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TITLE 440 – CONTRACTORS’ REGISTRATION AND LICENSING BOARD

CHAPTER 10 – GENERAL ADMINISTRATION, REGISTRATION, LICENSING, AND FILING CLAIMS

SUBCHAPTER 00 – N/A

~~PART 1 – General Rules and Regulations for Registration, Licensing and Filing of Claims~~

~~1.1 – Authority~~

~~— These rules and regulations are promulgated pursuant to the Rhode Island Contractors’ Registration and Licensing Board Law, R.I. Gen. Laws § 5-65-1 *et seq.*; the Rhode Island Home Inspector Licensing Law, R.I. Gen. Laws § 5-65.1-1 *et seq.*; the Rhode Island Well-Drilling, Pump Installers, and Water Filtration Contractors Licensing Law, R.I. Gen. Laws § 5-65.2-1 *et seq.*; the Rhode Island Underground Utility Contractors’ Licensing Law, R.I. Gen. Laws § 5-65.3-1 *et seq.*; the Rhode Island Commercial Roofing Licensing Law, R.I. Gen. Laws § 5-73-1 *et seq.*; and in accordance with the Rhode Island Administrative Procedures Act, R.I. Gen. Laws § 42-35-1 *et seq.*~~

~~1.2 – Purpose~~

~~— The purpose of these rules and regulations is to implement the statutory provisions authorizing the Contractors’ Registration and Licensing Board to establish provisions, qualifications and procedures for registering and licensing those disciplines governed by the Board, and to promote public safety, health and welfare by providing a mechanism to ensure that all persons conducting business in the regulated disciplines within the State of Rhode Island have the requisite skills, training, and experience necessary to safely and adequately conduct those activities within the state. State law requires every person who engages in a discipline governed by the Board to be properly registered or licensed with the Contractors’ Registration and Licensing Board (“CRLB” or “the Board”). Any person who fails to properly register or become licensed in their respective discipline, as stipulated, is subject to penalties for operating without a license or registration.~~

~~1.3 – General Definitions~~

~~A. — "Agent of service" or "Registered agent" means a business or individual designated by the registrant/licensee upon whom any process, notice, or demand required or permitted by law to be served upon the corporation or individual~~

~~registrant/licensee may be served. An attorney licensed and located in Rhode Island or a company listed by the Rhode Island Secretary of State may serve as an agent of service.~~

- ~~B. "Applicant" means any person seeking to obtain a registration or license that is issued by the Contractors' Registration and Licensing Board.~~
- ~~C. "Architectural service" means any practice involving the art and science of building design for construction of any structure or grouping of structures and the use of space within and surrounding the structure(s) or the design for construction, including but not specifically limited to, schematic design, design development, preparation of construction contract documents, and administration of the construction contract.~~
- ~~D. "Architectural study" means a study requiring architectural services.~~
- ~~E. "Board" or "CRLB" means the staff and appointed members of the Contractors' Registration and Licensing Board.~~
- ~~F. "Building officials" means the officials charged with the administration and enforcement of the Rhode Island State Building Code.~~
- ~~G. "Claim" means a matter for which a statement of claim form has been filed by a person who has a direct contractual relationship with a registrant/licensee, or one who is required to be registered/licensed, which the Board may investigate and may render a final decision upon.~~
- ~~H. "Claimant" means an individual who files a claim against a registrant/licensee, or one who is required to be registered/licensed, and who has a direct contractual relationship with that person.~~
- ~~I. "Commission" means the Building Code Commission supportive of the Contractors' Registration and Licensing Board and the CRLB staff.~~
- ~~J. "Complaint" means Claim.~~
- ~~K. "Complainant" means Claimant.~~
- ~~L. "Condominium" means real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners.~~
- ~~M. "Continuing education credit" means the credit unit awarded after a person receives instruction related to the discipline for which that person is registered/licensed with the Board. Different disciplines may require a different number of credit units to maintain a registration/license, and the credit must be~~

issued by a Board approved provider to be valid. Fifty (50) minutes of instruction equals one (1) credit hour.

N. ~~"Contract" means the written or oral agreement between the client and the registered/licensed person or person required to be registered/licensed, describing the responsibilities and duties of each party and the fee to be paid.~~

O. ~~"Contractor" means a person who has a contract, either oral or written, with the owner of a structure to perform work subject to the authority of the Board, who may engage one or more subcontractors to perform all or part of the work, and who may have responsibility for the entire project which is the subject of the contract. See discipline subsections in these rules and regulations for specific information concerning which individuals need to be registered/licensed with the Board.~~

P. ~~"Developer" means a person who owns property and contracts with a general contractor to construct, improve, or alter one or more buildings or structures on the land for the purpose of selling or leasing those buildings or structures, and who is required to be registered with the Board pursuant to R.I. Gen. Laws § 5-65-1(3)(i).~~

Q. ~~"Dishonest or fraudulent conduct injurious to the welfare of the public" means conduct that includes, but is not limited to, any of the following:~~

1. ~~Acting in a manner that, because of a wrongful or fraudulent act(s) by the applicant, registrant, or licensee results in injury or damage to another person;~~

2. ~~Failing to pay monies when due for materials or services rendered in connection with the applicant's, registrant's, or licensee's operations when the applicant, registrant, or licensee has received sufficient funds as payment for the particular construction work project or operation for which the services or materials were rendered or purchased;~~

3. ~~Accepting payment in advance on a contract or agreement and failing to perform work or provide services required by the contract or agreement and failing to return the payment;~~

4. ~~Giving false, misleading or deceptive advertising whereby a reasonable person could be misled or injured;~~

5. ~~Using a revoked, invalid, or suspended registration or license; or~~

6. ~~Working using another person's registration or license.~~

R. ~~"Employee" means any person permitted to work by an employer, who receives wages, except that independent contractors or subcontractors shall not be considered employees. Anyone who performs services for an employer is an~~

employee if the employer can control what will be done and how it will be done. An employee is generally subject to the business's/employer's instructions about when, where and how to work, i.e., instructions about how to do work, such as:

1. when and where to do the work;
 2. what tools or equipment to use;
 3. what workers to hire or to assist with the work;
 4. where to purchase supplies and services;
 5. what work must be performed by a specific individual; and
 6. what order or sequence to follow when performing work.
7. Documents such as W-2's, payroll taxes, and IRS forms may be requested by the Board to substantiate an employee's status.

S. "Employer" means any individual, firm, partnership, corporation, limited liability corporation, association, joint venture, trust, receiver, or other like officer appointed by a court of this state, and any agent or officer of any of the above mentioned, employing any person in this state. An employer with one or more employees is required to have proper workers' compensation coverage in accordance with R.I. Gen. Laws § 28-29-1 et seq.

T. "Engineering services" means any professional service or creative work provided by a licensed or registered engineer, which requires engineering education, training, and experience; and the application of special knowledge of the mathematical, physical, and engineering sciences to such professional service or creative work as consultation, investigation, evaluation, planning, design and supervision of construction for the purpose of assuring compliance with the specifications and design, in conjunction with structures, buildings, machines, equipment, works, or processes.

U. "Executive Director" means the Executive Director of the Contractors' Registration and Licensing Board.

V. "Expungement" means the removal, deletion or erasing of information from a registrant's or licensee's record that is accessible to the public.

W. "Flipping" means when a person performs, employs others to perform, or for compensation with the intent to sell the structure, arranges to have performed any work described in R.I. Gen. Laws § 5-65-1(3) if within a twelve-month period offers for sale that structure on which that work was performed and who is required to be registered with the Board.

- ~~X. "Good standing" means an applicant who seeks to obtain or renew a registration/license must not have any unresolved claims, violations, penalties or fines with the Board for any registration/license held by the applicant or its principal, nor with any other municipal, state, or federal regulatory authority in Rhode Island or elsewhere.~~
- ~~Y. "Inactive registration/license" means a registration/license that has lapsed, expired, or has been suspended, surrendered, revoked or invalidated.~~
- ~~Z. "Incapacity" or "Incapacitated" means an ailment that renders an active registrant/licensee unable to perform the work of the discipline for which they are registered/licensed, as a result of mental or physical loss or impairment of bodily function or debilitating pain.~~
- ~~AA. "Licensee" means any person who has obtained a license for any of the disciplines governed by the Board's authority, including but not limited to those defined in R.I. Gen. Laws Chapters 5-65.1 (Home Inspectors), 5-65.2 (Well Drilling/Pump/Filtration Contractors), 5-65.3 (Underground Utility Contractors) and 5-73 (Commercial Roofers).~~
- ~~BB. "Monetary damages" means the dollar amount required in excess of the contract amount to provide the claimant what was agreed to be provided under the terms of the contract minus any amount due and unpaid to the registrant/licensee.~~
- ~~CC. "Nature and complexity" means, but is not limited to, the following meanings:~~
- ~~1. Involves legal issues outside the scope and expertise of the Board;~~
 - ~~2. Requires rulings on persons or entities outside the jurisdiction of the Board; or~~
 - ~~3. Involves technical, expert, or other issues outside the scope and expertise of the Board.~~
- ~~DD. "Occupancy" means, but is not limited to, the time of issuance of a certificate of occupancy or the time of receipt of a letter of completion of the construction by the Building Official.~~
- ~~EE. "Owner" means any person or his/her agent who holds title or other rights to a property.~~
- ~~FF. "Permits" means documentation that must be obtained from the state or local building department of each city or town in which work is to be performed prior to the commencement of work.~~
- ~~GG. "Person" means an individual, self-employed individual, sole proprietorship, partnership, limited liability company, corporation, trust or joint venture.~~

~~HH. "Public body" or "Public agency" means any executive, legislative, judicial, regulatory or administrative body of the state or any political subdivision thereof; including, but not limited to, public officials elected or appointed and any department, division, agency, commission, board, office, bureau, authority, any school, fire, or water district, or other agency or quasi-public agency of state or local government which exercises governmental functions.~~

~~II. "Pursuit of an independent business" or "Working as an independent contractor" means that the person operates as an independent contractor. Evidence of operating as an independent contractor and not as an employee may include, but not be limited to, the following criteria:~~

- ~~1. The person is free from close supervision by the homeowner or contractor over the details of the work being performed, including hours of work;~~
- ~~2. The person enters into a contract, either oral or written, which calls for the completion of certain work on a specific project or job site for which payment is made on a per-hour, time and materials, barter, or entire job basis;~~
- ~~3. The person may have one or more effective contracts at any one time;~~
- ~~4. The person hires and supervises other subcontractors and/or employees and may be responsible for business insurance and payroll taxes if help is hired;~~
- ~~5. The person enters into a contract, either oral or written, which does not require the employer to consider remuneration paid to be wages for the purposes of unemployment compensation benefits, workers' compensation payments, or federal or state withholding;~~
- ~~6. The person uses as normal business practice telephone services, business cards, or any form of advertising;~~
- ~~7. The person furnishes substantially all of the equipment, tools, and supplies necessary to carry out contractual obligations; and~~
- ~~8. The person is not an independent contractor if he/she performs services that can be controlled by an employer (what will be done and how it will be done).~~
- ~~9. Documents such as 1099's, taxes and IRS forms may be requested by the Board to substantiate an independent contractor's status, and the Board may also consider IRS definitions and criteria in determining the independent contractor's status.~~

~~JJ. "Registrant" means any person who has obtained a registration for any of the disciplines governed by the Board.~~

~~KK. "Residence/residential building" means a structure that consists of one or more dwelling units.~~

~~LL. "Respondent" means the person against whom an enforcement action is taken or against whom a claim is made.~~

~~MM. "Revoke" means the termination of a registration or license by the Board.~~

~~NN. "Structure" means:~~

~~1. any residential or commercial building; or~~

~~2. any building containing one or more residences and their appurtenances. Structure may also include modular and mobile homes, which come within the jurisdiction of the Board as structures at the time they are placed on support blocking or permanent foundations in the place they will be used.~~

~~OO. "Subcontractor" means a person or entity who has a contract, either oral or written, not with the owner of the structure but with a registrant/licensee or one who is required to be registered/licensed, to perform work subject to the Board's authority, and who is responsible for a specific portion of the project. Although a contract may state the worker is a subcontractor, this is not determinative of the worker's status and the Board may consider how the parties work together to determine whether the worker is a subcontractor or otherwise.~~

~~PP. "Substantial completion" means the time at which, but is not limited to, the following events: final inspection is approved; certificate of occupancy is issued; the building or structure or portion of building or structure is in a habitable or usable condition; most or all of the payment has been provided; when an owner would reasonably conclude that the contractor had fulfilled his/her obligations under the contract and that final payment was due.~~

~~QQ. "Violation" means an infraction of relevant statutes, rules, standards, orders, license, compliance schedule, or any part thereof and may include both acts and omissions.~~

~~RR. "Wages" means all amounts at which the labor or service rendered is paid, whether the amount is fixed or ascertained on a time, task, piece, commission basis, or other method of calculation.~~

~~SS. "Work period" means the time period from the date a contract is entered into until the date the contracted work is substantially completed by the original registrant/licensee, or if not substantially completed, the date work by the original registrant/licensee ceased.~~

1.4 — General Administration

1.4.1 — Notice of Proposed Regulation

~~Before adopting, amending, or repealing any rule, the Board shall give notice of the proposed adoption, amendment, or repeal as required by the Administrative Procedures Act, R.I. Gen. Laws Chapter 42-35.~~

~~1.4.2 Temporary Regulation~~

A. ~~The Executive Director may adopt, amend, or suspend a regulation pursuant to R.I. Gen. Laws Chapter 42-35.~~

B. ~~In the event of a catastrophic event or imminent peril, the Board may waive certain requirements of these Rules and Regulations, or delay certain aspects.~~

~~1.4.3 General Procedures~~

A. ~~The procedures for administrative hearings of the Board and its administrative hearing officers shall operate pursuant to R.I. Gen. Laws Chapter 42-35.~~

B. ~~Delivery of Notices:~~

1. ~~Time for response to all notices sent by the Board shall run from the date of mailing from the Board, utilizing calendar days.~~

2. ~~The registrant/licensee is responsible for notifying the Board of any change of address while registered/licensed, and for one (1) year following the date that the registration/license expires or otherwise becomes inactive. The registrant/licensee must notify the Board of any change of address in writing and within ten (10) days of the date upon which the change of address occurs. Proposed orders, final orders, notices of hearings, and other notices mailed by the Board to the last known address of record are considered delivered when deposited in the mail.~~

C. ~~Information Requests~~

1. ~~A claim filed with the Board will initially be classified as under investigation, and any information in regard to that claim will not be provided in response to a telephone inquiry or written request until such time as a Board investigator has had the opportunity to review the matter filed. Upon investigation and a determination that the claim is valid, information related to the claim will be deemed public record. Once the claim is sent to an administrative hearing, the information related to the claim status will be posted electronically and will remain on the registrant's/licensee's record, unless expunged by the Board. Matters expunged by the Board will not be available for information request. A claim adjudicated in favor of the registrant/licensee shall be removed from the record of the registrant/licensee as soon as practicable or as consistent with Rhode Island General Laws, and at such point will no longer be available for information request.~~

- a. ~~The Board will provide the following information in response to written, telephone, or email requests for registration/license information relating to a specific person:~~
- ~~(1) Whether or not the person is or has ever been registered/licensed;~~
 - ~~(2) The registration/license number(s);~~
 - ~~(3) The business name(s) used by the entity of record with the Board;~~
 - ~~(4) Type of business organization (i.e. individual proprietorship, partnership, LLC, corporation or joint venture);~~
 - ~~(5) Personal name(s) of owners, partners, or corporate officers;~~
 - ~~(6) Last known address of the registrant/licensee;~~
 - ~~(7) Expiration date or date upon which the registration/license became inactive and the reason it became inactive;~~
 - ~~(8) The date the person first became registered/licensed;~~
 - ~~(9) Status of the registration/license, history of compliance with the education requirements, validity of insurance and/or bond, and the insurance or bonding company name (as provided to the Board by the registrant/licensee); and~~
 - ~~(10) Number, status, type, date filed, and alleged amount of fines or awards of proposed orders, final orders, claims, violations, or notices of hearings on record.~~
- b. ~~If no claims have been recorded or if it appears to the Board that the person about whom the inquiry is being made is unregistered/unlicensed, the requesting party will be given the information listed in § 1.4.3(C)(1)(a) of this Part.~~
- c. ~~The Board shall provide a certification of registration/license relating to a specific person upon written request and payment of the required fee. This certification will include the following information:~~
- ~~(1) Registration/License number(s);~~
 - ~~(2) Name of the registered/licensed person and any business name(s) on file with the Board;~~

~~(3) Type of business (i.e., individual proprietorship, partnership, LLC, corporation or joint venture);~~

~~(4) Name(s) of owner(s), partner(s), or corporate officer(s) provided to the Board; and~~

~~(5) Pertinent dates and actions in the registration/license history.~~

~~d. If more information is requested than that listed in §§ 1.4.3(C)(1)(a) or (c) of this Part, the request for information should be made in writing or by email to the Board.~~

~~e. Access to Public Records requests to the Board will be processed in accordance with the Access to Public Records Act, R.I. Gen. Laws § 38-2-1 et seq.~~

~~f. If no claims have been recorded or if it appears to the Board that the person about whom the inquiry is being made is not registered or licensed, the caller will be given this information by telephone.~~

~~D. Filing Fees and Record Changes:~~

~~1. The Board may impose the following charges for records and filing fees:~~

~~a. A \$10.00 fee for each certification that a person or entity has or has not been registered/licensed with the Board;~~

~~b. A \$10.00 fee for certified copies of documents;~~

~~c. A \$5.00 fee for every thirty-five (35) copies made, or fifteen cents (\$0.15) per copied page of written documents copied on common business or legal size paper (or costs as otherwise provided under R.I. Gen. Laws § 38-2-4);~~

~~d. A thirty-five dollar (\$35.00) fee per recording of hearing officer and Board administrative hearings;~~

~~e. A one-hundred dollar (\$100.00) fee for a paper copy or electronically provided list of registrants/licensees. Requesting parties shall bear the cost of mailing. Lists will be provided free of charge to municipal and state building departments;~~

~~f. A twenty-five dollar (\$25.00) filing fee shall be imposed for any claim filed with the Board, with an exemption for state and municipal agencies;~~

~~g. A twenty dollar (\$20.00) fee for any filing of exceptions/appeals to the Board;~~

- ~~h. A twenty-five dollar (\$25.00) fee for each replacement registration/license card/certificate and lost card/certificate affidavit;~~
 - ~~i. A twenty dollar (\$20.00) fee for any additional registration/license card/certificate for employees, officers or partners;~~
 - ~~j. A twenty-five dollar (\$25.00) fee to change the responsible person on a registration/license;~~
 - ~~k. A twenty-five dollar (\$25.00) fee to change the ownership of a registration/license;~~
 - ~~l. A twenty-five dollar (\$25.00) fee to change the name of the registrant/licensee or company; and~~
 - ~~m. A twenty dollar (\$20.00) fee will be assessed for each expungement request regarding a single claim and/or violation. A five-dollar (\$5.00) fee will be assessed for each additional claim and/or violation sought to be expunged under the same request.~~
- ~~2. The Board shall not refund fees or civil penalties, unless an administrative error occurred.~~
 - ~~3. The Board shall not incur any fees for Board action on a registration/license or during an appeal.~~
 - ~~4. No fee shall be charged for changes to an address of record.~~

1.5 Claims Process

1.5.1 Prerequisites for filing a Claim

- ~~A. The Board will only accept claims concerning work or services performed within the boundaries of the State of Rhode Island, or for materials or equipment supplied or rented for fabrication into or use upon structures located within the boundaries of the State of Rhode Island. Unless otherwise specified, the Board will only accept claims where the claimant and respondent have a direct contractual relationship, employment relationship, or a relationship based on assignment.~~
- ~~B. Unless otherwise specified, claims must be submitted within one (1) year after work was completed or ceased, one (1) year from the date the contract was entered into, or one (1) year from the failure to complete date. Notwithstanding these timeframes, whenever a claimant shall notify, in writing, a registrant/licensee of any issue with work performed within one (1) year of the completion of the work and said problem has not been corrected, the aggrieved party shall have up to two (2) years from the date of completion of the work to file a claim with the Board.~~

1.5.2 Claim Submission

- A. ~~Claims must be submitted on the Statement of Claim form provided by the Board, along with a twenty-five dollar (\$25.00) non-refundable processing fee. Submitted claims are considered filed when a completed Statement of Claim form and the applicable fee have been received by the Board.~~
- B. ~~When submitting a claim, claimants are encouraged to provide copies of all supporting documentation, including but not limited to:~~
- ~~1. Written contracts and agreements;~~
 - ~~2. Invoices;~~
 - ~~3. Billings;~~
 - ~~4. Estimates;~~
 - ~~5. Receipts;~~
 - ~~6. Cancelled checks;~~
 - ~~7. Court or arbitration information/judgments; and~~
 - ~~8. Notices of counter claims by respondents.~~

1.5.3 Types of Claims Accepted by the Board

- A. ~~Contract Disputes and Allegations of Breach of Contract and/or Negligent/Improper Work:~~
- ~~1. Claim Against Residential Contractor: The Board will accept claims filed by an owner of a structure concerning work performed by a registered contractor, or one required to be registered, on a residential structure or residential portions of a commercial structure and their appurtenances.~~
 - ~~2. Claim Against Well-Drilling Contractor/ Pump-Installer/ Water-Filtration Contractor/ Water-Filtration Installer: The Board will accept claims filed by an owner of a structure or property concerning work performed by a licensed well-drilling contractor, pump-installer, water-filtration contractor or water-filtration installer, or one required to be licensed, concerning work performed on a residential structure or residential portions of a commercial structure.~~
 - ~~3. Claim Against Underground Utility Contractor: The Board will accept claims related to work performed on residential or commercial structures and property by a licensed underground utility contractor, or one required to be licensed. A claim may be submitted by any person, organization, or~~

~~any state or municipal authority charged with inspecting underground utility work, where sufficient evidence exists that a violation of R.I. Gen. Laws § 5-65.3-1 et seq. or these rules and regulations has occurred. All claims must be filed with the Board within one (1) year of the alleged violation. State and municipal authorities are exempt from paying a claim filing fee.~~

~~a. Requirements for the above listed claims:~~

- ~~(1) Within the claim filing period, a claimant should notify the contractor in writing of the items of concern to the claimant to correct the issue(s) presented prior to filing a claim with the Board. Upon filing a claim with the Board, the claimant must provide the Board with a copy of this writing sent to the contractor identifying the claimant's concerns and/or items to be corrected. Failure to provide the Board with evidence of this written notice to the contractor may result in the Board not processing the claim.~~
- ~~(2) The Board will only accept claims concerning work or services performed during the time that a contract, written or oral, was entered into until the time the work ceased or was substantially completed.~~

~~B. Claim Against Home Inspector/ Associate Home Inspector:~~

~~1. The Board will accept claims from claimants with a direct contractual relationship with a home inspector, associate home inspector, or person required to be licensed as a home inspector. Because a home inspector is responsible for the actions of any associate home inspector performing under the home inspector's license and supervision, any claims pertaining to an associate home inspector may be brought against the supervising home inspector.~~

~~2. Requirements:~~

- ~~a. Claims must be submitted to the Board within one hundred-eighty (180) days from the date that the claimant received the home inspector's written report. Any claim received after the one hundred-eighty (180)-day period will not be accepted.~~
- ~~b. Prior to filing a claim with the Board, the claimant must first notify the home inspector of the problem or issue and allow the home inspector to re-inspect and/or otherwise resolve the issue.~~
- ~~c. For any matters that may be covered by the home inspector's errors and omissions insurance or liability insurance, the claimant must first file a claim with the insurance carrier prior to filing a claim~~

with the Board. A subsequent decision of the insurance company may be submitted to the Board to take action against the home inspector's license.

~~C. Claims involving mechanics' liens:~~

- ~~1. A claim may be filed by an owner of property against a registrant/licensee, or one required to be registered/licensed, to discharge or to recoup funds expended in discharging a mechanics lien. A mechanics lien claim may not include excess interest paid as the result of the owner's inability to refinance at a lower interest rate due to the existence of the lien.~~
- ~~2. Requirements: The claim form shall be accompanied by evidence that the claimant has paid the registrant/licensee or one required to be registered/licensed, a copy of the notice of right to lien, a copy of the lien bearing the city or town recorder's stamp and signature, any foreclosure information, and all invoices, billings and other accountings used as a basis for the lien.~~

~~D. Contractor Against a Subcontractor:~~

- ~~1. A claim may be filed by a registered/licensed contractor against another registered/licensed subcontractor. Claims filed by registered/licensed contractors will not be accepted against a non-registered/non-licensed subcontractor.~~
- ~~2. Requirements:~~
 - ~~a. Contractors filing a claim must be properly registered/licensed with the Board. The claimant must have been registered/licensed at the time the bid was made or the contract was entered into and continuously throughout the work period before the claim will be accepted.~~
 - ~~b. The subcontractor against whom the claim is filed will be considered registered/licensed under the Board's authority if that person was registered/licensed during all or part of the work period.~~
 - ~~c. The registration/license requirement for claimants does not apply to persons who are exempt from Board's registration/licensing requirements.~~

~~E. Subcontractor Against a Contractor:~~

- ~~1. A claim may be filed by a registered/licensed subcontractor arising out of a contract between the subcontractor and a general contractor or other subcontractor for unpaid labor and/or materials furnished under a contract.~~

~~2. Requirements:~~

- ~~a. This type of claim will not be accepted by the Board unless the subcontractor/claimant was registered/licensed and subject to the Board's authority at the time the bid was made or the contract was entered into, and continuously throughout the work period.~~
- ~~b. The contractor against whom the claim is filed will be considered registered/licensed if that person was registered/licensed during all or part of the work period.~~
- ~~c. The registration/license requirement for claimants does not apply to persons who are exempt from the Board's registration/licensing requirements.~~
- ~~d. Subcontractor claims must be accompanied by copies of each original invoice relating to the claim and a summary showing the date, number, amount, and description for each invoice submitted.~~

~~F. Employee for Unpaid Wages:~~

- ~~1. A claim may be submitted for unpaid wages, filed by an employee of a registrant/licensee.~~
- ~~2. Requirements:~~
 - ~~a. The person against whom the claim is filed will be considered registered/licensed if that person was registered/licensed during all or part of the work period.~~
 - ~~b. An employee claim against a non-registered/licensed contractor will not be accepted.~~
 - ~~c. The employee claimant is exempt from the registration/licensing requirement based on the employment relationship with a registered/licensed contractor employer.~~
 - ~~d. The claim must include evidence to support allegations of non-payment, including payroll records, time cards or other evidence of time worked.~~

~~G. Material and/or Equipment Supplier:~~

- ~~1. A claim may be filed by a registered/licensed supplier who has not been paid for materials sold to a registrant/licensee to be used and installed in a structure, or for the rental of equipment to a registrant/licensee to be used in the performance of the work of a registrant/licensee in connection with a structure. A claim may not be made for nonpayment for tools sold to a~~

~~registrant/licensee, for equipment sold to a registrant/licensee and not fabricated into a structure, for interest or service charges on an account, or for materials purchased as stock items.~~

~~2. Requirements:~~

- ~~a. This type of claim will not be accepted by the Board unless the claimant was registered/licensed and subject to the Board's authority at the time the bid was made or the contract was entered into, and continuously throughout the work period.~~
- ~~b. The person against whom the claim is filed will be considered registered/licensed if that person was registered/licensed during all or part of the work period or if any invoices or payroll records involve material deliveries or equipment rentals while that person was registered/licensed.~~
- ~~c. The registration/licensing requirement for claimants does not apply to persons who are exempt from the Board's registration/licensing requirements.~~
- ~~d. The Board will only accept claims within one (1) year from the date the registrant/licensee incurred the indebtedness, meaning the date of delivery of the materials or the date the purchaser took possession of the materials. If such date is unknown, the date of the invoice/order applies.~~
- ~~e. Claims based on materials must be accompanied by a summary of indebtedness showing the job site address, the date of each invoice, each invoice number, and each invoice amount.~~
- ~~f. Assessed damages will only consider those items delivered or rented during the period of registration/licensure.~~

~~H. Soil, Asphalt, or Concrete Testing:~~

- ~~1. A claim may be filed by a registered/licensed contractor or subcontractor for unpaid labor or materials supplied in conjunction with a structure for soil, asphalt, or concrete testing.~~
- ~~2. Requirements:~~
 - ~~a. This type of claim will not be accepted by the Board unless the contractor/claimant was registered/licensed and subject to the Board's authority at the time the bid was made or the contract was entered into, and continuously throughout the work period.~~

- b. ~~The contractor against whom the claim is filed will be considered registered/licensed if that person was registered/licensed during all or part of the work period or if any invoices or payroll records involve material deliveries or equipment rentals while that person was registered/licensed.~~
- c. ~~The registration/licensing requirement for claimants does not apply to persons who are exempt from the Board's registration/licensing requirements.~~
- d. ~~Assessed damages will only consider those items delivered or rented during the contractor's period of registration/licensure.~~

1.5.4 Board Procedures for Processing Claims

A. Processing General Claims

1. ~~The Board will first determine whether the submitted claim is complete and meets the Board's requirements for acceptability based on timeliness, jurisdiction and scope.~~
2. ~~The Board staff will provide a copy of the claim filed to the person(s) against whom the claim is filed, and to legal counsel if an entry of appearance or representation has been provided to the Board.~~
3. ~~The Board will investigate the claim. The Board reserves the right to inspect the property subject to the claim; if the claimant refuses access to the property, the Board may dismiss the claim.~~
4. ~~The Board staff may request information and documentation from the respondent related to the claim and the respondent's registration/license, including but not limited to contracts, subcontractors, education courses, insurance, or other issues.~~
5. ~~If a claim brought by a property owner is received while the Board is processing a claim involving the same property, the claims will be processed together or joined if possible.~~
6. ~~If, during the investigative process, the Board staff determines that a respondent has likely breached a contract or performed negligent work, the Board staff may recommend a resolution consistent with the terms of the contract or with generally accepted building and industry standards.~~
7. ~~The Board staff may propose a settlement to resolve any claim during the investigative process. If the parties involved sign a settlement agreement, the agreement shall be binding unless breached by either party. The Board may close the claim whenever:~~

- a. ~~The claimant notifies the Board that the terms of the settlement agreement have been fulfilled; or~~
 - b. ~~The claimant fails to notify the Board in writing, and within thirty (30) days of the agreed upon completion date shown in the settlement, that the terms have not been fulfilled.~~
8. ~~The Board reserves the right to hold funds in escrow for either party until it is determined, to the Board's satisfaction, that the claim has been resolved. The Board may close the claim if either party refuses to allow the Board to hold disputed funds in escrow.~~
9. ~~The claimant may proceed to the administrative hearing process and may seek monetary damages whenever:~~
- a. ~~The claim has not been resolved, disposed and/or dismissed during the investigative process;~~
 - b. ~~The claimant or the respondent does not agree with the settlement proposed by the Board staff; or~~
 - c. ~~The respondent does not fulfill the terms of the settlement agreement through no fault of the claimant, and the claimant notifies the Board in writing within thirty (30) days of the agreed upon completion date.~~

~~B. Processing Claims based on Contracts with Arbitration Agreements~~

1. ~~If a claim is received that is based upon a valid contract that contains an agreement by the parties to arbitrate disputes arising out of the contract, the specific terms of the arbitration agreement supersede the Board's regulations. The Board may take the following action:~~
- a. ~~Inform the claimant that the Board will accept the claim for processing only if both parties agree to waive arbitration. The necessary waiver must be written, signed, and received by the Board in person or by mail within thirty (30) days (or within the time period specified in the contract for the commencement of arbitration, whichever is later) of the date the Board notifies the parties that a waiver is required.~~
 - b. ~~If the Board does not receive a waiver of arbitration from the claimant, the claim will be closed and will not be reopened.~~
 - c. ~~If the respondent does not waive arbitration as set forth in the contract, the Board will allow the respondent the remaining time to commence arbitration. If the respondent fails to submit evidence to the Board that arbitration has been commenced within the thirty~~

~~(30) days or the time period specified by the contract (whichever is later), the Board will resume processing the claim.~~

~~d. If arbitration is commenced, the Board will discontinue processing the claim until the arbitration is completed. Once the arbitrator renders a decision, that decision shall be binding upon the participants and neither party may file a claim for damages with the Board. The parties may petition the Board, within ninety (90) days of the arbitrator's decision, to take action on the registration/license of the respondent.~~

~~C. Processing Mechanics' Lien Claims~~

~~1. Upon acceptance of a mechanics' lien claim, the Board shall send a copy of the claim to the contractor/respondent and shall initiate an investigation to determine the validity of the claim.~~

~~2. An investigation by the Board will include:~~

~~a. A determination of whether the claimant paid the contractor/respondent for work performed, materials supplied or equipment rented and whether the contractor/respondent failed to pay the subcontractor, or material or equipment supplier, thereby causing a lien to be filed against the claimant's property; and~~

~~b. A determination of whether the lienor filed the lien with the recording officer of the city or town; and~~

~~c. A determination that the party was properly notified and noticed pursuant to the mechanics' lien law.~~

~~3. If the contractor/respondent contends that payment has been made to the lienor, either directly or by the return of goods constituting a credit to the account of the registrant/licensee, the contractor/respondent may subpoena the lienor and pertinent records to any hearing held by the Board.~~

~~4. If at any time prior to the issuance of a final order the Board determines that the lien is unenforceable or invalid, the Board may proceed with the determination of the mechanics' lien claim.~~

~~5. Claims may include attorney fees, court costs, interest and/or service charges if these items are included as part of the mechanics' lien or incurred as costs in discharging the lien. Awards to owners for costs in discharging the lien shall not exceed the amount of the lien. The Board may reduce the amount awarded to the claimant by:~~

~~a. Any amount the claimant owes the contractor/respondent; or~~

- ~~b. Any amount included for tools or equipment not fabricated into the structure.~~
- ~~6. If a claimant files two (2) or more claims against a contractor/respondent relating to work performed under the same contract(s) and if the claimant has not paid the contractor/respondent the full amount of the contract, the amount awarded on each claim will be reduced on a prorated basis. No proposed or final order shall be issued on any claim until all claims involving the two parties filed within the same ninety (90) day period are ready for such order.~~
- ~~7. If the Board learns that an action to enforce a lien that is the subject of a claim has been filed, the Board may send notice to the claimant that:
 - ~~a. The claimant has the right to request a stay of the proceedings until the Board processing of the claim is complete;~~
 - ~~b. The Board will hold the claim open for sixty (60) days from the date of the notice to allow the claimant to obtain a stay;~~
 - ~~c. The Board will close the claim if evidence is not received within sixty (60) days from the date of the notice that a stay has been obtained; and~~
 - ~~d. Upon timely receipt of evidence that a stay has been obtained, the Board will resume processing the claim.~~~~
- ~~8. If a mechanics' lien claim involves the same facts and issues as any other open claim, the Board shall process the claims together, if feasible.~~
- ~~9. If the Board awards monetary damages to the owner to discharge a lien, the Board may reduce the amount awarded related claims by the amount of the award in the mechanics' lien claim.~~

1.5.5 The Board's Right to Refuse and/or Dismiss Claims

- ~~A. The Board may, in its sole discretion, refuse to accept or at any time refuse to continue processing a claim if:
 - ~~1. The claim involves a contract that is administered, reviewed, and inspected by a local, state, or federal agency when disbursement or administration of the contract sum is contingent upon the approval of that agency;~~
 - ~~2. The claimant fails to respond to the Board's written requests for information or documentation within a time period specified by the Board;~~~~

- ~~3. If the claimant does not allow access to the property for investigation purposes;~~
- ~~4. The Board determines that the nature or complexity of the issues presented are better suited for court or an alternate forum;~~
- ~~5. The same issues involved in the claim have been submitted by either party to a court, arbitration, or other forum authorized by law to affect a resolution prior to the administrative hearing;~~
- ~~6. The facts and issues of the claim are substantially the same as those in a claim previously filed by the same claimant, unless the claim concerns a repair previously ordered by the Board;~~
- ~~7. The Board determines that the person against whom the claim is filed is capable of complying with the recommendations made by the Board relative to the claim, but the claimant does not permit the respondent to comply with those recommendations; or~~
- ~~8. The Board determines that the value of the damages due to the claimant is less than that owed to the respondent under the terms of the contract.~~

~~1.5.6 Administrative Hearings~~

~~A. Administrative hearings are held before the Board's hearing officer or a hearing officer appointed by the Executive Director. Such hearings are recorded and are conducted in accordance with R.I. Gen. Laws § 42-35-1 et seq., and as delineated herein.~~

~~B. Notice of Hearing~~

- ~~1. Unless otherwise agreed to by the Board and the parties, the Board shall schedule administrative hearings before a hearing officer no sooner than twenty (20) calendar days from the date the parties are notified of the hearing.~~
- ~~2. The Board will issue a notice of hearing inclusive of the time, date and location of the scheduled hearing, and identify what claims, disciplinary actions, and/or fines are lodged against the respondent.~~
- ~~3. Notice of hearing will be sent to the address of record, agent of service, attorney of record and/or the last known address of the respondent. An address trace may be conducted to locate a respondent.~~

~~C. Hearing Postponements~~

- ~~1. A party's written request for a postponement of a hearing may be granted by the Board's Executive Director if:~~

- a. ~~The request is promptly made after the party receives the notice of hearing and is within the original twenty (20) day hearing notice period; and~~
- b. ~~The party has just cause for not attending the hearing at the time and date set. For the purposes of this section, just cause exists when:
 - (1) ~~The circumstances requiring the postponement are beyond the reasonable control of the requesting party; and~~
 - (2) ~~Failure to grant the postponement would result in undue hardship to the requesting party.~~~~
- c. ~~The party requesting the postponement is able to supply verifiable proof of the just cause/ need for postponement.~~

~~D. Failure to Appear at Hearing~~

1. ~~Claimant Fails to Appear: If the claimant, after being properly served notice of the hearing in accordance with these rules, fails to appear at a hearing, the Board will dismiss the claim unless it finds that failure to appear was caused by circumstances outside the control of the claimant.~~
2. ~~Respondent/Registrant/Licensee Fails to Appear: If the respondent, after being properly served notice of a hearing in accordance with these rules, fails to appear at a hearing, the Board will issue a default proposed order based upon the claimant's representation of a prima facie case, unless it finds that failure to appear was caused by circumstances outside the control of the respondent. At the discretion of the Executive Director, a new administrative hearing may be scheduled, if cause is beyond the control of the respondent, or the matter may be appealed to the Board within twenty (20) days of issuance date of the proposed default order.~~

~~E. Board Representation by Officer, Staff or Employee~~

1. ~~Board staff, investigators, and employees may present information or argument on behalf of the Board in compliance and claim hearings.~~
2. ~~When Board officers or employees represent the Board in a hearing, the presiding hearing officer shall advise such representative of the procedure in which objections may be made and matters preserved for appeal.~~
3. ~~Where a claim or compliance hearing may involve legal argument, the presiding hearing officer shall provide reasonable opportunity for Board officers or employees to consult legal counsel and permit legal counsel to file written legal argument within a reasonable time after conclusion of the hearing.~~

~~F. Claim Hearing Procedures~~

- ~~1. Both parties present at the hearing will be asked to sign a waiver of jury trial form, thereby waiving their right to bring the dispute before a jury. If both parties sign the waiver form, the hearing officer has the ability to award monetary damages if appropriate. If only the claimant is present and signs a jury trial waiver form, but the respondent fails to appear at the hearing, monetary damages may be awarded if appropriate. If either party refuses to sign the jury waiver form, thereby preserving that party's right to a jury trial, the hearing officer may not award monetary damages, but may order a deposit returned if a deposit is paid and no work was performed.~~
- ~~2. At the administrative hearing:
 - ~~a. The claimant:
 - ~~(1) Shall submit substantiating evidence to support the allegations of the claim;~~
 - ~~(2) Shall seek remedies for only those items shown on the statement of claim form;~~
 - ~~(3) May be required to submit multiple estimates for the cost of correcting the issues/items shown on the statement of claim form. Estimates must be obtained from a registered/licensed contractor if the work to be conducted requires a license or registration; and~~
 - ~~(4) Must prove that damages have occurred, that those damages have been caused by the registrant/licensee or a person required to be registered/licensed, and the monetary value of those damages. If the claimant fails to carry this burden of proof, the Board may dismiss the claim;~~~~
 - ~~b. The respondent must provide evidence refuting the allegations in the claim form;~~
 - ~~c. The claimant and/or respondent may challenge evidence submitted, offer evidence to disprove or refute the Board's investigative report, and/or retain experts to testify on their behalf; and~~
 - ~~d. The hearing officer and/or Board may address and impose fines for additional violations or matters based on the evidence presented. If parties refute such additional violations, or wish to provide additional evidence to refute such violations, a continuance may be requested.~~~~

3. ~~Using evidence received at the hearing, the hearing officer will issue a proposed order based upon findings of fact and conclusions of law. The proposed order may:
 - a. ~~order the respondent to pay monetary damages to the claimant;~~
 - b. ~~order the claimant to pay the respondent;~~
 - c. ~~require the contractor to repair certain work;~~
 - d. ~~order a combination of monetary damages and repair work;~~
 - e. ~~dismiss the claim; and/or~~
 - f. ~~impose fines for statutory violations and/or violations of these Rules and Regulations.~~~~
4. ~~The hearing officer may consider any amounts due and unpaid to the respondent from the claimant under the terms of the contract and may reduce any proposed award by that amount.~~
5. ~~The hearing officer or the Board may issue an order for damages in an amount greater than the amount claimed due at the hearing, and may impose fines up to the value of the contract or the actual damages caused by the contractor. A monetary award may be determined by the contract balance or by repair work costs at the hearing officer's discretion. A monetary amount, where appropriate, may be awarded for attorney fees, interest, or other administrative costs.~~
6. ~~If no appeal or exceptions to the proposed order have been received by the Board within twenty (20) days of the mailing of the proposed order, a final order will issue.~~

~~1.5.7 Exceptions (Appeals) to Board Orders~~

- A. ~~Right to File Written Exceptions to a Proposed Order: A claimant or respondent may file written exceptions to a proposed order if he/she believes that the hearing officer has made a procedural error, that the proposed order is not supported by evidence received at the administrative hearing, or for other legal or procedural reasons.~~
- B. ~~Time Frame and Requirements for Filing Appeal Exceptions: To be considered, exceptions to a proposed order must be submitted on the form prescribed by the Board, and must be received by the Board within twenty (20) days of the date of mailing of the proposed order, accompanied by a non-refundable twenty-dollar (\$20.00) processing fee.~~

1. ~~If exceptions are not timely received, or payment is not provided, a Board meeting hearing will not be scheduled and the Board may proceed to issue a final order.~~
 2. ~~If exceptions are timely received, the matter will be scheduled for consideration by a quorum of the members of the full Board at the next regular meeting for which agenda space is available.~~
- ~~C. Notice of Hearing: Notice of the time, date, and place of the Board meeting hearing will be mailed to the parties along with copies of the exceptions that were filed. Response to and any written argument for or against the proposed order will be accepted up to the Board meeting hearing date.~~
- ~~D. Attorney Entry of Appearance: The claimant, respondent, and/or their attorney(s) may appear at the Board meeting hearing to argue for or against the proposed order. Attorney(s) must file entries of appearance with the Board prior to appearing before the Board. Oral argument will be permitted only if the exceptions were timely received.~~
- ~~E. Board Consideration of Exceptions: At the Board meeting hearing, the Board will consider evidence received at the underlying hearing, the written exceptions, and written or oral argument for or against the proposed order. The Board will not consider new or additional evidence. The Board has the right to limit the time allowed to each party for oral argument during the meeting hearing.~~
- ~~F. Decision of the Board: The members of the Board may affirm the proposed order and findings of fact, modify either or both, remand the case for a new hearing or a hearing/clarification on specific matter, or dismiss the claim. A final order will be issued after the Board meeting hearing unless the matter is continued, remanded or dismissed. The Board may also revoke/suspend or take action on the registration/license of the respondent.~~
- ~~G. Final Order of the Board: After the Board has rendered its decision, a final order will be issued and be mailed to the parties' last known addresses, and the respondent (and/or agent of service) will be served in-hand with a copy of the final order. Any monetary award and/or civil penalty/fines assessed against the respondent in a final order are due and payable on the issuance date of the final order, or as otherwise agreed to by the parties and the Board. The Board may initiate its own collection proceedings and actions pursuant to applicable law. Interest may be assessed on the amount due in the final order in accordance with applicable law.~~
- ~~H. Administrative Appeal: Either party may appeal a final order to the Superior Court pursuant to R.I. Gen. Laws § 42-35-1 et seq.~~

~~1.5.8 Administrative Appeals~~

- ~~A. In accordance with R.I. Gen. Laws § 42-35-1 et seq.:~~

1. ~~final orders issued by the Board may be appealed by either party. The appeal must be filed with the Superior Court within thirty (30) days after notice of the final order is mailed by the Board; and~~
2. ~~The appealing party must request from the Board and pay for the underlying agency record within thirty (30) days after the service of the complaint on the Board. It is also the responsibility of the appealing party to pay for and obtain any transcripts of hearings that may need to be included in the record.~~

~~1.5.9 Court Judgements/Arbitration Awards~~

- A. ~~If a matter is adjudicated in an alternate forum in lieu of the Board's claim process, a related court judgment or arbitration award may provide the basis for the Board to take regulatory action against registrant/licensee, which could result in the imposition of fines and penalties in accordance with these rules and regulations.~~
- B. ~~A judgment/award must be provided to the Board within ninety (90) days of entry in its original forum. Upon receipt of a timely filed court judgment/arbitration award, the Board may issue a notice of hearing and schedule an administrative hearing to take action against the registrant/licensee, utilizing the judgment/award as the basis for such action.~~

~~1.5.10 Bankruptcy/Receivership~~

- A. ~~If a respondent/registrator/licensee files for bankruptcy or receivership, the Board must be notified in writing by the registrant/licensee and kept informed of the status of the bankruptcy/receivership case until dismissed, discharged, or resolved in court. Notice of bankruptcy/receivership may stay Board proceedings until the bankruptcy/receivership case has been discharged, closed, or otherwise resolved or dismissed.~~
- B. ~~Civil fines imposed by the Board are non-dischargeable in bankruptcy. The Board, at its discretion, may alter or reduce the amount of fines in efforts to resolve claims.~~

~~1.5.11 Criminal Prosecution~~

- ~~Once all appeal rights have been extinguished, if a respondent fails to comply with a final order, the Board may refer the case to the Office of the Attorney General to be criminally prosecuted.~~

~~1.6 Violations and Penalties~~

~~1.6.1 General~~

~~A. The Board has the authority to assess and impose civil penalties for violations of R.I. Gen. Laws Chapters 5-65, 5-65.3, 5-73, 5-65.1, 5-65.2 and the corresponding Chapters of this Title. The Board has discretion to impose fines and civil penalties for violations of the General Laws and Sections of the Rules and Regulations as follows:~~

~~First Offense: up to \$5,000~~

~~Second and Subsequent Offenses: up to \$10,000~~

~~B. The Board also has discretion to adjust fines to resolve violations and claims, and pursuant to R.I. Gen. Laws §§ 5-65-10(k)(1) and 5-65.3-12(5), may place a lien on property held by a registrant/licensee.~~

~~C. The Board may also immediately suspend or revoke any registration or license for just cause when the registrant/licensee is acting to the detriment of the health, welfare and safety of the general public. Under this provision revocation and suspension may be extended beyond the initial thirty (30) days after the opportunity for an administrative hearing has occurred.~~

~~1.6.2 Considerations for Assessing Fines~~

~~A. In determining the amount of any penalty or fine to be assessed, the Board may consider factors including, but not limited to, the following:~~

- ~~1. The circumstances leading to or causing the violation;~~
- ~~2. The severity of the violation and the risk of harm to the claimant and/or public;~~
- ~~3. The Board's record of the respondent, including prior claims and violations;~~
- ~~4. Whether the amount imposed will be a substantial deterrent to the violator;~~
- ~~5. The economic benefits gained by the violator as a result of non-compliance;~~
- ~~6. The interest of the public;~~
- ~~7. Willfulness of the violation; and~~
- ~~8. The extent to which the respondent has sought to compensate the victim(s) of the violation(s) and/or remedy the issue.~~

~~1.6.3 Schedule of Violations~~

~~A. The Board may impose civil penalties and fines for statutory and regulatory violations, including but not limited to the following:~~

~~1. Non-Registered Contractor~~

~~a. A person may not conduct contracting activities while unregistered, or work with a revoked, suspended, or invalid registration, in violation of R.I. Gen. Laws § 5-65-3.~~

~~2. Non-Licensed Underground Utility Contractor~~

~~a. A person may not conduct activities of an underground utility contractor while unlicensed, or work with a revoked, suspended, or invalid license, in violation R.I. Gen. Laws § 5-65.3-3.~~

~~3. Non-Licensed Commercial Roofing Contractor~~

~~a. A person may not conduct activities of a commercial roofing contractor while unlicensed, or work with a revoked, suspended or invalid license, in violation of R.I. Gen. Laws § 5-73-3.~~

~~4. Non-Licensed Home Inspector or Non-Licensed Associate Home Inspector~~

~~a. A person may not conduct activities of a home inspector or associate home inspector while not licensed, or perform home inspections with a revoked, suspended or invalid license, in violation of R.I. Gen. Laws §§ 5-65.1-7(a) and 5-65.1-12.~~

~~5. Hiring Non-Registered/Non-Licensed Subcontractor~~

~~a. A person may not hire a non-registered or non-licensed subcontractor in violation R.I. Gen. Laws §§ 5-65-3(j) and 5-73-3(d)(3).~~

~~6. Failure to Provide List of Registration or License Numbers~~

~~a. Failure to provide list of registration or license numbers of contractors or subcontractors in violation of R.I. Gen. Laws §§ 5-65-3(h), 5-73-3(d)(3), 5-65-10(a)(1), and/or 5-65.3-12(5) may be subject to a fine of twenty five dollars (\$25.00) per offense.~~

~~7. Advertising and Mandatory Disclosure Violations~~

~~a. A registrant/licensee is required to include his or her registration/license number on any form of advertising, including but not limited to electronic, print, business cards, vehicles, radio, television, contracts, invoices, and proposals, in accordance with~~

~~R.I. Gen. Laws §§ 5-65-3(l), 5-65-22, 5-65.1-6(b), 5-65.3-12(5), and 5-73-3(d)(3).~~

~~8. Failure to List Business Names/ Fictitious Names~~

- ~~a. A person must provide to the Board any and all business names, aliases or fictitious names under which business as registrant/licensee is conducted. A registration/license is necessary for each named business entity regardless of the fact that each entity may be owned by the same individual.~~

~~9. Lapse or Revocation of Corporate Status~~

- ~~a. The Board may issue a violation and impose fines for a lapse in or revocation of a corporation, limited liability company, limited partnership, joint venture, or trust status with the Rhode Island Secretary of State's Office.~~

~~10. Fraudulent Use of Registration/License~~

- ~~a. Any person, whether registered/licensed with the Board or not, may not use another person's registration/license or identification card/certificate, alter a registration/license card/certificate, or allow another person to use his/her registration/license fraudulently in any way, in violation of R.I. Gen. Laws §§ 5-65-10(h), 5-65.1-11(a)(6), 5-65.3-12(3), and/or 5-73-3(d)(3).~~
- ~~b. No person shall register, become licensed or seek a registration or license with the Board for the purpose of deceiving or circumventing the registration/license process by enabling an individual whose registration/license has been suspended or revoked to conduct business in violation of R.I. Gen. Laws §§ 5-65-10(l), 5-65-10(h), 5-65.1-11(a)(17), 5-65.3-12(3), and/or 5-73-3(d)(3). In addition to the imposition of fines, this infraction will result in the immediate revocation of the registration/license deemed to be fraudulent.~~

~~11. Falsified Documents~~

- ~~a. No person shall falsify any documents.~~

~~12. Failure to Maintain Required Insurance and/or Bond~~

- ~~a. A registrant/licensee must maintain the insurance required by R.I. Gen. Laws §§ 5-65-7, 5-65-7.1, 5-65.1-10, 5-65.3-9, and/or 5-73-3(c)(7), and/or maintain the bond and/or bonding capacity as required by R.I. Gen. Laws §§ 5-65.3-10 and/or 5-73-3(c)(6), continuously and until the registration/ license is terminated,~~

~~revoked, or expired. Fines may be imposed if the Board receives notice from an insurance or bonding company that the insurance policy or bonding capacity of a registrant/licensee has been cancelled, lapsed, or not renewed.~~

- ~~b. If a registrant/licensee fails to maintain the required insurance and/or bonding, and during that period causes damage to another entity or to the property of another person for which that entity could have been compensated by insurance and/or bond, the Board may assess a civil penalty.~~
- ~~c. Registrants/Licensees with lapsed or no insurance coverage or bonding capacity will be considered non-registered/non-licensed and may be subject to penalties for operating without a registration/license. The registrant/licensee may not be fined if:
 - ~~(1) sufficient evidence is provided to the Board that timely payment to the insurance/bonding carrier was received;~~
 - ~~(2) that a new policy was obtained;~~
 - ~~(3) that no lapse occurred; or~~
 - ~~(4) that the registrant/licensee intends to surrender the registration/license permanently.~~~~
- ~~d. If a surrendered registration/license is reinstated, any insurance/bonding penalties that were previously issued will remain outstanding. If no such proof of coverage or change of policy is received by the Board within thirty (30) days of the notice from the insurance/bonding carrier to the Board of the policy's cancellation, lapse, or non-renewal, fines may be imposed.~~

~~13. Failure to Complete Education Courses~~

- ~~a. Failure to complete the required education courses while performing work in a respective discipline may result in suspension of registration/license and imposition of a fine.~~

~~14. Failure to Have Written Contract for Contracts Over One Thousand Dollars (\$1,000.00)~~

- ~~a. A residential contractor performing work in excess of one thousand dollars (\$1,000.00), including labor and materials, must be accompanied by a contract in writing in accordance with R.I. Gen. Laws § 5-65-3(e). Failure to have a written contract for amounts more than one thousand dollars (\$1,000.00) may result in the imposition of a fines.~~

~~15. Failure to Obtain Permits~~

- ~~a. Registrants/licensees must see that permits required by the state building code or the local municipality are secured prior to commencing the work involved, pursuant to R.I. Gen. Laws §§ 5-65-3-12(a)(5), 5-65-10(a)(1), and 5-65-3(m). Failure to secure permits as required may result in the imposition of a fine.~~

~~16. Violations based on Claims~~

- ~~a. When adjudicating a claim pursuant to the Board's claim process, in addition to monetary awards and other remedies, the Board may also impose fines in the amount up to the value of the contract or the value of the actual damages, pursuant to R.I. Gen. Laws § 5-65-10(c)(2). Such fines may be reduced at the Board's discretion upon completion of work or other fulfillment of the Board's order.~~

~~1.6.4 Board Procedure for Issuing/Processing Violations~~

~~A. Tickets/Violations: Investigative and Board staff members may issue tickets and/or violations to registrants/licensees or those required to be registered/licensed with the Board, for violations of each discipline's respective statutory chapter and these rules and regulations. Upon receiving a ticket or violation, a respondent may request a hearing.~~

~~B. Basis for Issuing Violations/Fines: The Board may issue violations and impose fines against those registered/licensed with the Board or those required to be registered/licensed with the Board, based on, but not limited to, the following:~~

- ~~1. Court judgment;~~
- ~~2. Claims;~~
- ~~3. Disciplinary action;~~
- ~~4. Lack of insurance policy/coverage;~~
- ~~5. Lack of workers' compensation coverage;~~
- ~~6. Lack of minimum bond or proof of bonding capacity;~~
- ~~7. Improper advertising;~~
- ~~8. Hiring non-registered/non-licensed contractor(s) or subcontractor(s);~~
- ~~9. No registration/license number on contract;~~
- ~~10. No registration/license number in advertisement;~~

- ~~11. No mechanics' lien release form/notice provided in contract;~~
 - ~~12. No right of rescission clause;~~
 - ~~13. Action filed by entity such as building official, municipality, other agency, etc.;~~
 - ~~14. Failure to list employee(s);~~
 - ~~15. Violation of State Building Code;~~
 - ~~16. Violation of rule, regulation or order of the Board;~~
 - ~~17. Working under an invalid, revoked, or suspended registration/license;~~
 - ~~18. Registrant/licensee engaged in conduct dishonest or fraudulent conduct;~~
 - ~~19. Working under another person's registration/license number;~~
 - ~~20. Lien filed whereby registrant/licensee wrongfully failed to perform a contractual duty to pay person claiming lien;~~
 - ~~21. Registrant/licensee made false statements on application or to investigative staff;~~
 - ~~22. Engaged in any act, conduct, or practice which violates this chapter;~~
 - ~~23. Failure to provide list of sub-contractors or employees;~~
 - ~~24. Failure to comply with the disclosure requirements;~~
 - ~~25. Failure to comply with the educational requirements.~~
- ~~C. Notice of Intent to Assess Civil Penalty: If the Board proposes to assess a civil penalty for a ticket/violation, it shall issue to the respondent a "Notice of Intent to Assess a Civil Penalty and Opportunity for Hearing — Proposed Order."~~
- ~~D. Time Frame for Requesting Hearing: The respondent must request a hearing in writing to the Board within twenty (20) days of the date of mailing or issuance of Notice of Intent to Assess Civil Penalty.~~
- ~~1. If the Board does not receive a written request for an administrative hearing within twenty (20) days of the date of mailing the Notice of Intent to Assess a Civil Penalty and Opportunity for Hearing — Proposed Order, the Board will issue a final order. Final orders may be appealed to the Board.~~

2. ~~If the Board timely receives a written request for a hearing, the Board will schedule an administrative hearing to review the matter in accordance with the procedure outlined below.~~
- E. ~~Notice of Hearing: A notice of administrative hearing shall contain the date, time, and location of the hearing, the violations to be heard, and the amount or potential amount of the civil penalties/violations proposed by the Board. At the hearing or on appeal, the hearing officer and/or Board may address and impose fines for additional violations or matters based on the evidence presented. If the parties dispute such additional violations, a continuance may be requested.~~
- F. ~~Administrative Hearing: Administrative hearings may be held before a hearing officer of the Board or one assigned by the Executive Director.~~
1. ~~If an attorney is representing a party, he/she must file an entry of appearance with the Board prior to hearing.~~
 2. ~~Supporting evidence of a violation may be entered into the record by the hearing officer, or by another representative of the Board.~~
 3. ~~If respondent fails to appear at the hearing, the Board must nevertheless present a prima facie case of the violation.~~
 4. ~~The respondent may present evidence to refute the allegations.~~
- G. ~~Proposed Order: Based on evidence received at the hearing, the hearing officer will prepare findings of fact and conclusions of law. After the hearing, the hearing officer will issue a proposed order assessing civil penalties/fines, requiring other disciplinary measures, or dismissing the matter. Proposed orders are mailed to the respondent's last known address on file with the Board.~~
- H. ~~Exceptions to Proposed Order/ Time Frame to File: If the respondent does not believe the proposed order is supported by the evidence received at the hearing, the respondent may file written exceptions with the Board on the proper form and accompanied by a twenty-dollar (\$20.00) fee within twenty (20) days of the date of mailing of the proposed order.~~
1. ~~If written exceptions are not timely received, the Board may issue a final order as proposed. Final orders may be appealed to Superior Court accordance with R.I. Gen. Laws § 42-35-1 et seq.~~
 2. ~~If exceptions are timely received, the matter will be set for consideration by the members of the full Board at the next regularly scheduled meeting for which agenda space is available.~~
 3. ~~Attorney representing the respondent must submit an entry of appearance with the Board prior to the hearing before the Board.~~

4. ~~Written argument in opposition to the proposed order will be accepted before the Board meeting date if the original exceptions were timely filed and proper fee was paid.~~
- I. ~~Board Consideration of Exceptions: At the Board meeting, members of the full Board will consider evidence received at the underlying hearing, timely filed exceptions, and written and/or oral argument relative to the proposed order. Time allowed for oral argument may be limited by the Board. The Board will not consider new or additional evidence. The Board may allow the Board staff investigator to report on his/her investigative findings. After consideration of evidence and argument, the Board may affirm the proposed order and findings of fact, modify either or both, dismiss the case, or remand the case for a new hearing or hearing on a particular item. The Board will issue a final order after the Board meeting unless the case is remanded for a new hearing. If a registrant/licensee has outstanding violations with the Board, the Board may take action on the registration/license, including the suspension, invalidation, or revocation.~~
- J. ~~Final Order of the Board: After the Board has rendered its decision and a final order is issued, the Board will mail the final order to the parties at last known addresses and will serve a copy of the final order in hand on the respondent and/or the respondent's agent of service. The civil penalty/fine assessed against the respondent in a final order is due and payable on the issuance date of the final order or as agreed to by the parties and the Board. The Board may initiate its own collection proceedings and actions as allowed by law. Interest may be assessed on the amount due in the final order according to state law.~~
- K. ~~Action on Registration/License and Criminal Prosecution: The Board may revoke or suspend the license of any respondent that fails to pay a civil penalty/fine which has become due and payable. The Board may also refer the matter to the Rhode Island Office of the Attorney General for criminal prosecution if the respondent has failed to comply with a final order of the Board, pursuant to R.I. Gen. Laws § 5-65-19.~~
- L. ~~Administrative Appeal: A party has the right to appeal the final order of the Board to the Superior Court in accordance with R.I. Gen. Laws § 42-35-1 et seq.~~

~~1.7 Education~~

~~1.7.1 Scope~~

~~The Board adopts by rule the following education standards and requirements for persons registered/licensed with the Board. The Board may have third-party vendors or providers assist in the management of educational programs. A listing of Board-approved courses is available on the Board's website at www.crb.ri.gov.~~

~~1.7.2 Specifications~~

- A. ~~As a condition of holding a valid registration/license issued by the Board, the registrant/licensee must comply with the educational requirements specified for that discipline.~~
- B. ~~If the registrant/licensee holds another registration/license issued by the Board, educational credits obtained for the first registration/license may be used to satisfy the education requirements for a secondary registration/license held by the same person. The registrant/licensee will be required to provide proof of completion of the education credits from Board-approved courses.~~
- C. ~~Documentation of all credit hours must be submitted to the Board at the time of application for or renewal of a registration/license, provided either directly from the Board-approved third-party provider/vendor or by the registrant/licensee.~~
- D. ~~One (1) credit hour of education is equal to fifty (50) minutes of instruction from a Board-approved provider.~~

1.7.3 Qualifying Education

- A. ~~Each registrant/licensee must obtain his/her pre- and/or continuing education credits through a Board-approved provider. Courses must pertain to the subject matter of the discipline for which the person holds the registration/license. Subject matter not acceptable for pre- or continuing education credit includes, but is not limited to:
 - 1. ~~Mechanical office and business skills such as typing, speed reading or memory improvement;~~
 - 2. ~~Physical well-being or personal development, such as motivation, stress management, time management, dress for success; and~~
 - 3. ~~Meetings held in conjunction with the general business of the registrant/licensee.~~~~

1.7.4 Course Materials and Fees

- ~~Each applicant/registant/licensee shall be responsible for paying for all course-related fees and acquiring any course materials used in any pre- or continuing education course. This requirement may include the acquisition of a current publication of codes and/or standards or rules that may be applicable to the applicant/registant/licensee's discipline.~~

1.7.5 Proof of Educational Course Completion/Compliance

- A. ~~The applicant/registant/licensee is responsible for demonstrating compliance with and completion of the pre- and continuing education requirements. Irrespective of any transcript that may be issued directly to the Board by a vendor, provider or instructor, an original certificate issued by the vendor,~~

~~provider or instructor to the registrant/licensee shall serve as conclusive evidence of course completion.~~

- ~~B. The applicant/registrant/licensee is required to provide a photocopy of the original course completion documents to the Board for both initial registration/licensure and renewal of registration/licensure purposes.~~
- ~~C. The applicant/registrant/licensee must retain the original documents for his/her current registration period and for three (3) years following the completion of the course(s), as proof of course completion. Course certificates shall include:
 - ~~1. the name, date, and identifying number of the course;~~
 - ~~2. the number of credit hours completed;~~
 - ~~3. the contact information of the provider and the instructor;~~
 - ~~4. any accreditation information; and~~
 - ~~5. the signature of the instructor.~~~~
- ~~D. The registrant/licensee must ensure that their name and registration/license number are clearly printed on the course certificate.~~
- ~~E. Providers, vendors and instructors must keep copies of all proof of completion documents issued to registrants/licensees for three (3) years following the completion of the course(s).~~

~~1.7.6 Requirements~~

~~A. Contractors' Registration~~

~~1. Pre-registration Education Requirement~~

~~a. As a condition of initial registration, each applicant for a contractors' registration must provide the Board with proof of completion of five (5) credit hours of education prior to obtaining a registration. The five (5) hours of pre-registration credits must be completed within twenty-four (24) months prior to applying for a registration, and must have been completed at an in-person course, not an online course. To fulfill the five (5) pre-registration credit hours, the applicant must complete in person:~~

- ~~(1) One (1) credit hour of Board-approved education covering Construction Codes and Standards;~~
- ~~(2) One (1) credit hour of Board-approved education covering Contracts;~~

- ~~(3) — One (1) credit hour of Board-approved education covering Workplace Safety;~~
- ~~(4) — One (1) credit hour of Board-approved education covering Business Principles and Practices; and~~
- ~~(5) — One (1) credit hour of Board-approved education related to the practice of construction or other topics related to the applicant's business, including but not limited to: land use, development, planning and zoning, resource conservation or estimating.~~

~~b. — An applicant who has graduated from an accredited technical or vocational high school or college within the prior twenty-four (24) months may submit evidence to the Board that the courses completed are sufficient to satisfy the pre-registration education requirements. The applicant must submit an original transcript listing construction-related courses completed, details regarding the school's accreditation information, and contact information for the registrar. It is within the Board's discretion whether to allow the prior schooling to qualify as pre-registration education credit.~~

~~2. — Continuing Education~~

~~a. — After the initial pre-registration education requirements are completed, the registrant must complete five (5) credit hours of continuing education courses during the two (2)-year registration period prior to renewal to maintain his/her registration pursuant to R.I. Gen. Laws § 5-65-5(e). To fulfill the continuing education requirements, registrants must complete five (5) credit hours of Board-approved courses related to the practices of construction or other topics related to the nature of the registrant's business.~~

~~3. — Exemptions~~

~~a. — Contractors engaging in only commercial contracting work shall be exempted from the pre- and continuing education requirements outlined in this section.~~

~~B. — Commercial Roofing Contractors' License~~

~~1. — Continuing Education Requirements~~

~~a. — In accordance with R.I. Gen. Laws § 5-73-3(c)(5), as a condition of renewal of licensure, each applicant must provide the Board with proof of completion of ten (10) continuing education credits per year, equal to twenty (20) continuing education credits per two (2)-year licensing cycle.~~

- b. ~~There are no pre-licensure education requirements to obtain a Commercial Roofing Contractors' license.~~

~~C. Home Inspectors' and Associate Home Inspectors' License~~

~~1. Continuing Education Requirements~~

- a. ~~As a condition of renewal of licensure, each applicant for a Home Inspectors' License must provide the Board with proof of completion of ten (10) credit hours of continuing education courses during the two-year licensing cycle. At least one (1) credit hour within each renewal cycle shall be dedicated to professional ethics, and two (2) credit hours within each renewal cycle shall be dedicated to standards of practice.~~
- b. ~~As a condition of licensure as an Associate Home Inspector, the applicant/licensee is required to complete the above-specified continuing education requirements within the first renewal cycle.~~
- c. ~~There are no pre-licensure education credit requirements to obtain a license as a Home Inspector or Associate Home Inspector.~~

~~D. Underground Utility Contractors' License:~~

~~1. Education Requirements~~

- a. ~~In accordance with R.I. Gen. Laws § 5-65.3-1 et seq., there are no pre- or continuing education credit requirements to acquire or maintain an Underground Utility Contractors' license.~~

~~E. Well and Pump Installers/Water Filtration Contractors:~~

~~1. Continuing Education Requirements~~

- a. ~~In accordance with R.I. Gen. Laws § 5-65.2-3(c)(4), as a condition of renewal of licensure to maintain a Well/Pump Installer/Water Filtration Contractors' license, each applicant must provide the Board with proof of completion of ten (10) continuing education credits per two (2)-year licensing cycle.~~
- b. ~~There are no pre-licensure education credit requirements to obtain a Well/Pump Installer/Water Filtration Contractors' license.~~

~~1.7.7 Exceptions to Education Requirements~~

- A. ~~The Board or its Executive Director may defer or waive some or all of the pre- or continuing education requirements in the event of a state of emergency declared by the Governor or for good cause shown by the applicant/registrant/licensee.~~

~~B. Upon request and upon payment of a one-hundred dollar (\$100.00) fee to the Board, a registrant/licensee may be granted one (1) time, within a two (2)-year renewal cycle, a six (6) month deferral to complete his/her continuing education requirements.~~

~~1.7.8 Alternative Continuing Education Credits~~

~~Course Instructors: Board-approved pre- and continuing education course instructors may use their course instruction to satisfy the continuing education requirement. Instructors must provide the Board with evidence of what Board-approved courses he/she taught, when the course(s) were taught, and how many credit hours were taught. Instructors will receive credit for teaching a particular course only once per renewal cycle.~~

~~1.7.9 Violations for Failing to Complete Education Requirements~~

~~A. Pursuant to its statutory authority, the Board may revoke, suspend, or refuse to issue, reinstate, or reissue a registration/license if the applicant/registant/licensee has failed to complete or maintain the required pre- or continuing education credits required.~~

~~B. Operating or offering to conduct work or provide services without having completed the required pre- or continuing education requirements may also result in the registrant/licensee being subject to a violation and fines.~~

~~1.7.10 Educational Course Providers / Vendors~~

~~A. Education Subcommittee: The Board may form an education subcommittee which will review, assess, approve and/or deny applications for educational course providers and instructors according to the general standards set forth in these rules and regulations and within the Board's and the subcommittee's discretion. The subcommittee shall consist of at least three (3) Board members and will meet prior to the regularly scheduled Board meeting or as necessary. The decision of the subcommittee will be presented to the full Board at regularly scheduled Board meetings for final approval/denial of a provider, instructor, or related education issues. A current list of approved providers and courses will be maintained on the Contractors' Registration and Licensing Board's website: www.crb.ri.gov.~~

~~B. Organizational Provider Application: To become a Board-approved course provider, the prospective provider must first submit an application to the Board, which may be reviewed by the education subcommittee and approved or denied by the Board. The application must include:~~

~~1. Name of training provider;~~

~~2. Business identifying number (FEIN#);~~

- ~~3. Number of days / years in business;~~
- ~~4. Physical address;~~
- ~~5. Phone number;~~
- ~~6. E-mail address;~~
- ~~7. Website address;~~
- ~~8. Type of instruction (on-line, instructor led or both);~~
- ~~9. Reference letter including referring organization's name and contact information;~~
- ~~10. Business resume (basic description of business, credentials qualifying the company or organization as a trainer);~~
- ~~11. Name of business principals;~~
- ~~12. Insurance coverage and policy number (must have at least one million dollars (\$1,000,000) in liability coverage); and~~
- ~~13. Signed affidavit that:
 - ~~a. All instructors are qualified to teach the courses to be offered;~~
 - ~~b. Any facility where courses will be taught will be compliant with the American with Disabilities Act, 42 U.S.C. § 12101 et seq.;~~
 - ~~c. Any facility where courses will be taught will be adequately lighted, heated/cooled, void of distractions as much as possible, be equipped with the teaching/learning equipment necessary to enhance learning (such as media projectors, TV/VCR, marker board and/or other safety equipment needed for instruction), have sufficient seating for attendees, and have easily accessible restrooms available for men and women;~~
 - ~~d. Each credit hour will be equivalent to fifty (50) minutes of instruction time;~~
 - ~~e. Each instructor will be properly registered/licensed within his/her discipline or otherwise properly qualified;~~
 - ~~f. The provider and/or instructor will provide each applicant/registrant/licensee with a certificate upon completion of each course. Each certificate will include the name, identifying number and date of the course, number of credit hours completed, contact information of~~~~

~~the provider and the instructor, any accreditation information, and signature of the instructor;~~

~~g. The provider will retain copies of certificates issued to students for three years following completion of the course;~~

~~h. All information collected from or provided by any applicant/registrant/ licensee will be kept private and that the provider will not provide that information to any third party without the express approval and consent of the applicant/registrant/licensee;~~

~~i. Provider will provide the Board with a list of applicants/registrants/licensees that have completed the course, which will include the applicant's name and registration/license number, where applicable.~~

~~14. List and description of courses intended to offer, including relevance to the construction industry, how the course(s) will benefit the student, and minimum/maximum class size;~~

~~15. List and amounts of any fees or costs that will be charged for the courses, exclusive of books and materials; and~~

~~16. An application fee of two hundred fifty dollars (\$250.00) and an additional fee of one hundred dollars (\$100.00) for each credit hour submitted for approval. Approved courses shall be valid for five (5) years and must be resubmitted for approval upon expiration. The one hundred dollar (\$100.00) per credit hour fee(s) for continuing education courses offered by not for profit industry related trade associations, government organizations or agencies shall be waived.~~

~~C. Individual Provider Application: An individual instructor seeking to become a provider may also submit the same application as above as related to an individual.~~

~~D. Approved Course Providers: Upon approval by the Board, course provider applicants shall be assigned a unique identification number. To maintain status as an approved course provider, providers:~~

~~1. May be required to advertise approved courses including course titles, total credit hours, and cost of course(s); and~~

~~2. May be required to enter information into a third party system for uniformity within a specific timeframe following students' completion of the course(s).~~

~~E. Failure to comply with the terms and conditions prescribed within the application and affidavit may result in the revocation of a provider's approved status.~~

~~F. Instructor Evaluations: Instructors shall distribute course/instructor evaluation forms to each student at the completion of each course. Instructors shall follow up on legitimate complaints or suggestions for improvement. Such evaluation forms shall include a contact name and phone number for the Contractors' Registration and Licensing Board where complaints can be filed, shall be maintained by the provider, and shall be made available to the Board for a period of three (3) years following the course completion date.~~

1.7.11 Violation for Operating as Non-Approved Provider

~~Any individual or organization who acts as a provider or instructor without being properly approved by the Board, or who provides the Board with any falsified information or documentation, may be prevented from obtaining future approval as a provider or instructor.~~

1.7.12 Penalties for Provider Noncompliance

~~Any provider or instructor who violates these requirements or falsifies documentation may be subject to having their provider or instructor status revoked. A provider or instructor with a revoked status may petition the Board for reinstatement.~~

PART 1 – General Rules and Regulations for Applications, Registration, Licensing, Claims, Violations, and Administrative Hearings

1.1 Authority

This Part is promulgated pursuant to the Rhode Island Contractors' Registration and Licensing Board Law, R.I. Gen. Laws Chapter 5-65; the Rhode Island Home Inspector Licensing Law, R.I. Gen. Laws Chapter 5-65.1; the Rhode Island Well-Drilling, Pump Installers, and Water-Filtration Contractors Licensing Law, R.I. Gen. Laws Chapter 5-65.2; the Rhode Island Underground Utility Contractors' Licensing Law, R.I. Gen. Laws Chapter 5-65.3; and the Rhode Island Commercial Roofing Licensing Law, R.I. Gen. Laws Chapter 5-73.

1.2 Purpose

A. The purpose of this Part is to establish provisions, qualifications, and procedures for registering and licensing those disciplines governed by the Contractors' Registration and Licensing Board: including but not limited to contractors, home inspectors, well-drillers, pump installers, water filtration contractors, underground utility contractors and commercial roofers.

B. The purpose of the Part is also to promote public safety, health and welfare by providing a mechanism to ensure that all persons conducting business in the

regulated disciplines within the State of Rhode Island have the requisite skills, training, and experience necessary to safely and adequately conduct those activities within the state.

- C. This Part shall also govern the complaint process and the conduct of adjudicatory proceedings commenced before the Board after July 1, 2019. This Part shall be liberally construed to further the fair, prompt and orderly administration and determination of complaints and adjudicatory proceedings in conformity with the Rhode Island Administrative Procedures Act. To the extent that any part of these Rules are inconsistent with applicable law or the terms of any other rule or regulation promulgated by the Board, the applicable law and/or the terms of such other rule or regulation shall be deemed to apply.
- D. As applicable and/or required, or unless otherwise indicated, all persons subject to the registration or licensing requirements of the Contractors' Registration and Licensing Board must comply with the provisions of this Part and the following:
1. Contractors and subcontractors: R.I. Gen. Laws Chapter 5-65 and [Part 2 of this Subchapter.](#)
 2. Underground Utility Contractors: R.I. Gen. Laws Chapter 5-65.3 and [Part 3 of this Subchapter.](#)
 3. Commercial Roofing Contractors: R.I. Gen. Laws Chapter 5-73 and [Part 4 of this Subchapter.](#)
 4. Well Drilling, Pump Installers, and Water Filtration Contractors: R.I. Gen. Laws Chapter 5-65.2 and [Part 5 of this Subchapter.](#)
 5. Home Inspectors: R.I. Gen. Laws Chapter 5-65.1 and [Part 6 of this Subchapter.](#)

1.3 Incorporated Materials

Reserved

1.4 General Definitions

- A. In addition to the terms defined in R.I. Gen. Laws § 5-65-1 and [Parts 2, 3, 4, 5, and 6 of this Subchapter](#), the following terms shall have the following meanings:
1. "Agent of service" or "Registered agent" means a business or individual designated by the registrant/licensee upon whom any process, notice, or demand required or permitted by law to be served upon the corporation or individual registrant/licensee may be served. An attorney licensed and located in Rhode Island or a company listed by the Rhode Island Secretary of State may serve as an agent of service.

2. "Applicant" means any person seeking to obtain a registration or license that is issued by the Contractors' Registration and Licensing Board.
3. "Architect" and the "practice of architecture" are defined in R.I. Gen. Laws § 5-1-2.
4. "Board" or "CRLB" means the contractors' registration and licensing board established pursuant to the provisions of R.I. Gen. Laws § 5-65-14 or its designees.
5. "Building officials" means the officials charged with the administration and enforcement of the Rhode Island State Building Code.
6. "Claim" means the portion of a complaint that requests the imposition of monetary damages and/or restitution.
7. "Commercial contractor" means a contractor who does not regularly in the course of his or her or its business as a contractor engage in construction activities as contemplated in R.I. Gen. Laws Chapter 5-65 on residential structures.
8. "Complainant" means an individual who files a complaint.
9. "Complaint" means a formal allegation against another person.
10. "Condominium" is defined in R.I. Gen. Laws § 34-36.1-1.03(7).
11. "Contested case" means an adjudicatory proceeding before a Hearing Officer in which the legal rights, duties or privileges of a Party are determined in accordance with R.I. Gen. Laws § 42-35-9.
12. "Continuing education credit" means the credit unit awarded after a person receives instruction related to the discipline for which that person is registered/licensed with the Board. Different disciplines may require a different number of credit units to maintain a registration/license, and the credit must be issued by a Board approved provider to be valid.
13. "Contract" means the written or oral agreement between the client and the registered/licensed person or person required to be registered/licensed, describing the responsibilities and duties of each party and the fee to be paid.
14. "Contractor" means as defined in R.I. Gen. Laws § 5-65-1(4)(i)
15. "Department" means the Department of Business Regulation.
16. "Developer" means a person who owns property and contracts with a general contractor to construct, improve, or alter one or more buildings or

structures on the land for the purpose of selling or leasing those buildings or structures, and who is required to be registered with the Board pursuant to R.I. Gen. Laws § 5-65-1(4)(i).

17. “Director” means the Director of the Department of Business Regulation or the Director's designee.
18. "Employee" means an individual who works for wages or salary and is not an independent contractor.
19. "Employer" means a legal entity that controls and directs a worker in return for payment of wages or salary as a means of compensation.
20. "Engineer," the "practice of engineering" and "professional engineer" are defined in R.I. Gen. Laws § 5-8-2.
21. "Expungement" means the removal, deletion or erasing of information from a registrant's or licensee's record that is accessible to the public.
22. “Flipping” means the process of purchasing, renovating, and attempting to sell the property for a quick profit.
23. "Good standing" means an applicant who does not have any unresolved claims, violations, penalties or fines with the Board for any registration/license held by the applicant or its principal, nor with any other municipal, state, or federal regulatory authority in Rhode Island or elsewhere.
24. "Inactive registration/license" means a registration/license that has lapsed, expired, or has been suspended, surrendered, or revoked.
25. "Incapacity" or "Incapacitated" means an ailment that renders an active registrant/licensee unable to perform the work of the discipline for which they are registered/licensed.
26. "Independent contractor" means a person or entity contracted to perform work for—or provide services to—another entity as a non-employee.
27. “License” means any type of License issued by the Board granting permission to engage in certain activities.
28. "Licensee" means a holder of a license issued by the Board.
29. "Occupancy" means, but is not limited to, the time of issuance of a certificate of occupancy or the time of receipt of a letter of completion of the construction by the Building Official.

30. "Owner" means any person or his/her agent who holds title or other rights to a property.
31. "Party" or "Parties" means each person named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party in a contested case.
32. "Permits" means documentation that must be obtained from the state or local building department of each city or town in which work is to be performed prior to the commencement of work.
33. "Person" means as defined in R.I. Gen. Laws § 5-65-1(11) and includes any individual, partnership, corporation, limited liability company, association, governmental subdivision, public or private organization or any other entity however formed.
34. "Reasonable cause" means there exists a set of facts of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs which would induce a reasonably intelligent and prudent person to believe that a violation(s) of law, rule, or regulation has occurred.
35. "Registrant" means a holder of a registration issued by the Board.
36. "Registration" means any type of registration issued by the Board granting permission to engage in certain activities.
37. "Residence/residential building" means a structure that consists of one or more dwelling units.
38. "Respondent" means a Party against whom a complaint has been filed against or a violation has issued.
39. "Responsible person" means the individual, corporate member, or partner of a business entity who is responsible for the actions of the entity, the individuals employed by the entity, and for any violations of law, rule, or regulation that occur under the registration/license.
40. "Revoke" means the termination of a registration or license by the Board.
41. "Structure" means as defined in R.I. Gen. Laws § 5-65-1 and includes modular and mobile homes at the time they are placed on support blocking or permanent foundations in the place they will be used.
42. "Subcontractor" means a person or entity who has a contract, either oral or written, not with the owner of the structure but with a registrant/licensee or one who is required to be registered/licensed, to perform work subject to the Board's authority, and who is responsible for a specific portion of the project.

43. "Violation" means an action that breaks or acts against a relevant statute, rule, regulation, standard, order, registration, and/or license.
44. "Wages" means as defined in R.I. Gen. Laws § 28-14-1(4).
45. "Work period" means the time period from the date a contract is entered into until the date the contracted work is substantially completed by the original registrant/licensee, or if not substantially completed, the date work by the original registrant/licensee ceased.

1.5 General Administration and Procedures

A. Delivery of Notices

1. Time for response to all notices sent by the Board shall run from the date of mailing from the Board, utilizing calendar days.
2. In accordance with R.I. Gen. Laws § 5-65-6, Notices of Violation, Final Orders, and a Notices of Hearing shall be considered delivered when deposited in the United States mail and/or sent registered or certified or post office receipt secured to the last known address of record.

B. Change of Address

The registrant/licensee must notify the Board of any change of mailing address or email address in writing and within ten (10) days of the date upon which the change of address occurs for the duration of the registration/license and for one (1) year following the date that the registration/license expires or otherwise becomes inactive.

C. Public Records and Information Requests

1. Requests for information filed in accordance with the R.I. Access to Public Records Act, R.I. Gen. Laws Chapter 38-2.
2. In general, the Board and/or its staff may provide information that includes, but is not limited to the following:
 - a. Whether or not the person is or has ever been registered/licensed;
 - b. The registration/license number(s);
 - c. The business name(s) used by the entity of record with the Board;
 - d. Type of business organization (i.e. individual proprietorship, partnership, LLC, corporation or joint venture);
 - e. Personal name(s) of owners, partners, or corporate officers;

- f. Last known address of the registrant/licensee;
 - g. Expiration date or date upon which the registration/license became inactive and the reason it became inactive;
 - h. The date the person first became registered/licensed;
 - i. Status of the registration/license, history of compliance with the education requirements, validity of insurance and/or bond, and the insurance or bonding company name (as provided to the Board by the registrant/licensee); and
 - j. Number, status, type, date filed, and fines or awards of proposed orders, final orders, claims, violations, or notices of hearings on record.
3. If no claims or violations have been recorded, or if it appears to the Board that the person about whom the inquiry is being made is unregistered/unlicensed, the requesting party will be advised as such.

D. Certification of Registration/License

1. The Board shall provide a certification of registration/license relating to a specific person upon written request and payment of the required fee. This certification will include the following information:
- a. Registration/license number(s);
 - b. Name of the registered/licensed person and any business name(s) on file with the Board;
 - d. Type of business (i.e., individual proprietorship, partnership, LLC, corporation or joint venture);
 - e. Name(s) of owner(s), partner(s), or corporate officer(s) provided to the Board; and
 - f. Pertinent dates and actions in the registration/license history.

E. Filing Fees and Record Changes:

1. The Board may impose the following charges for records and filing fees:

<u>Public Record Requests</u>	<u>Fee set by R.I. Gen. Laws Chapter 38-2</u>
<u>Complaint Form</u>	<u>\$25.00 (exempt for state and municipal agencies)</u>

<u>Appeals to the Board</u>	<u>\$20.00</u>
<u>Expungement Request</u>	<u>\$20.00 for first matter, \$5.00 for each additional matter made under the same request.</u>
<u>Late Fee</u>	<u>\$50.00</u>
<u>Returned Check Fee</u>	<u>\$35.00</u>

2. The Board shall not refund fees or civil penalties, unless an administrative error occurred.

1.6 General Registration and Licensing Requirements

1.6.1 Registration / License Required

- A. Every person who engages in a discipline governed by the Board, listed in §§ 1.1 and 1.2(A) of this Part, must be properly registered or licensed with the Contractors' Registration and Licensing Board prior to engaging in those activities.
- B. No person subject to the provisions of this [Subchapter](#) shall provide services, offer to the public their services, or represent that they possess a registration/license unless that person possesses a valid registration/license, unless authorized to do so by the Board.
- C. Any person who fails to properly obtain a registration or license in their respective discipline, as required, is subject to penalties for operating without a registration or license.
- D. For purposes of completing an application in either paper or electronic form, for a permit to conduct activities subject to this [Subchapter](#), the actual applicant does not need to possess a registration/license, as long as the applicant is acting on behalf a validly registered/licensed contractor and it will be the registered/licensed contractor who is doing the work.
- E. Officer/Partner Cards/Certificates shall no longer be issued. All current cards/certificates shall expire on December 31, 2019.
- F. All Registration/License requirements must be maintained and kept current for the duration of the Registration/License.

1.6.2 Transfer of Registration/License Prohibited

Any registration/license issued to an individual contractor, subcontractor, or business entity is for the exclusive use of that individual or entity and is non-transferrable.

1.6.3 Display of Registration/License Number

- A. All Persons subject to the provisions of this [Subchapter](#) shall display their registration/license number in a conspicuous manner on all forms of advertising, including but not limited to newsprint classified advertising, newsprint display advertising, pamphlets, telephone directory space ads, online ads, website ads, social media ads, business vehicles, and display ads.
- B. Advertising in any form by an unregistered/unlicensed person shall be prohibited, including alphabetical or classified directory listings, vehicles, business cards, and all other forms of advertisements.
- C. Registration/license numbers must be included on all written contracts, proposals, and invoices.
- D. The wearing of company apparel is exempt from the requirement to include the registration/license number.

1.6.4 Business Entity Registrations / Licenses

- A. Any corporation, LLC, or partnership which meets the registration/ licensing requirements may obtain a registration/license upon approval by the Board. The registrant/licensee shall be identified as the responsible person on the application.
- B. The responsible person is required to meet all applicable requirements for registration/licensing, including, but not limited to providing evidence of the required insurance and bond and maintaining the required continuing education credit. If the listed responsible person disaffiliates from the business entity or becomes unregistered/unlicensed, the business entity must identify a new responsible person who meets the registration/licensing requirements of that discipline in accordance with § 1.6.7 of this Part.
- C. Corporate Documents:
 - 1. If the registrant/licensee is required to be registered with, and certified by, the Rhode Island Secretary of State, the applicant must provide the names of the corporate officers and a copy of the corporate papers filed with the Secretary of State as part of its application.
 - 2. The registrant/licensee is required to notify the Board of any lapse or revocation of corporate status with the Secretary of State.

1.6.5 Nonresident Persons / Registered Agent

No registration/license shall be issued to a nonresident applicant until he or she has filed with the Board a power of attorney constituting and appointing a registered agent upon whom all processes in any action or legal proceeding against him or her may be served, and in the power of attorney agrees that any lawful process against him or her which may be served upon his or her registered agent is of the same force and validity as if served on the nonresident applicant, and that the force continues irrevocably in force until such time as the Board has been duly notified in writing of any change to that status.

1.6.6 Change of Registration

- A. Registered individuals or business entities may make application to the Board for a change in their registration. Upon approval by the Board, the former registration number may be transferred to the new registration.
- B. When such a change is made, the new registrant shall be responsible for any claims and violations made against the former registrant that are within the jurisdiction of the Board.
- C. Nothing within this section shall be construed to limit the availability of any other remedies available to the Board or complainant.

1.6.7 Effect on Registration/License Due to Loss of Responsible Person

- A. If the responsible person disaffiliates or otherwise becomes incapacitated, the entity's registration/license shall remain valid until the next examination, or until such times as the Board allows.
- B. It shall be the sole responsibility of the entity to appoint a new responsible person that satisfies the registration/license requirements of this [Subchapter](#).
- C. In no event, shall the registration/license remain valid for longer than six (6) months after the disaffiliation or incapacitation of the responsible person, without satisfying the registration/licensing requirements of this [Subchapter](#).

1.7 Applications for Registration/Licensure

Unless otherwise indicated in R.I. Gen. Laws Chapters 5-65, 5-65.1, 5-65.2, 5-65.3, 5-73, and/or [Parts 2, 3, 4, 5, and 6](#) of this Subchapter, the following provisions shall apply to all persons subject to this [Subchapter](#).

1.7.1 General Application

- A. All persons applying for registration/license by the Board shall submit an application in a manner as prescribed by the Board, meet all pre-registration/licensing requirements, and submit the applicable fee, prior to obtaining registration/licensure.

B. The Board may reject an incomplete application and return the application with an explanation of the deficiencies.

C. All applicants for a registration/license, whether for initial or renewal, shall acknowledge the following "statement" by affixing their signature to the application prior to the application being considered by the Board.

1. "I acknowledge, understand, and agree that if a complaint is filed against me, I will attend and participate, in good faith, with any attempts to resolve the complaint by the Board, including, but not limited to informal resolutions, formal resolutions, and the administrative hearing process. My failure to do so may result in the imposition of fines against me and/or the suspension or revocation of my registration/licensure.

1.7.2 Examination

A. As required, applicants shall pass such examination as the Board deems necessary to test the applicant's knowledge and skills prior to engaging in a discipline regulated by the Board.

B. Examinations will be conducted at least three times a year by an approved third-party testing company. Testing locations, dates, times, and fees will be posted on the Board's website.

C. Upon successful completion of the examination, the applicant must submit a copy of their exam certification to the Board with his/her application.

D. If an applicant does not successfully complete the examination, he/she may retake the examination in accordance with the third-party testing company's policies.

1.7.3 Effective Date / Term

A. Registrations/licenses issued pursuant to this [Subchapter](#) are effective upon issuance by the Board.

B. Registrations/licenses are valid for two (2) years from the date issued.

1.7.4 Renewal and Reissuance of Registration/License

A. A registration/license may be renewed by the same procedure provided for an original registration/license, upon application, payment of the fee, and any additional supplemental information the Board may require.

B. Unless ordered by the Board, written examinations and pre-education requirements are not a required component of renewal.

- C. A registration/license which has been voluntarily and temporarily surrendered shall be reinstated at no additional charge if reinstatement occurs within the registration/license period and there are no outstanding claims and/or violations pending. If there are outstanding claims or violations pending, the claims and/or violations must be resolved prior to reinstatement.
- D. A registration/license which has been revoked or suspended may be reissued or reinstated upon written request to the Board and satisfaction of all other requirements as ordered by the Board.
- E. The Board has the discretion to conditionally reissue or reinstate a registration/license which has been revoked or suspended in a manner not inconsistent with the general laws and provisions of this [Subchapter](#).
- F. It is the responsibility of the registrant/licensee to ensure that the requirements for renewal, including timeliness, are met.

1.7.5 Lapsed Registration/License

- A. A registration/license is deemed to have lapsed when it has not been renewed on/or before its expiration date. During this time, the person shall not solicit, perform, or offer to perform contracting services.
- B. If a registration/license becomes invalid or lapsed, any registration/ license card(s) and/or registration/license certificates must be returned to the Board within five (5) business days.
- C. If a registration/license lapses for more than six (6) months, the person shall be required to meet the requirements for an original registration, including application, examination, pre-educational requirements, and payment of the fee, in addition to any back fees, penalties, and any additional supplemental information the Board may require.
- D. Waiver of Requirements Upon a Showing of Good Cause
 - 1. The Board may consider granting a waiver of the renewal requirements for lapsed licenses upon a showing of good cause.
 - 2. The request shall be in writing and shall state the reasons for the waiver.
 - 3. Good cause includes, but is not limited to, illness, incapacitation, disability, (which is supported by a medical documentation) or military service.

1.7.6 Military Service Registration/License:

- A. Military Service Member

1. In accordance with R.I. Gen. Laws § 5-87-1, applicants who are members of the military service and possess a registration/license from another state may provide proof of education, training, or service completed as a member of the Armed Forces or Reserves of the United States, the National Guard of any state, the Military Reserves of any state, or the Naval Militia of any state and evidence of their out-of-state registration/license.
2. The Board will consider whether the education, training, and/or service is substantially equivalent to the requirements of this state. If so, the Board will attempt to expedite the issuance of the appropriate registration/license to the applicant.
3. If the Board determines that the education, training, and service are not substantially equivalent to the requirements of this state, the Board may issue the service member a temporary registration/license for a period of time sufficient to allow the applicant to complete any specific requirements to obtain registration/licensure in this state.

B. Military Service Member's Spouse:

1. In accordance with R.I. Gen. Laws § 5-88-1, the Board will expedite the issuance of registrations/licenses for applicants:
 - a. Who are registered/licensed in another state to perform contracting services in a state other than Rhode Island;
 - b. Whose spouse is a member of the Armed Forces of the United States;
 - c. Whose spouse is the subject of a military transfer to Rhode Island; and
 - d. Who left employment to accompany their spouse to Rhode Island, may apply to the Board for a registration/license based on the out of state registration/license.
2. If the Board determines that the out of state registration/license is substantially equivalent to the requirements of this state, the Board may issue the applicant a registration/license.
3. If the Board determines that the out of state registration/license is not substantially equivalent to the requirements of this state, the Board may issue the applicant a temporary registration/license for a period of time sufficient to allow the applicant to complete any specific requirements to obtain registration/licensure in this state.

1.8 Education Requirements – Pre-Registration/License and Continuing Education

1.8.1 Scope

The Board adopts the following education standards and requirements for persons registered/licensed with the Board. The Board may have third-party vendors or providers assist in the management of educational programs.

1.8.2 Specifications

- A. If applicable, as a condition of applying for, or renewing a registration/license issued by the Board, the educational requirements specified for that discipline must be met.
- B. If the registrant/licensee holds another registration/license issued by the Board, educational credits may be used to satisfy the education requirements for all registrations/licenses held by the same person. The registrant/licensee will be required to provide proof of completion of the education credits from Board-approved courses.
- C. Documentation of all credit hours must be submitted to the Board at the time of application for, or renewal of, a registration/license.
- D. One (1) credit hour of education is equal to fifty (50) minutes of instruction by a Board-approved provider.

1.8.3 Qualifying Education

- A. Each registrant/licensee must obtain his/her pre-education and/or continuing education credits through a Board-approved provider.
- B. Courses must pertain to the subject matter of the discipline for which the person holds the registration/license.
- C. Subject matter not acceptable for pre- or continuing education credit includes, but is not limited to:
 - 1. Mechanical office and business skills such as typing, speed reading or memory improvement;
 - 2. Physical well-being or personal development, such as motivation, stress management, time management, dress for success; or
 - 3. Meetings held in conjunction with the general business of the registrant/licensee.

1.8.4 Course Materials and Fees

Each applicant/registrant/licensee shall be responsible for the cost of all course-related fees and acquiring any course materials used in any pre-education or continuing education course. This requirement may include the acquisition of a current publication of codes and/or standards or rules that may be applicable to the applicant/registrant/licensee's discipline.

1.8.5 Proof of Educational Course Completion/Compliance

- A. The applicant/registrant/licensee is responsible for demonstrating compliance with and completion of the pre-education and continuing education requirements.
- B. The applicant/registrant/licensee is required to provide proof of course completion to the Board for both initial registration/licensure and renewal of registration/licensure.
- C. The applicant/registrant/licensee must retain the original documents for his/her current registration period and for three (3) years following the completion of the course(s).
- D. Course certificates shall include:
 - 1. the name, date, and identifying number of the course;
 - 2. the number of credit hours completed;
 - 3. the contact information of the provider and the instructor;
 - 4. any accreditation information; and
 - 5. the signature of the instructor.

1.8.6 Educational Requirements

- A. The specific requirements for the individual disciplines can be found as follows:
 - 1. Contractors and subcontractors: R.I. Gen. Laws Chapter 5-65 and [Part 2 of this Subchapter](#).
 - 2. Underground Utility Contractors: R.I. Gen. Laws Chapter 5-65.3 and [Part 3 of this Subchapter](#).
 - 3. Commercial Roofing Contractors: R.I. Gen. Laws Chapter 5-73 and [Part 4 of this Subchapter](#).
 - 4. Well Drilling, Pump Installers, and Water Filtration Contractors: R.I. Gen. Laws Chapter 5-65.2 and [Part 5 of this Subchapter](#).
 - 5. Home Inspectors: R.I. Gen. Laws Chapter 5-65.1 and [Part 6 of this Subchapter](#).

1.8.7 Exceptions to Education Requirements

- A. The Board or the Director may defer or waive some, or all, of the pre-education or continuing education requirements in the event that a state of emergency has been declared by the Governor or for good cause shown by the applicant/registrant/licensee. Good cause may include, but not be limited to, illness, incapacitation, disability, (which is supported by a medical documentation) or military service.
- B. Upon request and payment of a one-hundred dollar (\$100.00) fee to the Board, a registrant/licensee may be granted one (1) time, within a two (2)-year renewal cycle, a six (6) month deferral to complete his/her continuing education requirements.
- C. Commercial Contractors are exempt from the Education Requirements of this [Subchapter](#).

1.8.8 Violations for Failing to Complete Education Requirements

The Board may revoke, suspend, or refuse to issue, reinstate, or reissue a registration/license if the applicant/registrant/licensee has failed to complete or maintain the required pre-education or continuing education credits.

1.8.9 Educational Course Providers

- A. The Board shall review, assess, approve and/or deny applications for educational course providers, instructors, and training curriculum. As necessary, information shall be presented to the full Board for consideration.
- B. Educational Course Providers
 - 1. All providers of educational courses must first be authorized and approved by the Board. A current list of approved providers and courses shall be maintained on the Board's website.
 - 2. Educational course provider permits are valid for two (2) years and expire biannually on the date of issuance.
 - 3. Each authorized Provider must designate one individual as an authorized agent. The authorized agent shall:
 - a. Maintain records documenting attendance of students;
 - b. Notify the Board of any change in the address or telephone number of the authorized provider or any change of the authorized agent within seven days of such change; and

- c. Ensure that only qualified instructors are permitted to teach the curriculum that contributes toward certification for registration, licensure, and/or continuing education.
4. Each authorized provider shall provide to the Board a list of all directors and owners of the school, including their names, addresses and license numbers, if applicable, and shall maintain the record of those directors and owners for at least three (3) years.
5. The Board may suspend, revoke, fine, or refuse to renew the permit of any provider that fails to adhere to the laws pertaining to registration/licensure, this regulation, or a directive of the Board, including:
 - a. Failure to maintain records as required by this § 1.8 of this Part;
 - b. Failure to notify the Board of any change of address or telephone number of the authorized agent;
 - c. Failure to provide the Board with copies of or access to requested information;
 - d. Failure to use the exact name of the authorized provider on any postings, advertisements, solicitations, or any other medium of communication;
 - e. Obtaining a provider permit by false pretenses or substantial misrepresentation or omission;
 - f. Any misleading or untruthful advertising;
 - g. Discriminating against an individual based on any protected class designated in the Rhode Island Fair Housing Practices Act, R.I. Gen. Laws § 34-37-1 et seq.;
 - h. Failing to provide the appropriate certification of completion to an individual completing the curriculum for registration, licensure, or continuing education; and/or
 - i. Providing certification of completion to an individual who has not completed such curriculum.

C. Educational Course Provider Application

1. Provider Application: To become a Board-approved course provider, either as an organizational provider or an individual provider, the applicant shall submit an application to the Board, on a form as approved by the Board, that contains the following information:

- a. Name of training provider;
- b. Business identifying number (FEIN#);
- c. Length of time providing educational courses;
- d. Physical address;
- e. Phone number;
- f. E-mail address;
- g. Website address;
- h. Type of instruction (on-line, instructor led or both);
- i. Business or individual resume (basic description of business, credentials qualifying the company or organization as a trainer);
- k. Insurance coverage and policy number (must have at least one million dollars (\$1,000,000) in liability coverage); and
- k. A breakdown of the costs of any fees that will be charged to the student, exclusive of books and materials;

D. Certification

Each applicant for a Provider permit shall attest under the pains and penalties of perjury that they understand and agree to abide by the laws and regulations that govern educational requirements.

E. Application Fee

The fee for all new and renewal Educational Course Provider permits is two-hundred and fifty (\$250) dollars.

F. Upon approval of the Education Course Provider application, the Provider shall be assigned an identification number.

G. Additional Requirements

- 1. Any facility where courses will be taught shall be compliant with the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq.
- 2. Any facility where courses will be taught shall be adequately lighted, heated/cooled, void of distractions as much as possible, be equipped with the teaching/learning equipment necessary to enhance learning (such as media projectors, TV/VCR, marker board and/or other safety equipment

needed for instruction), have sufficient seating for attendees, and have easily accessible restrooms available.

3. All information collected from or provided by any applicant/registrant/licensee shall not be shared or provided to any third party without the express written approval and consent of the applicant/registrant/licensee.
4. Upon request, the Provider shall supply the Board with a list of applicants/registrants/licensees who have completed the course, including the applicant's name, registration/license number, and date of attendance and/or completion.
5. Educational Providers shall require that each course attendee present a photo identification card and affix their signature to the attendance roster.

1.8.10 Educational Courses

A. Requirements for Course Approval

1. Requests for course approvals must be provided to the Board at least thirty (30) days in advance of the date of instruction.
2. The request must include:
 - a. A detailed course outline with hours spent in each subject area;
 - b. Descriptions of the texts and materials utilized in the course;
 - c. Copies of tests, examinations or other materials used to evaluate student performance; and
 - d. A list of instructors and their resumes.
3. Courses must consist of at least one (1) credit hour of instruction.
 - a. Each hour of credit must contain a minimum of fifty (50) minutes of instruction.
4. Courses must be taught by a CRLB approved provider as set forth in § 1.8.9 of this Part.
5. Courses must substantially relate to the work of the registrants/licensees that it seeks to provide education for.
6. For each approved course, the provider must maintain, and make readily available to the Board for a period of three years upon request:
 - a. The materials provided in § 1.8.10(A)(2) of this Part;

b. Copies of student evaluations of the course; and/or

c. Copies of certificates issued to students.

B. Course Approval Fee

1. The fee for all new and renewal course approvals is one-hundred (\$100) dollars per course.

2. This fee shall be waived for governmental organizations and non-profit entities, upon sufficient proof of non-profit status. (i.e. 501(c)(3), annual financial report, or IRS Form 990)

3. Approved courses shall be valid for five (5) years and must be resubmitted for approval upon expiration.

C. Instructor Qualification

1. No person may act as an instructor unless such person holds a registration/license and is in good standing with the Board for the discipline in which the course is offered for.

2. The Board may authorize any person to act as an instructor, notwithstanding the requirements of § 1.8 of this Part, if the person demonstrates that they have the equivalent qualifications to those required by this section. Equivalent qualifications may include, but are not limited to, the following:

a. Demonstrated knowledge in a particular subject matter;

b. Appointment to the faculty of an accredited college, university or trade school; or

c. Current teaching certificate with demonstrated industry specific knowledge or experience.

3. Instructors may employ specialists to teach particular portions of the curriculum and such specialists need not obtain authorization from the Board. Specialists may not be employed to teach the entire curriculum.

4. Current or prior registrants/licensees whose registrations/licenses have been suspended or revoked as a result of disciplinary action by the Board, or the regulatory authority in another state, shall not qualify for approval as an instructor.

D. Course/Instructor Evaluations:

1. The Provider shall distribute and review course/instructor evaluation forms at the completion of each course.
2. Evaluation forms shall include a contact name and phone number for the Contractors' Registration and Licensing Board where complaints can be filed.
3. Evaluation forms shall be maintained by the provider for a period of three (3) years following the course completion date.

E. Instructor Credit:

1. Board-approved pre-education and continuing education course instructors may use their course instruction to satisfy the continuing education requirement.
2. Instructors must provide the Board with evidence of what Board-approved courses were taught, when the course(s) were taught, and how many credit hours were taught.
3. Instructors will receive credit for teaching a particular course only once per renewal cycle.
4. A maximum of two (2) Instructor Credit hours may be used per renewal cycle.

1.8.11 Violation for Operating as Non-Approved Provider

Any individual or organization who acts as a provider or instructor without being properly approved by the Board, or who provides the Board with any falsified information or documentation, may be prevented from obtaining future approval as a provider or instructor.

1.8.12 Penalties for Provider Noncompliance

Any provider or instructor who violates these requirements or falsifies documentation may be subject to having their provider or instructor status revoked. A provider or instructor with a revoked status may petition the Board for reinstatement.

1.9 Complaints

1.9.1 Duty to Participate

All persons who are registered/licensed, or who are required to be registered/licensed, shall participate and make good faith efforts to resolve all complaints, violations, and/or contested cases within the jurisdiction of the Board. Failure to do so shall result in the Board taking action against the respondent, to

the extent allowable by law, including suspension or revocation of a contractor's registration/license, without which an individual cannot work as a contractor in the state.

1.9.2 Complaints Generally

- A. Complaints shall only be accepted for work or services performed within the boundaries of the State of Rhode Island, or for materials or equipment supplied or rented for fabrication into or use upon structures located within the boundaries of the State of Rhode Island. Unless otherwise specified, the Board shall only accept complaints from complainants who can demonstrate standing to bring the complaint.
- B. A complaint may be made by any Person against any registrant/licensee or any Person who is required to be registered/licensed but is not registered/licensed by the Board. Such statement of complaint shall be in writing, signed by the complainant, and made on a form as required by the Board.
- C. A complaint may contain an allegation of a claim and/or violations.
- D. When submitting a complaint, complainants are encouraged to provide copies of all supporting documentation, including but not limited to:
1. Written contracts and agreements;
 2. Invoices;
 3. Billings;
 4. Estimates;
 5. Receipts;
 6. Cancelled checks;
 7. Court or arbitration information/judgments; and
 8. Notices of counter claims by respondents.
- D. Initial Acceptance or Denial of Complaint. The Board shall make an initial determination as to whether the complaint is within the Board's jurisdiction and meets the requirements of R.I. Gen. Laws Chapter 5-65. If jurisdiction exists and the requirements for acceptance are met, the Board shall process the complaint. If jurisdiction does not exist, and/or the requirements for acceptance are not met, the Board shall deny the complaint.
- E. Complaints Based on Valid Contract Containing an Arbitration Clause

1. A complaint for work performed pursuant to a valid contract which contains a requirement that the parties resolve their dispute through an arbitration process, shall not be accepted by the Board, unless both parties, within forty-five (45) days of the filing of the complaint, agree in writing to waive the arbitration clause and consent to the jurisdiction of the Board for resolution of the dispute.
2. If the dispute is resolved through arbitration, the decision may be submitted to the Board for consideration of whether the decision establishes the basis for disciplinary action against the registration/license of the contractor, not inconsistent with any applicable general laws and/or this Subchapter.

F. Limitations on Complaint Process

1. If the investigation determines that the potential monetary damages and/or restitution exceeds ten-thousand dollars (\$10,000), in accordance with R.I. Gen. Laws § 5-65-12(b), the Board may refuse to continue processing the claim and refer the complainant to Superior Court.
2. If the Hearing Officer determines that a violation of R.I. Gen. Laws Chapters 5-65, 5-65.1, 5-65.2, 5-65.3, 5-73, and/or Parts 1-6 of this Subchapter has occurred, the Hearing Officer may;
 - a. Order that a registrant/licensee complete any unfinished work;
 - b. Return a deposit if no work has commenced;
 - c. Issue fines;
 - d. Suspend or revoke a registration/license; and/or
 - e. Order the contractor to take additional educational classes if necessary.
3. A Hearing Officer cannot order the Respondent to pay monetary damages and/or restitution. However, the payment of monetary damages and/or restitution can be agreed to by the Parties as part of any settlement/agreement.
4. If applicable, a claim may be brought in the Superior Court, pursuant to R.I. Gen. Laws § 5-65-12.1.

1.9.3 Board Initiated Investigations

- A. The Board, on its own authority, may initiate an investigation and take action against:

1. A registrant/licensee;
2. An applicant for a registration/license or for renewal of a registration/license;
3. Any Person who is required to be registered/licensed but is not registered/licensed; and/or
4. Any Person who is subject to the regulatory authority of the Board.

B. All such actions shall be upon such terms and conditions as are permitted under applicable law and this [Subchapter](#).

1.9.4 The Board's Right to Refuse and/or Dismiss Complaints

- A. The Board may, in its sole discretion, refuse to accept, or at any time refuse to continue processing a complaint if:
1. The complaint involves a contract that is administered, reviewed, and inspected by a local, state, or federal agency when disbursement or administration of the contract sum is contingent upon the approval of that agency;
 2. The complainant fails to respond to the Board's written requests for information or documentation within a time period specified by the Board;
 3. The complainant does not allow access to the property for investigation purposes;
 4. The Board determines that based on the nature or complexity of the issues, the amount in controversy, and/or legal issues presented, a court of competent jurisdiction or an alternate forum is more suited to adjudicate the matter;
 5. The same issues involved in the complaint have been submitted by either party to a court, arbitration, or other forum authorized by law to affect a resolution prior to the administrative hearing;
 6. The facts and issues of the complaint are substantially the same as those in a complaint previously filed by the same complainant, unless the complaint concerns a repair previously ordered by the Board;
 7. The Board determines that the person against whom the complaint is filed is capable of complying with the recommendations made by the Board relative to the claim, but the complainant does not permit the respondent to comply with those recommendations; or

8. The Board determines that the value of the damages due to the complainant is less than that owed to the respondent under the terms of the contract.

B. If at any time during the complaint process the complainant accepts a valid promissory note from the Registrant/Licensee as settlement of the claim, the Board shall dismiss the claim. Dismissal of the claim will be final, and the claim will not be reopened.

1.10 Notice of Accepted Complaints and Initial Board Investigation

A. The Board shall give notice to all Parties of the acceptance of a complaint. The notice shall include:

1. A reference to the particular sections of the statutes and rules involved; and,

2. A short and plain statement of the matters asserted.

B. Initial Board Investigation

1. The Board may conduct an initial investigation and make attempts to informally resolve the matter between the Parties. If the matter can be resolved informally, the agreement shall be reduced to writing and signed by the Parties.

2. The initial Board investigation and attempts to informally resolve the matter shall be completed within sixty (60) days of acceptance of the complaint. Time may be extended for good cause, but in no event shall the matter remain at the initial investigation stage for more than ninety (90) days.

3. If the matter is not resolved within sixty (60) days, or extended for good cause, it shall be referred to the Hearing Officer for further administrative proceedings in accordance with § 1.11 of this Part.

1.11 Pre-hearing Conferences/Alternative Dispute Resolution

1.11.1 Pre-Hearing Conferences

A. It is the policy of the Board to encourage the use of prehearing conferences to make more effective use of hearing time.

B. The Director or the Hearing Officer may, with reasonable written notice, require that all Parties attend a prehearing conference and/or attempt alternative dispute resolution to resolve the matter and/or consider the following:

1. The simplification, narrowing, and clarification of the issues;

2. The possibility of obtaining written stipulations, admissions, agreements with respect to the introduction of documents or similar agreements which will avoid unnecessary proof;
3. The identification of witnesses and the limitation of the number of witnesses;
4. The possibility of agreement disposing of all or any of the issues in dispute;
5. The consideration of outstanding motions;
6. The status of settlement negotiations, if any;
7. The use of pre-filed testimony, where appropriate;
8. Any matters of discovery, including limitation of data requests, document requests, or other discovery or resolving disputes as to the scope of discovery;
9. Scheduling of hearings; and
10. Any such other matters as may aid in the final disposition of the proceeding.

1.11.2 Alternative Dispute Resolution

A. It is the policy of the Board to also encourage the use of alternative dispute resolution to resolve a complaint.

B. Mediation

1. Mediation is a means by which a trained impartial third person assists the Parties in reaching a settlement/agreement.
2. The mediator is appointed by the Director and has no decision-making authority. If the mediator is an attorney, the mediator cannot provide legal advice to the parties.
 - a. No Hearing Officer assigned to the matter shall serve as the mediator.
3. If an agreement/settlement is reached between the parties, the mediator may assist in preparing the written settlement/agreement to be signed by the Parties.
4. Mediation shall be conducted pursuant to the requirements of R.I. Gen. Laws § 9-19-44.

C. Consented to Final Order

1. A consented to Final Order is a settlement/agreement reached between the parties with the assistance of the Hearing Officer. Unlike mediation, the Hearing Officer may actively participate and assist the Parties in reaching the settlement/agreement.
2. The Hearing Officer is appointed by the Director. The Hearing Officer cannot provide legal advice to the Parties.
3. If an agreement/settlement is reached between the parties, the Hearing Officer shall prepare a Consented to Final Order, which shall be reduced to writing and signed by the Parties and the Hearing Officer.

1.11.3 Pre-Hearing/Alternative Dispute Resolution Procedures

- A. All Parties shall attend the prehearing conference and/or alternative dispute resolution fully prepared to discuss all matters related to the proceedings. Failure of any Party to attend the prehearing conference and/or alternative dispute resolution may constitute a waiver of all objections to any order or ruling issued as a result of the prehearing conference and/or alternative dispute resolution unless good cause is shown.
- B. At the sole discretion of the Hearing Officer, the Parties may be permitted to waive the prehearing conference and/or alternative dispute resolution by filing with the Hearing Officer a stipulation prior to the prehearing conference and/or alternative dispute resolution that contains the following:
1. Agreement to the issues in the matter,
 2. An agreed to discovery schedule,
 3. Three (3) agreed to possible dates for a hearing, and
 4. Any other agreements as to matters contained in § 1.11.1(B) of this Part.
- C. In the discretion of the Hearing Officer, with agreement of the parties, prehearing conferences, conference hearings, alternative dispute resolution, or status hearings may be held by telephone, electronically, or by any other means.

1.11.4 Administrative Hearings Based on Contested Cases

- A. If the Parties cannot reach an agreement with the assistance of the Hearing Officer, with the consent of both Parties, the Parties may request that the Hearing Officer decide the issues by conducting an administrative hearing in accordance with § 1.14 of this Part.

B. Upon conclusion of the administrative hearing, the Hearing Officer will issue a Final Order.

C. A Final Order issued pursuant to this subsection may be appealed in accordance with § 1.13.2 of this Part.

1.12 Violations

1.12.1 Authority

A. In accordance with R.I. Gen. Laws Chapters 5-65, 5-65.1, 5-65.2, 5-65.3, 5-73, and this [Subchapter](#), investigative members of the Board may issue violations to registrants/licensees, or those required to be registered/licensed with the Board, for violations of statute, or any Part of this [Subchapter](#).

B. The Board may also immediately suspend or revoke any registration or license for just cause when the registrant/licensee is acting to the detriment of the health, welfare and safety of the general public. Under this provision revocation and suspension may be extended beyond the initial thirty (30) days after the opportunity for an administrative hearing has occurred.

1.12.2 Procedure for Investigating and Processing Violations

A. Notices of Violation shall be issued for, but are not limited to, the following conduct

1. Court judgment against a contractor;
2. Claims;
3. Disciplinary action;
4. Lack of insurance policy/coverage;
5. Lack of workers' compensation coverage;
6. Lack of minimum bond or proof of bonding capacity;
7. Improper advertising;
8. Hiring non-registered/non-licensed contractor(s) or subcontractor(s);
9. No registration/license number on contract;
10. No registration/license number in advertisement;
11. No mechanics' lien release form/notice provided in contract;
12. No right of rescission clause;

13. Action filed by entity such as building official, municipality, another agency, etc.;
14. Failure to list employee(s);
15. Violation of State Building Code;
16. Violation of rule, regulation or order of the Board;
17. Working under an invalid, revoked, or suspended registration/license;
18. Registrant/licensee engaged in conduct dishonest or fraudulent conduct;
19. Working under another person's registration/license number;
20. Lien filed whereby registrant/licensee wrongfully failed to perform a contractual duty to pay person claiming lien;
21. Registrant/licensee made false statements on application or to investigative staff;
22. Engaged in any act, conduct, or practice which violates this [Subchapter](#);
23. Knowingly making a false or fraudulent statement on an application;
24. Failure to provide list of sub-contractors or employees;
25. Failure to comply with the disclosure requirements; and/or
26. Failure to comply with the educational requirements.

1.12.3 Notice of Violation

- A. When a violation occurs, a written Notice of Violation shall be issued to the Registrant/Licensee in accordance with R.I. Gen. Laws § 5-65-6.
- B. The Notice of Violation shall contain:
 1. The identifying information of the respondent;
 2. The grounds for issuance;
 3. The fine amount and due date of payment; and
 4. The respondent's right to appeal.

1.12.4 Fines/Penalties

- A. Monetary fines and administrative penalties shall be imposed in accordance with R.I. Gen. Laws Chapter 5-65.
- B. In determining the appropriate fine(s) and/or penalties to impose, the Board shall look to past precedence of the Board for guidance and may consider any mitigating or aggravating circumstances as known to the Board at the time of the determination. Such circumstances may include, but are not limited to the following:
1. The presence of lack of past violations;
 2. The Respondent's acceptance of responsibility and candor with the Board;
 3. The egregiousness of the violation; and/or
 4. Harm to the public.
- C. Any fines assessed against the respondent are due and payable upon the issuance of the Notice of Violation(s), unless otherwise agreed to by the Board. The Board may initiate its own collection proceedings and actions pursuant to applicable law. Interest may be assessed on the amount due in the final order in accordance with applicable law
- D. For matters that are appealed pursuant to §§ 1.13.1 and 1.13.2 of this Part, the Hearing Officer and/or the Board may address, modify, and/or impose fines for additional violations or matters based on the evidence presented.

1.12.5 Court Judgements/Arbitration Awards - Effect on Registration/License

- A. A judgment/award issued by a forum other than the Board may serve as the basis for disciplinary action against a registrant/licensee.
- B. The judgment/award must be provided to the Board within ninety (90) days of entry in its original forum. Upon receipt of a timely filed court judgment/arbitration award, the Board may issue a notice of hearing and schedule an administrative hearing to take action against the registrant/licensee, utilizing the judgment/award as the basis for such action.

1.13 Appeals

1.13.1 Appeal of Notice of Violation to Hearing Officer

- A. The issuance of a Notice of Violation may be appealed to the Hearing Officer by requesting a hearing in writing to the Board within twenty (20) days of the date of mailing or issuance of the Notice of Violation.
1. If timely filed, the Hearing Officer shall hold an administrative hearing in accordance with § 1.15 of this Part.

2. Upon conclusion of the hearing, the Hearing Officer shall issue a Final Order.
 3. In accordance with R.I. Gen. Laws § 5-65-6, a Final Order shall be considered delivered when deposited in the United States mail and/or sent registered or certified or post office receipt secured to the last known address of record.
- B. If the Board does not receive a written request for an Appeal within twenty (20) days of the date of mailing the Notice of Violation, and the Respondent has not paid and/or complied with its requirements, the Notice of Violation shall automatically convert to a Final Order.

1.13.2 Appeal of Final Order by the Hearing Officer to the Full Board

- A. A Final Order issued pursuant to §§ 1.11.4 or 1.13.1 of this Part, may be appealed to the Full Board by requesting an appeal in writing to the Board within twenty (20) days of the date of mailing or issuance of the Final Order.
- B. If timely filed, the Full Board shall hear the appeal during one of its Board meetings, pursuant to the Open Meetings Act, R.I. Gen. Laws Chapter 42-46.
- C. Board Consideration of Appeal:
1. Members of the Full Board shall only consider evidence presented to the Hearing Officer, issues raised in the appeal, and written and/or oral argument relative to the Final Order issued by the Hearing Officer.
 2. Time allowed for oral argument may be limited by the Board.
 3. The Board will not consider new or additional evidence.
 4. The Board may allow the Board staff investigator to report on his/her investigative findings.
- D. Upon conclusion of the testimony and consideration of the evidence and argument, the Board shall issue a decision affirming, modifying, dismissing, or remanding the violation back to the Hearing Officer.
- E. In accordance with R.I. Gen. Laws § 5-65-6, the decision shall be considered delivered when deposited in the United States mail and/or sent registered or certified or post office receipt secured to the last known address of record.
- F. Decisions of the Full Board may be appealed to the Superior Court in accordance with § 1.13.3 of this Part.

1.13.3 Appeal of Decision by the Full Board to the Superior Court

Pursuant to R.I. Gen. Laws § 42-35-15, any Party aggrieved by a decision of the Full Board may file an appeal with the Superior Court.

1.14 Criminal Prosecution

Once all appeal rights have been extinguished, if a Respondent fails to comply with a Final Order, or a decision of the Full Board, the Board may refer the case to the Office of the Attorney General for criminal prosecution.

1.15 Administrative Hearings

Administrative hearings shall comply with the requirements of R.I. Gen. Laws Chapter 42-35, the enabling acts of the Board, and this [Subchapter](#).

1.15.1 Notice of Hearing:

- A. A notice of administrative hearing shall comply with R.I. Gen. Laws § 42-35-9(b).
- B. Unless otherwise agreed to by the Board and the parties, the Board shall schedule administrative hearings before a hearing officer no sooner than twenty (20) calendar days from the date the parties are notified of the hearing.
- C. In accordance with R.I. Gen. Laws § 5-65-6, a notice of hearing shall be considered delivered when deposited in the United States mail and/or sent registered or certified or post office receipt secured to the last known address of record.
- D. For administrative hearings related to the notice of violation, the Hearing Officer is the appropriate forum. For an appeal related to a Final Order of the Hearing Officer, the appropriate forum is the Full Board.

1.15.2 Representation

- A. Appearances.

 - 1. The Board shall notify each Party that each Party may retain legal counsel admitted in the State of Rhode Island.
 - 2. Individuals and partners of partnerships may appear pro se if they choose. Corporations may be represented by an officer in the corporation, even if not a member of the state bar.
 - 3. If a Party is not representing themselves, the Party must be represented by a member, in good standing, of the Bar of the State of Rhode Island, or by an out of state attorney who has been admitted pro hac vice by the Superior Court or by the appropriate court, unless exempted pursuant to R.I. Gen. Laws § 11-27-11.

4. All attorneys must conform to the standards of ethical conduct required of practitioners before the courts of the State of Rhode Island.

B. Appearances of Present and Former Employees of the Board.

1. No person who is currently an employee or member of the Board may appear before the Board or Department on behalf of any Person, or to represent any Person, or act as an expert witness before the Board or Department, except in the performance of his/her official duties as an employee or member of the Board.

2. No person having been so employed, or as a member of the Board may, within one (1) year after said employment has ceased, appear before the Board or Department on behalf of any other Person, or to represent any Person, or act as an expert witness before the Board or Department.

1.15.3 Filing of Pleadings and Other Documents

A. All pleadings and other documents filed in any Contested Case shall, whenever possible, state the file number, if any, the title of the proceeding and the name of the Person on whose behalf the filing is made.

B. Form and Size. All pleadings and other documents filed, except those documents which are kept in a smaller or larger format during the ordinary course of business, are to be submitted on 8½ by 11 inch paper. At the discretion of the Hearing Officer or Board, filings may be made by telecopier, facsimile, or by electronic mail or any other manner or means approved by the Hearing Officer. If filings are made electronically, the Party shall also file a hard copy of any such electronic filing. All documents must include, if applicable, the Rhode Island Bar number, address, telephone number, facsimile number and email address of each attorney and pro se litigant. All papers shall be filed during Regular Business Hours. The Board or Department's date stamp shall be presumptive of the actual date of filing.

C. Signature. The original copy of each pleading shall be signed and dated by the Party on whose behalf the pleading is made or by the Party's authorized representative. This signature shall constitute a certification that the individual has read the document, knows the contents thereof and to the best of his/her knowledge believes that such statements are true, that it is not interposed for delay and that if the pleading has been signed by an authorized representative, he/she has full power and authority to do so.

D. Construction. All pleadings shall be liberally construed and errors or defects therein which do not mislead or affect the substantial rights of the Parties involved may be disregarded.

1.15.4 Service

- A. Service Upon Parties and Others. A copy of all pleadings and other documents filed in any proceeding governed by this Part shall be served upon all other Parties.
- B. Manner of Service. Unless otherwise ordered or authorized by the Hearing Officer, Board, or Department, service under this Part shall be made upon a Party or upon the Party's attorney, in accordance with R.I. Gen. Laws § 5-65-6.
- C. Certificate of Service. There shall accompany and be included in the original of each pleading filed with the Board or Department a certificate of service showing service on all Parties.
- D. Date of Certificate to Govern. In addition to the provisions of § 1.12.5 of this Part, the time for response to all pleadings shall commence as of the date of the certificate of service. However, if service is made by mail, then one (1) day shall be added to the prescribed period.

1.15.5 Time

- A. Computation. Unless otherwise specifically provided by law, computation of any time period referred to in this Part shall begin with the first day following the act which initiates the running of the time period (including Saturday, Sunday and legal holidays). The last day of the time period so computed is to be included unless it is a Saturday, Sunday or legal holiday or any other day on which the Board is closed, in which case the period shall run until the end of Regular Business Hours of the next following business day.
- B. Extensions of Time. It shall be within the discretion of the Hearing Officer, for good cause shown, to extend any time limit. All requests for extensions of time shall be made by written motion filed with the Hearing Officer before the expiration of the applicable time period unless waived by the Hearing Officer.
- C. Continuances. Except as otherwise provided by law, the Hearing Officer may, at any time, with or without request, continue or adjourn a prehearing conference or a hearing. If a Party requests a continuance, the Hearing Officer may direct the Party to seek the assent of the other Party(ies) prior to deciding whether to grant such request. If the Hearing Officer grants a continuance at the request of a Party(ies), the Hearing Officer may direct the Party(ies) requesting the continuance to immediately notify all other Parties of record and if deemed necessary to prepare an order. If such an order is made, the continuance will only be effective when the notification to all other parties of record has been made.

1.15.6 Motions

- A. General. Any Party may request that the Hearing Officer enter any order or action not inconsistent with law or this Part. The types of motions made shall be

those which are permissible under these Rules and the Rhode Island Superior Court Rules of Civil Procedure (“Super. R. Civ. P.”).

- B. Presentation/Objections to Motions. Motions may be made in writing at any time before or after the commencement of a prehearing conference or hearing, and/or they may be made orally during a prehearing conference or hearing. Each motion shall set forth and/or state the grounds for the desired order or action and state whether oral argument is requested. Within ten (10) days after a written motion is filed with the Hearing Officer and served on the opposing Party(ies), a Party opposing said motion must file a written objection to the granting of the motion, and shall, if desired, request oral argument. All written motions and objections shall be accompanied by a written memorandum specifying the legal and factual basis for the Party's position.
- C. Action on Motion. The Hearing Officer shall, if he/she/it determines oral argument on the motion is warranted, give notice of the time and place for such argument. The Hearing Officer may rule on a motion without argument if the motion involves a matter as to which the presentation of testimony or oral argument would not advance the Hearing Officer’s understanding of the issues involved or if disposition without argument would best serve the public interest. The Hearing Officer may act on a motion when all Parties have responded thereto, or the deadline for response has passed, whichever comes first.

1.15.7 Discovery

- A. General. The Board favors prompt and complete disclosure and exchange of information and encourages informal arrangements among the Parties for this exchange. It is the Board's policy to encourage the timely use of discovery as a means toward effective presentations at hearing and avoidance of the use of cross-examination at hearing for discovery purposes.
- B. Procedure. Any Party, by written request served upon all other Parties, may request the other Party to produce for inspection, copying or photocopying document, object or tangible thing which are relevant to the subject matter of the hearing
- C. Hearing Delay. No hearing shall be continued to permit the completion of discovery unless due diligence is shown.
- D. Discovery Schedule. At the discretion of the Hearing Officer, the discovery schedule shall be set at the prehearing conference. The Hearing Officer may amend such discovery schedule at the request of a party or on his or her own volition.
- E. Written Discovery. Written discovery as set forth in the Superior Court Rules of Civil Procedure is allowed but may be limited by the Hearing Officer.

- F. Types of Discovery. Any other types of discovery as set forth in the Superior Court Rules of Civil Procedure may be allowed in the discretion of the Hearing Officer.
- G. Discovery Disputes. Objections to discovery requests shall be made pursuant to the Superior Court Rules of Civil Procedure. If there is a dispute between the Parties relating to a Party's failure to respond to discovery, the Party requesting the discovery shall comply with file a Motion to Compel Discovery with the Hearing Officer.
- H. A Party is not required to file discovery responses with the Hearing Officer unless otherwise ordered by the Hearing Officer.

1.15.8 Subpoenas

Upon application of any Party, subpoenas requiring the attendance and testimony of witnesses and to compel the production and examination of papers, books, accounts, documents, records, certificates and other evidence that may be necessary or proper for the determination and decision of any question before the forum may be issued by the Director upon submission to the Hearing Officer. Except as may be otherwise provided by law, including, without limitation, the provisions of R.I. Gen. Laws § 42-14-11, in cases where a subpoena is not honored, the Director may elect to make application to the State of Rhode Island Superior Court for an order to show cause why the Person who failed to honor the subpoena shall not be held in contempt and for such further relief as may be appropriate. The Hearing Officer may, on its own initiative, or on motion of any of the Parties or witnesses, issue such protective orders, grant such motions to quash and grant other motions as justice or fairness may require.

1.15.9 Evidence

- A. Rules of Evidence. Irrelevant, immaterial or unduly repetitious evidence shall be excluded in all proceedings wherein evidence is taken. While the rules of evidence as applied in civil cases in the Superior Courts of this state shall be followed to the extent practicable, the Hearing Officer shall not be bound by the technical evidentiary rules. Evidence not otherwise admissible may be admitted, unless precluded by statute, when necessary to ascertain facts not reasonably susceptible of proof under the rules, if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. The rules of privilege recognized by law shall apply. Objections to evidentiary offers may be made and shall be noted in the record.
- B. Exhibits, Copies. In all cases wherein evidence is taken, exhibits may be introduced in the form of copies or excerpts, if the original is not readily available. Upon request, a Party shall be given an opportunity to compare the copy with the original.

C. Administrative Notice. In all proceedings wherein evidence is taken, notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the Board or Department's specialized knowledge; but Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any report or data required by law or regulation to be filed with the Board or Department, and they shall be afforded an opportunity to contest the material so noticed. The Board or Department's experience, technical competence and specialized knowledge may be utilized in the evaluation of the evidence. The burden is on the Party requesting the Board or Department's notice to produce the documents or other matter for the Hearing Officer's review.

D. Board Employees, Agents and Consultants. The Board or Department may employ the use of Board employees, agents, and consultants to assist him/her in the evaluation of any evidence introduced at the hearing. In the Hearing Officer's discretion, these persons may be present at the hearing.

E. Oath. All testimony shall be under oath or by affirmation.

1.15.10 Conduct of Hearings

A. General. Hearings shall be as informal as may be reasonable and appropriate under the circumstances. All Parties, witnesses and other Persons at a hearing shall conduct themselves in a manner consistent with the standards of decorum commonly observed in any courtroom. Where such decorum is not observed, the forum may take appropriate action including ejection or adjournment, if necessary.

B. Duties of Hearing Officer. The Hearing Officer shall conduct the hearing, make all decisions regarding admission or exclusion of evidence or any other procedural matters and either administer oaths to all witnesses or ask the stenographer to do so.

C. Order of Proceedings. Except as otherwise required by law, it shall be the usual practice that the Board or the complainant shall open. Where evidence is peculiarly within the knowledge of one Party, or in cases in which contested cases have been consolidated or where there are multiple Parties, the Hearing Officer may, in its discretion, direct who shall open and shall further designate the order of presentation.

D. Rights of Parties. Parties shall have the right to present evidence, cross-examine witnesses, object, make motions, and present arguments.

E. Record of Proceedings.

1. A complete record of the proceedings shall be recorded on audiotape, or at the discretion of the Hearing Officer, by stenographic record. In the event the Hearing Officer orders a stenographic record, the Hearing

Officer shall declare which Party or Parties shall bear the cost thereof. Any Party may on his, her or its own initiative order a stenographic record made of the proceedings. The requesting Party shall incur all costs associated therewith. The Hearing Officer shall be provided, at no cost, with the original of the stenographic record and Board Counsel shall be provided with a copy at no cost. Any Party may request a copy of the audiotape record of the proceedings. The requesting Party shall bear the cost thereof.

2. If a Party chooses to appeal a final Board Decision to Superior Court pursuant to R.I. Gen. Laws Chapter 42-35 and the Superior Court requires a transcript of the hearing, said Party shall be responsible for having the transcript prepared by an independent person or company at his, her or its expense within twenty (20) days of filing the appeal.

F. Public Hearings. Except as required by law, all hearings are to be open to the public. In general, any Person who is not a Party to a proceeding may, in the discretion of the Hearing Officer, be permitted to make oral or submit written statements on any issues relevant to the proceeding.

G. Close of Proceedings. At the conclusion of the evidence, the Hearing Officer may, in its discretion, permit the Parties to argue orally and/or to submit written briefs. The Hearing Officer may direct that proposed findings of fact and conclusions of law be submitted by the Parties. The record in the proceeding shall close after oral argument, the deadline for the filing of the briefs, or upon such date as may be set by the Hearing Officer. No evidence shall be admitted thereafter, unless otherwise ordered by the Hearing Officer. The Hearing Officer may in any case require either Party, with appropriate notice to the other Party, to submit additional evidence in any matter relevant to the hearing.

H. Waiver of Hearing. In any proceeding, if the Parties agree to waive the hearing, the forum may dispose of the matter upon the pleadings and other submittals of the Parties.

I. Dispositions. Unless otherwise precluded by law, disposition may be made of any contested case at any time by stipulation, consent agreement, consent order, default, or dismissal by the forum. A joint request for a stay of the hearing for the purpose of preparing documents relevant to the above shall be forwarded to the forum and may be granted within the sound discretion of the forum.

1.15.11 Decisions

All decisions rendered by the Hearing Officer shall be in writing or placed on the record and shall comply with the requirements of R.I. Gen. Laws § 42-35-12.

1.16 Expungements

- A. The Board may consider the expungement of claims or violations upon written request of a registrant/licensee. The petition will not be considered unless submitted on the prescribed form along with the appropriate the fee pursuant to R.I. Gen. Laws § 5-65-10(g).
- B. The Board may consider evidence, testimony and support, and objections from any interested Party, including, but not limited to:
1. Volume and/or frequency of claims or violations;
 2. Severity of offenses;
 3. Code violations cited;
 4. Present record;
 5. Time since last incident; and
 6. Other court cases.
- C. Matters which have resulted in a conviction in a court of competent jurisdiction shall not be considered for expungement by the Board.
- D. The Board will not consider a request for expungement if the applicant has pending actions on the applicant's registration/license.
- E. An administrative hearing resulting in judgment for the respondent may be expunged.
- F. Partial expungement of the respondent' record may be granted at the Board's discretion.
- G. Upon investigation by the Board's investigative staff, an invalid claim, a claim that is deemed frivolous in nature, or a claim in which the claimant failed to notify the registrant of deficiencies in a timely manner, may be expunged.

1.17 Default

If any Party to a proceeding fails to answer a complaint, plead, appear at a prehearing conference or hearing or otherwise fails to prosecute or defend an action as provided by these Rules, the Hearing Officer or Board may enter a default judgment against the defaulting Party or take such action based on the pleadings and/or other evidence submitted by the non-defaulting Party as the forum deems appropriate. Challenge to such an order shall be made as a motion for reconsideration per § 1.15.6 of this Part.

1.18 Disqualification; Incapacity of Hearing Officer

- A. Disqualification. Any Party may make a motion to the Director requesting that he/she disqualify or remove the Hearing Officer from the proceeding. The motion shall be accompanied by an affidavit setting forth the reasons for the disqualification. In the event that the motion to disqualify is granted, the Director shall assign another Hearing Officer to the matter.
- B. Incapacity. When the Hearing Officer becomes incapacitated or unavailable to complete a hearing and/or render a decision, the hearing shall be conducted, and/or the decision shall be rendered by a substitute Hearing Officer appointed by the Director. If any party objects to the substitution, that party must prove prejudice by presentation of argument and evidence to the substitute Hearing Officer. If the substitute Hearing Officer finds that the objecting party will be prejudiced, the substitute Hearing Officer will issue an order making such findings and will hear the matter de novo.

1.19 Miscellaneous Provisions

- A. Intervention. Any Person claiming a right to intervene or an interest of such a nature that intervention is necessary or appropriate to the administration of the statute under which the proceeding is brought may seek to intervene in any proceeding. Intervention may be initiated by filing a motion to intervene with the forum. The motion shall set out clearly and concisely the facts from which the nature of the movant's alleged right of interest can be determined, the grounds for the proposed intervention and the position of the movant in the proceeding.
- B. Ex Parte Consultations. No Person who is a Party to or a participant in any proceeding before the Board or the Party's counsel, employee, agent or any other individual acting on the Party's behalf, shall communicate ex parte with the Board about any matter related to the proceeding, and the Board shall not request or entertain any such ex parte communications. The prohibitions contained above do not apply to those communications which relate solely to general matters of procedure and scheduling.
- C. Consolidation. The Hearing Officer may, in his/her discretion, consolidate or combine several matters for purposes of hearing or other proceedings, when he/she finds that sufficient common issues of fact or law or both are involved.
- D. Plural. Words in the singular number include the plural, and vice-versa, except where the context otherwise requires or where a contrary result appears from necessary implication.
- E. Appointment of Board Counsel. At any time during a complaint hearing, the forum may request that the Director appoint Board Counsel to prosecute the case on behalf of the complainant.

F. Statutes. If any statute has different requirements than those contained within this Regulation, the statute shall be controlling.

G. Public Documents. The Board reserves the right to publish in any form any public document.

1.20 Hearings - Public Information

A. Access to public records shall be governed in accordance with R.I. Gen. Laws § 38-2-1 et seq. All hearings are conducted pursuant to the Administrative Procedures Act, R.I. Gen. Laws § 42-35-1 et seq. Except where the Director, his or her designee or the Hearing Officer directs otherwise, upon the opening of the prehearing conference all pleadings, orders, communications, exhibits and other documents filed with the forum shall become public records. Any claim of privilege shall be governed by the policy underlying the Access to Public Records Act, with the burden of proof resting on the party claiming the privilege.

B. Any Party may request a preliminary finding that some or all of the information is not a public document under the Access to Public Records Act. A preliminary finding that some documents are privileged shall not preclude the Board from later determining that those documents are public in accordance with R.I. Gen. Laws Chapter 38-2.

C. Claims of privilege shall be made by filing a written request with the Board. One copy of the original documents, boldly indicating on the front page, "Contains Privileged Information – Do Not Release," shall be filed specifically identifying the information for which the privilege is sought, along with a description of the grounds upon which the Party is claiming a privilege. If a document is filed electronically, it shall contain a statement that the information has been redacted; however, the original document must be filed as delineated above.

D. The Board shall retain the documents for which privilege is asserted to exist in a secure, non-public file until a determination is made as to whether to grant the request for privileged treatment.

E. Any person, whether or not a Party, may apply to the Board for release of the information, pursuant to R.I. Gen. Laws Chapter 38-2, the Access to Public Records Act.

1.21 Publication of Orders and Notices

The publication of all orders issued by the board and notices of hearing shall comply with the requirements of R.I. Gen. Laws § 5-65-25.

1.22 Equal Access to Justice for Small Business

- A. Pursuant to R.I. Gen. Laws § 42-92-1 et seq., the Hearing Officer shall award reasonable litigation expenses incurred by the prevailing party in connection with Board hearings, if the Hearing Officer finds that all of the following conditions are met:
1. That there was no reasonable basis in fact or law for the Board's position; and
 2. The adjudicatory proceedings involved loss of benefits, the imposition of a fine, the suspension or revocation of a registration, license, or permit, or which may result in the compulsion or restriction of activities; and
 3. The prevailing party must be either:
 - a. An individual whose net worth is less than five hundred thousand dollars (\$500,000) at the time the adjudication is initiated; or
 - b. An individual, partnership, corporation, association, or private organization doing business and located in the state, which is independently owned and operated, not dominant in its field, and which employs no more than one hundred (100) persons at the time the adjudication is initiated; and
 4. The prevailing party must request reimbursement not later than thirty (30) days following the issuance of the written order.
- B. A request for an award must be in writing and sufficiently set forth:
1. Compliance with § 1.22(A)(1), (2), (3), and (4) of this Part; and
 2. The costs incurred in defending against the unreasonable adjudicatory proceedings, including, but not limited to, attorney's fees and witness fees.
- C. If found to be applicable, the Hearing Officer shall issue a supplementary order directing the Board to pay reasonable litigation expenses, as limited by R.I. Gen. Laws § 42-92-2(6).

1.23 Severability

If any section, term, or provision of this Regulation should be declared invalid for any reason, the remaining sections, terms, and/or provisions shall remain in full force and effect.