

State of Utah
Administrative Rule Analysis
Revised November 2021

| NOTICE OF PROPOSED RULE | | |
|--|----------|-----------------------------|
| TYPE OF RULE: New ___; Amendment _x_; Repeal ___; Repeal and Reenact ___ | | |
| Title No. - Rule No. - Section No. | | |
| Utah Admin. Code Ref (R no.): | R590-160 | Filing ID (Office Use Only) |
| Changed to Admin. Code Ref. (R no.): | R | |

Agency Information

| | | |
|--|------------------------------------|-----------------|
| 1. Department: | Insurance | |
| Agency: | Administration | |
| Room no.: | Suite 2300 | |
| Building: | Taylorsville State Office Building | |
| Street address: | 4315 S. 2700 W. | |
| City, state and zip: | Taylorsville, UT 84129 | |
| Mailing address: | PO Box 146901 | |
| City, state and zip: | Salt Lake City, UT 84114-6901 | |
| Contact person(s): | | |
| Name: | Phone: | Email: |
| Steve Gooch | 801-957-9322 | sgooch@utah.gov |
| Please address questions regarding information on this notice to the agency. | | |

General Information

| |
|---|
| 2. Rule or section catchline: |
| R590-160. Adjudicative Proceedings |
| 3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?): |
| The rule is being changed in compliance with Executive Order 2021-12. During the review of this rule, the department discovered a number of minor issues that needed to be amended. |
| 4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule): |
| The majority of the changes are being done to fix style issues to bring the rule text more in line with current rulewriting standards. Other changes make the language of the rule more clear. The changes do not add, remove, or change any regulations or requirements. |

Fiscal Information

| |
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| 5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to: |
| A) State budget: |
| There is no anticipated cost or savings to the state budget. The changes are largely clerical in nature, and will not change how the department functions. |
| B) Local governments: |
| There is no anticipated cost or savings to local governments. The changes are largely clerical in nature, and will not affect local governments. |
| C) Small businesses ("small business" means a business employing 1-49 persons): |
| There is no anticipated cost or savings to small businesses. The changes are largely clerical in nature, and will not affect small businesses. |
| D) Non-small businesses ("non-small business" means a business employing 50 or more persons): |

There is no anticipated cost or savings to non-small businesses. The changes are largely clerical in nature, and will not affect non-small businesses.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

There is no anticipated cost or savings to any other persons. The changes are largely clerical in nature.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs for any affected persons. The changes are largely clerical in nature.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a fiscal impact to businesses. — Jonathan T. Pike, Insurance Commissioner

6. A) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

| Fiscal Cost | FY2022 | FY2023 | FY2024 |
|------------------------------|---------------|---------------|---------------|
| State Government | \$0 | \$0 | \$0 |
| Local Governments | \$0 | \$0 | \$0 |
| Small Businesses | \$0 | \$0 | \$0 |
| Non-Small Businesses | \$0 | \$0 | \$0 |
| Other Persons | \$0 | \$0 | \$0 |
| Total Fiscal Cost | \$0 | \$0 | \$0 |
| Fiscal Benefits | | | |
| State Government | \$0 | \$0 | \$0 |
| Local Governments | \$0 | \$0 | \$0 |
| Small Businesses | \$0 | \$0 | \$0 |
| Non-Small Businesses | \$0 | \$0 | \$0 |
| Other Persons | \$0 | \$0 | \$0 |
| Total Fiscal Benefits | \$0 | \$0 | \$0 |
| Net Fiscal Benefits | \$0 | \$0 | \$0 |

B) Department head approval of regulatory impact analysis:

The Commissioner of Insurance, Jonathan T. Pike, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

| | | |
|-------------------|-------------------|-------------------|
| Section 31A-2-201 | Section 63G-4-102 | Section 63G-4-203 |
| | | |
| | | |

Incorporations by Reference Information

(If this rule incorporates more than two items by reference, please include additional tables.)

8. A) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):

| | First Incorporation |
|---|----------------------------|
| Official Title of Materials Incorporated (from title page) | |
| Publisher | |
| Date Issued | |

| | |
|--------------------------|--|
| Issue, or version | |
|--------------------------|--|

B) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):

| | |
|---|-----------------------------|
| | Second Incorporation |
| Official Title of Materials Incorporated (from title page) | |
| Publisher | |
| Date Issued | |
| Issue, or version | |

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until (mm/dd/yyyy): 03/17/2022

B) A public hearing (optional) will be held:

| | | |
|-------------------------|--------------------------|--------------------|
| On (mm/dd/yyyy): | At (hh:mm AM/PM): | At (place): |
| | | |
| | | |
| | | |
| | | |

10. This rule change MAY become effective on (mm/dd/yyyy): 03/24/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

To the agency: Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin* and delaying the first possible effective date.

| | | | |
|--|---|---------------------------|------------|
| Agency head or designee, and title: | Steve Gooch, Public Information Officer | Date (mm/dd/yyyy): | 02/01/2022 |
|--|---|---------------------------|------------|

R590. Insurance, Administration.

R590-160. Adjudicative Proceedings.

R590-160-1. Authority.

This rule is promulgated by the commissioner pursuant to ~~[Subsections]~~ Sections 31A-2-201~~(3)(a)~~, 63G-4-102~~(6)~~, and 63G-4-203~~(4)~~, and applicable provisions of Title 63G, Chapter 4, Administrative Procedures Act].

R590-160-2. Purpose and Scope.

(1) ~~[This rule establishes]~~ The purpose of this rule is to establish procedures governing the designation and conduct of an adjudicative proceeding before the ~~[presiding officer]~~ commissioner.

(2)(a) This rule applies to:

(i) an adjudicative proceeding commenced by a complainant;

(ii) an adjudicative proceeding commenced by a petitioner;

(iii) a respondent in an adjudicative proceeding; and

(iv) an intervenor in an adjudicative proceeding.

(b) This rule does not apply to a ~~[A]~~ public hearing ~~[pursuant to]~~ under Section 63G-3-302~~[is not governed by this rule]~~.

~~(3)c~~ This rule ~~[shall be]~~ is liberally construed to secure a just, speedy, and economical determination of each issue.

~~(4)d~~ The ~~[presiding officer]~~ commissioner may permit a deviation from this rule for good cause.

R590-160-3. Definitions.

~~[In addition to the definitions in Sections 31A-1-301 and 63G-4-103, the following definitions shall apply to this rule]~~ Terms used in this rule are defined in Sections 31A-1-301 and 63G-4-103. Additional terms are defined as follows:

(1) "Commissioner," for purposes of this rule, means Utah's insurance commissioner or a presiding officer designated by Utah's insurance commissioner.

(2) "Complainant" means the ~~[D]~~department in an~~[y]~~ action against a licensee or other person alleged to have committed a violation of statute, rule, or order of the commissioner.

~~[(2)3]~~ "Intervenor" means a~~[ny]~~ person, not a party, permitted to intervene in a formal proceeding ~~[pursuant to]~~under Section 63G-4-207.

~~[(3)4]~~ "Licensee" means a~~[ny]~~ person who ~~[has been]~~is issued a license or certificate~~[pursuant to]~~, or is registered under Title 31A, Insurance Code.

~~[(4)5]~~ "Petitioner" means a~~[ny]~~ person, other than the department, who commences an adjudicative proceeding.

~~[(5)6]~~ "Pleading" means a~~[ny]~~ document authorized to be filed ~~[pursuant to]~~under Title 63G, Chapter 4, Administrative Procedures Act, and this rule.

R590-160-4. Designations of Proceedings.

(1) The ~~[department]~~commissioner designates each of the following as an informal adjudicative proceeding:

- (a) denial of an application for a license or a certificate of authority;
- (b) disapproval of a rate or form filing;
- (c) a matter having no factual or legal issue in dispute;
- (d) a matter involving a technical or minor violation of law; or
- (e) the entry of a stipulated pleading.

(2) The department may commence an informal or formal adjudicative proceeding pursuant to this rule.

(3) A petitioner may commence a formal adjudicative proceeding pursuant to this rule.

(4) The ~~[presiding officer]~~commissioner shall conduct an informal or formal adjudicative proceeding.

R590-160-5. Rules Applicable to Any Adjudicative Proceeding.

The following rules apply to an~~[y]~~ adjudicative proceeding:

~~(1)(a)~~ The time within which an~~[y]~~ act ~~[shall be]~~is completed ~~[shall be]~~is computed by excluding the first day and including the last day, unless the last day is a Saturday, Sunday, or a legal holiday~~[, and then]~~.

~~(b)~~ If the last day is a Saturday, Sunday, or a legal holiday, the last day is excluded and the period runs until the end of the next day that is not a Saturday, Sunday, or a legal holiday.

(2) A party to a proceeding ~~[shall be]~~is named in the caption as ~~[P]~~petitioner, ~~[C]~~complainant, ~~[R]~~respondent, or ~~[I]~~intervenor.

~~(3) [Representation of a Party and Entering an Appearance]~~Representing a party and entering an appearance.

~~(a) [Representation of a Party]~~Representing a party.

(i) An attorney who is an active member, in good standing, of the Utah State Bar or an attorney with an active license from another jurisdiction may represent a party.

(ii) An individual who is a party to an adjudicative proceeding may self~~[-]~~-represent.

(iii) An officer ~~[duly]~~authorized by corporate resolution may represent a corporation that is ~~[duly]~~registered with the Department of Commerce, Division of Corporations and Commercial Code.

(iv) A general partner may represent a partnership.

(v) An authorized member or manager may represent a limited liability company that is ~~[duly]~~registered with the Department of Commerce, Division of Corporations and Commercial Code.

~~(vi)~~ The legal, registered owner of a business conducted under an assumed name ~~[shall be]~~is considered the legal party in interest and ~~[that business may not be represented except through the legal party in interest or an attorney]~~only the legal party in interest or an attorney may represent the business.

~~(b)~~ Entering an ~~[A]~~appearance.

(i) A party's attorney or representative enters an appearance by:

~~(A)~~ filing a notice of agency action;

~~(B)~~ filing a request for agency action;

~~(C)~~ filing a written response to a notice of agency action~~[-by]~~;

~~(D)~~ filing a notice of appearance; or~~[-by]~~

~~(E)~~ orally stating an appearance at a hearing.

~~(ii)~~ The appearance shall include the attorney's or representative's name, address, email, telephone number, and the party's position or interest in the proceeding.

(4) ~~[A-]~~Pleadings.

(a) A pleading shall be in substantially the following form:

(i) centered heading, ~~[-]~~BEFORE THE UTAH INSURANCE COMMISSIONER;

(ii) left side, identification of parties;

(iii) right side, title of pleading;~~[-and]~~

~~(iv)~~ right side, name of presiding officer; and

~~(v)~~ right side, docket number.

(b) A pleading shall clearly and concisely present a party's position or request, and the grounds in support.

(c) A pleading may be amended ~~[in accordance with the]~~pursuant to Utah Rules of Civil Procedure, Rule 15.

(d) Signing ~~[of]~~a ~~[P]~~pleading.

(i) A pleading shall be signed and dated by the party, the party's attorney, or other authorized representative, and shall ~~[show]~~include the signer's address, telephone number, and email.

(ii) The signature in Subsection (4)(d)(i) ~~[shall be a certification by]~~certifies that:

~~(A)~~ the signer ~~[that the signer]~~has read the pleading, and~~[-that,]~~

~~(B)~~ to the best of the signer's knowledge and belief, there are grounds to support ~~[#]~~the pleading.

(e) Motion[s].

(i) A motion, other than ~~[one]~~a motion made orally at a hearing, shall be in writing and shall state the basis for relief.

(A) An affidavit, declaration, or other document may be submitted in support of a motion.

(B) The ~~[presiding officer]~~commissioner may decide a motion with or without a hearing.

(C) If either party desires a hearing on a motion, the party's pleading shall state the grounds for a hearing.

- (ii) A motion shall be filed and served at least ten days ~~[prior to]~~ before the date set for the hearing.
- (5)(a) A pleading ~~[shall be]~~ is filed with the ~~[presiding officer]~~ commissioner by mail or by submitting a PDF to uidadmincases@utah.gov.
- (b) A pleading is filed on the date received.
- (6) Service of a ~~[P]~~ pleading.
- (a) A copy of a pleading filed with the ~~[presiding officer]~~ commissioner shall be served on each party to the proceeding.
- (b) The department may be served with a summons, complaint, petition, or other pleading that commences a proceeding by sending a copy of the document by certified mail to the commissioner.
- (c) The department may be served with any other pleading by ordinary mail or by sending a PDF to the email address of the attorney ~~[who represents]~~ representing the department in the proceeding.
- (d) A licensee or a certificate holder may be served by:
 - (i) ~~[ordinary]~~ regular mail;
 - (ii) sending a PDF to the current email address provided to the department by the licensee ~~[or certificate holder pursuant to]~~ under Rule R590-258; or
 - (iii) sending a PDF to the current email address set forth in the pleading last filed by or on behalf of the licensee ~~[or certificate holder]~~.
- (e) A pleading shall include a ~~[C]~~ certificate of ~~[S]~~ service ~~[in which the signer certifies the date and method of service,]~~ that:
 - (i) identifies the person ~~[on whom]~~ that was served with the pleading ~~[was served, and]~~;
 - (ii) contains the service email address or mailing address; and
 - (iii) certifies the date and method of service.
- (f) When an attorney or other authorized representative represents a party ~~[is represented by an attorney or other authorized representative]~~, service upon the attorney or representative constitutes service upon the party.
- (7) Disqualification of a ~~[P]~~ presiding ~~[O]~~ officer designated by the commissioner.
 - (a) A party may move to disqualify ~~[the]~~ a presiding officer by filing a motion with the commissioner alleging the basis for disqualification.
 - (b) The commissioner may request additional ~~[memoranda]~~ briefing, evidence, or testimony as necessary to decide the motion.
 - (i) An adjudicative proceeding is stayed until the commissioner decides the motion.
 - (ii) A party may not appeal the commissioner's decision regarding the motion to disqualify until a final order is entered ~~[in the proceeding]~~ on the motion.
 - (c) A presiding officer may ~~[at any time]~~ voluntarily withdraw from deciding an adjudicative proceeding at any time.
 - (d) If ~~[the]~~ a presiding officer is disqualified, the commissioner shall appoint another presiding officer.
 - (8) ~~[A presiding officer shall not have ex parte contact with a party or its representative]~~ Ex parte contact may not occur between the commissioner and a party, the party's attorney, or the party's representative.
 - (9) An issue of fact in an adjudicative proceeding ~~[shall be]~~ is decided by a preponderance of the evidence.
 - (10) Burden of ~~[P]~~ proof.
 - (a) A party ~~[who]~~ that commences an adjudicative proceeding has the burden to prove entitlement to the relief sought.
 - (b) A party ~~[who]~~ that asserts an affirmative defense to a request for relief has the burden to prove entitlement to ~~[that]~~ the affirmative defense.
 - (11) ~~[Dismissal of an Adjudicative Proceeding]~~ Dismissing an adjudicative proceeding.
 - (a) A complainant or a petitioner may dismiss an adjudicative proceeding by filing:
 - (i) a notice of dismissal before the respondent serves a response to the initial pleading; or
 - (ii) a stipulation of dismissal signed by each party ~~[who]~~ that has appeared.
 - (b) Except as provided in Subsection (11)(a), the commissioner, by order, may dismiss an adjudicative proceeding ~~[may be dismissed at a party's request by order of the presiding officer]~~ at a party's request only on terms the ~~[presiding officer]~~ commissioner considers proper.
 - (c) If a complainant or a petitioner fails to prosecute the adjudicative proceeding, the ~~[presiding officer]~~ commissioner may dismiss the proceeding after applying the standard for dismissal for failure to prosecute under Utah Rules of Civil Procedure, Rule 41.

R590-160-6. Rules Applicable to a Formal Adjudicative Proceeding.

- (1) A hearing in a formal adjudicative proceeding shall comply with Section 63G-4-206.
- (2) The ~~[presiding officer]~~ commissioner may direct the parties to participate in a pre[-]hearing conference.
- (3) The ~~[presiding officer]~~ commissioner may grant a motion to continue a ~~[ny]~~ proceeding for good cause.
- (4) Unless ordered closed by the ~~[presiding officer]~~ commissioner for good cause, a hearing in a formal adjudicative proceeding ~~[shall be]~~ is open to the public.
- (5) Telephonic ~~[T]~~ testimony.
 - (a) The ~~[presiding officer]~~ commissioner may, when the witness's identity ~~[of a witness]~~ can be established with reasonable ~~[assurance]~~ certainty, take testimony telephonically.
 - (b) If telephonic testimony is taken, a party ~~[shall be permitted to]~~ may hear the testimony and examine or cross-examine the witness.
 - (c) Telephonic testimony ~~[shall be]~~ is given under oath.
- (6) Record of a ~~[H]~~ hearing.
 - (a) Recording.
 - (i) A record of a hearing ~~[shall be]~~ is made by audio recording.
 - (ii) The ~~[presiding officer]~~ commissioner shall provide a copy of the recording at the request and expense of a party other than the department.
 - (b) Transcript of a ~~[H]~~ hearing.
 - (i) On reasonable notice to and approval from the ~~[presiding officer]~~ commissioner, a party may employ a certified court reporter to record and transcribe a hearing.
 - (ii) The party seeking approval to use a court reporter shall pay for the reporter and file the original transcript with the ~~[presiding officer]~~ commissioner at no cost to the ~~[commissioner]~~ department.
 - (iii) A party ~~[who wants]~~ requesting a copy of the transcript may purchase ~~[it]~~ the transcript copy from the reporter.
 - (7) Subpoenas.
 - (a) A subpoena ~~[shall be]~~ is issued and served ~~[in accordance with]~~ under the Utah Rules of Civil Procedure, Rule 45.

(b) A party ~~[that requests]~~ requesting a subpoena shall pay a witness the same fee[s] and mileage ~~[allowed by law to witnesses in]~~ the law allows for a district court.

(8) Discovery may be conducted by:

~~(a) the parties' agreement;~~ or ~~[pursuant to an order of the presiding officer]~~

~~(b) the commissioner's order.~~

R590-160-7. Rules Applicable to an Informal Adjudicative Proceeding.

(1)(a) The department may commence an informal adjudicative proceeding by issuing a Notice of Agency Action and Order ~~[pursuant to]~~ under Subsection R590-160-4(1).

(b) The ~~[O]~~order ~~[shall be]~~ in Subsection (1)(a) is based ~~[upon the]~~ on information contained in ~~[affidavits, declarations, and the department's files];~~

~~(i) an affidavit;~~

~~(ii) a declaration; or~~

~~(iii) the department's files.~~

(c) The ~~[O]~~order ~~[shall]~~ in Subsection (1)(a) constitutes a proposed order that ~~[shall]~~ becomes final 15 days after service on the respondent unless a written request for a hearing is received before the expiration of 15 days.

(2) A respondent's failure to timely request a hearing in an informal adjudicative proceeding ~~[will be considered]~~ is a failure to exhaust administrative remedies.

(3) When a hearing is requested in an informal adjudicative proceeding, a notice of a prehearing conference ~~[shall be]~~ is issued stating the matters to be decided and giving notice of the prehearing scheduling conference's date, time, and ~~[place of the prehearing scheduling conference to be held]~~ location.

(4) A hearing in an informal adjudicative proceeding may be of record.

(5)(a) At a hearing in an informal adjudicative proceeding, the ~~[presiding officer]~~ commissioner may receive ~~[any]~~, regarding the issues to be decided, the following:

~~(i) testimony[-];~~

~~(ii) proffer of evidence[-];~~

~~(iii) affidavit[-];~~

~~(iv) declaration[- and -]; or~~

~~(v) argument[- relating to the issues to be decided and -].~~

(b) The commissioner may issue a subpoena[s] requiring ~~[the]~~ a witness's attendance ~~[of any witness -]~~ or the production of necessary evidence.

R590-160-8. Agency Review.

(1)(a) Agency review of an adjudicative proceeding, except an informal adjudicative proceeding that becomes final without a request for a hearing ~~[pursuant to]~~ under Subsection R590-160-7(1), ~~[shall be]~~ is available to a party to a proceeding by filing a request for agency review with the commissioner within 30 days of the date of the order.

(b) Failure to seek agency review ~~[shall be considered]~~ is a failure to exhaust administrative remedies.

(2) Agency review shall comply with Sections 63G-4-301 and 63G-4-302.

(3)(a) The commissioner or the commissioner's designee shall conduct the review.

(b) A designee ~~[shall]~~ may not be the presiding officer who issued the decision under review.

(c) If a designee conducts a review, the designee shall recommend a disposition to the commissioner ~~[who shall -].~~

~~(d) The commissioner will make the final decision and [shall] sign the order.~~

(4) Content of a ~~[R]~~request for ~~[A]~~agency ~~[R]~~review.

(a) A request for agency review shall comply with Subsection 63G-4-301(1)(b), and shall include the following:

(i) a copy of the order that is the subject of the request;

(ii) the factual basis for the request, including:

(A) citation to the record of the formal adjudicative proceeding; and

(B) clear reference to evidence or a proffer of evidence in an informal adjudicative proceeding;

(iii) the legal basis for the request, including citation to supporting authority;

(iv) for a challenge to a finding of fact in a formal adjudicative proceeding, the reason that the finding is not supported by substantial evidence based on the entire record; and

(v) for a challenge to a finding of fact in an informal adjudicative proceeding, the reason that the finding is not supported by substantial evidence based on the evidence received or proffered.

(b) A party challenging a finding of fact in a formal adjudicative proceeding shall:

(i) order a transcript of the recording relevant to the finding;

(ii) certify that a transcript ~~[has been]~~ is ordered;

(iii) file the transcript with the commissioner or the commissioner's designee ~~[and -];~~

~~(iv) serve a copy of the transcript on each party; and~~

~~(iv) [bear] pay the cost of preparing the transcript.~~

(c) The commissioner or commissioner's designee may waive the transcript requirement on motion for good cause shown.

(5) Memoranda.

(a)(i) A party requesting agency review shall submit a supporting memorandum with the request.

(ii) If a transcript is necessary to conduct ~~[the]~~ agency review, ~~[the]~~ a supporting memorandum shall be filed no later than 15 days after the service of the transcript on the opposing party.

(b) An opposing memorandum shall be filed no later than 15 days after ~~[the filing of]~~ the supporting memorandum is filed.

(c) A reply memorandum shall be filed no later than five days after ~~[the filing of]~~ the opposing memorandum is filed.

(d) The commissioner or the commissioner's designee may order a party to submit additional memoranda to assist in conducting agency review.

(6) Request for a ~~[S]~~stay.

- (a) On motion by a ~~any~~ party and for good cause, the commissioner or commissioner's designee may stay the presiding officer's order during the pendency of agency review.
- (b) A motion for a stay shall be made in writing and may be made at any time during the pendency of agency review.
- (c) An opposition to a motion for a stay shall be made in writing within ~~10~~ ten days from the date the ~~stay is requested~~ motion is filed.
- (7)(a) A party may request oral argument in the party's initial pleading.
- ~~(b) The commissioner or the commissioner's designee may grant oral argument if requested in a party's initial pleading.~~
- (8) Failure to comply with Section R590-160-~~9~~ 8 may result in ~~dismissal of~~ the commissioner or the commissioner's designee dismissing the request for agency review.

R590-160-9. Sanctions.

- (1)(a) The ~~presiding officer~~ commissioner may sanction a party, a party's representative, a witness, or a witness's representative for:
- ~~(i) contemptuous ~~or~~ conduct;~~
- ~~(ii) disobedient conduct ~~, or for~~;~~ or
- ~~(iii) failure to comply with this rule or a lawful order.~~
- (b) A sanction may include:
- (i) excluding evidence;
- (ii) dismissing one or more claims;
- (iii) striking a ~~any~~ pleading or a ~~any~~ portion of a pleading;
- (iv) entering a default judgment; or
- (v) ordering payment of ~~any~~ costs, expenses, reasonable attorney fees, and other fees.
- (2) The ~~presiding officer~~ commissioner may take reasonable steps to control the conduct of an adjudicative proceeding.

R590-160-10. Severability.

If any provision of this rule, R590-160, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule which can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.

KEY: insurance

Date of Last Change: 2022~~January 22, 2021~~

Notice of Continuation: September 21, 2018

Authorizing, and Implemented or Interpreted Law: 31A-2-201; 63G-4-102; 63G-4-203

!-dar-