

454 CMR 30.00: PROFESSIONAL EMPLOYER ORGANIZATION REGULATIONS

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30.01: Purpose and Scope

454 CMR 30.00 effectuates the purposes of M.G.L. c. 149, §§ 192 through 203.

30.02: Definitions

Certificate of Registration. A document issued by the director to a professional employer organization (PEO) indicating that said PEO has submitted a completed initial or renewal application for registration, with a surety bond and registration fee and the PEOs application for registration has been accepted and approved by the director.

Client or Client Company. A person who enters into a professional employer agreement with a PEO.

Covered Employee. An individual whose employment is subject to a professional employer agreement.

Director. The director of the Department of Labor Standards.

Employment Agency. Any person who conducts in whole or in part an agency for the purpose of procuring or attempting to procure permanent or temporary help or employment or engagements, or for the registration of persons seeking such help, employment or engagement, or for giving information as to where and of whom such help, employment or engagement may be procured, where a fee is exacted or attempted to be collected for such service; provided however, Employment Agency shall not include a firm none of whose fees or charges are paid either directly or indirectly by any applicant for employment, unless such firm is engaged in providing domestic employees, nor shall such definition apply to any person conducting a business which consists of employing individuals directly for the purpose of furnishing part time or temporary help to others or to any person conducting a business which consists solely of providing employers or prospective employers, by electronic means, biographical information, background and experience of applicants for temporary employment, help or engagement.

PEO Group. Two or more PEOs that are majority owned or commonly controlled by the same entity, parent or controlling person.

30.02: continued

PEO Relationship. A co-employment relationship, where all employer rights, duties and obligations such as payroll, health care, benefits, workers compensation, unemployment assistance, or tax reporting, are allocated between a PEO and a client pursuant to a professional employer agreement. Neither a client nor a PEO may delegate rights, duties or responsibilities to the other unless the delegation is provided for in a written professional employer agreement and covered employees are informed about the delegation. The client shall be entitled to enforce any right and is required to perform any obligation to employees not specifically allocated to a PEO in a PEO Agreement. The client retains the exclusive right to direct and control the covered employees as is necessary to conduct the client's business.

Person. Any individual, partnership, corporation, limited liability company, association, or any other form of legally recognized entity.

Professional Employer Agreement. A written contract by and between a client and a professional employer organization that establishes the PEO relationship, identifies covered employees and allocates employer rights, responsibilities and obligations between the client and the PEO with respect to the covered employees.

Professional Employer Organization or PEO. Any person engaged in the business of providing professional employer services who is subject to registration and regulation pursuant to M.G.L. c. 149, §§ 192 through 203, regardless of the use or lack of use of the commonly used terms such as "professional employer organization", "PEO", "staff leasing company", "registered staff leasing company", "employee leasing company", "administrative employer" or other name. Where the employer does not otherwise hold itself out as a PEO, the following three situations shall not, in and of themselves, be sufficient to require PEO registration:

- (a) sharing employees with a commonly owned company within the meaning of the 1986 IRC, §§ 414(b) and 414(c);
- (b) providing legitimate independent contractor services as governed by M.G.L. c. 149, § 148B; or
- (c) providing employment agency or staffing agency services.

Professional Employer Services. Any services, management tasks, or obligations imposed by law or undertaken voluntarily by an employer that are allocated to a PEO in a professional employer agreement. In a PEO relationship, professional employer services may include, but are not limited to, employee benefits, payroll, tax obligations, workers compensation, unemployment insurance, risk/safety management, training or development.

Registrant. A PEO registered pursuant to M.G.L. c. 149, § 196.

Staffing Agency. An individual, company, corporation or partnership that procures or provides temporary or part-time employment to a person who then works under the supervision or direction of a work-site employer.

Wages. Any and all forms of remuneration for employment.

30.03: Registration Requirements

(1) PEOs, as defined at 454 CMR 30.02, shall be registered in accordance with 454 CMR 30.03 and 30.04. No Person shall advertise, operate, maintain or hold itself out as providing professional employer services in the Commonwealth of Massachusetts unless that person has registered the PEO with the Department of Labor Standards and been granted a certificate of registration as defined in 454 CMR 30.02, regardless of whether or not said person has an office for conducting such work in Massachusetts.

(2) Staffing agencies, placement agencies, and employment agencies shall not be granted PEO certificates of registration.

(3) Each entity being advertised, operated, or maintained by a PEO must be individually registered.

30.03: continued

- (4) A PEO shall register prior to initiating operations within the Commonwealth.
- (5) If a PEO that is not registered in the Commonwealth becomes aware that an existing client not based in the Commonwealth has employees and operations in the Commonwealth, the PEO shall:
- (a) Decline to provide PEO services for those employees; or
 - (b) Where the PEO has more than 15 covered employees and wishes to provide PEO services to those employees, the PEO shall notify the department and file for registration within five business days of its knowledge of the fact;
 - (c) Where the PEO has 14 or fewer covered employees and wishes to provide PEO services to those employees, the PEO shall notify the Department within five business days of its knowledge of the fact and file for registration with the department within 30 calendar days.

30.04: Application Requirements for PEOs

- (1) Any person providing professional employer services or soliciting clients, or advertising such services in the Commonwealth shall submit to the department a completed application for PEO registration, pay the required registration fee and provide all required information on a form prescribed by the director.
- (a) Applicants applying for an initial PEO Registration shall submit the following information with their initial application:
1. The name or names under which the PEO conducts business or will conduct business;
 2. The address of the principal place of business of the PEO and the address of each office it maintains in the Commonwealth;
 3. All mailing addresses of the PEO. Persons wishing to use a post office box for mailing or public information purposes must specify to the department the actual address where records will be kept and business will be conducted;
 4. A statement of ownership, which shall include the name and evidence of the business experience of any person that, individually or acting in concert with one or more persons, owns or controls or will own or control if known or reasonably known at the time of registration, not less than 25% of the equity interest of the PEO;
 5. The taxpayer or employer identification number of the PEO;
 6. A list by jurisdiction of each name under which the PEO has operated in the preceding five years, including any alternative names, names of predecessors and successor business entities;
 7. A statement of management, which shall include the name and evidence of business experience of any person who serves or will serve, if known or reasonably known at time of registration, as president, chief executive officer or otherwise has the authority to act as senior executive officer of the PEO;
 8. A financial statement setting forth the financial condition of the PEO or PEO group, which shall include, for initial registrations, the most recent audit of the applicant and said audit shall not be more than 13 months old;
 9. A list of clients, including the client name, physical address, telephone number and federal identification number for whom the PEO is providing professional employer services; and
 10. Such other information as the director may reasonably require.
- (2) Positive Working Capital. Each PEO or collectively each PEO group shall maintain positive working capital necessary to meet its financial obligations to provide professional employer services, and shall submit a surety bond as set forth in 454 CMR 30.04(3).
- (3) Surety Bond. A surety bond in the amount of \$250,000 payable to "The people of the Commonwealth" shall be submitted along with the initial application for registration and filed with the Department of Labor Standards, as the keeper of the bond. Said bond shall be maintained while the registration remains in effect or any obligations or liabilities of the registrant remain outstanding. Such bond shall be held by a depository designated by the department, securing payment by the PEO of all taxes, wages, benefits or other entitlement due to or with respect to covered employees, if the PEO does not make such payments when due.

30.04: continued

(a) PEOs in a PEO group may satisfy the financial requirements established pursuant to 454 CMR 30.04(3) on a combined or consolidated basis; provided however, that each member of the PEO group shall guarantee the financial capacity obligations pursuant to 30.04(1)(a)8. for each member of the PEO group. In the case of a PEO group that submits a combined or consolidated audited financial statement, including entities that are not PEOs or that are not in the PEO group, the controlling entity of the PEO group under the consolidated or combined statement shall guarantee the obligations of the PEOs in the PEO group.

(b) A PEO that is part of an organizational structure in which it is majority owned or commonly controlled by an entity, parent or controlling person may submit a combined or consolidated audited financial statement provided the controlling entity under the consolidated or combined statement guarantees the obligations of the PEO.

(c) As provided by M.G.L. c 149, § 196(i), the director may accept an assurance by an independent and qualified assurance organization approved by the director that provides satisfactory assurance of compliance acceptable to the director consistent with or in *lieu* of the requirements of M.G.L. c. 149, § 196 and 454 CMR 30.03 and 30.04. The director shall permit a PEO to authorize such an approved assurance organization to act on the PEO's behalf in complying with the registration requirements pursuant to 454 CMR 30.04(3)(c), which may include financial assurance, electronic filings of information and payment of registration fees. Use of such an approved assurance organization shall be optional and not mandatory for a registrant. Nothing in 454 CMR 30.04(3)(c) shall limit or change the department's authority to register or terminate registration of a professional employer organization or to investigate or otherwise enforce 454 CMR 30.00.

(d) A PEO or PEO group without positive working capital may provide a bond, irrevocable letter of credit or securities with a minimum market value equaling the deficiency plus \$250,000. All such security shall be held by the department to secure payment by the PEO of all taxes, wages, benefits or other entitlement due to or with respect to covered employees, in the event that the PEO does not make such payments when due.

(4) Copy of PEO Agreement. As the relationship between the client, PEO, and each covered employee, are governed by professional employer agreements, a copy of the registrant's standard comprehensive PEO agreement shall be submitted with the initial application for PEO registration. Each professional employer agreement shall include:

- (a) The allocation of rights, duties and obligations;
- (b) The extent that the PEO has assumed responsibility in the professional employer agreement to:
 1. pay such wages to covered employees;
 2. withhold, collect, report and remit payroll-related and unemployment taxes; and
 3. make payments for employee benefits for covered employees.
- (c) A statement that the PEO shall have a right to hire and terminate a covered employee as may be necessary to fulfill the PEO's responsibilities pursuant to M.G.L. c 149, §§ 192 through 203 and the professional employer agreement, if so delegated to do so by the client; and
- (d) A statement that the client shall have a right to hire, discipline and terminate a covered employee.

(5) Registration Fee. Applications for PEO registration must be accompanied by payment of the application fee made payable to the "Commonwealth of Massachusetts" in the annual amount of \$500.00. Registration fees may be processed online through the Department of Labor Standards website at www.mass.gov/dols.

30.05: Confidentiality of Submissions

Not Public Records. All financial records, PEO agreements, client lists, and other information obtained from a PEO for the purposes of registration shall be confidential pursuant to M.G.L. c. 149, § 196(j) and shall not be deemed public records subject to disclosure pursuant to M.G.L. c. 66, § 10, nor shall they be published or open to public in any other manner. Such records shall be kept solely to assist department in the performance of its duties in effectuating the purposes of M.G.L. c. 149, §§ 192 through 203.

30.06: Notice to Employees

- (1) Upon initiation of the PEO relationship:
 - (a) the PEO shall provide the client a notice;
 - (b) the client shall post said notice in a conspicuous place at the client's worksite; and
 - (c) depending on the customary way that the client communicates with its employees, the client shall provide a hard copy or an electronic copy of the notice to the employees. The notice shall contain:
 1. notice of the general nature of the co-employment relationship between and among the professional employer organization, the client and such covered employees, including the rights, responsibilities and duties that the PEO and the client have with respect to the covered employees;
 2. the name and telephone number of the department;
 3. the name and telephone number of the PEO;
 4. disclosure if the benefit plan is self-funded or is not fully insured;
 5. the name of the workers' compensation carrier and the policy number;
 6. whether the PEO or the client maintains the workers' compensation policy and performs safety inspections at the workplace;
 7. a phone number or contact to report injuries and hazardous worksite conditions; and
 8. a multilingual tagline on the notice provided by the department in languages required under M.G.L. c. 151A, § 62A, subsection (d) clause (iii) that includes the name and telephone number of the department and states that the notice contains important information that should be translated.
- (2) Notwithstanding 454 CMR 30.06(1), the PEO may provide separate notice of the name of the workers' compensation carrier and the workers' compensation policy number to the client.
- (3) Upon termination, the PEO shall provide covered employees with written notice of the termination of the PEO relationship. The notice may be provided electronically if that is the customary manner in which the client and the PEO communicate with the covered employee.

30.07: Allocation of Employer Obligations

- (1) Except to the extent otherwise expressly provided by the applicable professional employer agreement:
 - (a) a client shall be solely responsible for the quality, adequacy or safety of the goods or service produced or sold in the client's business;
 - (b) a client shall be solely responsible for directing, supervising, training and controlling the work of the covered employees with respect to the business activities of the client and solely responsible for the acts, errors or omissions of the covered employees with regard to such activities;
 - (c) a client shall be solely responsible for the payment of any wages to covered employees and to make payments for employee benefits for covered employees;
 - (d) a client shall be solely responsible for safety, risk and hazard control at the worksite and compliance with related state and federal laws;
 - (e) upon termination of the PEO relationship, the client shall be solely responsible for providing employees with information regarding the handling of claims and benefits;
 - (f) a client shall not be liable for the acts, errors or omissions of a PEO, or of any covered employee of the client and a PEO, when such covered employee is acting under the express direction and control of the PEO;
 - (g) a PEO shall not be liable for the acts, errors or omissions of a client, or of any covered employee of the client, when such covered employee is acting under the express direction and control of the client;
 - (h) nothing in 454 CMR 30.07(1) shall serve to limit any contractual liability or obligation specifically provided in the written professional employer agreement;
 - (i) a covered employee shall not be, solely as the result of being a covered employee of a PEO, an employee of the PEO for purposes of general liability insurance, fidelity bonds, surety bonds, employer's liability that is not covered by workers' compensation or liquor liability insurance carried by the PEO unless the covered employees are included by specific reference in the professional employer agreement and applicable prearranged employment contract, insurance contract or bond;

30.07: continued

- (j) nothing in 454 CMR 30.07(1) shall in any way limit the liabilities and obligations of any PEO or client to covered employees as required by 454 CMR 30.00;
- (k) the client shall be solely responsible for notifying the PEO of all covered employees; provided however, that where the client has failed to notify the PEO, the client will be deemed to be the sole employer of the employee; and
- (l) the client shall retain all records in compliance with state and federal law including, but not limited to M.G.L. c. 149, § 52C, M.G.L. c. 151, § 15, and 29 CFR Part 516; provided, however, that if an obligation under 454 CMR 30.07(1) is allocated to a PEO under the professional service agreement, the PEO shall disclose to a covered employee, upon request, the documents retained under 454 CMR 30.07(1) as required by state and federal law.

(2) Workers Compensation. Workers' compensation shall be provided to covered employees at each client company either by the PEO or by the client company of the covered employee pursuant to the Workers' Compensation Law, M.G.L. c. 152. The professional employer agreement shall specify the allocation of responsibilities between the PEO and the client for workplace safety, risk and hazard control including the responsibility for disclosing information about workplace injuries and illness required by the federal Occupational Safety and Health Act and for performing workplace safety inspections of all premises where covered employees are employed. To the extent the PEO has assumed responsibility in the professional employer agreement, the PEO shall maintain responsibility for the management of workers' compensation claims.

- (a) Where the PEO has workers' compensation coverage and has executed an alternate employer endorsement naming the client as an additional insured, both the client and the PEO shall be considered the employer for purpose of coverage under M.G.L. c. 152.
- (b) Where the client has workers' compensation coverage and has executed an alternate employer endorsement naming the PEO as an additional insured, both the client and the PEO shall be considered the employer for the purpose of coverage under M.G.L. c. 152.

(3) Unemployment Insurance. For purposes of the Unemployment Insurance law, M.G.L. c. 151A, covered employees of a PEO shall be considered the employees of the client and the PEO shall be responsible for the payment of contributions, penalties and interest on wages paid by the PEO to its covered employees during the term of the applicable professional employer agreement.

The PEO shall report and pay all required contributions to the Department of Unemployment Assistance using the state employer account number and the experience rate of the client company pursuant to the Unemployment Insurance law, and the regulations promulgated pursuant to M.G.L. c. 151A.

(4) Employment Benefits and Protections. Except as otherwise provided in this chapter, for the purposes of federal, state or local laws relating to employee count including, but not limited to, paid and unpaid leave, health and transportation benefits and protection under fair employment laws, the employee count shall include all of the client company's employees, including the client's employees who are covered employees under the PEO relationship between the client and the PEO.

30.08: Registrations and Certificates

(1) The allocation of rights, duties, and obligations under a professional employer agreement shall not obligate a PEO to be licensed, certified, or registered in any profession requiring such credentials and the performance of professional employer services for clients engaged in licensed professions shall not subject a PEO to liability or punishment for engaging in a profession without due certification. All licenses, certificates, registrations and credentials and all privileges and burdens of the same remain with the license holder and are unaffected by the PEO relationship.

- (a) A covered employee who is required to be licensed, registered or certified according to law or regulation shall be deemed solely an employee of the client for purposes of any such license, registration or certification requirement.

30.08: continued

(b) A PEO shall not be engaged in any occupation, trade, profession or other activity that is subject to licensing, registration or certification requirements or is otherwise regulated by a government agency solely by entering into and maintaining a PEO relationship with a covered employee who is subject to such requirements or regulation.

(c) A client shall have the sole right of direction and control of the professional or licensed activities of covered employees and of the client's business. Covered employees and clients shall remain subject to regulation by the regulatory or governmental entity responsible for licensing, registration or certification of such covered employees or clients.

(2) No PEO registration may be assigned or transferred without the prior written approval of the director. Application for such approval shall be made in the same manner as an application for registration. An unregistered PEO may not work as an agent of a registered PEO. A registered PEO may not transfer the rights and privileges of licensure to an unregistered PEO.

(3) PEOs seeking to change their address must notify the department in writing of their new address within 30 days after such change is made. Supporting documentation and or a site visit may be required by the department to verify the change of address.

30.09: Tax Credits, Incentives and Status

(1) For purposes of the determination of tax credits and other economic incentives provided by the Commonwealth or other government entity and based on employment, covered employees shall be deemed solely the client's employees. A client shall be entitled to the benefit of any tax credit, economic incentive or other benefit arising as the result of the employment of covered employees of such client. Notwithstanding that the PEO is the reporting employer for the purposes of the federal Internal Revenue Service form W-2, the client shall continue to qualify for the benefit, incentive or credit. Each PEO shall provide, upon request by a client or by agency employment information reasonably required for administration of any tax credit or economic incentive and necessary to support any request, claim, application or other action by a client seeking any tax credit or economic incentive.

(2) With respect to a bid, contract, purchase order or agreement entered into with the Commonwealth or a political subdivision thereof, a client company's status or certification under federal or state law as a small, minority-owned, disadvantaged, woman-owned business or other underutilized class of enterprise shall not be affected because the client company has entered into a PEO relationship.

(3) If there is a tax or assessment imposed or calculated upon the basis of total payroll, the PEO shall be eligible to apply any small business allowance or exemption available to the client for the covered employees for the purpose of computing the tax.

30.10: Decisions on Registration Applications

(1) Each application for registration shall be granted or denied by the director within 40 calendar days from the date of submission. Upon receipt of a complete application, the department shall review said application and supporting documentation. The department shall have the right to investigate and determine whether the PEO may be registered. In making such determinations, the department may utilize information from all sources legally available to it, including but not limited to, information provided by the applicant, information in the public domain and information supplied through government agencies, inspections, hearings, and testimony.

(a) Approval of Application. Persons who submit registration applications which are approved by the director shall be notified in writing in the form of a certificate of registration.

(b) Denial of Registration and Opportunity for Adjudicatory Hearing. If the director finds that the applicant does not meet the requirements for registration or that the applicant has provided incomplete, unclear, or untruthful information, or the applicant or authorized representative failed to appear at a hearing as required by the department, the application shall be denied and shall not be granted.

30.10: continued

- (c) Issuance of Registration with Conditions. The director may register a PEO with conditions. Said conditions shall be clearly stated in the director's decision.
- (d) Failure to Uphold Registration Conditions. If a PEO fails to uphold the conditions of any registration, said PEO shall be suspended or revoked by the director, pursuant to 454 CMR 30.15.
- (e) Appeals. If the director denies an application for registration or grants a registration with conditions that are unacceptable to an applicant, said applicant shall have 30 calendar days from the date of the receipt of the director's decision to file an appeal, otherwise, the director's decision shall become final. In the case of a timely appeal, the applicant shall be afforded an administrative hearing in accordance with the Standard Adjudicatory Rules of Practice and Procedure, 801 CMR 1.01: *Formal Rules*, or as otherwise agreed by the parties.
- (f) Judicial Review. After the issuance of a decision following an administrative review, any person aggrieved by the final decision shall be entitled to a judicial review thereof in accordance with M.G.L. c. 30A, § 14.

30.11: Registrations and Renewals of Registrations

- (1) Annual Registration. PEO registrations and any renewals thereof shall be valid for a period of one year following the date of issuance.
- (2) Renewal Application. A PEO renewing its registration shall submit to the department a completed renewal application on a form issued by the director not later than 30 calendar days prior to the expiration date of the registration. Said application shall contain a current financial statement setting forth the financial conditions of the PEO or the PEO group and shall include the most recent audit of the applicant, any changes to the items specified at 454 CMR 30.04 since the time of registration or the most recent renewal and a renewal-application fee made payable to the "Commonwealth of Massachusetts" in the amount of \$500.00. Payments may be processed online through the Department of Labor Standards website at www.mass.gov/dols. The department shall make administrative decisions on renewal applications in accordance with the provisions of 454 CMR 30.10.
- (3) Operation of PEO Without a Registration. It is the responsibility of the PEO to keep the registration current. The operation of a PEO without a registration may subject the PEO to civil penalties pursuant to 454 CMR 29.04: *Civil Citations*. However, a registrant's existing registration shall remain in effect during the pendency of a renewal application.
- (4) Additional Assessments. In addition to any civil administrative penalty assessed, a PEO found to be operating without a registration may be back charged for the registration fee and/or any renewal fees plus interest in the amount of 10% per annum on any back charges for the period of time for which they were operating without registration.

30.12: Restrictions Relating to Fees and Charges

- (1) Covered Employees. Employees covered under a PEO agreement shall not be charged any fee relating to the administration of professional employer services or the PEO relationship.
- (2) Client Fees. There are no restrictions on the fees a PEO may charge a client.

30.13: Record-keeping Requirements

- (1) All PEOs shall maintain, at a minimum, the following records and materials with the following information:
 - (a) names, phone numbers, email addresses and mailing addresses of clients and covered employees subject to PEO agreements;
 - (b) any and all PEO agreements;
 - (c) all documents related to the commencement, termination, or administration of the PEO services rendered;
 - (d) any client records provided to the PEO for the administration of PEO services; and
 - (e) any and all financial records relating to a PEO agreement, PEO services or a PEO relationship.

30.13: continued

(2) Retention Period. PEOs are required to keep a copy of all documents required by 454 CMR 30.13(1). PEOs shall retain the complete records as required to be kept under 454 CMR 30.13(2) without deletions or expungement of information related to all covered employees including, communications, confirmations, financial records, and contracts for three years after the termination of the PEO agreement or the three years after the termination of the covered employee's employment with the client, whichever occurs first. However, in any cause of action brought by an employee where the PEO has been notified thereof in any administrative or judicial proceeding, including but not limited to, the Massachusetts Office of Affirmative Action, the Massachusetts Commission Against Discrimination, Massachusetts Civil Service Commission, Massachusetts Labor Relations Commission, Attorney General, or a court of appropriate jurisdiction, such PEO shall retain records required to be kept under 454 CMR 30.13(2) that are relevant to such action until the final disposition thereof.

30.14: Inspections Conducted by the Department

(1) Right of Inspection. The department shall have the right to inspect the premises and the records of all PEOs and to interview clients, employers, and workers. The director may suspend or revoke the registration of any PEO that fails to furnish records and requested information to the department or its inspector, or if the PEO hinders or interferes with any authorized inspector while in the performance of his or her duties.

(2) Subpoena Authority. The director, when investigating any matter pertaining to the issuance, transfer, revocation, or suspension of a PEO registration, may take such testimony as may be necessary on which to base an official action. When taking such testimony, the director may subpoena witnesses and also direct that the department be furnished with necessary materials, books, papers, and other records.

30.15: Complaints

(1) Filing of a Complaint. Any individual may file a complaint with the department against a PEO. The complaint shall be filed in writing, with the department, in a form prescribed by the director.

(2) Review of Complaint. Upon receipt of a complaint, the department will proceed to review and investigate the complaint to determine if further action is warranted.

(3) Referral to the Attorney General. If the director, after investigation, has cause to believe that any laws have been violated, the director may refer said complaint to the Office of the Attorney General for further action.

(4) Hearings on Complaints Made Pursuant to the PEO Registration Statute. Notice of any complaint shall be provided to the PEO owner against whom the complaint has been filed, within ten calendar days of the filing of the complaint with the department. The department will hold any hearing on alleged violations of the PEO registration statute no later than 30 calendar days from the date of receipt of a complaint by the department.

(a) Notice. Both the complainant and respondent shall be given notice of a complaint hearing. Said notice shall be in the form of a hearing notice stating the nature of the complaint and section(s) of the statute and or regulation alleged to have been violated, and shall be sent to complainant and respondent electronically at the e-mail addresses provided to the department by the complainant and respondent.

(b) Appearance. Complainant and respondent shall appear at the appointed time and place of the hearing. Any request for a continuance shall be made in writing and received at the department not later than two business days prior to the scheduled hearing date.

(c) Record. A record of all complaints and hearings shall be maintained by the department.

(d) Recommended Decision. If the director has presided at the hearing, a "final decision" shall be issued. If the director has not presided at the hearing, a "recommended decision" shall be issued by the hearing officer, pursuant to M.G.L. c. 30A, § 11(2) and the director may, in his or her sole discretion, either adopt, amend or negate the recommended decision when issuing a final decision.

30.15: continued

(e) Decision. The director shall render his or her decision on a complaint hearing not later than eight business days from the date that either a recommended decision is provided to him or her or from the date upon which the record of a hearing over which he or she has presided as the hearing officer has closed.

30.16: Revocations and Suspensions of Registrations

If it is revealed, through inspection, investigation, hearing, or any other means, that a PEO or any representative thereof is guilty of any fraudulent or illegal conduct in connection with the operation of such PEO, or of any violation of the provisions of M.G.L. c. 149, §§ 192 through 203 or 454 CMR 30.00, the director may suspend or revoke the PEO's registration. If the director suspends or revokes the registration, said action shall be subject to judicial review in proceedings brought pursuant to M.G.L. c. 30A. If a registration is revoked, another registration shall not be issued within three years from the date of such revocation to said PEO, PEO owner, representative, or any associated entity of the same as determined by the director in his or her sole discretion.

30.17: Violations and Civil Administrative Penalties

If the director, after investigation, has cause to believe that a person offering professional employer services or client has violated one or more provisions of M.G.L. c. 149, §§ 192 through 203 or 454 CMR 30.00, then the director may among other available remedies and penalties:

- (1) deny an application for registration or renewal registration;
- (2) revoke, suspend, restrict a registration;
- (3) place the registrant on probation for the period and subject said registrant to conditions that the department specifies;
- (4) issue a cease and desist order;
- (5) impose an administrative penalty in an amount not to exceed \$1,000 for each material violation; or
- (6) refer the matter to the Office of the Attorney General for criminal prosecution.

30.18: Public Disclosure

The department shall, on an annual basis, make available to the public on its website at www.mass.gov/dols a list of businesses who have received a certificate of registration for the operation of a PEO pursuant to 454 CMR 30.10. Such lists shall contain, at a minimum, the name which has been registered, the PEO's address, telephone number, and the registration number assigned by the department.

Additionally, if the department or the Office of the Attorney General takes any action against anyone operating a PEO, or against any client employer subject to 454 CMR 30.00, then the action and any penalty imposed may be disclosed to the public.

30.19: Severability

The provisions of 454 CMR 30.00 are severable. If any provision or application thereof is held to be invalid by a court of competent jurisdiction, such invalidity will be severed and will not affect the remainder of 454 CMR 30.00.

REGULATORY AUTHORITY

454 CMR 30.00: St. 2018, c. 228, § 69 and M.G.L. c. 149, §§ 192 through 203.