

SOUTH CAROLINA  
DEPARTMENT OF LABOR, LICENSING AND REGULATION

**2015**

## **BOARD MEMBER REFERENCE MANUAL**

**DIVISION OF PROFESSIONAL AND OCCUPATIONAL LICENSING**

110 Centerview Drive, P.O. Box 11329, Columbia, South Carolina 29211-1329  
<http://www.llr.sc.gov>

Revised 07/17/15

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**SOUTH CAROLINA DEPARTMENT OF  
LABOR, LICENSING AND REGULATION**

**I. WELCOME FROM DIRECTOR**



*Welcome to LLR. We truly appreciate your willingness to serve the state and the citizens of South Carolina with your time, talent, and dedication. As Director of LLR, I want you to know that my door is always open. Please feel free to call, email or meet with me. I welcome and value your input.*

*Again, thank you for your willingness to serve to as a Board Member. I look forward to working with you.*

***Richele K. Taylor***



## II. THE DEPARTMENT OF LABOR, LICENSING AND REGULATION

### A. General Information

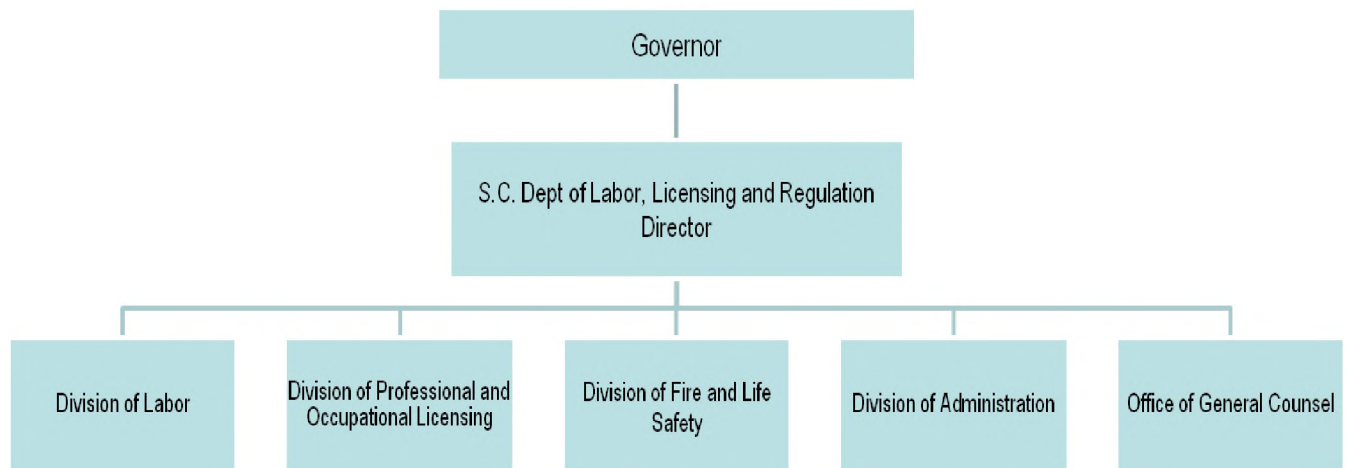
The South Carolina legislature restructured a significant portion of state government on February 1, 1994, with Act 181, which created the South Carolina Department of Labor, Licensing and Regulation (LLR). This Act merged the Department of Labor, State Fire Marshal's Office, South Carolina Fire Academy and forty (40) professional and occupational licensing Boards to form this state department. The legislation empowered the governor to appoint a Director of the Department, with the advice and consent of the Senate.

### B. MISSION

The [mission](#) of the Department of Labor, Licensing and Regulation (LLR) is to promote the health, safety and economic well-being of the public through regulation, licensing, enforcement, training and education. Our mission goes hand-in-hand with the Governor's effort to raise personal incomes of South Carolinians by creating a better environment for economic growth, delivering government services more openly and efficiently, improving quality of life, and improving our state's education.

### C. OVERVIEW

Currently LLR administers more than seventy (70) programs, from professional and occupational licensing to OSHA enforcement to fire service education. Any one of LLR's divisions could be compared to other state agencies which are similar in size, complexity and focus.



#### All LLR Divisions and Offices are Located in Columbia - [Directions](#) to LLR Offices

Labor .....	Kingstree Building, 110 Centerview Drive.
Professional and Occupational Licensing .....	Kingstree Building, 110 Centerview Drive.
Fire and Life Safety .....	State Fire Academy on Monticello Trail.
Administration .....	Kingstree Building, 110 Centerview Drive.

## III. DIVISION OF PROFESSIONAL AND OCCUPATIONAL LICENSING [\[POL\]](#)

### A. History and Purpose of Professional and Occupational Licensing

Occupational licensure has a long history. Modern day licensure has its roots in workers' guilds, which can be traced back to the 10th century in England. The first modern effort to regulate occupations and professions was Virginia's medical practice act in 1639. In the late 1800s, state licensure activity began in earnest, and by 1900, a majority of the states had licensed attorneys,

dentists, pharmacists, physicians, and teachers. Between 1900 and 1960, most states licensed an additional twenty (20) occupations and professions including accountants, nurses, real estate brokers, barbers, hairdressers, chiropractors, and funeral directors. Today, more than eighty (80) occupations and professions are licensed by one or more states.

Occupational licensing is an exercise of the state's duty to protect the health, safety, and welfare of its citizens. State licensure is deemed appropriate when:

1. Unqualified practice poses a serious risk to a consumer's life, health, safety, or economic well-being.
2. The public cannot accurately judge a practitioner's qualifications.
3. Benefits to the public clearly outweigh potential harmful effects of licensure (such as a decrease in the supply of practitioners).

The absence of these conditions generally indicates that licensure is not justified or that some alternative form of regulation such as registration or certification may be appropriate.

Proponents of licensure argue that the purpose of licensure is to raise standards of practice, ensure quality service, and establish accepted codes of ethical behavior. In the last two decades, there has been a growing awareness of licensure's concomitant responsibility to promote continuing professional education and competence and to enforce licensure laws against fraudulent, incompetent, and unethical behavior.

## **B. Overview**

As an administrative unit within LLR, the Division of Professional and Occupational Licensing (POL) provides services to thirty-nine (39) professional and occupational regulatory Boards that are responsible for establishing minimum standards of competence and conduct for more than 300,000 licensees in South Carolina.

The thirty-nine (39) licensing Boards protect the health, safety and well being of the citizens of South Carolina by issuing licenses to qualified individuals and businesses that provide services to consumers. The Boards are composed of volunteer members, some of whom are appointed by the Governor, some of whom are appointed with advice and consent of the Senate, and some of whom are elected amongst their peers. Board members include licensed practitioners and members of the public. They serve as a direct link between the professionals they license and consumers. Most of the Boards meet on a quarterly basis, and the meetings are open to the public.

Succinctly put, Board responsibilities include:

1. Evaluating the qualifications of license applicants.
2. Granting licenses to those who qualify (In FY10-11, more than 2,000 verifications were completed on-line).
3. Establishing regulations that set ethical and technical competence standards for licensed professionals.
4. Taking disciplinary action against licensees whose conduct fails to meet the accepted standards of the profession.

POL also serves as an educational resource to schools and colleges and provides staff to serve as speakers and presenters at professional associations and other meetings.

## **C. POL's Mission**

To protect the health, safety and wellbeing of the citizens of South Carolina by establishing and enforcing minimum requirements for licensure and appropriate standards of conduct by means of evaluation, education, examination, licensure and disciplinary action; and to communicate with its licensees and the public regarding the laws and standards of the professions. This public protection is accomplished by:

1. Promoting responsible professional and lay participation on regulatory Boards.
2. Ensuring that only qualified practitioners meeting State-established requirements are licensed and practicing.
3. Promoting competency and ethical standards through the establishment of rules and requirements for specified professions and occupations.
4. Conducting appropriate routine inspections of programs, facilities, structures, and events to confirm adherence to established requirements for a particular profession/occupation.
5. Conducting impartial investigations of complaints against licensed practitioners with appropriate disciplinary action.
6. Recommending legislative changes to licensing laws based on information and experience gained through research, the licensing process, and continuous contact with practitioners, consumers, and other interested entities.
7. Facilitating communication and cooperation among Boards, professional/trade associations, and other entities involved in the regulatory process.
8. Efficiently and responsibly using available resources to serve the public in an impartial, consistent, timely, and courteous manner that promotes trust, confidence, and accountability.

#### **D. Board Administrator Role and Responsibilities**

In the POL Division, administrators generally manage day-to-day operations of the individual Boards. In some instances, one administrator is responsible for more than one Board. Board programs are in the [Office of Board Services](#) under the direction of two Assistant Deputy Directors. One Assistant Deputy Director handles the health and medically related boards and one Assistant Deputy Director handles the building and business related boards.

The role and responsibilities of the board administrator include:

- 1. Facilitates operational requirements of the Board's administrative functions**
  - a) Monitors licensee research and investigations
  - b) Schedules and coordinates licensee exams
  - c) Disseminates Board information via newsletters, Website, special alerts
  - d) Coordinates Board meetings
  - e) Generates Board quarterly reports or as needed
  - f) Responds to public inquiries and coordinates with other LLR departments
  - g) Initial Liaison between LLR and the Board members
  - h) Counsels Board members of agency rules and regulations
  - i) Facilitates Board meeting protocol and procedure
- 2. Agency personnel matters**
  - a) Coordinates Board staff needs and requests
  - b) Prepares staff personnel evaluations and reports
  - c) Maintains budget compliance
  - d) Orders office equipment and supplies in accordance with state procurement laws.
- 3. Represents the Board and the agency at the General Assembly and national meetings**
  - a) Coordinates response to outside entities regarding operational functions of the Board
  - b) Coordinates Board governance issues, policy and procedures
- 4. Manages Board budget and submits a budget report to the agency**
  - a) Perpetuates the operations of the Board within budgetary confines
  - b) Tabulates the Board's fiscal annual report
  - c) Calculates the Board's fiscal projections
  - d) Provides Board information for the agency's accountability report
- 5. Purchases Board equipment as needed in accordance with state procurement laws.**
  - a) Approves purchase requests for essential Board supplies
  - b) Evaluates the necessity of equipment requests

c) Assures operational needs are met

**6. Approves and compiles Board travel requests in accordance with state travel reimbursement laws.**

a) Reviews travel requests within the confines of budgetary guidelines and limitations

**E. Division of POL Contact List**

The Division of Professional and Occupational Licensing provides administration for professional and occupational licensing Boards as directed by 1993 Act 181.

**Office of Board Services**

**110 Centerview Drive, P.O. Box 11329, Columbia, SC 29211-1329\***

*(\*All Boards have this address unless otherwise noted)*

**Rion Alvey, Assistant Deputy Director**

Health / Medically Related Boards

Telephone (803) 896-4594 /Fax (803) 896-4515

**Charles Ido, Assistant Deputy Director**

Building / Business Related Boards

Telephone (803) 896-4488 /Fax (803) 896-4350

**Sandra Dickert, Administrative Assistant**

Telephone: (803) 896-4486 / Fax (803) 896-4350

<u>Board of Accountancy</u> Telephone (803)896-4770 /Fax (803)896-4554	Doris E. Cubitt Administrator
<u>Board of Architectural Examiners</u> P.O. Box 11419, Columbia, SC 29211-1419 Telephone (803)896-4408 /Fax (803)896-4427	Lenora Addison-Miles Administrator
<u>State Athletic Commission</u> Telephone (803)896-4571 /Fax (803)896-4350	Diana Williams Administrator
<u>Auctioneers Commission</u> Telephone (803)896-4800 /Fax (803)896-4424	Amy Holleman Administrator
<u>Board of Barber Examiners</u> Telephone (803)896-4588 /Fax (803)896-4554	Theresa N. Richardson Administrator
<u>Building Codes Council</u> Telephone (803)896-4688 /Fax (803)896-4814	Roger K. Lowe Administrator
<u>SC Perpetual Care Cemetery Board</u> Telephone (803)896-4497 /Fax (803)896-4554	Amy Holleman Administrator
<u>Board of Chiropractic Examiners</u> Telephone (803)896-4587 /Fax (803)896-4719	Veronica Reynolds Administrator
<u>Contractors Licensing Board</u> Telephone (803)896-4686 /Fax (803)896-4814	Roger K. Lowe Administrator
<u>Board of Cosmetology</u> Telephone (803)896-4588 /Fax (803)896-4484	Theresa N. Richardson Administrator
<u>Board of Examiners for Professional Counselors, Marriage-Family Therapists, and Psycho-Educational Specialists</u> Telephone (803)896-4658 /Fax (803)896-4719	Marlo Thomas-Koger Administrator
<u>Board of Dentistry</u> Telephone (803)896-4599 /Fax (803)896-4719	Kate K. Cox Administrator

<u>Panel for Dietetics</u> Telephone (803)896-4651 /Fax (803) 896-4719	Angela M. Combs Administrator
<u>Board of Registration for Professional Engineers and Surveyors</u> P.O. Box 11597, Columbia, SC 29211-1597 Telephone (803)896-4422 /Fax (803)896-4427	Lenora Addison-Miles Administrator
<u>Board of Environmental Certification</u> P O Box 11409, Columbia, SC 29211-1409 Telephone (803)896-4430 /Fax (803)896-4424	Molly F. Price Administrator
<u>Board of Registration for Foresters</u> Telephone (803)896-4800 /Fax (803)896-4424	Molly F. Price Administrator
<u>Board of Funeral Service</u> Telephone (803)896-4497 /Fax (803)896-4554	Amy Holleman Administrator
<u>Board of Registration for Geologists</u> Telephone (803)896-4575 /Fax (803)896-4424	Doris E. Cubitt Administrator
<u>Board of Landscape Architectural Examiners</u> P.O. Box 11419, Columbia, SC 29211-1419 Telephone (803)896-4580 /Fax (803)896-4427	Molly F. Price Administrator
<u>Liquefied Petroleum Gas Board</u> 141 Monticello Trail, Columbia, SC 29203 Telephone (803)896-9802 / Fax (803)896-9806	Ray Hoshall Administrator Office of State Fire Marshal
<u>Board of Long Term Health Care Administrators</u> Telephone (803)896-4498 /Fax (803)896-4596	Lee Ann F. Bundrick Administrator
<u>Manufactured Housing Board</u> Telephone (803)896-4682 /Fax (803)896-4814	Roger K. Lowe Administrator
<u>Massage/Bodywork Therapy</u> Telephone (803)896-4588 /Fax (803)896-4484	Theresa N. Richardson Administrator
<u>Board of Medical Examiners</u> P.O. Box 11289, Columbia, SC 29211-1289 Telephone (803)896 -4500 /Fax (803)896-4515	Sheridon Spoon Administrator
<u>Board of Nursing</u> P. O. Box 12367, Columbia, SC 29211 Telephone (803)896-4550 /Fax (803)896-4515	Nancy G. Murphy Administrator
<u>Board of Occupational Therapy</u> Telephone (803)896-4683 /Fax (803)896-4719	Veronica Reynolds Administrator
<u>Board of Opticianry Examiners</u> Telephone (803)896-4681 /Fax (803)896-4719	Angela M. Combs Administrator
<u>Board of Optometry Examiners</u> Telephone (803)896-4679 /Fax (803)896-4719	Angela M. Combs Administrator
<u>Board of Pharmacy</u> P.O. Box 11927, Columbia, SC 29211-1927 Telephone (803)896-4700 /Fax (803)896-4596	Lee Ann F. Bundrick Administrator
<u>Board of Physical Therapy Examiners</u> Telephone (803)896- 4655 /Fax (803)896-4719	Veronica Reynolds Administrator
<u>Pilotage Commission</u> Telephone (803)896-4598 /Fax (803)896-4350	Kate K. Cox Administrator



<u>Board of Podiatry Examiners</u> P.O. Box 11289, Columbia, SC 29211-1289 Telephone (803)896-4500 /Fax (803)896-4515	Sheridon Spoon Administrator
<u>Board of Psychology Examiners</u> Telephone (803)896-4664 /Fax (803)896-4719	Marlo Thomas-Koger Administrator
<u>Board of Pyrotechnic Safety</u> 141 Monticello Trail, Columbia, SC 29203 Telephone (803)896-9802 / Fax (803)896-9806	Ray Hoshall Administrator Office of State Fire Marshal
<u>Board of Real Estate Appraisers</u> P.O. Box 11847, Columbia, SC 29211-1847 Telephone (803)896-4400 /Fax (803)896-4427	Laura Smith Administrator
<u>Real Estate Commission</u> P.O. Box 11847, Columbia, SC 29211-1847 Telephone (803)896-4400 /Fax (803)896-4427	Roderick T. Atkinson Administrator
<u>Residential Builders Commission</u> Telephone (803)896-4696 /Fax (803)896-4814	Janet Baumberger Administrator
<u>Soil Classifier Advisory Council</u> P.O. Box 11419, Columbia, SC 29211-1419 Telephone (803)896-4580/Fax (803)896-4427	Molly F. Price Administrator
<u>Board of Social Work Examiners</u> Telephone (803)896-4664 /Fax (803)896-4719	Marlo Thomas-Koger Administrator
<u>Board of Speech-Language Pathology and Audiology</u> Telephone (803)896-4655 /Fax (803)896-4719	Veronica Reynolds Administrator
<u>Board of Veterinary Medical Examiners</u> Telephone (803)896-4598 /Fax (803)896-4719	Kate K. Cox Administrator
<u>Administrators Revised 07/17/15</u>	

## **F Engine Act**

The South Carolina legislature restructured a significant portion of state government on February 1, 1994, with Act 181, (Title 40, Chapter 1 Profession and Occupations), which created the South Carolina Department of Labor, Licensing and Regulation (LLR).

## **IV BOARD MEMBER ROLE / RESPONSIBILITIES**

### **A. Board Appointments**

#### **1. Appointments**

The Governor appoints Board members for specified terms based on the statute of each respective Board.

#### **2. Removal**

The Governor, for the following reasons, may remove persons appointed to professional and occupational licensing Boards as stated in the [South Carolina Code of Laws, Section 1-3-240](#):

- a) Malfeasance
- b) Misfeasance
- c) Incompetence
- d) Absenteeism
- e) Conflicts of interest

- f) Misconduct
- g) Neglect of duty
- h) Incapacity

### **3. Board Member Disciplinary Actions**

Board members are not immune to incurring administrative prosecution. A complaint against a professional Board member will be conducted in the same manner as it would be with any other licensee. If the matter goes through the hearing process, a hearing officer may be appointed to hear the matter.

## **B. Board Member Responsibilities**

1. Board members should keep in mind the consumer rights and the mission to serve and protect the public when making Board decisions.
2. Board members should follow procedures and take actions that encourage openness and accountability, increase the public's safety, and enhance choices available to consumers. Meetings are subject to all provisions of the Administrative Procedures Act and the Freedom of Information Act.
3. Board members should be aware of the dangers of over-regulating a profession and the impact of licensing on costs to consumers. A Board member has responsibilities to several groups including, but not limited to, those listed below.

### **a) The general public**

Consumers expect that persons authorized to practice will be qualified to perform properly and safely. The public has a right to know what is going on within the Board.

### **b) Persons potentially authorized to practice**

A person, who wishes to earn a living in a profession or occupation, should not face unreasonable barriers to do so. That person should have easy access to all information about entering the profession, including testing and transferring a license to or from another state.

### **c) Other Board members, Boards, associations, persons authorized to practice and other entities**

Board members have the responsibility to listen to other Board members, to both those in the profession/occupation and public members and to consider their views and contributions. Board members have the responsibility to facilitate communication and cooperation among other Boards, professional/trade associations, licensees and other entities involved in the regulatory process.

## **C. Characteristics of Effective Board Members.**

Respect the rights and needs of others. A Board member's conduct should be dignified and befitting as that of an official state representative. Public and consumer members have the same rights and responsibilities as professionally or occupationally related members.

### **1. Effective Board members have these characteristics in common:**

- a. They are able to work with a group to make decisions.
- b. They understand and follow democratic processes.
- c. They are willing to devote time and effort to the work of the Board.
- d. They work to find alternative solutions to problems whenever necessary.
- e. They have good communication skills.
- f. They recognize that service and protection of the public is the goal of the Board.
- g. They are aware that the law grants authority to the Board as a whole, not to individual members.
- h. They delay making judgments until adequate evidence has been presented and fully discussed.
- i. They focus on policy issues of the Board as opposed to the daily functions of staff.
- j. They do not let personal feelings toward others affect their decisions.

**2. Each Board member should be aware of these requirements and limitations:**

- a. Inquiries regarding matters within the Board's jurisdiction should be directed to the Board office so that the entire Board may address the matter at a duly constituted meeting.
- b. A Board member should not release details of any Board activity *unless or until* it becomes part of the *public* record. The investigation procedure, which includes informal hearings or conferences, may not be part of the public record. Disclosure of such information should be made only after consultation with legal counsel.
- c. Board members are prohibited from conducting private Board meetings.
- d. Board members are seen as representatives of the Board when they appear at industry, professional gatherings or legislative meetings. Board members must not appear to speak for the Board unless specifically authorized by the Board to do so.

**D. Licensing Board Service Requirements**

**1. A Demonstrated Interest in Public Service.**

Board members should use common sense and be willing to ask questions when examining Board policies, procedures and decisions to determine if they seem sensible. Members are responsible for all Board actions and proceedings. Both public and professional members are expected to participate fully, unless otherwise prohibited by statute or regulation, in all discussions, deliberations, decisions, and votes.

**2. A Commitment to Attendance.**

The South Carolina Code of Laws Section 1-3-245 sets forth specific sanctions for non-attendance. An individual who accepts a Board appointment, yet neglects the seriousness of this duty to attend meetings regularly and actively participate, does a disservice to the public. *Regular attendance at meetings is essential for the smooth functioning of the Board.* In the event of an absence, the Chair/President or Board Administrator must be notified of any unforeseen circumstances or emergency situations that would prohibit attendance. Absence, even with prior notification, should be avoided. A notation as to the time members are absent for *any* portion of the Board meeting is included in the minutes so that an accurate record is available on which members are present when votes are taken.

- a. Consistent attendance is essential to staying informed and providing direction and support.
- b. A Board member is required to attend meetings or to provide proper notice and justification of inability to do so.
- c. Three (3) unexcused absences from meetings may result in removal from the Board.

**3. Knowledge of Meeting Procedures.**

**a. Agenda Items**

Items to be included on a Board meeting agenda should be submitted to the Board office *at least* ten (10) days prior to the meeting. If materials are to be distributed to other members, please send these in advance or bring sufficient copies to the meeting to be distributed. Meeting materials such as reports, proposals, and other documents should be submitted in a manner to allow Board members adequate opportunity to review prior to the meeting.

**b. Notice of Meetings**

Meeting notices will be sent in advance to media outlets and people who have requested to be notified. The agenda will be posted at the LLR offices in a public place. *Items to be voted on cannot be changed less than twenty four (24) hours prior to a meeting.*

**c. Record of Meetings**

- 1). Minutes-The meeting minutes are a summary, not a transcript, of what transpired. They are prepared by Board staff and submitted for review by Board members prior to the next Board meeting. Board minutes are approved at the next scheduled meeting. When approved, the minutes serve as the official record of the meeting and may be disseminated to other parties.

- 2). Transcripts—Meetings may be recorded and an official *verbatim* transcript prepared and made available to other parties.

#### **4 Become Informed About the Board Structure and Resources.**

It is important to prepare for meetings by reading reports, proposals, and other documents prepared by staff. Information pertaining to scheduled Board meeting is usually distributed approximately one week prior to the meeting date.

***These meeting materials are confidential*** and should *not* be shared with **anyone** who is not a member of the Board unless specifically authorized by the Board. If information is unclear, ask for enough information to substantiate a recommendation or decision.

- a. Use common sense and ask questions.
- b. Evaluate whether the Board policies, procedures, and decisions are just and reasonable.
- c. Ask for clarification if policies, procedures and/or decisions are confusing.
- d. Be engaged in and responsible for Board proceedings and outcomes.
- e. Some suggested resources include:
  - [Council on Licensure, Enforcement and Regulation \(CLEAR\)](#)
  - [Federation of Associations of Regulatory Boards \(FARB\)](#)
  - [Code of Federal Regulations](#)
  - [Library of Congress](#)
  - [Citizens Advocacy Center \(CAC\)](#)
  - [South Carolina State Legislature](#)
  - [South Carolina Press Association \(SCPA\)](#) ]

#### **1. Recusal Policy**

Applicants and licensees are entitled to certain due process rights guaranteed by both the United States and the South Carolina Constitutions. One of the most important rights is to a fair hearing before impartial tribunals, whose members are not subject to bias or tainted by prior knowledge of the facts of the controversy. *The bias or taint need not be actual.* The appearance of bias or taint may be sufficient grounds for a challenge in the Courts. Therefore, even the appearance of bias, prejudgment or taint should be avoided in proceedings before the Board.

Accordingly, each Board member should consider carefully any potential bias- prior knowledge of the facts or of the parties or witnesses, and any direct connection to the facts or persons involved in a contested case. A Board member should also consider the possibility that they may be tainted- if a Board member has a personal interest in the outcome of a Board decision that exceeds the average interest of those licensed in their same profession.

In considering the effect of any connection to the matter, the Board member should consider the appearance of bias or taint. At any time that there is a potential bias or taint that might affect the Board's ability to act with complete fairness and impartiality in an individual matter, the Board member should be prepared to recuse himself or herself from participation.

##### **a) Policy**

A Board member may not participate in a proceeding in which the impartiality of the Board member might reasonably be questioned, including but not limited to, proceedings in which the Board member has or appears to have:

- 1) A personal bias or prejudice concerning a party
- 2) Personal knowledge of disputed evidentiary facts concerning a proceeding
- 3) Any other conflict of interest.

##### **b) Procedure**

The Board member shall determine whether to request recusal based upon his or her own evaluation of potential bias or taint. He/she shall state the grounds on the record. The Board member should state the grounds in such a manner so as not to potentially prejudice the Board by his/her comments. The parties may waive recusal of a Board member after the grounds have been fully disclosed on the record. On the motion of any party or upon the motion of any member of the Board, stating on the record the grounds for recusal, the full Board (less the subject Board member) may determine whether recusal should be ordered.

***When a Board member has been recused from a proceeding, he or she shall leave the room and shall not participate in any way whatsoever in the proceeding.***

#### **E. Mentoring Program for New Members.**

##### **1. Purpose of Program**

- a. Explain orientation materials to new Board members.
- b. Counsel new Board members on how to become effective.
- c. Imbue confidence and assure the comfort level of new Board members in their role.

##### **2. Mentor Selection**

- a. Each Board may either identify former members or recruit individuals to become mentors who are knowledgeable about professional issues, current philosophy, and functions.
- b. A Board, at its discretion, may decide that the Board Administrator is the most appropriate mentor.

##### **3. Duration of the Program**

- a. Each Board may determine duration of the program-Suggested program length is one year.

##### **4. Mentor's Primary Function**

- a. Answer questions.
- b. Provide background on Board history, purpose, and issues.
- c. Distinguish between the Board role versus the role of professional association(s) and encourage the importance of open communication between the two.
- d. Explain parameters of Board jurisdiction.
- e. Encourage attendance and participation.
- f. Explain the importance of avoiding *ex parte* communication.

##### **5. Mentor Orientation**

- a. Each Board will meet initially with mentors, and annually thereafter, to ensure mentors have current information and materials regarding Board policies and issues. *(Can be concurrent with evaluation session mentioned in Section V.E.6.a.)*
- b. Mentors should be objective and non-partisan, with an emphasis on their principle role of safeguarding the public's health, safety, and welfare. Mentors are discouraged from conveying personal opinions.

##### **6. Monitoring for Success**

- a. Each Board will conduct an annual evaluation session with mentors to receive feedback and suggestions for possible program revisions.
- b. Each Board will present a Certificate of Appreciation to mentors.

#### **F. Consumer Bill of Rights**

The concept of professional regulation serving the public interest is summarized in the "Consumer Bill of Rights," first articulated by President John F. Kennedy. The items listed below are based primarily on this "Special Message to the Congress on Protecting the Consumer Interest, March 15, 1962."

**These rights include:**

- A) The right to safety: to expect that health, safety and well-being will be protected.
- B) The right to be informed: to have full and fair information and explanations and to be protected against fraudulent, deceitful, or misleading claims or practices.
- C) The right to choose: to have available a variety of products and services at competitive prices and to have the ability to make informed choices among such products and services.
- D) The right to be heard: to be assured that consumer interests will receive full and sympathetic consideration in making government policy, both through the laws passed by legislatures and through regulations proposed by administrative bodies and to have fair and expeditious treatment in its administrative tribunals.
- E) The right to education: to have access to programs and information that help consumers make better marketplace decisions.
- F) The right to service: to convenience, to be treated with courtesy and respect, to responsiveness to needs and problems and to refuse any services offered.

#### G. **Ethics Commission: Rules of Conduct**

##### **Chapter 13-Ethics, Government Accountability, and Campaign Reform**

All public employees, public officeholders, and public members are expected to adhere to and follow the rules of conduct as outlined in the Ethics Reform Act. Anyone who is found guilty of violating these rules is subject to prosecution by the State Ethics Commission and the Attorney General's Office.

1. **Any person who serves on a state Board, Commission or Council, whether salaried or not, must fill out a “Statement of Economics Interest Form”** from the Ethics Commission: [Statement of Economic Interests General Information](#), [Statement of Economic Interests Law](#) and [Statement of Economic Interests User Guide](#) are available on the [Ethics Commission website](#).
2. **Board or Commission members must file the Statement of Economic Interest form at two separate times:**
  - a. **first, immediately upon appointment to the position and prior to taking the oath of office or entering upon his or her official responsibilities (this is separate from the information provided to the Governor and/or Senate), and**
  - b. **second, every year prior to noon on March 30<sup>th</sup>.**
3. **This form is due no later than March 30th by noon** covering the previous calendar year (Jan. 1 - Dec. 31) **THERE IS A \$100 FINE PER DAY, EACH DAY IT IS OVERDUE.**
4. **All Statement of Economic Interests Forms must be filed electronically.** Electronic filing is accessed on the [South Carolina Ethics Commission](#) website at <https://ssl.sc.gov/EthicsRegistration/Login/Login.aspx> Upon filing, the information is immediately available to the public through public reporting on the Ethics Commission Website.

#### H. **Federation of Associations of Regulatory Boards (FARB) Model Code of Conduct for Board Members of the Licensed Professions.**

The [Federation of Associations of Regulatory Boards \(FARB\) Model Code of Conduct](#) was designed for use by those in the regulatory community.

## **V. COUNSEL -Legal Counsel Assignments**

### **BOARD / ADMINISTRATOR**

#### **Board of Accountancy**

Doris E. Cubitt, Administrator

Telephone (803) 896-4559 /Fax (803) 896-4554

#### **Board of Architectural Examiners**

Lenora Addison-Miles, Administrator

Telephone (803) 896-4408 /Fax (803) 896-4427

#### **State Athletic Commission**

Diana Williams, Administrator

Telephone (803) 896-4400 /Fax (803) 896-4427

#### **Auctioneers Commission**

Amy Holleman, Administrator

Telephone (803) 896-4800 /Fax (803) 896-4484

#### **Board of Barber Examiners**

Theresa N. Richardson, Administrator

Telephone (803) 896-4588 /Fax (803) 896-4554

#### **Building Codes Council**

Roger K. Lowe, Administrator

Telephone (803) 896-4688 /Fax (803) 896-4814

#### **SC Perpetual Care Cemetery Board**

Amy Holleman, Administrator

Telephone (803) 896-4497 /Fax (803) 896-4554

#### **Board of Chiropractic Examiners**

Veronica Reynolds, Administrator

Telephone (803) 896-4587 /Fax (803) 896-4719

#### **Contractors Licensing Board**

Roger K. Lowe, Administrator

Telephone (803) 896-4686 /Fax (803) 896-4814

#### **Board of Cosmetology**

Theresa N. Richardson, Administrator

Telephone (803) 896-4588 /Fax (803) 896-4484

#### **Board of Examiners for Professional Counselors, Marriage-Family**

**Therapists, and Psycho-Educational Specialists**

Marlo Thomas-Koger, Administrator

Telephone (803) 896-4559 /Fax (803) 896-4554

#### **Board of Dentistry**

Kate K. Cox, Administrator

Telephone (803) 896-4599 /Fax (803) 896-4719

#### **Panel for Dietetics**

Angela M. Combs, Administrator

Telephone (803) 896-4651 /Fax (803) 896-4719

### **ADVICE COUNSEL**

Mary League

Donnell Jennings

Hardwick Stuart

Georgia Lewis

Mary League

Georgia Lewis

Mary League

Mary League

Georgia Lewis

Mary League

Mary League

Alex Imgrund

Donnell Jennings

<u>Board of Registration for Professional Engineers and Land Surveyors</u> Lenora Addison-Miles, Administrator Telephone (803) 896-4422 /Fax (803) 896-4427	Donnell Jennings
<u>Board of Environmental Certification</u> Molly F. Price, Administrator Telephone (803) 896-4430 /Fax (803) 896-4424	Hardwick Stuart
<u>Board of Registration for Foresters</u> Molly F. Price, Administrator Telephone (803) 896-4800 /Fax (803) 896-4484	Hardwick Stuart
<u>Board of Funeral Service</u> Amy Holleman, Administrator Telephone (803) 896-4497 /Fax (803) 896-4554	Donnell Jennings
<u>Board of Registration for Geologists</u> Doris E. Cubitt, Administrator Telephone (803) 896-4575 /Fax (803) 896-4484	Hardwick Stuart
<u>Board of Landscape Architectural Examiners</u> Molly F. Price, Administrator Telephone (803) 896-4580 /Fax (803) 896-4427	Hardwick Stuart
<u>Liquefied Petroleum Gas Board</u> Ray Hoshall, Administrator / Office of State Fire Marshal Telephone (803) 896-9802 / Fax (803) 896-9806	Hardwick Stuart
<u>Board of Long Term Health Care Administrators</u> Lee Ann F. Bundrick, Administrator Telephone (803) 896-4544 /Fax (803) 896-4596	Georgia Lewis
<u>Manufactured Housing Board</u> Roger K. Lowe, Administrator Telephone (803) 896-4682 /Fax (803) 896-4814	Hardwick Stuart
<u>Massage/Bodywork Therapy</u> Theresa N. Richardson, Administrator Telephone (803) 896-4588 /Fax (803) 896-4484	Georgia Lewis
<u>Board of Medical Examiners</u> Sheridon Spoon, Administrator Telephone (803) 896 -4500 /Fax (803) 896-4515	Alex Imgrund
<u>Board of Nursing</u> Nancy G. Murphy, Administrator Telephone (803) 896-4550 /Fax (803) 896-4515	Donnell Jennings
<u>Board of Occupational Therapy</u> Veronica Reynolds, Administrator Telephone (803) 896-4683 /Fax (803) 896-4719	Alex Imgrund
<u>Board of Opticianry Examiners</u> Angela M. Combs, Administrator Telephone (803) 896-4681 /Fax (803) 896-4719	Mary League



<u>Board of Optometry Examiners</u> Angela M. Combs, Administrator Telephone (803) 896-4679 /Fax (803) 896-4719	Donnell Jennings
<u>Board of Pharmacy</u> Lee Ann F. Bundrick, Administrator Telephone (803) 896-4700 /Fax (803) 896-4596	Alex Imgrund
<u>Board of Physical Therapy Examiners</u> Veronica Reynolds, Administrator Telephone (803) 896- 4655 /Fax (803) 896-4719	Alex Imgrund
<u>Pilotage Commission</u> Kate K. Cox, Administrator Telephone (803) 896-4598 /Fax (803) 896-4350	Hardwick Stuart
<u>Board of Podiatry Examiners</u> Sheridon Spoon, Administrator Telephone (803) 896-4500 /Fax (803) 896-4515	Alex Imgrund
<u>Board of Psychology Examiners</u> Marlo Thomas-Koger, Administrator Telephone (803) 896-4664 /Fax (803) 896-4719	Donnell Jennings
<u>Pyrotechnic Safety Board</u> Ray Hoshall, Administrator / Office of State Fire Marshal Telephone (803)896-9802 / Fax (803)896-9806	Georgia Lewis
<u>Board of Real Estate Appraisers</u> Laura Smith, Administrator Telephone (803) 896-4400 /Fax (803) 896-4427	Georgia Lewis
<u>Real Estate Commission</u> Roderick T. Atkinson, Administrator Telephone (803) 896-4400 /Fax (803) 896-4427	Georgia Lewis
<u>Residential Builders Commission</u> Janet Baumberger, Administrator Telephone (803) 896-4696 /Fax (803) 896-4814	Stacey Hewson
<u>Board of Social Work Examiners</u> Marlo Thomas-Koger, Administrator Telephone (803) 896-4664 /Fax (803) 896-4719	Mary League
<u>Soil Classifier Advisory Council</u> Molly F. Price, Administrator Telephone (803) 896-4580 /Fax (803) 896-4427	Hardwick Stuart
<u>Board of Speech-Language Pathology &amp; Audiology</u> Veronica Reynolds, Administrator Telephone (803) 896-4655 /Fax (803) 896-4719	Alex Imgrund
<u>Board of Veterinary Medical Examiners</u> Kate K. Cox, Administrator Telephone (803) 896-4598 /Fax (803) 896-4719	Hardwick Stuart

## **VI. DISCIPLINARY PROCESS / HEARINGS**

### **A. FORMAL COMPLAINT PROCEDURES**

The U.S. Constitution provides that no person may be deprived of life, liberty or property without due process of law. A license to practice a profession or occupation is considered to be a property right, and a licensee generally has a right to be heard before his/her license may be revoked, suspended, or denied renewal. An opportunity for a hearing is required if, for example, a person who complies with basic licensing requirements is denied a license.

An administrative hearing is not generally required where disciplinary action is based solely on the failure to file required reports, applications, or other material in a timely manner, or a failure to pay required fees or maintain required insurance.

Board members, presiding officers, and/or hearing officers should read and understand the Administrative Procedures Act (APA), as well as the Practice Act of the particular Board. Proper procedures must be followed in the interest of fair play and constitutional due process.

In the case of some Boards, the hearing function is delegated to a hearing officer or panel. The hearing officer or panel may recommend a particular course of action to the Board. However, the Board may not delegate its final decision-making function.

A person may waive the right to a hearing either by not appearing after proper notice, by consent agreement, or by settlement.

#### **1. Glossary of Enforcement and Compliance Terms**

- a) **Adjudication** –a judgment by a court or authorized body, based on evidence presented, which decides a controversy.
- b) **Affidavit** –a written or printed declaration or statement of facts, made voluntarily, and confirmed by the oath or affirmation of the party making it, taken before a person having authority to administer such oath or affirmation.
- c) **Argument** –an effort to establish belief by a course of reasoning. Remarks addressed by an attorney or party to a judge or the Board on the merits of the case or points of law.
- d) **Burden of proof** –the necessity or duty of affirmatively proving a fact or facts in dispute on an issue raised between the parties in a cause. The obligation of a party to establish by evidence a requisite degree of belief concerning a fact in the mind of the court or Board.
- e) **Conclusion of law** –the statement of the Board as to the law applicable on the basis of the facts found by the Board. The final judgment or decree required on the basis of the facts found.
- f) **Consent Agreement** –a public resolution of charges, agreed to by the parties involved. A consent agreement may by its terms direct cessation of an activity, correction of a practice, payment of a fine, or a suspension or retirement of a license.
- g) **Credibility of witnesses** –in determining the credibility of witnesses, you may consider any matter that has a tendency and reason to prove or disprove the truthfulness of the witnesses' testimony, including, but not limited to, the following: their demeanor while testifying; the character of their testimony; the extent of their capacity to perceive, recollect or communicate any matter about which they testify; the extent of their opportunity to perceive any matter about which they testify; the existence or non-existence of bias, interest, or other motive; a statement that they previously made that is consistent—or inconsistent—with their testimony; their attitude toward the action in which they testify, or toward the giving of testimony. A discrepancy in a witness'

testimony or between his testimony and that of others, if there is any, does not necessarily mean that the witness should be discredited. Failure of recollection is a common experience and innocent misrecollection is not uncommon. It is also true that two persons witnessing an incident or a transaction will often see or hear it differently. Whether a discrepancy pertains to a fact of importance, or only to a trivial detail, should be considered in weighing its significance.

- h) **Deposition** –a discovery device by which one party asks oral questions of the other party or a witness for the other party. The deposition is conducted under oath outside the courtroom, usually in the office of one of the lawyers. A transcript (a word-for-word written account) is made of the deposition.
- i) **Discovery** –the pre-trial devices that can be used by one party to obtain facts and information about the case from the other party in order to assist in that party's preparation for the trial. Such devices include: depositions upon oral and written questions, written interrogatories, production of documents or items, permission to enter upon land or other property, physical and mental examinations and requests for admission. The term generally refers to disclosure by a party of the facts, deeds, documents or other things which are in his exclusive knowledge or possession, and which are necessary to the opposing party seeking the discovery as part of the cause of action pending, as evidence of his/her rights or position in the proceeding.
- j) **Dismissal** –an order or judgment finally disposing of an action, suit, motion, etc., without trial on the issues involved.
- k) **Due process** –an orderly proceeding whereby a person is served with notice, actual or constructive, and has an opportunity to be heard and to enforce and protect his/her rights before a court having jurisdiction and authority to hear and determine the case. It implies the right of the person affected to be present before the tribunal which pronounces judgment upon the question of life, liberty or property, and to be heard by testimony or otherwise, and to have the right of controverting, by proof, every material fact which bears on the question of right in the matter involved.
- l) **Expert testimony** –one who has special knowledge, skill, experience, training or education in a particular science, profession or occupation, and may therefore give his/her opinion as an expert as to any matter in which he or she is skilled.
- m) **Finding of fact** –a simple, straightforward statement of what happened. A statement of what the Board finds has happened, not a statement that "a witness testified thus and so..." It must be stated in sufficient relevant detail to make it mentally graphic, in other words, it enables a reader to picture in his or her mind's eye what happened. If the reader is a reviewing court of appeal, the statement must contain all the specific facts relevant to the contested issue or issues so that the court may determine whether the Board has resolved those issues in conformity with the law.
- n) **Hearing** –a formal trial-type proceeding in which evidence is taken in order to make findings of fact and conclusions of law.
- o) **Interrogatories** –a set or series of written questions drawn up for the purpose of being set forth to a party, witness, or other person having information of interest in the case.
- p) **Investigative inquiry** –a screening process, an investigative question-and-answer session with no "action" resulting.
- q) **Mitigation** –alleviation, reduction, abatement or diminution of a penalty or punishment imposed by law. A Board may reduce or order a lesser sentence in consideration of such factors as the licensee's past record, family situation, level of cooperation, etc.
- r) **Preponderance of the evidence** –evidence which is of greater weight or more convincing than evidence which is offered in opposition to it. Evidence which, as a whole, shows that the fact sought to be proved is more probable than not.
- s) **Pro se litigant** –a party who is representing himself or herself, without an attorney.

- t) **Stipulations** –the name given to any agreement made by attorneys (or parties) engaged on opposite sides of a cause (especially in writing), regulating any matter incidental to the proceedings or trial, which falls within their jurisdiction. The voluntary agreement between opposing counsel concerning disposition of some relevant point so as to effectively assess and address the need for proof or to narrow the range of litigable issues.

## **2. Formal Complaint Process**

### **a. Receipts and review of file by the Office of Disciplinary Counsel (ODC)**

The Office of Investigations and Enforcement (OIE) will forward information from the case file within fifteen (15) days of an authorization to issue a Formal Complaint, along with the Litigation Summary (all interviews, statements, and other evidence), to ODC for assignment to an appropriate POL Litigation Attorney.

No original documents should be forwarded to ODC unless specifically requested. Instead, the Board administrator or other OIE staff member is designated as custodian of records and evidence, and should retain original documents. Every matter that proceeds in the form of a Formal Complaint is drafted by or under the direction of ODC.

After the file is received in ODC, it will be reviewed for completeness by support staff. The following forms are necessary before the file is complete:

- 1) Initial Complaint
- 2) Investigative Report(s)
- 3) Litigation Summary
- 4) Evidence
- 5) IRC Recommendation

If the file is not complete, it will be returned to OIE Board staff with instructions concerning information that is needed. The case will be placed in pending status. If the file is complete, it will be assigned to a POL Litigation Attorney.

### **b. Review by assigned attorney**

The assigned attorney will review the file to determine if it is ready for formal charges. The attorney will determine if:

- 1) The charges are reasonable
- 2) The charges are supported by the evidence
- 3) Any additional evidence is needed

If additional evidence is needed, the attorney should request additional information or further investigation in writing to OIE. Acknowledgment of the receipt by OIE of this request is required. The status of the case will be changed to pending until the requested information is received.

### **c. Formal complaint documents**

Formal Complaint documents will be prepared by ODC. These documents will include a notice, a Formal Complaint, and an affidavit of service. A Board may not find a respondent guilty of misconduct not alleged in the complaint. Within these documents the respondent must be given notice of:

- 1) The time, place and nature of the hearing;
- 2) The legal authority and jurisdictional authority for the hearing;
- 3) The particular section(s) of all statutes and regulations involved; and
- 4) A short and plain statement of matters asserted, or at least a statement of the issues involved with a right to apply for a more definite and detailed statement.

A draft of these documents will be forwarded to the Board administrator for review as to substance as soon as they are prepared.

**d. Service of the formal complaint**

The Formal Complaint will be served by ODC, unless otherwise agreed with the OIE, by sending a signed copy to the respondent and respondent's attorney, if any, by certified mail, return receipt requested. If the return receipt is not received, the attorney will consult with OIE on the location of the respondent. If the respondent is located, ODC may recommend mailing the Formal Complaint again, or an investigator may personally serve the respondent. If the respondent cannot be located, ODC may recommend alternate service of process procedures, if available. Any alternate service procedure used must be likely to result in the respondent receiving actual notice.

**e. Service of other process**

All other process will be served in the following manner:

- 1) Service will be by certified mail, return receipt requested.
- 2) The process shall be accompanied by an affidavit of service by mail.
- 3) When the return receipt card is received, it will be attached to a copy of the affidavit of service by mail and retained by ODC, unless otherwise agreed with OIE.
- 4) If the return receipt is returned undelivered, the OIE shall arrange for personal service by an investigator. The process shall be accompanied by a blank affidavit of personal service to be filled out by the investigator after the service is accomplished.
- 5) If personal service of the process is unsuccessful, the ODC attorney may recommend an alternate method of service likely to result in actual notice.
- 6) If all efforts to locate the respondent have been unsuccessful, service may be made upon the Board administrator and filed as a matter of record in the manner provided by law.

**f. Answer**

The respondent may file a written answer to the Formal Complaint. This answer may admit or deny some of the charges, may explain some or all of the facts alleged, or may assert defenses.

**g. Final hearing date and time**

Once service of the Formal Complaint has been effected, the ODC attorney, in coordination with the Board administrator, the presiding officer, hearing advisor, and all witnesses and parties, will identify the date, time and place of the hearing. The ODC attorney or administrator will provide the hearing advisor with the documents necessary for him/her to provide legal support at the hearing. The hearing will be scheduled as early as possible, taking into consideration the requirements of legally sufficient notice to the respondent. The respondent's preference as to date or time may be considered in scheduling the hearing. The OIE will schedule a court reporter once the date and time for the hearing has been set.

**h. Notice to respondent of date, time and place of hearing**

ODC will notify the respondent by certified mail of the date, time and place of the hearing within forty-five (45) days but not less than thirty (30) days before the scheduled time of the hearing. A return receipt will be requested with this notice. If the return receipt is not received, the attorney will consult with OIE on the location of the respondent. If the respondent is located, ODC may attempt to mail the notice of hearing again, or an investigator may personally serve the respondent. If the respondent cannot be located, OIE may use alternate service of process procedures if available. Any alternate notice procedure used must be likely to result in the respondent receiving actual notice.

**3 Discovery**

**a. Depositions**

Depositions shall be governed by general law and rules of procedure.

## 4 Motions

### a. Use of Motions

A motion is a formal request to the Board, hearing officer, or panel by a party for a particular action (for example, a motion for continuance, a motion for a more definite statement, motion to amend, motion for an extension of time, etc.). Either party may make a motion to a case (respondent or state, as represented by ODC attorney). It may be made before, during, or after the hearing, as appropriate.

### b. Form of Motions

A motion made before or after the hearing is usually made in writing, while a motion made during the hearing is usually made orally. Motions are directed to the person presiding over the hearing. The motion must particularly identify the action, ruling or order sought, and the reasons or facts supporting it. All motions made must be ruled on by the presiding officer, hearing panel or Board and must be included in the record of the case.

### c. Answers to Motions

A party may file a response or return to a motion within time limits set by the presiding officer, hearing panel or Board. Responses may be in support of or in opposition to a motion and may be accompanied by affidavit(s).

### d. Argument on Motions

The necessity for oral argument on a motion will usually depend on the complexity and importance of the motion.

### e. Motion for Continuance

Generally, motions for continuance are not favored. The granting of a continuance in an administrative proceeding is a matter of discretion that may NOT be overturned absent a clear abuse of discretion. Motions for continuance should be made in writing with good cause shown. The motion should be served on the presiding officer and the opposing party. A response to the motion may be filed and served by the opposing party at such time as the presiding officer may deem appropriate under the circumstances.

## 5 Subpoenas

### a. Use of Subpoenas

ODC has primary responsibility for the preparation of subpoenas concerning a scheduled hearing. The Board staff is responsible for service and keeping related records. The Board administrator is responsible for preparing and issuing all investigative subpoenas prior to that time. ODC is available for advice regarding the appropriateness or enforcement of a subpoena during an investigation.

### b. Types of Subpoenas

There are two types of subpoenas used in disciplinary hearings:

- 1) A subpoena requiring a person to appear and give testimony
- 2) A subpoena *duces tecum*, which requires a person to produce books, records, correspondence or other materials over which a person has control.

### c. Subpoena Authority

Section 1-23-320(d) of the APA authorizes a Board that is hearing a contested case to issue, in the name of the Board, subpoenas for the attendance and testimony of witnesses and the production and examination of books, papers and records on its own behalf or, upon request, on behalf of any other party to the case. Requests for subpoenas must be made in writing by the respondent and be directed to the presiding officer or administrator, with a copy to the opposing party.

Generally, the information requested must be reasonable in terms of what is sought and must be material to the matter under consideration. Subpoenas are not allowed for purposes of engaging in a "fishing expedition" for discovery. A subpoena *duces tecum*

must show the reasonable scope and relevance of the documentary material sought. Overly broad or burdensome requests may be denied.

**d. Issuance of the Subpoena**

Subpoenas may be issued only by the agency. Parties have no authority to issue their own subpoenas in an administrative proceeding. The decision to issue the subpoena is discretionary with the presiding officer, but the opportunity must be made equally available to both sides. The decision to issue is based on a showing of materiality, but if material, a refusal to issue may be an abuse of discretion.

**e. Response to Subpoena**

The opposing party or person to whom the subpoena is directed may comply, oppose the request in writing, or file a motion to quash (annul) the subpoena. A written response from the other side may be filed if the party wishes or if requested by the presiding officer. The presiding officer may deny the subpoena request or decide to quash if he finds that:

- 1) The testimony required is not material or reasonably related to the subject matter of the hearing;
- 2) The subpoena does not adequately describe the evidence required;
- 3) The production of evidence would impose difficulties that are not justified in light of its importance to the case, or would subject the witness to undue hardship; or the material or testimony requested falls under a privilege afforded to the witness or documents by statute, regulation or constitutional guarantees.

**f. Enforcement**

The APA gives the ALC the power to enforce, through proper proceedings, the attendance and testimony of witnesses, and the production and examination of books, papers and records.

The ALC also has the power to punish, by fine or imprisonment or both, an unexcused failure or refusal to attend and give testimony or produce books, etc., as required by any subpoena issued by a Board.

**B. HEARINGS - Formal Hearing Procedures**

**a) The Parties**

All parties have a right to appear and be heard and must receive notice of the hearing and of the allegations in the case. Such an "opportunity" is all that is required to satisfy due process, and this opportunity may be waived by the failure of a party to appear or to respond after notice.

The parties to the hearing are the State, as represented by the litigation attorney from the ODC, and the respondent. The respondent has a right to appear alone or to be represented by counsel.

All parties to a disciplinary proceeding have a right to be represented by an attorney. However, there is no requirement that a Board or the State provide an attorney. The parties also have a right to a copy of any transcript or record of an administrative hearing. However, there is no requirement that the Board or the State pay for producing the copy.

**b) Conducting the Hearing**

The conduct of the hearing is largely left to the discretion of the presiding officer/Board chair. Boards and their chair must follow the hearing format and script provided. The parties have a right to a fair and impartial hearing conducted in an orderly fashion, and the presiding officer has the responsibility of safeguarding that right. The presiding officer will ensure that the hearing proceeds smoothly, that all parties are treated fairly,

and that all persons present behave properly. To carry out these duties, the presiding officer has the power, among others, to:

- a. Place witnesses under oath;
- b. Take action necessary to maintain order (such as ejecting disruptive persons);
- c. Rule on motions and procedural questions which arise during the hearing;
- d. Call recesses or adjourn the hearing;
- e. Prescribe and enforce general rules of conduct and decorum;
- f. Examine witnesses;
- g. Limit argument;
- h. Limit the scope of testimony or the introduction of evidence; and
- i. Disallow cumulative, repetitive, or irrelevant testimony.

An advice attorney is available to provide legal advice to the presiding officer. The presiding officer should consult with the hearing advisor, as needed, on questions of law and on questions such as whether or not a hearing must be open to the public or may be heard in closed session.

In order to ensure a fair and efficient hearing, the presiding officer must enforce proper conduct on all persons present. He or she should recognize the person entitled to speak and refuse to allow any person to speak until that person has been recognized.

**c) The role of the Board / Panel**

Board members, hearing officers, and panel members should prepare for the hearing by reading the complaint, the answer, and any other pleadings, motions or briefs. They should attend the entire hearing. A Board member who is present for only a portion of a hearing may be barred from voting on the final decision unless he or she has reviewed the record before a decision is reached.

No member of the Board, hearing officer, or panel member should communicate ex parte, directly or indirectly, concerning any issue of law or fact in a case with any person or party. A party to an administrative hearing is entitled to a fair and equitable decision made by a Board, hearing officer, or panel that is free of prejudice, bias, or favoritism. Actual prejudice, bias, or favoritism toward any party, attorney, or witness should be avoided as well as any appearance of prejudice, bias, or favoritism.

**d) Burden of Proof**

The burden of proof (or persuasion) is on the State to prove the charges by the preponderance of the evidence on the whole record. The determination of whether the burden of proof has been met rests within the discretion of the trier of fact and will not be overturned unless clearly erroneous.

The purpose of evidence is to determine the facts needed to reach a decision. Constitutional guarantees of due process require that a final decision must be based on the evidence in the record presented at the hearing.

Evidence may include oral testimony as well as written material and records. In deciding whether or not evidence may be admitted, the presiding officer or hearing officer must take into account the rules of evidence and should seek legal advice as needed from the hearing advisor.

As a general rule, all testimony should be given under oath. If a recess interrupts a witness' testimony, it is not necessary to administer the oath again when the hearing reconvenes. The witness may be reminded that he or she is still under oath. Irrelevant, immaterial, incomplete, inaccurate, unsubstantiated, or unduly repetitious evidence should be excluded. Except as indicated, the following material should be excluded:

- a. Irrelevant evidence, which does not relate to the issues and has no bearing on their resolution;



- b. Immaterial evidence which, though it may relate to the issues, has no bearing on their resolution, including repetitious evidence, which covers matters that have already been fully covered by other evidence (although some repetition may be allowed for emphasis); and
- c. Incomplete, inaccurate, or unsubstantiated evidence such as technical evidence submitted by an unqualified person.

**e) Opening the Hearing**

The presiding officer will call the hearing to order. The presiding officer may then read into the record a prepared statement, if any, that will assure that all matters are sufficiently covered in the record. All parties should be allowed to state for the record any objections they have to any prehearing proceedings, and to make any appropriate prehearing motions.

Hearing procedures are usually set out in the practice acts or in Board rules or policies. It is not intended that this manual be substituted for such laws or rules. The following hearing sequence may be used in appropriate circumstances as a general guide, unless otherwise provided by law or rule:

- a. Call to order.
- b. Challenges to Board members, the hearing officer, or panel members for cause. If there is any member present who has prior knowledge of this case, or who otherwise cannot render an unbiased opinion, it should be noted at this time. If so, the member must recuse himself/herself from participation in the hearing. If the member refuses to recuse him/herself voluntarily, a majority of the participating members may vote to recuse the member from participating.
- c. Note for the record that a quorum is present.
- d. Identification of parties and attorneys (to the extent known).
- e. Determine if both sides are ready to proceed.
- f. Determine for the record if either side has any prehearing motions.
- g. Opening statements from the State, then the respondent.
- h. State's case (complainant) and witnesses.
- i. Respondent's case (defense) and witnesses.
- j. Closing argument by the State/complainant.
- k. Closing argument by the respondent.
- l. Reply argument by the State/complainant.
- m. Board deliberation (which is in executive session).
- n. Return from executive session: Motion and vote as to whether or not the respondent is guilty of allegations named in the complaint, and whether sanctions should be imposed.
- o. Inform the parties that an order of the Board will be prepared and mailed to the respondent or his attorney.
- p. Adjourn the hearing.

**f) Opening Statements**

Opening statements are used to introduce the issues and the parties' positions. No testimony or final arguments may be given during the opening statement. The statements should be very brief, about two to five minutes maximum. Customarily, the State gives its opening statement first, followed by the respondent. Either party may waive the opening statement.

**g) Case in Chief**

Each party must have an opportunity to respond and present evidence and argument on all issues involved, provided that such evidence is acceptable under the rules governing the hearing. The right to present argument includes the right to cross-examine opposing witnesses.

The State will be asked to present its case in chief first. The case in chief is the portion of the trial whereby the party with the burden of proof, in this case The State, presents its evidence. The State's case will usually include:

- a. Presentation of any exhibits stipulated to or routinely received as business records;
- b. Direct examination of State's witnesses;
- c. Cross-examination of State's witnesses;
- d. Questions by the Board/trier(s) of fact and then the respondent's case will be presented. This will include:
  - Direct examination of respondent's witnesses;
  - Cross-examination of respondent's witnesses; and
  - Questions by the trier(s) of fact; and
  - After the respondent's case, the State will have the opportunity to present evidence in rebuttal, which proceeds in a similar fashion with direct, cross, and examination of witnesses by the trier(s) of fact.
- e. All testimony should be given under oath. The court reporter will normally administer the oath. Any person who gives testimony, whether as a party, in response to a subpoena, or as a witness, has a right to procure a copy of the transcript of their testimony.

**h) Closing Arguments**

The State will present its closing argument, followed by the respondent. The State will then have an opportunity to reply to the respondent's closing argument. Alternatively, the respondent may close first if the State waives its right to open, followed by closing by the State.

**i) Disposition**

At the completion of closing arguments, the Board, hearing officer, or panel deliberates in private, after voting to go into executive session for the purpose of deliberation. Only those members who were present during the entire hearing should participate in the deliberations. The advice counsel may remain during deliberations if desired. The Board, hearing officer, or panel will fully discuss the facts and conclusions and any appropriate sanctions. It will first make its findings of fact based solely on the evidence in the record and matters officially noted at the hearing. Then the Board, hearing officer, or panel must determine whether those facts support the charges brought against the respondent for violations of the relevant practice act or regulation.

After it has come to its findings of fact and conclusions of law, the Board, hearing officer, or panel must decide whether to dismiss the case or whether a sanction is appropriate. A Board may not impose a sanction greater than that permitted by law. Some of the factors that should be considered in determining a sanction include:

- a. The nature and circumstances of the offense;
- b. The severity of the allegations;
- c. The number of times the incident has occurred;
- d. The length of time over which the behavior occurred;
- e. The respondent's motivation for the action;
- f. Whether a member of the public suffered injury at the hands of the respondent;
- g. The protection of the public; and
- h. The standards of the profession.

After a full discussion, a vote on the case must be made in public session. A majority vote is required in most cases, although some practice acts require a unanimous vote for extreme sanctions, such as revocation of a license or permit.

The decision of the Board, hearing officer, or panel will be in the form of an order or report issued in writing and signed on the Board/panel's behalf. The order or report

must include findings and conclusions separately stated. The order or report is prepared after the hearing by the hearing advisor who forwards it to the presiding officer for review and signature. A Board order will be final unless the respondent makes a timely motion for reconsideration.

**j) Public Nature of Final Order**

Any final order of a Board or panel finding the respondent guilty of an offense charged in the formal accusation becomes public knowledge, except for a final order dismissing the accusation or determining that a private reprimand is appropriate. Final orders, which are made public, may be mailed to professional associations, firms or facilities with which the respondent is associated, other states in which the respondent is licensed, or to any other source the Board feels should be informed. These orders also may be placed on the Board's Website and/or given to the media.

**k) Notices to Respondent of Final Order**

Notice to the respondent of the Board or panel's decision must be served either personally or by mail. Notice should be sent, return receipt requested, to ensure receipt. A copy of the decision will be delivered or mailed to the respondent or to the respondent's attorney and to ODC.

**l) Reconsideration**

A respondent may file a petition or request reconsideration of a final order to correct a mistake or misapprehension of the facts or applicable law. Such a petition must be filed and served on the opposing party not more than thirty (30) days after receipt of the final order. Oral argument is not required, but may be requested by the Board, in its discretion, if such might facilitate its decision. On reconsideration, the Board may deny the request for reconsideration and issue an order stating the reasons for denial, or the Board may grant reconsideration and issue an amended final order reflecting the Board's decision after reconsideration.

**C. The Record of the Case**

**a) Use of the Record**

The Board's decision in a contested case must be based exclusively on the record made at the hearing, and if the decision is appealed, the record provides the basis for judicial review. Oral proceedings, or any part thereof, must be transcribed on request of any party, so such proceedings should be transcribed or tape-recorded. In addition, any party who gives evidence has a right to procure a copy of their testimony. It is important to maintain an accurate record of all proceedings.

**b) Contents of the Record**

The record shall include:

- a. All pleadings, motions, and intermediate rulings;
- b. Evidence received or considered;
- c. A statement of matters officially noted (if any);
- d. Questions and offers of proof, objections and rulings thereon;
- e. Proposed findings and exceptions (if any); and
- f. Any decision, opinion or report by the presiding officer at the hearing.

**D. Evidence Rules Governing Hearings**

**a) Purpose of Evidence**

[Section 1-23-330 of the APA](#) provides that the "rules of evidence for civil cases in the court of common pleas" shall be followed.

Constitutional guarantees of due process give the respondent a right to a decision based on evidence presented at the hearing. This means that each member of the Board, in making a decision, must consider only evidence presented at the hearing.

Board members may not consider anything they have heard or read about the case outside of the hearing record. Therefore, if Board members have heard the facts of a case and formed an opinion prior to the hearing, they should recuse themselves from participating in the case.

**b) Rules of Privilege.**

The APA requires the Board to give effect to the rules of privilege recognized by the law in South Carolina.

**E. Judicial Review Procedure**

**a) Procedures for Review**

A respondent has the right to ask the Administrative Law Court (ALC) to review any adverse decision. However, the respondent must have first exhausted all available administrative hearing procedures. In some cases, the respondent may petition the Board for a rehearing or reconsideration. In deciding whether or not to grant such a request, the Board should consider whether the petition was properly and timely filed. If the petition was proper and timely filed, the Board will likely grant a rehearing if one of the following conditions exists:

- 1) The motion and the record show a serious irregularity in the conduct of the proceeding, such as lack of proper notice that deprived the respondent of due process;
- 2) There is newly discovered evidence, which was not available to the respondent at the time of the hearing and which may be sufficient to reverse the Board's decision;
- 3) The Board's decision is unsupported or contrary to the preponderance of the evidence; or
- 4) There was good cause for the respondent's failure to appear or file papers, which resulted in an adverse decision.

An appeal from a final Board decision to the ALC must be filed within thirty (30) days of the receipt of notice of the Board's final decision or decision on reconsideration.

**b) ALC Division Procedural Role**

Once an appeal has been filed with the ALC, the Court will notify ODC of the appeal. Then, once the case has been assigned to the ALC, the Court will notify ODC of that and of the order governing procedure. Once all the necessary records and briefs have been received from the parties, the ALC will notify the parties of the hearing date and time. At the hearing, the ALC will hear oral arguments and issue a decision in the form of an order.

**c) ODC Procedural Role**

As soon as notice of an appeal is received by ODC, an appeal file will be opened. ODC will ensure that the Board staff prepares the record of the case for the appeal and will transmit an original or certified copy of the entire record to the ALC and all parties to the case. Unless the time is extended by the ALC, the record on appeal must be transmitted within forty-five (45) days of the Board's receipt of notice of the appeal. The appellant's brief will be due thirty (30) days after the appellant receives that record. The ODC must file the respondent's brief within fifteen (15) days after the appellant's brief is filed. Then the appellant may file a reply brief within ten (10) days after the respondent's brief is filed. After the ALC issues the order in the case, ODC will be responsible for serving and filing that document with all interested persons, including the Board administrator.

**d) Effect of Review**

The filing of a petition for judicial review does not, in itself, affect the Board's decision unless the practice act specifically provides for a stay during appeal. The Board's

decision is in force unless the Board grants or the ALC orders a stay of that decision. The ALC may grant a stay based upon good cause, unless otherwise prohibited by law.

The ALC will review the matter on the record from the agency and may take various types of action on judicial review. It may affirm, reverse, or modify the decision of the Board, or remand the case for further proceedings, directing the Board to reconsider all or some issues.

**e) Scope of Review**

The ALC generally may not substitute its judgment for that of the licensing Board as to the weight of the evidence on questions of fact, but should accept the Board's determination of these matters. The ALC does not conduct any evidentiary proceedings, but confines its consideration of facts to those contained in the record that is presented, unless there are allegations of irregularities not appearing in the record.

The ALC may reverse or remand the Board's decision if the Board has: (1) violated the United States or South Carolina Constitution or statutes; (2) exceeded its lawful authority; (3) failed to follow lawful procedure; (4) acted in a way that is clearly arbitrary or capricious; (5) abused its discretion; or (6) if the Board's findings are not supported by the record ([1-23-380 of APA](#) ).

**f) Appellate review**

Appeal from the ALC decision to the Court of Appeals is available if either party is not satisfied with the decision of the ALC. A petition for review should be filed with both the Court of Appeals and the ALC within thirty (30) days from the ALC decision. The ALC will then send the record to the Court of Appeals. ODC will again make all necessary motions and responses, prepare a brief supporting the State's position and make oral arguments. Further appeal by either party is to the Supreme Court of South Carolina.

**C [Administrative Law Court \(ALC\)](#)**

**1. Mission**

The mission of the Administrative Law Court is to provide a neutral forum for fair, prompt and objective hearings for any person affected by an action or proposed action of certain agencies of the State of South Carolina.

**2. Creation**

The Administrative Law Court (ALC) is an autonomous quasi-judicial agency within the executive branch of state government. The Court was created by the South Carolina General Assembly by Act No. 181 of 1993, as amended by Act No. 452 of 1994, to provide an independent forum for hearing the contested cases of state agencies. Previously, citizens desiring an evidentiary hearing to challenge the action of a State agency were heard by hearing officers employed by that particular agency.

**3. Jurisdiction**

The Court's jurisdiction is statutory in nature. Because the Court is an agency within the executive branch of state government, its power to hear a particular type of case from a particular agency is derived exclusively from the legislative branch of state government, the General Assembly. The Court has jurisdiction over three types of matters:

**a) Contested cases.** Administrative law judges preside as the fact finder in all contested cases involving departments of the executive branch of state government in which a single hearing officer was previously authorized to hear and decide such cases, with certain exemptions.

**b) Appeals.** Administrative law judges hear appeals from final decisions of contested cases before professional and occupational licensing Boards or commissions within the Department of Labor, Licensing and Regulation. The Court also has

appellate jurisdiction to review certain final decisions of various other Boards or departments.

- c) **Regulation Hearings.** Administrative law judges preside over public hearings held during the promulgation of regulations by a department for which the governing authority is a single director. Upon the conclusion of a regulation hearing, an administrative law judge issues a written report including findings as to the need and reasonableness of the proposed regulation. If the report includes a finding of a lack of need or lack of reasonableness, the report may include suggested modifications to the proposed regulation.

Under the South Carolina Administrative Procedures Act, administrative law judges have the power to issue those remedial writs as are necessary to give effect to the Court's jurisdiction. Further, administrative law judges have the power to issue injunctions and enforce subpoenas, and they have the same power at chambers or in open hearing as do circuit court judges, which include the power of contempt.

Contested cases, appeals and injunctive relief cases are subject to appellate review. Appeal is to the Court of Appeals, except that cases involving the Department of Health and Environmental Control, the Department of Natural Resources, the Department of Transportation and the Department of Disabilities and Special Needs are appealed back to the agency's Board or commission, and the scope of review is limited by statute.

The Court's contested case hearings and other proceedings are open to the public unless confidentiality is allowed or required by law.

## **VII. MEDIA POLICY GUIDELINES**

All requests for information from members of the media received in a Board office will be referred to the Director of the Office of Communications and Ombudsman (Communications Director).

The Communications Director will determine whether the requests are for routine information or require contact with the Board's Chairperson or Media Designee.

Requests for routine information – to include requests for final orders, public information about licensees, and general information on the licensure process – will be handled by the Communications Director in conjunction with the Board administrator and/or advice attorney.

If requests are for other-than-routine information, the Communications Director will contact the Board Chair or the Media Designee to discuss the request and make the contact between the spokesperson and the media if necessary.

If individual Board members are contacted directly by members of the media, they are to contact the Communications Director so the agency is aware of the request and so a determination can be made on how to handle the request.

Office of Communications and Ombudsman  
Lesia Kudelka, (803) 896-4376 / Lesia.Kudelka@llr.sc.gov

**Each year during officer elections the Board will select the Media Designee to fulfill the above-described functions. In choosing the designee, Board members are encouraged to consider the following “ideal” attributes:**

- A. Knowledgeable in Board history and functions
- B. Experience in Board leadership

- C. Calm demeanor
- D. Comfortable in varied audiences
- E. High impact speaker

## **VIII. REIMBURSEMENT FOR TRAVEL & SUBSISTENCE EXPENSES**

[\[http://www.cg.state.sc.us/info.htm\]](http://www.cg.state.sc.us/info.htm)

### **A. Mileage Reimbursement** (Effective 01/01/15)

1. When an employee of the State uses his or her personal automobile in traveling on necessary official business, a charge to equal the [standard business mileage rate](#) as established by the Internal Revenue Service will be allowed. However, the standard business mileage rate used in this calculation will be the lesser of .57.5 cents per mile or the current rate established by the Internal Revenue Service.
2. Whenever State-provided motor pool vehicles are reasonably available and their use is practical and an employee of the State requests to use his or her personal vehicle, a charge of .53.5 cents per mile less than the [standard business mileage rate](#) as established by the Internal Revenue Service will be allocated for the use of such vehicle. However, the standard business mileage rate used in this calculation will be the lesser of .52 cents per mile or the current rate established by the Internal Revenue Service.
3. Auto travel should be by the most direct route practicable, and substantial deviation from the distances shown by the current State Highway System Map of the South Carolina Department of Transportation should be explained.
4. When more than one employee is traveling to the same location, the authorized number of automobiles should be limited to not more than one automobile to two people. Employees are directed to use self-service pumps when fueling state-owned vehicles at commercial facilities.

### **B. Per Diem**

The per diem allowance of all Boards, commissions, and committees will be at the rate of \$35 per day provided, that no full-time officer or employee of the State draws any per diem allowance for service on such Boards, commissions, or committees.

### **C. Automobile Travel When Air Travel Is Most Economical Mode of Travel**

The Appropriations Act states that transportation for official State business will be accomplished by the most economical method. Based on this, an employee who elects to drive his/her car for his/her convenience when more economical modes of travel are available, is entitled to reimbursement for:

1. Mileage equal to the amount of coach or tourist airplane fare.
2. Vicinity mileage incurred on official business in lieu of using a taxi.
3. Parking fees equal to that which would have been incurred if car had been parked at airport.
4. Subsistence based on date and time airline connections would have been made for departure and return. Any period of time exceeding these guidelines would be at the employee's expense and no subsistence could be paid.

### **D. Special Provisions**

A Board member who is unable to travel in the most economical mode because of a disability may avail him/herself of the next most economical mode available. In determining the most economical mode of travel, the following items must be considered. The cost figures used in determining the mode of travel must be attached to each travel voucher submitted.

1. Cost of fare or mileage.

2. Subsistence expenses incurred due to extra days of travel, if any.
3. Lodging expenses incurred due to extra days of travel, if any.
4. Other allowable expenditures incurred due to extra days of travel, if any.

Any required attendant traveling with the Board member will have expenses reimbursed at the same rate as for the state employees' attendants traveling under the same circumstances.

The disability and attendant limitations must be verified by a physician in writing and submitted, in original form, to the agency. This document will be maintained on file in the Office of Administration for internal and external audit review purposes.

## **E. In-State Travel**

### **1. Reimbursement for Routine Board Business**

- a. Board Meetings—Travel reimbursement is authorized for Board members to travel to and from regularly scheduled or called meetings of the Board.
- b. Other Board business—Travel reimbursement is authorized for Board members who travel on official Board business within the state. Official business is that which relates directly to the statutory requirements and regulatory functions of the Board. It includes those specific activities, which a member may be directed to perform by the Board in support of the aforementioned statutory and regulatory requirements. "Official business" does not include those activities which a member or group of members may decide should be performed but which are not specifically required by statute and which are not approved by a majority of the Board and which do not have prior approval of the LLR Director.

### **2. Reimbursement for Matters Relating to Service as a Board Member**

- a. Seminars, Conferences, Workshops etc. Sponsored by the Regulated Community—Except as outlined in the following paragraph, reimbursement **is not authorized for attendance at conferences, seminars, workshops, etc., sponsored by the regulated community.**

The only exception is when a member is invited to speak or otherwise serve in a featured capacity at the conference. In such an instance, reimbursement is authorized for travel and meals.

- One night's lodging may be approved in consideration of the member's placement on the program and the distance to be traveled (*For example: if the member is the first speaker on an early morning program and the distance precludes an early morning arrival, lodging may be authorized for the night before the presentation*).
  - The member is expected to fulfill the request/obligation but not stay on to become a conference/seminar participant. This policy does not prevent a Board member from attending association meetings in his or her capacity as a private citizen. This policy only restricts state reimbursement for that attendance.
- b. Seminars, Conferences, Workshops, etc. Sponsored by Associations of Licensing Agencies –Reimbursement is generally authorized for attendance at the annual meeting sponsored by associations of Boards and licensing organizations. Prior approval, however, must be obtained from the LLR Director via presentation through administrative channels. Attendance at any additional seminars, workshops, etc., may be approved at the discretion of the LLR Director. Reimbursement is in addition to the per diem allowance and must conform to the guidelines as stated in this manual.



- c. Committee Meetings of Associations of Licensing Agencies–Reimbursement may be authorized for expenses incurred while serving on a committee or work group of an organization at the discretion of the LLR Director.

## **F. Out-of-State Travel**

All requests for travel outside the state must be approved by the Administrator and be within the Board's budget. Out-of state travel is not authorized and will not be reimbursed without prior approval. Justification for the trip must accompany the request and should include a statement of benefits to the Board and/or the regulated profession anticipated to be derived from attendance. If the trip is to attend a seminar, conference, etc., a copy of the announcement should also be attached as part of the justification. Generally, Board members whose term expires within six months may not be considered for out-of-state travel since benefit to the Board is limited by the time remaining. In the same vein, members who are new to a Board may not be considered for out-of-state travel until the effective date of the official appointment.

### **1. Reimbursement for Routine Board Business**

- a. Board Meetings– are not authorized outside the State under any circumstances. Travel reimbursement is therefore not authorized.
- b. Other Board Business– travel reimbursement is only authorized for Board members who travel on official Board business outside the state as indicated in the sections that follow.

### **2. Reimbursement for Matters Relating to Service as a Board Member**

- a. Seminars, Conferences, Workshops, etc., sponsored by the regulated community – policy is the same as that for in-state activities.
- b. Seminars, Conferences, Workshops, etc., sponsored by associations of licensing agencies–reimbursement is authorized for attendance at the annual meeting sponsored by associations of Boards and licensing organizations. Attendance at any additional seminars, conferences, or workshops may be approved at the discretion of the LLR Director via presentation through administrative channels. Reimbursement is in addition to the per diem allowance and must conform to state guidelines.
- c. Committee Meetings of Associations of Licensing Agencies–Reimbursement may be authorized for expenses incurred while serving on a committee or work group of an organization at the discretion of the LLR Director.

### **3. Air Travel**

Travel by air is authorized for attendance at out-of-state meetings, conferences, seminars, and workshops covered in preceding sections. Air travel reservations must be made through agency staff who are required to determine and use all available discounts. Designated agency staff are authorized to extend a stay beyond that necessary for the stated event as a cost-saving measure after taking into consideration any increase in lodging expenses.

### **4. Telephone calls**

When traveling for more than one night, one brief call to a member's residence may be claimed. Any other calls must be justified.

### **5. Travel Vouchers**

All requests for travel expense reimbursement and for per diem must be submitted on an official Travel Support Document with all necessary receipts attached. The Administrator assigned to the Board must sign the completed document, as well as the Board member.

### **6. Other expenses**

- a. No receipts are required for taxi expenses.
- b. Receipts are required for parking expenses.

- c. Gratuities are not reimbursable.
- d. Porterage is allowable only when flying to a major city where there is no option concerning baggage handling.

## **G. Method for Determining Subsistence**

### **1. 2011-2012 Meals**

In determining the maximum amount of subsistence for meals that may be reimbursed, the following time schedule will be adhered to:

<b><u>AMOUNT PER MEAL</u></b>					
	<b>If Departure Time Is:</b>		<b>And If Return Time Is:</b>	<b>In State Maximum \$25/day</b>	<b>Out-of-State Maximum \$32/Day</b>
1.	Before 6:30 am.		After 11:00 A.M.	*\$ 6.00	*\$ 7.00
		*2.	After 1:30 P.M. (Lunch)	*\$ 7.00	*\$ 9.00
		*3.	After 8:30 P.M. (Supper)	*\$12.00	*\$16.00
2.	6:30 am or after & before 11:00 am	*1.	After 1:30 P.M. (Lunch)	*\$ 7.00	*\$ 9.00
		*2.	After 8:30 P.M. (Supper)	*\$12.00	*\$16.00
3.	11:00 am or after & before 5:15 pm.	*1.	After 8:30 P.M. (Supper)	*\$12.00	*\$16.00

- a. No subsistence reimbursement is allowed for meals taken within 10 miles from the Board member's official residence.
- b. If meals are included as part of the registration fee for a conference, seminar, etc., the meal allowance must be deducted from this fee and entered under "Meals" on the travel voucher. Separate reimbursement is not allowed for meals included in the registration.
- c. The time limitations for breakfast do not apply for overnight trips when returning in the early morning.

### **2. Overnight Travel**

When a State employee is traveling in or out of the State on official State business, the following maximum reimbursement will apply:

- a. The cost of meals will be reimbursed up to the maximum amount as provided for in the Single Calendar Day schedule. [GSA](http://www.gsa.gov/portal/category/21287) rate. The time limitations for breakfast will not apply for overnight trips when returning early in the morning. See (<http://www.gsa.gov/portal/category/21287>).
- b. State employees who are required to perform their duties during the night will be allowed reimbursement for breakfast even though their arrival time back to residence or headquarters occurs prior to 11:00 A.M. if the following conditions are met:
  - Employee must be in travel status (more than 10 miles from residence and/or headquarters).
  - Employee must be in travel status after 8:30 P.M. for a period of not less than six hours.
  - Actual hotel/motel costs will be reimbursed for a single room rate or one-half the cost of the double room rate if shared with another State employee. A paid receipt must be attached to the employee's travel voucher.

### **3. Lodging**

- a. No reimbursement for overnight lodging is authorized within 50 miles of the Board member's official residence.
- b. Reimbursement may be authorized for one night for a one-day meeting when the scheduled hour of the meeting and the distance to be traveled preclude a reasonable early morning arrival. Board Chairpersons and Administrators are encouraged to consider such potential ramifications when scheduling meetings.

- c. For two-day Board meetings, or other official Board business requiring an overnight stay, actual hotel/motel costs may be reimbursed for a single room. Or for one-half the cost of a double room if shared with another member. For accommodations shared with other than members, reimbursement is authorized at the single-room rate. Paid hotel/motel receipts for lodging must be attached to the travel voucher when submitted.
- d. Board members are to request the rate for government employees when making hotel/motel reservations. Information contained in the Directory of Hotel Motel Discounts for Government Employees is to be used for this purpose. Your Board administrator can provide you with a copy of this document upon request.

#### **4. Special Rules**

- a. \*No reimbursement will be made for meals within 10 miles of an employee's official headquarters and/or residence. Agency directors may increase this distance requirement as deemed appropriate.
- b. Receipts for all expenditures, except taxis and meals, must be attached to the voucher.
- c. Employees required by their agency head, as a part of their official duties, to attend statewide, regional or district meetings within the area in which the employee is headquartered, may receive reimbursement for the cost of meals served at such meetings. If the cost of the meal exceeds the state allowance, receipts must be provided in order to receive reimbursement. At least 75% of those attending the meeting must be employees of other agencies or outside organizations. Meetings of Boards, commissions, and committees are not considered statewide, regional or district meetings.
- d. Paid motel and hotel receipts for lodging must be attached to the travel voucher when submitted for reimbursement.
- e. No reimbursement for overnight accommodations will be made within 50 miles of the traveler's official headquarters and/or residence.
- f. \*It will be the responsibility of the agency head to monitor the charges for lodging which might be claimed by his or her employees in order to determine that such charges are reasonable, taking into consideration location, purpose of travel or other extenuating circumstances.

## **IX. SENIOR MANAGEMENT CONTACT LIST**

### **Director's Office**

Richele K. Taylor, Director..... 803-896-4390

### **Office of Communications and Governmental Affairs**

Holly Beeson, Counsel to the Office of Communications & Governmental Affairs..... 803-896-5216

Grant Gillespie, Office of Governmental Affairs Director..... 803-896-4440

Lesia Shannon Kudelka, Communications Director and Ombudsman..... 803-896-4376

### **Office of General Counsel**

Melina Mann, General Counsel..... 803-896-4475

Darra Coleman, Chief Advice Counsel..... 803-896-4835

Patrick Hanks, Chief Disciplinary Counsel..... 803-896-4477

### **Division of Professional and Occupational Licensing (POL)**

Dean Grigg, Deputy Director, POL..... 803-896-4849

Rion Alvey, Assistant Deputy Director, Office of Board Services –Health / Medical ..... 803-896-4594

Charles Ido, Assistant Deputy Director, Office of Board Services-Building / Business .. 803-896-4488

Christa Bell, Assistant Deputy Director, Office of Investigations & Enforcement..... 803-896-7766

### **Division of Administration**

Farrar Stewart, Deputy Director, Administration..... 803-896-4923

Boyd Shealy, Assistant Deputy Director –HR ..... 803-896-4323

Laura Pace, Assistant Deputy Director –Finance, Budget ..... 803-896-4315

Al Morant, Procurement Manager..... 803-896-4335

### **Division of Information Services**

Matt Faile, Chief Information Officer..... 803-896-4341

### **Division of Fire & Life Safety**

Bert Polk, Deputy Director/State Fire Marshal ..... 803-896-9801

Ken Kerber, Superintendent, Fire Academy..... 803-896-9870

### **Division of Labor**

Kristina Baker, Chief of Labor ..... 803-896-0183

Dottie Ison, Administrator, Office of Occupational Safety &Health (OSHA). .... 803-896-6910

James Knight, Immigration Compliance..... 803-896-4374

Duane Scott, Administrator, Office of Elevators and Amusement Rides... .. 803-896-7638

