the number of people who wish to attend and it is not possible to move the hearing to another location.]

Repeal Frl 214, effective 11/20/18 (Document #12672), as follows:

[PART Frl 214 WAIVER OF SUBSTANTIVE RULES
- Frl 214.01 Petitions for Waiver.
- ITT 214.01 <u>Fetitions for Walver</u> .
(a) Any interested person may request the board to waive any rule not covered by Frl 202.04 by filing an original and 2 copies of a petition pursuant to Frl 206.01(b) which clearly identifies the rule in question and sets forth specific facts and arguments which support the requested waiver. No statutory requirements shall be waived.
(b) Petitions for waivers of substantive rules shall address whether:
(1) Adherence to the rule would cause the petitioner financial or personal hardship;
(2) The requested waiver is not necessary because of any neglect or malfeasance on the part of the petitioner;
(3) Waiver of the rule would be consistent with the statutes and rules adopted by the board;
(4) Waiver of the rule would not injure third persons; and
(5) Other good cause exists for waiving the rule.
(c) If examination of the petition reveals that other persons would be substantially affected by the proposed relief, the board shall require service of the petition on such persons and advise them of their right to reply to the petition pursuant to Frl 206.01(c).
(d) The petitioner shall provide such further information or participate in such evidentiary or other proceedings as shall be ordered by the board after reviewing the petition and any replies received.
- (e) A petition for waiver of a rule which does not allege material facts, which, if true, would be sufficient to support the requested waiver, shall be denied without prior notice or further hearing.
- (f) The board shall initiate a waiver of a substantive rule upon its own motion by providing affected parties with notice and an opportunity to be heard, and issuing an order which finds that waiver would be consistent with the criteria of (b), above.
(g) Unless otherwise specified in the waiver itself, the waiver shall be effective for the duration of the license.]

Repeal Frl 215, effective 6/24/11 (Document #9949-A), as follows:

[PART Frl 215 DECLARATORY RULINGS
Frl 215.01 Requests for Declaratory Rulings.
(a) Any individual or entity may request a declaratory ruling by the board if that individual or entity is directly affected by the applicable statute or by any administrative rule.
(b) A request for a declaratory ruling shall be in writing containing:
(1) The name and address of the individual or entity making the request;
(2) The text of the ruling being requested;
(3) The reasons for the request; and
(4) The following declaration signed by the individual making the request, the authorized representative of such individual, or the authorized representative of the entity making the request:
"I declare that I have examined the request for a declaratory ruling, including the accompanying documents, and state that, to the best of my knowledge and belief the facts presented in support of the requested declaratory ruling are true, correct and complete."
Frl 215.02 Documents Required to Support Requests for Declaratory Rulings.
(a) A request for declaratory ruling shall be accompanied by:
(1) A statement citing the statutory law, regulatory law or orders believed to support the ruling being requested;
(2) A statement of the facts believed to support the ruling being requested; and
(3) Supplementary material necessary to establish or clarify the facts set forth in the statemen of facts.
(b) A request for a declaratory ruling may be accompanied by additional material chosen by the person making the request.
Frl 215.03 Processing Requests for Declaratory Rulings.
(a) Within 30 days of receiving a request for a declaratory ruling the board shall advise the individual or entity requesting it if the ruling will be delayed by the need for additional information or the complexity of the issues presented.
- (b) If additional information should be needed, the board shall specify the additional information required and request that it be provided in a statement of additional information that includes the declaration

specified in Frl 215.01 (b)(4) and is accompanied by any material necessary to establish or clarify the facts
set forth in the statement.
Frl 215.04 <u>Issuance and Publication of Declaratory Rulings</u> .
- (a) When facts sufficient to support a declaratory ruling have been established, the board shall issue a written declaratory ruling which applies all relevant law to the established facts.
(b) When the established facts show that the board lacks subject matter or personal jurisdiction to issue a declaratory ruling, the board shall issue a written decision stating that it lacks jurisdiction to issue a declaratory ruling and identifying the lack of jurisdiction.
(c) Declaratory rulings shall be filed on the day of issuance with the director of legislative services in accordance with RSA 541-A:16, II (b).
Frl 215.05 <u>Effect of Declaratory Ruling</u> . A declaratory ruling shall apply only to the board and to the individual or entity requesting it and shall be confined to the facts presented pursuant to Frl 215.02 (a)(2) through (a)(3) and in response to a request of the board made pursuant to Frl 215.03 (b).]
Repeal Frl 216, effective 11/20/18 (Document #12672), as follows:
[PART Frl 216 EXPLANATION AFTER ADOPTION
Frl 216.01 Explanation after Adoption.
(a) Any person may request an explanation regarding adoption of the rules pursuant to RSA 541-A:11,VII by submitting a request to the board.
(b) The request shall be considered at the next scheduled board meeting and the board shall issue a response within 45 days after consideration.]
Adopt Frl 201 to read as follows:
PART FrI 201 APPLICABILITY AND WAIVER OF SUBSTANTIVE RULES
Frl 201.01 Rules of Practice and Procedure. The Plc 200 rules shall govern with regards to all procedures for:
(a) Adjudicatory proceedings;
(b) Rulemaking submissions, considerations, and dispositions of rule making petitions;
(c) Public comment hearings;
(d) Declaratory rulings;
(e) All statements of policy and interpretation;

- (f) Explanation of adopted rules; and
- (g) Voluntary surrender of licenses.

Frl 201.02 Waiver of Administrative Rules.

- (a) The board shall initiate a waiver of a substantive rule upon its own motion by providing affected parties with notice and opportunity to be heard, and issuing an order which finds that waiver would be necessary to advance the purpose of the rules of the board.
- (b) Individuals who wish to request a waiver of a rule shall submit a written request to the board, which includes:
 - (1) The rule for which a waiver is requested;
 - (2) The anticipated length of time the requested waiver will be needed;
 - (3) The reason for requesting the waiver;
 - (4) Evidence of how the waiver will provide for the health and safety of the consumer or licensee;
 - (5) A time-limited written compliance plan which sets forth plans to achieve compliance including an estimated date of compliance; and
 - (6) The signature of the applicant.
 - (c) The board shall consider the following when determining whether to approve or deny a waiver:
 - (1) If adherence to the rule would cause the petitioner unnecessary or undue hardship;
 - (2) If the requested waiver is necessary because of any neglect or misfeasance on the part of the practitioner;
 - (3) If enforcement of the rule would injure a third person(s); and
 - (4) If waiver of the rule would injure a third person(s).
 - (d) The board shall approve a waiver of an administrative rule request only if:
 - (1) Granting a waiver does not have the effect of waiving or modifying a provision of RSA 325;
 - (2) The petitioner has shown good cause exists pursuant to (c) above to waive the rule; and
 - (3) The board determines that the individual's plans for compliance with the rule includes an estimated date of compliance and eventual compliance.

- (e) If the board, after receiving and reviewing a request for a waiver, requires further information or documentation to grant or deny the waiver, the board shall:
 - (1) Notify the applicant in writing within 30 days; and
 - (2) Specify the information or documentation the board requires.
- (f) The board shall issue a written approval or denial of the waiver within 60 days of the date the request is received, unless additional information or documentation is required. If additional information and documentation is required, then the board shall issue a written approval or denial within 60 days of receiving the requested information or documentation.

APPENDIX I

Rule	Specific State Statute the Rule Implements
Frl 200 (Specific provisions implementing	RSA 325:9, VI; RSA 541-A:16, I (b)
specific statutes are listed below) (repealed)	
Frl 201.01 (repealed)	RSA 325:9, VII
Frl 201.04 (repealed)	RSA 541-A:30-a, III (j)
Frl 202 (repealed)	RSA 541-A:30-a, III (b)
Frl 202.03 (repealed)	RSA 541-A:30-a, III (j)
Frl 203 (repealed)	RSA 541-A:30-a, III (f)
Frl 204 (repealed)	RSA 541-A:30-a, III (a)
Frl 205.01 – 205.02 (repealed)	RSA 325:9, VII
Frl 205.02 (n) (repealed)	RSA 541-A:30-a, III (g)
Frl 206 (repealed)	RSA 541-A:30-a
Frl 206.01 (repealed)	RSA 325:9, VII
Frl 206.02 (repealed)	RSA 325:9, VII
Frl 206.02 (n) (repealed)	RSA 541-A:30-a, III (g)
Frl 206.08 (repealed)	RSA 325:33-a
Frl 207 (repealed)	RSA 541-A:30-a
Frl 207.02 (repealed)	RSA 325:9, VII
Frl 207.08 (repealed)	RSA 325:9, VII
Frl 208 (repealed)	RSA 541-A:30-a
Frl 208.02 (repealed)	RSA 325:9, VII
Frl 208.03 (b) (repealed)	RSA 325:34, VII
Frl 209 (repealed)	RSA 541-A:30-a
Frl 209.03 (b) (repealed)	RSA 325:9, VII
Frl 210 (repealed)	RSA 541-A:30-a
Frl 211 (repealed)	RSA 325:9, VII
Frl 212 (repealed)	RSA 541-A:16, I (c)
Frl 213 (repealed)	RSA 541-A:16, I (b)
Frl 214 (repealed)	RSA 541-A:16, I (d)
Frl 215 (repealed)	RSA 541-A:16, I (d)
Frl 216 (repealed)	RSA 541-A:11, VII
Opt 201.01	RSA 541-A:16, I (b) intro.
Opt 201.02	RSA 541-A:16, I (b)-(d)