

Change the chapter heading for Nuh 200 to read as follows:

CHAPTER Fam 200 [~~PROCEDURAL~~] RULES OF PRACTICE AND PROCEDURE

Repeal Fam 201 and Fam 202, effective 4/2/10 (Document #9668), as amended effective 10/2/18 (Document #12663, as follows:

[~~PART Fam 201~~ DEFINITIONS

~~— Fam 201.01 Definitions.~~

~~— (a) “Adjudicative proceeding” means “adjudicative proceeding” as defined in RSA 541-A:1, I, namely “the procedure to be followed in contested cases, as set forth in RSA 541-A:31 through RSA 541-A:36.”~~

~~— (b) “Appearance” means a written notification to the board that a party, an intervenor, or the representative of a party or intervenor intends to actively participate in an adjudicative proceeding.~~

~~— (c) “Board” means the board of family mediator certification established by RSA 328-C:4.~~

~~— (d) “Contested case” means “contested case” as defined in RSA 541-A:1, IV, namely, “a proceeding in which the legal rights, duties, or privileges of a party are required by law to be determined by an agency after notice and an opportunity for hearing.”~~

~~— (e) “Declaratory ruling” means, pursuant to RSA 541-A:1, V, a ruling by the board as to the specific applicability of any statutory provision or of any rule or order of the board.~~

~~— (f) “Intervenor” means a person without the status of a party but participating in an adjudicative proceeding to the extent permitted by the presiding officer acting pursuant to RSA 541-A:32.~~

~~— (g) “Letter of concern” means a written letter from the board drawing the certified family mediator’s attention to specific acts or omissions that could place the certified family mediator at risk of future disciplinary action. A letter of concern is non-disciplinary, confidential, and is sent to the certified family mediator following an allegation and investigation pursuant to RSA 328-C:4 a, VI.~~

~~— (h) “Motion” means a request to the presiding officer for an order or ruling directing some act to be done in favor of the proponent of the motion, including a statement of justification or reasons for the request.~~

~~— (i) “Order” means, pursuant to RSA 541-A:1, XI, the whole or part of the board's final disposition of a matter other than a rule, but not including the board's decision to initiate, postpone, investigate or process any matter, or to issue a complaint or citation.~~

~~— (j) “Party” means “party” as defined in RSA 541-A:1, XII, namely, “each person or agency named or admitted as a party, or properly seeking and entitled as a right to be admitted as a party.”~~

~~— (k) “Person” means any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character other than the board.~~

— (l) “Presiding officer” means, pursuant to RSA 541-A:1, XIV, that individual to whom the board has delegated the authority to preside over a proceeding, if any, or the chair of the board.

— (m) “Proof by a preponderance of the evidence” means a demonstration by admissible evidence that a fact or legal conclusion is more probably true than not.

— (n) “Public comment hearing” means a proceeding held pursuant to RSA 541-A:11.

— (o) “Record” means, in a contested case, the materials set forth in RSA 541-A:31, VI.

— (p) “Rulemaking petition” means a petition made pursuant to RSA 541-A:4, I.

PART Fam 202 DISPUTE RESOLUTION AND CONSTRUCTION OF RULES

— Fam 202.01 Principles of Dispute Resolution. The board shall resolve by agreement or by a decision all disputes about non-criminal matters within the scope of RSA 328-C and the administrative rules implementing that statute.

— Fam 202.02 Construction of Rules. Fam 203-Fam 215 shall be construed to secure the just, accurate, and efficient resolution of all disputes.

— Fam 202.03 Right to A Hearing. Any person having a dispute with the board shall be entitled to an adjudicative hearing of the dispute if:

— (a) The legal rights, duties, or privileges of that person will be determined in the course of deciding the outcome of the dispute; and

— (b) Constitutional, statutory, or case law requires the board to hold a hearing before determination of those rights, duties, or privileges.]

Repeal Fam 203 through 205, effective 10/2/18 (Document #12633), as follows:

[PART Fam 203 ALLEGATIONS AND COMPLAINTS OF MISCONDUCT AND INVESTIGATIONS

— Fam 203.01 Allegations of Misconduct by a Certified Family Mediator or Certified Family Mediator Training Program.

— (a) Persons wishing to raise allegations of misconduct by a certified family mediator or in respect to a certified family mediator training program shall submit to the board's office a written allegation of misconduct including the information described in (b) below, using mail, facsimile, or electronic means.

— (b) The allegation shall include:

(1) The name and address of the allegor;

(2) If the allegation is made on behalf of another person:

a. The name and address of that person; and

b. A statement describing the authority of the allegor to allege on behalf of that person;

- ~~(3) The date of the allegation;~~
- ~~(4) If the allegations are raised against an individual family mediator, the name of the individual;~~
- ~~(5) If the allegations are raised against a family mediator training program:
 - ~~a. The title of the training program; and~~
 - ~~b. If known, the name of its director;~~~~
- ~~(6) If known, the business address and telephone number of the individual or entity which allegations are being raised against;~~
- ~~(7) A detailed description of the action(s), omission(s), or event(s) alleged;~~
- ~~(8) The beginning and ending dates of the action(s), omission(s), or event(s) being alleged; and~~
- ~~(9) As attachments, copies, but not originals, of any documents which relate to the issues raised by the allegation.~~

~~— Fam 203.02 The Board's Actions Upon Receipt of a Report of Alleged Misconduct.~~

~~(a) Pursuant to RSA 328-C:7, I, the board shall have authority to investigate allegations of misconduct by any certified individual or entity:~~

- ~~(1) On its own initiative; or~~
- ~~(2) Upon receipt of a written allegation submitted in accordance with Fam 203.01.~~

~~(b) Immediately upon receipt by the board's office of an allegation submitted in accordance with Fam 203.01, the board shall send a copy of the allegation to the individual or to the director of the entity which allegations are being raised against, with instructions not to reply.~~

~~(c) Upon receipt of a written allegation of misconduct, one board member shall be recused from further proceedings on the allegation in order to facilitate, as applicable, confidential alternative dispute resolution between allegors and certified family mediators against whom allegations are made.~~

~~(d) The board shall offer mediation if, after considering the underlying facts and relationships between parties, it determines that doing so would promote the just resolution of the dispute.~~

~~— Fam 203.03 Board Investigator and Mediator Conduct Investigation Committee.~~

~~(a) The board shall create a mediator conduct investigation committee to assist the board in carrying out its responsibilities under Fam 200.~~

~~(b) Once a year, the board shall designate a member to serve as the board investigator, who shall:~~

- ~~(1) Serve as chair of the mediator conduct investigation committee;~~

- ~~(2) Oversee any other persons who are appointed by the board to investigate an allegation or complaint;~~
- ~~(3) Assign cases to appointed investigators;~~
- ~~(4) Arrange training and supervision of appointed investigators as appropriate; and~~
- ~~(5) Supervise the creation of any report of investigation that is provided to the full board.~~

~~— (c) Members of the mediator conduct investigation committee shall be selected from the following groups or organizations:~~

- ~~(1) The New Hampshire Board of Family Mediator Certification;~~
- ~~(2) Advanced practitioners from the Academy of Professional Family Mediators;~~
- ~~(3) Advanced practitioners from the Association of Conflict Resolution;~~
- ~~(4) New Hampshire superior court approved mediators; or~~
- ~~(5) Former board members.~~

~~— Fam 203.04 Initial Procedure.~~

~~— (a) If, having received an allegation of misconduct, the board does not dismiss it pursuant to (f)(1) below, it shall begin its investigation by referring the allegation to the mediator conduct investigation committee.~~

~~— (b) The mediator conduct investigation committee shall:~~

- ~~(1) If necessary, make a written request to the allegor for specified further information, or for documents needed to carry forward the investigation, or for both; and~~
- ~~(2) After obtaining any information requested pursuant to (1) above, request a prompt reply to the allegation from the certified family mediator.~~

~~— (c) The board shall not accept the surrender of a certification by an individual or entity under investigation for possible misconduct until the board has dismissed the allegation or the board's investigation is complete and the board has issued an order.~~

~~— (d) If subpoenas for witnesses and documents are required for an effective investigation, the board shall, pursuant to RSA 328-C:7, VI, seek the approval of the attorney general to issue such subpoenas.~~

~~— (e) Investigative results shall be held confidential until they are revealed in the course of a hearing or in an order issued by the board.~~

~~— (f) No later than 60 days after receipt by the board's office of an allegation submitted in accordance with Fam 203.01, or, if information or documents were requested under Fam 203.04(b) above, after receipt of such information or documents, the board shall, as necessary:~~

~~(1) Dismiss the allegation after determining that:~~

- ~~a. The allegation was not submitted in accordance with Fam 203.01;~~
- ~~b. The board is unable to proceed with investigation because the person alleging misconduct has not timely responded to the board's request for further information or documents, or has otherwise not cooperated with the board's investigation;~~
- ~~c. The allegation does not allege any actions or omissions which can be construed as misconduct pursuant to RSA 328-C:7, III;~~
- ~~d. The allegation alleges actions or omissions not within the jurisdiction of the board; or~~
- ~~e. The allegation was filed one or more years after the last mediation session conducted by the mediator against whom the allegation was lodged;~~

~~(2) Suspend on an emergency basis pursuant to Fam 205 the certification of the individual or entity which allegations are being raised against;~~

~~(3) Issue an order of settlement in accordance with Fam 215.01(c)(2);~~

~~(4) Issue notice of an adjudicative hearing in accordance with Fam 210.01(a); or~~

~~(5) Conduct a confidential alternative dispute resolution in accordance with Fam 203.05(c) or Fam 203.06(g), if the board determines that doing so would promote the just resolution of the dispute.~~

~~— (g) The board shall furnish written notification of the action(s) taken to:~~

- ~~(1) The allegor; and~~
- ~~(2) The individual or entity subject to the allegation.~~

~~— (h) If the board suspends the certification, whether pursuant to Fam 205, an order issued after adjudicative hearing, or an order of settlement, the board shall furnish written notification of the fact to the judicial branch office of mediation and arbitration.~~

~~— (i) The allegor shall not be entitled to a hearing challenging the board's action(s) on the allegation, but shall be entitled to petition to intervene in any hearing of the issues raised by the allegation.~~

~~— Fam 203.05 Informal Investigations.~~

~~— (a) Notwithstanding any other provision of this title, the board, within the limits of its authority, and acting through its members, officers, and employees, or through independent contractors, shall make inquiry of any person and otherwise gather data, and prepare reports describing the data obtained whenever:~~

- ~~(1) It receives data which leads it to believe that a violation of any statute administered by the board, or of any rule of the board, or code of ethics has occurred, or is likely to occur; or~~

~~(2) It desires to obtain data for any other lawful purpose.~~

~~— (b) Informal investigations shall include all techniques and methods for gathering information which are appropriate to the circumstances of the case, including:~~

~~(1) Requests for additional information from the allegor;~~

~~(2) Requests for a release of relevant records belonging to or under the control of the petitioner; and~~

~~(3) Face-to-face meetings with potential witnesses and interested persons.~~

~~— (c) After the commencement of the investigation but prior to the issuance of a report of investigation, individuals or entities which allegations are being raised against may request the board schedule a confidential alternative dispute resolution (ADR) session which shall include the person or entity making the request, a board member recused under Fam 203.02(c), the allegor, if any, and an ADR specialist. The purpose of such a session shall be to settle the misconduct allegations being investigated in a mutually satisfactory manner.~~

~~— (d) The board shall grant a request submitted pursuant to (c) above when:~~

~~(1) The request is consistent with the nature of the allegations involved; and~~

~~(2) The allegor, if any, agrees to the request.~~

~~— (e) Upon notice from the board that a request has been made and the allegor, if any, is agreeable to such a request, the recused board member shall coordinate between all parties to schedule a date and time for the ADR session.~~

~~— (f) If an agreement can be reached, the recused board member shall file a report with the board recommending that it approve the settlement agreement. The board shall evaluate the nature and severity of the allegations and consider the settlement agreement to see if the final action is appropriate for the seriousness of the allegation, as agreed by the majority of the board. If the board declines to accept the recommendation, the investigation shall continue or a hearing order shall be issued.~~

~~— Fam 203.06 Formal Investigation.~~

~~— (a) A formal investigation shall be commenced for the purpose of obtaining documents, recording testimony, and otherwise gathering data relevant to matters within the board's jurisdiction when the board believes this technique would be more effective than an informal investigation, such as when relevant data is not readily available.~~

~~— (b) The initiation of a formal investigation by the board shall automatically elevate an allegation of alleged misconduct into a complaint.~~

~~— (c) A formal investigation of a complaint shall be commenced by the issuance to the certified family mediator of an order of investigation containing:~~

~~(1) The statutory or regulatory authority for the investigation;~~

~~(2) The identity of the certified family mediator who is the subject of the investigation;~~

- ~~(3) The specific nature of the conduct being investigated;~~
- ~~(4) Any statutes or rules alleged to have been violated;~~
- ~~(5) The time, place, and manner in which the investigation is to be conducted, and whether the investigating officer shall provide a preliminary report to the board;~~
- ~~(6) Any special authority conferred upon the board investigator, including the authority to request that the board issue a subpoena, pursuant to RSA 328-C:7, VI, to obtain information and data to prepare its report of investigation and prepare to prosecute the case;~~
- ~~(7) The name of the person or persons designated as board investigator; and~~
- ~~(8) Any other provision relevant to the issues under investigation.~~

~~— (d) At the conclusion of an investigation, the mediator conduct investigation committee, under the supervision of the board investigator as outlined in Fam 203.04, shall provide a written report of investigation to the board.~~

~~— (e) After receiving the report of investigation, the board shall request further investigation if it receives new material information, or upon determining that some aspect of the initial allegation was not thoroughly explored.~~

~~— (f) The report of investigation shall be considered confidential, except as follows:~~

- ~~(1) Provided to the board;~~
- ~~(2) Considered public if it is introduced as evidence in a disciplinary hearing;~~
- ~~(3) Provided to relevant law enforcement agencies when mandated by law or when the board suspects criminal activity has occurred;~~
- ~~(4) Provided to other licensing bodies from which the certified family mediator holds or seeks to hold a professional license or registration, in response to a request from such bodies;~~
- ~~(5) Provided to board investigators and prosecutors; and~~
- ~~(6) Provided to the certified family mediator, in the form of a summary of the facts contained in the report of investigation, in contemplation of good faith settlement proceedings.~~

~~— (g) After the commencement of the formal investigation but prior to the issuance of notice of an adjudicatory hearing, individuals or entities complained against may request the board schedule a confidential alternative dispute resolution (ADR) session which shall include the person or entity making the request, a board member recused under Fam 203.02(c), the complainant, if any, and an ADR specialist. The purpose of such a session shall be to settle the misconduct allegations being investigated in a mutually satisfactory manner.~~

~~— (h) The board shall grant a request submitted pursuant to (g) above when:~~

- ~~(1) The request is consistent with the nature of the allegations involved; and~~

~~(2) The complainant, if any, agrees to the request.~~

~~—— (i) Upon notice from the board that a request has been made and the complainant, if any, is agreeable to such a request, the recused board member shall coordinate between all parties to schedule a date and time for the ADR session.~~

~~—— (j) If an agreement can be reached, the recused board member shall file a report with the board recommending that it approve the settlement agreement. The board shall evaluate the nature and severity of the complaint and consider the settlement agreement to see if the final action is appropriate for the seriousness of the complaint, as agreed by the majority of the board. If the board declines to accept the recommendation, the investigation shall continue or a hearing order shall be issued.~~

~~—— Fam 203.07 Dismissal of a Complaint of Misconduct.~~

~~—— (a) The board shall dismiss any complaint of misconduct if it determines that:~~

~~(1) The complaint was not submitted in accordance with Fam 203.01;~~

~~(2) The board is unable to proceed with investigation because the complainant has not timely responded to the board's request for further information or documents, or the complainant has otherwise not cooperated with the board's investigation;~~

~~(3) The complaint does not allege any actions or omissions which can be construed as misconduct pursuant to RSA 328-C:7, III;~~

~~(4) The complaint alleges actions or omissions not within the jurisdiction of the board; or~~

~~(5) Dismissal by the board promotes the interests of justice.~~

~~—— (b) The board shall dismiss a complaint pursuant to this section within 45 days of receiving the complaint or the last response to a request for further information, whichever is later.~~

~~—— (c) When the board has dismissed a complaint, it shall notify the complainant and the individual or entity complained against in writing of the dismissal, including the reason(s) for the dismissal.~~

~~—— (d) Notwithstanding any dismissal or withdrawal of a complaint of misconduct, the board may issue a letter of concern to the person or entity against whom the complaint was initially filed, even if it does not rise to the level of misconduct, if the content of the complaint raises concerns about the mediator's practice.~~

~~—— Fam 203.08 Requests for Reconsideration of Board Dismissal.~~

~~—— (a) A complainant whose complaint is dismissed pursuant to Fam 203.04 may request the board reconsider its decision to dismiss the complaint.~~

~~—— (b) A complainant who requests reconsideration of the board's dismissal of his or her complaint shall do so in writing within 30 days of the board's mailing of notice of the dismissal pursuant to Fam 203.07(b).~~

~~— (c) A complainant requesting reconsideration pursuant to (b) above shall provide a detailed description of why he or she believes reconsideration should be granted, including but not limited to a description of whether the board's decision:~~

- ~~(1) Did not consider material evidence which the complainant could not reasonably have known about prior to the dismissal;~~
- ~~(2) Relied upon a mistake of material fact; or~~
- ~~(3) Relied upon a mistake of law.~~

~~— (d) The board shall consider the request for reconsideration within 30 days of receipt and, if the request is granted, reopen the investigation by sending written notice to the complainant and the person or entity against whom the complaint was brought.~~

~~PART Fam 204 WITHDRAWAL OF ALLEGATIONS AND COMPLAINTS~~

~~— Fam 204.01 Withdrawal of Allegations by Allegors or Complaints by Complainants. Allegors or complainants seeking to withdraw their allegations or complaints shall do so by submitting a written request to withdraw directly to the board.~~

~~PART Fam 205 EMERGENCY SUSPENSION OF CERTIFICATION~~

~~— Fam 205.01 Method of Emergency Suspension of Certification.~~

~~— (a) The board shall suspend a certification pending adjudicative proceedings when it specifically finds that public health, safety or welfare requires such emergency action.~~

~~— (b) If the board makes such a specific finding, it shall:~~

- ~~(1) Immediately suspend the certification pending an adjudicative hearing of the issues or a settlement with the certified individual or entity; and~~
- ~~(2) Deliver to the certified individual or entity an order reciting its finding and the suspension of certification by:
 - ~~a. Certified mail with return receipt requested; and~~
 - ~~b. Any additional method determined to be necessary to give prompt notice of the board's action to the certified individual or entity.~~~~

~~— (c) If the board makes such a specific finding it shall also notify the judicial branch office of mediation and arbitration.~~

~~— (d) Within 10 days of delivering the notice described in (b) above, the board shall:~~

- ~~(1) Commence an adjudicative hearing; or~~
- ~~(2) Issue an order of settlement in accordance with Fam 215.01(c).]~~

Repeal Fam 206 through Fam 214, effective 4/2/10 (Document #9668), as amended effective 10/2/18 (Document #12663, as follows:

~~[PART Fam 206 CONDUCT OF HEARINGS BY PRESIDING OFFICER; WAIVER OF RULES~~

~~— Fam 206.01 Presiding Officer.~~

~~— (a) Hearings shall be conducted by a presiding officer designated by the board.~~

~~— (b) The presiding officer shall as necessary:~~

~~(1) Regulate and control the course of the hearing;~~

~~(2) Facilitate settlement of the dispute that is the subject of the hearing;~~

~~(3) Take into account the privileged communication provisions of RSA 328-C:9;~~

~~(4) Administer oaths and affirmations;~~

~~(5) Request that the board obtain the approval of the attorney general for the issuance of subpoenas for witnesses and documents and issue such subpoenas;~~

~~(6) Receive relevant evidence and exclude irrelevant, immaterial, or unduly repetitious evidence;~~

~~(7) Rule on procedural requests at the request of a party or intervenor or on the presiding officer's own motion;~~

~~(8) Question anyone who testifies to the extent required to make a full and fair record;~~

~~(9) Arrange for recording the hearing verbatim; and~~

~~(10) Take any other action consistent with applicable statutes, rules and case law necessary to conduct the hearing and complete the record in a fair and timely manner.~~

~~— Fam 206.02 Withdrawal of Hearing Officers.~~

~~— (a) Upon his or her own initiative or upon the motion of any party or intervenor, hearings officers shall withdraw from any adjudicative proceeding for good cause.~~

~~— (b) Good cause shall exist if the officer:~~

~~(1) Has a direct interest in the outcome of the matter, including but not limited to, a financial, close personal, or family relationship with any party or intervenor;~~

~~(2) Has made statements or engaged in behavior which objectively demonstrates that he or she has prejudged the facts of the case; or~~

~~(3) Personally believes that he or she cannot fairly judge the facts of the case.~~

~~— (c) Mere knowledge of the issues or acquaintance with any party, intervenor, or witness shall not constitute good cause for withdrawal.~~

~~— Fam 206.03 Waiver or Suspension of Rules by Presiding Officer. The presiding officer, upon the motion of any party or intervenor, or on his or her own initiative, shall suspend or waive any requirement or limitation imposed by this chapter when the suspension or waiver:~~

~~— (a) Appears to be lawful; and~~

~~— (b) Is more likely to promote the just, accurate, and efficient resolution of the pending dispute than would adherence to the particular requirement or procedure.~~

~~PART Fam 207 TIME PERIODS~~

~~— Fam 207.01 Computation of Time.~~

~~— (a) Unless otherwise specified, the unit of time for time periods referenced in this chapter shall be calendar days.~~

~~— (b) Computation of any period of time referred to in this chapter shall begin with the day after the action which sets the time period in motion, and shall include the last day of the period so computed.~~

~~— (c) If the last day of the period so computed falls on a Saturday, Sunday, or a legal holiday, then the time period shall be extended to include the first business day following the Saturday, Sunday, or legal holiday.~~

~~PART Fam 208 FILING, FORMAT, AND DELIVERY OF DOCUMENTS~~

~~— Fam 208.01 Date of Issuance or Filing.~~

~~— (a) All written documents governed by this chapter shall be rebuttably presumed to have been issued on the date noted on the document.~~

~~— (b) All written documents governed by this chapter shall be rebuttably presumed to have been filed with the board on the date of receipt, as evidenced by a date placed on the document by the board or its staff in the normal course of business.~~

~~— Fam 208.02 Format of Documents.~~

~~— (a) All correspondence, pleadings, motions, or other documents filed shall:~~

~~(1) Include the title and docket number of the case, if known;~~

~~(2) Be typewritten or clearly printed on durable paper 8 1/2 by 11 inches in size;~~

~~(3) Be signed by the proponent of the document, or, if the proponent appears by a representative, by the representative; and~~

~~(4) Include a statement certifying that a copy of the document has been delivered to all parties and intervenors in compliance with Fam 208.03.~~

~~— (b) The signature of a party, intervenor, or the representative of the party or the intervenor on a document filed with the board shall constitute certification that:~~

- ~~(1) The signer has read the document;~~
- ~~(2) The signer is authorized to file it;~~
- ~~(3) To the best of the signer's knowledge, information, and belief, there are good and sufficient grounds to support it; and~~
- ~~(4) The document has not been filed for purposes of delay.~~

~~— Fam 208.03 Delivery of Documents.~~

~~— (a) Copies of all motions, exhibits, memoranda, or other documents filed by any party or intervenor shall be delivered by that party or intervenor to the board and to all other parties and intervenors.~~

~~— (b) All notices, orders, decisions, or other documents issued by the presiding officer or the board shall be delivered to all parties and intervenors.~~

~~— (c) Delivery of documents relating to a proceeding, but not issued by the presiding officer or the board, shall be made:~~

- ~~(1) In hand; or~~
- ~~(2) By depositing into the United States mail a copy of the document in an envelope bearing:
 - ~~a. The name of the person intended to receive the document;~~
 - ~~b. The full address, including zip code, last provided to the board by such person; and~~
 - ~~c. Prepaid first class postage.~~~~

~~— (d) Delivery of documents relating to a proceeding and issued by the presiding officer or the board shall be made:~~

- ~~(1) In hand; or~~
- ~~(2) By mailing return receipt requested and otherwise in accordance with (c)(2) above.~~

~~— (e) When a party or intervenor appears by a representative, delivery of a document to the party's or intervenor's representative either in hand or at the address stated on the appearance filed by the representative shall constitute delivery to the party or intervenor.~~

~~PART Fam 209 MOTIONS AND OBJECTIONS~~

~~— Fam 209.01 Motions; Objections to Motions; Ruling on Motions.~~

~~—— (a) Motions shall be in written form and filed with the presiding officer, unless made in response to a matter asserted for the first time at a hearing or based on information that was not received in time to prepare a written motion.~~

~~—— (b) Oral motions and any oral objections to such motions shall be recorded in full in the record of the hearing. If the presiding officer finds that the motion requires additional information in order to be fully and fairly considered, the presiding officer shall direct the proponent to submit the motion in writing and provide supporting information.~~

~~—— (c) Except as otherwise provided in this chapter, objections to written motions shall be filed within 10 days of the date of the motion.~~

~~—— (d) Failure by an opposing party or an intervenor to object to a motion shall not, in and of itself, constitute grounds for granting the motion.~~

~~—— (e) When necessary to obtain information or clarify an issue relating to the proceedings, the presiding officer shall hold a hearing on the motion.~~

~~—— (f) The presiding officer shall rule upon a motion after full consideration of all objections and applicable law.~~

~~PART Fam 210 COMMENCEMENT OF ADJUDICATIVE PROCEEDINGS; APPEARANCES; PRE-HEARING CONFERENCES; RECORDING THE HEARING~~

~~—— Fam 210.01 Commencement of Adjudicative Proceedings.~~

~~—— (a) The board shall commence adjudicative proceedings by giving the hearing notice described in (b) below:~~

~~(1) To the parties; and~~

~~(2) If a disciplinary hearing, to any person who submitted a written complaint of misconduct by the certified individual or entity whose actions or omissions are the subject of the hearing.~~

~~—— (b) The notice of hearing shall contain:~~

~~(1) The names and addresses of the parties;~~

~~(2) A statement of the nature of the hearing;~~

~~(3) The time and place of the hearing and of any pre-hearing conference;~~

~~(4) A statement of the legal authority under which the hearing is to be held;~~

~~(5) A reference to the applicable statutes and rules;~~

~~(6) A short and plain statement of the issues presented;~~

~~(7) A statement that each party and intervenor, if any, has the right to have representation by an attorney at the party's or intervenor's own expense;~~

~~(8) The name of the presiding officer, if known;~~

~~(9) If the notice is for a disciplinary hearing:~~

~~a. A statement that the certified individual or entity is:~~

~~1. Required to submit a reply to any written complaint forwarded by the board if no reply has yet been submitted; and~~

~~2. Entitled to have the hearing recorded by a certified shorthand court reporter at the individual's or entity's own expense, provided that such recording is requested no later than 10 days before the beginning of the hearing;~~

~~b. The sanctions as described in Fam 403.02 available for use by the board if the board should find that misconduct was done; and~~

~~c. A statement that any person who submitted a relevant written complaint of misconduct is entitled to petition to intervene in accordance with Fam 211; and~~

~~(10) A copy of the order described in Fam 205.01(b)(2) if the notice is for a disciplinary hearing following an emergency suspension of certification.~~

~~— (c) Except in the case of hearings following emergency suspension of a certification, the board shall:~~

~~(1) Amend the hearing notice when it receives additional information which alters any of the elements of the notice listed in (b) above; and~~

~~(2) Deliver such an amended hearing notice in accordance with Fam 208.03 at least 10 days before the beginning of the hearing.~~

~~— (d) If the board amends the hearing notice to revise the statement of the issues presented or the reference(s) to the applicable statutes and rules after the certified individual or entity has submitted a reply to a relevant complaint of misconduct, the board shall permit the individual or entity to submit an amended reply.~~

~~— Fam 210.02 Appearances.~~

~~— (a) An appearance shall be filed by:~~

~~(1) Each party or the party's representative, if any; and~~

~~(2) Each intervenor or the intervenor's representative, if any.~~

~~— (b) The appearance shall contain the following information:~~

~~(1) The docket number assigned by the board or a brief identification of the case;~~

~~(2) The daytime address and telephone number of the person filing the appearance; and~~

~~(3) If applicable, the daytime address and telephone number of the party or intervenor represented by the person filing the appearance.~~

~~— Fam 210.03 Prehearing Conferences.~~

~~(a) A prehearing conference shall be scheduled on the request of any party or intervenor or on the initiative of the board or the presiding officer if to do so would facilitate the proceedings or encourage resolution of the dispute.~~

~~(b) A prehearing conference shall address one or more of the following:~~

~~(1) Offers of settlement;~~

~~(2) Simplification of the issues;~~

~~(3) Stipulations or admissions as to issues of fact or proof;~~

~~(4) Limitations on the number of witnesses;~~

~~(5) Changes to standard hearing procedures;~~

~~(6) Consolidation of examination of witnesses; and~~

~~(7) Any other matters that advance the efficiency of the proceedings.~~

~~(c) A prehearing conference shall be open to the public except when the topic under discussion is one permitted by RSA 91-A:3, II to be considered in nonpublic session.~~

~~(d) Documents presented at a prehearing conference shall be available for public inspection except when they are documents made exempt from public inspection by RSA 91-A:5.~~

~~— Fam 210.04 Recording the Hearing.~~

~~(a) The presiding officer shall record the hearing by electronic recording or any other method that will provide a verbatim record.~~

~~(b) If any person requests a transcript of the electronic recording of a hearing, the board shall:~~

~~(1) Provide the requester with an estimate of the cost of the transcript; and~~

~~(2) After receiving payment for the sum estimated:~~

~~a. Provide the transcript to the requester; and~~

~~b. If the actual cost of the transcript is not the same as the estimated cost, refund any overpayment made by the requester or issue to the requester a bill for the balance due the board.~~

~~PART Fam 211 INTERVENTION; ROLES OF COMPLAINANTS AND BOARD STAFF~~

~~— Fam 211.01 Intervention Procedure.~~

~~— (a) Petitions for intervention shall:~~

- ~~(1) Describe in writing the petitioner's interest in the subject matter of the proceedings;~~
- ~~(2) Be submitted to the presiding officer; and~~
- ~~(3) Be mailed in copy form to all parties identified in the notice commencing the hearing.~~

~~— (b) A petition for intervention shall be granted by the presiding officer if the petitioner complied with (a) above at least 3 days before the hearing and the presiding officer determines that:~~

- ~~(1) The petition states facts demonstrating that the petitioner's rights, duties, privileges, immunities, or other substantial interests might be affected by the proceedings or the petitioner qualifies as an intervenor under law; and~~
- ~~(2) The intervention sought would not impair the interests of justice and the orderly and prompt conduct of the proceedings.~~

~~— (c) The presiding officer shall grant a petition for intervention at any time if:~~

- ~~(1) The petitioner complied with (a) above; and~~
- ~~(2) The presiding officer determines that the intervention sought would be in the interests of justice and would not impair the orderly and prompt conduct of the proceedings.~~

~~— Fam 211.02 Effect of Intervention and Rights of an Intervenor.~~

~~— (a) Approval of intervention by the presiding officer shall apply only to the proceeding in which the petition for intervention was granted.~~

~~— (b) Notwithstanding the provisions of this chapter, an intervenor's right to participate in an adjudicative proceeding shall be subject to any limitations or conditions imposed by the presiding officer pursuant to RSA 541-A:32, III.~~

~~— (c) An intervenor shall take the proceedings as he or she finds them and no portion of the proceeding shall be repeated because of the fact of intervention.~~

~~— Fam 211.03 Roles of Allegors, Complainants, and Board Staff.~~

~~— (a) Allegors and complainants shall have no role in disciplinary proceedings other than that of witness unless they petition for, and are granted, the right to intervene.~~

~~— (b) Unless called as witnesses or designated by the board to investigate a matter or present evidence, board staff shall have no role in disciplinary proceedings other than to perform clerical or administrative functions, such as monitoring recording devices, keeping track of time, and copying or forwarding documents.~~

~~PART Fam 212 CONTINUANCES AND FAILURE TO ATTEND HEARING~~

~~— Fam 212.01 Continuances.~~

~~—— (a) Any party or intervenor may make a written motion that a hearing be delayed or continued to a later date or time.~~

~~—— (b) A motion for a delay or a continuance shall be granted if the presiding officer determines that a delay or continuance would assist in resolving the case fairly.~~

~~—— (c) If the later date, time, and place are known when the hearing is being delayed or continued, the information shall be stated on the record. If the later date, time, and place are not known at that time, the presiding officer shall, as soon as practicable, issue a written scheduling order stating the date, time, and place of the delayed or continued hearing.~~

~~—— Fam 212.02 Failure of a Party to Attend or Participate in the Hearing.~~

~~—— (a) A party shall be in default if the party:~~

~~(1) Has the overall burden of proof;~~

~~(2) Has been given notice in accordance with Fam 210.01; and~~

~~(3) Fails to attend the hearing, unless the failure to attend the hearing is the result of accident, injury, illness, or other event beyond the party's control.~~

~~—— (b) If a party is in default under (a) above, the case shall be dismissed.~~

~~—— (c) If a party who does not have the overall burden of proof fails to attend the hearing after having been given notice in accordance with Fam 210.01, the testimony and evidence of any other parties or intervenors shall be received and evaluated.~~

~~—— (d) If a party who has the overall burden of proof attends the hearing but fails to participate by presenting evidence or argument, a decision shall be entered against that party.~~

~~PART Fam 213 REQUESTS FOR INFORMATION AND DOCUMENTS~~

~~—— Fam 213.01 Voluntary Production of Information.~~

~~—— (a) Each party and intervenor shall attempt in good faith to make complete and timely response to requests for the voluntary production of information and documents relevant to the hearing.~~

~~—— (b) When a dispute arises concerning a request for the voluntary production of information or documents, any party or intervenor may file a motion under Fam 213.02 to compel the production of the requested information or documents.~~

~~—— Fam 213.02 Motions to Compel Production of Information and Documents.~~

~~—— (a) Any party or intervenor may make a motion seeking an order for compliance with an information or document request. The motion shall be filed at least 30 days before the date scheduled for the hearing, or as soon as possible after receiving the notice of the hearing if such notice is issued less than 30 days in advance of the hearing.~~

~~—— (b) The motion to compel shall:~~

~~(1) Set forth in detail those facts which justify the request for information or documents; and~~

~~(2) List with specificity the information or documents being sought.~~

~~— (c) Objections to motions to compel shall be filed within 10 days of the delivery of the motion.~~

~~— (d) The presiding officer shall grant the motion to compel if its proponent has demonstrated that an order for compliance is necessary for a full and fair presentation of evidence at the hearing.~~

~~— Fam 213.03 Mandatory Pre-Hearing Disclosure of Witnesses and Exhibits. At least 5 days before the hearing, the parties and intervenors shall provide to the other parties and intervenors:~~

~~— (a) A list of all witnesses to be called at the hearing containing the names of the witnesses, their addresses, and their telephone numbers;~~

~~— (b) Brief summaries of the testimony of the witnesses to be called;~~

~~— (c) A list of documents and exhibits to be offered as evidence at the hearing;~~

~~— (d) A copy of each document to be offered as evidence at the hearing; and~~

~~— (e) An offer to allow the inspection of non-documentary exhibits to be offered as evidence at the hearing at times and places of convenience to the parties and intervenors.~~

~~PART Fam 214 HEARING PROCEDURE~~

~~— Fam 214.01 Standard and Burden of Proof. The party or intervenor asserting a proposition shall bear the burden of proving the truth of the proposition by a preponderance of the evidence.~~

~~— Fam 214.02 Order of Testimony; Cross Examination.~~

~~— (a) Any individual offering testimony, evidence, or arguments shall state for the record his or her name and role in the hearing. If the individual is representing another person, the person being represented shall also be identified.~~

~~— (b) Testimony on behalf of the parties shall be offered in the following order:~~

~~(1) The testimony of the party or parties bearing the overall burden of proof and such relevant witnesses as such party or parties may call; and~~

~~(2) Thereafter, the testimony of the party or parties opposing the party who bears the overall burden of proof and such relevant witnesses as such party or parties may call.~~

~~— (c) The testimony of intervenors and such witnesses as such intervenors may be allowed to call shall be offered at the time directed by the presiding officer.~~

~~— (d) Each party may cross-examine any witnesses offered against that party.~~

~~— (e) The presiding officer shall call witnesses not called by the parties if their testimony is required for a full and fair adjudication of the issues.~~

~~— (f) Pursuant to RSA 541-A:32, III, the right of an intervenor to cross-examine witnesses and use the other procedures of participation accorded to parties shall be determined by the presiding officer.~~

~~— Fam 214.03 Evidence.~~

~~— (a) Receipt of evidence shall be governed by the provisions of RSA 541-A:33.~~

~~— (b) All rules of privilege recognized under the laws of the state of New Hampshire shall apply in proceedings before the board.~~

~~— (c) All documents, materials, and objects offered as exhibits shall be admitted into evidence unless excluded by the presiding officer as irrelevant, immaterial, unduly repetitious, or legally privileged.~~

~~— (d) All objections to the admissibility of evidence shall be stated as early as possible in the hearing, but not later than the time when the evidence is offered.~~

~~— (e) Transcripts of testimony as well as documents, materials, and objects admitted into evidence shall be public records unless the presiding officer determines that all or part of them is exempt from disclosure under RSA 91-A:5 or applicable case law.~~

~~— Fam 214.04 Proposed Findings of Fact and Rulings of Law.~~

~~— (a) Any party or intervenor may submit proposed findings of fact and rulings of law.~~

~~— (b) The presiding officer shall require the submission of proposed findings of fact and rulings of law and specify a deadline after the close of the hearing for their submission when:~~

~~(1) Any party or intervenor has requested such action; or~~

~~(2) The presiding officer determines that proposed findings of fact and rulings of law would clarify the issues presented at the hearing.~~

~~— (c) In any case where a party or intervenor submits proposed findings of fact and rulings of law, the presiding officer shall include in the presiding officer's proposal for disposition rulings on the submitted proposals.~~

~~— Fam 214.05 Closing the Record. After the conclusion of the hearing and the filing of such post-hearing submissions as may be ordered by the presiding officer, the record shall be closed and no additional evidence shall be received into the record except as allowed by Fam 214.06.~~

~~— Fam 214.06 Reopening the Record.~~

~~— (a) If no written proposal for disposition pursuant to Fam 214.07(d) or decision pursuant to Fam 214.07(a) has been issued, any party or intervenor may move to reopen the record for the inclusion in the record of specified evidence or claims of law.~~

~~— (b) A motion pursuant to (a) above shall be granted if:~~

~~(1) There is no objection from any other party or intervenor;~~

~~(2) The evidence sought to be included in the record was not available at the time of the hearing or the claim of law was inadvertently omitted; and~~

~~(3) The presiding officer determines that the evidence or claim of law is relevant, material and non-duplicative, and its inclusion in the record is necessary to a full and fair consideration of the issues to be decided.~~

~~—— (c) If there is an objection from a party or intervenor to a motion to reopen the record made pursuant to (a) above, the hearing shall be reopened for the limited purpose of receiving offers of proof on the issue of reopening the record.~~

~~—— (d) The presiding officer shall grant a motion to reopen the record if, after receiving the offers of proof, the presiding officer determines that:~~

~~(1) The evidence sought to be included in the record was not available at the time of the hearing or the claim of law was inadvertently omitted; and~~

~~(2) The evidence or claim of law is relevant, material, and non-duplicative and its inclusion in the record is necessary to a full and fair consideration of the issues to be decided.~~

~~—— (e) If the presiding officer permits the reopening of the record for the admission of specified evidence or claim of law, the presiding officer shall permit a hearing for the purpose of receiving evidence, permitting cross-examination, and permitting argument on the substance of the evidence or on the claim of law.~~

~~—— Fam 214.07 Disposition.~~

~~—— (a) The board shall issue a decision or order, whether or not the record has been reopened pursuant to Fam 214.06, based on:~~

~~(1) A hearing attended by a quorum of the board;~~

~~(2) A written proposal for disposition meeting the requirements of paragraph (d) below; or~~

~~(3) A hearing held pursuant to paragraph (e)(2) below.~~

~~—— (b) The decision or order shall:~~

~~(1) Be in writing and dated; and~~

~~(2) Include findings of fact and rulings of law.~~

~~—— (c) A board member shall not participate in the board's disposition if he or she has not personally heard all of the testimony in the case, unless the disposition does not depend on the credibility of any witness and the record provides a reasonable basis for evaluating the testimony.~~

~~—— (d) If a presiding officer has been delegated the authority to conduct the hearing, the presiding officer shall submit to the board a written proposal for disposition containing:~~

~~(1) The disposition proposed by the presiding officer;~~

~~(2) A statement of the reasons for the proposed disposition; and~~

~~(3) Findings of fact and rulings of law.~~

~~— (e) If a proposed disposition submitted pursuant to paragraph (d) above is adverse to a party or an intervenor, the board shall:~~

~~(1) Serve a copy of it on each party and intervenor; and~~

~~(2) Provide an opportunity to file objections and present briefs and oral arguments to the board.~~

~~— (f) The board shall keep a final decision in its records for at least 5 years following its date of issuance, unless the director of the division of records management and archives of the department of state sets a different retention period.~~

~~— Fam 214.08 Rehearing.~~

~~— (a) Within 30 days of a decision or order any party or person directly affected may request a rehearing of any matter determined in the proceeding or covered by the decision or order by submitting a written motion specifying:~~

~~(1) The issues to be considered at the rehearing; and~~

~~(2) Every ground on which it is claimed that the decision or order is unlawful or unreasonable.~~

~~— (b) An objection to a motion for rehearing shall be submitted within 5 days of the date of submission of the motion.~~

~~— (c) The board shall consider a motion for a rehearing at its next regularly scheduled meeting occurring more than 10 days from the submission of the original motion.~~

~~— (d) The board shall grant a motion for rehearing if it determines that:~~

~~(1) In the original hearing it incorrectly assessed the relevant evidence;~~

~~(2) In the original hearing it incorrectly applied the relevant law;~~

~~(3) In the original hearing it failed substantially to comply with this chapter; or~~

~~(4) Another reasonable basis for rehearing exists.]~~

Repeal Fam 215, effective 10/2/18 (Document #12633), as follows:

~~[PART Fam 215 SETTLEMENTS~~

~~— Fam 215.01 Settlements.~~

~~— (a) Any certified family mediator or certified family mediator training program having a dispute with the board shall have the opportunity at any time to settle some or all of the issues.~~

~~— (b) In the event of a proposed settlement arising from a complaint against an individual or entity certified by the board:~~

~~(1) The board shall give the complainant 20 days to submit a written comment on the terms of the proposed settlement; and~~

~~(2) When finalizing the settlement, the board shall not be required to seek or receive the approval of the complainant, but shall take into account any written comment timely received from the complainant.~~

~~— (c) To be effective, an agreement to settle shall be:~~

~~(1) In writing and signed by the certified family mediator or an authorized representative of the certified family mediator training program; and~~

~~(2) Finalized as an order issued by the board.~~

~~— (d) The signing of the agreement to settle shall constitute a waiver of the right to an adjudicative hearing of the issues resolved by the agreement.]~~

Repeal Fam 216 through Fam 202, effective 4/2/10 (Document #9668), as amended effective 10/2/18 (Document #12663, as follows:

[PART Fam 216 ~~RULEMAKING~~

~~— Fam 216.01 Petitions for Rulemaking.~~

~~— (a) Any person may seek the adoption, amendment, or repeal of a rule by submitting to the board a petition pursuant to RSA 541-A:4.~~

~~— (b) Each petition for rulemaking shall contain:~~

~~(1) The name and address of the individual petitioner or, if the request is that of an organization or other entity, the identity of such organization or entity and the name and address of the representative authorized by the entity to file the petition;~~

~~(2) A statement of the purpose of the petition, whether the adoption, amendment, or repeal of a rule;~~

~~(3) If amendment or adoption of a rule is sought, the text proposed;~~

~~(4) If amendment or repeal of a rule is sought, identification of the current rule sought to be amended or repealed;~~

~~(5) Reference to the statutory provision that authorizes or supports the rulemaking petition; and~~

~~(6) Information or argument useful to the board when deciding whether to begin the rulemaking process.~~

~~— Fam 216.02 Disposition of Petitions for Rulemaking.~~

~~— (a) The board shall request additional information or argument from the petitioner for rulemaking or from others if such additional information or argument is required to reach a decision.~~

~~— (b) The board shall grant the petition for rulemaking if the adoption, amendment, or repeal sought would not result in:~~

~~(1) A rule that is not within the rulemaking authority of the board;~~

~~(2) Duplication of a rule or of a statutory provision;~~

~~(3) Inconsistency between the existing rules and the statutory mandate of the board;~~

~~(4) Inconsistency of administrative rules one with another; or~~

~~(5) Excessive burden upon the board in terms of cost or a reduction in efficiency or effectiveness.~~

~~— (c) Within 30 days of the next scheduled board meeting after receipt of a sufficient petition the board shall dispose of it in the following manner:~~

~~(1) By notifying the petitioner that the petition is granted and beginning rulemaking proceedings as required by RSA 541-A:4; or~~

~~(2) By notifying the petitioner in writing that the petition is denied and the reasons for its denial.~~

~~— (d) The denial of a petition for rulemaking shall not entitle the petitioner to a hearing.~~

~~PART Fam 217 PUBLIC COMMENT HEARINGS ON PROPOSED RULES~~

~~— Fam 217.01 Purpose. The purpose of this part is to provide uniform procedures for the conduct of public comment hearings on proposed rules held pursuant to RSA 541-A:11.~~

~~— Fam 217.02 Public Access and Participation.~~

~~— (a) Public comment hearings on proposed rules shall be open to the public, and members of the public shall be entitled to testify, subject to the limitations of Fam 217.03.~~

~~— (b) People who wish to testify shall be asked to write on the speaker's list:~~

~~(1) Their full names and addresses; and~~

~~(2) The names and addresses of organizations, entities, or other persons whom they represent, if any.~~

~~— (c) Written comments, which may be submitted in lieu of or in addition to oral testimony, shall be accepted for 10 days after the adjournment of a hearing on proposed rules or after the adjournment of a postponed or continued hearing.~~

~~— Fam 217.03 Limitations on Public Participation. The board's chair or other person designated by the board to preside over a hearing on proposed rules shall:~~

~~— (a) Refuse to recognize for speaking or revoke the recognition of any person who:~~

~~(1) Speaks or acts in an abusive or disruptive manner;~~

~~(2) Fails to keep comments relevant to the proposed rules that are the subject matter of the hearing; or~~

~~(3) Restates more than once what he or she has already stated; and~~

~~— (b) Limit presentations on behalf of the same organization or entity to no more than 3, provided that all those representing such organization or entity may enter their names and addresses into the record as supporting the position of the organization or entity.~~

~~— Fam 217.04 Media Access. Public comment hearings on proposed rules shall be open to print and electronic media, subject to the following limitations when such limitations are necessary to allow a hearing to go forward:~~

~~— (a) Limitation on the placement of cameras to specific locations within the hearing room; or~~

~~— (b) Prohibition of interviews conducted within the hearing room before or during the hearing.~~

~~— Fam 217.05 Conduct of Public Comment Hearings on Proposed Rules.~~

~~— (a) Public comment hearings on proposed rules shall be attended by a quorum of the board.~~

~~— (b) Public comment hearings on proposed rules shall be presided over by the board chair or a board member knowledgeable in the subject area of the proposed rules who has been designated by the board to preside over the hearing.~~

~~— (c) The chair or other person presiding over a hearing on proposed rules shall:~~

~~(1) Call the hearing to order;~~

~~(2) Identify the proposed rules that are the subject matter of the hearing and provide copies of them upon request;~~

~~(3) Cause a recording of the hearing to be made;~~

~~(4) Recognize those who wish to be heard;~~

~~(5) If necessary, establish limits pursuant to Fam 217.03 and Fam 217.04;~~

~~(6) If necessary to permit the hearing to go forward in an orderly manner, effect the removal of a person who speaks or acts in a manner that is personally abusive or otherwise disrupts the hearing;~~

~~(7) If necessary, postpone or move the hearing; and~~

~~(8) Adjourn or continue the hearing.~~

~~— (d) A hearing on proposed rules shall be postponed in accordance with RSA 541-A:11, IV when:~~

~~(1) The weather is so inclement that it is reasonable to conclude that people wishing to attend the hearing will be unable to do so;~~

~~(2) The board chair or other person designated by the board to preside over the hearing is ill or unavoidably absent; or~~

~~(3) Postponement will facilitate greater participation by the public.~~

~~— (e) A hearing on proposed rules shall be moved to another location in accordance with RSA 541-A:11, V when the original location is not able to accommodate the number of people who wish to attend the hearing.~~

~~— (f) A hearing on proposed rules shall be continued past the scheduled time or to another date in accordance with RSA 541-A:11, III when:~~

~~(1) The time available is not sufficient to give each person who wishes to speak a reasonable opportunity to do so; or~~

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

~~PART Fam 218 DECLARATORY RULINGS~~

~~— Fam 218.01 Requests for Declaratory Rulings.~~

~~— (a) Any person directly affected by RSA 328-C or by any rule of the board may request a declaratory ruling concerning the applicability of a provision of RSA 328-C or a rule of the board to a specific set of circumstances.~~

~~— (b) The request shall:~~

~~(1) Be addressed to the board and signed by the person making the request;~~

~~(2) Describe the specific set of circumstances to which the law or rule inquired about might be applicable;~~

~~(3) Quote the law or rule inquired about; and~~

~~(4) Explain why its applicability is unclear to the described specific set of circumstances.~~

~~— Fam 218.02 Issuance of Declaratory Rulings.~~

~~— (a) The board shall respond within 120 days to a request for a declaratory ruling in a letter signed by a board member stating:~~

~~(1) That the law or rule inquired about applies to the specific set of circumstances described and how it applies;~~

~~(2) That the law or rule inquired about does not apply to the specific set of circumstances described and why it does not; or~~

~~(3) That the board does not have jurisdiction over the law inquired about.~~

~~— (b) A declaratory ruling shall have no value as a precedent in any case heard by the board, including any case involving the person requesting the declaratory ruling or involving circumstances like those described in the request.~~

~~— (c) A declaratory ruling shall be filed on the day of issuance with the director of legislative services in accordance with RSA 541-A:16, II(b).~~

Repeal Fam 219, effective 10/2/18 (Document #12633), as follows:

~~— Fam 219.01 Requests for Explanation of Adopted Rules. Any interested person may, within 30 days of the final adoption of a rule, request a written explanation of that rule by making a written request to the board including:~~

~~— (a) The name and address of the person making the request; or~~

~~— (b) If the request is that of an organization or other entity, the name and address of such organization or entity and the name and address of the representative authorized by the organization or entity to make the request.~~

~~— Fam 219.02 Contents of Explanation. The board shall, within 90 days of receiving a request in accordance with Fam 218.01, provide a written response which:~~

~~— (a) Concisely states the meaning of the rule adopted;~~

~~— (b) Concisely states the principal reasons for and against the adoption of the rule in its final form; and~~

~~— (c) States, if the board did so, why the board overruled any arguments and considerations presented against the rule.]~~

Adopt Fam 201 to read as follows:

PART Fam 201 APPLICABILITY AND WAIVER OF SUBSTANTIVE RULES

Fors 201.01 Rules of Practice and Procedure. The Plc 200 rules shall govern with regards to all procedures for:

- (a) The receipt and investigation of misconduct complaints;
- (b) The conduct of adjudicative and non-adjudicative proceedings;
- (c) Rulemaking submissions, considerations, and dispositions of rulemaking petitions;
- (d) Public comment hearings;
- (e) Declaratory rulings;
- (f) All statements of policy and interpretation;
- (g) Explanation of adopted rules;
- (h) Voluntary surrender of licenses; and
- (i) Waivers.