

## Administrative Procedures – Emergency Rule Filing

### Instructions:

In accordance with Title 3 Chapter 25 of the Vermont Statutes Annotated and the “Rule on Rulemaking” (CVR 04-000-001) adopted by the Office of the Secretary of State, this emergency filing will be considered complete upon filing and acceptance of these forms with the Office of the Secretary of State, the Legislative Committee on Administrative Rules and a copy with the Chair of the Interagency Committee on Administrative Rules.

All forms requiring a signature shall be original signatures of the appropriate adopting authority or authorized person, and all filings are to be submitted at the Office of the Secretary of State, no later than 3:30 pm on the last scheduled day of the work week.

The data provided in text areas of these forms will be used to generate a notice of rulemaking in the portal of “Proposed Rule Postings” online, and the newspapers of record if the rule is marked for publication. Publication of notices will be charged back to the promulgating agency.

This emergency rule may remain in effect for a total of 180 days from the date it first takes effect.

**Certification Statement:** As the adopting Authority of this rule (see 3 V.S.A. § 801(b)(11) for a definition), I believe there exists an imminent peril to public health, safety or welfare, requiring the adoption of this emergency rule.

The nature of the peril is as follows (*PLEASE USE ADDITIONAL SHEETS IF SPACE IS INSUFFICIENT*). The Board of Medical Practice must hold hearings in order to fulfill its oversight obligations. This e-rule ensures the continuation of scheduled virtual hearings while these procedures are adopted via regular rulemaking.

I approve the contents of this filing entitled:

Emergency Administrative Rules for  
Remote Hearings for the Board of Medical Practice

/s/ Michael K. Smith

(signature)

, on 7/14/2021

(date)

Printed Name and Title:

RECEIVED BY: \_\_\_\_\_

- Coversheet
- Adopting Page
- Economic Impact Analysis
- Environmental Impact Analysis
- Strategy for Maximizing Public Input
- Scientific Information Statement (if applicable)
- Incorporated by Reference Statement (if applicable)
- Clean text of the rule (Amended text without annotation)
- Annotated text (Clearly marking changes from previous rule)

Emergency Rule Coversheet  
Michael K. Smith  
Secretary  
Agency of Human Services

Emergency Rule Coversheet

1. TITLE OF RULE FILING:

Emergency Administrative Rules for  
Remote Hearings for the Board of Medical Practice

2. ADOPTING AGENCY:

Department of Health

3. PRIMARY CONTACT PERSON:

*(A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE).*

Name: David Englander

Agency: Department of Health

Mailing Address: 108 Cherry Street, Burlington VT 05401

Telephone: 802 863 - 7280 Fax: 802 951 - 1275

E-Mail: ahs.vdhrules@vermont.gov

Web URL *(WHERE THE RULE WILL BE POSTED)*:

<http://www.healthvermont.gov/about-us/laws-regulations/public-comment>

4. SECONDARY CONTACT PERSON:

*(A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON).*

Name: Brendan Atwood

Agency: Department of Health

Mailing Address: 108 Cherry Street, Burlington VT 05401

Telephone: 802 863 - 7280 Fax: 802 951 - 1275

E-Mail: ahs.vdhrules@vermont.gov

5. RECORDS EXEMPTION INCLUDED WITHIN RULE:

*(DOES THE RULE CONTAIN ANY PROVISION DESIGNATING INFORMATION AS CONFIDENTIAL; LIMITING ITS PUBLIC RELEASE; OR OTHERWISE EXEMPTING IT FROM INSPECTION AND COPYING?)* No

IF YES, CITE THE STATUTORY AUTHORITY FOR THE EXEMPTION:

PLEASE SUMMARIZE THE REASON FOR THE EXEMPTION:

6. LEGAL AUTHORITY / ENABLING LEGISLATION:

Emergency Rule Coversheet

*(THE SPECIFIC STATUTORY OR LEGAL CITATION FROM SESSION LAW INDICATING WHO THE ADOPTING ENTITY IS AND THUS WHO THE SIGNATORY SHOULD BE. THIS SHOULD BE A SPECIFIC CITATION NOT A CHAPTER CITATION).*

26 V.S.A. § 1351(e), 3 V.S.A. § 801(b)(11), and 3 V.S.A. § 831(d).

**7. EXPLANATION OF HOW THE RULE IS WITHIN THE AUTHORITY OF THE AGENCY:**

26 V.S.A. § 1351(E) states: "THE COMMISSIONER OF HEALTH SHALL ADOPT, AMEND, AND REPEAL RULES OF THE BOARD THAT THE COMMISSIONER DETERMINES NECESSARY TO CARRY OUT THE PROVISIONS OF THIS CHAPTER AND CHAPTERS 7, 29, 31, AND 52 OF THIS TITLE."

**8. CONCISE SUMMARY (150 WORDS OR LESS):**

The proposed rule establishes the process for the Board to conduct virtual hearings.

**9. EXPLANATION OF WHY THE RULE IS NECESSARY:**

Due to the COVID-19 pandemic, the Board needed to hold virtual hearings rather than in-person hearings. This rule establishes the process and conduct for such hearings. The Department is in the process of incorporating these provisions into the Board of Medical Practice Rule. However, this e-rule is needed to ensure there is no disruption to virtual hearings that will commence prior to, but may conclude after, the expiration of the current e-rule.

**10. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY:**

Without this rulemaking, the Board and the parties involved in Board hearings will lack guidance on the procedures for virtual hearings.

**11. LIST OF PEOPLE, ENTERPRISES AND GOVERNMENT ENTITIES AFFECTED BY THIS RULE:**

Physicians, physician assistants, physician employers, and Vermonters seeking medical care.

**12. BRIEF SUMMARY OF ECONOMIC IMPACT (150 WORDS OR LESS):**

There is some cost savings associated with affected parties not having to travel for hearings or deliberations.

**13. A HEARING IS NOT SCHEDULED.**

**14. HEARING INFORMATION**

Emergency Rule Coversheet

(THE FIRST HEARING SHALL BE NO SOONER THAN 30 DAYS FOLLOWING THE POSTING OF NOTICES ONLINE).

IF THIS FORM IS INSUFFICIENT TO LIST THE INFORMATION FOR EACH HEARING PLEASE ATTACH A SEPARATE SHEET TO COMPLETE THE HEARING INFORMATION NEEDED FOR THE NOTICE OF RULEMAKING.

Date:

Time: AM

Street Address:

Zip Code:

Date:

Time: AM

Street Address:

Zip Code:

15. DEADLINE FOR COMMENT (NO EARLIER THAN 7 DAYS FOLLOWING LAST HEARING):

16. EMERGENCY RULE EFFECTIVE: 08/01/2021

17. EMERGENCY RULE WILL REMAIN IN EFFECT UNTIL

*(A DATE NO LATER THAN 180 DAYS FOLLOWING ADOPTION OF THIS EMERGENCY RULE):*

01/28/2022

18. NOTICE OF THIS EMERGENCY RULE SHOULD BE PUBLISHED IN THE WEEKLY NOTICES OF RULEMAKING IN THE NEWSPAPERS OF RECORD.

19. KEYWORDS (PLEASE PROVIDE AT LEAST 3 KEYWORDS OR PHRASES TO AID IN THE SEARCHABILITY OF THE RULE NOTICE ONLINE).

Board of Medical Practice

Virtual Hearing

Physicians

Doctors

# Administrative Procedures – Adopting Page

## Instructions:

This form must accompany each filing made during the rulemaking process:

Note: To satisfy the requirement for an annotated text, an agency must submit the entire rule in annotated form with proposed and final proposed filings. Filing an annotated paragraph or page of a larger rule is not sufficient. Annotation must clearly show the changes to the rule.

When possible the agency shall file the annotated text, using the appropriate page or pages from the Code of Vermont Rules as a basis for the annotated version. New rules need not be accompanied by an annotated text.

1. **TITLE OF RULE FILING:**

Emergency Administrative Rules for  
Remote Hearings for the Board of Medical Practice

2. **ADOPTING AGENCY:**

Department of Health

3. **TYPE OF FILING** (*PLEASE CHOOSE THE TYPE OF FILING FROM THE DROPDOWN MENU BASED ON THE DEFINITIONS PROVIDED BELOW*):

- **AMENDMENT** - Any change to an already existing rule, even if it is a complete rewrite of the rule, it is considered an amendment as long as the rule is replaced with other text.
- **NEW RULE** - A rule that did not previously exist even under a different name.
- **REPEAL** - The removal of a rule in its entirety, without replacing it with other text.

This filing is **A NEW RULE** .

4. **LAST ADOPTED** (*PLEASE PROVIDE THE SOS LOG#, TITLE AND EFFECTIVE DATE OF THE LAST ADOPTION FOR THE EXISTING RULE*):

**State of Vermont**  
**Agency of Administration**  
**Office of the Secretary**  
Pavilion Office Building  
109 State Street  
Montpelier, VT 05609-0201  
[www.aoa.vermont.gov](http://www.aoa.vermont.gov)

[phone] 802-828-3322  
[fax] 802-828-3320

*Susanne R. Young, Secretary*

## MEMORANDUM

**TO:** Jim Condos, Secretary of State

**FROM:** Kristin L. Clouser, Deputy Secretary of Administration/ICAR Chair **Kristin L.**

**DATE:** July 26, 2021

**RE:** Emergency Rule Titled 'Emergency Administrative Rules for Remote Hearings for the Board of Medical Practice' by the Agency of Human Services, Department of Health

Digitally signed  
by Kristin L.  
Clouser  
Date: 2021.07.26  
10:14:16 -04'00'

**Clouser**

The use of rulemaking procedures under the provisions of 3 V.S.A. §844 is appropriate for this rule. I have reviewed the proposed rule titled 'Emergency Administrative Rules for Remote Hearings for the Board of Medical Practice' provided by the Agency of Human Services, Department of Health and agree that emergency rulemaking is necessary based upon the understanding that they are in the process of incorporating this emergency rule into the larger Board of Medical Practice Rule.

Per communication with the Vermont Department of Health, they are also working on a number of significant additional updates to that rule that are under a tighter timeline per statute and expect to file that rulemaking soon. The Department and Board's work has been significantly disrupted by their ongoing Covid response, delaying their efforts to make these amendments as expeditiously as they would have liked.

Currently, there is at least one hearing scheduled that may bridge the effective date between the existing e-rule and this proposed renewal of the e-rule, and they want to make sure this rule does not expire during that timeframe. There are a number of reasons why the remote hearings are still necessary, including the fact that some of the individuals involved with the hearings are still responding to the Covid pandemic in their work on a daily basis and the convenience and risk mitigation associated with remote hearings remain important for them personally and for the larger State response.

Additional language will be appear in their subsequent filings.

# Administrative Procedures – Economic Impact Analysis

## Instructions:

In completing the economic impact analysis, an agency analyzes and evaluates the anticipated costs and benefits to be expected from adoption of the rule; estimates the costs and benefits for each category of people enterprises and government entities affected by the rule; compares alternatives to adopting the rule; and explains their analysis concluding that rulemaking is the most appropriate method of achieving the regulatory purpose.

Rules affecting or regulating schools or school districts must include cost implications to local school districts and taxpayers in the impact statement, a clear statement of associated costs, and consideration of alternatives to the rule to reduce or ameliorate costs to local school districts while still achieving the objectives of the rule (see 3 V.S.A. § 832b for details).

Rules affecting small businesses (excluding impacts incidental to the purchase and payment of goods and services by the State or an agency thereof), must include ways that a business can reduce the cost or burden of compliance or an explanation of why the agency determines that such evaluation isn't appropriate, and an evaluation of creative, innovative or flexible methods of compliance that would not significantly impair the effectiveness of the rule or increase the risk to the health, safety, or welfare of the public or those affected by the rule.

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### 1. TITLE OF RULE FILING:

Emergency Administrative Rules for  
Remote Hearings for the Board of Medical Practice

### 2. ADOPTING AGENCY:

Department of Health

### 3. CATEGORY OF AFFECTED PARTIES:

*LIST CATEGORIES OF PEOPLE, ENTERPRISES, AND GOVERNMENTAL ENTITIES POTENTIALLY AFFECTED BY THE ADOPTION OF THIS RULE AND THE ESTIMATED COSTS AND BENEFITS ANTICIPATED:*

Physicians, physician assistants, physician employers, and Vermonters seeking medical care: There will be a cost savings associated with their being no need to travel for hearings and deliberations.

### 4. IMPACT ON SCHOOLS:



Economic Impact Analysis

*INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON PUBLIC EDUCATION, PUBLIC SCHOOLS, LOCAL SCHOOL DISTRICTS AND/OR TAXPAYERS CLEARLY STATING ANY ASSOCIATED COSTS:*

None.

5. **ALTERNATIVES:** *CONSIDERATION OF ALTERNATIVES TO THE RULE TO REDUCE OR AMELIORATE COSTS TO LOCAL SCHOOL DISTRICTS WHILE STILL ACHIEVING THE OBJECTIVE OF THE RULE.*

Without this rulemaking, the Board of Medical Practice will not be able to hold virtual hearings, which are currently a critical means for conducting the Board's responsibilities.

6. **IMPACT ON SMALL BUSINESSES:**

*INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON SMALL BUSINESSES (EXCLUDING IMPACTS INCIDENTAL TO THE PURCHASE AND PAYMENT OF GOODS AND SERVICES BY THE STATE OR AN AGENCY THEREOF):*

None.

7. **SMALL BUSINESS COMPLIANCE:** *EXPLAIN WAYS A BUSINESS CAN REDUCE THE COST/BURDEN OF COMPLIANCE OR AN EXPLANATION OF WHY THE AGENCY DETERMINES THAT SUCH EVALUATION ISN'T APPROPRIATE.*

None.

8. **COMPARISON:**

*COMPARE THE IMPACT OF THE RULE WITH THE ECONOMIC IMPACT OF OTHER ALTERNATIVES TO THE RULE, INCLUDING NO RULE ON THE SUBJECT OR A RULE HAVING SEPARATE REQUIREMENTS FOR SMALL BUSINESS:*

Not applicable.

9. **SUFFICIENCY:** *EXPLAIN THE SUFFICIENCY OF THIS ECONOMIC IMPACT ANALYSIS.*  
There will be no measurable economic impact.

# Administrative Procedures – Environmental Impact Analysis

## Instructions:

In completing the environmental impact analysis, an agency analyzes and evaluates the anticipated environmental impacts (positive or negative) to be expected from adoption of the rule; compares alternatives to adopting the rule; explains the sufficiency of the environmental impact analysis.

Examples of Environmental Impacts include but are not limited to:

- Impacts on the emission of greenhouse gases
- Impacts on the discharge of pollutants to water
- Impacts on the arability of land
- Impacts on the climate
- Impacts on the flow of water
- Impacts on recreation
- Or other environmental impacts

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### 1. TITLE OF RULE FILING:

Emergency Administrative Rules for  
Remote Hearings for the Board of Medical Practice

### 2. ADOPTING AGENCY:

Department of Health

### 3. GREENHOUSE GAS: *EXPLAIN HOW THE RULE IMPACTS THE EMISSION OF GREENHOUSE GASES (E.G. TRANSPORTATION OF PEOPLE OR GOODS; BUILDING INFRASTRUCTURE; LAND USE AND DEVELOPMENT, WASTE GENERATION, ETC.):*

None .

### 4. WATER: *EXPLAIN HOW THE RULE IMPACTS WATER (E.G. DISCHARGE / ELIMINATION OF POLLUTION INTO VERMONT WATERS, THE FLOW OF WATER IN THE STATE, WATER QUALITY ETC.):*

None .

### 5. LAND: *EXPLAIN HOW THE RULE IMPACTS LAND (E.G. IMPACTS ON FORESTRY, AGRICULTURE ETC.):*

None .

### 6. RECREATION: *EXPLAIN HOW THE RULE IMPACT RECREATION IN THE STATE:*

None .

### 7. CLIMATE: *EXPLAIN HOW THE RULE IMPACTS THE CLIMATE IN THE STATE:*

None .

Environmental Impact Analysis

8. **OTHER:** *EXPLAIN HOW THE RULE IMPACT OTHER ASPECTS OF VERMONT'S ENVIRONMENT:*  
Not applicable.

9. **SUFFICIENCY:** *EXPLAIN THE SUFFICIENCY OF THIS ENVIRONMENTAL IMPACT ANALYSIS.*

There are no data. There is a logical inference that no travel will result in less cost to participants.

# Administrative Procedures – Public Input

## **Instructions:**

In completing the public input statement, an agency describes the strategy prescribed by ICAR to maximize public input, what it did do, or will do to comply with that plan to maximize the involvement of the public in the development of the rule.

This form must accompany each filing made during the rulemaking process:

1. **TITLE OF RULE FILING:**

Emergency Administrative Rules for  
Remote Hearings for the Board of Medical Practice

2. **ADOPTING AGENCY:**

Department of Health

3. **PLEASE DESCRIBE THE STRATEGY PRESCRIBED BY ICAR TO MAXIMIZE PUBLIC INVOLVEMENT IN THE DEVELOPMENT OF THE PROPOSED RULE:**

The Board is in the process of incorporating these provisions into the Board of Medical Practice Rule through the regular rulemaking process, and will obtain public input.

4. **PLEASE LIST THE STEPS THAT HAVE BEEN OR WILL BE TAKEN TO COMPLY WITH THAT STRATEGY:**

During the regular rulemaking there will be public notice and a public hearing.

5. **BEYOND GENERAL ADVERTISEMENTS, PLEASE LIST THE PEOPLE AND ORGANIZATIONS THAT HAVE BEEN OR WILL BE INVOLVED IN THE DEVELOPMENT OF THE PROPOSED RULE:**

The Board of Medical Practice.

Clean  
Copy

**Emergency Administrative Rules for  
Remote Hearings for the Board of Medical Practice**

**1-0 Authority and Scope**

1-1 Pursuant to the authority of 3 V.S.A. § 831(d) and 26 V.S.A. § 1351(e), the Commissioner of Health is issuing these Emergency Administrative Rules for Remote Hearings (“Emergency Rules”) for the Vermont Board of Medical Practice (“Board”). These Emergency Rules require that all hearings be conducted by telephone, video, or other electronic means (“Remote Hearings”), unless the Executive Director of the Board orders otherwise. These Emergency Rules also set forth Rules establishing procedures for conducting Remote Hearings.

1-2 All provisions of the Rules of the Board of Medical Practice (“Rules”) not modified herein continue to apply. In the case where a standard set forth in these Emergency Rules conflicts with a standard set forth in the Board Rules, these Emergency Rules shall govern.

**2-0 Pre-Hearing Administration**

2-1 **Remote Hearings** Hearings may be held remotely by telephone, video, or other electronic means for the duration of these Emergency Rules, unless otherwise ordered by the Executive Director of the Board.

**2-2 Hearing Notice**

2-2.1 In addition to the other information required to be included in a notice of a hearing pursuant to 3 V.S.A. § 809 and 26 V.S.A. § 1372(b)(2) the notice of a remote hearing shall contain instructions and information, including phone numbers and website links and addresses, for participating in the remote hearing by web-based visual and audio communication or by telephone. If the telephone numbers and or website links and addresses for remote participation are not established at the time a notice is issued, the notice may instead state that the hearing will be held by remote means, that the telephone numbers and or website information will be provided to parties no later than seven days prior to the hearing, and that the information will be publicly posted on the Board’s website no less than seven days prior to the hearing.

- 2-2.2 The notice of a remote hearing shall contain contact information for the Docket Clerk or another Board staff member who can be contacted during the hearing if a party encounters any difficulties with remote participation.
- 2-2.3 The notice shall instruct a party how to contact the Docket Clerk if the party is unable to participate in the hearing remotely.
- 2-2.4 A party may request a continuance in accordance with Rule 39.2.2 if the party is unable to participate remotely in the hearing. The Board, hearing panel, or presiding officer shall determine whether to grant the motion for a continuance consistent with Rule 39.2.2.
- 2-2.5 If a party needs a modification or an accommodation to be made to participate in the hearing remotely, the party may file a request. The non-requesting party shall be notified of the request for an accommodation or modification. If a requested accommodation or modification will substantially adversely affect the rights of the non-requesting party, the hearing panel shall determine whether to permit the accommodation or modification. For requested accommodations and modifications that will not adversely affect the rights on the non-requesting party, the Docket Clerk may approve accommodations or modifications after providing notice of the request to the non-requesting party.

## **2-3 Filings**

### **2-3.1 Pre-Hearing Filings**

- 2-3.1.1 Prior to the beginning of a hearing, documents may be filed by sending the filing to the Docket Clerk as an attachment to an email, by regular mail, or by facsimile. Regardless of the method of delivery, documents are only deemed filed upon receipt by the Docket Clerk.
- 2-3.1.2 Unless a different discovery and hearing schedule is issued by a hearing officer, filings submitted prior to a hearing must be received by the Docket Clerk no later than noon on the last business day prior to the scheduled hearing. Filings not received by the Docket Clerk by noon on the last business day prior to the scheduled hearing must be introduced at the hearing in accordance with Emergency Rule 3-2.2.
- 2-3.1.3 Objections to the admissibility of pre-filed exhibits and responses to motions may be made at the scheduled hearing unless a discovery and

hearing schedule issued by a hearing officer requires objections and responses to be filed by an earlier date. Objections to the admissibility of the pre-filed exhibit and responses to motions may also be made in writing by submitting a written objection or response to the Docket Clerk by noon on the last business day prior to the scheduled hearing.

2-3.1.4 Filings submitted prior to a hearing shall be served on the other party on the same day the filing is submitted to the Docket Clerk and using the same method of delivery unless otherwise agreed by the parties.

2-3.1.5 The procedures regarding electronic introduction of filings at a hearing set forth in Emergency Rule 3-2.2 shall then be followed.

### 2-3.2 Service.

2-3.2.1 Except for filings that are required to be served by certified mail, filings may be served on the other party via email, rather than by regular mail or personal service. Service by regular mail and personal service remain acceptable means of service. The filing shall be served on the other party using the same method of delivery that is used to submit the filing to the Docket Clerk unless otherwise agreed by the parties.

2-3.2.2 Filings that are required by statute or the Rules to be served by certified mail must continue to be served by certified mail.

### 2-3.3 Form.

2-3.3.1 The subject line of the email containing a filing as an attachment shall indicate the name of the respondent.

2-3.3.2 A signature block containing the submitting party's typed-in name preceded by "/s/," or an electronic facsimile of the submitting party's signature, a scanned copy of it, or another form of electronic signature as defined in 9 V.S.A. § 271(9), will serve as a party's signature on pleadings, motions, and other documents that must be filed with a signature. This exception does not apply to affidavits, verified pleadings, or other signatures that must be notarized by statute.

2-3.3.3 Exhibits submitted for use during a hearing shall be marked for identification by the party submitting the exhibit. The respondent shall

mark exhibits using letters and the State shall mark exhibits using numbers.

2-3.4 Timing.

2-3.4.1 Filings sent by email will be considered filed on that date if the email is received before 4:30 p.m.

2-3.4.2 Nothing in these Emergency Rules extends filing deadlines.

**3-0 Hearings Before a Hearing Panel**

**3-1 Hearing Procedures**

3-1.1 Prior to Hearing.

3-1.1.1 Prior to the scheduled hearing, the Docket Clerk shall send the parties an email with all the filings in the pending matter attached, including, but not limited to, the specification of charges, the hearing notice, any filings submitted in the case and an agenda for the meeting at which the hearing will be held.

3-1.1.2 By noon on the last business day prior to the scheduled hearing, the parties and the members of the hearing panel shall provide the Docket Clerk with a phone number and email address at which the party can be reached in the event of a malfunction during the remote hearing.

3-1.2 Commencement of Hearing.

3-1.2.1 A party is responsible for connecting to the remote hearing via the web-based audio and visual system or telephone number provided in the hearing notice. Parties shall participate in the scheduled hearing using audio communication, either web-based or through the telephone, at a minimum. Unless otherwise ordered by the hearing officer, the use of video communication shall be required only in extraordinary circumstances.

3-1.2.2 At the beginning of a scheduled hearing, the hearing officer shall confirm the presence of both parties and their representatives, when applicable.



3-1.2.3 Parties shall be present at the time provided in the hearing notice via the web-based audio and visual communication link or by telephone. If there is more than one hearing scheduled, the order of hearings will be decided by the hearing officer. The first hearing shall begin at the time stated on the hearing notice. Subsequent hearings will occur after the conclusion of the previous hearing.

### 3-1.3 Hearing Conduct.

3-1.3.1 Scheduled hearings shall be conducted in accordance 1 V.S.A. Chapter 5, as modified by Act 92 (2020).

3-1.3.2 At the beginning of the hearing, upon request from the hearing officer, each party shall state their full name for the record.

3-1.3.3 The parties shall keep the audio connection, through which the party is participating in the hearing, muted while not speaking.

3-1.3.4 If a party is not able to hear the hearing officer, hearing panel, or the other party, the party shall un-mute their audio communication system and notify the hearing officer.

3-1.3.5 The hearing officer shall administer oaths and affirmations, as required by law, using the audio and, if available, visual communication systems.

### 3-1.4 Hearing Panel Members.

3-1.4.1 When participating in a hearing remotely, hearing panel members shall comply with the requirements of 26 V.S.A. § 1318, and, where applicable, the Rules and these Emergency Rules.

3-1.4.2 By noon on the day prior to the scheduled hearing, each hearing panel member shall provide to the Docket Clerk an email address for a current email account that the member can access during the hearing.

3-1.4.3 During a scheduled hearing, the Docket Clerk shall send all filings and required written communications to the hearing panel members at the email address provided to the Docket Clerk.

- 3-1.4.4 During a scheduled hearing, hearing panel members shall monitor the email account submitted to the Docket Clerk, and immediately review emails received from the Docket Clerk and other Board Office staff.

## **3-2 Record**

- 3-2.1 **Recording and Transcript.** The hearing shall be recorded. Transcripts will be available after the hearing. Parties may request a transcript from the Docket Clerk. The party requesting a copy of the transcript must pay to the Board Office the estimated cost of producing a copy of the transcript.

### **3-2.2 Introduction of Documents During Hearing**

- 3-2.2.1 All filings to be considered by the hearing panel during a hearing shall be filed with the Docket Clerk in advance of the scheduled hearing in accordance with Emergency Rule 2-3.2.1, or during the hearing in accordance with the procedures set forth in this subsection 3-2.2. Filings that are not received by the Docket Clerk by noon on the last business day prior to the scheduled hearing must be submitted during the hearing.

#### **3-2.2.2 Exhibits**

- 3-2.2.2.1 Exhibits proffered during a hearing that a party wishes to offer to be admitted as evidence shall be emailed as an attachment to the Docket Clerk and the other party. The form of the exhibit shall comply with the form requirements set forth in Emergency Rule 2-3.4.
- 3-2.2.2.2 Once the proffered exhibit is received by the Docket Clerk, the Docket Clerk shall email the exhibit as an attachment to the hearing officer presiding at the hearing and the other, non-filing party.
- 3-2.2.2.3 After receipt of the email from the Docket Clerk with the exhibit attached, the hearing officer and the other, non-filing party shall have a reasonable amount of time, as determined by the hearing officer, to review the exhibit.

- 3-2.2.2.4 The non-filing party shall have the opportunity to oppose the admission of an offered exhibit.
- 3-2.2.2.5 The hearing officer shall rule on whether to admit the exhibit in accordance with Rule 39.4 and 3 V.S.A. § 810.
- 3-2.2.2.6 If the hearing officer rules that an exhibit is to be admitted into evidence, the Docket Clerk shall send an email with the exhibit attached to all members of the hearing panel.
- 3-2.2.2.7 Members of the hearing panel shall not retain any copies, including electronic or physical copies, of the exhibit after the conclusion of the hearing.

3-2.2.3 Motions

- 3-2.2.3.1 Written motions made during a hearing shall be emailed as an attachment to the Docket Clerk and the non-filing party. Motions may also be made orally during a hearing.
- 3-2.2.3.2 A written motion shall be signed in accordance with Emergency Rule 2-3.4.2.
- 3-2.2.3.3 Upon receipt of a written motion during a hearing, the Docket Clerk shall send the motion to the hearing officer and hearing panel members.
- 3-2.2.3.4 The non-filing party shall have the opportunity to respond to a motion.
- 3-2.2.3.5 The hearing officer shall decide whether to grant or deny a motion.

**3-3 Witnesses**

- 3-3.1 Witnesses called by a party shall testify by telephone or via web-based audio or visual communication.
- 3-3.2 The party calling the witness shall be responsible for providing the witness with the necessary information for participating in the scheduled hearing, including all necessary phone numbers, email addresses and website addresses. It is the

responsibility of the party calling the witness to ensure that the witness is available when called upon to testify during the scheduled hearing.

- 3-3.3 The party calling the witness shall provide the Docket Clerk with a phone number and email address for the witness. In the event of technical challenges or a need to dismiss and then recall a witness, the Docket Clerk shall telephone the witness with further instructions about when the witness is recalled to testify.

### **3-4 Deliberative Session**

- 3-4.1 The hearing panel shall have the opportunity to engage in deliberations, as defined in 1 V.S.A. § 310(2), about the contested case presented at the scheduled hearing. Deliberations by the hearing panel may occur in a deliberative session in accordance with 1 V.S.A. § 312(e).
- 3-4.2 Prior to the scheduled hearing, the Docket Clerk shall email to the hearing panel members and the hearing officer a conference call telephone number or information for an audio and visual communication system link that shall be available only to those participating in deliberations, to be used for the deliberative session.
- 3-4.3 After the hearing panel votes to enter into a deliberative session, the hearing panel members shall exit the audio and visual communication system or end the telephone call through which the hearing panel member is participating in the hearing. The parties shall remain available on the audio and visual communication system or the telephone during the deliberative session. The hearing panel members shall then use the conference call telephone number or audio and visual communication system link provided by the Docket Clerk prior to the scheduled hearing. The deliberative session shall be held on the medium that is available only to those participating in the deliberations.
- 3-4.4 At the conclusion of the deliberative session, the hearing panel members shall reconnect to the audio and visual communication system or the telephone line on which the hearing is being held. The hearing officer will notify the Docket Clerk and the parties that the hearing is resuming and shall provide the parties and the Docket Clerk with a reasonable amount of time to resume.

- 3-5 Hearing Panel Report** The hearing officer shall prepare a report of the hearing panel's findings of fact and recommendations to the Board in accordance with 26 V.S.A. § 1372(c) and Rule 39.5. The Docket Clerk shall serve the report on the parties by sending

it as an attachment to an email. The Docket Clerk shall send the report to other individuals on request.

#### **4.0 Hearing Before the Board**

##### **4-1 Hearing Procedures**

4-1.1 **Applicability** This Part of the Emergency Rules applies in full to contested hearings before the Board. With regard to hearings before the Board for the purpose of consideration and approval of a stipulation and consent order, only Part 1 applies.

4-1.2 Prior to Hearing.

4-1.2.1 Prior to the scheduled hearing, the Docket Clerk shall send the parties an email with all the filings in the pending matter attached, including, but not limited to, the specification of charges, the hearing notice, any filings submitted in the case and an agenda for the meeting at which the hearing will be held.

4-1.2.2 By noon on the last business day prior to the scheduled hearing, the parties shall provide the Docket Clerk with a phone number and email address at which the party can be reached in the event of a malfunction during the remote hearing.

4-1.3 Commencement of Hearing.

4-1.3.1 A party is responsible for connecting to the remote hearing via the web-based audio and visual system or telephone number provided in the hearing notice. Parties shall participate in the scheduled hearing using audio communication, either web-based or through the telephone, at a minimum. Unless otherwise ordered by the hearing officer, the use of video communication shall be required only in extraordinary circumstances.

4-1.3.2 At the beginning of a scheduled hearing, the hearing officer shall confirm the presence of both parties and their representatives, when applicable.

4-1.3.3 Parties shall be present at the time provided in the hearing notice via the web-based audio and visual communication link or by telephone. If there is more than one hearing scheduled, the order of hearings will be decided by the hearing officer. The first hearing shall begin at the time stated on the hearing notice. Subsequent hearings will occur after the conclusion of the previous hearing.

#### 4-1.4 Hearing Conduct.

4-1.4.1 Scheduled hearings shall be conducted in accordance 1 V.S.A. Chapter 5, as modified by Act 92 (2020).

4-1.4.2 At the beginning of the hearing, upon request from the hearing officer, each party shall state their full name for the record.

4-1.4.3 The parties shall keep the audio connection, through which the party is participating in the hearing, muted while not speaking.

4-1.4.4 If a party is not able to hear the hearing officer, a Board member, or the other party, the party shall un-mute their audio communication system and notify the hearing officer.

4-1.4.5 The hearing officer shall identify the Board members who are eligible and participating in the hearing on the record.

4-1.4.6 The hearing officer shall administer oaths and affirmations, as required by law, using the audio and, if available, visual communication systems.

#### 4-1.5 Board Members Hearing the Case.

4-1.5.1 When participating in a hearing remotely, Board members shall comply with the requirements of 26 V.S.A. § 1318, and, where applicable, the Rules and these Emergency Rules.

4-1.5.2 By noon on the day prior to the scheduled hearing, each Board member shall provide to the Docket Clerk an email address for a current email account that the member can access during the hearing.

- 4-1.5.3 During a scheduled hearing, the Docket Clerk shall send all filings and required written communications to the participating Board members at the email address provided to the Docket Clerk.
- 4-1.5.4 During a scheduled hearing, participating Board members shall monitor the email account submitted to the Docket Clerk, and immediately review emails received from the Docket Clerk and other Board Office staff.

## **4-2 Record**

4-2.1 Recording and Transcript. The hearing shall be recorded. Transcripts will be available after the hearing. Parties may request a transcript from the Docket Clerk. The party requesting a copy of the transcript must pay to the Board Office the estimated cost of producing a copy of the transcript.

### 4-2.2 Introduction of Documents During Hearing

4-2.2.1 All filings to be considered by the Board during a hearing that are not already a part of the record shall be filed with the Docket Clerk in advance of the scheduled hearing in accordance with Emergency Rule 2-3.2.1, or during the hearing in accordance with the procedures set forth in this subsection 4-2.2. Filings that are not received by the Docket Clerk by noon on the last business day prior to the scheduled hearing must be submitted during the hearing.

#### 4-2.2.2 Exhibits

4-2.2.2.1 Exhibits submitted during a hearing shall be emailed as an attachment to the Docket Clerk and the other party. The form of the exhibit shall comply with the form requirements set forth in Emergency Rule 2-3.4.

4-2.2.2.2 Once the exhibit is received by the Docket Clerk, the Docket Clerk shall email the exhibit as an attachment to the hearing officer presiding at the hearing and the other, non-filing party.

4-2.2.2.3 After receipt of the email from the Docket Clerk with the exhibit attached, the hearing officer and the other, non-

filing party shall have a reasonable amount of time, as determined by the hearing officer, to review the exhibit.

4-2.2.2.4 The non-filing party shall have the opportunity to oppose the admission of an offered exhibit.

4-2.2.2.5 The hearing officer shall rule on whether to admit the exhibit in accordance with Rule 39.4 and 3 V.S.A. § 810.

4-2.2.2.6 If the hearing officer rules that an exhibit is to be admitted into evidence, the Docket Clerk shall send an email with the exhibit attached to members of the Board who are hearing the case.

4-2.2.2.7 Members shall not retain any copies, including electronic or physical copies, of the exhibits after the conclusion of the hearing.

#### 4-2.2.3 Motions

4-2.2.3.1 Written motions made during a hearing shall be emailed as an attachment to the Docket Clerk and the non-filing party. Motions may also be made orally during a hearing.

4-2.2.3.2 A written motion shall be signed in accordance with Emergency Rule 2-3.4.2.

4-2.2.3.3 Upon receipt of a written motion during a hearing, the Docket Clerk shall send the motion to the Board members hearing the case.

4-2.2.3.4 The non-filing party shall have the opportunity to respond to a motion.

4-2.2.3.5 The hearing officer shall decide whether to grant or deny a motion.

### 4-3 Witnesses

4-3.1 Witnesses called by a party shall testify by telephone or via web-based audio or visual communication.



- 4-3.2 The party calling the witness shall be responsible for providing the witness with the necessary information for participating in the scheduled hearing, including all necessary phone numbers, email addresses and website addresses. It is the responsibility of the party calling the witness to ensure that the witness is available when called upon to testify during the scheduled hearing.
- 4-3.3 The party calling the witness shall provide the Docket Clerk with a phone number and email address for the witness. In the event of technical challenges or a need to dismiss and then recall a witness, the Docket Clerk shall telephone the witness with further instructions about when the witness is recalled to testify.

#### **4-4 Deliberative Session**

- 4-4.1 The participating Board members shall have the opportunity to engage in deliberations, as defined in 1 V.S.A. § 310(2), about the contested case presented at the scheduled hearing. Deliberations by the participating Board members may occur in a deliberative session in accordance with 1 V.S.A. § 312(e).
- 4-4.2 Prior to the scheduled hearing, the Docket Clerk shall email to the participating Board members and the hearing officer a conference call telephone number or information for an audio and visual communication system link that shall be available only to those participating in deliberations, to be used for the deliberative session.
- 4-4.3 After the participating Board members vote to enter into a deliberative session, the members shall exit the audio and visual communication system or end the telephone call through which members are participating in the hearing. The parties shall remain available on the audio and visual communication system or the telephone during the deliberative session. The participating Board members shall then use the conference call telephone number or audio and visual communication system link provided by the Docket Clerk prior to the scheduled hearing. The deliberative session shall be held on the medium that is available only to those participating in the deliberations.
- 4-4.4 At the conclusion of the deliberative session, the participating Board members shall reconnect to the audio and visual communication system or the telephone line on which the hearing is being held. The hearing officer will notify the Docket Clerk and the parties that the hearing is resuming and shall provide the parties and the Docket Clerk with a reasonable amount of time to resume.

**4-5 Board Decision** The Board shall issue a written decision of its findings and conclusions in accordance with 26 V.S.A. § 1374. The Board may have the assistance of the hearing officer in preparing its written decision. 26 V.S.A. § 1353(2).

**4-6 Appeals**

4-6.1 A party may appeal a decision of the Board in accordance with 26 V.S.A. 1367 and Rule 40.3.

4-6.2 Parties may submit written notices and filings to the Docket Clerk, and other parties by email, mail or facsimile.

VERMONT **GENERAL ASSEMBLY**

# The Vermont Statutes Online

## Title 26 : Professions And Occupations

### Chapter 023 : Medicine

#### Subchapter 002 : Board Of Medical Practice

(Cite as: 26 V.S.A. § 1351)

#### § 1351. Board of Medical Practice

(a) The Board of Medical Practice is created. The Board shall be composed of 17 members, nine of whom shall be licensed physicians, one of whom shall be a physician assistant licensed pursuant to chapter 31 of this title, one of whom shall be a podiatrist licensed pursuant to chapter 7 of this title, and six of whom shall be persons not associated with the medical field. The Governor, with the advice and consent of the Senate, shall appoint the members of the Board. Appointments shall be for a term of five years, except that a vacancy occurring during a term shall be filled by an appointment by the Governor for the unexpired term. No member shall be appointed to more than two consecutive full terms, but a member appointed for less than a full term, originally or to fill a vacancy, may serve two full terms in addition to such part of a full term, and a former member shall again be eligible for appointment after a lapse of one or more years. Any member of the Board may be removed by the Governor at any time. The Board shall elect from its members a chair, vice chair, and secretary who shall serve for one year and until their successors are appointed and qualified. The Board shall meet upon the call of the Chair or the Commissioner of Health, or at such other times and places as the Board may determine. Except as otherwise provided in sections 1372, 1373, and 1374 of this title, nine members of the Board shall constitute a quorum for the transaction of business. The affirmative vote of the majority of the members present and voting shall be required to carry any motion or resolution, to adopt any rule, to pass any measure, or to authorize any decision or order of the Board.

(b) In the performance of their duties, members of the Board shall be paid a per diem and their actual and necessary expenses as provided by 32 V.S.A. § 1010(b).

(c) The Board of Medical Practice is established as an office within the Department of Health. With respect to the Board, the Commissioner shall have the following powers and duties to:

(1) Appoint a director of the office.

(2) Employ or contract for legal counsel and such assistants as may be required, to fix the compensation to be paid for these services, and to incur such other expenses as

the Commissioner determines are necessary.

(3) Employ, contract, or make arrangements for the performance of administrative, investigative, and similar services required or appropriate in the performance of the duties of the Board.

(4) Act as custodian of the records of the Board.

(5) Prepare an annual budget and administer money appropriated to the Board by the General Assembly. The budget of the Board shall be part of the budget of the Department. A Board of Medical Practice Regulatory Fee Fund is created. All Board regulatory fees received by the Department shall be deposited into this Fund and used to offset up to two years of the costs incurred by the Board, and shall not be used for any purpose other than professional regulation and responsibilities of the Board, as determined by the Commissioner of Health. To ensure that revenues derived by the Department are adequate to offset the cost of regulation, the Commissioner shall review fees from time to time, and present proposed fee changes to the General Assembly.

(6) Prepare and maintain a registry of all physicians licensed by the Board.

(7) Make available an accounting of all fees and fines received by the Board and all expenditures and costs of the Board annually.

(d) The Commissioner of Health shall appoint, and may terminate the employment of, the Director, administrative support staff, and any investigator or private legal counsel employed or retained by the Board.

(e) The Commissioner of Health shall adopt, amend, and repeal rules of the Board that the Commissioner determines necessary to carry out the provisions of this chapter and chapters 7, 29, 31, and 52 of this title.

(f)(1) A classified State employee who is employed as an investigator by the Department of Health who is certified as a Level III law enforcement officer under 20 V.S.A. chapter 151 shall have the same powers as sheriffs in criminal matters and the enforcement of the law and in serving criminal process, and shall have all the immunities and matters of defense now available or hereafter made available to sheriffs in a suit brought against him or her in consequence for acts done in the course of his or her employment.

(2) A Board of Medical Practice investigator employed by the Department of Health who is not certified as a Level III law enforcement officer under 20 V.S.A. chapter 151 shall annually obtain a minimum of 25 hours of training regarding the methods of conducting investigations of alleged unprofessional conduct, as approved by the Board.

(3) Any Board of Medical Practice investigator employed by the Department of Health shall obtain as soon as practicable and thereafter maintain certification by a nationally or regionally recognized entity regarding the investigation of licensing cases,

as approved by the Board. (Amended 1969, No. 187 (Adj. Sess.), § 2; 1975, No. 249 (Adj. Sess.), § 2; 1977, No. 91, § 1, eff. May 5, 1977; 1981, No. 100, § 12; 1985, No. 208 (Adj. Sess.), § 18, eff. June 30, 1986; 1989, No. 102, § 1; 1989, No. 250 (Adj. Sess.), § 92; 2001, No. 129 (Adj. Sess.), § 21, eff. June 13, 2002; 2001, No. 132 (Adj. Sess.), § 5, eff. June 13, 2002; 2003, No. 34, § 6, eff. May 23, 2003; 2003, No. 122 (Adj. Sess.), § 117a; 2009, No. 103 (Adj. Sess.), § 19d, eff. May 12, 2010; 2011, No. 61, § 2, eff. June 2, 2011; 2013, No. 130 (Adj. Sess.), § 3; 2013, No. 141 (Adj. Sess.), § 20, eff. July 1, 2015; 2015, No. 2, § 5, eff. March 12, 2015; 2015, No. 2, § 6; 2019, No. 126 (Adj. Sess.), § 1.)

VERMONT **GENERAL ASSEMBLY**

# The Vermont Statutes Online

## Title 3 : Executive

### Chapter 025 : Administrative Procedure

#### Subchapter 001 : General Provisions

(Cite as: 3 V.S.A. § 801)

#### § 801. Short title and definitions

(a) This chapter may be cited as the "Vermont Administrative Procedure Act."

(b) As used in this chapter:

(1) "Agency" means a State board, commission, department, agency, or other entity or officer of State government, other than the Legislature, the courts, the Commander in Chief, and the Military Department, authorized by law to make rules or to determine contested cases.

(2) "Contested case" means a proceeding, including but not restricted to rate-making and licensing, in which the legal rights, duties, or privileges of a party are required by law to be determined by an agency after an opportunity for hearing.

(3) "License" includes the whole or part of any agency permit, certificate, approval, registration, charter, or similar form of permission required by law.

(4) "Licensing" includes the agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal, or amendment of a license.

(5) "Party" means each person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party.

(6) "Person" means any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character other than an agency.

(7) "Practice" means a substantive or procedural requirement of an agency, affecting one or more persons who are not employees of the agency, that is used by the agency in the discharge of its powers and duties. The term includes all such requirements, regardless of whether they are stated in writing.

(8) "Procedure" means a practice that has been adopted in writing, either at the election of the agency or as the result of a request under subsection 831(b) of this title. The term includes any practice of any agency that has been adopted in writing, whether or not labeled as a procedure, except for each of the following:

(A) a rule adopted under sections 836-844 of this title;

(B) a written document issued in a contested case that imposes substantive or procedural requirements on the parties to the case;

(C) a statement that concerns only:

(i) the internal management of an agency and does not affect private rights or procedures available to the public;

(ii) the internal management of facilities that are secured for the safety of the public and the individuals residing within them; or

(iii) guidance regarding the safety or security of the staff of an agency or its designated service providers or of individuals being provided services by the agency or such a provider;

(D) an intergovernmental or interagency memorandum, directive, or communication that does not affect private rights or procedures available to the public;

(E) an opinion of the Attorney General; or

(F) a statement that establishes criteria or guidelines to be used by the staff of an agency in performing audits, investigations, or inspections, in settling commercial disputes or negotiating commercial arrangements, or in the defense, prosecution, or settlement of cases, if disclosure of the criteria or guidelines would compromise an investigation or the health and safety of an employee or member of the public, enable law violators to avoid detection, facilitate disregard of requirements imposed by law, or give a clearly improper advantage to persons that are in an adverse position to the State.

(9) "Rule" means each agency statement of general applicability that implements, interprets, or prescribes law or policy and that has been adopted in the manner provided by sections 836-844 of this title.

(10) "Incorporation by reference" means the use of language in the text of a regulation that expressly refers to a document other than the regulation itself.

(11) "Adopting authority" means, for agencies that are attached to the Agencies of Administration, of Commerce and Community Development, of Natural Resources, of Human Services, and of Transportation, or any of their components, the secretaries of those agencies; for agencies attached to other departments or any of their components, the commissioners of those departments; and for other agencies, the chief officer of the agency. However, for the procedural rules of boards with quasi-judicial powers, for the Transportation Board, for the Vermont Veterans' Memorial Cemetery Advisory Board, and for the Fish and Wildlife Board, the chair or executive secretary of the board shall be the adopting authority. The Secretary of State shall be the adopting authority for the Office of Professional Regulation.

(12) "Small business" means a business employing no more than 20 full-time

employees.

(13)(A) "Arbitrary," when applied to an agency rule or action, means that one or more of the following apply:

(i) There is no factual basis for the decision made by the agency.

(ii) The decision made by the agency is not rationally connected to the factual basis asserted for the decision.

(iii) The decision made by the agency would not make sense to a reasonable person.

(B) The General Assembly intends that this definition be applied in accordance with the Vermont Supreme Court's application of "arbitrary" in *Beyers v. Water Resources Board*, 2006 VT 65, and *In re Town of Sherburne*, 154 Vt. 596 (1990).

(14) "Guidance document" means a written record that has not been adopted in accordance with sections 836-844 of this title and that is issued by an agency to assist the public by providing an agency's current approach to or interpretation of law or describing how and when an agency will exercise discretionary functions. The term does not include the documents described in subdivisions (8)(A) through (F) of this section.

(15) "Index" means a searchable list of entries that contains subjects and titles with page numbers, hyperlinks, or other connections that link each entry to the text or document to which it refers. (Added 1967, No. 360 (Adj. Sess.), § 1, eff. July 1, 1969; amended 1981, No. 82, § 1; 1983, No. 158 (Adj. Sess.), eff. April 13, 1984; 1985, No. 56, § 1; 1985, No. 269 (Adj. Sess.), § 4; 1987, No. 76, § 18; 1989, No. 69, § 2, eff. May 27, 1989; 1989, No. 250 (Adj. Sess.), § 88; 2001, No. 149 (Adj. Sess.), § 46, eff. June 27, 2002; 2017, No. 113 (Adj. Sess.), § 3; 2017, No. 156 (Adj. Sess.), § 2.)



VERMONT **GENERAL ASSEMBLY**

# The Vermont Statutes Online

## Title 3 : Executive

### Chapter 025 : Administrative Procedure

#### Subchapter 003 : Rulemaking; Procedures; Guidance Documents

(Cite as: 3 V.S.A. § 831)

#### § 831. Required policy statements and rules

(a) Where due process or a statute directs an agency to adopt rules, the agency shall initiate rulemaking and adopt rules in the manner provided by sections 836-844 of this title.

(b) An agency shall adopt a procedure describing an existing practice when so requested by an interested person.

(c) An agency shall initiate rulemaking to adopt as a rule an existing practice or procedure when so requested by 25 or more persons or by the Legislative Committee on Administrative Rules. An agency shall not be required to initiate rulemaking with respect to any practice or procedure, except as provided by this subsection.

(d) An agency required to hold hearings on contested cases as required by section 809 of this title shall adopt rules of procedure in the manner provided in this chapter.

(e) Within 30 days after an agency discovers that the text of a final proposed rule as submitted to the Legislative Committee on Administrative Rules deviates from the text that the agency intended to submit to the Committee, the agency shall initiate rulemaking to correct the rule if the period for final adoption of the rule under subsection 843(c) of this title has elapsed.

(f) Except as provided in subsections (a)-(e) of this section, an agency shall not be required to initiate rulemaking or to adopt a procedure or a rule. (Added 1981, No. 82, § 6; amended 1995, No. 61, § 1; 2001, No. 149 (Adj. Sess.), § 48, eff. June 27, 2002; 2017, No. 156 (Adj. Sess.), § 2.)



# Proposed Rules Postings

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### Deadline For Public Comment

Deadline: Unavailable.

The deadline for public comment is unavailable for this rule. Contact the agency or primary contact person listed below for assistance.

### Rule Details

Rule Number:	21-E12
Title:	Emergency Administrative Rules for Remote Hearings for the Board of Medical Practice.
Type:	Emergency
Status:	Adopted
Agency:	Department of Health, Agency of Human Services
Legal Authority:	26 V.S.A. § 1351(e), 3 V.S.A. § 801(b)(11), and 3 V.S.A. § 831(d).
Summary:	The proposed rule establishes the process for the Board to conduct virtual hearings.
Persons Affected:	Physicians, physician assistants, physician employers, and Vermonters seeking medical care.
Economic Impact:	There is some cost savings associated with affected parties not having to travel for hearings or deliberations.
Posting date:	Jul 28,2021

### Hearing Information

There are not Hearings scheduled for this Rule

## Contact Information

### Information for Primary Contact

**PRIMARY CONTACT PERSON** - A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE.

Level: Primary  
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[SEND A COMMENT](#)

Website: <http://www.healthvermont.gov/about-us/laws-regulations/public-comment>

Address: [VIEW WEBSITE](#)

### Information for Secondary Contact

**SECONDARY CONTACT PERSON** - A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON.

Level: Secondary  
Name: Brendan Atwood  
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State: VT  
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Telephone: 802-863-7280  
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[SEND A COMMENT](#)

## Keyword Information

Keywords:

Board of Medical Practice  
Virtual Hearing  
Physicians

Doctors

Back

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