

242 CMR 2.00: Reserved

~~242 CMR 2.00: Adoption of Administrative Regulations~~

By the [Division of Professional Licensure](#)

- ~~2.01: [Definition](#)~~
 - ~~2.02: [Petition for Adoption of Regulations](#)~~
 - ~~2.03: [Initial Procedure to Handle Recommended Regulations](#)~~
 - ~~2.04: [Participation at Preliminary Meeting](#)~~
 - ~~2.05: [Procedure for the Adoption, Amendment or Repeal of Regulations Where No Public Hearing is Required](#)~~
 - ~~2.06: [Procedure for the Adoption, Amendment or Repeal of Regulations Where a Public Hearing is Required](#)~~
 - ~~2.07: [Availability of Regulation](#)~~
 - ~~2.08: [Filing of Regulations](#)~~
 - ~~2.09: [Advisory Ruling](#)~~
-

~~2.01: Definition~~

~~242 CMR 2.00 governs the procedures to be followed by the Board subject to the State Administrative Procedure Act when promulgating regulations (M.G.L. c. 30A, §§ 2 and 3). The term "regulation" is defined by the Act as "the whole or any part of every rule, regulation, standard or other requirement of general application and future effect adopted by an agency to implement or interpret the law enforced or administered by it." (M.G.L. c. 30A, § 1(5)). "Regulation" does not, however, include advisory rulings, rules relating to the internal management of an agency and not directly related to the rights or procedures available to the public, or decisions rendered in adjudicatory proceedings.~~

[Top](#)

~~2.02: Petition for Adoption Regulations~~

~~Any interested person or his attorney may at any time petition the Board to adopt, amend, or repeal any regulation. The petition shall be addressed to the Board and sent to the secretary by mail or delivered in person during normal~~

business hours. All petitions shall be signed by the petitioner or his attorney, and set forth clearly and concisely the text of the proposed regulation. The petition may be accompanied by any supporting data, views or arguments.

[Top](#)

~~2.03: Initial Procedure to Handle Recommended Regulations~~

Upon receipt of a petition for the adoption, amendment or repeal of a regulation submitted pursuant to 242 CMR 2.02 or upon written recommendation by a member of the Board that a regulation be adopted, amended or repealed, the Board shall consider the petition or recommendation at its next scheduled meeting and shall thereupon, determine whether to schedule the petition or recommendation for further proceedings in accordance with 242 CMR 2.05 or 2.06. If the regulation has been presented to the Board by petition under 242 CMR 2.02, the Board shall within ten days after the meeting notify the petitioner of the Board's action.

[Top](#)

~~2.04: Participation at Preliminary Meeting~~

During the meeting referred to in 242 CMR 2.03, the Board may, but shall not be required to, entertain comments or questions from members of the audience. The chairman or other presiding officer may at any time terminate participation by the audience.

[Top](#)

~~2.05: Procedure for the Adoption, Amendment or Repeal of Regulations Where No Public Hearing is Required~~

(1) **Notice.** Notice of the proposed action to adopt regulations shall be given by the Board at least 21 days prior to its proposed action, unless some other time is specified by an applicable law. The Board shall publish the notice in at least two newspapers of general circulation, and where appropriate, in such trade, industry, or professional publications as the Board may select. The Board shall likewise notify in writing any person specified by any law and any person or group which has filed request for notice pursuant to M.G.L. c. 30A, § 3(c).

The notice shall contain the following:

- ~~(a) The Board's statutory authority to adopt the proposed regulation.~~
- ~~(b) The procedure for submitting data, views or arguments as set forth in 242 CMR 2.05(2).~~
- ~~(c) The text of the proposed regulation (if the proposed regulation is lengthy, it need not be set out verbatim; however, the notice should either describe the substance of the proposed regulation or state the subject matter and issues involved.)~~
- ~~(d) Any additional matter required by law.~~

~~The above notwithstanding, the Board shall also comply with any applicable statute which contains provisions for notice which differ from those contained herein.~~

~~(2) **Procedure.** Within 21 days after the publication and sending of notice regarding the proposed action, any interested person may submit a signed letter, brief or other memorandum stating his views or arguments concerning the proposed action. The letter, brief or memorandum shall be addressed to the Board and sent to the secretary by mail or delivered in person during normal business hours. The Board shall, at its next scheduled meeting, consider the proposed action. Within 30 days after this meeting, the Board shall give written notice of the disposition of the proposed action to all persons required to receive personal notice under 242 CMR 2.05(1) and such other persons submitting a letter, brief, or other memorandum.~~

~~(3) **Oral Participation.** The Board may afford any interested person or his duly authorized representative, or both, an opportunity to present data, views or arguments orally before the Board during the meeting at which the proposed action is to be considered. If the Board finds that such oral presentation is unnecessary or impracticable, it may require written presentation according to 242 CMR 2.05(2).~~

~~(4) **Waiver of Notice and Participation.** If the Board finds that the requirements of notice and opportunity to present views on its proposed action are unnecessary, impracticable or contrary to the public interest, the Board may dispense with such requirements or any part thereof. The Board's findings and a brief statement of the reasons for its finding shall be incorporated in the regulation, amendment or repeal as filed with the Secretary of State under 242 CMR 2.08.~~

[Top](#)

2.06: Procedure for the Adoption, Amendment or Repeal of Regulations Where a Public Hearing is Required

~~(1) **Notice.** Notice of a public hearing shall be given at least 21 days prior to the date of the hearing, unless some other time is specified by any applicable law. The Board shall publish the notice in at least two newspapers of general circulation, and where appropriate, in such trade, industry, or professional publications as the Board may~~

~~select. The Board shall likewise notify in writing any person specified by any law and any person or group which has filed written request for notice pursuant to M.G.L. c. 30A, § 2(c).~~

~~The notice shall contain the following:~~

- ~~(a) The Board's statutory authority to adopt the proposed regulation.~~
- ~~(b) The time and place of the public hearing.~~
- ~~(c) The text of the proposed regulation. (If the proposed regulation is lengthy, it need not be set out verbatim; however, the notice should either describe the substance of the proposed regulation or state the subject matter and issues involved.)~~
- ~~(d) Any additional matter required by any law.~~

~~The above notwithstanding, the Board shall also comply with any applicable statute which contains provisions for notice which differ from those contained herein.~~

~~(2) **Procedure.** On the date and at the time and place designated in the notice referred to in 242 CMR 2.06(1), the Board shall hold a public hearing at which the majority of the members of the Board shall be present. The meeting shall be opened, presided over and adjourned by the chairman or other member of the Board designated by the chairman. Within ten days after the close of the public hearing, written statements and arguments may be filed with the Board. The Board shall consider all relevant matter presented to it before adopting, amending or repealing any regulation.~~

~~(3) **Oral Participation.** Any interested person or his duly authorized representative, or both, shall be given an opportunity to present orally statements and arguments. In its discretion the Board may limit the length of oral presentation.~~

~~(4) **Emergency Regulation.** If the Board finds that the immediate adoption of a regulation is necessary for the public health, safety or general welfare, and that observance of requirements of notice and public hearing would be contrary to the public interest, the Board may dispense with such requirements and adopt the regulation as an emergency regulation. The Board's findings and a brief statement of the reasons for its finding shall be incorporated in the emergency regulation as filed with the Secretary of State in accordance with 242 CMR 2.08. Any emergency regulation so adopted shall state the date on which it is to be effective and the date upon which it shall expire. If no effective date is stated, the regulation shall be presumed to take effect upon being filed with the Secretary of State under 242 CMR 2.08. An emergency regulation shall not remain in effect for longer than three months unless during the time it is in effect the Board gives notice and holds a public hearing and adopts it as a permanent regulation in accordance with 242 CMR 2.00.~~

~~2.07: Availability of Regulation~~

~~The Secretary of the Board shall be responsible for keeping a book containing all the Board's regulations. In addition, the secretary shall compile and publish the regulations which are currently in effect. All the regulations of the Board shall be available for inspection during normal business hours in Room 1514, State Office Bldg., 100 Cambridge Street, Boston, Massachusetts. Copies of all regulations shall be available to any person on request. The Board may charge a reasonable fee for each copy.~~

[Top](#)

~~2.08: Filing of Regulation~~

~~Upon the adoption of a regulation, an attested copy shall be filed with the Secretary of State together with a citation of the statutory authority under which the regulation has been promulgated. 242 CMR 2.00 shall take effect upon filing unless a later date is required by any law or is specified by the Board in the regulation.~~

[Top](#)

~~2.09: Advisory Ruling~~

~~Any interested person or his attorney may at any time request an advisory ruling with respect to the applicability to any person, property or factual situation of any statute or regulation enforced or administered by the Board. The request shall be addressed to the Board and sent to the secretary by mail or delivered in person during normal business hours.~~

~~All requests shall be signed by the person making it or his attorney, contain his address or the address of his attorney, and state clearly and concisely the substance or nature of the request. The request may be accompanied by any supporting data, views or arguments. Upon receipt of the request the Board shall consider it at its next scheduled meeting and shall within ten days thereafter notify the petitioner that the request is denied or that the Board will render an advisory ruling. The Board may at any time rescind a decision to render an advisory ruling. If an advisory ruling is rendered, a copy of the ruling shall be sent to the person requesting it or his attorney.~~

[Top](#)

REGULATORY AUTHORITY

~~242 CMR 2.00: M.G.L. c. 112, § 102.~~

