

Chapter 98-08 WAC

PRACTICE AND PROCEDURE

<p>WAC</p> <p>98-08-001</p> <p>98-08-005</p> <p>98-08-015</p>	<p>Model rules of procedure.</p> <p>Brief adjudicative proceedings—When they can be used.</p> <p>Objections to brief adjudicative proceedings and conversion to formal adjudicative hearings.</p>		
DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER			
<p>98-08-010</p> <p>98-08-030</p> <p>98-08-040</p> <p>98-08-050</p> <p>98-08-060</p> <p>98-08-070</p> <p>98-08-080</p> <p>98-08-090</p> <p>98-08-100</p> <p>98-08-110</p> <p>98-08-120</p> <p>98-08-130</p> <p>98-08-140</p> <p>98-08-150</p> <p>98-08-170</p>	<p>Appearance and practice before agency—Who may appear. [Rule .08.010, effective 2/8/60.] Repealed by WSR 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>Appearance and practice before agency—Solicitation of business unethical. [Rule .08.030, effective 2/8/60.] Repealed by WSR 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>Appearance and practice before agency—Standards of ethical conduct. [Rule .08.040, effective 2/8/60.] Repealed by WSR 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>Appearance and practice before agency—Appearance by former employee of agency or former member of attorney general's staff. [Rule .08.050, effective 2/8/60.] Repealed by WSR 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>Appearance and practice before agency—Former employee as expert witness. [Rule .08.060, effective 2/8/60.] Repealed by WSR 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>Computation of time. [Rule .08.070, effective 2/8/60.] Repealed by WSR 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>Notice and opportunity for hearing in contested cases. [Rule .08.080, effective 2/8/60.] Repealed by WSR 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>Service of process—By whom served. [Rule .08.090, effective 2/8/60.] Repealed by WSR 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>Service of process—Upon whom served. [Rule .08.100, effective 2/8/60.] Repealed by WSR 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>Service of process—Service upon parties. [Rule .08.110, effective 2/8/60.] Repealed by WSR 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>Service of process—Method of service. [Rule .08.120, effective 2/8/60.] Repealed by WSR 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>When service complete. [Rule .08.130, effective 2/8/60.] Repealed by WSR 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>When service complete—Filing with agency. [Rule .08.140, effective 2/8/60.] Repealed by WSR 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>Subpoenas—Where provided by law—Form. [Statutory Authority: RCW 68.05.105. WSR 89-08-043 (Order PM 830), § 98-08-150, filed 3/31/89; Rule .08.150, effective 2/8/60.] Repealed by WSR 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>Subpoenas—Service. [Rule .08.170, effective 2/8/60.] Repealed by WSR 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p>	<p>98-08-190</p> <p>98-08-200</p> <p>98-08-210</p> <p>98-08-220</p> <p>98-08-370</p> <p>98-08-380</p> <p>98-08-390</p> <p>98-08-400</p> <p>98-08-410</p> <p>98-08-420</p> <p>98-08-430</p> <p>98-08-440</p> <p>98-08-450</p> <p>98-08-460</p> <p>98-08-470</p> <p>98-08-480</p> <p>98-08-490</p> <p>98-08-500</p>	<p>Subpoenas—Proof of service. [Rule .08.190, effective 2/8/60.] Repealed by WSR 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>Subpoenas—Quashing. [Rule .08.200, effective 2/8/60.] Repealed by WSR 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>Subpoenas—Enforcement. [Rule .08.210, effective 2/8/60.] Repealed by WSR 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>Subpoenas—Geographical scope. [Rule .08.220, effective 2/8/60.] Repealed by WSR 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>Official notice—Matters of law. [Rule .08.370, effective 2/8/60.] Repealed by WSR 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>Official notice—Material facts. [Rule .08.380, effective 2/8/60.] Repealed by WSR 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>Presumptions. [Rule .08.390, effective 2/8/60.] Repealed by WSR 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>Stipulations and admissions of record. [Rule .08.400, effective 2/8/60.] Repealed by WSR 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>Form and content of decisions in contested cases. [Rule .08.410, effective 2/8/60.] Repealed by WSR 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>Definition of issues before hearing. [Rule .08.420, effective 2/8/60.] Repealed by WSR 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>Prehearing conference rule—Authorized. [Rule .08.430, effective 2/8/60.] Repealed by WSR 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>Prehearing conference rule—Record of conference action. [Rule .08.440, effective 2/8/60.] Repealed by WSR 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>Submission of documentary evidence in advance. [Rule .08.450, effective 2/8/60.] Repealed by WSR 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>Excerpts from documentary evidence. [Rule .08.460, effective 2/8/60.] Repealed by WSR 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>Expert or opinion testimony and testimony based on economic and statistical data—Number and qualifications of witnesses. [Rule .08.470, effective 2/8/60.] Repealed by WSR 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>Expert or opinion testimony and testimony based on economic and statistical data—Written sworn statements. [Rule .08.480, effective 2/8/60.] Repealed by WSR 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>Expert or opinion testimony and testimony based on economic and statistical data—Supporting data. [Rule .08.490, effective 2/8/60.] Repealed by WSR 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>Expert or opinion testimony and testimony based on economic and statistical data—Effect of noncompliance with WAC 98-08-470 or 98-08-480. [Rule .08.500, effective 2/8/60.] Repealed by WSR 02-19-018, filed</p>

- 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.
- 98-08-510 Continuances. [Rule .08.510, effective 2/8/60.] Repealed by WSR 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.
- 98-08-520 Rules of evidence—Admissibility criteria. [Rule .08.520, effective 2/8/60.] Repealed by WSR 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.
- 98-08-530 Rules of evidence—Tentative admission—Exclusion—Discontinuance—Objections. [Rule .08.530, effective 2/8/60.] Repealed by WSR 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.
- 98-08-540 Petitions for rule making, amendment or repeal. [Rule .08.540, effective 2/8/60.] Repealed by WSR 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.
- 98-08-550 Petitions for rule making, amendment or repeal—Requirements. [Rule .08.550, effective 2/8/60.] Repealed by WSR 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.
- 98-08-560 Petitions for rule making, amendment or repeal—Agency must consider. [Rule .08.560, effective 2/8/60.] Repealed by WSR 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.
- 98-08-570 Petitions for rule making, amendment or repeal—Notice of disposition. [Rule .08.570, effective 2/8/60.] Repealed by WSR 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.
- 98-08-580 Declaratory rulings. [Rule .08.580, effective 2/8/60.] Repealed by WSR 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.
- 98-08-590 Forms. [Rule .08.590, effective 2/8/60.] Repealed by WSR 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.

WAC 98-08-001 Model rules of procedure. Except as they may be inconsistent with the rules in this chapter, the cemetery board adopts the model rules of procedure as set forth in chapter 10-08 WAC.

[Statutory Authority: RCW 68.05.100. WSR 02-19-018, § 98-08-001, filed 9/9/02, effective 10/10/02.]

WAC 98-08-005 Brief adjudicative proceedings—When they can be used. (1) The board adopts RCW 34.05.482 through 34.05.494 for the administration of brief adjudicative proceedings conducted at the discretion of the board. Brief adjudicative proceedings can be used in place of formal adjudicative hearings whenever the board issues a statement of charges, notice of intent to issue a cease and desist order, or temporary cease and desist order alleging that an applicant or licensee's conduct, act(s), or condition(s) constitute unlicensed practice or unprofessional conduct as that term is defined under chapter 18.235 RCW, the Uniform Regulation of Business and Professions Act. Brief adjudicative proceedings can also be used whenever the statement of charges, notice of intent to issue a cease and desist order, or temporary cease and desist order alleges violations of any statute or rule that specifically governs disciplinary actions within a profession for which the applicant seeks a license or from which the licensee holds a license.

(2) Brief adjudicative proceedings may be used to determine the following issues, including, but not limited to:

- (a) Whether an applicant has satisfied terms for reinstatement of a license after a period of license restriction, suspension, or revocation;
- (b) Whether an applicant or licensee has satisfied financial security requirements by providing adequate proof of

surety bonds or other proof of financial security, as required by law;

(c) Whether a sanction proposed by the department is appropriate based on the stipulated facts;

(d) Whether an applicant meets minimum requirements for an initial or renewal application;

(e) Whether an applicant or licensee failed to cooperate in an investigation by the department;

(f) Whether an applicant or licensee was convicted of a crime that should disqualify the applicant or licensee from holding the specific license sought or held;

(g) Whether an applicant or licensee has defaulted on educational loans;

(h) Whether an applicant or licensee has violated the terms of a final order issued by the director or director's designee;

(i) Whether a licensee has committed recordkeeping violations;

(j) Whether a licensee has committed trust account violations;

(k) Whether an applicant or licensee has engaged in false, deceptive, or misleading advertising; or

(l) Whether a person has engaged in unlicensed practice.

(3) In addition to the situations enumerated in subsection (2) of this section, the board may conduct brief adjudicative proceedings instead of formal adjudicative hearings whenever the parties have stipulated to the facts and the only issues presented are issues of law, or whenever issues of fact exist but witness testimony is unnecessary to prove or disprove the relevant facts.

[Statutory Authority: RCW 68.05.105 and chapter 34.05 RCW. WSR 05-23-149, § 98-08-005, filed 11/22/05, effective 12/23/05.]

WAC 98-08-015 Objections to brief adjudicative proceedings and conversion to formal adjudicative hearings. (1) At least five days before the scheduled brief adjudicative proceeding, any party, including the board, may file a written objection to resolution of a matter by a brief adjudicative proceeding and may request that a matter be converted to a formal adjudicative hearing. Upon receiving a timely written objection, the presiding officer shall determine whether the matter should be converted. Regardless of whether any party files a timely objection, the presiding officer may convert any brief adjudicative proceeding to a formal adjudicative hearing whenever it appears that a brief adjudicative proceeding is insufficient to determine the issues pending before the board.

(2) In determining whether to convert a proceeding, the presiding officer may consider the following factors:

(a) Whether witness testimony will aid the presiding officer in resolving contested issues of fact;

(b) Whether the legal or factual issues are sufficiently complex to warrant a formal adjudicative proceeding, including whether there are multiple issues of fact or law;

(c) Whether a brief adjudicative proceeding will establish an adequate record for further agency or judicial review;

(d) Whether the legal issues involved in the proceeding present questions of legal significance or are being raised for the first time before the agency;

(e) Whether conversion of the proceeding will cause unnecessary delay in resolving the issues; and

(f) Any other factors that the presiding officer deems relevant in reaching a determination.

[Statutory Authority: RCW 68.05.105 and chapter 34.05 RCW. WSR 05-23-149, § 98-08-015, filed 11/22/05, effective 12/23/05.]