

# **HAWAII ADMINISTRATIVE RULES DRAFTING MANUAL**

**THIRD EDITION**

By  
KEN H. TAKAYAMA  
Director (Retired--Volunteer)

Background to Administrative Rulemaking

By  
Samuel B. K. Chang  
Director (Retired)

June 2016

Charlotte A. Carter-Yamauchi  
Director  
Legislative Reference Bureau  
State Capitol  
Honolulu, Hawaii 96813

Internet: <http://lrbhawaii.org/>

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## FOREWORD

The Hawaii Administrative Rules Format was first issued in 1980. The first edition of the Hawaii Administrative Rules Format was more a preliminary draft than a formal publication, but served as the basic document used by administrative agencies in converting their rules to the uniform format for state agency rules mandated by the Legislature in sections 91-4.2 and 91-5, Hawaii Revised Statutes.

The second revised edition, the first to be entitled the "Hawaii Administrative Rules Drafting Manual", reflected certain modifications made in response to problems encountered by agencies engaged in administrative rulemaking. Additional forms and a checklist for use in the preparation of rules were included.

This third edition of the Hawaii Administrative Rules Drafting Manual is intended to make it easier for agencies to comply with the format by streamlining the variations on rulemaking action and the implications necessitated by those variations.

**Limiting forms of rulemaking action formats.** Generally, for all rulemaking actions (any combination of adoption, amendment, or repeal of rules) for which a public hearing is held after December 31, 2016, all proposals for changes should be at the chapter level. The formats for rulemaking actions will thereby be limited to three varieties:

- (1) Adoption of a new chapter (where all textual material in the chapter is new);
- (2) Repeal of an existing chapter (where all textual material in an existing chapter is being repealed); and
- (3) Simultaneous amendment and compilation of an existing chapter (where any change is being made to any portion of the text of any chapter short of adopting a completely new chapter or repealing an existing chapter in its entirety).

**How streamlining the rulemaking action formats eases compliance.** Streamlining the rulemaking action formats eases compliance with format requirements in several ways:

- (1) Agency staff will no longer need to deliberate over whether to amend specific provisions of existing chapters, or amend and compile the entire chapter. That decision is already provided: amend and compile.
- (2) Staff will not need to learn the separate procedures to amend chapters without compiling them (each amended section on a separate sheet of paper, etc.).

- (3) Compliance with Ramseyer requirements will be eased. The Ramseyer format contains a number of technical requirements (e.g., what material needs to be set out under what circumstances; and necessary prefatory language to be used in differing circumstances). These will be reduced or eliminated by simultaneously amending and compiling chapters, as the Ramseyer versions will simply set out all substantive text of the chapter in its entirety with additions underscored and deleted material being bracketed and stricken.
- (4) Reduction of record keeping difficulties. Over the years, a number of agencies have reported difficulty in maintaining the completeness and integrity of the text of current versions of their rules that have been repeatedly amended (but never compiled) over a number of years--difficulties that have been exacerbated by staff turnovers and agency reorganizations.

**Other changes.**

This edition incorporated many other changes, including:

- (1) Stylistic and grammatical changes set forth in the Tenth Edition of the Bureau's Hawaii Legislative Drafting Manual;
- (2) Providing for deletions in the Ramseyer format to be shown by both bracketing and strikethrough; and
- (3) More information and examples regarding historical notes and the incorporation of materials in the text of sections.

Charlotte A. Carter-Yamauchi  
Director

June 2016

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**PART I**

**BACKGROUND TO ADMINISTRATIVE RULEMAKING**

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# Chapter 1

## INTRODUCTION

Administrative rulemaking is one facet of the administrative process that has been defined as the complex of methods by which agencies carry out their tasks.<sup>1</sup> It has also been characterized as rulemaking when not done by the legislature and adjudication when not done by the courts.<sup>2</sup> This manual is designed as a guide for those whose functions are primarily related to the former, that is, those who are engaged in formulating, drafting, and processing agency statements of general or particular applicability adopted pursuant to chapter 91, Hawaii Revised Statutes (the Hawaii Administrative Procedure Act). Therefore, the quasi-judicial aspects of the administrative process, i.e., adjudication of a contested case, are not the direct concerns of the manual.

The manual contains the Hawaii Administrative Rules format mandated by section 91-4.2, Hawaii Revised Statutes. It also presents as background the conceptual framework in which the administrative process has developed and a historical perspective of the situation giving rise to the legislation which authorized the establishment of the Hawaii Administrative Rules format.

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1. DAVIS 1 Administrative Law Treatise 2 (1st ed., 1958).
  2. JAFFE Administrative Law, Cases and Materials 2 (1954).



## Chapter 2

### THE ADMINISTRATIVE PROCESS - CONCEPTUAL FOUNDATIONS

Development of the administrative process has traditionally been associated with three philosophical ideas:<sup>1</sup>

1. Separation of powers;
2. Nondelegation; and
3. The Rule of Law.

It is the thesis of one writer that these ideas have actually been a barrier rather than an aid to the development of the administrative process.<sup>2</sup> Nonetheless, the conceptual foundation of administrative law and the administrative process has been heavily influenced by theories derived from these three principles.

#### Separation of Powers

In American constitutional philosophy, this idea is as old as the Republic. The United States Supreme Court<sup>3</sup> has articulated it thusly:

It is believed to be one of the chief merits of the American system of written constitutional law, that all the powers entrusted to government . . . are divided into the three grand departments, the executive, the legislative, and the judicial. That the functions appropriate to each of these branches of government shall be vested in a separate body of public servants, and that the perfection of the system requires that the lines which separate and divide these departments shall be broadly and clearly defined. It is also essential to the successful working of this system that the persons entrusted with power in any one of these branches shall not be permitted to encroach upon the

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1. DAVIS 1 Administrative Law Treatise 5 (1st ed., 1958).
  2. DAVIS Administrative Law and Government 52 (1960).
  3. *Kilbourn v. Thompson*, 103 U.S. 168, 190-191 (1881). For Hawaii cases, see *Harris v. Cooper*, 14 Haw. 145 (1902); *State v. Willburn*, 49 Haw. 651 (1949); *State v. Abellano*, 50 Haw. 384 (1968); *State v. Park*, 55 Haw. 610 (1974); *Life of the Land v. Ariyoshi*, 59 Haw. 156 (1978).

powers confided to the others, but that each shall by the law of its creation be limited to the exercise of the powers appropriate to its own department and no other.

While in principle, legislation (the role of the legislative branch of government) and administration (the role of the executive branch of government) are distinct functions, in practical application, the line where one ends and the other begins is hard to draw. The determination in the case of questioned authority for the exercise of powers claimed to belong to another branch of government will depend on the facts of a particular situation and turn on the kind and degree of power exercised.

### **Nondelegation**

A logical consequence of the doctrine of the separation of powers is that legislative powers may not be delegated to any other branch of government. In an early United States Supreme Court opinion, Chief Justice Marshall said:<sup>4</sup>

It will not be contended that Congress can delegate to the courts or to any other tribunal, powers which are strictly legislative. But Congress may certainly delegate to others, powers which the legislature may rightfully exercise itself . . . . The line has not been exactly drawn which separates those important subjects, which must be entirely regulated by the legislature itself, from those of less interest, in which a general provision may be made, and power given to those who are to act under such general provisions to fill up the details.

Because the courts have recognized the impracticability of the legislature's providing for every detail in every instance in their enactment of laws, statutory grants of power legislative in nature (quasi-legislative) or the power to make rules and regulations have been upheld. Delegation of power by the legislature is permissible if the formulation of incidental administrative policy through the adoption of rules is within a prescribed statutory framework. It is generally constitutionally sufficient if in delegating quasi-legislative powers the legislature

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4. *Wayman v. Southard*, 10 Wheat. 1, 15-16, 6 L. Ed. 253 (1825). For Hawaii cases, see *Terr. v. Marshall*, 13 Haw. 76 (1900); *McCandless v. Campbell*, 20 Haw. 411 (1911); *Terr. v. Fung*, 34 Haw. 52 (1936); *Fasi v. King*, 41 Haw. 461 (1956).

clearly delineates general policy, the public agency which is to apply it, and standards under which the delegated authority is to operate.<sup>5</sup>

### **The Rule of Law**

The Rule of Law has been described as "that principle of our Western tradition which teaches that ours is a government of laws and not of men . . . ." <sup>6</sup> It carries with it the notion of equal protection under the law, that is, the supremacy of law over the exercise of arbitrariness or wide discretionary authority by government. <sup>7</sup>

As applied to the administrative process, the Rule of Law requires that ". . . [A]n agency changing its course must supply reasoned analysis indicating that prior policies and standards are being deliberately changed, not casually ignored . . . ." <sup>8</sup>

An authority on administrative law has said that rather than prohibiting any discretion on the part of administrative officials, the Rule of Law should allow the exercise of necessary discretionary power measured by a test of reasonableness and responsibility. <sup>9</sup>

### **The Modern View**

A study of case law indicates that the three principles heretofore discussed, at least in modern times, have been more honored in the breach than in the adherence. However, authorities <sup>10</sup> in administrative law have noted that the theories are not dead, but have been and are evolving into practical and workable tools of constitutional government.

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5. See *State v. Lee*, 51 Haw. 516 (1970); *In re Kauai Electric*, 60 Haw. 166 (1978).

6. Freund, "The Rule of Law", 1956 Wash. U.L.Q. 314.

7. DAVIS 1 Administrative Law Treatise 97 (2d ed., 1978).

8. *Greater Boston Television Corp. v. FCC*, 444 F.2d 841, 852 (D.C. Cir.) cert. den'd, 403 U.S. 923 (1971).

9. DAVIS, supra note 7, at 116, 117.

10. DAVIS Administrative Law Treatise (1st ed., 1958; 2d ed., 1978) and Administrative Law and Government, 1966; JAFFE Administrative Law, Cases and Materials, 1954.

For example, instead of mandating a clear dichotomy of branches of government, the separation of powers theory has become a polar theory. That is, under our system of government, the main legislative power resides in the legislature, the main judicial power resides in the judiciary, and the main executive power resides in the executive. The blending of these powers in any branch is not necessarily unconstitutional, absent specific constitutional language of prohibition and absent any other reason for unconstitutionality.<sup>11</sup>

The principle of nondelegation now emphasizes a system of checks against arbitrariness. This system of checks requires rules and standards, so far as possible, to provide safeguards against unnecessary discretionary determinations. The emphasis is not so much on preventing delegation as it is to protect private parties from the unnecessary and unfettered exercise of discretionary power by agents of government.<sup>12</sup>

Finally, the modern view of the Rule of Law, as espoused by Davis,<sup>13</sup> advocates a rein on unnecessary discretionary power and requires preestablishing rules and standards to guide administrative behavior, adhering to a course of consistent treatment in administration, including following precedents and providing reasoned explanations for departures therefrom, openness in actions, and provision for review of administrative actions.<sup>14</sup>

Many of the concepts embodied in the modern view of the classical theories associated with the administrative process have been statutorily incorporated into the Hawaii Administrative Procedure Act<sup>15</sup> in such provisions as those providing for public notice and hearing,<sup>16</sup> for public access and publication of rules,<sup>17</sup> and for agency and judicial review.<sup>18</sup>

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11. DAVIS 1 Administrative Law Treatise 78, 79 (2d ed., 1978). And see *Kailua Community Council v. City and County of Honolulu et al.*, 60 Haw. 428 (1979).

12. See *Akahane v. Fasi*, 58 Haw. 74 (1977).

13. DAVIS, *supra* note 11, at 117.

14. See *In re Terminal Transportation, Inc.*, 54 Haw. 134 (1972); *Aguiar v. Hawaii Housing Authority*, 478 Haw. 44 (1974).

15. *Hawaii Rev. Stat.*, ch. 91.

16. *Hawaii Rev. Stat.*, sec. 91-3.

17. *Hawaii Rev. Stat.*, secs. 91-4 and 91-5.

18. *Hawaii Rev. Stat.*, secs. 91-7, 91-8, and 91-14.



## Chapter 3

### ADMINISTRATIVE RULEMAKING

#### Background

The purposes of administrative rulemaking are to implement legislation and to establish operating procedures for state agencies. Generally, a legislative act will provide the skeleton or superstructure for a program. Agencies are required to "fill in the details" and implement the program on a day-to-day basis. Illustratively, the state unemployment insurance law<sup>1</sup> requires, among other things, that a claimant (1) be registered for work; (2) be available for work; (3) not have quit the claimant's last job voluntarily without good cause or have been fired for misconduct. The statute, however, does not spell out in any greater detail what any of those conditions mean. Consequently, the department has to make certain determinations in order to apply the statutory requirements to varying classes of applicants.

The result of this process of "filling in the details" is that the departments are accorded a great deal of discretion in applying the law, particularly where the controlling statute is couched in general terms, e.g., "misconduct". Clearly, agencies should not be allowed to apply differing standards among similarly situated members of the public.

The law that controls administrative rulemaking is chapter 91, Hawaii Revised Statutes (the Hawaii Administrative Procedure Act). Briefly, the law requires, among other things, that administrative agencies follow certain specified procedures in order to impose upon the public requirements which affect private rights. For a rule to become binding upon the public, an agency must (1) publish notice of public hearing; (2) hold a hearing in which all persons are allowed to submit data, views, or arguments orally or in writing; (3) have the rule approved by the governor; and (4) file the rule in the office of the lieutenant governor on a permanent basis for public inspection.

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1. *Hawaii Rev. Stat.*, ch. 383.

## Uniform Rules Format

The Hawaii Administrative Procedure Act was adopted in 1961. Since that time, the field of administrative rulemaking expanded rapidly, due in great part to the growing consciousness of the power of administrative agencies, and the rising demand for accountability. In a number of instances, federal legislation mandated the adoption of state rules identical to or more stringent than existing federal rules--as a condition for receiving federal dollars. Courts became increasingly more willing to strike down actions taken by agencies that had not followed proper procedures.

Concern that agencies had now become too powerful, that they usurped legislative prerogatives through the rulemaking process, or simply that they imposed unreasonable burdens upon the public resulted in a call, at both the state and federal levels, for increased legislative oversight over the agencies through a variety of methods ranging from sunset legislation to the legislative veto of administrative rules.

In Hawaii, the system for adopting rules had worked well for over a decade. In 1961, the governor, by rule, had established a system whereby all rules filed with the lieutenant governor were filed in chronological order with a separate volume for each department. During the period when filings were relatively few, the system worked reasonably well. When through time the number of volumes increased substantially and the active rules remained mixed among the repealed and superseded rules, it got to a point where no one could tell, or could do so only with great difficulty, how many rules existed at any given time. This was even true within individual departments where only a handful of people might know if a particular set of rules remained in effect.

To remedy this situation, the legislature in 1979 passed Act 216, which was eventually codified into sections 91-4.1 to 91-5, Hawaii Revised Statutes. Act 216 called for four things:

- (1) That agencies send copies of all adopted, amended, or repealed rules in the Ramseyer format to the auditor. The auditor would then review the rules, and report to the legislature whether any of the rules adopted violated the authorizing legislation;
- (2) That the revisor of statutes adopt a uniform format for all agency rules;

## *ADMINISTRATIVE RULEMAKING*

- (3) That all agencies convert all existing rules to the new format by June 21, 1981; and
- (4) That the revisor of statutes compile and publish an index to all agency rules filed with the lieutenant governor.

The "Hawaii Administrative Rules Format" was developed during the latter part of 1979 and released at a seminar on February 18, 1980, attended by over two hundred persons representing a number of administrative agencies. The basic features of the format are as follows:

- (1) An overall numbering system in which all rules of a particular department are assigned a title number. Departmental rules are then divided into chapters, with chapters divided into sections, with the sections constituting the basic unit of organization. The goal of the system is to bring every rule into a single unified system. Each rule, no matter what the department, will have a unique section number.
- (2) Organizational structure nearly identical to the Hawaii Revised Statutes. Sections are divided into subsections, paragraphs, subparagraphs, and clauses. Stylistic and grammatical requirements (e.g., capitalization, use of words such as "may" or "shall" rather than "should") follow statutory style.
- (3) Inclusion of information at the end of each section indicating the effective date, the authority for, and the statutes (or federal rules) being implemented or interpreted by the particular section. This was required by the Hawaii Administrative Procedure Act to be included in the format. The Hawaii Administrative Procedure Act also requires inclusion of the effective date of each rule. The format has extended this requirement to include the effective dates of all amendments, renumberings, and compilations.

The new numbering system has the advantage of completely organizing the entire system of administrative rules on a numerical basis, which has been heretofore impossible. Prior to the establishment of this format, each department used its own numbering system, or, in some cases, no numbering system at all. Once converted to the new system, the collection of the rules, arranged in numerical order, takes on the appearance of a codification--even though the rules have never been and are not now being formally codified. Should the State

sometime in the future choose to formally codify its administrative rules, the codification can be done without great difficulty.

The uniform Administrative Rules format must be distinguished from the Ramseyer format. The two are separate and distinct. Ramseyer is nothing more than a technique of drafting by which changes to a document are indicated--usually by bracketing and striking through the material to be deleted and underscoring the material to be added. The end result of the requirements of the statute and the Administrative Rules format is that all new rules and changes to existing rules must be produced twice--once in the Ramseyer format showing the changes being made, and once in the uniform format indicating what the rule is in its final form, to show the text of the rule in its current state.

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## **P A R T   I I**

### **HAWAII ADMINISTRATIVE RULES FORMAT**

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Part II comprises the rules of format to be followed by all state agencies in the compilation and publication of their rules and the distribution thereof under sections 23G-12(7) and 91-4.2, Hawaii Revised Statutes.

As a visual aid to promote the administrative rules drafter's familiarity with the Hawaii administrative rules format, this manual's instructions have been formatted and written in the recommended Hawaii administrative rules format and style.



HAWAII ADMINISTRATIVE RULES

TITLE 00

LEGISLATIVE REFERENCE BUREAU

SUBTITLE 1 HAWAII ADMINISTRATIVE RULES FORMAT

|                |  |
|----------------|--|
| Chapter 00-1   | General Provisions   |
| Chapter 00-2   | Basic Form Requirements  |
| Chapter 00-3   | Numbering  |
| Chapter 00-4   | Drafting Requirements  |
| Chapter 00-4.9 | All Rulemaking Actions at Chapter or Higher Levels;<br>December 31, 2016 |
| Chapter 00-5   | Amended, New, and Repealed Rules   |
| Chapter 00-5.5 | Compilation  |
| Chapter 00-6   | Ramseyer Format  |
| Chapter 00-7   | Transition   |
| Chapter 00-8   | Filing and Maintenance of Rules  |
| Chapter 00-9   | Printing, Distribution   |
| Chapter 00-10  | Forms and Checklists   |

SUBTITLE 2 SUBTITLE HEADING

|               |               |
|---------------|---------------|
| Chapter 00-15 | Chapter Title |
| Chapter 00-16 | Chapter Title |
| Chapter 00-17 | Chapter Title |
| Chapter 00-18 | Chapter Title |
| Chapter 00-19 | Chapter Title |
| Chapter 00-20 | Chapter Title |





HAWAII ADMINISTRATIVE RULES

TITLE 00

LEGISLATIVE REFERENCE BUREAU

SUBTITLE 1 HAWAII ADMINISTRATIVE RULES FORMAT

CHAPTER 00-1

GENERAL PROVISIONS

|         |  |
|---------|--|
| §00-1-1 | Objectives   |
| §00-1-2 | Definitions  |
| §00-1-3 | Rules in format  |
| §00-1-4 | Applicability  |
| §00-1-5 | Format versus codification                               |
| §00-1-6 | Citation of rules  |
| §00-1-7 | Sending copies to the legislative reference bureau       |
| §00-1-8 | All rules prepared in both standard and Ramseyer formats |

**§00-1-1 Objectives.** The objectives of the Hawaii administrative rules format are to:

- (1) Implement the requirements of sections 91-4.2 and 91-5, Hawaii Revised Statutes;
- (2) Make available to the public current and historical information concerning administrative rules;
- (3) Establish a system capable of being maintained and expanded in an organized manner over a period of years, or codified should the

- need arise;
- (4) Establish a format for administrative rules in Hawaii that is substantially similar to the format used for the Hawaii Revised Statutes; and
  - (5) Carry out the duties of the legislative reference bureau under section 23G-12(7), Hawaii Revised Statutes, to prepare rules of format to be followed by all state agencies. [Eff 2/15/80; am and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-1-2 Definitions.** Definitions shall be listed in alphabetical order. As used in chapters 00-1 to 00-20:

"Compilation" means the physical merging of a chapter or larger unit of organization with any amendments or notices of change which are filed separately from the chapter or larger unit of organization.

"Hawaii administrative rules format" shall be as defined in "standard format".

"Ramseyer format" means a technique by which changes in existing rules are shown by:

- (1) Bracketing and striking through material to be deleted, or, if the material being deleted is a chapter or larger unit of organization, citing with specificity the material to be deleted; and
- (2) Underscoring material to be added, or, if the material to be added is a chapter or larger unit of organization, citing with specificity the material to be added.

The Ramseyer format includes all exceptions to the bracketing and striking through, and underscoring requirements, as well as appropriate requirements for prefatory language.

"Revisor of statutes" means the director of the legislative reference bureau or a delegated staff member.

"Rule" means each agency statement of general or particular applicability and future effect adopted pursuant to chapter 91, Hawaii Revised Statutes, that implements, interprets, or prescribes law or policy, or describes the organization, procedure, or practice requirements of any agency.

"Section number", unless clearly used in a different context, means those digits separated by hyphens indicating the title, chapter, and section within a chapter. Where used in context, the term also means the number of a particular section within a chapter (e.g., the tenth section of chapter 1).

"Standard format" means the uniform format for state agency rules prescribed by the revisor of statutes pursuant to section 91-4.2, Hawaii Revised Statutes, the physical requirements of which are set forth in all chapters of this subtitle except chapter 00-6, and which also may be referred to as the "Hawaii administrative rules format". The term "standard format" is used to distinguish the uniform format for agency rules from the "Ramseyer" format.

Note that the introductory language of this section applies the definitions to chapters 00-1 to 00-20. If a new chapter (e.g., chapter 00-5.1) is subsequently added within those chapters, the definitions shall apply to the new chapter unless specified to the contrary. [Eff 2/15/80; am and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-1-3 Rules in format.** (a) Except as provided in this section, to serve as a guide to agencies, this subtitle has been written to conform with the administrative rules format.

(b) This subtitle varies from the requirements set forth in this subtitle to the extent that:

- (1) Page numbers in the lower right corner are for reference within this publication only, and shall not be allowed in rules adopted by agencies;
- (2) This publication is bound and thus cannot readily be stored in a ring binder. Copies of rules printed in the manner of this publication shall be deemed to be unofficial copies; and
- (3) The weight of the paper of this publication is less than 16# bond. [Eff 2/15/80; and comp 5/1/84; comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-1-4 Applicability.** The Hawaii administrative rules format shall apply only to rules adopted pursuant to chapter 91, Hawaii Revised Statutes. [Eff 2/15/80; am and comp 5/1/84; comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-1-5 Format versus codification.** (a) The Hawaii administrative rules are not intended to be a formal, official codification of state administrative

rules. While a collection of all agency rules drafted in the Hawaii administrative rules format may take on the appearance of a codification, the differences between the two approaches in trying to reach the objectives set forth in section 00-1-1 will account for some of the requirements contained in this subtitle. The crucial distinction is that codification of necessity requires a certain amount of centralized control by the agency responsible for codifying the rules.

(b) Under the approach taken in sections 91-4.2 and 91-5, Hawaii Revised Statutes, the revisor of statutes retains no control over the adoption of rules other than the establishment of the format for those rules. Full control over the administrative rules process is retained by the respective rulemaking agencies, subject to the requirement that rules be published in accordance with the format. Accordingly, technical provisions have been included within the format to ensure that uniformity is retained in all aspects of the publication of rules. [Eff 2/15/80; am and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-1-6 Citation of rules.** (a) The collection of all state agency rules in the uniform format shall be known as the "Hawaii Administrative Rules".

Administrative rules shall be cited as follows:

- (1) For references other than internal cross-references (which means that this paragraph applies where the writer is referring to administrative rules in something other than rules (e.g., letter, memorandum, or article):
  - (A) Titles shall be cited by using the number of that title, followed by a reference to the Hawaii administrative rules; e.g., "title 16, Hawaii Administrative Rules";
  - (B) Chapters shall be cited according to (title number) – (chapter number), Hawaii Administrative Rules; e.g., "chapter 16-84, Hawaii Administrative Rules";
  - (C) Sections shall be cited according to (title number) – (chapter number) – (number of the section within the chapter), Hawaii Administrative Rules; e.g., "section 16-84-135, Hawaii Administrative Rules"; and
  - (D) Levels of organization below the section level (subsections, paragraphs, subparagraphs, and clauses) shall be cited to the section number, followed by the specific enumeration; e.g., "section 16-84-135(a)(2)(C)(iii), Hawaii Administrative Rules"; and

(2) Internal cross-references (which means that this paragraph applies when administrative rules are being cited in other administrative rules) may cite the title, chapter, or section, as the case may be, without reference to "Hawaii Administrative Rules". As the Hawaii administrative rules simply refers to all of the rules of all state agencies that have been adopted in the Hawaii administrative rules format, reference to the "Hawaii Administrative Rules" in the rules themselves is superfluous. For examples, see the "Cross-References" section of the exhibit entitled "Style, Words, and Grammar (7/11/14)" located at the end of chapter 00-4, which is made a part of this section.

(b) It is imperative that any citation of, or reference to, a particular section number include all applicable components, i.e., title, chapter, and section within the chapter. A mere reference to "section 10" will be of no assistance to a person who has not already been provided the appropriate title and chapter numbers. Any number of chapters in any given title will have a "section 10". Even if the correct chapter number is provided (e.g., "chapter 3, section 10"), this number would still refer to the tenth section of the third chapter of any one of over twenty titles. [Eff 2/15/80; am and comp 5/1/84; am and comp 5/23/16]

**§00-1-7 Sending copies to the legislative reference bureau.** Copies of all rules adopted, amended, or repealed that are filed with the lieutenant governor shall be sent to the legislative reference bureau in both the standard and Ramseyer formats. [Eff 2/15/80; am and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-1-8 All rules prepared in both standard and Ramseyer formats.** The effect of the statutory requirements in sections 91-4.1 and 91-5, Hawaii Revised Statutes, is that all new rules, or amendments to or the repeal of existing rules shall be prepared in two separate sets. One set of rules shall be prepared in the "standard" format for submission to the lieutenant governor and the legislative reference bureau. The second set shall be prepared in the Ramseyer format for submission to the legislative reference bureau. Each time any provision of any chapter of rules is adopted, amended, or repealed, the entire chapter, as amended, shall be filed with the lieutenant governor in the standard format and a copy sent to the legislative reference bureau. The version in the Ramseyer format shall be

sent to the legislative reference bureau.

A common misunderstanding is that new rules (such as the adoption of completely new chapters) need not be prepared in the Ramseyer format because no changes are being made. This is not true. The Ramseyer format involves not only the bracketing and strikethrough of deleted material and the underscoring of added material. It includes all exceptions to the bracketing and underscoring requirement and prefatory language. [Eff and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.1) (Imp: HRS §§91-4.1, 91-5)

HAWAII ADMINISTRATIVE RULES

TITLE 00

LEGISLATIVE REFERENCE BUREAU

SUBTITLE 1 HAWAII ADMINISTRATIVE RULES FORMAT

CHAPTER 00-2

BASIC FORM REQUIREMENTS

|           |  |
|-----------|--|
| §00-2-1   | Applicability  |
| §00-2-1.1 | Repealed   |
| §00-2-1.2 | Example of form and style  |
| §00-2-2   | Type or print; font size   |
| §00-2-3   | Paper  |
| §00-2-4   | Margins  |
| §00-2-4.1 | Margins for notes  |
| §00-2-5   | Spacing  |
| §00-2-6   | Both sides of sheet of paper   |
| §00-2-7   | Use of section symbol; in section headings and notes; in text              |
| §00-2-8   | Use of brackets  |
| §00-2-9   | Use of boldface printing v. underscoring; section headings; other material |

**§00-2-1 Applicability.** This chapter shall apply to all rules and amendments filed with the office of the lieutenant governor, and all official copies of rules distributed by any agency. [Eff 2/15/80; am and comp 5/1/84; comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-2-1.1 Repealed.** [R 5/1/84]

**§00-2-1.2 Example of form and style.** The exhibit entitled "Example of Form and Style--Spacing (8/8/14)" located at the end of this chapter is incorporated by reference to illustrate many of the basic format requirements in a schematic way. [Eff and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-2-2 Type or print; font size.** All rules shall be prepared and printed in black ink. Character font size for the text and notes of any section shall not be smaller than ten nor larger than twelve. Headings for subchapters, chapters, and higher levels of organization may be set forth in font sizes of not larger than fourteen. For rules prepared on computers, the Courier New style of type shall be used if available. If Courier New is not available, the Arial or Times New Roman style may be used. For rules prepared on typewriters, Courier and Legal Courier styles of type are preferred. "Script" (i.e., "cursive") styles of type shall not be used. [Eff 2/15/80; comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-2-3 Paper.** (a) All paper used for final rules shall be white in color and 8-1/2 x 11 inches in size. The weight of the paper shall be not less than 16# bond.

(b) Nothing in this section shall prohibit drafts of proposed rules, whether distributed to the public or not, from being printed on paper of other size or weight deemed appropriate by the agency. [Eff 2/15/80; comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-2-4 Margins.** Each full page of rules shall have a margin of at least one-and-one-half inches on all four sides; provided that running heads shall be not



less than one inch from the top of the sheet of paper. Left justification of text is required. Right justification of text is allowed but not required. Headings for subchapters and higher levels of organization shall be centered. [Eff 2/15/80; am and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-2-4.1 Margins for notes.** Margins for source notes, citations of authority, and lists of sections implemented shall be the same as that of the level of organization which ends the section. Compare margins for notes in sections 00-2-3, 00-6-2.1, and 00-9-4. [Eff and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-2-5 Spacing.** All rules shall be single-spaced within each section and all subsections, paragraphs, subparagraphs, and clauses included thereunder. Rules shall be triple-spaced between sections. Information set forth in block style (other than paragraphs, subparagraphs, and clauses), such as examples, shall be separated from the remainder of the material by double-spacing. See the "Examples" throughout this subtitle. [Eff 2/15/80; am and comp 5/1/84; comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-2-6 Both sides of sheet of paper.** All rules shall be typed or printed on both sides of each sheet of paper; provided that all chapters shall begin on a separate sheet of paper. To prevent "bleeding" of print, typing or printing may be done on single sheets and photocopied on both sides. [Eff 2/15/80; am and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-2-7 Use of section symbol; in section headings and notes; in text.**  
 (a) Use of the section symbol "§" is preferred in section headings and notes at the end of sections. Where agencies do not have access to word processing equipment capable of producing section symbols, the use of "sec." shall be

acceptable. The symbols "§§" or "secs.", respectively, shall be used to indicate more than one section.

**Examples:**

(Imp: HRS §§248-2, 248-9, 248-10; SLH 1976, Act 14, §3)

OR

(Imp: HRS secs. 248-2, 248-9, 248-10; SLH 1976, Act 14, sec. 3)

(b) Within the text proper of a section, the word "section" shall be spelled out. [Eff 2/15/80; am and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-2-8 Use of brackets.** Brackets shall be used wherever required by this subtitle. Agencies shall not use parentheses as a substitution for brackets. Where agencies do not have access to word processing equipment capable of producing bracket symbols, the use of "slash marks" and hyphens and underscoring shall be an acceptable substitute.

**Example:**

[Eff 2/15/80]

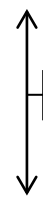
[Eff 2/15/80; am and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2)  
(Imp: HRS §91-4.2)

**§00-2-9 Use of boldface printing vs. underscoring; section headings; other material.** (a) Numbers and headings of sections and larger units of organization shall be typed or printed in boldface if possible. Boldface may also be used to highlight headings of examples, tables, and exhibits or appendices.

- (b) Boldface type or print shall not be used:
  - (1) To indicate units of organization below the section level such as subsections, paragraphs, subparagraphs, or clauses;

- (2) In the textual material of any section except as specifically allowed under subsection (a); or
- (3) In any source notes, citations of authority, or lists of sections implemented.
- (c) If the agency adopting the rules does not have word processing equipment capable of typing or printing in boldface, then underscoring shall be used as a substitute for boldface; provided that the numbers and headings of titles, subtitles, parts, chapters, and subchapters shall not be underscored.
- (d) Unless contrary to legislative enactment, court order, or written opinion of the department of the attorney general or agency legal counsel, changes of materials in sections or related exhibits or appendices from underscored to boldface shall not be considered amendments to the section. [Eff and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)





1-1/2" top margin

# EXAMPLE OF FORM AND STYLE--SPACING (8/8/14)

§00-3-9

Running head may be placed not less than 1" from top of page.

TITLE 0

DEPARTMENT OF CORPORATE REVENUE

CHAPTER 0-3

EXCISE TAXESw

SUBCHAPTER 2

2 spaces between headings.  
Center headings

Use (a) designation only if there is at least a (b).  
(a) starts 2 spaces after section heading.  
If listing items, use (1); (2)...

EXEMPTIONS, LICENSES

Generally, semicolons after paragraphs and subparagraphs.

2 spaces

3 or more spaces

Sections of headings should be boldface.

§00-3-9

## Exemptions, persons exempt, extensions of time.

Comma if 3 or more items.

- (a) This part shall not apply to the following:
  - (1) National banks;
  - (2) Corporations, companies, associations, or trusts organized for:
    - (A) The establishment and conduct of cemeteries no part of:
      - (i) The net earnings of which inures to the financial benefit of any private stockholder or individual; and
      - (ii) The net losses of which inures to the financial loss of all private stockholders;

Note alignment  
Do not go lower than this level designation.

Generally, conjunction before last entry.

1-1/2" left margin

1-1/2" right margin

- provided that the exemption shall apply only to the activities of those persons in the conduct of cemeteries; and
- (B) Any activity the primary purpose of which is to produce income, even though the income is to be used for or in the furtherance of the exempt activities of persons in subparagraph (A);  
provided that those corporations, companies, associations, and trusts perform for the benefit of their stockholders.

(b) The department for good cause may extend the time for registration or the time for filing an application for exemption, but the extension or extensions shall not aggregate more than a total of two months.

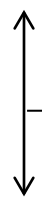
2 spaces

(c) As used in this section, "persons" shall only include those entities set forth in subsection (a).  
Eff 8/14/70, am 12/31/71, am ] (Auth: HRS §§235-5, 237-35) (Imp: HRS §237-115; SLH 1965, Act 21, §2; 13 U.S.C. §644; 18 C.F.R. §738.19)

Semicolon between different sources.

1-1/2" space

3 spaces between sections.



1-1/2" bottom margin



HAWAII ADMINISTRATIVE RULES

TITLE 00

LEGISLATIVE REFERENCE BUREAU

SUBTITLE 1 HAWAII ADMINISTRATIVE RULES FORMAT

CHAPTER 00-3

NUMBERING

|          |   |
|----------|---|
| §00-3-1  | Numbering system; overview  |
| §00-3-2  | Titles  |
| §00-3-3  | Subtitles   |
| §00-3-4  | Parts   |
| §00-3-5  | Chapters  |
| §00-3-6  | Subchapters   |
| §00-3-7  | Sections  |
| §00-3-8  | Units of organization within a section  |
| §00-3-9  | Title and chapter analyses  |
| §00-3-10 | Running heads; pagination   |
| §00-3-11 | Insertions  |
| §00-3-12 | Reusing numbers from repealed sections, subchapters, chapters and other larger units of organization prohibited; units below section level not affected |

**§00-3-1 Numbering system; overview.** (a) All rules shall be coordinated through a comprehensive numbering system which shall be organized

into a series of titles, chapters, and sections.

(b) The numbers identifying each rule section shall consist of three components. The first number shall indicate the title, the second number the chapter, and the third number the section within the chapter.

(c) The following is an example of how the numbering system might be applied to the rules of a department:

|                |                                   |
|----------------|-----------------------------------|
| Title 10       | Department of Transportation      |
| Subtitle 4     | Motor vehicles                    |
| Chapter 10-2   | Inspection of motor vehicles      |
| Subchapter 2   | Responsibility of station owner   |
| Section 10-2-1 | Notification of change of address |

In this example, rules concerning the responsibility of the station owner to notify the motor vehicle division of a change of address would be cited as section 10-2-1, Hawaii Administrative Rules. It should be noted that not all units of organization in the example are included in the section number. References to the applicable title, chapter, and section within the chapter provide an adequate number of coordinates to accurately identify the rule section in question.

(d) Agencies are not required to use any units of organization other than titles, chapters, and sections when organizing rules, and shall not use any other units in citing rules. See section 00-1-6.

(e) Each rule section shall be identified by a number followed by a section heading or caption. The section heading, which shall be drafted by the agency adopting the rule section, is a description of the contents of the section and assists the reader's search for the topic of interest.

(f) The exhibit at the end of this chapter entitled "Example of Form and Style--Organization (8/18/14)", is made a part of this section. [Eff 2/15/80; am and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-3-2 Titles.** (a) Titles are the largest unit of organization. Title numbers are assigned at the department level only. Each title includes all of the rules for a particular department, its subdivisions, and subagencies, and every board, commission, or other agency to which the department is primarily responsible for providing staff support, including agencies assigned or attached to the department for administrative purposes only.



Rules of boards and commissions are included within the departmental title even if the department is considered to be subordinate to the board (e.g., the board of education, board of agriculture, or board of land and natural resources) and even if all rules are officially adopted by the board or commission rather than the department.

(b) Departmental title number assignments are as follows:

|          |  |
|----------|--|
| Title 1  | Office of the governor   |
| Title 2  | Office of the lieutenant governor  |
| Title 3  | Department of accounting and general services  |
| Title 4  | Department of agriculture  |
| Title 5  | Department of the attorney general   |
| Title 6  | Department of budget and finance   |
| Title 7  | Department of defense  |
| Title 8  | Department of education  |
| Title 9  | Office of Hawaiian affairs   |
| Title 10 | Department of Hawaiian home lands  |
| Title 11 | Department of health   |
| Title 12 | Department of labor and industrial relations   |
| Title 13 | Department of land and natural resources   |
| Title 14 | Department of human resources development  |
| Title 15 | Department of business, economic development, and tourism  |
| Title 16 | Department of commerce and consumer affairs  |
| Title 17 | Department of human services   |
| Title 18 | Department of taxation   |
| Title 19 | Department of transportation   |
| Title 20 | University of Hawaii   |
| Title 21 | Legislative agencies   |
| Title 22 | Judiciary  |
| Title 23 | Department of public safety. [Eff 2/15/80; am and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2) |

**§00-3-3 Subtitles.** (a) Titles may be divided into subtitles. Subtitles may reflect administrative units within departments or program or subject areas, under which chapters are organized. Subtitles are numbered consecutively. Subtitle numbers are not cited as part of the section number.

(b) Subtitles inserted where no "whole number" gaps exist (e.g., where a new subtitle is being inserted between subtitles 2 and 3 of title 14) shall be

numbered as provided in section 00-3-11. [Eff 2/15/80; comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-3-4 Parts.** (a) Subtitles may be divided into one or more parts. Parts may reflect administrative units, or program or subject areas within a subtitle under which chapters are organized. Parts are numbered consecutively but the part number is not cited as part of the section number. Subtitles need not be divided into parts, but parts shall not be used except as divisions of subtitles.

(b) Parts inserted where no "whole number" gaps exist (e.g., where a new part is being inserted between parts 2 and 3 of title 14) are numbered as provided in section 00-3-11. [Eff 2/15/80; comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-3-5 Chapters.** (a) Chapters shall constitute the primary divisions within a title. Chapters may encompass all rules for a particular subject area or program administered by the department.

**Example:**

Workers' compensation, unemployment compensation, and temporary disability insurance might constitute chapters within the title assigned to the department of labor and industrial relations.

(b) Chapters shall be numbered consecutively in Arabic numerals without regard to subtitles and parts. In other words, if chapters 1 to 5 of a given title are organized under subtitle 1, the first chapter under subtitle 2 shall be assigned a number larger than 5, rather than starting with chapter 1 again.

(c) Chapters inserted where no "whole number" gaps exist (e.g., where a new chapter is being inserted between chapters 18-24 and 18-25) are numbered as provided in section 00-3-11. [Eff 2/15/80; am and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-3-6 Subchapters.** (a) Sections within each chapter may be grouped

into more specific categories called subchapters. Subchapters are numbered consecutively and subchapter numbers are not cited as part of the section number.

(b) Subchapters inserted where no "whole number" gaps exist (e.g., where a new subchapter is being inserted between subchapters 4 and 5 of chapter 17-101) are numbered as provided in section 00-3-11. [Eff 2/15/80; am and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-3-7 Sections.** (a) Sections are the lowest independent units within the numbering system. Each rule section adopted by an agency is numbered as a section within a chapter.

(b) Within each chapter, sections are numbered consecutively in Arabic numerals without regard to subchapters unless space is reserved for expansion.

(c) Sections inserted where no "whole number" gaps exist (e.g., where a new section is being inserted between sections 16-85-23 and 16-85-24) are numbered as provided in section 00-3-11. [Eff 2/15/80; am and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-3-8 Units of organization within a section.** (a) Each section may be subdivided into subsections, paragraphs, subparagraphs, and clauses. The divisions shall be indicated as follows:

- (1) Subsections shall be indicated by lower case letters in parentheses, as (a), (b), (c);
- (2) Paragraphs shall be indicated by Arabic numerals in parentheses, as (1), (2), (3);
- (3) Subparagraphs shall be indicated by capitalized letters in parentheses, as (A), (B), (C); and
- (4) Clauses shall be indicated by lower case Roman numerals in parentheses, as (i), (ii), (iii).

Further division of a section shall not be allowed.

The "Example of Form and Style--Organization (8/18/14)" located at the end of this chapter, and the "Example of Form and Style--Spacing (8/8/14)" located at the end of chapter 00-2, are made a part of this section.

(b) Insertion of new items between existing items (e.g., adding a new subsection between existing subsections or a new paragraph between existing paragraphs) is accomplished by renumbering existing items. For example, if a

section contains subsections (a), (b), (c), and (d), a new subsection (b) can be added by renumbering existing subsections (b), (c), and (d), as (c), (d), and (e), respectively.

(c) Internal cross-references shall be as provided in the "Cross References" section of the exhibit entitled "Style, Words, and Grammar (7/11/14)" located at the end of chapter 00-4, which is made a part of this section. [Eff 2/15/80; comp 3/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-3-9 Title and chapter analyses.** Every title shall have a title analysis at the beginning of the title, listing in numerical order all of the subtitles (if any), parts (if any), and chapters contained in the title. Every chapter shall have a chapter analysis at the beginning of the chapter listing in numerical order, all of the subchapters (if any), and the section numbers and headings of all sections contained in the chapter. The title and chapter analyses serve as a table of contents for the particular title or chapter. A title analysis is included at the beginning of the title and a chapter analysis at the beginning of each chapter. [Eff 2/15/80; comp 5/1/84; comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-3-10 Running heads; pagination.** (a) The number of the section that begins each page (even though the section itself begins on a previous page) shall be printed in the upper left-hand corner of a left-hand page. The number of the last section appearing on a right-hand page shall be printed in the upper right-hand corner of the right-hand page. These numbers are called "running heads". Running heads may be placed less than one and one-half inch, but shall be not less than one inch from the top of the sheet of paper.

(b) Page numbers run consecutively throughout each chapter and consist of the chapter number followed by a hyphen and the number of the page within the chapter. The purpose of this requirement is to promote ease of organization.

**Example:**

Chapters 3-1 and 3-2 of title 3 contain five pages each. The pages of chapter 3-1 would be numbered 1-1, 1-2, 1-3, 1-4, and 1-5,

while the pages in chapter 3-2 would be numbered 2-1, 2-2, 2-3, 2-4, and 2-5.

Page numbers are printed in Arabic numerals at the bottom (centered) of each page.

(c) Page numbers are not assigned to pages of notices of change, but running heads shall be included in the upper right corner.

(d) Running heads are not required for the Ramseyer version of any set of rules; provided that agencies may use running heads if deemed by the agency to be beneficial (for example, if sections are lengthy). [Eff 2/15/80; am and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-3-11 Insertions.** (a) Subtitles, parts, chapters, subchapters, and sections inserted between consecutive whole numbered items shall take the number of the previous item followed by a decimal point and number. Progressions of numbers shall be in accordance with accepted principles of mathematics.

**Examples:**

- (1) This first example applies to insertions of both new subtitles and parts, as the key unit of organization for each is the chapter.

Existing subtitle 2 of title 5 contains chapters 5-5 to 5-9 while subtitle 3 contains chapters 5-10 to 5-12. A new subtitle containing two new chapters is added between these subtitles. The new subtitle might be numbered "2.1", while the new chapters might be "5-9.1" and "5-9.2". The first section of each of these new chapters would then be numbered 5-9.1-1 and 5-9.2-1, respectively.

- (2) This second example applies to insertions of both new subchapters and new sections, as the key unit of organization for each is the section.

Chapter 6-15 has several subchapters. Subchapter 3 contains sections 6-15-18 to 6-15-25. Subchapter 4 contains sections 6-15-26 to 6-15-31. A new subchapter containing fifteen

sections inserted between these subchapters might be subchapter "3.1". The sections could be numbered 6-15-25.01, 25.02, to 6-15-25.15. It would be incorrect to number the sections 25.1, 25.2,...25.5, 25.10, 25.11,...25.15 because in mathematical terms 25.10, 25.11, etc. are numerically smaller than 25.2, 25.3, etc.

Using this same example, if the agency later needed to insert five new sections between sections 6-15-25.06 and 6-15-25.07, the new sections could be numbered 6-15-25.061, .062, .063, .064, and .065, all of which are numerically larger than .06 but smaller than .07.

- (3) For examples of section and chapter numbers using decimals, see section 00-4-8.5 and chapter 00-4.9.

(b) The use of alphabets (e.g., 25a, 31c, etc.) or any items other than decimal numbers to number newly inserted units of organization is prohibited. Any existing rules presently using alphabets or items other than numerals in the numbers of sections, subchapters, chapters, or larger units of organization are deemed out of compliance with the requirements of the Hawaii administrative rules format. [Eff 2/15/80; am and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-3-12 Reusing numbers from repealed sections, subchapters, chapters and other larger units of organization prohibited; units below section level not affected.** (a) Once a section or larger unit of organization is repealed, the number assigned to that repealed section or larger unit of organization shall not be used again until the entire title is compiled.

(b) Reusing numbers that had been assigned to repealed sections or chapters may appear to be simple, straightforward, and expedient, particularly where the repealed chapter is being replaced by a chapter that is similar in substance. As a practical matter, however, reusing numbers can create more problems than it solves, including:

- (1) Cross-referencing problems; and
- (2) Identification problems when a single chapter of rules is merged into a much larger collection, such as the official collection at the office of the lieutenant governor. If chapter or section numbers are reused, a thorough search of the complete collection of rules at the office of the lieutenant governor will identify not only the existing

set of rules, but all other rules that have the same chapter or section number.

- (c) The Hawaii administrative rules format has features that can accommodate the needs of agencies in numbering rules. These include:
  - (1) The decimal numbering system for insertions, established in section 00-3-11, which is capable of infinite expansion; and
  - (2) The system for historical notes established in section 00-4-8.5, which shows the connection between rules that are substantially similar. [Eff and comp 5/23/16] (Auth: §91-4.2) (Imp: §91-4.2)





**EXAMPLE OF FORM AND STYLE--ORGANIZATION (8/8/14)**

TITLE 0

DEPARTMENT OF CORPORATE REVENUE

CHAPTER 3

EXCISE TAXES

SUBCHAPTER 2

EXEMPTIONS, LICENSES

|                     | Title | Chapter | Section        | Heading   |
|---------------------|-------|---------|----------------|---|
|                     | ↖     | ↑       | ↗              | ↑   |
|                     |       |         | <b>§00-3-9</b> | <b>Exemptions, persons exempt, extensions of time.</b>            |
| subsection          | (a)   |         |                | This part shall not apply to the following persons:               |
| paragraph           |       | (1)     |                | National banks;   |
| Note capitalization |       | (2)     |                | Corporations, companies, associations, or trusts organized for:   |
| subparagraph        |       |         | (A)            | The establishment and conduct of cemeteries no                    |
| Note capitalization |       |         |                | part of:  |
| clause              |       |         | (i)            | The net earnings of which inures to the                           |
| Note capitalization |       |         |                | financial benefit of any private stockholder or individual; and   |
|                     |       |         | (ii)           | The net losses of which inures to the                             |
|                     |       |         |                | financial loss of all private stockholders;                       |
| subparagraph        |       |         |                | provided that the exemption shall apply only to                   |
| continued           |       |         |                | the activities of those persons in the conduct of                 |
|                     |       |         |                | cemeteries; and   |
| subparagraph        |       |         | (B)            | Any activity the primary purpose of which is to                   |
|                     |       |         |                | produce income, even though the income is to be                   |
|                     |       |         |                | used for or in the furtherance of the exempt                      |
|                     |       |         |                | activities of persons in subparagraph (A);                        |
| paragraph           |       |         |                | provided that those corporations, companies,                      |
| continued           |       |         |                | associations, and trusts perform for the benefit of               |
|                     |       |         |                | their stockholders.   |
| subsection          | (b)   |         |                | The department for good cause may extend the time for             |
|                     |       |         |                | registration or the time for filing an application for exemption, |
|                     |       |         |                | but the extension or extensions shall not aggregate more than a   |
|                     |       |         |                | total of two months.  |
| subsection          | (c)   |         |                | As used in this section, "persons" shall only include             |
|                     |       |         |                | those entities set forth in subsection (a). [Eff 8/24/70, am      |
| source              |       |         |                | 12/31/71, am 3/1/76] (Auth: HRS §§235-5, 237-35) (Imp: HRS        |
| note                |       |         |                | §237-115; SLH 1965, Act 21, §2; 13 U.S/C., §644; 18 C.F.R.        |
|                     |       |         |                | §738.19)  |

(Generally authorizing department to adopt rules relating to taxes)      (Authorizing adoption of rules concerning excise taxes)



HAWAII ADMINISTRATIVE RULES

TITLE 00

LEGISLATIVE REFERENCE BUREAU

SUBTITLE 1 HAWAII ADMINISTRATIVE RULES FORMAT

CHAPTER 00-4

DRAFTING REQUIREMENTS

|           |   |
|-----------|---|
| §00-4-1   | Section headings  |
| §00-4-2   | References to Hawaii Revised Statutes, Revised Laws of Hawaii,<br>or Session Laws of Hawaii |
| §00-4-2.1 | Federal citations   |
| §00-4-3   | Citation of authority   |
| §00-4-4   | Sections implemented or interpreted by rule section   |
| §00-4-5   | Source notes  |
| §00-4-6   | Incorporation by reference  |
| §00-4-7   | Style and grammar   |
| §00-4-8   | Repealed rules  |
| §00-4-8.5 | Historical notes  |
| §00-4-9   | "Reserved" categories   |
| §00-4-10  | Examples in text of rules   |

**§00-4-1 Section headings.** (a) Each section shall have a concise heading following the section number.

(b) Headings shall indicate the substance or subject of the section but need not describe everything contained in the section. The use of terms such as

"General" or "Miscellaneous", while not unreasonable as subchapter headings, are not very helpful as section headings.

(c) The section heading shall not be considered part of the rule section, but merely a device to help locate the topic. The heading shall not be treated as part of the first sentence of a section.

**Example:**

**CORRECT**

**§00-4-5 Source notes.** Source notes shall be included in brackets at the end of each section.

**INCORRECT**

**§00-4-5 Source notes** shall be included in brackets at the end of each section.

[Eff 2/15/80; am and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2)  
(Imp: HRS §91-4.2)

**§00-4-2 References to Hawaii Revised Statutes, Revised Laws of Hawaii, or Session Laws of Hawaii.** (a) Section 91-4.2, Hawaii Revised Statutes, requires that whenever possible, rules should incorporate applicable sections of the Hawaii Revised Statutes by reference and not print the section in the rule. Statutory provisions have the force and effect of law and need not be reproduced in rules to provide a basis for agency action.

(b) All references to the Revised Laws of Hawaii and the Session Laws of Hawaii (if codified in the Hawaii Revised Statutes) shall be updated to refer to applicable sections of the Hawaii Revised Statutes.

**Example:**

Act 105, Session Laws of Hawaii 1970, has been codified as chapter 359G, Hawaii Revised Statutes. All rules adopted pursuant to the Act could refer to Act 105, Session Laws of Hawaii

1970, had the Act not been codified as chapter 359G. Since the Act has been codified, all references to Act 105 shall be updated to refer to the appropriate section or sections of chapter 359G, Hawaii Revised Statutes.

(c) When making specific chapter or section references in rules, "Hawaii Revised Statutes" may be abbreviated to "HRS"; e.g., "chapter 91, HRS", or "section 91-4.2, HRS". This is an exception to the general prohibition on the use of acronyms.

(d) Use the following citation form for session law material that has not been codified into the Hawaii Revised Statutes:

- (1) In text of a rule section: Act \_\_\_\_\_, Session Laws of Hawaii (year), section \_\_\_\_\_; or Act \_\_\_\_\_, Special Session Laws of Hawaii (year), section \_\_\_\_\_.
- (2) In notes: SLH (year), Act \_\_\_\_\_, §\_\_\_\_\_; or SSLH (Special Session Laws of Hawaii) (year), Act §\_\_\_\_\_. [Eff 2/15/80; am and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-4-2.1 Federal citations.** (a) All citations to federal statutes, whether cited by Public Law (P.L.) or popular name (e.g., Title XX of the Social Security Act), shall include appropriate references to the United States Code, if any. This requirement shall apply even though the title of the United States Code cited to has not formally been enacted as law (codified). The only exceptions to this requirement shall be the federal Internal Revenue Code of 1954, as amended, and the federal Internal Revenue Code of 1986, as amended, which may be cited as such.

(b) All citations to the Federal Register shall include appropriate citations to the Code of Federal Regulations if the federal regulations cited are included therein.

(c) The purpose of this section is to facilitate the ability of persons outside the adopting agency to find the federal statutes or rules referred to. The publications most readily accessible to the public for the purpose of finding federal statutes and rules are the United States Code and the Code of Federal Regulations. The agency adopting the rules is in the best position to determine which particular sections of the United States Code or Code of Federal Regulations are being referenced. The federal Internal Revenue Code of 1954, as

amended, and the federal Internal Revenue Code of 1986, as amended, are exempted from this section because of their ready availability to the public in that form. [Eff and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-4-3 Citation of authority.** (a) Statutory authority shall be properly cited at the end of each rule section following the source note, and indicated by "(Auth: \_\_\_\_\_)". Citations of authority are not source notes.

(b) Each rule section shall include a list of all state statutes, and, if applicable, federal statutes and federal rules authorizing the adoption of that rule section. The citation shall include statutes granting a department general authority to adopt rules as well as those which authorize or require the adoption of rules concerning the particular subject of the rule section. The citation of authority shall be changed as necessary to reflect changes in the numbers of the authorizing statutes (e.g., due to renumbering by the legislature); provided this may be accomplished by filing a "Notice of Change" with the office of the lieutenant governor pursuant to section 00-5-6.

(c) Except for rules of practice, procedure, and public information adopted pursuant to section 91-2, Hawaii Revised Statutes, citations of authority shall not include references to chapter 91, Hawaii Revised Statutes. Except for the categories of rules listed in this subsection, the Hawaii Administrative Procedure Act (chapter 91, HRS) does not authorize or require the adoption of specific rules. Rather, it provides general standards and procedures for the adoption of rules.

(d) Appropriate abbreviations of authorities cited in the citations of authority shall be as listed below:

- (1) Citations of the Hawaii Revised Statutes shall be "HRS" followed by the appropriate section number, e.g., HRS §000-10, HRS §§000-10 to 000-12;
- (2) References to the Session Laws of Hawaii or Special Session Laws of Hawaii shall include the appropriate section number of the Act, e.g., SLH 1979, Act 216, §2, or Special Session Laws of Hawaii 2002, Act 3, §1. All session law or special session law citations shall be changed to the appropriate Hawaii Revised Statutes citation upon availability; provided this may be accomplished by filing a "Notice of Change" pursuant to section 00-5-6;
- (3) Citations to federal statutes shall be made to the appropriate title and section of the United States Code (e.g., 28 U.S.C. §1652), even

- if not formally enacted as law; provided citations to the Internal Revenue Code of 1954 and the Internal Revenue Code of 1986 may be made without reference to the United States Code;
- (4) Federal statutes not included in the United States Code may be cited to the applicable public law, e.g., Pub. L. No. 89-25, §50 (1965). All public law number citations shall be changed to the appropriate United States Code citation upon availability; provided this may be accomplished by filing a "Notice of Change" pursuant to section 00-5-6;
  - (5) All federal regulations shall be cited to the Code of Federal Regulations if contained therein, including the appropriate title and section number, e.g., 16 C.F.R. §162.11; and
  - (6) When federal regulations do not appear in the Code of Federal Regulations, the section number of the rule and the appropriate volume and page of the Federal Register shall be cited (e.g., 22 Fed. Reg. 9641 §1031.5). All citations to the Federal Register shall be updated to appropriate C.F.R. citations upon availability; provided this may be accomplished by filing a "Notice of Change" pursuant to section 00-5-6.
- (e) Ramseyer formatting (i.e., brackets, underscoring, or strikethrough) need not be used to show additions, deletions, or changes to the citation of authority.
- (f) The exhibit at the end of chapter 00-2 entitled "Example of Form and Style--Spacing (8/18/14)" and the exhibit at the end of chapter 00-3 entitled "Example of Form and Style--Organization (8/18/14)" are made a part of this section. [Eff 2/15/80; am and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-4-4 Sections implemented or interpreted by rule section.** (a) Agencies shall include after the source note and citation of authority a list of all statutes, session laws, public laws, and federal rules being interpreted or implemented by each rule section. The format for citations shall be as provided in section 00-4-3(d). The list of statutes and rules implemented or interpreted shall be updated as necessary to reflect changes in the numbers of the statutes and rules implemented or interpreted; provided this may be accomplished by filing a "Notice of Change" with the office of the lieutenant governor pursuant to section 00-5-6.

(b) The sections implementing or interpreting the rule section shall be listed after the citation of authority, and shall be indicated by "(Imp: )".

(c) If the same statute constitutes both the authority for and the statute implemented by a rule section, the statute shall be cited in both lists.

(d) If no statutes or federal regulations are being implemented or interpreted by the rule section, then this shall be indicated by stating "(Imp: None)".

(e) Ramseyer formatting (i.e., brackets, underscoring, or strikethrough) need not be used to show additions, deletions, or changes to lists of sections implemented or interpreted.

(f) The exhibit at the end of chapter 00-2 entitled "Example of Form and Style--Spacing (8/18/14)" and the exhibit at the end of chapter 00-3 entitled "Example of Form and Style--Organization (8/18/14)" are made a part of this section. [Eff 2/15/80; am and comp 5/1/84; comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-4-5 Source notes.** (a) Source notes shall be included in brackets at the end of each section. Source notes provide historical information on the section by setting forth the date:

- (1) When the section first becomes effective "Eff";
- (2) When all subsequent amendments to that section become effective "am";
- (3) Of any renumberings "ren"; or
- (4) Of compilations "comp".

For purposes of this section, a section shall be considered amended when any change is made to any part of the text or heading of a section but not the section number or related notes. A change of the section number shall be a "renumbering". Consequently, a "ren" in a source note which is not accompanied by an "am" will indicate that no change was made to the section except its number. A section which is amended and renumbered at the same time shall be indicated by "am and ren". The repeal of a section shall be indicated by an "R".

(b) Applying the rules of subsection (a), source notes for each type of rulemaking action will generally be as follows:

- (1) In a new chapter, each section shall contain a source note that states: "[Eff ]";
- (2) In a repealed chapter, the repeal page shall state: "§§ to Repealed. [R ]";



- (3) In a chapter that is simultaneously amended and compiled:
- (A) A new section being added to the chapter shall be indicated by "[Eff and comp ]";
  - (B) An amended section shall be indicated by adding "am and comp " as the last source note entry;
  - (C) A renumbered section shall be indicated by adding "ren and comp " as the last source note entry; and
  - (D) A section that is both amended and renumbered shall be indicated by adding "[am, ren, and comp ]" as the last source note entry.

(c) Source notes shall include references to all changes in section numbers assigned to a rule section after February 15, 1980.

Source notes that indicate renumberings effective prior to January 1, 2017, shall reference the new section number to which the section was renumbered as shown in the example below.

**Example--Only for renumbered prior to January 1, 2017:**

A source note that reads: [Eff 7/12/51; am 1/9/52; am 10/6/55; am 4/5/66; ren §5-2-21 2/15/80; am 3/1/82; am and ren §5-2-14 7/1/83; ren §5-2-23 9/10/87] would indicate to a reader that section 5-2-23 became effective on 7/12/51 and was amended on 1/9/52, 10/6/55, and 4/5/66; renumbered on 2/15/80 to section 5-2-21; amended on 3/1/82; amended and renumbered to section 5-2-14 on 7/1/83; and renumbered to its present number (§5-2-23) on 9/10/87.

(d) The source note for every rule section in effect on February 15, 1980, shall reflect the new section number obtained during the transition as a "ren", unless transition is accomplished by repealing existing rules and adopting new rules.

(e) Source notes relating to renumberings that take effect after December 31, 2016, shall reference both the old section number from which, as well as the new section number to which, the section was renumbered as shown in the following example.

**Example:**

Section 17-610-85.3 is renumbered as section 17-610-86.7:  
[; §17-610-85.3; ren §17-610-86.7 (date)]

**Example--**For sections renumbered after December 31, 2016:

A source note that reads: [Eff 7/12/01; am 1/9/02; am 10/6/15; am 4/5/16; §5-2-8; ren §5-2-21 and comp 2/15/18; am and comp 3/1/22; §5-2-21; am, ren §5-2-20, and comp 7/1/23] would indicate to a reader that section 5-2-37 became effective on July 12, 2001, and was:

- (1) Amended on 1/9/02;
- (2) Amended on 10/6/15;
- (3) Amended on 4/5/16;
- (4) Renumbered from §5-2-8 to §5-2-21 and compiled on 2/10/18;
- (5) Amended and compiled on 3/1/22; and
- (6) Amended, renumbered from §5-2-21 to §5-2-20, and compiled on 7/1/23.

(f) When preparing rules for adoption or other action, agencies will not be able to include complete source notes unless the effective date of the proposed rules or changes is specified in advance. Where rules are intended to become effective on a date that is not specified, e.g., "ten days after filing with the office of the lieutenant governor", the effective date cannot be known until the rules are actually filed. Consequently, when the effective date of the rules (or amendments or other actions) is not plainly specified, agencies shall leave the last portion of the source notes (at least fifteen spaces on a single line) blank until the day the rules are filed. At that point, the effective date shall be stamped into the final portion of the source note by the office of the lieutenant governor. The blank space shall be one and one-half inches long on a single line.

**Example:**

**CORRECT**

[Eff 2/15/80; am and ren §5-16-21 11/15/80; am 7/1/81; am and comp 1/5/82; am 6/28/82; ren §5-16-22 8/1/83; comp ]

**INCORRECT**

[Eff 2/15/80; am and ren §5-16-21 11/16/80; am  
7/1/81; am and comp 1/5/82; am 6/28/82; ren §5-  
16-22 8/1/83; comp

]

The second example is incorrect because the one and one-half inches of blank space are not on a single line. The first example has one and one-half inches of blank space on the last line.

(g) Source notes shall begin immediately following the last words in the text of any section. The margin for the source note shall be the margin being used for the level of organization at which the section ends. For example, if the last level of organization in the section is a subsection which is not divided into paragraphs, the source note shall begin at the end of the text, and return to the left margin. On the other hand, if the section ends in a paragraph, subparagraph, or clause, the source note begins at the end of the text but returns only as far as the blocking on the paragraph, subparagraph, or clause. [Eff 2/15/80; am and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-4-6 Incorporation by reference.** (a) An agency may incorporate into its own rules, other materials such as maps, forms, exhibits, attachments, or tables, as well as third party standards or codes published by the United States government or private organizations. To do so, the agency shall adopt a specified edition of the items or third party standards, or incorporate them as they existed on a specified date. An agency adopting rules that are the same as the rules of a federal agency shall incorporate the federal rules as they existed on a specified date. The agency shall not adopt future amendments to the third party standards by attempting to incorporate them in the adopting rules through the use of terms such as "as may be amended" or "as amended".

**Example:****CORRECT**

The Uniform Building Code, 1967 Edition,  
published by the International Conference of

Building Officials is made a part of this chapter.

**CORRECT**

Title 7, Chapter XXVIII, subpart B of the Code of Federal Regulations, as it existed on February 4, 1984, shall govern the procedures pertaining to meat grading.

**INCORRECT**

The Uniform Building Code, 1967 Edition, published by the International Conference of Building Officials, and all amendments which may be made thereto, is made a part of this chapter.

The purpose of prohibiting the incorporation of future amendments is a separate issue from the larger question of whether such a method of amendment is illegal as an unconstitutional delegation of authority. The incorporation of future amendments by reference, while convenient, is nonetheless an undesirable practice which can result in uncertainty as to which version of the incorporated material is in force at a particular time. Accordingly, the incorporation of future amendments is prohibited as a matter of format.

(b) Subsection (a) shall not prohibit the adjustment of rates or other items on the basis of indices established by third parties such as the:

- (1) Prime rate;
- (2) Consumer price index (as established by a specified agency); or
- (3) Rate of inflation (as established by a specified agency).

The agency using the particular index shall provide specific information in the rules regarding where a person may obtain information concerning the index being referred to. The agency adopting the rules shall have all relevant information regarding the index available for distribution.

(c) An agency seeking to reflect amendments made by the publishing body to the incorporated edition may accomplish this by either:

- (1) Amending the rules to incorporate a newer edition; or
- (2) Treating the amendments as exceptions, deletions, or additions pursuant to subsection (d).

(d) Where an agency in the original incorporation or later incorporation of amendments, makes any exception, deletes any provision, or adds any requirement not contained in third party standards, the exception, deletion, or

addition shall be included as part of the rules incorporating the standards by reference.

**Example:**

The Uniform Building Code, 1967 Edition, published by the International Conference of Building Officials, is made a part of this chapter, subject to the following amendments:

- (1) §4502 is amended by deleting the third paragraph.
- (2) §4507 is amended to read: "§4507. No doors, either fully opened, or when opening, shall project beyond the property line."
- (3) Table No. 54-C is amended by amending entries in the right-hand column under "Over 50 Sq. Ft." for "Minimum Frame Lap" and "Minimum Glass Frame Lap" to read: "3/8".

While it is not mandatory to include copies of items that are incorporated by reference as attachments, doing so is considerably more useful to users of the rules, whether agency staff or the general public. To minimize confusion, in addition to the title and date marked on the map, form, exhibit, attachment, or table being incorporated and attached, the adopting agency shall also indicate the chapter number in which the map, form, exhibit, or other incorporated item is located. Additionally, if there is more than one item being incorporated that is located in the same place (e.g., at the end of a chapter), each page of each document being incorporated shall be marked in a way to differentiate the pages of each document from the pages of the other documents.

(e) The incorporation of maps, forms, or other exhibits shall be accomplished by giving the map, form, or exhibit a title and date, and citing the title and date as a part of the incorporating rule section. Titles shall be descriptive, e.g., "Map of the Nuuanu Reservoir Conservation Area" 12/1/79. The incorporating rule section shall state where the map, form, or exhibit is located, e.g., "at the end of this (section); (chapter); (title)". Terms such as "attached" shall not be considered adequately descriptive.

(f) If a table, map, form, exhibit, or other incorporated item is contained within the text of a section (rather than at the end of the chapter), the item shall include a title and a date, similar to items incorporated by reference pursuant to this section. The purpose of this requirement, not unlike the

requirement for maps, forms, and other exhibits, is to ensure that persons referring to the section containing the table, map, form, or exhibit are comparing identical versions of the section. For more extensive treatment of examples included with the text of rules, see section 00-4-10. An example of an exhibit, in this case a table, that is set forth in the text of the section is as follows:

**Example:**

**Fee Schedule (5/1/13)**

| <b>Item</b>      | <b>Submission To</b> | <b>Fee Amount</b> |
|------------------|----------------------|-------------------|
| Application      | Board staff          | \$100             |
| Amendment to App | Board staff          | \$ 50             |
| Withdrawal       | Board staff          | \$ 10             |
| Appeal of Denial | Hearing office       | \$100             |

(g) The purpose of requiring dates to be placed on all exhibits and requiring the incorporation of the title and date of the maps, forms, exhibits, or other items into the text of the section is to ensure the inclusion of the correct map, form, exhibit, or other incorporated item within the rules. When a map, form, exhibit, or other incorporated item is changed, the new item shall carry a date that is later than the date on the item being replaced. All sections that incorporate a map, form, exhibit, or other incorporated item which is being changed shall be amended by changing the date of the incorporated item to conform to the date of the new item.

Agencies shall not use the effective date of the new rules or amendments to existing rules as the dates for maps, forms, exhibits, or other incorporated items as the agency, in all likelihood, will not know the effective date in advance.

The actual date on the map, form, exhibit, or other incorporated item is not important, as long as:

- (1) The date is specific; and
- (2) The date on the map, form, exhibit, or other incorporated item matches the date in the text of the incorporating sections.

(h) Maps, forms, exhibits, or other items incorporated by reference into rules shall be on 8-1/2 x 11 inch paper, copied on two sides. If necessary, the incorporated materials shall be photocopied in reduced size to fit onto the 8-1/2 x 11 inch paper, unless doing so will render the materials unreadable or otherwise

useless. [Eff 2/15/80; am and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-4-7 Style and grammar.** Style and grammar requirements shall be as provided in the exhibit entitled "Style, Words, and Grammar (7/11/14)", located at the end of this chapter. [Eff 2/15/80; am and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-4-8 Repealed rules.** (a) When any subtitle, part, chapter, subchapter, or section is repealed, the number shall not be reassigned until the entire title is compiled. In other words, once a rule section is repealed, the section number assigned to that rule section is completely removed from further use. In the updating pages, the agency shall cite the section number followed by the word "Repealed". A source note indicating only the date the repeal became effective shall be included. The exhibit entitled "Example No. 5-2--Repeal Page (Chapter Repealed by Rulemaking) (9/15/14)", at the end of chapter 00-5 is made a part of this section.

(b) Section numbers used for emergency or interim rules, whether repealed by operation of law (i.e., passage of time) or agency rulemaking action shall not be used for the permanent replacement rules. [Eff 2/15/80; am 8/1/80; am and comp 5/1/84; comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-4-8.5 Historical notes.** (a) When any section is repealed and another section substantially similar in contents is subsequently adopted, the agency shall include the source note from the earlier repealed section as a "historical note" at the end of the section.

**Example--**Historical note applicable to a single section:

**§14-6-9 Disqualifications.** No person shall be a bank examiner who is a director or owner of any interest, or shares of stock in any company or corporation that may be examined.

[Eff 7/12/87] (Auth: HRS §401-50) (Imp: HRS §401-39)

Historical note: §14-6-9 is based substantially upon §14-6-4. [Eff 6/10/50; am 6/1/61; am 12/2/75; ren §14-6-4 2/15/80; am 3/1/83; R 7/12/87]

(b) Where a subchapter or chapter is repealed and a unit of organization substantially similar in content is subsequently adopted, the requirements of subsection (a) may be modified as follows:

- (1) Historical notes providing the history of the predecessor section need not be placed at the end of each section of the new unit of organization; and
- (2) A single historical note may be placed at the beginning of the unit of organization giving the history of the predecessor unit of organization.

(c) Examples of historical notes applicable to an entire chapter or subchapter (e.g., where an entire chapter is repealed and replaced with a new chapter, or a subchapter is repealed and replaced with a new subchapter) are set forth in this subsection.

**Example--Historical note applicable to an entire chapter**

Title 17  
Department of Human Services  
Chapter 17-663  
Special Supplemental Nutrition Assistance Program Households

Subchapter 1 Household Concept

\*\*\*

Subchapter 18 Transitional Benefits Alternative

|             |                                   |
|-------------|-----------------------------------|
| §17-663-176 | Overview                          |
| §17-663-177 | Definitions                       |
| §17-663-178 | Transitional benefits alternative |
| §17-663-179 | Ineligible households             |



|                           |  |
|---------------------------|--|
| §17-663-180               | Determining the transitional<br>benefits alternative benefit<br>amount |
| §17-663-181               | Notification of transitional<br>benefits alternative eligibility       |
| §17-663-182               | Transitional benefits alternative<br>reporting requirements            |
| §17-663-183               | Transitional benefits alternative<br>termination                       |
| §17-663-184 to 17-663-186 | (Reserved)   |

Historical note: This chapter is based substantially upon chapter 17-716, subchapter 3 [Eff 7/19/82; am 10/2/82; am 4/1/83; am 6/16/83; am 7/5/83; am 9/2/86; am 12/27/86; am 6/18/87; am 8/31/87; am 10/26/87; am 4/28/88; am 12/30/88; am 5/4/89; am 6/1/89; am 4/16/90; am 8/25/90; am 10/10/90; am 8/30/91; R 3/19/93]; and chapter 17-720. [Eff 7/19/82; am 10/2/82; am 11/29/82; am 4/1/83; am 7/5/83; am 10/1/83; am 1/14/84; am 6/4/84; am 11/29/85; am 4/21/86; 5/1/86; am 7/1/86; am 7/14/86; am 8/16/86; am 9/2/86; am 11/17/86; am 12/27/86; am 6/18/87; am 8/31/87; am 10/26/87; am 1/21/88; am 4/28/88; am 6/27/88; am 12/30/88; am 6/1/89; am 7/24/89; am 10/19/89; am 12/21/89; am 8/25/90; am 11/19/90; am 7/20/91; am 8/30/91; R 3/19/93]

The historical note in this example includes each date that any part of chapter 17-716, subchapter 3, and chapter 17-720 had been affected. Because the historical note effectively constitutes a "source note" for the entire chapter 17-716, subchapter 3 and chapter 17-720, it is necessary to include entries for each date when any part of the chapter was affected, even though that change may only consist of a change to a single section. The renumbering of a section shall be considered a change to the chapter.

Because this historical note applies to all of chapter 17-663, it is placed at the end of the chapter analysis.

#### **Example--Historical note applicable to an entire subchapter**

Agency wishes to make extensive changes to subchapter 1 of chapter 0-5 by repealing the

existing subchapter and replacing it with a new subchapter 1.1. In setting forth the historical note, agency need not include a note at the end of each section of subchapter 1.1 giving the full history of the predecessor section in subchapter 1.

Agency may include a single historical note at the beginning of subchapter 1.1 such as:

Historical note: This subchapter is based substantially on subchapter 1. [Eff 5/24/83; am 11/18/89; am and comp 3/2/97; R 9/10/11]

The historical note in this example includes each date that any part of subchapter 1 had been affected. Because the historical note effectively constitutes a "source note" for the entire subchapter 1, it is necessary to include entries for each time in which any part of the subchapter was affected, even though that change may only consist of a change to a single section. The renumbering of a section shall be considered a change to the subchapter.

**Example--**Historical note applicable to an entire subchapter (*illustrative*)

SUBCHAPTER 1

ENROLLMENT PROCEDURES

Historical Note: This subchapter is based substantially upon State of Hawaii Public Employees Health Fund Rules of Enrollment. [Eff 10/26/74, am 11/3/77, am 12/29/78; R 1/22/82]

(d) No historical note shall be used to cover any unit of organization larger than a chapter.

(e) Changes made to historical notes shall not be shown using brackets, strikethrough, and underscoring in the Ramseyer format version of any rulemaking action. [Eff 8/1/80; am and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-4-9 "Reserved" categories.** The term "reserved" may be used to indicate subtitles, parts, chapters, subchapters, or sections which will be added in

the future. The term need not be used for sections at the end of a chapter or subchapter, or for chapters at the end of a title, subtitle, or part. Changes made to designations of reserved sections shall not be shown using brackets, strikethrough, and underscoring in the Ramseyer format version of any rulemaking action. [Eff 2/15/80; am and comp 5/1/84; comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-4-10 Examples in text of rules.** (a) Examples may be included within the text of sections of rules. The included examples may be numbered or left unnumbered at the discretion of the agency, as shown in this section.

**Example--**Numbered examples in text of section. (In this example, see particularly subsection (b)(2)).

**§18-235-92 Returns, who shall make.** (a) For each taxable year an individual return shall be filed by:

- (1) Every individual doing business in the State during the taxable year, whether or not the individual derives any taxable income therefrom.

\*\*\*

(b) For purposes of this section:

- (1) Only an "affiliated group" of corporations, as defined by section 1504 of the IRC, may file a consolidated Hawaii return.
- (2) In addition to the federal requirements, each includible corporation of the affiliated group must be organized under the laws of Hawaii and have for the taxable year gross income subject to tax under chapter 235, HRS.
  - (A) Example 1: K owns eighty per cent of the stock of M and N. N owns one hundred per cent of the stock of O. K, M, N, and O are all members of the affiliated group and may file a consolidated return.

- (B) Example 2: D owns eighty per cent of E and E owns eighty per cent of F. E and F each owns forty per cent of G. D, E, F, and G are all members of the affiliated group and may file a consolidated return.
- (3) A group that did not file a consolidated return for the immediately preceding year may file a consolidated return for the taxable year if all corporations that have been members during any part of the taxable year for which the consolidated return is to be filed consent.

\*\*\*

**Example--Unnumbered example in text of section.**

**§18-243-4 License taxes. \*\*\***

- (1) Refund of fuel taxes in excess of one cent per gallon for certain liquid fuels used for operating agricultural equipment in areas other than upon the public highways of the State.
  - (A) Definitions. For purposes of this paragraph:
    - \*\*\*
  - (C) Filing of claim; when and how.
    - (i) The ultimate user of the liquid fuel may obtain a refund by filing a claim quarterly or annually on Form M-36 with the Tax Collector in the user's taxation district.
    - (ii) A claim may be filed quarterly if the amount of refund is in excess of \$1,000 within any calendar quarter. Where the amount of refund within a calendar quarter is not in excess of \$1,000 but the cumulative amounts for two or more calendar quarters exceed

\$1,000, a claim for refund covering such calendar quarters may be filed. Any claim not exceeding \$1,000 quarterly or cumulative quarterly shall be filed on a calendar year basis regardless of the basis used for record-keeping purposes or for filing other tax returns.

Example: "A" Corporation is a calendar year taxpayer. It computed the following amounts of allowable liquid fuel taxes paid at the end of each quarter:

|                               |         |
|-------------------------------|---------|
| January 1 through March 31    | \$2,500 |
| April 1 through June 30       | 500     |
| July 1 through September 30   | 600     |
| October 1 through December 31 | 1,500   |

"A" Corporation may elect to file quarterly claims for the quarters ending March 31 and December 31. It may not file quarterly claims for the quarter ending June 30 and September 30 since the amounts within those quarters were less than \$1,000. However, the refund for such quarters may be combined and the cumulative amount of \$1,100 (\$500 + \$600) may be claimed for the quarter ending September 30.

- (D) Liquid fuel used on agricultural equipment operated both off and on the highways of the State may be allocated on actual gallons used, percentage of total gallons used, or other basis acceptable by the director. That allocation shall be based, however, upon operating experiences and supported by taxpayer's records.

\*\*\*

(b) Additional examples of including examples within the text of sections (rather than incorporating exhibits or attachments by reference) may be

§00-4-10

seen in section 00-4-6(a), (d), and (f), and section 00-4-8.5. [Eff and comp  
5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

## STYLE, WORDS, AND GRAMMAR (7/11/14)

### 1. Words and Grammar.

- a. Use words that are plain, clear, well understood, and unambiguous. Do not use unnecessary words. Be consistent; do not use the same word or phrase in different contexts. Do not use synonyms.
- b. Use the present tense and indicative mood: Use "if it is necessary" instead of "if it shall be necessary"; use "whoever violates" instead of "whoever shall violate". Whenever possible, use the active voice; avoid the use of the passive voice.
- c. Use "may" to express authority, power, or privilege; use "shall" to express a duty, obligation, or requirement; use "may not" to express prohibition. Use the "comptroller may" instead of "the comptroller is hereby authorized"; "the governor may" instead of "it shall be lawful for the governor to...." Use "shall" instead of the phrase "is hereby authorized and directed," or "it is the duty". Use "will" to express future tense, but not as a substitute for "shall". Do not use "must" when meaning "shall". Avoid the use of "should" as a step between "may" and "shall"--there is no middle ground.
- d. Avoid couplets; use "void" instead of "null and void".
- e. Use the singular instead of the plural. The singular includes the plural. See section 1-17, HRS.
- f. Gender. Although the masculine includes the feminine (see section 1-17, HRS), do not use gender specific terms, such as "he" or "she," "his" or "hers," "they" or "theirs"; instead use the antecedent noun or use the word "person" or "individual" or other neuter term. Do not use words such as "chairman" and "salesman"; use gender neutral terms such as "chairperson" and "salesperson". See the examples in item 16 of this exhibit.
- g. Do not use "and/or". See section 1-18, HRS. If necessary use "or both," e.g., "this or that, or both," or "this and that, or both".
- h. If more than two items:

"Any combination, or all of X, Y, and Z".

- i. Do not use "said" as an adjective.

## 2. Sections and Paragraphs.

- a. Keep sentences and paragraphs brief and concise, but do not sacrifice clarity for brevity.
- b. Divide long and involved sections into shorter sections or subsections.
- c. When necessary to subdivide a section, specific formats and naming designations are used to label the subdivisions. With a few exceptions, the Hawaii Revised Statutes uses the following subdivisions and designations, which shall also be used in the Hawaii Administrative Rules:

**subsection--(a), (b), (c), etc.**

Subsections are the principal divisions of a section and deal with discrete elements of the section. Subsections consist of one or more grammatically complete paragraphs. See section 00-5-2.9, for an example on how to determine whether a section is divided into subsections.

**paragraph--(1), (2), (3), etc.**

Paragraphs, in the statutory drafting sense, are used to break down a subsection that covers a number of contingencies, alternatives, requirements, or conditions. Note that the designation (1), (2), (3), etc. is also used for itemizing lists in a section that does not have subsections.

**subparagraph--(A), (B), (C), etc.**

Subparagraphs are divisions of a paragraph. Further subdivision should be avoided if possible. (See below.)



**clause--(i), (ii), (iii), etc.**

Clauses are divisions of a subparagraph and are to be used only where unavoidable; *e.g.*, in a complex tax section, such as section 237-13, HRS.

- d. See "Example of Form and Style--Organization (8/8/14)", at the end of chapter 00-3 for an example of the prevalent format for the division and designation of material in the Hawaii Administrative Rules.

### **3. Cross-references.**

If referring to another subdivision *within the same section*, include the highest subdivision needed to make the reference clear; *e.g.*, subsection (d)(2). A reference to "paragraph (2)" means paragraph (2) of that same subsection; a reference to "subparagraph (B)" means subparagraph (B) of that same paragraph, and so forth.

When referring to a subdivision of a different section, simply refer to the section and indicate the particular subdivision, *e.g.*, section 37-71(c)(1) and (d)(i). When referring to two subdivisions within a subsection of a different section, refer to the section in singular form, *e.g.*, section 37-71(c)(1) and (2).

When referring to other sections, subsections, paragraphs, subparagraphs, or clauses:

- a. Sections (reference to other sections):
  - (1) In the same chapter--section 00-10-15 or 00-10-16;
  - (2) In different chapters--section 00-9-15 or 17-87-2;
- b. Subsections
  - (1) Within the same section:
    - (a) Subsection (c) or (d);
    - (b) Subsections (c) and (d);
  - (2) In a different section:
    - (a) Section 00-10-15(c) or (d);

(b) Section 16-87-47(c) and (d);

c. Paragraphs

- (1) Within the same subsection:  
Paragraph (5) or (6);
- (2) In a different subsection (same section):  
Subsection (d)(5);
- (3) In a different section:  
Section 4-27-6(b)(7);

d. Subparagraphs

- (1) Within the same paragraph, same subsection:  
Subparagraph (B) or (C);
- (2) Same section, different subsection:  
Subsection (d)(1)(B) or (C);
- (3) Different section:  
Section 11-9-47(a)(3)(D);

e. Clauses

- (1) Within the same subparagraph, same paragraph, same subsection:  
Clause (ii) or (iii);
- (2) Different subparagraph, same paragraph:  
Subparagraph (A)(ii) or (iii);
- (3) Different paragraph, same subsection:  
Paragraph (3)(B)(iii) and (iv);
- (4) Different subsection:  
Subsection (a)(4)(C)(iv)

Reference to unnumbered definition:

"as provided in the definition of X in section 13-25-16"; or

"as that term is defined in section 13-25-16".

Reference to a portion of an unnumbered definition:

"Door" means:

- (1) ;
- (2) ; and
- (3) .

If intent is to refer to paragraph (2).

"as provided in paragraph (2) of the definition of "door" in section 20-8-67.5."

#### **4. Section Headings.**

- a. All sections that are to be included in the Hawaii Administrative Rules shall have headings.

**§14-76-12 General powers and duties  
of the director.**

- b. Headings should be short and descriptive; use phrases rather than sentences.

**§16-17 Requirements of disclosure.**

- c. In a compound heading, separate the several coordinate subjects by using semicolons.

**§3-103-906 Preference for small  
businesses; set-asides; use as  
subcontractors.**

#### **5. Enumerated Lists.**

- a. When enumerating items in a list, use an introductory expression that ends in a colon to lead into the enumerated text, such as a paragraph, and make certain that the language in each enumerated item reads as a logical and grammatical continuation of the introductory language.
- b. If the sentence of which an enumeration is a part continues beyond the end of the enumeration, the part of the sentence that follows must

be appropriate to each item and must be set apart from the last enumerated item.

**Example:**

If two or more persons conspire to:

- (1) Commit any offense;
- (2) Instigate or incite one or more persons to commit any offense;
- (3) Bring or maintain any suit or proceeding knowing it to be groundless; or
- (4) Cause another or others to be arrested, charged, or indicted for any offense, knowing them to be innocent thereof,

each shall be guilty of conspiracy.

**Caveat:** Do not include more than one list of enumerated items within the same subsection. This makes cross-references ambiguous. To avoid the problem, place each list within separate subsections.

**6. Relative Pronouns; Restrictive and Nonrestrictive Clauses: "that", "which", and "who".**

a. **Relative pronouns.** A relative pronoun introduces a subordinate clause that modifies a noun or a pronoun occurring elsewhere in the sentence and connects a dependent clause to the main clause. It is also a substitute word that refers to its antecedent and stands for that antecedent in a subordinate clause.

**Examples:**

The committee elected the new chair, *who* had years...

The office *that* is responsible for overseeing operations...

The bill, *which* was enacted in 1986, is not effective until 1987.

"Who" relates to a specific person. "That" relates to animals, persons, or things and introduces restrictive clauses. "Which" relates to animals, things, and ideas and introduces nonrestrictive clauses.

**Examples:**

John Doe, *who* was appointed ...

A person *that* commits assault ...

**Note:** Although "that" is correct when the person or persons are not specifically identified, many writers prefer to use "who".

The report, *which* was due in November, lists the committee's recommendations.

- b. **Restrictive and nonrestrictive clauses.** Although the use of "who" causes little heartache, the distinction between "that" and "which" eludes many drafters.

- (1) **That.** "That" is the defining or restrictive pronoun. Use "that" to introduce restrictive clauses, that is, clauses that are essential to the meaning of the sentence; clauses that specifically identify the subject or object being described. These clauses are not usually set off by commas.

**Examples:**

The commissioner shall adopt rules that address the concerns identified by this committee.

The department of land and natural resources shall acquire the parcel of land that adjoins the state park.

- (2) **Which.** "Which" is the nondefining or nonrestrictive pronoun. "Which" introduces nonrestrictive clauses, which are parenthetical or commentary in nature. Although they provide additional information about the subject or object, this information is *nonessential to the meaning of the sentence*. These clauses are generally set off by commas.

**Examples:**

The suggested rules, which reflect the board's new statutory authority, outline the prohibited conduct.

The hearing, which was held during the special session, provided the impetus for this additional legislation.

**Helpful Hint:** If the clause could be omitted without leaving the noun it modifies incomplete, or without materially altering the meaning, or if the clause could reasonably be enclosed in parentheses, it would be better introduced by "which".

**7. Style.**

The position of words in a sentence indicates their relationship. Badly placed words result in ambiguity and confusion.

a. **Order of verbs and verb phrases.**

Generally, the subject of a sentence should be followed immediately by the verb (*i.e.*, the action) immediately followed by the direct object. Short adverbs may be inserted in some instances, but longer interruption should be avoided if possible, by placing the interrupting clause at the beginning of the sentence, as in this example:

With the assistance of other agencies of the State and counties with related responsibilities, the corporation shall develop and maintain a housing advocacy and information system to aid the corporation in meeting the needs and demands of housing consumers.

An exception should be made to this general rule: (1) for the placement of a relative clause (in which case the relative pronoun should come, in most cases, immediately after its antecedent, as in "A person who knowingly disrupts ..."); or (2) when a group of words must be understood together.

Many sentences in rules have verbs in the infinitive form or verb phrases consisting of a helping verb with a main verb: shall + (verb); may + (verb). Generally, the words in verb phrases should appear together in a sentence. Sometimes a word is placed between these parts, as in "The commissioner shall immediately order an investigation of a reported epidemic". Although it is generally better not to interrupt the verb parts, particularly when using the infinitive verb form, one-word adverbs in this position do no harm. Longer divisions, however, are difficult to read, as in this sentence:

Within ten days after service of the notice of appeal, the appealing party may in writing, with a copy to the executive officer of the labor relations board and all parties or their representatives of record, order from the center for alternative dispute resolution a transcript of any parts of the proceedings it considers necessary.

The interrupting words make no sense without the verb "order," but the reader must struggle through over twenty words to reach it. The interrupting words would serve better as a separate sentence:

The appealing party may order a transcript, from the center for alternative dispute resolution, of any parts of the proceedings it considers necessary. The transcript order shall be in writing. The appealing party shall give a copy of the transcript order to the executive officer of the labor relations board and all parties or their representatives of record.

**b. Modifiers.**

A modifier is a word, phrase, or clause that qualifies another word, phrase, or clause.

**Examples:**

The *escaped* prisoner  
The *executive* officer of the county  
An order *signed by the Governor*  
A document *stating the accused's name*

**Placement of modifiers.** Similar to verb parts and other word groups, the placement of modifiers in a sentence affects not only readability but meaning as well. Modifiers should be placed as close as possible to the words they modify. When they are not, sentences can be confusing, as in this example:

The public school principal or district superintendent shall inform the private school of the type, level, and location of health services that are to be made available to the private school students by August 15.

Are the services to be made available by August 15, or is the principal or district superintendent to inform the school by August 15? The drafter probably meant "... shall inform the private school by August 15..." and should have written it that way.

Here are other examples of misplaced modifiers:

"Card issuer" means a financial institution ... providing use of a terminal to a customer to be activated by a card.

Each health facility shall provide food and beverages to patients that are nutritionally adequate.

Customers usually are not activated by cards and nutritionally adequate food and beverages, not patients, are the issue.

**Bottom line:** Good writing requires effort and clarity. Keep sentences short and clear. Don't be afraid to rewrite sentences, or to break up a long sentence, to avoid ambiguous construction. Above all, proof and edit.



**8. Punctuation.**

- a. Punctuate carefully. Recast the sentence if a change in punctuation might change its meaning.
- b. In a series of three or more items, insert a comma before the conjunction and the final item.

**Example:**

X, Y, or Z.

- c. Despite the general rule otherwise, punctuation marks always appear outside of quotation marks in the Hawaii Administrative Rules.
- d. A nonrestrictive clause is set off by commas, but a restrictive use, which is essential to the meaning of the word being modified, should not be set off by commas. Compare the following two sentences, which illustrate a restrictive clause and a nonrestrictive clause, respectively:

Men who hate football should stay at home.

Men, who hate football, should stay home.

- e. A comma is used to separate the independent clauses of a compound sentence, but it should not be used to separate the noun from the verb in a simple sentence. The following examples illustrate the proper use and omission of commas in a simple sentence and a compound sentence, respectively:

The board may adopt rules to implement this chapter and shall report annually to the governor.

The board may adopt rules to implement this chapter, and the board shall report annually to the governor.

- f. Always place commas before and after the year when used in a date, thus:

For the period from December 1, 2011, through December 1, 2015, the rate must ...

**9. Capitalization.**

- a. Use initial capitals sparingly. Generally, designations of state and county government officers and agencies are not capitalized. References to divisions of the Hawaii Administrative Rules, Hawaii Revised Statutes, or the Hawaii State Constitution are not capitalized.

**Examples:**

... the director of taxation

... as provided in chapter 321, Hawaii Revised Statutes

... as provided in section 321-10, Hawaii Revised Statutes

... as provided in article VIII, section 3, of the state constitution.

- b. Note on capitalization: "University of Hawaii" and "Office of Hawaiian Affairs" are capitalized.
- c. Capitalize all references to *Hawaii* and other place names.
- d. Capitalize departments and officers of the United States government, such as the *United States Department of Housing and Urban Development* and *President of the United States*, and full names of federal acts; e.g., *Federal Social Security Act*, and other federal or state acts.

But federal programs such as *medicare* or *supplemental security income* should be all lower case.

- e. Capitalize names of private organizations, such as the American Red Cross and the Legal Aid Society of Hawaii.

- f. Capitalize *state* when it refers to the State of Hawaii and the usage is as a noun or possessive form of the noun (e.g., the *State's* fiscal condition). Do not capitalize *state* if it is used as an adjective (*state* governor, *state* archives) or refers generally to other states.
- g. Similarly, capitalize Internet (e.g., "published on the *Internet*") when used as a noun or possessive form of a noun. Use lower case when internet is used as an adjective (internet site).

**10. Reference to Federal Law.**

- a. Refer to the Internal Revenue Code as the Internal Revenue Code of 1986, as amended.
- b. Refer to Public Law or Public Statute, as appropriate:

**Examples:**

Section 8 of the United States Housing Act of 1937  
(chapter 856, 50 Stat. 88).

OR

Mortgage Subsidy Bond Tax Act, P.L. 96-499.

- c. Citations to the United States Code and the Code of Federal Regulations should be as follows, depending upon whether the citations are used in the text or used parenthetically:

**Examples:**

**In Text**

...shall be as provided in title 21 United States  
Code section 2475.

**Parenthetically**

...shall be as provided in P. L. 99-247 (21 U.S.C. §2475).

**11. Numbers.**

- a. Spell out numbers generally. Exception: If it takes more than four words to spell out a number, use figures (e.g., one hundred twenty-two; 1,722).
- b. Leave out figures where they are merely repetition of written words.
- c. Use Arabic numbers for dates; e.g., January 1, 2013, not first of January, two thousand thirteen.
- d. Sums of money: Use figures for 1 cent to 99 cents; the word "cent(s)" to be spelled out. Use figures for dollars (e.g., \$5,000,000, not \$5 million); omit decimal and zeros from even dollar amounts--\$1, \$1.25, \$1,500.
- e. Use Arabic numbers for references to section and act numbers.
- f. Generally spell out percentages. Use figures to express percentages only if decimal places are involved.  
*E.g., Forty-five per cent; 73.8 per cent.*

**12. Definitions.**

- a. Definitional sections and subsections should set forth definitions in alphabetical order to facilitate finding a definition.
- b. The definitions in a section should not be numbered and should end in a period to facilitate the addition of new definitions or repeal of existing ones at a later time.
- c. Use "means" instead of "shall mean" or "shall refer to and means".  
  
Use "means" even when the term being defined is plural (e.g., bonds).

- d. For a legal definition that is exhaustive, use "means"; for a definition that is partial, use "includes". If neither of these is accurate, the definition may use "refers to".

*Never* use the ambiguous expression "means and includes".

- e. If a definition applies to only one section, incorporate the definition in that section and not in the general definition section for a chapter or subchapter.
- f. Do not place substantive provisions in definition sections. Do not include artificial concepts in definition sections.
- g. "Person" is defined by general law. See section 1-19, HRS.
- h. If a term is already defined in statute or other rules and this meaning is appropriate for the drafter's purposes, use the existing definition by making reference to the section wherein it is defined (*e.g.*, health care provider has the same meaning as in section ...).

**13. Provisos; Exceptions; Limitations.**

- a. Use provisos only for taking special cases out of a general enactment and providing specially for them. If a proviso is to be used, use "; provided that" instead of "; provided, however, that".
- b. Use "except" for specific exceptions, not "provided that".
- c. State the circumstance in which a rule is to apply before stating the rule itself.

**14. Choice of Other Words and Phrases.**

- a. Leave out "of Hawaii" or "of the State" after titles of officers, departments, etc., if not ambiguous. Leave out reference to "department" when referring to executives of state departments, *e.g.*, "the director of taxation," not "the director of the department of taxation".

- b. General references to a "county" or "counties" includes the city and county of Honolulu. See section 1-22, HRS.
- c. Use a specific section or subsection reference instead of "preceding section" or "following section" or "hereinbelow" or "herein".
- d. Use "per cent" instead of "percent," "percentum," "%".
- e. Leave out "inclusive" after "section \_\_\_\_\_ to section \_\_\_\_\_". See section 1-26, HRS.
- f. Use "this section" instead of "the provisions of this section".
- g. Use the most compact identification of sections or subsections; *e.g.*, section 12-12-85" or "section 12-12-85(a)(4)," instead of "section 85 of chapter 12 of title twelve" or "subsection (a)(4) of section 12-12-85" or "subsection 12-85(a)".

Leave out "of chapter 15-12," or "of the Hawaii Administrative Rules," or similar references that are superfluous when included in the Hawaii Administrative Rules. If the reference is in language in a Session Law that is not to be codified, refer to the particular section in the Hawaii Revised Statutes (*i.e.*, section 1-26, Hawaii Revised Statutes).

- h. Use "a year" instead of "per annum".
- i. Comprise vs. compose. "Comprise" *means to include, contain, consist of*; "compose" *means to make up*. The parts *compose* (make up) the whole; the whole *comprises* (contains) the parts. Note the use of "of"--the whole *is composed of* (*not* is comprised of) the parts.

The parent corporation *comprises* (consists of) three major divisions.

Three major divisions *compose* (make up) the parent corporation.

The parent corporation *is composed of* (made up of) three major divisions.

STYLE, WORDS, AND GRAMMAR

- j. Fewer vs. less. "Fewer" refers to number, individual countable items. "Less" refers to degree or quantity, general amounts.

Nonfat milk has *fewer* calories than whole milk.

We have *less* milk than I thought.

- k. Other words and phrases that should be avoided and certain preferred usages are as follows (see item 16 for gender-neutral terms):

| Do Not Use                | Use                         |
|---------------------------|-----------------------------|
| absolutely null and void  | void                        |
| aforesaid                 | -                           |
| and/or                    | X, or Y, or both            |
| are hereby required       | shall                       |
| at the time               | when                        |
|                           |                             |
| be and the same is hereby | is                          |
| be deemed to be           | is                          |
| be subject to forfeiture  | -                           |
|                           |                             |
| constitute and appoint    | appoint                     |
|                           |                             |
| due to the fact that      | because                     |
|                           |                             |
| following section         | section 2 (specific number) |
| for the reason that       | because                     |
| forthwith                 | -                           |
| from July 1               | after June 30               |
|                           |                             |
| henceforth                | -                           |
| hereafter                 | -                           |
| hereby                    | -                           |
| herein as provided        | as provided in              |
| hereunder                 | under this section          |
|                           |                             |
| if he shall have complied | if the person complies      |
| in case                   | if                          |

| Do Not Use  | Use                         |
|---|-----------------------------|
| in case of  | where                       |
| in cases in which   | when                        |
| in order to   | to                          |
| in the event that   | if                          |
| is applicable   | applies                     |
| is defined and shall be construed to mean                             | means                       |
| is hereby authorized  | may                         |
| is hereby authorized and directed                                     | shall                       |
| is hereby authorized and empowered                                    | may                         |
| is hereby authorized and it shall be his duty                         | shall                       |
| is hereby created   | there shall be              |
| is hereby required  | shall                       |
| is hereby vested with power and authority and it shall be its duty to | shall                       |
|   |                             |
| member of a partnership   | partner                     |
|   |                             |
| no later than June 30   | before July 1               |
| null and void   | void                        |
|   |                             |
| on and after July 1   | after June 30               |
| on his own application  | at the person's request     |
|   |                             |
| per centum  | per cent                    |
| preceding section   | section 1 (specific number) |
| prior to  | before                      |
| promulgate...rules  | adopt...rules               |
| provided, however,  | provided                    |
| provisions of law   | law                         |
|   |                             |
| rules and regulations   | rules                       |
|   |                             |
| said  | the, that, this             |



| Do Not Use                 | Use          |
|----------------------------|--------------|
| shall be construed to mean | means        |
| shall mean                 | means        |
| should                     | may          |
| sole and exclusive         | exclusive    |
| State of Hawaii            | State        |
| subsequent to              | after        |
|                            |              |
| under the provisions of    | under        |
| utilize                    | use          |
|                            |              |
| whatsoever                 | -            |
| whether or not             | whether      |
| wilful negligence          | recklessness |

**15. Spelling.**

Generally, spelling should follow the first preferred spelling shown in the dictionary. For example, the Hawaii Revised Statutes uses:

- a. *Canceled* instead of *cancelled*.
- b. *Marijuana* instead of *marihuana*.
- c. *Moneys* instead of *monies*.
- d. *Wilful* instead of *willful*.

**16. Use of Gender-Neutral Terms.**

Use gender-neutral (*e.g.*, the person) rather than gender-specific (*e.g.*, he, she) terms wherever possible.

**Exceptions:**

- a. Terms having long-established legal significance such as "landlord", "manslaughter", or "materialman's lien".
- b. Items or categories having a gender-specific term. For example, "airman" and "seaman" are titles or ranks used by the United States

Air Force and Navy. Use of those terms in referring to those specific categories is appropriate, even though not gender-neutral.

Terms that should be avoided and preferred usages are as follows:

**Generally**

| Do Not Use                 | Use   |
|----------------------------|---|
| actress/actor              | actor   |
| businessman                | business person   |
| chairman                   | chairperson, chair  |
| clergyman                  | clergy  |
| congressman, congresswoman | member of Congress,<br>representative                               |
| councilman                 | council member  |
| draftsman                  | drafter   |
| fireman                    | firefighter   |
| fisherman                  | commercial marine licensee,<br>fisher                               |
| flagman                    | flagperson  |
| foreman                    | foreperson  |
| he/she/him/her             | the person, the (relevant noun;<br><i>e.g.</i> , judge)             |
| herself/himself            | the person's self, oneself  |
| journeyman                 | journey worker, journey +<br>(relevant noun; <i>e.g.</i> , plumber) |
| juryman                    | juror   |
| lawman                     | law enforcement officer   |
| layman                     | layperson, laymember  |
| maid                       | domestic worker   |
| maiden name                | birth name  |
| mailman                    | mail carrier, postal worker   |
| man (noun)                 | person, individual, human,<br>humanity                              |
| man (verb)                 | staff, operate  |
| man-hour                   | worker hour   |
| man-induced                | artificially or synthetically<br>induced                            |

| Do Not Use               | Use  |
|--------------------------|--|
| mankind                  | humanity, humans, human beings, people, persons    |
| manlift                  | elevator, lift                                     |
| manmade                  | artificial, synthetic                              |
| manpower                 | personnel, workforce, labor force, human resources |
| middleman                | intermediary                                       |
| nurseryman               | nursery worker or operator                         |
| patrolman                | patrol officer                                     |
| policeman                | police officer                                     |
| repairman                | repair person                                      |
| salesman                 | salesperson  |
| serviceman (military)    | service member                                     |
| serviceman (nonmilitary) | service person                                     |
| spokesman                | spokesperson                                       |
| statesman                | diplomat, leader                                   |
| statesmanlike            | diplomacy  |
| statesmanship            | diplomacy, leadership                              |
| vice-chairman            | vice-chairperson, vice-chair                       |
| warehouseman             | warehouse worker                                   |
| watchman                 | guard, security guard                              |
| woman                    | person, individual, human, humanity                |
| workman                  | worker   |
| workmanlike              | skillful, efficient                                |

### Family Status

| Do Not Use               | Use              |
|--------------------------|------------------|
| daughter, son            | child            |
| stepdaughter, stepson    | stepchild        |
| sister, brother          | sibling          |
| mother, father           | parent           |
| stepmother, stepfather   | stepparent       |
| wife, husband            | spouse           |
| widow, widower           | surviving spouse |
| grandmother, grandfather | grandparent      |

**"-Ess" and "-Trix" Endings**

The feminine gender suffixes "-ess" and "-trix" should be avoided. Among the objections to these terms are that: they perpetuate the notion that the male is the norm and the female is a deviation or secondary classification; and they specify a person's sex where gender is irrelevant.

| Do Not Use     | Use              |
|----------------|------------------|
| administratrix | administrator    |
| benefactress   | benefactor       |
| executrix      | executor         |
| heiress        | heir             |
| mediatrix      | mediator         |
| prosecutrix    | prosecutor       |
| stewardess     | flight attendant |
| testatrix      | testator         |
| waitress       | waiter           |

**17. Acronyms.**

*Do not* use acronyms (*e.g.*, DOH, DCCA) in the text of rules. While convenient to the drafter, they tend to clutter the text, making it difficult for the uninitiated. This problem is not cured by defining the acronym.

The following is an extreme example of how acronyms can develop into an impenetrable mass, which would be difficult to read even if the terms had been defined.

Guidance to USCINCPAC OPCON forces on application of CJCS SROE, USCINCPAC Theater-Specific Rules and CINCUNC/CFC Armistice Period ROE shall be implemented in USPACOM by USCINCPAC regulation S2468.7V.

HAWAII ADMINISTRATIVE RULES

TITLE 00

LEGISLATIVE REFERENCE BUREAU

SUBTITLE 1 HAWAII ADMINISTRATIVE RULES FORMAT

CHAPTER 00-4.9

FORMATS FOR RULEMAKING ACTIONS

- §00-4.9-1      Formats for rulemaking actions; all at chapter or higher level  
   effective December 31, 2016
- §00-4.9-2      Compiled chapters; analyses; repealed sections

**§00-4.9-1 Formats for rulemaking actions; all at chapter or higher level effective December 31, 2016.** The formats for all rulemaking actions for which a public hearing is held after December 31, 2016 should be situated at the chapter or higher level of organization. In other words, the formats for all rulemaking actions shall consist of the:

- (1) Adoption of completely new chapters;
- (2) Repeal of existing chapters;
- (3) Amendment and compilation of the entire chapter when any change is being made to the text of any portion of any existing chapter; or
- (4) A combination of two or more of the items in paragraphs (1) to (3).  
[Eff 5/23/16] (Auth: HRS §91-4.2) (Imp: §§91-4.1, 91-4.2)

**§00-4.9-2 Compiled chapters; analyses; repealed sections.** The chapter analysis of a compiled chapter shall include references to all repealed sections. See chapter analysis for chapter 00-5. [Eff 5/23/16] (Auth: HRS §91-4.2) (Imp: §91-4.1, 91-4.2]

HAWAII ADMINISTRATIVE RULES

TITLE 00

LEGISLATIVE REFERENCE BUREAU

SUBTITLE 1 HAWAII ADMINISTRATIVE RULES FORMAT

CHAPTER 00-5

AMENDED, NEW, AND REPEALED RULES

|            |  |
|------------|--|
| §00-5-0.5  | Amendment and compilation of entire chapter                                  |
| §00-5-0.6  | Compilation of chapters without amendments abolished; effect on source notes |
| §00-5-0.7  | Amended and compiled chapter; example  |
| §00-5-1    | Ramseyer format  |
| §00-5-2    | Standard format  |
| §00-5-2.1  | All rules prepared in standard and Ramseyer formats                          |
| §00-5-2.2  | Copies to the legislative reference bureau                                   |
| §00-5-2.9  | Determining whether section divided into subsections                         |
| §00-5-3    | Maps, forms, attachments, and exhibits; changes to                           |
| §00-5-4    | Standard format; summary and signature pages                                 |
| §00-5-4.05 | New chapter; simultaneous amendment and compilation of existing chapter      |
| §00-5-4.1  | Simultaneous repeal and adoption of chapters                                 |
| §00-5-4.2  | Rules repealed by statute  |
| §00-5-4.3  | Repealed chapters; by rulemaking; by statute                                 |
| §00-5-5    | Updated notes  |
| §00-5-6    | Notices of change; citation of authority; sections implemented; source notes |
| §00-5-7    | Running heads; pagination  |
| §00-5-8    | Repealed   |
| §00-5-9    | Repealed   |

§00-5-0.5

§00-5-10 Repealed

§00-5-11 Repealed

Notes: Chapter title am and comp 5/1/81.  
Designation "Subchapter 1" and "Subchapter 2" and titles repealed  
5/1/84.

**§00-5-0.5 Amendment and compilation of entire chapter. (a)**

Effective December 31, 2016, the format for all amendments to rules, whether the addition of new sections or the amendment or repeal of existing sections, shall be drafted in the form of amendments to and compilation of an entire chapter. Consequently, a single change made to any part of the text of a single section requires the entire chapter to be set out as an amendment and compilation of that chapter.

(b) Except as provided in subsection (c), the alternative format of amending individual sections or subsections that was authorized between 1982 and 2015 is repealed.

(c) Subsections (a) and (b) do not apply to notices of change applicable to the source notes, statutory authorization, or lists of sections implemented that are applicable to any section of rules. [Eff and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-5-0.6 Compilation of chapters without amendments abolished; effect on source notes. (a)** Effective December 31, 2016, the system for formal compilation of chapters that are not being amended should be amended to comply with the procedure outlined in this section. Chapters amended in accordance with section 00-5-0.5 should consist of complete bodies of entire chapters, thereby rendering compilation without amendments unnecessary.

(b) Source notes for sections that are adopted, amended, or repealed in the rulemaking action shall reflect that adoption, amendment, or repeal as provided in section 00-5-5. No change shall be made to the source note of any section not affected by the rulemaking action except to indicate compilation. [Eff and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)



**§00-5-0.7 Amended and compiled chapter; example.** For an example of an amended and compiled chapter in the standard format, see the exhibit entitled "Example No. 10-7--Simultaneous Amendment and Compilation of Chapter, (Standard Format), (4/15/84)", located at the end of chapter 00-10, which is made a part of this section. For an example of an amended and compiled chapter in the Ramseyer format, see the exhibit entitled "Example No. 10-8--Simultaneous Amendment and Compilation of Chapter, (Ramseyer Format), (4/15/84)", located at the end of chapter 00-10, which is made a part of this section. [Eff and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-5-1 Ramseyer format.** Copies of all new rules, or amendments to, or the repeal of, existing rules shall also be prepared in the Ramseyer format (see chapter 00-6), certified, and a copy sent to the legislative reference bureau. For an example of a certification provision, see the paragraph immediately preceding the director's signature in the exhibit entitled "Example No. 10-8--Simultaneous Amendment and Compilation of Chapter, (Ramseyer Format), (4/15/84)", located at the end of chapter 00-10, which is made a part of this section. [Eff 2/15/80; am and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-5-2 Standard format.** New rules, or amendments to, or the repeal of, existing rules filed with the office of the lieutenant governor shall not be in the Ramseyer format, but shall be in the standard format, subject to the requirements of chapters 00-1 to 00-5.5. [Eff 2/15/80; am and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-5-2.1 All rules prepared in standard and Ramseyer formats.** The effect of sections 91-4.1 and 91-4.2, HRS, as amplified by sections 00-5-1 and 00-5-2, taken together, requires that all new chapters, or amendments to, or the repeal of existing chapters, be prepared twice, once each in the Ramseyer and standard formats. [Eff and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-5-2.2 Copies to legislative reference bureau.** One copy of each set of rules in the standard and Ramseyer formats, respectively, shall be sent to the legislative reference bureau not less than ten working days after the agency receives a copy of the rules from the office of the lieutenant governor indicating that the rules have been filed. [Eff and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-5-2.9 Determining whether section divided into subsections.** A section is divided into subsections if the designation (a) occurs immediately after the heading of the section and before any substantive language starts.

**Examples:**

**§00-00-00 Heading.** (a) This section has a subsection since no language appears between the heading and the (a).

**§00-00-00 Heading.** The authority shall:  
(a) This is not a subsection and therefore the section has no subsections. Note the language between the heading of the section and the (a). Note also that use of the "(a)" is incorrect. Since there is no subsection, the "(a)" should be "(1)".

[Eff and comp ] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

Historical note: This section is based substantially upon section 00-5-3(c).  
[Eff 2/15/80; R ].

**§00-5-3 Maps, forms, attachments, and exhibits; changes to.** (a) Where a change is made to a map, form, attachment, exhibit, or other material that is incorporated by reference, the new version of the incorporated item shall be given a new date. Each section incorporating the item shall be amended by

incorporating the title and date of the new map, form, attachment, or exhibit or other material.

**Example:**

The "Kaiser-Wilhelm Benefit Plan A" dated 4/16/81 is an exhibit incorporated into the rules of the health care plan for retired teachers. When a new "Benefit Plan A" is issued by Kaiser-Wilhelm on 5/1/83, it will be incorporated to supersede the 4/16/81 plan.

All sections incorporating the exhibit shall be amended to reflect the new date (title of the exhibit does not necessarily change). A copy of the new exhibit shall be filed with the amended and compiled chapter.

(b) The dates used for the incorporated material need not reflect any particular event. The point of dating the incorporated material and matching it with the incorporating text is to ensure that users are referring to the correct version of the item that the agency seeks to incorporate. [Eff 2/15/80; am and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-5-4 Standard format; summary and signature pages.** (a) A summary of the effect of each rulemaking action shall be included on a separate sheet of paper called a "Summary Page", with an appropriately descriptive title, e.g.:

- (1) "Amendments to and Compilation of Chapters 16-103, 16-110, and 16-114, Hawaii Administrative Rules";
- (2) "Adoption of Chapters 18-21 to 18-24, Amendments to and Compilation of Chapters 18-53, 18-57, and 18-61, and Repeal of Chapter 18-47, Hawaii Administrative Rules";
- (3) "Adoption of Chapter 15-227, Hawaii Administrative Rules"; or
- (4) "Repeal of Chapter 11-6, Hawaii Administrative Rules".

See "Example No. 5-1--Summary Page, (Chapter Repealed by Rulemaking), (9/15/14)", located at the end of this chapter, which is made a part of this section.

(b) All signatures necessary for the adoption of rules shall be contained on a separate sheet of paper, which shall be known as the "signature page".

(c) Copies of all summary and signature pages shall be filed with copies of all rules filed with the lieutenant governor and sent to the legislative reference bureau.

(d) The repeal of a chapter, part, subtitle, or title shall be stated on a separate sheet of paper. The repeal of the chapter or larger unit shall be stated rather than listing the repeal of each section on separate sheets of paper. The exhibit entitled "Example No. 5-2--Repeal Page, (Chapter Repealed by Rulemaking), (9/15/14)", located at the end of this chapter, is made a part of this section.

(e) The signature page shall state the:

- (1) Date of adoption of the rulemaking action by the agency;
- (2) Date and publication where the notice of public hearing appeared;
- (3) Date the public hearing was held;
- (4) Date approved by the governor;
- (5) Date filed with the office of the lieutenant governor; and
- (6) Date the new, repealed, or amended and compiled chapter or chapters will take effect.

The exhibit entitled "Example No. 5-3--Signature Page, (Chapter Repealed by Rulemaking), (9/15/14)", located at the end of this chapter, is made a part of this section.

The signature blocks shown in examples of signature pages in this chapter and chapter 00-10 are for illustrative purposes only, and may be modified as deemed appropriate by adopting agencies.

(f) See chapter 00-10 for examples of summary pages, text of substantive material, and signature pages of new chapters, repealed chapters, and chapters being amended and compiled. [Eff 2/15/80; am and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-5-4.05 New chapter; simultaneous amendment and compilation of existing chapter.** New chapters, and existing chapters that have been simultaneously amended and compiled shall be printed on both sides of each sheet of paper, and filed with appropriate summary and signature pages with the lieutenant governor. A copy of the items filed with the lieutenant governor shall be sent to the legislative reference bureau. The summary and signature pages shall each be on separate sheets of paper. For examples of new chapters in standard and Ramseyer formats, see section 00-10-1 and examples incorporated by reference. For examples of chapters in the standard and Ramseyer formats that have been amended and compiled, see section 00-10-3 and examples incorporated

by reference. [Eff and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-5-4.1 Simultaneous repeal and adoption of new chapters.** In the standard format, if chapters are being repealed and new chapters are being adopted in a single rulemaking action (for example, where two new chapters are intended to replace the old):

- (1) The respective actions, namely the repeal of the first chapter and the adoption of the others, shall all be stated on a single summary page that describes the events that occur in that rulemaking action;
- (2) The page showing the repealed chapter shall be on a separate sheet of paper;
- (3) The first new chapter shall begin on a separate sheet of paper;
- (4) The text of the second new chapter shall begin on a separate sheet of paper after the completion of the contents of the first new chapter. This is necessary to allow the two new chapters to be filed separately when filed in numerical order;
- (5) The respective actions shall all be stated in a single signature page that describes the events that occur in that rulemaking action; and
- (6) Unlike the text of the respective chapters, the descriptions of the rulemaking action can be combined on both the summary and signature pages because those documents are filed separately from the text of the rules themselves. Recordation numbers assigned by the office of the lieutenant governor will connect the summary and signature pages with the pages of text that were adopted and filed in that single rulemaking action. [Eff and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-5-4.2 Rules repealed by statute.** (a) Although unusual, rules on occasion may be repealed by statute rather than administrative rulemaking. In that event, sections or larger units of organization that are specifically repealed by statute shall indicate the repeal in the source note by stating the session law citation for the repealing act, including the specific section and the effective date of the act that repealed the section or larger unit of organization.

**Example:**

[Eff 6/1/83; am and comp 8/15/85; am 5/14/92; R Act 283, SLH 2000, §8(3)(A) 6/28/00]

(b) Rather than wait to formally take action through rulemaking, the agency may indicate the repeal of sections or subchapters by statute by filing a notice of change in the manner shown in the exhibit entitled "Example No. 5-4--Notice of Change, (Section Repealed by Statute), (3/1/14)", located at the end of this chapter, which is made a part of this section. The notice of change shall be incorporated into the chapter when that chapter is next amended and compiled.

(c) The repeal of a chapter or larger unit of organization shall be indicated by filing a combined summary and signature page, and a repeal page showing the repeal of the chapter or larger unit of organization in the manner shown in the exhibits entitled "Example No. 5-5--Combined Summary and Signature Page, (Chapter Repealed by Statute), (5/28/15)" and "Example No. 5-6--Repeal Page, (Chapter Repealed by Statute), (9/15/14)", located at the end of this chapter, which is made a part of this section. [Eff and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-5-4.3 Repealed chapters; by rulemaking; by statute.** (a) When a chapter is repealed by rulemaking, the documents filed shall consist solely of the:

- (1) Summary page;
- (2) Signature page; and
- (3) The page indicating repeal of the chapter.

A copy of the preexisting chapter shall not be included. The exhibits entitled "Example No. 5-1--Summary Page (Chapter Repealed by Rulemaking), (9/15/14)", "Example No. 5-2--Repeal Page (Chapter Repealed by Rulemaking), (9/15/14)", and "Example No. 5-3--Signature Page (Chapter Repealed by Rulemaking), (9/15/14)", located at the end of this chapter, are made a part of this section.

(b) Chapters repealed by statute shall be handled as provided in section 00-5-4.2(c). The procedure providing for a summary page with signatures is intended to provide a simplified procedure that incorporates the repealed chapters into the recordation system (similar to notices of change) even though there has been no actual rulemaking action.

(c) While it may seem inconsistent to have simple notices of change for sections repealed by statute but a formal repeal page for a repealed chapter,

this difference is critical. The repealed sections will be incorporated and shown when the chapter is eventually amended and compiled. A repealed chapter is repealed permanently in its entirety.

(d) Note that the combined summary and signature page for chapters repealed by statute differs from the procedures for chapters repealed by rulemaking in terms of:

- (1) Having both summary and signature actions combined in a single document; and
- (2) Not providing for signature by the governor.

This is intended to provide a physical distinction, at least at the chapter level, between repeals by rulemaking and repeals by statute. Unless directed otherwise by legislation, the attorney general, or court decision, there is no need for the governor to approve the filing, as the rule chapter has already been repealed by statute. [Eff and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-5-5 Updated notes.** (a) Source notes of existing rules shall be updated to include the effective date of the adoption, amendment, or repeal.

(b) The citation of authority and sections implemented shall be included with each new rule section. [Eff 2/15/80; am and comp 5/1/84; am 1/1/02; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-5-6 Notices of change; citation of authority; sections implemented; source notes.** Changes occasionally may be required to the lists of sections authorizing or implemented by rule sections. These changes may be necessitated by the availability of codified citations for previously uncoded provisions (e.g., codification of Session Laws in the Hawaii Revised Statutes), or a renumbering of statutory section numbers by subsequent legislation, or simply to correct an oversight.

The updating of the lists of sections authorizing or implemented by rule sections shall not constitute amendments to the rules themselves, unless so ordered by legislation, court of law, or the attorney general. The updating shall be accomplished by filing a "Notice of Change" with the office of the lieutenant governor and sending a copy to the legislative reference bureau. The exhibits entitled:

- (1) "Example Nos. 5-8, 5-9, and 5-10--Notice of Change, (Authorization), (1/1/14)";

- (2) "Example Nos. 5-11, 5-12, and 5-13--Notice of Change, (Implementation), (1/1/14)";
- (3) "Example Nos. 5-14 and 5-15--Notice of Change, (Authorization and Implementation), (1/1/14)";
- (4) "Example No. 5-16--Notice of Change, (Source Note), (1/1/14)";  
and
- (5) "Example No. 5-17--Notice of Change, (Source Note, Authorization, and Implementation), (1/1/14)",

located at the end of this chapter are made a part of this section. [Eff 2/15/80; am and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-5-7 Running heads; pagination.** Running heads and pagination for chapters that have been amended and compiled shall be as provided in section 00-3-10. [Eff 2/15/80; am and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-5-8 Repealed.** [R 5/1/84]

**§00-5-9 Repealed.** [R 5/1/84]

**§00-5-10 Repealed.** [R 5/1/84]

**§00-5-11 Repealed.** [R 1/1/01]



**EXAMPLE NO. 5-1--SUMMARY PAGE**  
**(Chapter Repealed by Rulemaking)**  
**(9/15/14)**

DEPARTMENT OF XYZ

Repeal of Chapter 2-3  
Hawaii Administrative Rules

(Date of adoption by agency)

SUMMARY

1. Chapter 2-3, Hawaii Administrative Rules, is repealed.

[File with Lieutenant Governor. Send copy to the Legislative Reference Bureau.]



**EXAMPLE NO. 5-2--REPEAL PAGE**  
**(Chapter Repealed by Rulemaking)**  
**(9/15/14)**

HAWAII ADMINISTRATIVE RULES

TITLE 2

OFFICE OF THE LIEUTENANT GOVERNOR

CHAPTER 2-3

PAPER BALLOT VOTING

REPEALED

**§§2-3-1 to 2-3-10** Repealed. [R 2/25/80]

[File with Lieutenant Governor. Send copy to the Legislative Reference Bureau.]



**EXAMPLE NO. 5-3--SIGNATURE PAGE**  
**(Chapter Repealed by Rulemaking)**  
**(9/15/14)**

DEPARTMENT OF

The repeal of chapter 2-3, Hawaii Administrative Rules, on the Summary Page dated \_\_\_\_\_ was adopted on (Date--should be same as Summary Page) following a public hearing held on \_\_\_\_\_, after public notice was given in (Name of Newspaper) on (Date).

The repeal shall take effect ten days after filing with the Office of the Lieutenant Governor (or specified date not more than 30 days after filing).

\_\_\_\_\_  
Name  
Director, Department Name

\_\_\_\_\_  
Name  
Governor, State of Hawaii

Dated: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Deputy Attorney General

\_\_\_\_\_  
Filed

[If effective date is being specified, agency must make proper arrangements with governor's office to ensure that rules are filed more than 10 but less than 30 days prior to effective date.]

[File with Lieutenant Governor. Send copy to the Legislative Reference Bureau.]



**EXAMPLE NO. 5-4--NOTICE OF CHANGE**  
**(Section Repealed by Statute)**  
**(3/1/14)**

NOTICE OF CHANGE  
(6/11/2010)

**§2-5-22** Repealed. [R Act 123, SLH 2010, §8]

Applies **only** where rule **section** is specifically repealed by statute enacted by the Legislature (unusual situation).

[File with Lieutenant Governor. Send copy to the Legislative Reference Bureau.]





**EXAMPLE NO. 5-5--COMBINED SUMMARY  
AND SIGNATURE PAGE  
(Chapter Repealed by Statute)  
(5/28/15)**

DEPARTMENT OF TRANSPORTATION

Repeal of Chapter 19-47, Hawaii Administrative Rules by Statute

June 15, 2011  
(Adoption date)

SUMMARY

Chapter 19-47, Hawaii Administrative Rules, entitled "Regulation of Jitneys", was repealed by Act 83, Session Laws of Hawaii 2011, §2.

\_\_\_\_\_  
Name  
Director, Department of Transportation

APPROVED AS TO FORM:

\_\_\_\_\_  
Deputy Attorney General

\_\_\_\_\_  
Filed

[File with Lieutenant Governor. Send copy to the Legislative Reference Bureau.]



**EXAMPLE NO. 5-6--REPEAL PAGE**  
**(Chapter Repealed by Statute)**  
**(9/15/14)**

HAWAII ADMINISTRATIVE RULES

TITLE 19

DEPARTMENT OF TRANSPORTATION

CHAPTER 19-47

REGULATION OF JITNEYS

REPEALED

**§§19-47-1 to 19-47-105** Repealed. [R Act 83, SLH 2011, §2]

Applies **only** where rule **chapter** is specifically repealed by statute enacted by the Legislature (unusual situation).

[File with Lieutenant Governor. Send copy to the Legislative Reference Bureau.]



**EXAMPLE NO. 5-7--SIMULTANEOUS AMENDMENT  
AND COMPILATION OF CHAPTER**

See Section 00-10-3 and Examples Incorporated By Reference.



**EXAMPLE NO. 5-8--NOTICE OF CHANGE**  
**(Authorization)**  
**(1/1/14)**

NOTICE OF CHANGE  
(10/10/82)

The citation of authority for §2-5-14, Hawaii Administrative Rules, is changed to read as follows:

(Auth: HRS §000-29)

[One rule section per sheet of paper.]

[File with Lieutenant Governor. Send copy to the Legislative Reference Bureau.]





**EXAMPLE NO. 5-9--NOTICE OF CHANGE**  
**(Authorization)**  
**(1/1/14)**

NOTICE OF CHANGE  
(10/10/82)

The citation of authority for §13-15-8, Hawaii Administrative Rules, is changed to read as follows:

(Auth: HRS §187-2)

[One rule section per sheet of paper.]

[File with Lieutenant Governor. Send copy to the Legislative Reference Bureau.]



**EXAMPLE NO. 5-10--NOTICE OF CHANGE**  
**(Authorization)**  
**(1/1/14)**

NOTICE OF CHANGE  
(10/10/82)

The citation of authority for §13-15-9, Hawaii Administrative Rules, is changed to read as follows:

(Auth: HRS §187-2)

[One rule section per sheet of paper.]

[File with Lieutenant Governor. Send copy to the Legislative Reference Bureau.]



**EXAMPLE NO. 5-11--NOTICE OF CHANGE  
(Implementation)  
(1/1/14)**

**NOTICE OF CHANGE  
(10/10/82)**

The list of sections implemented by §2-5-14, Hawaii Administrative Rules, is changed to read as follows:

(Imp: HRS §§000-4, 000-24.1)

[Assume the original list of sections implemented had read "(Imp: HRS §000-4; SLH 1981, Act 35, §2)" and that the new codified citation (HRS §000-24.1) had become available to replace the session law citation.]

[One rule section per sheet of paper.]

[File with Lieutenant Governor. Send copy to the Legislative Reference Bureau.]



**EXAMPLE NO. 5-12--NOTICE OF CHANGE  
(Implementation)  
(1/1/14)**

NOTICE OF CHANGE  
(9/2/81)

The list of sections implemented by §13-88-2, Hawaii Administrative Rules, is changed to read as follows:

(Imp: HRS §187-20)

[One rule section per sheet of paper.]

[File with Lieutenant Governor. Send copy to the Legislative Reference Bureau.]





**EXAMPLE NO. 5-13--NOTICE OF CHANGE  
(Implementation)  
(1/1/14)**

NOTICE OF CHANGE  
(9/2/81)

The list of sections implemented by §13-90-2, Hawaii Administrative Rules, is changed to read as follows:

(Imp: HRS §187-20)

[One rule section per sheet of paper.]

[File with Lieutenant Governor. Send copy to the Legislative Reference Bureau.]



**EXAMPLE NO. 5-14--NOTICE OF CHANGE**  
**(Authorization and Implementation)**  
**(1/1/14)**

NOTICE OF CHANGE  
(10/10/82)

The citation of authority for and list of sections implemented by §2-5-14, Hawaii Administrative Rules, are changed to read as follows:

(Auth: HRS §000-29) (Imp: HRS §§000-24, 000-24.1)

[Changes to citations of authority for and the list of sections implemented by the same rule section may be combined in a single notice.]

[One rule section per sheet of paper.]

[File with Lieutenant Governor. Send copy to the Legislative Reference Bureau.]



**EXAMPLE NO. 5-15--NOTICE OF CHANGE**  
**(Authorization and Implementation)**  
**(1/1/14)**

NOTICE OF CHANGE  
(9/2/81)

The citation of authority for and list of sections implemented by §13-83-3, Hawaii Administrative Rules, are changed to read as follows:

(Auth: HRS §187-2) (Imp: HRS §§187-20, 187-21)

[One rule section per sheet of paper.]

[File with Lieutenant Governor. Send copy to the Legislative Reference Bureau.]



**EXAMPLE NO. 5-16--NOTICE OF CHANGE**  
**(Source Note)**  
**(1/1/14)**

NOTICE OF CHANGE  
(6/6/02)

The source note for §16-237-45.5, Hawaii Administrative Rules, is changed to read as follows:

[Eff 3/14/01; am 8/22/02; am 4/16/03]

[Use where agency needs to correct an error in source note (e.g., to correct typographical error).]

[One rule section per sheet of paper.]

[File with Lieutenant Governor. Send copy to the Legislative Reference Bureau.]





**EXAMPLE NO. 5-17--NOTICE OF CHANGE**  
**(Source Note, Authorization, and Implementation)**  
**(1/1/14)**

NOTICE OF CHANGE  
(7/27/13)

The source note for, citation of authority for, and list of sections implemented by §13-83-3, Hawaii Administrative Rules, are changed to read as follows:

[Eff 9/2/81; am and comp 3/14/13] (Imp: HRS §187-2) (Imp: HRS §§187-20, 187-21)

[One rule section per sheet of paper.]

[File with Lieutenant Governor. Send copy to the Legislative Reference Bureau.]



HAWAII ADMINISTRATIVE RULES

TITLE 00

LEGISLATIVE REFERENCE BUREAU

SUBTITLE 1 HAWAII ADMINISTRATIVE RULES FORMAT

CHAPTER 00-5.5

COMPILATION

- §00-5.5-1 Statutory requirements
- §00-5.5-1.5 Shortcut to compliance
- §00-5.5-2 Periodic compilations below title level
- §00-5.5-3 Compilation of title
- §00-5.5-4 Elimination of historical notes for sections
- §00-5.5-5 Compilation of title; tables of sections affected
- §00-5.5-6 Examples of simultaneous amendment and compilation of chapter

Historical note: This chapter is based substantially upon subchapter 2 of chapter 00-5, consisting of sections 00-5-8 to 00-5-10. [Eff 2/15/80; R 5/1/84]

**§00-5.5-1 Statutory requirements.** Agency rules shall be compiled pursuant to the requirements of section 91-5, Hawaii Revised Statutes. [Eff 5/1/84; comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-5.5-1.5 Shortcut to compliance.** Amending and compiling a chapter each time an amendment is made to that chapter effectively eliminates the need to take any additional steps to comply with the compilation of the title as required by section 91-5(a), Hawaii Revised Statutes, and the remainder of this chapter. [Eff 5/23/16] (Auth: §91-4.2) (Imp: HRS §91-4.2)

**§00-5.5-2 Periodic compilations below title level.** (a) Units of organization below the title level may be compiled separately on the basis of need as determined by the agency. The minimum level of compilation shall be at the chapter level. Agencies may find it easier to periodically compile chapters or other larger units of organization rather than wait to compile the entire title at one time. The simultaneous amendment and compilation of a chapter each time any provision of that chapter is amended accomplishes this objective.

(b) The result of the compilation of a unit of organization below the title level shall be an updated version of the unit of organization showing in final typed form, all sections as amended, the inclusion of all added material, and the elimination of all deleted material. The compilation shall also reflect and integrate the contents of notices of change filed prior to the compilation. [Eff 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §§91-4.2, 91-5)

**§00-5.5-3 Compilation of title.** The compilation of an entire title shall include all of the elements required for the compilation of lower units of organization under section 00-5.5-2. The compilation of a title is probably most easily accomplished by repealing all existing rules and adopting new rules. [Eff 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §§91-4.2, 91-5)

**§00-5.5-4 Elimination of historical notes for sections.** When a title is compiled in its entirety, historical notes for individual sections within chapters shall be eliminated. [Eff 5/1/84; comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-5.5-5 Compilation of title; tables of sections affected.** Every time an agency compiles an entire title, the agency shall prepare a table of sections affected listing the old and new section numbers of all rules compiled. The purpose of the table of sections affected is to provide an easy method of finding sections which have been renumbered. The table of sections affected shall be on sheets of paper separate from the rules themselves and shall be:

- (1) Filed with the lieutenant governor and a copy sent to the legislative reference bureau; and
- (2) Made accessible to the public:
  - (A) In printed form; and
  - (B) In electronic form posted on the department's website. [Eff 5/1/84; comp 5/23/16] (Auth: HRS §91-4.1) (Imp: HRS §§91-4.2, 91-5)

**§00-5.5-6 Examples of simultaneous amendment and compilation of chapter.** For examples of chapters in the standard and Ramseyer formats which have been simultaneously amended and compiled, see section 00-10-3 and examples incorporated by that section. [Eff 5/1/84; comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.1)



HAWAII ADMINISTRATIVE RULES

TITLE 00

LEGISLATIVE REFERENCE BUREAU

SUBTITLE 1 HAWAII ADMINISTRATIVE RULES FORMAT

CHAPTER 00-6

RAMSEYER FORMAT

Subchapter 1 General Provisions

- §00-6-1 Applicability
- §00-6-1.5 Simultaneous amendment and compilation of chapters; shortcut
- §00-6-2 Title; outline structure
- §00-6-2.1 Prefatory language required
- §00-6-3 Sequence
- §00-6-4 Punctuation

Subchapter 2 Amendments to Existing Rules

- §00-6-4.7 Amendments; simultaneous amendment and compilation of chapter required; effect upon requirements of subchapter
- §00-6-5 Section or subsection to be set out at length
- §00-6-5.3 Reserved sections
- §00-6-6 Section headings or titles
- §00-6-7 Sections; definitions

Subchapter 3 New Material

- §00-6-7.7 Amendments; new material; simultaneous amendment and compilation of chapter only; effect upon requirements of subchapter

- §00-6-8 New subchapters or larger organizational units
- §00-6-9 New sections
- §00-6-10 New subsections
- §00-6-11 New paragraphs, subparagraphs, and clauses
- §00-6-12 New definitions
- §00-6-13 Agencies to assign numbers

#### Subchapter 4 Repeal

- §00-6-13.7 Amendments; repealed material; simultaneous amendment and compilation of chapter only; effect upon requirements of subchapter
- §00-6-14 Repeal of subchapters or larger organizational units
- §00-6-15 Repeal of sections
- §00-6-16 Repeal of subsections
- §00-6-17 Repeal of paragraphs, subparagraphs, and clauses
- §00-6-18 Repeal of definitions
- §00-6-19 Extensive deletions and insertions

#### Subchapter 5 Other Amendments

- §00-6-20 Amendments to maps, forms, attachments, and exhibits
- §00-6-21 Source notes; sections authorizing and implemented
- §00-6-21.3 Dividing material within subsection into paragraphs
- §00-6-21.5 Dividing existing section into multiple sections

#### Subchapter 6 Other Provisions

- §00-6-22 Statement of effect of bracketing, strikethrough, and underscoring
- §00-6-23 Effective date
- §00-6-23.1 Ramseyer certification
- §00-6-24 Ramseyer format; examples

#### Subchapter 7 Ramseyer Format, Selected Problems

- §00-6-30 Amending a section when chapter is compiled; example
- §00-6-31 Renumbering a section when chapter is compiled; example
- §00-6-32 Repealing a section when chapter is compiled; example



## SUBCHAPTER 1

## GENERAL PROVISIONS

**§00-6-1 Applicability.** (a) This chapter shall apply only to the preparation of copies of new rules and the repeal or amendment of existing rules in Ramseyer format that are sent to the legislative reference bureau. It does not apply to rules filed with the office of the lieutenant governor.

(b) Additionally, this chapter applies only to additions, deletions, or changes to the text of sections (including section numbers and headings) and shall not apply to notes such as source notes, historical notes, authorization, implementation, or designation of reserved sections. [Eff 2/15/80; am and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §§91-4.1, 91-4.2)

**§00-6-1.5 Simultaneous amendment and compilation of chapters; shortcut.** (a) Many of the requirements of this chapter will be substantially eliminated by amending and compiling an entire chapter of rules each time any portion of the chapter is amended.

(b) Simultaneous amendment and compilation of the entire chapter involves:

- (1) Setting forth the chapter in existing form;
- (2) Including appropriate prefatory language; and
- (3) Showing proposed changes to the text by bracketing and striking through proposed deletions and underscoring proposed additions. [Eff and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §§91-4.1, 91-4.2)

**§00-6-2 Title; outline structure.** (a) Each set of rules in a rulemaking action produced in the Ramseyer format pursuant to section 91-4.1, Hawaii Revised Statutes, and submitted to the legislative reference bureau shall be entitled as the:

- (1) Adoption of a new chapter;
- (2) Repeal of an existing chapter; or
- (3) Amendment and compilation of a chapter if any changes are being made to that chapter.

(b) Examples in the Ramseyer format of new chapters, repealed chapters, and chapters that are being amended and compiled are set forth in the examples related to sections 00-10-1, 00-10-2.1, and 00-10-3. [Eff 2/15/80; am and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §§91-4.1, 91-4.2)

**§00-6-2.1 Prefatory language required.** Rules prepared in the Ramseyer format shall include prefatory language explaining the action being taken with regard to a particular unit of organization. With the formats for rulemaking actions being limited to actions at the chapter level as provided in chapter 00-4.9, examples of appropriate prefatory language, barring unusual circumstances, shall be limited to the following varieties:

- (1) "Chapter 00-85, Hawaii Administrative Rules, is adopted to read as follows:"
- (2) "Chapter 00-85, Hawaii Administrative Rules, is amended and compiled to read as follows:"
- (3) "Chapter 00-85, Hawaii Administrative Rules, is repealed." [Eff and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §§91-4.1, 91-4.2)

**§00-6-3 Sequence.** (a) If the amendment deletes matter and adds new or different matter, follow the grammatical structure of the existing unit of organization and of the proposed amendment.

**Example:**

Section 13-3-14, Hawaii Administrative Rules, is amended to read as follows:

**"§13-3-14 Residence lots, requirements.**

In the disposition of lots for residence purposes:

- (1) No person shall purchase or lease, directly or indirectly through an agent, nominee, third person, or otherwise, any interest in more than one lot.

- [~~(2)~~ ~~No person and no unmarried minor child, whose spouse or parent purchases or leases a lot, shall be eligible to purchase any lot.~~
- ~~(3)~~] (2) The board of land and natural resources shall require the lessee or purchaser to construct a dwelling of such size and value [and within such time] as shall be prescribed by the board[-] within three years following the date of purchase or lease. The board, upon application of the purchaser or lessee, may extend the three-year period from time to time for good cause.
- [~~(4)~~] (3) The board shall establish such additional restrictions, requirements, or conditions in accordance with the powers granted to it in section 171-6(6), Hawaii Revised Statutes."

(b) If the amendment proposes to replace an existing word or figure with a new word or figure, the matter to be deleted is set forth first in brackets and struck through, and the new matter, underscored, is set forth immediately after. In other words, delete first, then add.

**Example:**

Section 3-5-5, Hawaii Administrative Rules, is amended to read as follows:

**"§3-5-5 Bond authorization.** The director of finance, with the approval of the governor, may issue from time to time general obligation bonds pursuant to chapter 39, part I, Hawaii Revised Statutes, not exceeding [~~\$500,000~~] \$15,000,000 for the granting of loans pursuant to the purposes of this part."

[Eff 2/15/80; am and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2)  
(Imp: HRS §§91-4.1, 91-4.2)

**§00-6-4 Punctuation.** (a) An amendment that changes punctuation or spelling in existing rules is indicated by appropriate bracketing, strikethrough, and underscoring.

(b) Always bracket out and strikethrough punctuation before inserting new material. Do not insert new material between existing language and punctuation.

**Example:**

**CORRECT**

Do it this way~~[,]~~, not that way.

**INCORRECT**

~~[Always bracket out punctuation before inserting new material do not insert new material otherwise]~~ Do it this way, not that way.

**CORRECT**

This one, that~~[,]~~ one, and the other thing.

**INCORRECT**

This one, that one, and the other thing.

(c) Do not insert punctuation before brackets.

**Example:**

**CORRECT**

The quick brown fox jumped over the lazy dogs~~[, and ran away through the woods].~~

**INCORRECT**

The quick brown fox jumped over the lazy dogs. ~~[, and ran away through the woods.]~~

(d) When renumbering paragraphs, bracket out the number with the material which is being deleted, and reinsert the number when reaching the remaining material. Do not leave the number hanging before deleted material, and then try and match it up with the remaining material.

**Example:**

**CORRECT**

[~~(2)~~ ~~Two turtle doves;~~  
~~(3)~~] (2) Three French hens;

**INCORRECT**

(2) [~~Two turtle doves;~~  
~~(3)~~] Three French hens;

(e) If a portion of a word is being changed, such as changing its capitalization, the entire word is first enclosed in brackets and struck through then amended and underscored.

**Example:**

**CORRECT**

All deposits shall be [~~State~~] state revenues.

**INCORRECT**

All deposits shall be [~~S~~]state revenues.

[Eff 2/15/80; am and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2)  
 (Imp: HRS §§91-4.1, 91-4.2)

SUBCHAPTER 2

AMENDMENTS TO EXISTING RULES

**§00-6-4.7 Amendments; simultaneous amendment and compilation of chapter required; effect upon requirements of subchapter.** (a) This section shall apply to any rulemaking action for which a public hearing is held after December 31, 2016.

(b) Any rulemaking action proposing to amend the text of any portion of any chapter shall be accomplished by simultaneously amending and compiling the entire chapter. In producing the Ramseyer version of chapters being amended and compiled, the Ramseyer conventions for setting forth new or repealed subchapters that apply to bill drafting (legislative proposals) shall be altered as follows:

- (1) All material in new complete subchapters shall be underscored; and
- (2) All material in repealed complete subchapters shall be bracketed and struck through.

(c) Examples of the simultaneous amendment and compilation of a chapter involving the addition or repeal of a subchapter shall be as provided pursuant to section 00-10-3.

(d) Many matters addressed by this subchapter will be rendered moot by the simultaneous amendment and compilation of entire chapters for each rulemaking action that proposes to make any amendments to a chapter after December 31, 2016. The need for prefatory language will be limited to a single statement about the chapter being amended and compiled, and eliminated for all other items concerning new, changed, or repealed provisions as provided in section 00-6-2.1. The otherwise moot provisions continue to apply to rules adopted prior to January 1, 2017. [Eff and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §§91-4.1, 91-4.2)

**§00-6-5 Section or subsection to be set out at length.** (a) The requirements of this section are rendered moot by amending and compiling the entire chapter each time any change is made to the chapter.

(b) No matter how small the amendment and no matter how lengthy the amended section or subsection, the entire section or subsection shall be set forth; provided that if a section consists solely of definitions, then only the definitions being amended need be set forth in their entirety. If only one subsection in a

section is being amended, only the subsection amended shall be set forth. Asterisks shall be used to indicate subsections (or other definitions) that are not shown in the standard format. Use of asterisks shall be optional in the Ramseyer format.

(c) Subsections (or units of organization within a subsection) shall be amended by setting forth the entire subsection.

**Example:**

Section 16-18-5, Hawaii Administrative Rules, is amended by amending subsection (g) to read as follows:

"(g) The board may~~[, whenever it believes the public interest will be best served]~~ serve suitable notices or warnings, in writing, rather than resorting to prosecution for minor ~~[violations.]~~ violations."

**Example:**

Section 19-68-17, Hawaii Administrative Rules, is amended by amending subsection (a) to read as follows:

"(a) The following vehicles shall be certified as provided in subsection (e) once every six months:

- (1) Motor vehicles ten years of age or older, except antique motor vehicles as defined in section 249-1;
- (2) Ambulances;
- (3) Trucks, truck-tractors, semitrailers, or pole trailers having a gross vehicle weight rating of more than ~~[10,000]~~ ten thousand pounds~~[.];~~
- (4) Buses~~[.];~~
- (5) Rental or U-drive motor vehicles~~[.];~~  
and
- (6) Taxi cabs."

(d) Contiguous subsections within the same section may be amended together.

**Example:**

Section 00-10-5, Hawaii Administrative Rules, is amended by amending subsections (b) and (c) to read as follows:

"(b) The quick brown [~~fox~~] aardvark jumped over the lazy clowns.

(c) Now is the time for all good [~~men~~] individuals to come to deface the party."

(e) Subsections within the same section which are not contiguous shall be amended separately.

**Example:**

1. Section 00-10-9, Hawaii Administrative Rules, is amended by amending subsection (a) to read as follows:

"(a) We went eyeball to eyeball and the other [~~guy~~] person blinked."

2. Section 00-10-9, Hawaii Administrative Rules, is amended by amending subsection (c) to read as follows:

"(c) [~~These rules represent~~] This chapter is an example of America's [~~gross~~] grossest national product."

[Eff 2/15/80; am and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2)  
(Imp: HRS §§91-4.1, 91-4.2)

**§00-6-5.3 Reserved sections.** When a new section is being added that uses a "reserved" section number, the changes to the section numbers and "Reserved" designations need not be shown using brackets, strikethrough, and



underscoring. The new section number must be underscored, even if it was formerly a "reserved" section.

**Example:**

Existing chapter lists sections 00-18-16 to 00-18-20 as "Reserved". If a new section 00-18-16 is added, the changing of the reserved sections to 00-18-17 to 00-18-20 may be accomplished without bracketing, strikethrough, and underscoring.

[Eff and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §§91-4.1, 91-4.2)

**§00-6-6 Section headings or titles.** Section headings or titles shall be set forth in boldface type. Changes to headings or titles shall be shown using underscoring, brackets, and strikethrough.

**Example:**

Section 18-20-11, Hawaii Administrative Rules, is amended by amending the title to read:

"~~§18-20-11 Amortization of certified [pollution control facilities.]~~ environmental improvement equipment."

[Eff 2/15/80; am and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §§91-4.1, 91-4.2)

**§00-6-7 Sections; definitions.** (a) The need to amend individual sections, subsections, or definitions by setting them out separately is eliminated by making all amendments through the simultaneous amendment and compilation of chapters. The contents of subsections (b) and (c) are retained in order to provide examples of how to amend specific provisions by using bracketing, strikethrough, and underscoring.

(b) Sections (generally) shall be amended as follows:

**Example:**

Section 15-7-4, Hawaii Administrative Rules, is amended to read as follows:

**"§15-7-4 Qualifications for loans.** To qualify for a loan under this part an applicant ~~[must+]~~ shall:

- (1) Be of legal age and have at least one person who will occupy the premises with ~~[him]~~ the applicant and who is related to ~~[him]~~ the applicant by blood or marriage and solely dependent upon ~~[him]~~ the applicant for support. A husband and wife, who are both employed, shall jointly qualify for a loan;
- (2) Be a resident of the State for not less than one year immediately preceding the application for the loan;
- (3) Have a gross annual income not in excess of ~~[\$7,000]~~ \$15,000 including the gross income of ~~[his]~~ the applicant's spouse; and
- (4) Have such other qualifications as may be established by the director of finance."

**Example:**

Section 2-4-6, Hawaii Administrative Rules, is amended to read as follows:

**"§2-4-6 Transfers; name changes; initiated by clerk.** (a) The clerks shall use all reliable and pertinent information to keep the general register up to date. The county clerks may request information from, but are not limited to, the following sources:

- (1) The office of the lieutenant governor for any change of name;

- (2) Courts for any changes of name, divorces, separations, or other changes affecting voter status;
- (3) The department of health for marriages, deaths, or other changes affecting voter status;
- (4) Utility companies concerning commencement of changes of service; and
- (5) Residential apartments, cooperative apartments, and condominiums as to changes of occupancy.

In requesting such information the clerk shall give reasonable notice and time for furnishing the information.

(b) If the clerk has evidence indicating that a voter's registration should be transferred, then not later than 4:30 p.m. on the [~~ninetieth~~] one hundred twentieth day prior to the primary the clerk shall notify the person by first-class mail and not later than 4:30 p.m. on the third day thereafter publish in a newspaper of general circulation notice of intent to transfer registration. Notice by mail shall be sent to the address shown on the current voter list and any alleged new address. The notification shall include:

- (1) Any evidence that the clerk may have indicating why a transfer or change should be made;
- (2) The residence, precinct, and district of the voter according to current registration lists;
- (3) The alleged new address, precinct, and district;
- (4) A reply form which shall contain a space for the voter's agreement or objection to the transfer and the reasons for the objection;
- (5) Notice that unless the completed form is returned not later than 4:30 p.m. on the fifteenth day after mailing the voter shall be subject to challenge at the polls under the terms of section

2-4-7 on the basis of not being registered in the precinct where [~~he~~] the voter resides.

If no response is received by the clerk by 4:30 p.m. on the fifteenth day after mailing, a second notification shall be made not later than 4:30 p.m. on the [~~sixtieth~~] ninetieth day prior to the primary, by telephone or personal contact. A record shall be maintained of all the phone calls or attempted personal contacts noting the date, time, person calling, person called, and reply received.

(c) If, on the basis of the evidence available the clerk has good reason to believe that the voter does actually reside at some address other than the one carried on the registration list, the clerk shall transfer the voter to [~~such~~] that new address. A list of those transferred, and the precinct to which they moved, [~~will~~] shall be available at the old precinct on election day. A voter may contest [~~such~~] the transfer on or before election day by presenting evidence that [~~he~~] the voter actually resides at the old address which, if found valid by the clerk or the board of registration, shall entitle the voter to be returned to the old voting list by executive order.

A list of all voters with questionable addresses who fail to respond to notification attempts of the clerk, but who have not been transferred, shall be posted at the precinct in which [~~he~~] the voter is registered on election day and shall be made available to the public not later than 4:30 p.m. on the forty-fifth day prior to the primary election."

(c) Sections consisting solely of definitions are the only sections which may be amended without reprinting the entire section. Only the definition amended need be reproduced. The amendment shall specifically state the definition or definitions to be amended. Failure to state the particular definition effectively repeals the remainder of the section. In the "Incorrect" example, section 13-1-2, as amended, would, in its entirety, consist solely of the definition of "real property".

(d) Individual definitions shall be set forth and amended as provided in this subsection.

**Example:**

Section 17-17-1, Hawaii Administrative Rules, is amended by amending the definition of "developer" to read:

"Developer" means a developer of moderate-income housing under section 202, 207, 213, 221(d)(3), [~~221(d)(5), or~~] 221(d)(4), 231, or 236 of the National Housing Act (12 U.S.C. §§1708, 1713, 17151(d)(3), 17151(d)(4), 1715v, or 1715z-1) or a public agency, limited dividend corporation, or a private nonprofit corporation as defined in section 221(d)(3) which conforms to the standards of those sections but which is not a mortgagor under those sections or any other private mortgagor under the National Housing Act (12 U.S.C. §1701 et seq.) for [~~low~~] low- or moderate-income family housing, regulated or supervised under federal or state laws or by political subdivisions of the State, or agencies thereof, as to rents, charges, capital structure, rate of return, and methods of operation, from the time of issuance of the building permit for the project."

**Example:****CORRECT**

Section 13-1-2, Hawaii Administrative Rules, is amended by amending the definition of "real property" to read:

"Real property" includes [~~buildings, structures,~~] real estate, lands, tenements, leaseholds, interest in real estate cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest therein."

**INCORRECT**

Section 13-1-2, Hawaii Administrative Rules, is amended to read as follows:

"Real property" includes [~~buildings, structures,~~] real estate, lands, tenements, leaseholds, interest in real estate cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest therein."

[Eff 2/15/80; am and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2)  
(Imp: HRS §§91-4.1, 91-4.2)

SUBCHAPTER 3

NEW MATERIAL

**§00-6-7.7 Amendments; new material; simultaneous amendment and compilation of chapter only; effect upon requirements of subchapter.** (a)

This section shall apply to any rulemaking action for which a public hearing is held after December 31, 2016.

(b) Any rulemaking action proposing to amend any portion of any chapter shall be accomplished by simultaneously amending and compiling the entire chapter. In producing the Ramseyer version of chapters being amended and compiled, the Ramseyer conventions for setting forth new or repealed subchapters shall be altered as follows:

(1) All material in new complete subchapters shall be underscored;  
and

(2) All material in repealed complete subchapters shall be bracketed and struck through.

(c) Examples of the simultaneous amendment and compilation of a chapter shall be as provided pursuant to section 00-10-3.

(d) Many matters addressed by this subchapter will be rendered moot by the simultaneous amendment and compilation of entire chapters for each rulemaking action that proposes to make any amendments to that chapter after December 31, 2016. The need for prefatory language will be limited to a single statement about the chapter being amended and compiled, and eliminated for all other items concerning new, changed, or repealed provisions. The otherwise

moot provisions continue to apply to rules adopted prior to January 1, 2017. [Eff and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §§91-4.1, 91-4.2)

**§00-6-8 New subchapters or larger organizational units.** (a) Material adopting a new title, subtitle, part, or chapter shall set forth the text in its entirety, but need not be underscored.

(b) In the Ramseyer versions of chapters that are simultaneously amended and compiled, the text of a new subchapter shall be set forth in its entirety and underscored. [Eff 2/15/80; comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §§91-4.1, 91-4.2)

**§00-6-9 New sections.** (a) A new section being added to an existing chapter that is being amended and compiled shall be set forth in its entirety and underscored. Subsection (b) shall not apply to new sections being added to chapters that are being amended and compiled to the extent that there is no need to set out the section using prefatory language.

(b) This subsection is rendered moot by amending and compiling the entire chapter whenever a portion of that chapter is being amended, because the section being added will simply be underscored in the chapter.

**Example:**

Chapter 18-10, Hawaii Administrative Rules, is amended by adding a new section to read as follows:

"§18-10-6 Exemption of certain shipbuilding and ship repair business. There shall be exempted from, and excluded from the measure of, the taxes imposed by this chapter all of the gross proceeds arising from shipbuilding and ship repairs rendered to surface vessels federally owned or engaged in interstate or international trade."

[Eff 2/15/80; am and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §§91-4.1, 91-4.2)

**§00-6-10 New subsections.** The addition of a new subsection to an existing section requires the section to be set forth in its entirety.

This issue is rendered moot by amending and compiling the entire chapter whenever a portion of the chapter is being amended, because the subsection being added will simply be underscored in the section within the chapter.

**Example:**

Section 2-3-3, Hawaii Administrative Rules, is amended to read as follows:

**"§2-3-3 Request for mailing ballot.** (a) Any registered voter entitled to vote under this chapter may request a mailing ballot in person or in writing from the county clerk not earlier than on the sixtieth day and not later than 4:30 p.m. on the seventh day prior to the election. The request for a mailing ballot shall include any information which will facilitate the location of [his] the voter's voting precinct, the establishment of [his] the voter's right to a mailing ballot, and the address to which [he] the voter wishes [his] the voter's ballot forwarded. In any event, not later than 4:30 p.m. on the seventh working day subsequent to the closing of registration for each election, the clerk may mail a request form for a mailing ballot to each registered voter in remote areas who has not already made such a request. The request form shall be accompanied by:

- (1) A stamped, self-addressed envelope;  
and
- (2) Instructions regarding the manner of completing and returning the request form.

(b) A request made prior to any primary or special primary election by an eligible voter shall be deemed to be made with respect to both the primary and general elections or to both the special primary and special general elections.



(c) Any voter requesting a mailing ballot for a primary or special primary election who has not voted in a primary or special primary election since 1956 shall state the voter's selection of party ballot, nonpartisan ballot, or of only the official board of education ballot in the voter's request."

[Eff 2/15/80; am and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2)  
(Imp: HRS §§91-4.1, 91-4.2)

**§00-6-11 New paragraphs, subparagraphs, and clauses.** The addition of new paragraphs, subparagraphs, and clauses shall require the section or subsection to be set forth in its entirety pursuant to the requirements of section 00-6-5.

This issue is rendered moot by amending and compiling the entire chapter whenever a portion of the chapter is being amended, because the unit of organization being added will simply be underscored in the section within the chapter. [Eff 2/15/80; am and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §§91-4.1, 91-4.2)

**§00-6-12 New definitions.** The addition of a new definition to a section composed of only definitions requires only the new definition to be set forth. However, if the addition of the new definition will require other amendments in the section, the definition section shall be set forth in its entirety.

This issue is rendered moot by amending and compiling the entire chapter whenever a portion of the chapter is being amended, because the definition being added will simply be underscored in the section within the chapter.

**Example:**

Section 18-1-1, Hawaii Administrative Rules, is amended by adding a new definition to read as follows:

"Uniformed services of the United States" means the Army, Navy, Air Force, Marine Corps, Coast Guard, Coast and Geodetic Survey, and

Public Health Service, and all regular and reserve components thereof including the National Guard. The term "uniformed services of the United States" applies only to persons who are deemed members thereof under the laws of the United States relating to pay and allowances. Service as a member of the uniformed services includes inactive duty training."

OR

**Example:**

Section 4-1-1, Administrative Rules, is amended to read as follows:

**"§4-1-1 Definitions.** As used in this chapter:

- (1) "Board" means the board of agriculture.
- (2) "Committee" means the advisory committee on agricultural products.
- ~~[(2)]~~ (3) "Qualified agriculturalist" means a person, or association of persons, actively engaged in a farm, agricultural produce processing, or agricultural product development activity."

The second example indicates the unnecessary problems caused by numbering definitions. Had the definitions been left unnumbered, only the new definition would have to have been set forth, and not the entire section. [Eff 2/15/80; am and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §§91-4.1, 91-4.2)

**§00-6-13 Agencies to assign numbers.** Because the Hawaii Administrative Rules are not codified, no central authority exists to assign numbers to new units of organization as the revisor of statutes does for the Hawaii Revised Statutes. Accordingly, language to the effect that a chapter is amended by adding a new section "to be appropriately designated" is incorrect. New subtitles, parts, chapters, subchapters, or sections shall be numbered by the

agency adopting the rules. [Eff 2/15/80; am and comp 5/1/84; comp 5/23/16]  
(Auth: HRS §91-4.2) (Imp: HRS §§91-4.1, 91-4.2)

#### SUBCHAPTER 4

#### REPEAL

**§00-6-13.7 Amendments; repealed material; simultaneous amendment and compilation of chapter only; effect upon requirements of subchapter.** (a) This section shall apply to any rulemaking action for which a public hearing is held after December 31, 2016.

(b) Any rulemaking action proposing to amend any portion of any chapter shall be accomplished by simultaneously amending and compiling the entire chapter. In producing the Ramseyer version of chapters being amended and compiled, the Ramseyer conventions for setting forth new or repealed subchapters shall be altered as follows:

- (1) All material in new complete subchapters shall be underscored; and
- (2) All material in repealed complete subchapters shall be bracketed and struck through.

(c) Examples for the simultaneous amendment and compilation of a chapter shall be as provided pursuant to section 00-10-3.

(d) Many matters addressed by this subchapter will be rendered moot by the simultaneous amendment and compilation of entire chapters for each rulemaking action that proposes to make any amendments to that chapter after December 31, 2016. The otherwise moot provisions continue to apply to rules adopted prior to January 1, 2017. The need for prefatory language will be limited to a single statement about the chapter being amended and compiled, and eliminated for all other items concerning new, changed, or repealed provisions. [Eff and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §§91-4.1, 91-4.2)

**§00-6-14 Repeal of subchapters or larger organizational units.** (a) The repeal of a title, subtitle, part, or chapter need not set forth in full the title, subtitle, part, or chapter to be repealed. The exhibit at the end of chapter 00-10 entitled "Example No. 10-4--Repeal of Chapter, (Ramseyer Format), (6/8/15)", is made a part of this section.

(b) A subchapter being repealed in a chapter that is being amended and compiled shall be bracketed and struck through. [Eff 2/15/80; am and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §§91-4.1, 91-4.2)

**§00-6-15 Repeal of sections.** A section being repealed in a chapter that is being amended and compiled shall be shown by setting forth the section in its entirety in brackets and struck through.

This issue is rendered moot by amending and compiling the entire chapter whenever a portion of the chapter is being amended, because the section being repealed will simply be bracketed and struck through in the chapter.

**Example:**

Section 19-1-10, Hawaii Administrative Rules, is repealed.

[ "~~§19-1-10 Penalty.~~ Any person convicted of a misdemeanor under this chapter shall be fined not more than \$500 or imprisoned not more than six months, or both." ]

[Eff 2/15/80; am and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §§91-4.1, 91-4.2)

**§00-6-16 Repeal of subsections.** An amendment to delete a subsection shall set forth the section in its entirety.

This issue is rendered moot by amending and compiling the entire chapter whenever a portion of the chapter is being amended, because the subsection being repealed will simply be bracketed and struck through in the section within the chapter.

**Example:**

Section 4-4-16, Hawaii Administrative Rules, is amended to read as follows:

**"§4-4-16 Coloration of certain pesticides.**

(a) Pesticides known as standard lead arsenate, basic lead arsenate, calcium arsenate, magnesium arsenate, zinc arsenate, zinc arsenite, sodium fluoride, sodium fluosilicate, or barium fluosilicate shall be distinctly colored as specified by rules.

(b) The chairperson, after hearing, may require the coloration of other pesticides that the chairperson determines to be necessary to protect the health and environment.

~~[(c) The chairperson may exempt the coloration requirements for certain uses that the chairperson determines not to have substantial adverse effect on the environment.]~~"

[Eff 2/15/80; am and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2)  
(Imp: HRS §§91-4.1, 91-4.2)

**§00-6-17 Repeal of paragraphs, subparagraphs, and clauses.**

Amendments to repeal paragraphs, subparagraphs, and clauses shall require the section or subsection to be set forth in its entirety pursuant to section 00-6-5.

This issue is rendered moot by amending and compiling the entire chapter whenever a portion of the chapter is being amended, because the unit of organization being repealed will simply be bracketed and struck through in the section within the chapter. [Eff 2/15/80; am and comp 5/1/84; comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §§91-4.1, 91-4.2)

**§00-6-18 Repeal of definitions.** An amendment to delete a definition in a section composed of only definitions requires only the definition to be deleted to be set forth. However, if the deletion of the definition will require other amendments in the section, the section shall be set forth in its entirety.

This issue is rendered moot by amending and compiling the entire chapter whenever a portion of the chapter is being amended, because the definition being repealed will simply be bracketed and struck through in the section within the chapter.

**Example:**

Section 18-1-1, Hawaii Administrative Rules, is amended by deleting the definition "trade or business".

[ "~~"Trade or business" includes the performance of the functions of a public office.~~" ]

OR

Section 13-3-1, Hawaii Administrative Rules, is amended to read as follows:

**§13-3-1 Definitions.** As used in this part:

- (1) "Agency" means the planning department of each county.
- (2) "Shoreline" means the upper reaches of the wash of waves, other than storm or tidal waves, usually evidenced by the edge of vegetation growth, the upper line of debris left by the wash of waves.
- (3) "Shoreline setback" means all of the land area between the shoreline and the shoreline setback line.
- ~~(4) "Shoreline setback area means all the land area seaward of the shoreline setback line.~~
- ~~(5)]~~ (4) "Shoreline setback line" means that line established by the [State] state land use commission or the county running inland from and parallel to the shoreline at a horizontal plane."

[Eff 2/15/80; am and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2)  
(Imp: HRS §§91-4.1, 91-4.2)

**§00-6-19 Extensive deletions and insertions.** If amendments propose so many deletions and insertions in an existing subsection, section, subchapter, or

chapter of the Hawaii Administrative Rules as to make reading the subsection, section, subchapter, or chapter difficult, the entire subsection, section, subchapter, or chapter may be repealed and replaced with a new subsection, section, subchapter, or chapter, as the case may be. Section 00-4-8 shall apply with respect to the prohibition on the reuse of section, subchapter, or chapter numbers. [Eff 2/15/80; am and comp 5/1/84; comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §§91-4.1, 91-4.2)

## SUBCHAPTER 5

### OTHER AMENDMENTS

#### **§00-6-20 Amendments to maps, forms, attachments, and exhibits.** (a)

Agencies from time to time may need to update or otherwise change the contents of maps, forms, attachments, or exhibits that have been included within the text of, or incorporated by reference into the rule section. Changes to incorporated material need not be shown on the incorporated material itself (e.g., the map or form), but instead by:

- (1) Marking the new attachment with a title and date;
  - (2) Changing the incorporating language in the text of the section to reflect the title and date of the new incorporated material; and
  - (3) Replacing the incorporated material with the later version.
- (b) Changes in the title and date of any map, form, attachment, or exhibit shall be indicated in the incorporating sections by the appropriate bracketing, strikethrough, and underscoring.
- (1) If the exhibit is attached, update the title and date of the exhibit in the incorporating section using appropriate bracketing, strikethrough, and underscoring, and replace the old exhibit with the new; or
  - (2) If the exhibit is within the text of the section, the agency may either bracket and strikethrough the language to be deleted and underscore language to be added, or change an incorporating title and date.

In either case, it is advisable to use incorporating titles and dates to enable the reader to readily distinguish between different versions of the incorporated materials.

- (c) The dates on the incorporated, map, form, attachment, or exhibit need not represent a particular event. The sole purpose of the title and date are to

eliminate ambiguity as to which version of the map, form, attachment, or exhibit is "current".

**Example:**

The map entitled "Conservation District #X-2" dated 7/1/79 is changed to read: "King Kamehameha I Conservation District" with a slight change in boundaries. The new map was drawn on 10/1/82.

In the above example, the title of the map describing Conservation District X-2 shall be changed on the map, the date 10/1/82 (or another definite date) shall be added, and all sections in which the map is incorporated by reference shall be amended to refer to the title and date of the new map.

Sample language implementing the updated exhibit (i.e., map) is set forth below.

**§13-175-81.7 [Conservation district #X-2] King Kamehameha I conservation district; boundaries; map.** The location and boundaries of [~~conservation district #X-2~~] the King Kamehameha I conservation district shall be as shown on the map entitled [~~"conservation district #X-2" dated 7/1/79~~] "King Kamehameha I conservation district" dated 10/1/82 that is located at the end of this chapter.

Replace old map (dated 7/1/79) with copy of map of King Kamehameha I conservation district showing title and date of 10/1/82.

[Eff 2/15/80; and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2)  
(Imp: HRS §§91-4.1, 91-4.2)

**§00-6-21 Source notes; sections authorizing and implemented.** (a) Additions to source notes reflecting amendments, renumberings, and repeals need not be underscored. However, complete source notes shall be included at the end of each section. The requirements of section 00-4-5 shall apply. Changes to listings of sections authorizing or being implemented by rules need not be shown



using brackets, strikethrough, and underscoring even though the changes are made as part of a rulemaking action.

(b) Changes of sections authorizing or being implemented by rules that are being made after the text of the rules have been filed with the office of the lieutenant governor shall be indicated by "Notice of Change" pursuant to section 00-5-6. [Eff 2/15/80; am and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §§91-4.1, 91-4.2)

### **§00-6-21.3 Dividing material within subsection into paragraphs.**

Material within a subsection may be divided into paragraphs and subparagraphs as shown in the example below.

#### **Example:**

(h) For an applicant seeking an examination waiver, the board may waive the licensure examination if:

(1) ~~[the]~~ The applicant received a passing score pursuant to this section[7] and provided [Additionally, the applicant shall provide the] written verification[7] from each physical therapy licensing authority that granted the applicant a physical therapist or physical therapist assistant license[7] or certification of:

(A) ~~[the]~~ The applicant's passing the required licensure examination[7]; and

(B) ~~[the]~~ The status of the license or certification, including[7] whether or not the license or certification is or has been encumbered, and whether disciplinary action has been taken against the applicant or is currently pending, or the applicant is being investigated.

(2) The applicant has five years of experience within the last eight years as a physical therapist assistant by December 31, 2014. The applicant

shall provide written verification from each place of employment as a physical therapist assistant during the aforementioned five year period. Employment verification must include documentation of employment dates, job title, job description, employment status, names of all supervisors, and any other documentation requested by the board to verify employment.

[Eff and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §§91-4.1, 91-4.2)

**§00-6-21.5 Dividing existing section into multiple sections.** An existing section may be divided into multiple sections as shown below. Note that the division may have been made even if the original section had not been divided into subsections.

**Example:**

**§5-480-18 Investigation~~[(a)]~~;**  
**authorized when.** Whenever it appears to the attorney general, either upon complaint or otherwise, that any person or persons have engaged in or engages in or is about to engage in any act or practice by this chapter prohibited or declared to be illegal, or that any person or persons have assisted or participated in any plan, scheme, agreement, or combination of the nature described herein, or whenever the attorney general believes it to be in the public interest that an investigation be made, the attorney general may in the attorney general's discretion either require or permit the complainant to file with the attorney general a statement in writing under oath or otherwise as to all the facts and circumstances concerning the subject matter which the attorney general believes to be in the public interest to investigate. The attorney general may also require such other data and information from the complainant as the attorney general

deems relevant and may make such special and independent investigations as the attorney general deems necessary in connection with the matter. [Eff 6/15/91; am 12/15/94; am 6/18/97; am and comp ] (Auth: HRS §28-145) (Imp: HRS §480-16)

**§5-480-18.1 Investigation; documentary evidence.** [~~b~~] Whenever the attorney general has reason to believe that any person may be in possession, custody, or control of any documentary material, objects, tangible things, or information (hereinafter referred to as "documentary evidence") pertinent to any investigation of a possible violation of this chapter and before the filing of any complaint in court, the attorney general may issue in writing, and cause to be served upon the person, an investigative demand requiring the person to produce the documentary evidence for examination. [Eff 6/15/91; am 12/15/94; am 6/18/97; am, §5-480-18(pt); ren §5-480-18.1, and comp ] (Auth: HRS §28-145) (Imp: HRS §480-16)

**§5-480-18.2 Investigation; demand for documentary evidence; requirements.** [~~e~~] Each [~~such~~] demand for documentary evidence shall:

- (1) State the alleged violation of the section or sections of this chapter which are under investigation;
- (2) Describe and fairly identify the documentary evidence to be produced, or to be answered;
- (3) Prescribe a return date within a reasonable period of time during which the documentary evidence demanded may be assembled and produced;
- (4) Identify the custodian to whom such documentary evidence are to be delivered; and

- (5) Specify a place at which such delivery is to be made. [Eff 6/15/91; am 12/15/94; am 6/18/97; am, §5-480-18(pt); ren §5-480-18.2 and comp ] (Auth: HRS 28-145) (Imp: HRS §480-16)

**§5-480-18.3 Investigation; demand for documentary evidence; prohibitions.** [~~d~~] No [~~sueh~~] demand for documentary evidence shall:

- (1) Contain any requirement which would be held to be unreasonable if contained in a subpoena duces tecum issued by a court of this State in aid of a grand jury investigation of the possible violation; or
- (2) Require the production of any documentary evidence which would be privileged from disclosure if demanded by a subpoena duces tecum issued by a court of this State in aid of a grand jury investigation of the possible violation. [Eff 6/15/91; am 12/15/94; am 6/18/97; am, §5-480-18(pt); ren §5-480-18.3 and comp ] (Auth: HRS §28-145) (Imp: HRS §480-16)

**§5-480-18.4 Investigation; demand for documentary evidence; service by.** [~~e~~] Any [~~sueh~~] demand for documentary evidence may be served by any attorney employed by or other authorized employee of this State at any place within the territorial jurisdiction of any court of this State. [Eff 6/15/91; am 12/15/94; am 6/18/97; am, §5-480-18(pt); ren §5-480-18.4 and comp ] (Auth: HRS §28-145) (Imp: HRS §480-16)

[Eff and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §§91-4.1, 91-4.2)

SUBCHAPTER 6  
OTHER PROVISIONS

**§00-6-22 Statement of effect of bracketing, strikethrough, and underscoring.** Each set of amendments shall be followed by one of the following sections as appropriate.

**Example:**

1. Bracketed, stricken, or underscored material. If proposal amends chapter by both deleting some text and adding some text.  
  
2. Material, except source notes and other notes, to be repealed is bracketed and stricken. New material except source notes and other notes, is underscored.

OR

If proposal deletes text from amended chapter but does not add any text.

2. Material, except source notes and other notes, to be repealed is bracketed and stricken.

OR

If proposal adds text to amended chapter but does not delete any text.

2. New material except source notes and other notes, is underscored.
2. Source notes.  
  
3. Additions to update source notes and other notes to reflect amendments to sections are not bracketed, struck through, or underscored.

The exhibit at the end of chapter 00-10 entitled "Example No. 10-8-- Simultaneous Amendment and Compilation of Chapter, (Ramseyer Format), (4/15/84)", is made a part of this section. [Eff 2/15/80; am and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §§91-4.1, 91-4.2)

**§00-6-23 Effective date.** Each set of rules adopted in a rulemaking action shall include a statement as to the effective date of the new rules, amendments to existing rules, repeal of existing rules, or combination thereof.

**Example:**

1. Adoption of new chapter.

4. The adoption of chapter \_\_\_\_\_, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

OR

4. The adoption of chapter \_\_\_\_\_, Hawaii Administrative Rules, shall take effect on (specific date).\*

2. Repeal of existing chapter.

4. The repeal of chapter \_\_\_\_\_, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

OR

4. The repeal of chapter \_\_\_\_\_, Hawaii Administrative Rules, shall take effect on (specific date).\*

\* If effective date is specified, it must be not less than ten nor more than thirty days after date of filing (see section 91-4(b)(1), Hawaii Revised Statutes).

3. Simultaneous amendment and compilation of chapter.

4. These amendments to and compilation of chapter \_\_\_\_\_, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

OR

4. These amendments to and compilation of chapter \_\_\_\_\_, Hawaii Administrative Rules, shall take effect on \_\_\_\_\_.\*

4. Multiple and varied actions involving multiple chapters in same rulemaking action.

4. The adoption of chapter \_\_\_\_\_, amendments to and compilation of chapters \_\_\_\_\_ and \_\_\_\_\_, and repeal of chapter \_\_\_\_\_, Hawaii Administrative Rules, shall take effect ten days after filing with the office of the lieutenant governor.

OR

4. The adoption of chapter \_\_\_\_\_, amendments to and compilation of chapters \_\_\_\_\_ and \_\_\_\_\_, and repeal of chapter \_\_\_\_\_, Hawaii Administrative Rules, shall take effect on \_\_\_\_\_.\*

\* If effective date is specified, it must be not less than ten nor more than thirty days after date of filing (see section 91-4(b)(1), Hawaii Revised Statutes).

The exhibit at the end of this chapter entitled "Example No. 10-8-- Simultaneous Amendment and Compilation of Chapter, (Ramseyer Format), (4/15/84)", is made a part of this section. [Eff 2/15/80; am and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §§91-4.1, 91-4.2)

**§00-6-23.1 Ramseyer certification.** The adopting agency shall certify the Ramseyer version of the rules being adopted as required by section 91-4.1, Hawaii Revised Statutes. [Eff and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §§91-4.1, 91-4.2)

**§00-6-24 Ramseyer format; examples.** For examples of filings of new rules, repeal of existing rules, or the amendment and compilation of existing rules in the Ramseyer format, see chapter 00-10. [Eff and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §§91-4.1, 91-4.2)

## SUBCHAPTER 7

### RAMSEYER FORMAT, SELECTED PROBLEMS

**§00-6-30 Amending a section when chapter is compiled; example.** (a) When a chapter is also being compiled, there is no need to include prefatory language stating that the particular section is being amended.

(b) In this instance, after showing the changes made to the text of the section using brackets, strikethrough, and underscoring, a new entry to the source note would state as follows: "am and comp \_\_\_\_\_".

(c) The following is an example of an amended section that is part of a chapter that is being amended and compiled:

**Example:**

**§27-15-62 [~~Jumping~~] Leaping animals.** The quick brown fox [~~jumped~~] leaped over the lazy dogs.

[Eff 10/16/92; am 3/14/01; am and comp 5/23/16] (Auth: HRS §142-31.5) (Imp: HRS §142-56)



**§00-6-31 Renumbering a section when chapter is compiled; example.**

- (a) When a chapter is also being compiled, there is no need to include prefatory language stating that the particular section is being renumbered.
- (b) In this instance, after showing the changes made to the text of the section using brackets, strikethrough, and underscoring, a new entry to the source note would state as follows:
  - (1) If the section is only being renumbered and not otherwise amended: "ren and comp \_\_\_\_\_";
  - (2) If the section is being amended as well as renumbered: "am, ren, and comp \_\_\_\_\_".
- (c) The following is an example of a section that is being renumbered and compiled:

**Example:**

"~~§27-15-62~~ §27-15-77.3 Jumping animals.  
The quick brown fox jumped over the lazy dogs.

[Eff 10/16/92; am 3/14/01; §27-15-62; ren §27-15-77.3 and comp 5/23/16]  
(Auth: HRS §142-31.5) (Imp: HRS §142-56)

**§00-6-32 Repealing a section when chapter is compiled; example.** (a)

- When a chapter is also being compiled, there is no need to include prefatory language stating that the particular section is being repealed.
- (b) In this instance, after showing the changes made to the text of the section using brackets, strikethrough, and underscoring, a new entry to the source note would state as follows: "R \_\_\_\_\_".
- (c) Authorization and implementation notes need not be included for sections that are repealed.
- (d) The following is an example of a section that is being repealed in a chapter being amended and compiled:

**Example:**

~~"[~~§27-15-62~~ ~~Jumping animals~~. The quick brown fox jumped over the lazy dogs.]"~~

[Eff 10/16/92; am 3/14/01; R 5/23/16]



HAWAII ADMINISTRATIVE RULES

TITLE 00

LEGISLATIVE REFERENCE BUREAU

SUBTITLE 1 HAWAII ADMINISTRATIVE RULES FORMAT

CHAPTER 00-7

TRANSITION

REPEALED

**§§00-7-1 to 00-7-9** Repealed [R 5/23/16]



HAWAII ADMINISTRATIVE RULES

TITLE 00

LEGISLATIVE REFERENCE BUREAU

SUBTITLE 1 HAWAII ADMINISTRATIVE RULES FORMAT

CHAPTER 00-8

FILING AND MAINTENANCE OF RULES

- §00-8-1 County rules
- §00-8-2 Filing; number of copies
- §00-8-3 Date of filing by agency
- §00-8-4 Recordation of filing; recordation number
- §00-8-5 Placing effective date in source notes
- §00-8-6 Return to agencies
- §00-8-7 Return copies; sending copies to the legislative reference bureau
- §00-8-8 Filing of summary and signature pages; lieutenant governor
- §00-8-9 Filing of main body of active rules; lieutenant governor
- §00-8-10 Filing of amendments, new and repealed sections, and notices of change; lieutenant governor
- §00-8-11 Filing pages of inactive rules; lieutenant governor
- §00-8-12 Preservation of rules
- §00-8-13 Storage and maintenance of rules by agencies
- §00-8-14 Indexes and finding aids

**§00-8-1 County rules.** County rules are not subject to the requirements of the Hawaii administrative rules format unless a county chooses to comply with the requirements of this title, in which case, the rules of that county may be filed and maintained pursuant to chapter 91, HRS, and this chapter. [Eff 6/20/80; am and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-8-2 Filing; number of copies.** Each agency shall submit three copies of each set of:

- (1) Rules to be filed in the standard format; and
- (2) Notices of change;

to the office of the lieutenant governor. Rules in the Ramseyer format are not filed with the office of the lieutenant governor. [Eff 6/20/80; am and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-8-3 Date of filing by agency.** The lieutenant governor shall indicate the date received on the signature page of every set of rules and notices of change filed in a manner deemed appropriate by the lieutenant governor. [Eff 6/20/80; comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-8-4 Recordation of filing; recordation number.** (a) The lieutenant governor shall maintain a list of all sets of rules and notices of change filed in the order of filing. This list shall include at a minimum, but need not be limited to, the title and chapters of rules being added, amended, repealed, or compiled, or for which notices of change have been filed, the date of filing, recordation number, and the number of pages (exclusive of summary and signature pages) of rules filed. The type of paper and folders or binders used for the recordation list shall be at the discretion of the lieutenant governor.

(b) Each set of rules entered on to the recordation list shall be assigned a recordation number in order of filing. The purpose of the recordation number is to provide a clear reference between each page of rules and the specific signature page which accompanied it at the time of filing. The recordation number shall be on each page, including the summary and signature pages, of the set of rules to which the recordation number is assigned. Recordation numbers shall run consecutively, and shall be entered into the list and upon at least the first and last pages of each chapter of rules to be placed in the main body of active rules, and each amendment page.

(c) Copies of the list indicating all rules filed during the previous calendar month shall be sent by the lieutenant governor to the ombudsman and the

legislative reference bureau by the fifteenth day of each month. [Eff 6/20/80; am and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-8-5 Placing effective date in source notes.** (a) The lieutenant governor or a designated employee, upon the original copy of each set of rules filed, shall place the effective date of the rules, amendment, or repeal, at the end of each source note and, if any, each historical note.

(b) If an agency specifies an effective date, the lieutenant governor's office shall determine whether the specified date is allowable under existing law. If the specified date cannot be used (e.g., if the rules are filed less than ten or more than thirty days before the specified effective date), the lieutenant governor's office shall substitute the correct effective date.

(c) The lieutenant governor or a designated employee, upon each copy of rules to be returned to agencies under section 00-8-6, shall place the effective date of the rules at the end of the first source note and historical note only. [Eff 6/20/80; am and comp 5/1/84; comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-8-6 Return to agencies.** The lieutenant governor shall retain one copy of the rules or notice of change filed, send one copy to the office of the ombudsman, and return one copy to the agency that filed the rules. [Eff 6/20/80; comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-8-7 Return copies; sending copies to legislative reference bureau.** (a) Upon receiving the return copy of rules filed with the lieutenant governor, the adopting agency shall place the effective date of the rules into each source note and, if any, each historical note, of the remaining sections of the return copy and each section of rules prepared in the Ramseyer format.

(b) The adopting agency shall send a copy of the rules in the standard and Ramseyer formats to the legislative reference bureau not later than ten working days after receipt of the return copies from the lieutenant governor.

(c) The agency does not need to send copies with original signatures to the legislative reference bureau.

(d) Copies of rules sent to the legislative reference bureau shall be directed to the attention of the "Administrative Rules Project". [Eff 6/20/80; comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-8-8 Filing of summary and signature pages; lieutenant governor.**

The summary and signature pages shall be separated from the remainder of rules filed, and kept together. Summary and signature pages shall be filed numerically by recordation number. The office of the lieutenant governor may maintain separate folders or binders for the summary and signature pages of each title or file the pages of more than one title in a single binder. [Eff 6/20/80; comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-8-9 Filing of main body of active rules; lieutenant governor.**

The rules filed pursuant to the conversion of existing rules to the Hawaii administrative rules format, and all replacement or added chapters, including compiled chapters, shall constitute the main body of active rules. These chapters shall be filed in numerical order by the office of the lieutenant governor. [Eff 6/20/80; comp 5/1/84; comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-8-10 Filing of amendments, new and repealed sections, and notices of change; lieutenant governor.** (a) All amendments to rules, new and repealed sections, and notices of change shall be filed in numerical order by section in volumes separate from the main body of active rules; provided that after December 31, 2016, notices of change shall be filed with the main body of active rules. These amendment volumes shall serve as a supplement to the main body of active rules.

(b) Whenever a new chapter or larger unit of organization of rules is filed, those rules shall be placed in the main volume of active rules. Similarly, compiled chapters or larger units of organization shall be filed with the main body of active rules. After December 31, 2016, all notices of change shall be filed in the main body of active rules. [Eff 6/20/80; am and comp 5/1/84; comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)



**§00-8-11 Filing pages of inactive rules; lieutenant governor. (a)**

Pages of rules contained in the main body of active rules or amendment volumes may be rendered inactive by any of the following actions:

- (1) Repeal of an entire chapter or larger unit of organization in the main body of active rules;
- (2) Amendment or compilation, or both, of a chapter or larger unit of organization;
- (3) Amendment or repeal of a rule section set forth on an amendment page prior to compilation, thus requiring removal of the original amendment page and replacement with a new one; or
- (4) Subsequent compilation in which rules from the main body of active rules and the amendment volumes are merged into a single set of rules (chapter or larger unit of organization). The pages for this single set will replace the original set of rules in the main body of active rules and all amendment pages and notices of change in the amendment volume, and, after December 31, 2016, notices of change in the main volume.

(b) All pages rendered inactive shall be removed from the main body of active rules and amendment volumes. The inactive status of the removed pages shall be indicated upon each page by any method deemed appropriate by the lieutenant governor.

(c) All inactive pages of rules shall be filed in numerical order in volumes separate from the main body of active rules and volumes of amendment pages. Inactive pages of amendments shall be filed behind the chapter from the main body of active rules which those amendments supplemented.

(d) Inactive pages of a title that have accumulated over the course of more than one calendar year may be stored in a single volume or binder; provided that pages rendered inactive during each calendar year are segregated by index dividers or other means deemed appropriate by the lieutenant governor from pages rendered inactive during other calendar years. The period of accumulation of inactive pages contained within each folder or binder shall be indicated on the outside of the folder or binder.

**Example:**

On July 1, 1981, chapter 00-7 is repealed. All pages containing sections of chapter 00-7 must be transferred from the main body of active rules to the volume of inactive rules. This is also true of all pages in the amendment volumes containing amendments to sections of chapter 00-7,

including any notices of change. The pages in the main body of active rules are replaced by a single page indicating the repeal of chapter 00-7. The inactive status of the pages from the main body and amendment volumes then are stamped or otherwise indicated on each of the now inactive pages. Pages from the main body then are placed in the inactive volume followed by the amendment pages in numerical order of sections amended. The single sheet indicating the repeal of chapter 00-7 (see exhibit entitled "Example No. 10-3--Repeal of Chapter, (Standard Format), (6/8/15)", located at the end of chapter 00-10, shall be filed in the main body.

On August 1, 1981, the rules and amendments to chapter 00-8 are compiled into a single body. The pages of chapter 00-8 in the main body of active rules and amendment volumes are removed and their inactive status indicated in the same manner as the chapter 00-7 pages. In this case, however, the new set of compiled rules are inserted into the main volume of active rules. In the volumes of inactive rules, the pages of the original chapter 00-8 from the main body are placed behind the amendment pages, if any, from chapter 00-7. Amendment pages from chapter 00-8 follow the pages from the main body.

Assuming the changes in this example constitute the only changes to rules in title 00, and assuming the lieutenant governor decides to maintain pages of rules rendered inactive in each calendar year in separate volumes, then the volume containing the inactive pages from chapters 00-7 and 00-8 would be entitled:

Title 00  
(Name of Department)  
Pages Rendered Inactive 1981

[Eff 6/20/80; am and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2)  
(Imp: HRS §91-4.2)

**§00-8-12 Preservation of rules.** The lieutenant governor shall take all steps necessary to prevent the deterioration of rules maintained on file. [Eff 6/20/80; comp 5/1/84; comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-8-13 Storage and maintenance of rules by agencies.** Each department shall store and maintain copies of its own rules in the manner prescribed for the lieutenant governor by this chapter, or in any other manner

reasonably calculated to facilitate public inspection. The collection of rules maintained by each department shall include all rules of any agencies or programs that are organic to the department, as well as all agencies or programs attached to the department for administrative purposes. [Eff 6/20/80; comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-8-14 Indexes and finding aids.** All agencies may utilize indexes and finding aids published by the legislative reference bureau or any other indexes or finding aids of their own creation that are reasonably calculated to facilitate public inspection. [Eff 6/20/80; comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)



HAWAII ADMINISTRATIVE RULES

TITLE 00

LEGISLATIVE REFERENCE BUREAU

SUBTITLE 1 HAWAII ADMINISTRATIVE RULES FORMAT

CHAPTER 00-9

PRINTING AND DISTRIBUTION

|          |   |
|----------|---|
| §00-9-1  | Purpose   |
| §00-9-2  | Official and unofficial copies of rules                   |
| §00-9-3  | Official copies available for distribution; cost          |
| §00-9-4  | Official copies; requirements                             |
| §00-9-5  | Copies in unofficial size                                 |
| §00-9-10 | Electronic copies of rules posted on websites or Internet |

Historical note: This chapter is based substantially upon section 00-2-1.1. [Eff 4/1/81; R 5/1/84]

**§00-9-1 Purpose.** The purpose of this chapter is to establish a single standard for the printing and distribution of agency rules to the end that a person may be able to easily collect copies of the rules of all state agencies and store them in a single set of binders or folders. [Eff and comp 5/1/84; comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-9-2 Official and unofficial copies of rules.** (a) All rules that an agency considers to be "official" copies of its rules shall comply with the requirements of this chapter. Any copies of rules that fail to comply with this

chapter in any respect shall be considered "unofficial" copies and shall be labeled as such.

(b) Unofficial copies of rules shall be indicated by having the word "UNOFFICIAL" displayed on the front cover of the rules, or on the first page if there is no cover, in lettering that shall be not less than one inch in height. [Eff and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-9-3 Official copies available for distribution; cost.** Regardless of whether an agency chooses to use official or unofficial copies of rules as its primary distribution, official copies of rules shall be available for distribution at a cost that does not exceed that of the unofficial copies of rules. [Eff and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-9-4 Official copies; requirements.** All copies of rules shall meet the following requirements in order to be considered official copies:

- (1) Be in the standard format on 8-1/2 x 11 inch paper which are exact replicas of the rules on file at the office of the lieutenant governor;
- (2) Be distributed in units of organization consisting of not less than a complete chapter; provided that this paragraph shall not prohibit the distribution of copies of specific pages upon request;
- (3) Have all new, amended, and repealed sections and notices of change that have not yet been compiled into the main chapter located at the end of the rules being distributed on single sheets of paper;
- (4) Contain copies of rules only and shall not include other material such as statutes or other informational matter;
- (5) Not have hard covers, binding, or any other feature which would limit the ability of a person to punch holes in the pages of rules and store them in a ring binder; and
- (6) Shall not have been retyped, rekeyed, printed, or typeset in any way after filing with the office of the lieutenant governor. The purpose of this paragraph is to prevent the development of errors due to retyping, rekeying, printing, typesetting, or other inconsistencies between the copies of rules on file at the lieutenant governor's office and those being distributed. The easiest method of complying with this requirement is:

- (A) Distributing photocopies of the rules on file with the lieutenant governor; or
- (B) Using the same computer database to produce both the copies of rules on file with the lieutenant governor and the camera-ready copy for the copies of rules to be printed and distributed. [Eff and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-9-5 Copies in unofficial size.** Agencies may distribute copies of rules in reduced or enlarged size if those pages are reduced or enlarged size photocopies of official copies of the rules. In addition, the words "UNOFFICIAL SIZE" shall be clearly visible on the front cover of the rules or on the first page if there is no front cover. [Eff and comp 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

**§00-9-10 Electronic copies of rules posted on websites or Internet.** The requirements of this chapter shall apply to electronic copies of rules posted on websites or the Internet as well as to printed copies of rules. [Eff and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §§91-4.1, 91-4.2)





HAWAII ADMINISTRATIVE RULES

TITLE 00

LEGISLATIVE REFERENCE BUREAU

SUBTITLE 1 HAWAII ADMINISTRATIVE RULES FORMAT

CHAPTER 00-10

EXAMPLES AND SUGGESTIONS

|            |   |
|------------|---|
| §00-10-1   | Examples; new chapters                                      |
| §00-10-2   | Repealed  |
| §00-10-2.1 | Examples; repeal of chapters                                |
| §00-10-3   | Examples; simultaneous amendment and compilation of chapter |
| §00-10-4   | Repealed  |
| §00-10-5   | Repealed  |
| §00-10-6   | Examples; repealed and new subchapters                      |
| §00-10-7   | Examples; conversion of emergency rules to permanent        |
| §00-10-8   | Suggestions for preparation of rules                        |

**§00-10-1 Examples; new chapters.** Examples of new chapters of rules shall be as provided in the exhibits entitled "Example No. 10-1--New Chapter, (Standard Format)" and "Example No. 10-2--New Chapter, (Ramseyer Format)", both dated 4/15/84, located at the end of this chapter, which are made a part of this section. [Eff 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §§91-4.1, 91-4.2)

**§00-10-2 Repealed.** [R 5/23/16]

**§00-10-2.1 Examples; repeal of chapters.** (a) Examples of a repealed chapter of rules shall be as provided in the exhibits entitled "Example No. 10-3--Repeal of Chapter, (Standard Format), (6/8/15)" and "Example No. 10-4--Repeal of Chapter, (Ramseyer Format), (6/8/15)", located at the end of this chapter, which are made a part of this section.

(b) Examples of the repeal of multiple chapters due to the repeal of a subtitle, shall be as provided in the exhibits entitled "Example No. 10-5--Repeal of Subtitle, (Standard Format)", and "Example No. 10-6--Repeal of Subtitle, (Ramseyer Format)", both dated 5/19/14, located at the end of this chapter, which are made a part of this section. [Eff 5/23/16] (Auth: HRS §91-4.1) (Imp: HRS §§91-4.1, 91-4.2)

**§00-10-3 Examples; simultaneous amendment and compilation of chapter.** Examples of the simultaneous amendment and compilation of a chapter shall be as provided in the exhibits entitled "Example No. 10-7--Simultaneous Amendment and Compilation of Chapter, (Standard Format)", and "Example No. 10-8--Simultaneous Amendment and Compilation of Chapter, (Ramseyer Format)", both dated 4/15/84, located at the end of this chapter, which are made a part of this section. [Eff 5/1/84; am and comp 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §§91-4.1, 91-4.2)

**§00-10-4 Repealed.** [R 5/23/16]

**§00-10-5 Repealed.** [R 5/23/16]

**§00-10-6 Examples; repealed and new subchapters.** Examples of an amended and compiled chapter that includes, among other things, repealed and new subchapters are contained in the exhibits entitled:

- (1) Example No. 10-9--Simultaneous Amendment and Compilation of Chapter, Includes Repeal of a Subchapter and Addition of a New Subchapter, (Standard Format), (9/29/14); and

(2) Example No. 10-10--Simultaneous Amendment and Compilation of Chapter, Includes Repeal of a Subchapter and Addition of a New Subchapter, (Ramseyer Format), (9/29/14), located at the end of this chapter, which are made a part of this section. [Eff 5/23/16] (Auth: HRS §§91-4.2) (Imp: HRS §§91-4.1, 91-4.2)

**§00-10-7 Examples; conversion of emergency and interim rules to permanent.** (a) Although emergency and interim rules are automatically repealed by operation of law (i.e., they expire after a certain period of time), to avoid possible confusion, it is recommended that emergency and interim rules be formally repealed to "remove them from the books". This can be accomplished at the same time that the permanent rules are being adopted.

(b) Interim rules are typically authorized by specific legislation as a "stop gap" measure until permanent rules can be adopted. They frequently are not subject to repeal by operation of law after the simple passage of time. Emergency and interim rules are similar in that both are temporary rules that in many cases may be replaced by rules intended to be permanent. Accordingly, from a formatting standpoint, there appears little reason to treat them differently.

(c) An example of a rulemaking action that repeals a chapter of emergency or interim rules and adopts permanent rules is contained in the exhibits entitled:

(1) Example No. 10-11--Adopting Permanent Rules to Replace Emergency or Interim Rules, (Standard Format), (10/8/14); and  
 (2) Example No. 10-12--Adopting Permanent Rules to Replace Emergency or Interim Rules, (Ramseyer Format), (10/8/14), located at the end of the chapter, which are made a part of this section. [Eff 5/23/16] (Auth: HRS §§91-4.2) (Imp: HRS §§91-4.1, 91-4.2)

**§00-10-8 Suggestions for preparation of rules.** A suggested approach for preparation of rules is included as the exhibit entitled "Example No. 10-13--Suggested Approach to Drafting of Rules, (6/10/15)", which is located at the end of this chapter and made a part of this section. See also "Example No. 10-14--Suggestions for Preparation of Rules, (6/1/14)", located at the end of this chapter, which is made a part of this section. [Eff 5/23/16] (Auth: HRS §91-4.2) (Imp: HRS §§91-4.1, 91-4.2)



**EXAMPLE NO. 10-1--ADOPTION OF NEW CHAPTER**  
**(Standard Format)**  
**(4/15/84)**

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT,  
AND TOURISM

Adoption of Chapter 15-17  
Hawaii Administrative Rules

January 12, 1982

SUMMARY

Chapter 15-17, Hawaii Administrative Rules, entitled "Aloha Tower  
Development Corporation Rules of Practice and Procedure", is adopted.

**[The Summary Page shall be on a separate sheet of paper.]**



HAWAII ADMINISTRATIVE RULES

TITLE 15

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT,  
AND TOURISM

SUBTITLE 5

ALOHA TOWER DEVELOPMENT CORPORATION

CHAPTER 15-17

ALOHA TOWER DEVELOPMENT CORPORATION  
RULES OF PRACTICE AND PROCEDURE

Subchapter 1 Rules of General Applicability

- §15-17-1 Purpose
- §15-17-2 Definitions
- §15-17-3 Office and office hours
- §15-17-4 Meetings; conduct of meetings
- §15-17-5 Quorum and number of votes necessary for a decision; designated representatives
- §15-17-6 Authentication of board actions
- §15-17-7 Submittals and requests of petitioners
- §15-17-8 Inspection of public records; requests for public information
- §15-17-9 Duties of executive officer
- §15-17-10 Delegation of administrative duties
- §§15-17-11 to 15-17-13 (Reserved)

**[Two-sided copy begins here]**

Subchapter 2 Proceedings Before the Development Corporation

- §15-17-14 General rule
- §15-17-15 Appearances before the board
- §15-17-16 Disqualification of board members
- §15-17-17 Filing of papers
- §15-17-18 Continuances or extensions of time
- §§15-17-19 to 15-17-20 (Reserved)

Subchapter 3 Rulemaking Procedure

- §15-17-21 Initiation of rulemaking procedure
- §15-17-22 Denial of petition
- §15-17-23 Acceptance of petition
- §15-17-24 Notice of public hearing
- §15-17-25 Hearing procedure
- §15-17-26 Board action
- §15-17-27 Emergency rulemaking

SUBCHAPTER 1

RULES OF GENERAL APPLICABILITY

**§15-17-1 Purpose.** This chapter governs procedures before the Aloha Tower development corporation under chapter 206J, Hawaii Revised Statutes, and shall be construed to effectuate the purpose of the chapter and to secure the just and efficient determination of every proceeding. [Eff ]  
(Auth: HRS §§91-2, 206J-5) (Imp: HRS §§91-2, 206J-5)

**§15-17-2 Definitions.** As used in this chapter, unless a different meaning clearly appears in the context:

"Aloha Tower complex" means that parcel of land described by section 206J-3, HRS.

"Board" means the board of directors who constitute the governing body of the development corporation, as provided by section 206J-4(b), HRS.

"Chairperson" means the state director of business, economic



development, and tourism, who is designated as chairperson of the board by section 206J-4(b), HRS.

"Designated representative" means any person designated in writing by the state director of business, economic development, and tourism, the state director of transportation, the chairperson of the state board of land and natural resources, or the mayor of the city and county of Honolulu, to represent the designator as an ex officio, voting member of the board.

\* \* \*

**(Rules continue)**

\* \* \*

**§15-17-10 Delegation of administrative duties.** (a) The board may delegate to the executive officer any power or authority vested in the board as it deems reasonable and proper for the effective administration of chapter 206J, HRS, except the power to adopt, amend, or repeal rules; and any power or authority expressly reserved to the board by statute or rule.

(b) The board may appoint a hearing officer to conduct a proceeding as provided in this chapter and pursuant to the requirements of chapter 91, HRS. [Eff ] (Auth: HRS §206J-5) (Imp: HRS §206J-5)

**§§15-17-11 to 15-17-13 (Reserved).**

## SUBCHAPTER 2

### PROCEEDINGS BEFORE THE DEVELOPMENT CORPORATION

**§15-17-14 General rule.** All petitioners shall comply with this chapter when appearing before the board. Procedures to be followed by the board, unless specifically prescribed in this chapter or by chapter 91, HRS, shall be those

which, in the opinion of the board, will best serve the purposes of the proceeding. For good cause shown, the board may waive or suspend the provisions of this chapter. [Eff \_\_\_\_\_] (Auth: HRS §§91-2, 206J-5) (Imp: HRS §§91-2, 206J-5)

**§15-17-15 Appearances before the board.** (a) Any party to any proceeding before the board may appear pro se or be represented by an authorized representative.

\*\*\*

\* \* \*

**(Rules continue)**

\* \* \*

**§15-17-26 Board action.** The board shall consider all relevant comments and materials of record before taking final action in a rulemaking proceeding. Final action shall be taken within a reasonable amount of time following:

- (1) The final public hearing; or
- (2) The expiration of any extension period for submission of written comments or recommendations,

whichever occurs later. [Eff \_\_\_\_\_] (Auth: HRS §§91-2, 91-6)  
(Imp: HRS §91-3, §91-6)

**§15-17-27 Emergency rulemaking.** The board may adopt emergency rules pursuant to the requirements of section 91-3(b), HRS. [Eff \_\_\_\_\_] (Auth: HRS §91-2) (Imp: HRS §91-3)

**[Two-sided copy ends here]**

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT,  
AND TOURISM

Chapter 15-17, Hawaii Administrative Rules, on the Summary Page dated January 12, 1982, was adopted on January 12, 1982, following a public hearing held on December 29, 1981, after public notice was given in the Honolulu Star-Advertiser on December 7, 1981, and in the Honolulu Star-Bulletin on December 8, 1981.

The adoption of chapter 15-17 shall take effect ten days after filing with the Office of the Lieutenant Governor.

---

Hideto Kono, Chairperson  
Aloha Tower Development  
Corporation, Board of Directors

APPROVED:

---

George R. Ariyoshi  
Governor  
State of Hawaii

Dated: \_\_\_\_\_

APPROVED AS TO FORM:

---

Deputy Attorney General

---

Filed

**[The signature page shall be a separate sheet of paper.]**



**EXAMPLE NO. 10-2--ADOPTION OF NEW CHAPTER  
(Ramseyer Format)  
(4/15/84)**

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT,  
AND TOURISM

Adoption of Chapter 15-17  
Hawaii Administrative Rules

January 12, 1982

1. Chapter 15-17, Hawaii Administrative Rules, entitled "Aloha Tower Development Corporation Rules of Practice and Procedure", is adopted to read as follows:

Quotation mark at  
beginning of rules.

① HAWAII ADMINISTRATIVE RULES

TITLE 15

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT,  
AND TOURISM

SUBTITLE 5

ALOHA TOWER DEVELOPMENT CORPORATION

CHAPTER 15-17

ALOHA TOWER DEVELOPMENT CORPORATION  
RULES OF PRACTICE AND PROCEDURE

Subchapter 1 Rules of General Applicability

§15-17-1 Purpose  
§15-17-2 Definitions

- §15-17-3 Office and office hours
- §15-17-4 Meetings; conduct of meetings
- §15-17-5 Quorum and number of votes necessary for a decision; designated representatives
- §15-17-6 Authentication of board actions
- §15-17-7 Submittals and requests of petitioners
- §15-17-8 Inspection of public records; requests for public information
- §15-17-9 Duties of executive officer
- §15-17-10 Delegation of administrative duties
- §§15-17-11 to 15-17-13 (Reserved)

Subchapter 2 Proceedings Before the Development Corporation

- §15-17-14 General rule
- §15-17-15 Appearances before the board
- §15-17-16 Disqualification of board members
- §15-17-17 Filing of papers
- §15-17-18 Continuances or extensions of time
- §§15-17-19 to 15-17-20 (Reserved)

Subchapter 3 Rulemaking Procedure

- §15-17-21 Initiation of rulemaking procedure
- §15-17-22 Denial of petition
- §15-17-23 Acceptance of petition
- §15-17-24 Notice of public hearing
- §15-17-25 Hearing procedures
- §15-17-26 Board action
- §15-17-27 Emergency rulemaking

\* \* \*

**(Rules continue)**

\* \* \*

**[The chapter in Ramseyer format must exactly match the standard format.]**

shall confine the testimony to the matters for which the hearing has been called but shall not apply the technical rules of evidence. Witnesses shall be subject to questioning by the members of the board or by any other representative of the board. Cross examination by other persons or agencies shall be permitted only at the discretion of the presiding officer.

(g) All interested persons or agencies shall be afforded an opportunity to submit data, views, or arguments orally or in writing that are relevant to the matters specified in the notice of hearing. The period for filing written comments or recommendations may be extended beyond the hearing date by the presiding officer for good cause. An original and seven copies shall be required when submitting written comments, recommendations, or replies.

(h) Unless otherwise specifically ordered by the board, testimony given at the public hearing shall not be reported verbatim. All supporting written statements, maps, charts, tabulations, or similar data deemed by the presiding officer to be authentic and relevant, shall be received in evidence and made a part of the record. Unless the presiding officer finds that furnishing copies is impracticable, eight copies of the exhibits shall be submitted. [Eff

] (Auth: HRS §§91-2, 91-6) (Imp: HRS §§91-3, 91-6)

**§15-17-26 Board action.** The board shall consider all relevant comments and materials of record before taking final action in a rulemaking proceeding. Final action shall be taken within a reasonable amount of time following:

- (1) The final public hearing; or
- (2) The expiration of any extension period for submission of written comments or recommendations,

whichever occurs later. [Eff ] (Auth: HRS §§91-2, 91-6)  
(Imp: HRS §91-3, §91-6)

**§15-17-27 Emergency rulemaking.** The board may adopt emergency rules pursuant to the requirements of section 91-3(b), HRS.® [Eff ] (Auth: HRS §91-2) (Imp: HRS §91-3)

Quotation mark  
at end of rules.

2. The adoption of chapter 15-17, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules drafted in the Ramseyer format, pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on January 12, 1982, and filed with the Office of the Lieutenant Governor.

---

(Name), Chairperson  
Aloha Tower Development  
Corporation, Board of Directors

APPROVED AS TO FORM:

---

Deputy Attorney General

**[The provisions on this page should begin directly after the last section of the chapter. If the chapter had not ended at end of the prior page, paragraph 2 would have begun on that page.]**



**EXAMPLE NO. 10-3--REPEAL OF CHAPTER**  
**(Standard Format)**  
**(6/8/15)**

DEPARTMENT OF EDUCATION

Repeal of Chapter 8-500  
Hawaii Administrative Rules

March 18, 2014

SUMMARY

1. Chapter 8-500, Hawaii Administrative Rules, entitled "Hawaii Public Charter Schools Probation and Revocation Procedures", is repealed.

**[The Summary page shall be on a separate sheet of paper.]**



HAWAII ADMINISTRATIVE RULES

TITLE 8

DEPARTMENT OF EDUCATION

SUBTITLE 5

CHARTER SCHOOLS

CHAPTER 500

HAWAII PUBLIC CHARTER SCHOOLS PROBATION  
AND REVOCATION PROCEDURES

REPEALED

§§8-500-1 to 8-500-6 Repealed. [R ]

**[The Repeal page shall be on a separate sheet of paper.]**



The repeal of chapter 8-500, Hawaii Administrative Rules, on the Summary Page dated March 18, 2014, occurred on March 18, 2014, following a public hearing held on March 11, 2014, after public notice was given in the Honolulu Star-Advertiser (published February 6, 2014), The Garden Island (published February 6, 2014), The Maui News (published February 2, 2013), West Hawaii Today (published February 5, 2014), and Hawaii Tribune-Herald (published February 5, 2014).

The repeal shall take effect ten days after filing with the Office of the Lieutenant Governor.

\_\_\_\_\_  
(Name), Chairperson  
Board of Education

\_\_\_\_\_  
(Name)  
Governor  
State of Hawaii

Dated: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Deputy Attorney General

\_\_\_\_\_  
Filed

**[The Signature page shall be on a separate sheet of paper.]**



**EXAMPLE NO. 10-4--REPEAL OF CHAPTER  
(Ramseyer Format)  
(6/8/15)**

DEPARTMENT OF EDUCATION

Repeal of Chapter 8-500  
Hawaii Administrative Rules

March 18, 2014

1. Chapter 8-500, Hawaii Administrative Rules, entitled "Hawaii Public Charter Schools Probation and Revocation Procedures", is repealed.
2. The repeal of chapter 8-500 shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules drafted in the Ramseyer format, pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on March 18, 2014, and filed with the Office of the Lieutenant Governor.

---

(Name), Chairperson  
Board of Education

APPROVED AS TO FORM:

---

Deputy Attorney General





**EXAMPLE NO. 10-5--REPEAL OF SUBTITLE**  
**(Standard Format)**  
**(5/19/14)**

DEPARTMENT OF HUMAN SERVICES

Repeal of Subtitle 1 of Title 17, Containing Chapters 17-100, 17-101,  
17-102, 17-103, and 17-104  
Hawaii Administrative Rules

July 22, 1994

SUMMARY

1. Chapter 17-100, Hawaii Administrative Rules, is repealed.
2. Chapter 17-101, Hawaii Administrative Rules, is repealed.
3. Chapter 17-102, Hawaii Administrative Rules, is repealed.
4. Chapter 17-103, Hawaii Administrative Rules, is repealed.
5. Chapter 17-104, Hawaii Administrative Rules, is repealed.
6. Subtitle 1 of Title 17, Hawaii Administrative Rules, is repealed.

**[The Summary page shall be on a separate sheet of paper.]**



HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 1

CRIMINAL INJURIES COMPENSATION COMMISSION

REPEALED

Subtitle 1 Repealed. [R ]

**Chapters 17-100 to 17-104** Repealed. [R ]

**[The Repeal page shall be on a separate sheet of paper.]**



HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 1

CRIMINAL INJURIES COMPENSATION COMMISSION

CHAPTER 100

ADMINISTRATIVE PROVISIONS

REPEALED

**§§17-100-1 to 17-100-2** Repealed. [R ]

**[The Repeal page shall be on a separate sheet of paper.]**



HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 1

CRIMINAL INJURIES COMPENSATION COMMISSION

CHAPTER 101

COMMISSION RECORDS

REPEALED

**§§17-101-1 to 17-101-3** Repealed. [R ]

**[The Repeal page shall be on a separate sheet of paper.]**





HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 1

CRIMINAL INJURIES COMPENSATION COMMISSION

CHAPTER 102

RULEMAKING PROCEEDINGS

REPEALED

§§17-102-1 to 17-102-4 Repealed. [R ]

**[The Repeal page shall be on a separate sheet of paper.]**



HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 1

CRIMINAL INJURIES COMPENSATION COMMISSION

CHAPTER 103

CONDUCT OF HEARING

REPEALED

§§17-103-1 to 17-103-8 Repealed. [R ]

**[The Repeal page shall be on a separate sheet of paper.]**



HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 1

CRIMINAL INJURIES COMPENSATION COMMISSION

CHAPTER 104

CRIMINAL INJURIES COMPENSATION ACT

REPEALED

**§§17-104-1 to 17-104-4** Repealed. [R ]

**[The Repeal page shall be on a separate sheet of paper.]**



DEPARTMENT OF HUMAN SERVICES

The repeal of subtitle 1, containing chapters 17-100, 17-101, 17-102, 17-103, and 17-104, of title 17, Hawaii Administrative Rules, on the Summary page dated June 23, 1994, was adopted on June 23, 1994, following a public hearing held on May 25, 1994, after public notice was given in the Honolulu Advertiser on April 17, 1994, and in The Maui News, The Garden Island, and the Hawaii Tribune Herald on April 18, 1994.

The repeal of subtitle 1 containing chapters 17-100, 17-101, 17-102, 17-103, and 17-104, of title 17, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

---

Winona E. Rubin, Director  
Department of Human Services

---

John Waihee  
Governor  
State of Hawaii

Dated: \_\_\_\_\_

APPROVED AS TO FORM:

---

Deputy Attorney General

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Filed

**[The Signature page shall be on a separate sheet of paper.]**





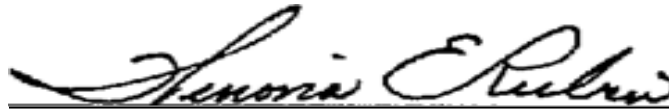
**EXAMPLE NO. 10-6--REPEAL OF SUBTITLE**  
**(Ramseyer Format)**  
**(5/19/14)**

DEPARTMENT OF HUMAN SERVICES

Repeal of Title 17, Subtitle 1, Containing Chapters 17-100, 17-101,  
17-102, 17-103, and 17-140, of Title 17,  
Hawaii Administrative Rules

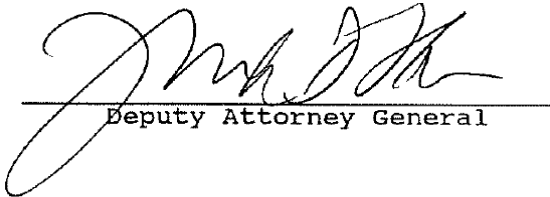
1. Subtitle 1 of Title 17, Hawaii Administrative Rules, is repealed.
2. Chapter 17-100, Hawaii Administrative Rules, is repealed.
3. Chapter 17-101, Hawaii Administrative Rules, is repealed.
4. Chapter 17-102, Hawaii Administrative Rules, is repealed.
5. Chapter 17-103, Hawaii Administrative Rules, is repealed.
6. Chapter 17-104, Hawaii Administrative Rules, is repealed.
7. The repeal of Subtitle 1, containing chapters 17-100, 17-101, 17-102, 17-103, and 17-104, of Title 17, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules, drafted in the Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on June 23, 1994, and filed with the Office of the Lieutenant Governor.



Winona E. Rubin  
Director of Human Services

APPROVED AS TO FORM:



Deputy Attorney General

**RECEIVED**  
AUG 05 1994  
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**EXAMPLE NO. 10-7--SIMULTANEOUS AMENDMENT  
AND COMPILATION OF CHAPTER  
(Standard Format)  
(4/15/84)**

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

Amendment and Compilation of Chapter 16-23  
Hawaii Administrative Rules

August 2, 1982

SUMMARY

1. Title amended.
2. §§16-23-1 to 16-23-8 are amended.
3. §§16-23-10 to 16-23-12 are amended.
4. §§16-23-14 to 16-23-17 are amended.
5. §16-23-18 is repealed.
6. §16-23-19 is amended.
7. §§16-23-21 and 16-23-22 are amended.
8. §§16-23-24 and 16-23-25 are amended.
9. §§16-23-27 and 16-23-28 are amended.
10. §§16-23-31 to 16-23-33 are amended.
11. §§16-23-57 to 16-23-59 are amended.
12. §§16-23-61 to 16-23-66 are amended.
13. §§16-23-68 to 16-23-84 are amended.
14. §§16-23-86 to 16-23-88 are amended.
15. Chapter 16-23 is compiled.

**[The Summary page shall be on a separate sheet of paper.]**



HAWAII ADMINISTRATIVE RULES

TITLE 16

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

CHAPTER 16-23

MOTOR VEHICLE ACCIDENT REPARATIONS

(NO-FAULT INSURANCE)

Subchapter 1 General provisions

- §16-23-1 Definitions
- §16-23-2 No-fault policy of insurance or self-insurance required
- §16-23-3 Verification of insurance

Subchapter 2 Required No-Fault Policy Coverage

- §16-23-4 No-fault policy
- §16-23-5 No-fault benefits
- §16-23-6 Entitlement to monthly earnings loss benefits
- §16-23-7 Computation of monthly earnings
- §16-23-8 Computation of monthly earnings loss
- §16-23-9 Liability coverage
- §16-23-10 Determination of tort threshold

Subchapter 3 Optional Additional Insurance

- §16-23-11 Required optional additional coverage
- §16-23-12 Other optional coverages

**[Two-sided copy begins here]**

Subchapter 4 Application for Insurance, Rejection, Cancellation, Non-Renewal

- §16-23-13 Application for coverage, restriction against rejection of; grounds for rejection
- §16-23-14 Restriction against cancellation or non-renewal
- §16-23-15 Notice of cancellation or non-renewal

**(Chapter analysis continues)**

- §16-23-73 Public assistance benefits recipients
- §16-23-74 Application for JUP coverage; placement
- §16-23-75 Denial of application; appeal
- §16-23-76 Administration by JUP bureau
- §16-23-77 Servicing carrier's duties
- §16-23-78 Allowances to servicing carriers
- §16-23-79 Commissions
- §16-23-80 JUP rates
- §16-23-81 JUP private passenger manual
- §16-23-82 JUP commercial manual
- §16-23-83 JUP assigned claims; eligibility
- §16-23-84 Application; assignment
- §16-23-85 Proration of costs and assigned claims paid
- §16-23-86 JUP membership termination
- §16-23-87 Joint liability for JUP business
- §16-23-88 Auditing of members

**[If the chapter has a historical note, put it after the chapter analysis.]**

SUBCHAPTER 1

GENERAL PROVISIONS

**§16-23-1 Definitions.** As used in this chapter:

"Accidental harm" means bodily injury, death, sickness, or disease caused by a motor vehicle accident to a person.

"Commissioner" means the state commissioner of insurance as defined in section 431-31, HRS. Pending the appointment of a person to or during any vacancy in that office, it refers to the state director of commerce and consumer affairs.

"County" means the counties of Hawaii, Maui, and Kauai and the city and county of Honolulu.

"Eligible injured person" means:

- (1) The person identified by name as an insured in a no-fault policy and any relative, as defined herein, who sustains accidental harm arising out of the operation, maintenance, or use of any motor vehicle;

\* \* \*

**(Rules continue)**

\* \* \*

SUBCHAPTER 2

REQUIRED NO-FAULT POLICY COVERAGE

**§16-23-4 No-fault policy.** In order to be a no-fault policy, an insurance policy covering a motor vehicle shall provide:

- (1) No-fault benefits, as described in section 16-23-5, sometimes referred to as personal injury protection benefits or first-party benefits, with respect to any accidental harm, covering medical and

rehabilitative expenses, earnings loss and other expenses, such as those for substituted services, funeral, and attorneys' fees or costs, payable to the owner, operator, occupant, or user of the insured motor vehicle, or any pedestrian such as a bicyclist, or any user or operator of a moped as defined in section 249-1, HRS, who sustains accidental harm as a

\* \* \*

**(Rules continue)**

\* \* \*

**§16-23-18 REPEALED.** [R ]

**§16-23-19 Licensing of health insurers.** A person who is licensed to engage in the business of making contracts of disability insurance (also referred to as health insurance or accident and sickness insurance), also may be licensed by the commissioner to provide those no-fault medical-rehabilitative benefits described in section 294-2(10)(A) and (B), HRS, or to provide optional major medical coverages in excess of no-fault benefits coverages, or both, if the commissioner finds that the insurer meets the requirements of section 294-14, HRS. In addition, before licensing an insurer to provide the no-fault medical-rehabilitative benefits, the commissioner

\* \* \*

**(Rules continue)**

\* \* \*

**[Two-sided copy ends here]**



**[Note: For exhibits incorporated by reference into rules, print on 8-1/2 x 11 inch paper, or reduce to that size unless physically impossible, copy two-sided wherever possible.]**

## APPENDIX A

### Amendments to the HJUP Private Passenger Automobile Manual

#### Rule 1. Definitions

This rule is amended to read as follows:

- A. Private passenger
  - 1. A private passenger automobile is a motor vehicle of the private passenger, stationwagon or jeep type that is owned or hired under a long term contract by an individual or by husband and wife who are residents of the same household and is neither used as a public or livery conveyance for passengers nor rented to others without a driver. This term excludes motorcycles, motorized bicycles, powercycles, motorized scooters, golfmobiles, snowmobiles, and other similar motorized vehicles.
  - 2. A motor vehicle with a pickup body, van type, a delivery sedan, or a panel truck with a load capacity of 1,500 pounds or less owned by an individual or by husband and wife who are residents of the same household, not customarily used in the occupation, profession, or business of the insured other than in the course of driving to or from work shall be classified and rated as a private passenger automobile.
- B. Motorcycles  
This term includes motorcycles, motorized scooters, golfmobiles, snowmobiles, and other similar vehicles required to be registered under chapter 286, HRS, owned by an individual or by husband and wife who are residents of the same household.

#### Rule 2. Rate Determination

This rule is amended to read as follows:

The Bodily Injury Liability, Property Damage Liability, Basic No-Fault and Uninsured Motorists coverage premium for Certified Public Assistance Insureds (CPAI) shall be the composite rate shown on the rate sheets.

The Bodily Injury Liability, Property Damage Liability, Basic No-Fault and Excess No-Fault, Comprehensive and Collision premiums shall be determined as follows:

- A. Refer to the Private Passenger Automobile and Motorcycle Classification Rule to determine the applicable classifications.
- B. Refer to the Age Group Rule and the Symbol and Identification Section for the appropriate age and symbol applicable to private passenger automobiles. Refer to the Age Group Rule and rate pages for motorcycles.
- C. Refer to Territory Sheets of this Manual to determine the number of the territory in which the automobile/motorcycle will be principally garaged.

Effective September 1, 1982 (New Business)  
October 1, 1982 (Renewals)

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

Amendments to and compilation of chapter 16-23, Hawaii Administrative Rules, on the Summary Page dated August 2, 1982 were adopted on August 2, 1982, following a public hearing held on July 28, 1982, after public notice was given in the Honolulu Advertiser, The Maui News, The Garden Island, and the Hawaii Tribune-Herald on July 5, 1982, July 12, 1982, and July 19, 1982.

They shall take effect ten days after filing with the Office of the Lieutenant Governor; provided that implementation of the amendments relating to the Hawaii Joint Underwriting Plan rules and rates contained herein shall occur on October 1, 1982 for renewal policies effective on or after that date; provided further that implementation of the amendments to section 16-23-11 relating to required optional additional coverage shall occur on December 1, 1982.

---

MARY G. F. BITTERMAN  
Director of Commerce and  
Consumer Affairs

---

GEORGE R. ARIYOSHI  
Governor  
State of Hawaii

Dated: \_\_\_\_\_

APPROVED AS TO FORM:

---

Deputy Attorney General

---

Filed

**[The Signature Page shall be on a separate sheet of paper.]**



**EXAMPLE NO. 10-8--SIMULTANEOUS AMENDMENT  
AND COMPILATION OF CHAPTER  
(Ramseyer Format)  
(4/15/84)**

Amendment and Compilation of Chapter 16-23  
Hawaii Administrative Rules

August 2, 1982

1. Chapter 16-23, Hawaii Administrative Rules, entitled "Rules Relating to the Hawaii Motor Vehicle Accident Reparations Act, Chapter 294, Hawaii Revised Statutes", is amended and compiled to read as follows:

Quotation marks at beginning of rules.

Ⓢ HAWAII ADMINISTRATIVE RULES

TITLE 16

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

CHAPTER 23

RULES RELATING TO THE HAWAII MOTOR VEHICLE  
ACCIDENT REPARATIONS ACT, CHAPTER 294,  
HAWAII REVISED STATUTES

Subchapter 1 General Provisions

§16-23-1 Definitions  
§16-23-2 No-fault policy of insurance or self-insurance required  
§16-23-3 Verification of insurance

Subchapter 2 Required No-Fault Policy Coverage

§16-23-4 No-fault policy

**[Two-sided copy begins here]**

Changes in chapter analysis need not be shown using brackets and underscoring. Changes to headings will be shown in particular sections.

- §16-23-5 No-fault benefits
- §16-23-6 Entitlement to monthly earnings loss benefits
- §16-23-7 Computation of monthly earnings
- §16-23-8 Computation of monthly earnings loss
- §16-23-9 Liability coverage
- §16-23-10 Determination of tort threshold

Subchapter 3 Optional Additional Insurance

- §16-23-11 Required optional additional coverage
- §16-23-12 Other optional coverages

\* \* \*

**(Chapter analysis continues)**

\* \* \*

- §16-23-73 Public assistance benefits recipients
- §16-23-74 Application for JUP coverage; placement
- §16-23-75 Denial of application; appeal
- §16-23-76 Administration by JUP bureau
- §16-23-77 Servicing carrier's duties
- §16-23-78 Allowances to servicing carriers
- §16-23-79 Commissions
- §16-23-80 JUP rates
- §16-23-81 JUP private passenger manual
- §16-23-82 JUP commercial manual
- §16-23-83 JUP assigned claims; eligibility
- §16-23-84 Application; assignment
- §16-23-85 Proration of costs and assigned claims paid
- §16-23-86 JUP membership termination
- §16-23-87 Joint liability for JUP business
- §16-23-88 Auditing of members

**[If the chapter has a historical note, put it after the chapter analysis.]**

SUBCHAPTER 1

GENERAL PROVISIONS

**§16-23-1 Definitions.** Unless the context indicates otherwise, as used in ~~[these rules:]~~ this chapter:

"Accidental harm" means bodily injury, death, sickness, or disease caused by a motor accident to a person.

"Commissioner" means the state commissioner of ~~[motor vehicle]~~ insurance as defined in section ~~[431-31(e):]~~ 431-3, HRS. Pending the appointment of a person to or during any vacancy in that office, the term refers to the state director of ~~[regulatory agencies:]~~ commerce and consumer affairs.

"County" means the counties of Hawaii, Maui, and Kauai, and the city and county of Honolulu.

"Eligible injured person" means:

- (1) The person identified by name as an insured in a no-fault policy and any relative, as defined herein, who sustains accidental harm arising out of the operation, maintenance, or use of any motor vehicle;
- (2) A pedestrian or other non-occupant, such as a bicyclist, or any user or operator of a moped as defined in section 249-1, HRS., who

\* \* \*

**(Rules continue)**

\* \* \*

written showing the name and make and the factory or serial number of the motor vehicle, policy number, names of the insured and the insurer, and the effective dates of coverage including the expiration date; provided that insurers of five or more motor vehicles which are under common registered ownership and used in the regular course of business shall not be required to indicate the name and make and factory or serial number of each motor vehicle.

The commissioner shall issue a certificate of self-insurance periodically, as necessary, for use in each motor vehicle insured under section 294-8(a)(2), [~~Hawaii Revised Statutes.~~] HRS.

The insurance identification card issued by an insurer or the certificate of self-insurance issued by the commissioner shall be kept in the insured motor vehicle at all times and shall be exhibited to a law enforcement officer upon demand.

A person who violates this chapter shall be subject to the penalty provisions of section 294-39 and chapter 805, [~~Hawaii Revised Statutes.~~] HRS. [Eff 9/1/74; am 9/1/78; ~~am and ren §16-23-3~~ 7/7/80; am 9/1/80; am and comp \_\_\_\_\_] (Auth: HRS §~~294-37~~) (Imp: HRS §§286-26, 286-108, 286-116, 294-8.5, 294-39, 805-13)

Source note if section has been amended and renumbered.

## SUBCHAPTER 2

### REQUIRED NO-FAULT POLICY COVERAGE

**§16-23-4 No-fault policy.** In order to be a no-fault policy, an insurance policy covering a motor vehicle shall provide:

- (1) No-fault benefits, as described [~~below,~~] in section 16-23-5, sometimes referred to as personal injury protection benefits or first-party benefits, with respect to any accidental harm, covering medical and rehabilitative expenses, earnings loss and other expenses, such as those for substituted services, funeral, and attorneys' fees or costs, payable to the owner, operator, occupant, or user of the insured motor vehicle, or any pedestrian such as a

\* \* \*

**(Rules continue)**

\* \* \*



a no-fault policy and will be provided adequate claims processing and payment services.

An insurer licensed under this section to provide [~~such~~] optional major medical coverages also shall provide those optional medical coverages which no-fault insurers are required to provide under section 294-11[-], HRS.

A person licensed under this section to provide no-fault medical-rehabilitative benefits or optional major medical coverages shall comply with those provisions in chapter 294, HRS., relating to insurers, including, but not limited to those relating to setting of rates and submission of information and reports to the commissioner.

It shall be assessed its equitable proration of costs and claims paid under the [~~Joint Underwriting Plan~~] joint underwriting plan and the assigned claims program. [Eff 9/1/74; am and ren §16-23-19, 7/7/80; am and comp ] (Auth: HRS §§294-37, 294-14) (Imp. HRS §§294-11, 294-13, 294-14, 294-15, 294-20, 294-23)

Indicates section was amended and compiled simultaneously.

## SUBCHAPTER 6

### REQUIREMENTS FOR SELF-INSURANCE

**§16-23-20 Application.** A person desiring to qualify as a self-insurer shall apply to the commissioner on a form prescribed by the commissioner. [Eff 9/1/74; am and ren §16-23-20, 7/7/80; comp ] (Auth: HRS §294-37) (Imp: HRS §294-14)

Indicates section was not amended when chapter was compiled.

**§16-23-21 Agreement.** The applicant also shall execute and file with the commissioner an agreement in a form prescribed by the commissioner, that if certified as a self-insurer [~~he~~] the applicant will:

- (1) In accordance with and to the extent prescribed in the no-fault law:
  - (A) In case of injury, arising out of a motor vehicle accident, to a person, including an operator, occupant, or user of the self-insured motor vehicle or any pedestrian who sustains accidental harm as a result of the operation, maintenance,

\* \* \*

**(Rules continue)**

\* \* \*

**[Note: If a new section is being added at the time of compilation, the source note should read: "[Eff and comp ]"]**

agreement, the commissioner may release the securities deposited or permit cancellation of the bond. [Eff 9/1/74; am and ren §16-23-32, 7/7/80; am and comp 9/1/82; comp ] (Auth: HRS §294-37) (Imp: HRS §§294-14, 294-15)

**§16-23-33 Reporting requirements.** A self-insurer shall submit the reports prescribed by subchapter 11 (data for establishment of the [~~90%~~] ninety per cent medical-rehabilitative threshold), and subchapter 12 (statistical and reporting requirements). [Eff 9/1/74; am and ren §16-23-33, 7/7/80; am and comp 9/1/82; comp ] (Auth: HRS §294-37) (Imp: HRS §§294-14, 294-15)

#### SUBCHAPTER 7--REPEALED

**§16-23-34 REPEALED.** [R 9/1/80]

**§16-23-35 REPEALED.** [R 9/1/80]

**§16-23-36 REPEALED.** [R 9/1/80]

**§16-23-37 REPEALED.** [R 9/1/80]

**§16-23-38 REPEALED.** [R 9/1/80]

**§16-23-39 REPEALED.** [R 9/1/80]

**§16-23-40 REPEALED.** [R 9/1/80]

**§16-23-41 REPEALED.** [R 9/1/80]

**§16-23-42 REPEALED.** [R 9/1/80]

**§16-23-43 REPEALED. [R 9/1/80]**

\* \* \*

**(Rules continue)**

**[Note: If a section is being repealed when the chapter is compiled, the Ramseyer version must show the section printed out in full with brackets on each end. The source note must contain all information starting from the effective date of the section and end with "R" followed by a space for the effective date.]**

\* \* \*

[Note: Do not copy exhibits or other material on the back of this page. This is two-sided only if rules and signatures continue on.]

members. [Eff 9/1/80; am and comp 9/1/82; comp ] (Auth: HRS §§294-37, 294-25) (Imp: HRS §294-20)

**§16-23-88 Auditing of members.** The commissioner may audit the records of any member relating to the joint underwriting plan and may prescribe policies, and the keeping of records, books of account, documents, and related material that ~~he~~ the commissioner deems necessary to carry out joint underwriting plan functions. ~~Such~~ This material shall be provided by the members in the form and with the frequency required by the commissioner. <sup>Ⓞ</sup> [Eff 9/1/80; am and comp 9/1/82; comp ] (Auth: HRS §§294-37, 294-25) (Imp: HRS §§294-15, 294-20)

Quotation marks  
at end of rules.

2. Material, except source notes and other notes, to be repealed is bracketed and stricken. New material is underscored.
3. Additions to update source notes and other notes to reflect these amendments and compilation are not underscored.

4. These amendments to and compilation of chapter 16-23, Hawaii Administrative Rules shall take effect ten days after filing with the Office of the Lieutenant Governor; provided that the implementation of the amendments relating to the Hawaii Joint Underwriting Plan rules and rates contained herein shall occur on October 1, 1982 for renewal policies effective on or after that date; provided further that implementation of the amendments to section 16-23-11 relating to required optional additional coverage shall occur on December 1, 1982.

[Provision has been tailored to agency's needs. In most cases, it would read: "These amendments to and compilation of chapter 16-23, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor."]

I certify that the foregoing are copies of the rules, drafted in the Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on August 2, 1982 and filed with the Office of the Lieutenant Governor.

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MARY G. F. BITTERMAN  
Director of Commerce and  
Consumer Affairs

APPROVED AS TO FORM:

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Deputy Attorney General

**[Note: For exhibits incorporated by reference into rules, print on 8-1/2 x 11 inch paper, or reduce to that size unless physically impossible. Copy two-sided wherever possible.]**

## APPENDIX A

### Amendments to the HJUP Private Passenger Automobile Manual

#### Rule 1. Definitions

This rule is amended to read as follows:

- A. Private passenger
  - 1. A private passenger automobile is a motor vehicle of the private passenger, stationwagon or jeep type that is owned or hired under a long term contract by an individual or by husband and wife who are residents of the same household and is neither used as a public or livery conveyance for passengers nor rented to others without a drive. This term excludes motorcycles, motorized bicycles, powercycles, motorized scooters, golfmobiles, snowmobiles, and other similar motorized vehicles.
  - 2. A motor vehicle with a pickup body, van type, a delivery sedan or a panel truck with a load capacity of 1,500 pounds or less owned by an individual or by husband and wife who are residents of the same household, not customarily used in the occupation, profession, or business of the insured other than in the course of driving to or from work shall be classified and rated as a private passenger automobile.
- B. Motorcycles  
This term includes motorcycles, motorized scooters, golfmobiles, snowmobiles, and other similar vehicles required to be registered under chapter 286, HRS, owned by an individual or by husband and wife who are residents of the same household.

#### Rule 2. Determination

This rule is amended to read as follows:

The Bodily Injury Liability, Property Damage Liability, Basic No-Fault and Uninsured Motorists coverage premium for Certified Public Assistance Insured (CPAI) shall be the composite rate shown on the rate sheets.

The Bodily Injury Liability, Property Damage Liability, Basic No-Fault and Excess No-Fault, Comprehensive and Collision premiums shall be determined as follows:

- A. Refer to the Private Passenger Automobile and Motorcycle Classification Rule to determine the applicable classifications.
- B. Refer to the Age Group Rule and the Symbol and Identification Section for the appropriate age and symbol applicable to private passenger automobiles. Refer to the Age Group Rule and rate pages for motorcycles.
- C. Refer to Territory Sheets of this Manual to determine the number of the territory in which the automobile/motorcycle will be principally garaged.

Effective September 1, 1982 (New Business)  
October 1, 1982 (Renewals)



**EXAMPLE NO. 10-9--SIMULTANEOUS AMENDMENT  
AND COMPILATION OF CHAPTER**  
**Includes Repeal of a Subchapter and Addition of a New Subchapter**  
**(Standard Format)**  
**(9/29/14)**

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

Amendment and Compilation of Chapter 16-85  
Hawaii Administrative Rules

September 12, 1997

SUMMARY

1. §§16-85-2 and 16-85-3 are amended.
2. A new §16-85-4 is added.
3. A new §16-85-5 is added.
4. Subchapter 2, consisting of §§16-85-7 to 16-85-12, is repealed.
5. §16-85-29 is amended.
6. §§16-85-33 and 16-85-34 are amended.
7. §§16-85-36 and 16-85-37 are amended.
8. §16-85-39 is amended.
9. §§16-85-44.5 through 16-85-47 are amended.
10. §16-85-49 is amended.
11. A new §16-85-49.1 is added.

**[The Summary page shall be on a separate sheet of paper.]**

12. A new §16-85-50 is added.
13. §16-85-51 is amended.
14. §16-85-52 is repealed.
15. §§16-85-53 through 16-85-56 are amended.
16. §§16-85-57 and 16-85-58 are repealed.
17. §§16-85-59 and 16-85-60 are amended.
18. §16-85-61 is repealed.
19. §16-85-62 is amended.
20. §16-85-63 is repealed.
21. §16-85-72 is amended.
22. §16-85-73 is repealed.
23. §§16-85-73.5 through 16-85-76 are amended.
24. §16-85-78 is amended.
25. §16-85-80 is amended.
26. §16-85-81 is repealed.
27. §§16-85-98 is amended.
28. §16-85-101 is amended.
29. A new subchapter 12, consisting of §§16-85-112 through 16-85-121, is added.
30. Chapter 85 is compiled.

**[The Summary page shall be on a separate sheet of paper.]**

HAWAII ADMINISTRATIVE RULES

TITLE 16

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

CHAPTER 85

MEDICAL EXAMINERS

Subchapter 1 General Provisions

- §16-85-1 Objective
- §16-85-2 Notification and filing of names, addresses, and changes
- §16-85-3 Renewal
- §16-85-4 Preliminary review and investigation
- §16-85-5 Fees

Subchapter 2 Physicians' Applications--Repealed

§§16-85-7 to 16-85-12 Repealed

Subchapter 3 Review--Repealed

§§16-85-15 to 16-85-20 Repealed

Subchapter 4 Informed Consent

- §16-85-24 Authority and purpose
- §16-85-25 General standards for categories of information
- §16-85-26 Manner of disclosure
- §16-85-27 Refusal of information
- §16-85-28 Repealed
- §16-85-29 Breast cancer treatment guidelines

**[Two-sided copy begins here]**

## Subchapter 5 Continuing Medical Education

|             |  |
|-------------|--|
| §16-85-32   | Authority and purpose                  |
| §16-85-32.5 | Definition                             |
| §16-85-33   | Biennial renewal                       |
| §16-85-33.5 | Annual renewal                         |
| §16-85-34   | Approved CME                           |
| §16-85-35   | Record keeping                         |
| §16-85-36   | CME hours; definition                  |
| §16-85-37   | Certification of compliance            |
| §16-85-38   | False certification; penalty           |
| §16-85-39   | Waiver or modification of requirements |
| §16-85-40   | Repealed                               |

## Subchapter 6 Certifying Physician Assistants

|             |   |
|-------------|---|
| §16-85-44   | Authority and purpose   |
| §16-85-44.5 | Definition  |
| §16-85-45   | Education   |
| §16-85-46   | Certification application   |
| §16-85-47   | Certification document and identification                               |
| §16-85-48   | Renewal   |
| §16-85-49   | Degree of supervision   |
| §16-85-49.1 | Scope of practice   |
| §16-85-50   | Automatic inactivation for failing to be under supervision; restoration |
| §16-85-51   | Revocation, limitation, suspension, or denial of certification          |
| §16-85-52   | Repealed  |

## Subchapter 7 Certifying Emergency Medical Service Personnel

|             |                              |
|-------------|------------------------------|
| §16-85-53   | Authority and purpose        |
| §16-85-53.5 | Definitions                  |
| §16-85-54   | Certification application    |
| §16-85-55   | Recertification requirements |
| §16-85-56   | Courses of training          |
| §16-85-57   | Repealed                     |
| §16-85-58   | Repealed                     |
| §16-85-59   | Scope of practice            |
| §16-85-60   | Supervision; responsibility  |
| §16-85-61   | Repealed                     |

- §16-85-62 Revocation, limitation, suspension, or denial of certification
- §16-85-63 Repealed

#### Subchapter 8 Podiatric Medicine

- §16-85-70 Authority and purpose
- §16-85-71 Definition
- §16-85-72 Application
- §16-85-73 Repealed
- §16-85-73.5 PMLexis examination
- §16-85-74 Biennial renewal
- §16-85-75 CE requirements
- §16-85-76 Record keeping
- §16-85-77 Credit hour; definition
- §16-85-78 Certification of compliance
- §16-85-79 False certification; penalty
- §16-85-80 Waiver or modification of CE requirements
- §16-85-81 Repealed

#### Subchapter 9 Oral Testimony

- §16-85-98 Oral testimony

#### Subchapter 10 Practice and Procedure

- §16-85-101 Administrative practice and procedure

#### Subchapter 11 Denial, Rejection, Forfeiture

- §16-85-107 Denial or rejection of application
- §16-85-108 Automatic forfeiture for failing to renew; restoration

#### Subchapter 12 Disciplinary Sanctions

- §16-85-112 Grounds for refusal to renew, reinstate, or restore, and for revocation, suspension, denial, or condition of license or certificate
- §16-85-113 Suspended license or certificate
- §16-85-114 Revoked license or certificate
- §16-85-115 Relinquishment no bar to jurisdiction
- §16-85-116 Summary suspension

- §16-85-117 Civil and criminal sanctions for unlicensed or uncertified activity; fines; injunctive relief; damages; forfeiture
- §16-85-118 Remedies or penalties cumulative
- §16-85-119 Severability
- §16-85-120 Hearings; judicial review
- §16-85-121 Criminal conviction

## SUBCHAPTER 1

### GENERAL PROVISIONS

**§16-85-1 Objective.** This chapter is intended is clarify and implement chapters 453 and 463E, Hawaii Revised Statutes, adopted by the board of medical examiners, hereafter referred to as "board", to the end that the provisions thereunder may be best effectuated and the public interest most effectively protected. [Eff 1/27/79; am and ren §16-85-1, 6/12/81; am and comp 7/27/87; comp 10/28/89; camp 8/25/90; comp ] (Auth: HRS §§453-5.1, 453-33, 463E-12) (Imp: HRS §§453-5.1, 463E-12)

**§16-85-2 Notification and filing of names, addresses, and changes.** Any person holding a license or certificate shall file the person's mailing address with the board and shall immediately notify the board in writing of any and all changes which occur within thirty days of the change. Any requirements that the board provide notice to licensees and certificate holders shall be deemed met if notice is sent to the address on file with the board. [Eff 1/27/79; am and ren §16-85-2, 6/12/81; am and comp 7/27/87; comp 10/28/89; comp 8/25/90; am and comp ] (Auth: HRS §§453-5.1, 453-33, 463E-12) (Imp: HRS §§453-5.1, 453-33, 463E-12)

**§16-85-3 Renewal.** All licenses and certificates shall expire on January 31 of the even-numbered year. Before December 1 of the odd-numbered year, the board or the board's delegate shall mail to every licensee or certificate holder, except those whose license or certificate has been forfeited, suspended, or revoked, a renewal application to the address of the licensee or certificate holder on record.

Renewal fees paid by mail shall be considered as paid when due if the envelope bears the postmark of January 31 of the even-numbered year or earlier. [Eff 1/27/79; am and ren §16-85-3, 6/12/81; am and comp 7/27/87; am and comp 10/28/89; comp 8/25/90; am and comp ] (Auth: HRS §§453-5.1, 453-33, 463E-12) (Imp: HRS §§453-5.3, 453-6, 453-32, 463E-5)

**§16-85-4 Preliminary review and investigation.** (a) The board may delegate to the executive secretary any of the board's powers the board deems reasonable and proper. However, the board shall not delegate the board's powers and duties to:

- (1) Adopt, amend, or repeal rules;
- (2) Order disciplinary action against a licensee or certificate holder; and
- (3) Grant, deny, renew, refuse to renew, or otherwise condition a license or certificate unless the granting, refusal to renew, or conditioning of a license or certificate does not require the exercise of the board's expertise and discretion.

(b) The executive secretary of the board shall preliminarily review each application for licensure or certification by endorsement or examination or for a limited and temporary license or certificate filed with the board, and shall advise the applicant with regard to proper compliance with the laws and rules governing the application; provided that nothing in this section shall be construed to limit the board's authority and responsibility to ultimately pass upon the applicant's qualifications.

(c) The executive secretary of the board may initiate preliminary investigations of applicants for license or certificate by endorsement or examination or for a limited and temporary license or certificate, in conjunction with the investigatory staff of the department of commerce and consumer affairs. [Eff and comp ] (Auth: HRS §§453-5.1, 453-33, 463E-12) (Imp: HRS §§453-3, 453-4, 453-31, 463E-6)

Historical note: Section 16-85-4 is based substantially on repealed sections 16-85-9 and 16-85-10. [Eff 1/27/79; am and ren §§16-85-9, 16-85-10, 6/12/81; am and comp 7/27/87; am and comp 10/28/89; comp 8/25/90; R ]

**§16-85-5 Fees.** (a) The fees for the board of medical examiners shall be as adopted by the director in chapter 16-53, after hearing, pursuant to chapter 91, HRS.

(b) The fees, if in the form of a money order or check shall be made payable to the department of commerce and consumer affairs.

(c) The dishonoring of any check upon first deposit shall be considered a failure to meet requirements. [Eff and comp ] (Auth: HRS §§453-5.1, 453-33, 463E-12) (Imp: HRS §§453-5.3, 453-6, 453-32, 463E-5)

## SUBCHAPTER 2

### PHYSICIANS' APPLICATIONS--REPEALED

**§§16-85-7 to 16-85-12 Repealed.** [R ]

## SUBCHAPTER 3

### REVIEW

**§16-85-15 Repealed.** [R 10/28/89]

**§16-85-16 Repealed.** [R 10/28/89]

**§16-85-17 Repealed.** [R 10/28/89]

**§16-85-18 Repealed.** [R 10/28/89]

**§16-85-19 Repealed.** [R 10/28/89]



**§16-85-20 Repealed.** [R 10/28/89]

SUBCHAPTER 4

INFORMED CONSENT

**§16-85-24 Authority and purpose.** The rules in this subchapter are adopted pursuant to authority granted by section 671-3, HRS, and are intended to effectuate the purpose of that section. The board has determined that it is not practicable to set standards that include the substantive content of the information to be given a patient to ensure that a patient's consent to treatment is an informed consent. [Eff 1/27/79; am and ren §16-85-24, 6/12/81; am and comp 7/27/87; comp 10/28/89; comp 8/25/90; comp ] (Auth: HRS §§453-5.1, 463E-12) (Imp: HRS §671-3)

**§16-85-25 General standards for categories of information.** (a) Except as provided in subsection (b), where standards of medical practice indicate that a health care provider should provide the patient, or the patient's guardian, with information prior to obtaining consent for proposed medical or surgical treatment, or for a diagnostic procedure, information satisfying the following categories shall be supplied to the patient or the patient's guardian:

- (1) The condition to be treated or the suspected existence of which is the indication for a diagnostic procedure;
- (2) A description of the proposed medical or surgical treatment or diagnostic procedure;
- (3) The intended and anticipated result;
- (4) The recognized alternative treatments or diagnostic procedures, including the option of not providing treatment or performing the diagnostic procedure;
- (5) The recognized substantial risks of serious complication or mortality associated with the proposed treatment or diagnostic procedure, with the recognized alternative treatments or diagnostic procedures, and with not undertaking treatment or diagnosis; and

(6) The recognized benefits of the proposed treatment or diagnostic procedure, of recognized alternative treatments or diagnostic procedures, and of not undertaking treatment or diagnosis.

(b) The disclosure of information required by subsection (a) may be withheld if in the judgment of the health care provider the information would be detrimental to the patient's mental or physical health, or not in the best interest of the patient, provided that the action is consistent with general standards of medical and surgical practice. [Eff 1/27/79; am and ren §16-85-25, 6/12/81; am and comp 7/27/87; comp 10/28/89; comp 8/25/90; comp ]  
(Auth: HRS §§453-5.1, 463E-12) (Imp: HRS §671-3)

**§16-85-26 Manner of disclosure.** The information to be disclosed may be presented in writing, orally, or by means of audio visual aids, and shall be in language the patient or guardian can reasonably be expected to understand; provided that any written form of consent need not be in a language other than English. [Eff 1/27/79; am and ren §16-85-26, 6/12/81; am and comp 7/27/87; comp 10/28/89; comp 8/25/90; comp ] (Auth: HRS §§453-5.1, 463E-12) (Imp: HRS §671-3)

**§16-85-27 Refusal of information.** A patient may elect not to be given any part or all of the information that would otherwise be provided in accordance with section 16-85-25. [Eff 1/27/79; am and ren §16-85-27, 6/12/81; am and comp 7/27/87; comp 10/28/89; comp 8/25/90; comp ]  
(Auth: HRS §§453-5.1, 463E-12) (Imp: HRS §671-3)

**§16-85-28 Repealed.** [R 7/27/87)

**§16-85-29 Breast cancer treatment guidelines.** The board adopted "Breast Cancer Treatment Alternatives" developed by the Hawaii Medical Association and the American Cancer Society as they existed on September 15, 1993 to establish standards for health care providers to follow in giving information to a patient or a patient's guardian, to ensure that the patient's consent to the performance of a mastectomy is an informed consent. [Eff and comp 7/27/87;

comp 10/28/89; comp 8/25/90; am and comp ] (Auth:  
HRS §453-5.1) (Imp: HRS §671-3)

SUBCHAPTER 5

CONTINUING MEDICAL EDUCATION

**§16-85-32 Authority and purpose.** The rules in this part are adopted pursuant to authority granted by section 453-5.1, HRS, and are intended to effectuate the provisions of section 453-6, HRS, relating to the requirement for continuing medical education. [Eff 5/15/80; am and ren §16-85-32, 6/12/81; comp 7/27/87; comp 10/28/89; comp 8/25/90; comp ] (Auth: HRS §453-5.1) (Imp: HRS §453-6)

**§16-85-32.5 Definition.** Whenever used in this subchapter, unless the context otherwise provides:

"Continuing medical education" or "CME" means educational activities which serve to maintain, develop, or increase the knowledge, skills, and professional performance and relationships that a physician uses to provide services for patients, the public, or the profession. The content of CME is that body of knowledge and skills generally recognized and accepted by the medical profession as within the basic medical sciences, the discipline of clinical medicine, and the provision of health care to the public. [Eff and comp 7/27/87; comp 10/28/89; comp 8/25/90; comp ] (Auth: HRS §453-5.1) (Imp: HRS §453-6)

**§16-85-33 Biennial renewal.** At the time of the biennial renewal, not later than January 31 in each even-numbered year, each licensee shall have completed the CME requirements of section 16-85-34 for the two calendar years preceding the renewal date as follows:

- (1) Licensees initially licensed in the first year of the biennium shall have completed twenty category 1 CME hours and thirty category 2 CME hours, or fifty category 1 CME hours;

- (2) Licensees initially licensed in the second year of the biennium shall not be required to complete any CME hours; and
- (3) All other licensees, except licensees who were issued limited and temporary licenses, shall have completed forty category 1 CME hours, and sixty category 2 CME hours, or one hundred category 1 CME hours. [Eff 5/15/80; am and ren §16-85-33, 6/12/81; am and comp 7/27/87; am and comp 10/28/89; comp 8/25/90; am and comp ] (Auth: HRS §453-5.1) (Imp: HRS §453-6)

**§16-85-33.5 Annual renewal.** Annually, not later than January 31, all licensees who were issued limited and temporary licenses under section 453-3(2), HRS, shall have completed twenty category 1 CME hours and thirty category 2 CME hours, or fifty category 1 CME hours in the calendar year immediately preceding the annual renewal date. [Eff and comp 7/27/87; am and comp 10/28/89; comp 8/25/90; am and comp ] (Auth: HRS §453-5.1) (Imp: HRS §453-6)

**§16-85-34 Approved CME.** (a) Licensees may comply with the one hundred biennial hours CME requirements by:

- (1) Having a current American Medical Association Physician Recognition Award (PRA); or
  - (2) Holding certification that the licensee has met the CME requirements of a medical or specialty society which has reciprocal arrangements with the American Medical Association's Council on Medical Education.
- (b) Category 1 CME hours may be obtained by:
- (1) Attendance at activities conducted by an institution or organization accredited for CME by the American Medical Association's Council on Medical Education;
  - (2) Completing full-time training in a residency program accredited by the Accreditation Council for Graduate Medical Education or a fellowship in the United States which shall equal fifty hours; provided that participating in an accredited residency program at least one-half of each day which may be credited at the rate of one-half hour per week; or

- (3) Completing a full academic year of education in a medically related field leading to an advanced degree other than M.D. which shall equal fifty hours; provided that part-time study in a medically related field leading to an advanced degree other than M.D. may be credited on a pro rata basis of one hour per each five days.

\* \* \*

**(Rules continue)**

\* \* \*

**§16-85-49.1 Scope of practice.** (a) A physician assistant shall be considered the agent of the physician assistant's supervising physician in the performance of all practice-related activities as established in writing by the employer.

(b) Medical services rendered by the physician assistants may include but are not limited to:

- (1) Obtaining patient histories and performing physical examinations;
- (2) Ordering, interpreting, or performing diagnostic and therapeutic procedures;
- (3) Formulating a diagnosis;
- (4) Developing and implementing a treatment plan;
- (5) Monitoring the effectiveness of therapeutic interventions;
- (6) Assisting at surgery;
- (7) Offering counseling and education to meet patient needs; and
- (8) Making appropriate referrals.

(c) Physician assistants may not advertise in any manner without the name or names of the supervising physician or physicians, as the case may be, or in any manner which implies that the physician assistant is an independent practitioner. [Eff and comp ] (Auth: HRS §§453-5.1, 453-5.3) (Imp: HRS §§453-5.1, 453-5.3)

**§16-85-50 Automatic inactivation for failing to be under supervision; restoration.** (a) Certification shall be automatically inactivated if the physician assistant is no longer supervised by a physician or group of physicians.

\* \* \*

**(Rules continue)**

\* \* \*

**§16-85-98 Oral testimony.** (a) The board shall accept oral testimony on any item which is on the board's agenda, provided that the testimony shall be subject to the following conditions:

- (1) Each person seeking to present oral testimony is requested to notify the board not later than forty-eight hours prior to the meeting, and at that time to state the item on which testimony is to be presented;
- (2) The board may request that any person providing oral testimony submit the remarks, or a summary of the remarks, in writing to the board;
- (3) The board may rearrange the items on the agenda for the purpose of providing for the most efficient and convenient presentation of oral testimony;
- (4) Persons presenting oral testimony shall, at the beginning of the testimony, identify themselves and the organization, if any, that they represent;
- (5) The board may limit oral testimony to a specified time period but in no case shall the period be less than five minutes, and the person testifying shall be informed prior to the commencement of the testimony of the time constraints to be imposed; and
- (6) The board may refuse to hear any testimony which is irrelevant, immaterial, or unduly repetitious to the agenda item on which it is presented.

(b) Nothing in this section shall require the board to hear or receive any oral or documentary evidence from a person on any matter which is the subject of another pending proceeding, subject to the hearings relief, declaratory relief, or rule relief of chapter 16-201.

(c) Nothing in this section shall prevent the board from soliciting oral remarks from persons present at the meeting or from inviting persons to make presentations to the board on any particular matter on the board's agenda. [Eff and comp 7/27/87; comp 10/28/89; comp 8/25/90; am and comp ] (Auth: HRS §453-5.1) (Imp: HRS §92-3)

## SUBCHAPTER 10

### PRACTICE AND PROCEDURE

Historical note: Subchapter 9 of Chapter 16-85 is renumbered as Subchapter 10 of Chapter 16-85 without any change in substance. [Eff and comp 7/27/87; ren and comp 10/28/89]

**§16-85-101 Administrative practice and procedure.** The rules of practice and procedure for the board of medical examiners shall be as provided in chapter 16-201, the rules of practice and procedure of the department of commerce and consumer affairs, which are incorporated by reference and made a part of this chapter. [Eff and comp 7/27/87; comp 10/28/89; comp 8/25/90; am and comp ] (Auth: HRS §§91-2, 453-5.1) (Imp: HRS §91-2, 453-1)

## SUBCHAPTER 12

### DISCIPLINARY SANCTIONS

**§16-85-112 Grounds for refusal to renew, reinstate, or restore, and for denial, revocation, suspension, or condition of license or certificate.** In addition to any other acts or conditions provided in sections 436B-19 and 453-8, HRS, the board may refuse to renew, reinstate, or restore, or may deny, revoke, suspend, or condition in any manner, any license or certificate for any one or more of the following acts or conditions:

- (1) Failure to comply with, observe, or adhere to any law in a manner such that the board deems the licensee or certificate holder to be an unfit or improper person to hold a license or certificate;
- (2) Employing, utilizing, or attempting to employ or utilize at any time any person not licensed or certified where licensure or certification is required; or
- (3) Violating this chapter, the applicable licensing laws, or any rule or order of the board. [Eff and comp \_\_\_\_\_ ]  
(Auth: HRS §§453-5.1, 453-33, 463E-12, 436B-19) (Imp: HRS §§453-5.3, 453-8, 453-8.1, 453-32 463E-6, 436B-19)

**§16-85-113 Suspended license or certificate.** No license or certificate shall be suspended by the board for a period exceeding five years. A person whose license or certificate has been suspended may apply for reinstatement of the license or certificate to the extent authorized by law and upon complete compliance with any term or condition imposed by the order of suspension. The application for reinstatement shall be accompanied by all applicable fees, including but not limited to reinstatement fees and any compliance resolution fund fees. [Eff and comp \_\_\_\_\_ ]  
(Auth: HRS §§453-5.1, 453-33, 463E-12, 436B-4) (Imp: HRS §§453-5.3, 453-32, 436B-20)

**§16-85-114 Revoked license or certificate.** A person may apply for a new license or certificate after five years from the effective date of the revocation of the license or certificate by filing an application and complying with all current requirements for new applicants. The board may waive any applicable education or examination requirements upon being satisfied that the applicant whose license or certificate has been previously revoked, has submitted documentation that the applicant has maintained equivalent knowledge, competence, and qualifications through work experience, training, or education. [Eff and comp \_\_\_\_\_ ] (Auth: HRS §§453-5.1, 453-33, 463E-12, 436B-4) (Imp: HRS §§453-5.3, 453-32, 436B-21)

**§16-85-115 Relinquishment no bar to jurisdiction.** The forfeiture, nonrenewal, surrender, or voluntary relinquishment of a license or certificate



by a licensee or certificate holder shall not bar jurisdiction by the board to proceed with any investigation, action, or proceeding to revoke, suspend, condition, or limit the license or certificate, or fine the licensee or certificate holder. [Eff and comp \_\_\_\_\_] (Auth: HRS §§436-5.1, 453-33, 463E-12, 436B-4) (Imp: HRS §436B-22)

**§16-85-116 Summary suspension.** (a) Notwithstanding any law to the contrary, the board or the board's delegate may cause the immediate suspension or restriction of a license or certificate, subject to subsequent notice and hearing or other adequate procedures, upon a specific determination that the failure to take such an action may result in:

- (1) An immediate and unreasonable threat to personal safety; or
- (2) Fraud or misrepresentation upon consumers, and that, for the protection of the public from the possible consequences of practices, the licensee's license or certificate holder's certification should be immediately suspended or restricted.

(b) The board or the board's delegate may order the summary suspension of the license or certificate for a period not to exceed twenty days. The order of suspension shall be served upon the licensee or certificate holder at the same time as the notice of hearing for disciplinary action, and the hearing shall be scheduled prior to the expiration of the order of suspension. The period of suspension prior to the hearing shall not be extended beyond twenty days except upon request of the licensee or certificate holder for a reasonable continuance to adequately prepare the licensee's or certificate holder's defense. Any attempt by the licensee or certificate holder to continue the licensed activity while the license or certificate has been summarily suspended shall of itself be sufficient to warrant a permanent revocation of the license or certificate and shall subject the licensee or certificate holder to all penalties prescribed by this chapter, the applicable licensing laws, or any rule or order of the board. [Eff and comp \_\_\_\_\_] (Auth: HRS §§453-5.1, 453-33, 463E-12, 436B-4) (Imp: HRS §436B-23)

**§16-85-117 Civil and criminal sanctions for unlicensed or uncertified activity; fines; injunctive relief; damages; forfeiture.** (a) Any licensee or certificate holder aiding or abetting an unlicensed or uncertified person to directly or indirectly evade this chapter or the applicable licensing laws, or combining or conspiring with an unlicensed or uncertified person, or

permitting one's license or certificate to be used by an unlicensed or uncertified person, or acting as agent, partner, associate, or otherwise, of an unlicensed or uncertified person with the intent to evade this chapter or the applicable laws may be fined up to \$1,000 for the first offense; up to \$2,000 or, if applicable, forty per cent of the total contract price, whichever is greater, for the second offense; and up to \$5,000 or, if applicable, forty per cent of the total contract price, whichever is greater, for any subsequent offense. For purposes of this section, "contract price" means the total monetary consideration offered by the consumer for the provision of goods and services.

(b) Any person, who engages in an activity requiring a license or certificate issued by the board and who fails to obtain the required license or certificate, or who uses any word, title, or representation to induce the false belief that the person is licensed or certified to engage in the activity, other than a circumstance of first instance involving the inadvertent failure to renew a previously existing license or certificate, shall be guilty of a misdemeanor and be subject to a fine of not more than \$1,000 or imprisoned not more than one year, or both, and each day's violation shall be deemed a separate offense.

(c) The board or any person may maintain a suit to enjoin the performance or the continuance of any act or acts by a person acting without a license or certificate where a license or certificate is required by law, and if injured thereby, for the recovery of damages. The board may also seek the imposition of fines provided by subsection (a). The plaintiff or petitioner in a suit for an injunction need not allege or prove actual damages to prevail. Reasonable attorney fees and costs shall be allowed by the court to the plaintiff or petitioner as the prevailing party.

(d) All tools, implements, armamentariums, documents, materials, or any other property used by any person to provide professional services without a license or certificate required by law shall be declared forfeited to the State by the court and turned over to the department of commerce and consumer affairs for disposition as the department deems appropriate. [Eff and comp ] (Auth: HRS §§436B-4, 453-5.1, 453-33, 463E-12) (Imp: HRS §§453-5.3, 453-33, 436B-28)

**§16-85-118 Remedies or penalties cumulative.** Unless otherwise expressly provided, the remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of this State. [Eff and comp ] (Auth: HRS §§453-5.1, 453-33, 463E-12, 436B-4) (Imp: 436B-28)

**§16-85-119 Severability.** If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable. [Eff and comp ] (Auth: HRS §§436B-4, 453-5.1, 453-33, 463E-12) (Imp: HRS §§91-9, 91-9.5, 91-10, 91-11, 91-12, 436B-29)

**§16-85-120 Hearings; judicial review.** Unless otherwise provided by law, in every case in which the board refuses to issue, renew, restore, or reinstate a license or certificate, or proposes to take disciplinary action or other licensing sanctions against a licensee or certificate holder, the proceeding shall be conducted in accordance with chapter 91. [Eff and comp ] (Auth: HRS §§453-5.1, 453-33, 463E-12, 436B-4) (Imp: HRS §§91-9, 91-9.5, 91-10, 91-11, 91-12, 436B-24)

**§16-85-121 Criminal conviction.** (a) When an applicant, licensee, or certificate holder has been convicted of a crime related to the profession and it is determined that the conviction may be considered under section 831-3.1, HRS, or chapters 453 or 463E, HRS, the board may request the following documents from the applicant, licensee, or certificate holder:

- (1) Copies of any court records, orders, or other documents that state the facts and statutes upon which the applicant was convicted, the verdict of the court with regard to that conviction, the sentence imposed, and the actual terms of the sentence; and
- (2) Affidavits from any parole officer, employer, other physicians, or other persons who can attest to a firm belief that the applicant has been sufficiently rehabilitated to practice.

(b) The applicant, licensee, or certificate holder shall provide any documents requested within thirty days of the request. [Eff and comp ] (Auth: HRS §§453-5.1, 453-33, 463E-12) (Imp: HRS §§453-3, 453-4, 453-4.5, 453-5.1, 453-5.3, 453-7.5, 453-8.3, 453-33, 463E-3)



Amendments to and compilation of chapter 16-85, Hawaii Administrative Rules, on the Summary page dated September 12, 1997, were adopted on September 12, 1997, following a public hearing held on August 8, 1997, after public notices are given in The Honolulu Advertiser, Hawaii Tribune-Herald, West Hawaii Today, Maui News and The Garden Island on June 29, 1997.

These rules shall take effect ten days after filing with the Office of the Lieutenant Governor.

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WILLIAM E. IACONETTI, M.D.  
Chairperson  
Board of Medical Examiners

APPROVED:

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KATHRYN S. MATAYOSHI  
Director  
Department of Commerce and  
Consumer Affairs

Date: \_\_\_\_\_

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BENJAMIN J. CAYETANO  
Governor  
State of Hawaii

Date: \_\_\_\_\_

APPROVED AS TO FORM:

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Deputy Attorney General

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Filed

**[The Signature page shall be on a separate sheet of paper.]**



**EXAMPLE NO. 10-10--SIMULTANEOUS AMENDMENT  
AND COMPILATION OF CHAPTER**  
**Includes Repeal of a Subchapter and Addition of a New Subchapter**  
**(Ramseyer Format)**  
**(9/29/14)**

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

Amendment and Compilation of Chapter 16-85  
Hawaii Administrative Rules

September 12, 1997

1. Chapter 16-85, Hawaii Administrative Rules, entitled "Medical Examiners", is amended and compiled to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 16

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

CHAPTER 85

MEDICAL EXAMINERS

Subchapter 1 General Provisions

|          |  |
|----------|--|
| §16-85-1 | Objective  |
| §16-85-2 | Notification and filing of names, addresses, and changes |
| §16-85-3 | Renewal  |
| §16-85-4 | Preliminary review and investigation                     |
| §16-85-5 | Fees   |

Subchapter 2 Physicians' Applications--Repealed

§16-85-7 to 16-85-12 Repealed

Subchapter 3 Repealed

§16-85-15 Repealed  
§16-85-16 Repealed  
§16-85-17 Repealed  
§16-85-18 Repealed  
§16-85-19 Repealed  
§16-85-20 Repealed

Subchapter 4 Informed Consent

§16-85-24 Authority and purpose  
§16-85-25 General standards for categories of information

\* \* \*

**(Chapter analysis continues)**

\* \* \*

Subchapter 12 Disciplinary Sanctions

§16-85-112 Grounds for refusal to renew, reinstate, or restore, and for denial, revocation, suspension, or condition of license or certificate  
§16-85-113 Suspended license or certificate  
§16-85-114 Revoked license or certificate  
§16-85-115 Relinquishment no bar to jurisdiction  
§16-85-116 Summary suspension  
§16-85-117 Civil and criminal sanctions for unlicensed or uncertified activity; fines; injunctive relief; damages; forfeiture  
§16-85-118 Remedies or penalties cumulative



|            |                          |
|------------|--------------------------|
| §16-85-119 | Severability             |
| §16-85-120 | Hearing; judicial review |
| §16-85-121 | Criminal conviction      |

## SUBCHAPTER 1

### GENERAL PROVISIONS

**§16-85-1 Objective.** This chapter is intended to clarify and implement chapters 453 and 463E, Hawaii Revised Statutes, adopted by the board of medical examiners, hereafter referred to as "board", to the end that the provisions thereunder may be best effectuated and the public interest most effectively protected. [Eff 1/27/79; am and ren §16-85-1, 6/12/81; am and comp 7/27/87; comp 10/28/89; comp 8/25/90; comp ] (Auth: HRS §§453-5.1, 453-33, 463E-12) (Imp: HRS §§453-5.1, 463E-12)

**§16-85-2 Notification and filing of names, addresses, and changes.** Any person holding a license or certificate shall file the person's mailing address with the board and shall immediately notify the board in writing of any and all changes which occur[-] within thirty days of the change. Any requirements that the board provide notice to licensees and certificate holders shall be deemed met if notice is sent to the address on file with the board. [Eff 1/27/79; am and ren §16-85-2, 6/12/81; am and comp 7/27/87; comp 10/28/89; comp 8/25/90; am and comp ] (Auth: HRS §§453-5.1, 453-33, 463E-12) (Imp: HRS §§453-5.1, 453-33, 463E-12)

**§16-85-3 [~~Reregistration.~~] Renewal.** All licenses and certificates shall expire on January 31 of the even-numbered year. Before December 1 of the odd-numbered year the board or the board's delegate shall mail to every licensee or certificate holder, except those whose license or certificate has been forfeited, suspended, or revoked, a renewal application to the address of the licensee or certificate holder on record. Renewal fees paid by mail shall be considered as paid when due if the envelope bears the postmark of January 31 of the even-numbered year or earlier. [Eff 1/27/79; am and ren §16-85-3, 6/12/81; am and com; 7/27/87;

am and comp 10/28/89; comp 8/25/90; am and comp ]  
(Auth: HRS §§453-5.1, 453-33, 463E-12) (Imp: HRS §§453-5.3, 453-6, 453-32,  
463E-5)

**§16-85-4 Preliminary review and investigation.** (a) The board may delegate to the executive secretary any of the board's powers the board deems reasonable and proper. However, the board shall not delegate the board's powers and duties to:

- (1) Adopt, amend, or repeal rules;
- (2) Order disciplinary action against a licensee or certificate holder;  
and
- (3) Grant, deny, renew, refuse to renew, or otherwise condition a license or certificate unless the granting, refusal to renew, or conditioning of a license or certificate does not require the exercise of the board's expertise and discretion.

(b) The executive secretary of the board shall preliminarily review each application for licensure or certification by endorsement or examination or for a limited and temporary license or certificate filed with the board, and shall advise the applicant with regard to proper compliance with the laws and rules governing the application; provided that nothing in this section shall be construed to limit the board's authority and responsibility to ultimately pass upon the applicant's qualifications.

(c) The executive secretary of the board may initiate preliminary investigations of applicants for license or certificate by endorsement or examination or for a limited and temporary license or certificate, in conjunction with the investigatory staff of the department of commerce and consumer affairs.  
[Eff and comp ] (Auth: HRS §§453-5.1, 453-33, 463E-12) (Imp: HRS §§453-3, 453-4, 453-31, 463E-6)

Historical Note: Section 16-85-4 is based substantially on repealed sections 16-85-9 and 16-85-10. [Eff 1/27/79; am and ren §§16-85-9, 16-85-10, 6/12/81; am and comp 7/27/87; am and comp 10/28/89; comp 8/25/90; R ]

**§16-85-5 Fees.** (a) The fees for the board of medical examiners shall be as adopted by the director in chapter 16-53, after hearing, pursuant to chapter 91, HRS.

(b) The fees, if in the form of a money order or check shall be made payable to the department of commerce and consumer affairs.

(c) The dishonoring of any check upon first deposit shall be considered a failure to meet requirements. [Eff and comp ] (Auth: HRS §§453-5.1, 453-33, 463E-12) (Imp: HRS §§453-5.3, 453-6, 453-32, 463E-5)

[SUBCHAPTER 2

PHYSICIANS' APPLICATIONS

~~**§16-85-7 Forms and instructions.** An application filed with the board shall be prepared in accordance with, and contain the information called for in the application form prescribed by the board, or any instructions which may be issued by the board. The following forms are to be used but may be changed from time to time at the board's discretion:~~

- ~~(1) Application for examination and licensure; and~~
- ~~(2) Application for restoration of forfeited license.~~

\* \* \*

(Rules continue)

\* \* \*

- ~~(3) The sponsor shall notify the board in writing within five days after termination of sponsorship;~~
- ~~(4) Mere willingness on the part of the sponsor to assume the responsibility for the actions of the physician under the sponsor's direction is not enough. However, specific and detailed direction is not necessary as long as the direction is sufficiently reasonable;~~

~~comprehensive, and honest, and includes every act performed by the physician;~~

- (5) ~~A sponsor or alternate sponsor shall direct the work of the physician under the sponsor's direction from the same office building complex or hospital;~~
- (6) ~~A physician may, under the direction of a sponsor or alternate sponsor, sign birth and death certificates and prescriptions~~
- (7) ~~The license shall be valid for no more than eighteen months from the date of issuance, unless extended by the board and the license shall not be renewed.~~
- (c) ~~Educational teaching license:~~
  - (1) ~~A physician may provide education and teach at more than one hospital; provided the chief of service of each hospital submits a letter attesting that the chief of service requests to sponsor and monitor the physician; and provided further that the period of providing education and teaching is within the twelve month period from the date of issuance of the original license.~~
  - (2) ~~The license shall be valid for no more than twelve months from the date of issuance, and shall not be renewed.] [Eff 1/27/79; am and ren §16-85-11, 6/12/81; am and comp 7/27/87; comp 10/28/89; comp 8/25/90; R ] (Auth: HRS §453-5.1) (Imp: HRS §§453-3, 453-3.2)~~

~~[§16-85-12 Fees. The fees for application, examination, original license, license renewal, and restoration of a physician's license shall be as provided in chapter 16-53, relating to boards and commissions.] [Eff and comp 7/27/87; am and comp 10/28/89; comp 8/25/90; R ] (Auth: HRS §§26-9, 453-5.1) (Imp: HRS §§26-9, 453-5.1)~~

SUBCHAPTER 3--REPEALED

**§§16-85-15 to 16-85-20 Repealed. [R 10/28/89]**

## SUBCHAPTER 4

## INFORMED CONSENT

**§16-85-24 Authority and purpose.** The rules in this subchapter are adopted pursuant to authority granted by section 671-3, HRS, and are intended to effectuate the purpose of that section. The board has determined that it is not practicable to set standards that include the substantive content of the information to be given a patient to ensure that a patient's consent to treatment is an informed consent. [Eff 1/27/79; am and ren §16-85-24, 6/12/81; am and comp 7/27/87; comp 10/28/89; comp 8/25/90; comp ] (Auth: HRS §§453-5.1, 463E-12) (Imp: HRS §671-3)

**§16-85-25 General standards for categories of information.** (a) Except as provided in subsection (b), where standards of medical practice indicate that a health care provider should provide the patient, or the patient's guardian, with information prior to obtaining consent for proposed medical or surgical treatment, or for a diagnostic procedure, information satisfying the following categories shall be supplied to the patient or the patient's guardian:

- (1) The condition to be treated or the suspected existence of which is the indication for a diagnostic procedure;
- (2) A description of the proposed medical or surgical treatment or diagnostic procedure;
- (3) The intended and anticipated result;
- (4) The recognized alternative treatments or diagnostic procedures, including the option of not providing treatment or performing the diagnostic procedure;
- (5) The recognized substantial risks of serious complication or mortality associated with the proposed treatment or diagnostic procedure, with the recognized alternative treatments or diagnostic procedures, and with not undertaking treatment or diagnosis; and
- (6) The recognized benefits of the proposed treatment or diagnostic procedure, of recognized alternative treatments or diagnostic procedures, and of not undertaking treatment or diagnosis.

(b) The disclosure of information required by subsection (a) may be withheld if in the judgment of the health care provider the information would be detrimental to the patient's mental or physical health, or not in the best interest of the patient, provided that the action is consistent with general standards of

medical and surgical practice. [Eff 1/27/79; am and ren §16-85-25, 6/12/81; am and comp 7/27/87; comp 10/28/89; comp 8/25/90; comp ]  
(Auth: HRS §§453-5.1, 463E-12) (Imp: HRS §671-3)

**§16-85-26 Manner of disclosure.** The information to be disclosed may be presented in writing, orally, or by means of audio visual aids, and shall be in language the patient or guardian can reasonably be expected to understand; provided that any written form of consent need not be in a language other than English. [Eff 1/27/79; am and ren §16-85-26, 6/12/81; am and comp 7/27/87; comp 10/28/89; comp 8/25/90; comp ] (Auth: HRS §§453-5.1, 463E-12) (Imp: HRS §671-3)

**§16-85-27 Refusal of information.** A patient may elect not to be given any part or all of the information that would otherwise be provided in accordance with section 16-85-25. [Eff 1/27/79; am and ren §16-85-27, 6/12/81; am and comp 7/27/87; comp 10/28/89; comp 8/25/90; comp ]  
(Auth: HRS §§453-5.1, 463E-12) (Imp: HRS §671-3)

**§16-85-28 Repealed.** [R 7/27/87]

**§16-85-29 Breast cancer treatment guidelines.** The [~~"Guidelines for Methods of Treatment for Breast Cancer" which was adopted by the~~] board [~~on September 21, 1983, and is attached to this chapter as BME Policy No. 1 is hereby incorporated by reference as part of this chapter. The "Guideline for Methods of Treatment for Breast Cancer" was developed in accordance with section 671-3(c), HRS,~~] adopted "Breast Cancer Treatment Alternatives" developed by the Hawaii Medical Association and the American Cancer Society as they existed on September 15, 1993 to establish standards for health care providers to follow in giving information to a patient or a patient's guardian, to ensure that the patient's consent to the performance of a mastectomy is an informed consent. [Eff and comp 7/27/87; comp 10/28/89; comp 8/25/90; am and comp ] (Auth: HRS §453-5.1) (Imp: HRS §671-3)

## SUBCHAPTER 5

## CONTINUING MEDICAL EDUCATION

**§16-85-32 Authority and purpose.** The rules in this part are adopted pursuant to authority granted by section 453-5.1, HRS, and are intended to effectuate the provisions of section 453-6, HRS, relating to the requirement for continuing medical education. [Eff 5/15/80; am and ren §16-85-32, 6/12/81; comp 7/27/87; comp 10/28/89; comp 8/25/90; comp ] (Auth: HRS §453-5.1) (Imp: HRS §453-6)

**§16-85-32.5 Definition.** Whenever used in this subchapter, unless the context otherwise provides:

"Continuing medical education" or "CME" means educational activities which serve to maintain, develop, or increase the knowledge, skills, and professional performance and relationships that a physician uses to provide services for patients, the public, or the profession. The content of CME is that body of knowledge and skills generally recognized and accepted by the medical profession as within the basic medical sciences, the discipline of clinical medicine, and the provision of health care to the public. [Eff and comp 7/27/87; comp 10/28/89; comp 8/25/90; comp ] (Auth: HRS §453-5.1) (Imp: HRS §453-6)

**§16-85-33 Biennial ~~reregistration~~ renewal.** ~~[(a)]~~ At the time of the biennial ~~[reregistration]~~ renewal, not later than January 31 in each even-numbered year, ~~[all licensees who were issued full licenses under section 453-4, HRS, before the previous biennial reregistration, shall present evidence of their compliance with]~~ each licensee shall have completed the CME requirements of section 16-85-34 for [each of] the two calendar years preceding the [reregistration] renewal date[-

~~(b) — At the time of the biennial reregistration all licensees who were licensed under section 453-4, HRS, in the first calendar year of the previous biennial registration period, shall present evidence of their compliance with the~~

~~CME requirements of section 16-85-34 in the calendar year immediately preceding the reregistration date.~~

~~(e) — There shall be no CME requirement at the time of a licensee's first reregistration if the licensee was initially licensed in the thirteen-month period prior to the January 31 reregistration date.] as follows:~~

- ~~(1) Licensees initially licensed in the first year of the biennium shall have completed twenty category 1 CME hours and thirty category 2 CME hours, or fifty category 1 CME hours;~~
- ~~(2) Licensees initially licensed in the second year of the biennium shall not be required to complete any CME hours; and~~
- ~~(3) All other licensees, except licensees who were issued limited and temporary licenses, shall have completed forty category 1 CME hours, and sixty category 2 CME hours, or one hundred category 1 CME hours. [Eff 5/15/80; am and ren §16-85-33, 6/12/81; am and comp 7/27/87; am and comp 10/28/89; comp 8/25/90; am and comp ] (Auth: HRS §453-5.1) (Imp: HRS §453-6)~~

**§16-85-33.5 Annual ~~[reregistration.]~~ renewal.** Annually, not later than January 31, all licensees who were issued limited and temporary licenses under section 453-3(2), HRS, shall ~~[present evidence of their compliance with the CME requirements of section 16-85-34]~~ have completed twenty category 1 CME hours and thirty category 2 CME hours, or fifty category 1 CME hours in the calendar year immediately preceding the annual ~~[reregistration]~~ renewal date. [Eff and comp 7/27/87; am and comp 10/28/89; comp 8/25/90; am and comp ] (Auth: HRS §453-5.1) (Imp: HRS §453-6)

**§16-85-34 Approved CME ~~[requirements].~~** (a) Licensees may comply with the one hundred biennial hours CME requirements by:

- ~~(1) Having a current American Medical Association Physician Recognition Award (PRA); or~~
- ~~(2) ~~[Certification]~~ Holding certification that the licensee has met the CME requirements of a medical or specialty society which has reciprocal arrangements with the American Medical Association's Council on Medical Education[; ~~or~~~~
- ~~(3) Completing a minimum of fifty total credit hours per calendar year in the specific categories listed below. The CME activities shall be~~



conducted by an institution or organization accredited for CME by the ACCME:

- (A) ~~Category 1—A minimum of twenty credit hours per calendar year, with no credit hour limit, in CME activities designated category 1 by an accredited sponsor. Fifty credit hours are allowed for each year of full-time training in a residency program accredited by the Accreditation Council for Graduate Medical Education or a fellowship in the United States. Fifty credit hours are also allowed for each full academic year of education in a medically related field leading to an advanced degree other than M.D. Part-time study may be claimed on a pro rata basis of one hour for each five days. If a resident participated in an accredited residency program one half of each day, credit may be claimed at the rate of one half hour per week; and~~
- (B) ~~Category 2—A maximum of thirty credit hours per calendar year in].~~

(b) Category 1 CME hours may be obtained by:

- (1) Attendance at activities conducted by an institution or organization accredited for CME by the American Medical Association's Council on Medical Education;
- (2) Completing full-time training in a residency program accredited by the Accreditation Council for Graduate Medical Education or a fellowship in the United States which shall equal fifty hours; provided that participating in an accredited residency program at least one-half of each day may be credited at the rate of one-half hour per week; or
- (3) Completing a full academic year of education in a medically related field leading to an advanced degree other than M.D. which shall equal fifty hours; provided that part-time study in a medically related field leading to an advanced degree other than M.D. may be credited on a pro rata basis of one hour per each five days.

(c) Category 2 CME hours may be obtained by attendance at educational activities that meet the definition of category 2 CME as defined by the American Medical Association PRA program and fit one of the descriptions of CME which follows:

- ~~(i)~~ (1) CME lectures and seminars not designated as category 1 by an accredited sponsor;
- ~~(ii)~~ (2) Medical teaching;
- ~~(iii)~~ (3) Articles, publications, books, and exhibits;

- ~~[(iv)]~~ (4) Non-supervised individual CME including self-instruction, consultation, patient care review, and self assessment; or
- ~~[(v)]~~ (5) Other meritorious learning experiences. [Eff 5/15/80; am and ren §16-85-34, 6/12/81; am and comp 7/27/87; am and comp 10/28/89; comp 8/25/90; am and comp ]  
(Auth: HRS §453-5.1) (Imp: HRS §453-6)

**§16-85-35 Record keeping.** (a) In order for a licensee to obtain credit for CME activities in category 1, the sponsoring organization shall:

- (1) Maintain accurate records of the names of all licensees attending or participating;
- (2) Record accurately in the records the exact number of hours of attendance or participation;
- (3) Make available to the licensee who has attended or participated in any CME activities under the auspices of the sponsor, or to anyone designated by the sponsor, the records or pertinent parts thereof, requested by the licensee for examination or audit; and
- (4) Maintain records in compliance with all applicable accreditation requirements.

(b) Licensees shall be responsible for maintaining their own CME records, either through applying for the PRA, maintaining the records themselves, or contracting with an agency to do so. [Eff 5/15/80; am and ren §16-85-35, 6/12/81; am and comp 7/27/87; comp 10/28/89; comp 8/25/90; comp ] (Auth: HRS §453-5.1) (Imp: HRS §453-6)

**§16-85-36 [~~Credit hour;~~ CME hours: definition.** Except as specifically provided otherwise, one clock hour spent satisfying the requirements of any category of CME activities shall equal one credit hour for the purpose of satisfying the CME credit hour requirements. For category 1 and category 2 credits, the sponsoring organization shall specify the credit hours to be credited for the activity, provided that the credit hours specified for an activity shall not exceed the clock hours spent engaged in the activity. [Eff 5/15/80; am and ren

\* \* \*

**(Rules continue)**

\* \* \*

been delegated the authority to prescribe shall sign the prescription next to the printed name of the physician assistant;

- (D) A physician assistant employed or extended privileges by a hospital or extended care facility may, if allowed under the bylaws, rules, and regulations of the hospital or extended care facility, write orders for medications Schedule II through V, for inpatients under the care of the supervising physician;
- (E) The board of medical examiners shall notify the pharmacy board in writing, at least annually or more frequently if required by changes, of each physician assistant authorized to prescribe;
- (F) A physician assistant may request, receive, and sign for professional samples and may distribute professional samples to patients; and
- (G) All dispensing activities shall comply with appropriate federal and state regulations.

(b) The supervising physician or physicians and the physician assistant shall notify the board within ten days of severance of supervision or employment of the physician assistant. [Eff 6/30/81; am and comp 7/27/87; comp 10/28/89; comp 8/25/90; am and comp ] (Auth: HRS §§453-5.1, 453-5.3) (Imp: HRS §§453-5.1, 453-5.3, 460-1)

**§16-85-49.1 Scope of practice.** (a) A physician assistant shall be considered the agent of the physician assistant's supervising physician in the performance of all practice-related activities as established in writing by the employer.

(b) Medical services rendered by the physician assistants may include but are not limited to:

- (1) Obtaining patient histories and performing physical examinations;
  - (2) Ordering, interpreting, or performing diagnostic and therapeutic procedures;
  - (3) Formulating a diagnosis;
  - (4) Developing and implementing a treatment plan;
  - (5) Monitoring the effectiveness of therapeutic interventions;
  - (6) Assisting at surgery;
  - (7) Offering counseling and education to meet patient needs; and
  - (8) Making appropriate referrals.
- (c) Physician assistants may not advertise in any manner without the name or names of the supervising physician or physicians, as the case may be, or in any manner which implies that the physician assistant is an independent practitioner. [Eff and comp ] (Auth: HRS §§453-5.1, 453-5.3) (Imp: HRS §§453-5.1, 453-5.3)

**§16-85-50 Automatic inactivation for failing to be under supervision; restoration.** (a) Certification shall be automatically inactivated if the physician assistant is no longer supervised by a physician or group of physicians.

- (b) Certification may be reactivated provided the applicant pays all applicable fees, including renewal fees as applicable, and submits:
- (1) A statement signed by the licensed physician or group of physicians, as the case may be, who will direct and supervise the physician assistant;
  - (2) The name of the hospital or clinic employing the physician assistant if appropriate; and
  - (3) Evidence of current certification by the NCCPA.
- (c) The board may, when reviewing any application for reactivation, deny or reject the application in accordance with section 16-85-107. [Eff and comp ] (Auth: HRS §453-5.1) (Imp: HRS §§453-5.1, 453-5.3)

**§16-85-51 Revocation, limitation, suspension, or denial of certification.** Any certification to practice as a physician assistant may be revoked, limited, or suspended by the board at any time in [~~a proceeding before the board,~~] accordance with section 16-85-120 or may be denied for any one or more acts listed in [section 453-8, HRS.] chapter 453, HRS, or this chapter. [Eff

and comp 7/27/87; comp 10/28/89; comp 8/25/90; am and comp  
] (Auth: HRS §§453-5.1, 453-5.3) (Imp: HRS §453-5.3)

~~§16-85-52 Fees. The application, certification, renewal, and restoration fees for physician assistants shall be as provided in chapter 16-53, relating to boards and commissions.~~ [Eff and comp 7/27/87; comp 10/28/89; comp 8/25/90; R  
] (Auth: HRS §§26-9, 453-5.3) (Imp: HRS §§26-9, 453-5.3)

\* \* \*

**(Rules continue)**

\* \* \*

- (Q) Perform direct laryngoscopy for McGill forcep removal of foreign body;
- (R) Perform techniques for reflex vagocardiac stimulation; and
- (S) Operate medical communications system. [Eff 12/17/82, am and comp 7/27/87; am and comp 10/28/89; comp 8/25/90; am and comp  
] (Auth: HRS §453-33) (Imp: §§453-31, 453-32)

~~§16-85-57 Certification of EMTs. (a) Certification of EMT applicants who have completed a board-approved EMT course of training given in Hawaii shall require:~~

- (1) ~~Satisfactory completion of a board-approved EMT course of training, which shall include the achievement of passing scores on written and skills examinations related to the theoretical knowledge and skills required by section 16-85-56(a), and which course shall be based upon, but not limited to, the national EMT A curriculum of the United States department of transportation; and~~

(2) ~~EMT A certification by the National Registry of Emergency Medical Technicians.~~

(b) ~~—Certification of applicants who have not completed a board-approved EMT course of training given in Hawaii shall require:~~

(1) ~~Satisfactory completion of an EMT course of training based upon, but not limited to, the national EMT A curriculum of the United States department of transportation;~~

(2) ~~EMT A full certification by the National Registry of Emergency Medical Technicians; and~~

(3) ~~Pass a board approved written examination related to the theoretical knowledge and skills required by section 16-85-56(a).]~~  
[Eff 12/17/82; am and comp 7/27/87; comp 10/28/89; am and comp 8/25/90; R ] (Auth: HRS §453-33)  
(Imp: HRS §§453-31, 453-32)

~~[§16-85-58 Certification of MICTs. (a) Certification of MICT applicants who have completed a board approved MICT course of training given in Hawaii shall require:~~

(1) ~~Satisfactory completion of board approved MICT course of training, which shall include the achievement of passing scores on written and skills examinations related to the theoretical knowledge and skills required by section 16-85-56(b), and which course shall be based upon, but not limited to, the national EMT P curriculum of the United States department of transportation; and~~

(2) ~~EMT P certification by the National Registry of Emergency Medical Technicians.~~

(b) ~~—Certification of applicants who have not completed a board-approved MICT course of training given in Hawaii shall require:~~

(1) ~~Satisfactory completion of an EMT P course of training based upon, but not limited to, the national EMT P curriculum of the United States department of transportation;~~

(2) ~~EMT P full certification by the National Registry of Emergency Medical Technicians; and~~

(3) ~~Pass a board approved written examination related to the theoretical knowledge and the skills required by section 16-85-56(b).]~~  
[Eff 4/27/83; am and comp 7/27/87; comp 10/28/89; am and comp 8/25/90; R ] (Auth: HRS §453-33)  
(Imp: HRS §§453-31, 453-32)

**§16-85-59 Scope of practice.** (a) The scope of practice of an [EMT] EMT-Basic shall be restricted to the performance of the basic life support [skills required for EMT certification in section 16-85-56(a)(4).] services.

(b) The scope of practice of an [MICT] EMT-Paramedic shall be restricted to the performance of the basic and advanced life support [skills required for EMT and MICT certification in sections 16-85-56(a)(4) and 16-85-56(b)(4).] services. [Eff 4/27/83; am and comp 7/27/87; comp 10/28/89; comp 8/25/90; am and comp ] (Auth: HRS §453-33) (Imp: HRS §§453-31, 453-32)

**§16-85-60 Supervision; responsibility.** (a) Supervision of certified [MICTs] EMT-Paramedics providing services within the practice of medicine shall be by:

- (1) Standing orders for life-threatening situations where morbidity or mortality may be increased without immediate medical intervention approved:
  - (A) By the [~~Hawaii State~~] department of health for emergencies requiring immediate life-saving medical care; and
  - (B) By the chief of the emergency department of a designated MEDICOM hospital; and
- (2) Emergency physicians at a [~~State-designated~~] state-designated MEDICOM base station hospital who communicate with [~~EMTs and MICTs~~] emergency medical services personnel via radio or telephone and provide medical direction on-site and in-transit to a medical facility in accordance with the knowledge and skills required for [~~State-certified~~] state-certified treatment, transfer, and triage protocols approved by the [~~State~~] state department of health.

(b) Responsibility of [~~MICTs~~.] EMT-Paramedics. Advance life-support treatment shall rest with the [~~MICT~~] EMT-Paramedic and the physician and:

- (1) Recognition is to be made that the designated emergency physician's communications are dependent on accurate and precise description of medical assessment by [~~MICTs~~.] EMT-Paramedics, since the physician is not physically present at the scene;
- (2) Recognition is to be made that the emergency physician communicating with [~~MICTs~~] EMT-Paramedics is dependent upon the skills of the [~~MICT~~] EMT-Paramedic in performing procedures as directed, since the physician is not physically present at the scene; and

- (3) If the emergency physician is not compensated for the communication by the patient, the ambulance service, or the hospital, the emergency physician is deemed to be acting in good faith as a good samaritan and is to be protected by Hawaii ~~[State]~~ state law as performing a good samaritan act. [Eff 4/27/83; am and comp 7/27/87; comp 10/28/89; comp 8/25/90; am and comp ] (Auth: HRS §453-33) (Imp: HRS §§453-32, 663-1.5)

~~§16-85-61 Equivalency examinations. (a) The applicant for examination required by sections 16-85-57(b)(3) and 16-85-58(b)(3) shall achieve a passing score that is approved by the board. The board may contract with a qualified testing agency to conduct the equivalency examinations.~~

~~(b) An applicant shall be allowed to take the equivalency examination for certification as an EMT or MICT a maximum of three times for each level.~~

~~(c) The applicant's National Registry of Emergency Medical Technicians certificate shall remain current at the time of each administration of the equivalency examination. An applicant with an expired certificate shall be ineligible to sit for the equivalency examination.~~

~~(d) The equivalency examination and reexamination dates shall be scheduled, as necessary, by the board and its designated testing agency.] [Eff and comp 7/27/87; comp 10/28/89; am and comp 8/25/90; R ] (Auth: HRS §453-33) (Imp: HRS §453-32)~~

\* \* \*

**(Rules continue)**

\* \* \*

- (6) The board may refuse to hear any testimony which is irrelevant, immaterial, or unduly repetitious to the agenda item on which it is presented.
- (b) Nothing in this section shall require the board to hear or receive any oral or documentary evidence from a person on any matter which is the



subject of another pending proceeding, subject to the hearings relief, declaratory relief, or rule relief of chapter 16-201 [~~Hawaii Administrative Rules~~].

(c) Nothing in this section shall prevent the board from soliciting oral remarks from persons present at the meeting or from inviting persons to make presentations to the board on any particular matter on the board's agenda. [Eff and comp 7/27/87; comp 10/28/89; comp 8/25/90; am and comp ] (Auth: HRS §453-5.1) (Imp: HRS §92-3)

## SUBCHAPTER 10

### PRACTICE AND PROCEDURE

Historical Note: Subchapter 9 of Chapter 16-85 is renumbered as Subchapter 10 of Chapter 16-85 without any change in substance. [Eff and comp 7/27/87; ren and comp 10/28/89]

**§16-85-101 Administrative practice and procedure.** The rules of practice and procedure for the board of medical examiners shall be as provided in chapter 16-201, the rules of practice and procedure of the department of commerce and consumer affairs, which are incorporated by reference and made a part of this chapter. [Eff and comp 7/27/87; comp 10/28/89; comp 8/25/90; am and comp ] (Auth: HRS §§91-2, 453-5.1) (Imp: HRS §91-2, 453-5.1)

## SUBCHAPTER 12

### DISCIPLINARY SANCTIONS

**§16-85-112 Grounds for refusal to renew, reinstate, or restore, and for denial, revocation, suspension, or condition of license or certificate.** In addition to any other acts or conditions provided in sections 436B-19 and 453-8, HRS, the board may refuse to renew, reinstate, or restore, or may deny, revoke, suspend, or condition in any manner, any license or certificate for any one or more of the following acts or conditions:

- (1) Failure to comply with, observe, or adhere to any law in a manner such that the board deems the licensee or certificate holder to be an unfit or improper person to hold a license or certificate;
- (2) Employing, utilizing, or attempting to employ or utilize at any time any person not licensed or certified where licensure or certification is required; or
- (3) Violating this chapter, the applicable licensing laws, or any rule or order of the board. [Eff and comp \_\_\_\_\_] (Auth: HRS §§436B-19, 453-5.1, 453-33, 463E-12) (Imp: HRS §§436B-19, 453-5.3, 453-8, 453-8.1, 453-32, 463E-6)

**§16-85-113 Suspended license or certificate.** No license or certificate shall be suspended by the board for a period exceeding five years. A person whose license or certificate has been suspended may apply for reinstatement of the license or certificate to the extent authorized by law and upon complete compliance with any term or condition imposed by the order of suspension. The application for reinstatement shall be accompanied by all applicable fees, including but not limited to reinstatement fees and any compliance resolution fund fees. [Eff and comp \_\_\_\_\_] (Auth: HRS §§436B-4, 453-5.1, 453-33, 463E-12) (Imp: HRS §§436B-20, 453-5.3, 453-32)

**§16-85-114 Revoked license or certificate.** A person may apply for a new license or certificate after five years from the effective date of the revocation of the license or certificate by filing an application and complying with all current requirements for new applicants. The board may waive any applicable education or examination requirements upon being satisfied that the applicant whose license or certificate has been previously revoked, has submitted documentation that the applicant has maintained equivalent knowledge, competence, and qualifications through work experience, training, or education. [Eff and comp \_\_\_\_\_] (Auth: HRS §§436B-4, 453-5.1, 453-33, 463E-12)  
(Imp: HRS §§436B-21, 453-5.3, 453-32)

**§16-85-115 Relinquishment no bar to jurisdiction.** The forfeiture, nonrenewal, surrender, or voluntary relinquishment of a license or certificate by a licensee or certificate holder shall not bar jurisdiction by the board to proceed

with any investigation, action, or proceeding to revoke, suspend, condition, or limit the license or certificate, or fine the licensee or certificate holder. [Eff and comp \_\_\_\_\_] (Auth: HRS §§436-5.1, 436B-4, 453-33, 463E-12)  
(Imp: HRS §436B-22)

**§16-85-116 Summary suspension.** (a) Notwithstanding any law to the contrary, the board or the board's delegate may cause the immediate suspension or restriction of a license or certificate, subject to subsequent notice and hearing or other adequate procedures, upon a specific determination that the failure to take such an action may result in:

- (1) An immediate and unreasonable threat to personal safety; or
- (2) Fraud or misrepresentation upon consumers, and that, for the protection of the public from the possible consequences of practices, the licensee's license or certificate holder's certification should be immediately suspended or restricted.

(b) The board or the board's delegate may order the summary suspension of the license or certificate for a period not to exceed twenty days. The order of suspension shall be served upon the licensee or certificate holder at the same time as the notice of hearing for disciplinary action, and the hearing shall be scheduled prior to the expiration of the order of suspension. The period of suspension prior to the hearing shall not be extended beyond twenty days except upon request of the licensee or certificate holder for a reasonable continuance to adequately prepare the licensee's or certificate holder's defense. Any attempt by the licensee or certificate holder to continue the licensed activity while the license or certificate has been summarily suspended shall of itself be sufficient to warrant a permanent revocation of the license or certificate and shall subject the licensee or certificate holder to all penalties prescribed by this chapter, the applicable licensing laws, or any rule or order of the board. [Eff and comp \_\_\_\_\_] (Auth: HRS §§436B-4, 453-5.1, 453-33, 463E-12)

(Imp: HRS §436B-23)

**§16-85-117 Civil and criminal sanctions for unlicensed or uncertified activity; fines; injunctive relief; damages; forfeiture.** (a) Any licensee or certificate holder aiding or abetting an unlicensed or uncertified person to directly or indirectly evade this chapter or the applicable licensing laws, or combining or conspiring with an unlicensed or uncertified person, or permitting one's license or certificate to be used by an unlicensed or uncertified person, or acting as agent, partner, associate, or otherwise, of an unlicensed or uncertified person with the

intent to evade this chapter or the applicable laws may be fined up to \$1,000 for the first offense; up to \$2,000 or, if applicable, forty per cent of the total contract price, whichever is greater, for the second offense; and up to \$5,000 or, if applicable, forty per cent of the total contract price, whichever is greater, for any subsequent offense. For purposes of this section, "contract price" means the total monetary consideration offered by the consumer for the provision of goods and services.

(b) Any person, who engages in an activity requiring a license or certificate issued by the board and who fails to obtain the required license or certificate, or who uses any word, title, or representation to induce the false belief that the person is licensed or certified to engage in the activity, other than a circumstance of first instance involving the inadvertent failure to renew a previously existing license or certificate, shall be guilty of a misdemeanor and be subject to a fine of not more than \$1,000 or imprisoned not more than one year, or both, and each day's violation shall be deemed a separate offense.

(c) The board or any person may maintain a suit to enjoin the performance or the continuance of any act or acts by a person acting without a license or certificate where a license or certificate is required by law, and if injured thereby, for the recovery of damages. The board may also seek the imposition of fines provided by subsection (a). The plaintiff or petitioner in a suit for an injunction need not allege or prove actual damages to prevail. Reasonable attorney's fees and costs shall be allowed by the court to the plaintiff or petitioner as the prevailing party.

(d) All tools, implements, armamentariums, documents, materials, or any other property used by any person to provide professional services without a license or certificate required by law shall be declared forfeited to the State by the court and turned over to the department of commerce and consumer affairs for disposition as the department deems appropriate. [Eff and comp

] (Auth: HRS §§436B-4, 453-5.1, 453-33, 463E-12)

(Imp: HRS §§436B-28, 453-5.3, 453-33)

**§16-85-118 Remedies or penalties cumulative.** Unless otherwise expressly provided, the remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of this State. [Eff and comp ] (Auth: HRS §§436B-4, 453-5.1, 453-33, 463E-12) (Imp: HRS §436B-28)

**§16-85-119 Severability.** If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable. [Eff and comp ] (Auth: HRS §§436B-4, 453-5.1, 453-33, 463E-12) (Imp: HRS §§91-9, 91-9.5, 91-10, 91-11, 91-12, 436B-29)

**§16-85-120 Hearings; judicial review.** Unless otherwise provided by law, in every case in which the board refuses to issue, renew, restore, or reinstate a license or certificate, or proposes to take disciplinary action or other licensing sanctions against a licensee or certificate holder, the proceeding shall be conducted in accordance with chapter 91. [Eff and comp ] (Auth: HRS §§436B-4, 453-5.1, 453-33, 463E-12) (Imp: HRS §§91-9, 91-9.5, 91-10, 91-11, 91-12, 436B-24)

**§16-85-121 Criminal conviction.** (a) When an applicant, licensee, or certificate holder has been convicted of a crime related to the profession and it is determined that the conviction may be considered under section 831-3.1, HRS, or chapter 453 or 463E, HRS, the board may request the following documents from the applicant, licensee, or certificate holder:

- (1) Copies of any court records, orders, or other documents that state the facts and statutes upon which the applicant was convicted, the verdict of the court with regard to that conviction, the sentence imposed, and the actual terms of the sentence; and
- (2) Affidavits from any parole officer, employer, other physicians, or other persons who can attest to a firm belief that the applicant has been sufficiently rehabilitated to practice.

(b) The applicant, licensee, or certificate holder shall provide any documents requested within thirty days of the request. [Eff and comp ] (Auth: HRS §§453-5.1, 453-33, 463E-12) (Imp: HRS §§453-3, 453-4, 453-4.5, 453-5.1, 453-5.3, 453-7.5, 453-8.3, 453-33, 463E-3)

2. Material, except source notes and other notes, to be repealed is bracketed and stricken. New material is underscored.

3. Additions to update source notes and other notes to reflect these amendments and compilation are not underscored.

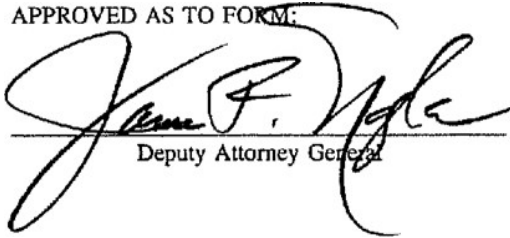
4. These amendments to and compilation of chapter 16-85, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules drafted in the Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on September 12, 1997, and filed with the Office of the Lieutenant Governor.



WILLIAM E. IACONETTI, M.D.  
Chairperson, Board of Medical Examiners

APPROVED AS TO FORM:



Deputy Attorney General

**EXAMPLE NO. 10-11--ADOPTING PERMANENT RULES TO  
REPLACE EMERGENCY OR INTERIM RULES**

**(Standard Format)**

**(10/8/14)**

**SUMMARY**

1. Chapter 12-148, Hawaii Administrative Rules, entitled "Lead Exposure in Construction", is repealed.

Repeal of  
emergency or  
interim rules.

2. Chapter 12-148.1, Hawaii administrative Rules, entitled "Lead", is adopted to read as follows:

Adoption of  
permanent rules.

**[The Summary page shall be on a separate sheet of paper.]**





HAWAII ADMINISTRATIVE RULES

TITLE 12

DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

SUBTITLE 8 DIVISION OF OCCUPATIONAL SAFETY AND HEALTH

PART 3

CONSTRUCTION STANDARDS

CHAPTER 148

LEAD (EMERGENCY) or Interim, as appropriate

§§12-148-1 to 12-148-2 Repealed. [R ]

**[The Repeal page shall be on a separate sheet of paper.]**



HAWAII ADMINISTRATIVE RULES

TITLE 12

DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

SUBTITLE 8 DIVISION OF OCCUPATIONAL SAFETY AND HEALTH

PART 3

CONSTRUCTION STANDARDS

CHAPTER 148.1

LEAD

- §12-148.1-1 Incorporation of federal standard
- §12-148.1-2 Definitions

Historical note: Chapter 12-148.1 is based substantially upon Chapter 12-148 which was adopted as an emergency temporary standard on June 21, 1993. [Eff 6/21/93; R ]

**§12-148.1-1 Incorporation of federal standard.** Title 29, Code of Federal Regulations, section 1926.62, entitled "Lead", published by the Office of the Federal Register, National Archives and Records Administration, on May 4, 1993, is made a part of this chapter, except as provided in section 12-148.1-2. [Eff ] (Auth: HRS §396-4) (Imp: HRS §396-4)

**§12-148.1-2 Definitions.** As used in 29 CFR 1926.62 and applied to this chapter:

"Assistant Secretary" means the director, department of labor and industrial relations, State of Hawaii.

"Effective date" means November 4, 1993.

"OSHA" means the division of occupational safety and health, department of labor and industrial relations, State of Hawaii.

"29 CFR 1910.20" means chapter 12-55, Hawaii Administrative Rules.

"29 CFR 1910.133" means section 12-114-5, Hawaii Administrative Rules.

"29 CFR 1910.134" means section 12-114-6, Hawaii Administrative Rules.

"29 CFR 1926.16" means section 12-110-2, Hawaii Administrative Rules.

"29 CFR 1926.21" means chapter 12-111, Hawaii Administrative Rules.

"29 CFR 1926.51" means chapter 12-117, Hawaii Administrative Rules.

"29 CFR 1926.59" means chapter 12-203, Hawaii Administrative Rules.

[Eff ] (Auth: HRS §396-4) (Imp: HRS §396-4)

The repeal of chapter 12-148 (emergency rules) and the adoption of chapter 12-148.1, Hawaii Administrative Rules, were adopted on \_\_\_\_ (date) \_\_\_\_ following a public hearing held on \_\_\_\_ (date) \_\_\_\_, after public notice was given in the (place where notice published) on \_\_\_\_ (date) \_\_\_\_.

The foregoing rulemaking action shall take effect ten days after filing with the Office of the lieutenant Governor.

\_\_\_\_\_  
DAYTON M. NAKANELUA, Director  
Department of Labor and Industrial  
Relations

APPROVED:

\_\_\_\_\_  
(Name)  
Governor  
State of Hawaii

Dated: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Deputy Attorney General

**[The Signature page shall be on a separate sheet of paper.]**



**EXAMPLE NO. 10-12--ADOPTING PERMANENT RULES TO  
REPLACE EMERGENCY OR INTERIM RULES  
(Ramseyer Format)  
(10/8/14)**

DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

Repeal of Chapter 12-148 (Emergency Rules) and  
Adoption of Chapter 12-148.1  
Hawaii Administrative Rules

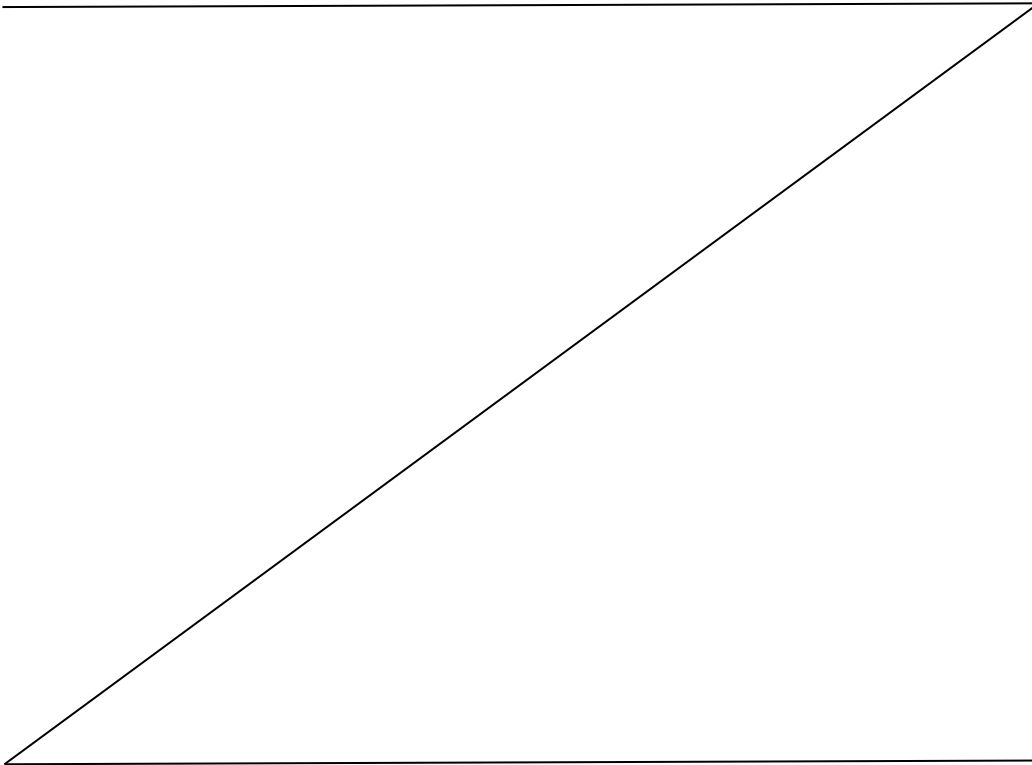
(Date of Adoption)

1. Chapter 12-148, Hawaii Administrative Rules, entitled "Lead Exposure in Construction", is repealed.

Repeal of emergency or interim rules.

2. Chapter 12-148.1, Hawaii administrative Rules, entitled "Lead", is adopted to read as follows:

Adoption of permanent rules.



"HAWAII ADMINISTRATIVE RULES

TITLE 12

DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

SUBTITLE 8 DIVISION OF OCCUPATIONAL SAFETY AND HEALTH

PART 3

CONSTRUCTION STANDARDS

CHAPTER 148.1

LEAD (EMERGENCY) [or Interim, as appropriate]

§12-148.1-1 Incorporation of federal standard

§12-148.1-2 Definitions

Historical note: Chapter 12-148.1 is based substantially upon Chapter 12-148 which was adopted as an emergency temporary standard on June 21, 1993. [Eff 6/21/93; R ]

**§12-148.1-1 Incorporation of federal standard.** Title 29, Code of Federal Regulations, section 1926.62, entitled "Lead", published by the Office of the Federal Register, National Archives and Records Administration, on May 4, 1993, is made a part of this chapter, except as provided in section 12-148.1-2. [Eff ] (Auth: HRS §396-4) (Imp: HRS §396-4)



**§12-148.1-2 Definitions.** As used in 29 CFR 1926.62 and applied to this chapter:

"Assistant Secretary" means the director, department of labor and industrial relations, State of Hawaii.

"Effective date" means November 4, 1993.

"OSHA" means the division of occupational safety and health, department of labor and industrial relations, State of Hawaii.

"29 CFR 1910.20" means chapter 12-55, Hawaii Administrative Rules.

"29 CFR 1910.133" means section 12-114-5, Hawaii Administrative Rules.

"29 CFR 1910.134" means section 12-114-6, Hawaii Administrative Rules.

"29 CFR 1926.16" means section 12-110-2, Hawaii Administrative Rules.

"29 CFR 1926.21" means chapter 12-111, Hawaii Administrative Rules.

"29 CFR 1926.51" means chapter 12-117, Hawaii Administrative Rules.

"29 CFR 1926.59" means chapter 12-203, Hawaii Administrative Rules."

[Eff ] (Auth: HRS §396-4) (Imp: HRS §396-4)

3. The repeal of chapter 12-148 (emergency rules) and the adoption of chapter 12-148.1, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing is a copy of the rules, drafted in the Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on \_\_\_\_\_ and filed with the Office of the Lieutenant Governor.

---

DAYTON M. NAKANELUA, Director  
Department of Labor and Industrial Relations

APPROVED AS TO FORM:

---

Deputy Attorney General



**EXAMPLE NO. 10-13--SUGGESTED APPROACH TO  
DRAFTING RULES  
(6/10/15)**

**It's Not Easy.  
But It's NOT As Hard As You May Think It Is.**

**I. The Substantive Product**

- A. What Are Administrative Rules?** The rules "fill in the blanks" that exist in the statutes so that you can administer the law or program.

You're potentially creating rules every day:

- ❖ Every time you think about or talk with a co-worker about how you will deal with certain situations, resolve ambiguities, or determine the applicability of a provision or requirement to certain situations.
- ❖ The rules are the written answers to those determinations.

**B. Getting Started.**

1. If you're reading the Administrative Rules Drafting Manual in the belief that it will teach you how to write rules, you are headed in the wrong direction. The drafting manual contains the requirements for FORMAT, not substance.
2. At the risk of stating the obvious, don't reinvent the wheel.
3. Copy, steal, or adapt wherever possible.
4. Possible approaches to learning or determining what to do and how to proceed:
  - a. Look at existing rules of your department, compare with the legislation being implemented, and see how the department or agency accomplished that goal.
  - b. Do some internet research to see whether other states have adopted rules on the same or similar subject.

- c. Talk to old-timers in the department to see how they have handled similar situations.
- d. See if your supervisors are willing to arrange for training, e.g., from other in-house staff.

**C. Get Your Thoughts Down On Paper.**

- 1. Use whatever system works for you, e.g., outlines, paragraphs, whatever.
- 2. Isolate or identify the points you want to make, e.g., the requirements, authorizations, etc. for each aspect of what you are establishing.
- 3. Revise your written points in the form or style that is used for statutes and rules (e.g., the applicant shall do X...).

**II. Applying the Administrative Rules Format** (*General Thoughts*)

**A. What is the Administrative Rules Format?**

- 1. Required by section 91-4.2, HRS.
- 2. It is a uniform FORMAT for all state agency rules.
- 3. That's all. No magic to it.

**B. What is the Administrative Rules Drafting Manual?**

- 1. It is a publication that sets out the requirements for the format.
- 2. That's all. No magic to it.
- 3. You will NOT learn how to WRITE rules by learning the format--you'll only learn what the rules should look like when finalized.

**C. The Contents of the Administrative Rules Drafting Manual Are Set Out in the Administrative Rules Format, Which is Substantially Identical to the Format Used for the Hawaii Revised Statutes.**

**D. For Purposes of Complying with the Requirements of the Format:**

1. MAKE YOUR RULES LOOK LIKE THE DRAFTING MANUAL.
2. This is a big deal--at least for formatting purposes.

**III. Applying the Administrative Rules Format (*Structures*)**

**A. Instructions in the Drafting Manual Are Formatted Like Rules.**

1. Open to chapter 00-4 of Drafting Manual.
2. Running head in upper right corner (see section 00-3-10 of Manual re how to do it).
3. Page number at bottom of page (see section 00-3-10 of Manual re how to do it).
4. Size of pages, margins, print size, spacing, and other "physical" requirements (see chapter 00-2 (sections 00-2-1 to 00-2-9)).
5. Begin each chapter with "Hawaii Administrative Rules".
6. Title number (already assigned) and department name.
7. Subtitle (optional)--discuss with supervisor or rules coordinator.
8. Chapter number and heading (see your supervisor).
  - a. General requirements for numbering (chapter 00-3).
  - b. General structure long established.
9. Chapter "analysis"--listing of section numbers and headings of sections in the chapter. (See section 00-3-9).

**B. Sections.**

1. Section number (components: title number - chapter number - number of the section within the chapter).
2. Heading (see section 00-4-1).
3. Units of organization within a section (see section 00-3-8, and examples incorporated by reference into section 00-3-8).
4. No subdivisions below level of "clause".

5. Section 91-4.2, HRS, requires disclosure of effective date of rules, statutes authorizing adoption, and statutes implemented, if any.
6. Source notes (effective date) (see section 00-4-5).
7. Citation of authority (see section 00-4-3).
8. Sections implemented (see section 00-4-4).
9. What if a section was previously repealed? (see section 00-4-8).
10. Possible future expansion (see section 00-4-9 "Reserved").
11. Earlier versions of chapters that have been replaced (see section 00-4-8.5--Historical notes).

**C. Style Conventions and Incorporation by Reference.**

1. Style, word usage, and grammar conventions (see section 00-4-7 and the exhibit incorporated by reference). Note: Intent is to have rule drafting conventions follow bill drafting conventions as closely as practicable.
2. Incorporation of material by reference (see section 00-4-6). Note: This is intended to provide agencies with wide-ranging flexibility to include material that does not "fit in" with the specific conventions/requirements of the format. For example, maps and forms are not readily set out as sections or subsections, but instead can be incorporated by reference as exhibits. Section 00-4-6 explains how to do it.

**IV. Format for Rulemaking Actions; New, Amended, Repealed Chapters**

**A. Two Versions Needed for Each Rulemaking Action: One in Standard Format, One in Ramseyer Format.**

**B. Do All Rulemaking Actions at Chapter Level. This is Mandatory for Any Rules Going to Public Hearing After December 31, 2016.**

1. New chapter--See examples 10-1 and 10-2 in chapter 10 of the Rules Drafting Manual (3d Edition).
2. Any change, however small or large, to an existing chapter: do as simultaneous amendment and compilation of the entire chapter—See examples 10-7 and 10-8 in chapter 10 of the Rules Drafting Manual (3d Edition).

3. Repeal of existing chapter--See examples 10-3 and 10-4 in chapter 10 of the Rules Drafting Manual (3d Edition).
4. "Overhaul" of existing chapter by repealing and replacing with a new chapter--combine items #1 and #3 (but remember that new chapter must have a different chapter number from chapter being repealed--e.g., use a decimal number (e.g., replace chapter 11-53 with 11-53.1).

## **V. Notices of Change**

Can be used to make changes to **Notes** (i.e., source notes, authorization, or implementation) at the end of a section without going through usual rulemaking process (unless prohibited by action of Legislature, Attorney General, or court of law). File directly with Lieutenant Governor. **Caveat:** Cannot be used to make changes to any text in a section--not even to correct typos in the body of the section itself.

See examples 5-8 to 5-17 in chapter 5 of the Rules Drafting Manual (3d Edition).

Rationale--not making any changes to text of rules themselves--just the notes, thus providing correct information to public.

## **VI. After Draft Reviewed and Approved According to Agency and Departmental (Internal) Requirements**

### **A. Comply with Requirements of Governor's Administrative Directive on Rulemaking.**

1. Administrative directive is NOT a requirement of the Administrative Procedure Act. The directive provides additional requirements imposed by the Governor.
2. Requires review by Budget & Finance, Department of Business, Economic Development, and Tourism, and Attorney General before public hearing.

### **B. Agency May Request Legislative Reference Bureau to Review for Compliance with Format (Optional).**

1. Not required by Administrative Procedure Act.
2. Review is for format only (although we may point out things that seem odd).

3. Best time to request review--draft that agency plans to take to public hearing--treat LRB's comments as if received from public hearing.
  4. Substantive legal review comes from Attorney General.
- C. After Revisions Made Pursuant to Public Hearing and Department Head Approves Final, Send to Governor's Office for Approval and Filing With Lt. Governor.**

FOR FORMATTING QUESTIONS:

Contact the Legislative Reference Bureau, Revision of Statutes Division, at 587-0670.



**EXAMPLE NO. 10-14--SUGGESTIONS FOR  
PREPARATION OF RULES  
(6/1/14)**

**I. Drafting Rules**

A. If adopting new chapter or chapters:

1. Develop rough draft of substance of what is to be said.
2. Consult with departmental rules coordinator regarding use of section numbers. Make sure that the numbers for your new chapters are not already in use elsewhere.

In at least one instance, two different agencies attached to the same department failed to coordinate rulemaking efforts with their principal department, resulting in two chapters for different agencies with the same chapter number.

3. If rough draft does not already do so, break down chapters into sections, subsections, etc.
4. If sections are lengthy, divide into subsections if at all reasonable to do so. This will substantially facilitate future amendment.
5. Determine citations of authority and sections implemented for each rule section. If not clear on the difference between "authority" vs. "implement or interpret", think in terms of common sense or "non-legalese" definitions for each of those words. As a practical matter, sections in the Hawaii Revised Statutes which authorize the adoption of rules tend to use language such as "the department (board, etc.) may adopt rules pursuant to chapter 91 to implement this chapter".
6. Make sure each section has a section number and section heading, and that the section heading reasonably covers the subject matter covered in the section.

7. Check style and grammar in the text of each section. Among other things:
    - a. Eliminate gender-based terms (he, him, his, chairman, etc.);
    - b. Check your cross references to ensure that they are stated correctly (e.g., subsection (a)(1)(B) rather than subparagraph (B) of paragraph (1) of subsection (a)). Do not include the section number unless you are referring to something in another section.
    - c. Include citations to the United States Code every time you make reference to federal legislation (exception being the Internal Revenue Code); and
    - d. Spell out numbers when appropriate.
  8. Prepare certification provisions (or certifying paragraph) for Ramseyer format version.
  9. Prepare summary and signature pages for standard format version.
- B. If you are repealing other chapters, be sure to include:
1. Separate page indicating repealed chapter (see example 10-3 at end of chapter 00-10 for repealed chapter); and
  2. Historical notes, if appropriate.
- C. If you are making any change to an existing chapter, amend and compile the entire chapter.
1. Prepare Ramseyer format version.
  2. Show changes to be made using brackets, strike through, and underscoring (remember--delete first, then add).

## *SUGGESTIONS FOR PREPARATION OF RULES*

3. When making changes, be sure to take into consideration any amendments that have been made to the particular section since the chapter was first adopted.
4. Go through all of the steps in A. If any errors occur, correct them.
5. Use of Ramseyer format is recommended for the rulemaking process (preliminary approvals, public hearing, etc.) because it most clearly shows what changes are being made.
6. Be sure the amended and compiled chapter reflects all changes to be made, as well as all amendments, new sections, notices of change, etc., since the chapter was first adopted.

### D. Clerical Matters.

1. Paper size should be 8-1/2 x 11.
2. Margins should be 1-1/2 inches on all four sides.
3. Prepare body of rules.
4. In preparing source notes, be sure to leave 1-1/2 inches of blank space at the end of the source note (before the closing bracket) for the stamp indicating the effective date. Because a rubber stamp is used in stamping dates, all 1-1/2 inches of blank space must be on one line. The rubber stamp can't bend.
5. Be sure margins used for notes (i.e., the source notes and authority and implementation citations) at the end of each section are consistent with those of the unit of organization which ends the section. For example, if the section ends with a subparagraph, margins for the notes stay at the subparagraph level.
6. In preparing the Ramseyer format version, be sure that new material follows the deleted material.

7. In preparing the standard format version, remember:
  - a. How the document looks depends on what is being done:
    - i. New chapters and amended and compiled chapters are typed as a complete body;
    - ii. Text of standard format version should read the same as Ramseyer version with underscoring and deleted material removed;
    - iii. Notices of change: Each section should be on a separate sheet of paper.
  - b. Summary and signature pages are always on separate sheets of paper.
8. Add running heads and page numbers on standard format version. Running heads need not be included in Ramseyer format version.

E. Proofreading.

Proofreading the drafts and final versions of rules in standard and Ramseyer formats in teams of two or more persons is recommended. The error rate can be expected to increase if proofing is done by a single person.

For best results in promoting consistency, proof drafts as follows:  
(1) Standard vs. Ramseyer, (2) Standard vs. Standard, and (3) Ramseyer vs. Ramseyer.

F. Making copies of rules.

1. This can be one of the most critical elements. The best drafting and typing can be undone by improper copying. Improperly photocopied rules may result in a failure to meet requirements of the format.

## *SUGGESTIONS FOR PREPARATION OF RULES*

2. In copying rules in standard format be sure that:
  - a. Chapters are copied two-sided.
  - b. Every chapter begins on a new sheet of paper (not on the back side of the previous chapter).
  - c. Notices of change are on separate sheets of paper for each section.
  - d. Summary and signature pages are on separate sheets of paper.

### G. Centralization of Data Entry and Other Clerical Work.

In order to promote efficiency and good quality work in the production of rules, it is recommended that the data entry and other clerical work for an entire department (or as large an organization as possible) be centralized in a single clerical pool.

## **II. Approval for Public Hearing**

- A. Comply with the requirements of the Administrative Directives issued by the Governor concerning requirements for obtaining approval to hold public hearings for rulemaking.
- B. In addition to the requirements imposed by the Governor, many departments have other internal requirements concerning proposed rules. Be familiar with the requirements of your department, and consult the departmental rules coordinator, when necessary.

## **III. Review by the Legislative Reference Bureau**

- A. Since 1980, the Bureau has offered and continues to provide the service of reviewing proposed new rules or changes to existing rules for compliance with the Hawaii Administrative Rules format.
- B. The Legislative Reference Bureau reviews drafts of proposed rules as a service to agencies. The ability of the Bureau to provide this

service at any given time is limited to and ultimately controlled by the number of Bureau staff available and the volume of work generated by the Legislature, its committees, and individual members, all of which take priority. As such, agencies seeking the assistance of the Bureau are advised and should be aware of the following:

1. The purpose of the Bureau's review is ultimately limited to helping agencies comply with the Hawaii Administrative Rules format. Questions of substantive law (whether constitutional, state, or otherwise), including procedures to be followed in the rulemaking process, should be directed to the Office of the Attorney General or other legal staff assigned to advise the agency.
2. While Bureau staff may raise substantive legal questions that occur to them, resolution of those questions should still be handled in consultation with the Office of the Attorney General or other legal staff assigned to advise the agency.
3. Comments and questions raised by Bureau staff about draft rule provisions are ultimately suggestions or recommendations, not directives. No agency should ever operate under the assumption or belief that they have been "ordered" or "directed" by the Bureau to do something. Any conflicts concerning issues raised by Bureau staff and the adopting agency's legal advisors should be resolved in favor of advice received from the Office of the Attorney General or other legal staff assigned to advise the agency.
4. Time and resource constraints may cause Bureau staff to review only selected sections in a given proposed rulemaking action. Agency staffs need to make conforming changes to the remaining provisions.
5. Unless agency staff are advised or directed otherwise by their decision making authority, the Bureau believes that the best time to request a format review by the Bureau is at the time that the agency is having the proposed rules reviewed by agencies such as the Attorney General, whose

## *SUGGESTIONS FOR PREPARATION OF RULES*

approval is required for the adopting agency to go to public hearing pursuant to the Governor's administrative directive.

6. Agencies should send drafts prepared in the Ramseyer format for review by the Bureau. This will enable Bureau staff to more readily focus on the provisions being changed, i.e., those that are typically of greatest interest to the adopting agency.
7. Agencies are advised to inform the Bureau staff of the date by which the agency would like to receive the reviewed drafts. The Bureau will do its best to accommodate the needs of the agency.

### **IV. Public Notice and Hearing**

Handle these stages in consultation with the Attorney General.

In some cases, the comments received from the public pursuant to the public notice and hearings may result in extensive changes to the proposed rules. The determination of whether additional public notices and hearings are required should be made in consultation with the Attorney General.

### **V. Final Copies of Rules**

#### **A. Ramseyer format.**

1. If changes are being made to rules that already exist, the final version in the Ramseyer format should show all changes being made to the existing rules.
2. If new chapters are being adopted, the final version in Ramseyer format should show final text.
3. The final version of the rulemaking action in the Ramseyer format should be completed by the effective date of the standard format version filed with the Lieutenant Governor,

and signed when the agency receives confirmation that standard format rules have taken effect.

B. Standard format.

After completion of the Ramseyer format version, prepare the standard format version.

C. Prepare, proofread, and make copies in standard and Ramseyer formats pursuant to I.D., I.E., and I.F.

**VI. Approval and Filing**

A. Approval by the Governor.

1. Send 3 copies of the rules in the standard format to the Governor.
2. If approved, the Governor will sign the rules and send them directly to the Lieutenant Governor for filing.
3. If the agency is specifying a particular effective date, the agency must see to it that the Governor's office files the rules with the Lieutenant Governor at least 10 but fewer than 30 days before the specified effective date. For instance, if the Governor's office sends the rules to the Lieutenant Governor only 7 days before the specified effective date, the actual effective date will be 3 days after the desired date.

B. Filing with the Lieutenant Governor.

1. Upon receipt, the Lieutenant Governor's office will keep one copy, send one copy to the ombudsman, and return one copy to the agency.
2. The copy returned to agency will have the effective date stamped at the end of the source note of the first rule section.



**VII. Processing and Distribution to Legislative Reference Bureau**

- A. After receiving the returned copy from the Lieutenant Governor, the agency stamps the effective date in the source notes of all remaining sections of that copy in standard format.
- B. The agency stamps the effective date in all the source notes in the final Ramseyer version.
- C. Make copies (pursuant to I.F.) of the standard and Ramseyer format versions.
- D. Within 10 days after receiving the return copy from Lieutenant Governor, send one copy of the filed standard format version and one copy of the signed Ramseyer format version to:

Director  
Legislative Reference Bureau  
State Capitol, Room 446  
Honolulu, HI 96813

Attention: Administrative Rules Project

**VIII. Notices of Change**

- A. Draft notices.
- B. Send copies with cover letter directly to the office of the Lieutenant Governor.
- C. When the agency receives copies containing recordation number stamped by the Lieutenant Governor's office, send one copy of each notice with recordation number to the Legislative Reference Bureau.

**IX. Distribution of Rules to Public**

- A. Copies of rules should be distributed on 8-1/2 x 11 inch paper.

- B. Copies should exactly match what was filed with the Lieutenant Governor.
- C. Copies that differ in any way from what was filed with the Lieutenant Governor's office must be clearly marked "UNOFFICIAL" in letters at least one-inch high.
- D. If copies meet the requirements of B, but are on a size of paper other than 8-1/2 x 11 inches, they must be clearly marked "UNOFFICIAL SIZE".
- E. Requirements apply to copies of rules posted by agencies on the Internet or otherwise made available in electronic form.

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### ACRONYMS

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