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## **Maintenance and Disclosure of Personal Data**

### **Sec. 17a-636-1. Definitions**

(a) The following definitions shall apply to sections 17a-636-1 to 17a-636-5, inclusive:

(1) “Category of Personal Data” means the classifications of personal information set forth in the Personal Data Act, Connecticut General Statutes section 4-190 (9).

(2) “Commission” means the Connecticut Alcohol and Drug Abuse Commission.

(3) “Other Data” means any information which because of name, identification number, mark or description can be readily associated with a particular person.

(4) “Patient/Client” means any individual who is receiving treatment or services or who has received treatment or services in any facility operated by the Connecticut Alcohol and Drug Abuse Commission either directly or under contract, or who has requested information regarding treatment or services. State employees receiving services from the Employee Assistance Program are considered clients of the Commission.

(b) Definitions contained in Connecticut General Statutes section 4-190 shall apply to sections 17a-636-1 to 17a-636-5, inclusive.

(Effective March 4, 1991)

### **Sec. 17a-636-2. General nature and purpose of personal data**

The Connecticut Alcohol and Drug Abuse Commission maintains the following personal data systems:

#### **(a) Personnel Records**

(1) Personnel records for central office employees of the Commission are maintained at 999 Asylum Avenue, Hartford, Connecticut.

(2) Personnel records for Blue Hills Hospital employees are located at Blue Hills Hospital, 51 Coventry Street, Hartford, Connecticut.

(3) Personnel records for Eugene T. Boneski Chemical Treatment Center employees are maintained at the Eugene T. Boneski Chemical Treatment Center, Route 12, Norwich, Connecticut.

(4) Personnel records for Dutcher Chemical Dependence Treatment Center employees are maintained at the Dutcher Chemical Dependence Treatment Center, 1 Holmes Drive, Middletown, Connecticut.

(5) Personnel records for Berkshire Woods Chemical Dependence Treatment Center employees are maintained at the Berkshire Woods Chemical Dependence Treatment Center, Mile Hill Road, Newtown, Connecticut.

(6) A system directory of personnel records is located in the Office of the Personnel Administrator, 999 Asylum Avenue, Hartford, Connecticut.

(7) Personnel records are maintained in automated and manual form.

(8) The purpose of the system is to provide data necessary for personnel/payroll management activities and/or as required by Federal and State law.

(9) Personnel records are the responsibility of the Personnel Officer in each of the Commission’s treatment facilities and the Personnel Officer of the central office respectively. Personnel systems are overseen by the Personnel Administrator, 999 Asylum Avenue, Hartford, Connecticut. All requests for disclosure or amendment of these records should be directed to the Personnel Administrator, 999 Asylum Avenue, Hartford, Connecticut.

(10) Routine sources of information contained in personnel records include the employee, previous employers of the employee, references provided by the applicant,

the employee's supervisor, the Comptroller's Office and Department of Administrative Services, Division of Personnel.

(11) Categories of personal data maintained in personnel files may include, but are not necessarily limited to:

(A) payroll information such as longevity payments, designation of compensation plan, rate of pay, salary, history, deductions;

(B) employment information such as starting date, title of position, employee transfer and termination information, performance appraisal, and records of disciplinary action;

(C) educational credentials;

(D) medical or emotional condition or history; and

(E) reputation and character.

(12) Categories of other data include name, address, telephone number, employee number, social security number, date of birth, designation of status as veteran, racial/ethnic designation, handicapped designation as appropriate, and general correspondence related to personnel matters such as requests for employment verification.

(13) Personnel records are used by the personnel department and other administrative/supervisory staff as required to record and document the performance of personnel and payroll management activities within the Commission.

(14) Personnel records are maintained on all classified and unclassified employees of the Commission and on applicants for employment.

(15) Personal data in personnel records are collected, maintained and used under the authority of the State Personnel Act, Connecticut General Statutes section 5-193 et seq.

**(b) Payroll Records**

(1) Payroll records for all Commission employees, except those employed at Blue Hills Hospital, are maintained in the Fiscal Office of the Commission located at 999 Asylum Avenue, Hartford, Connecticut. These records are the responsibility of the Chief Fiscal Officer of the Commission. All requests for disclosure or amendment of the records in the system, except those of Blue Hills Hospital, should be directed to the Chief Administrator of Fiscal Services of the Commission.

(2) Payroll records for employees at Blue Hills Hospital are maintained in the Business Office, Blue Hills Hospital, Hartford, Conn. These records are the responsibility of the Fiscal Administrative Manager of Blue Hills Hospital. All requests for the disclosure or amendment of records in the system for Blue Hills Hospital employees should be directed to the Fiscal Administration Manager of Blue Hills Hospital.

(3) Payroll records are maintained in automated and manual form.

(4) The purpose of the system is to facilitate the Commission's activities regarding payroll, budgeting, cost accounting, personnel planning and compliance with State and Federal reporting requirements.

(5) Routine sources of information in payroll records may include the employee, the employee's supervisor, attendance sheets, contracts, the Comptroller's Office, Department of Administrative Services, Division of Personnel and Labor Relations, and insurance carriers.

(6) Categories of personal data maintained in payroll files may include:

(A) financial information such as salary records, longevity payments, compensation plan, rate of pay, deductions, salary history and garnishment of wages and payments related to garnishment; and

(B) employment information such as starting date, job classification and bargaining unit, attendance information, vacation, sick and personal leave days accrued and used, title of position, and contracts.

(7) Categories of other data may include name, address, social security number, date of birth, telephone number, marital status, insurance and retirement information, military service, correspondence regarding payroll and benefits matters.

(8) Records are maintained for all current and former Commission employees.

(A) Payroll records are used by the Fiscal Department staff:

(B) to plan payroll and calculate budgets;

(C) to process promotions, reclassifications, transfers to other state agencies and retirements;

(D) to maintain personnel documents required by, but not necessarily limited to the following entities: the Comptroller's Office and Department of Administrative Services, Division of Personnel, group insurance carriers.

(9) Payroll data are collected, maintained and used under authority of the State Personnel Act, Connecticut General Statutes section 5-193 et seq.

(c) **Patient/Client Records**

(1) All patient/client records, except employee assistance program client records, are located in the facility providing treatment or services to the particular individual, including Blue Hills Hospital, 51 Coventry Street, Hartford; Eugene T. Boneski Chemical Dependence Treatment Center, Route 12, Norwich; Dutcher Chemical Dependence Treatment Center, 1 Holmes Drive, Middletown; Berkshire Woods Chemical Dependence Treatment Center, Mile Hill Road, Newtown; or at a records storage facility which shall be identified in a system directory which lists the storage facility site locations. Such system directory shall be located at 999 Asylum Avenue, Hartford, in the custody of the Chief Fiscal Officer.

(2) Records are maintained in automated and manual form.

(3) The purpose of this system is to document the diagnosis, treatment planning, treatment process and response of the client.

(4) Patient/client records are the responsibility of the Superintendent, or his designee, of the facility that is providing or has provided treatment to the patient/client. All requests for the disclosure or amendment of the records in the system should be directed to the Superintendent, or his designee.

(5) Routine sources of data may include interviews, examinations, observations and/or evaluations of the patient/client, information provided by family members, public and private health care providers, social workers, other professionals and other state agencies.

(6) Categories of personal data maintained in patient/client records may include, but are not necessarily limited to:

(A) medical condition and history which includes the use of alcohol or other drugs;

(B) psychiatric/psychological condition and history;

(C) family and personal relationships;

(D) legal status, including relevant legal documents;

(E) employment information such as employment status, education, occupation, and employer and income;

(F) treatment and discharge information, including treatment plans, physicians, orders, laboratory test results, progress notes, discharge plan, nature of the discharge, and referrals.

(7) Categories of other data include name, address, telephone number, date of birth, sex, racial/ethnic designation, social security number, and insurance information such as primary and secondary source, and type of insurance;

(8) Records are used by the individual hospital staff to reflect treatment planning and services provided to or on behalf of patients/clients and their families.

(9) Personal data in patient/client records are collected, maintained and used under authority of section 17-155k et seq of the Connecticut General Statutes and 42 C.F.R. (Code of Federal Regulations) Part 2.

(d) **Employee Assistance Program (EAP)**

(1) All EAP client records are located in the Employee Assistance Program, 999 Asylum Avenue, Hartford, Connecticut.

(2) Records are maintained in automated and manual form.

(3) The purpose of this system is to document the diagnosis, treatment planning, treatment process and response of the EAP client.

(4) EAP client records are the responsibility of the attending EAP counselor. All requests for the disclosure or amendment of the records in the system should be directed to the EAP supervisor at 999 Asylum Avenue, Hartford, Connecticut.

(5) Routine sources of data may include interviews, examinations, observations and/or evaluations of the patient/client, information provided by family members, public and private health care providers, social workers, other professionals and other state agencies.

(6) Categories of personal data maintained in EAP client records may include, but are not necessarily limited to:

(A) job performance information such as a description of performance deficiencies and presenting problems;

(B) salary, length of employment, place of employment and job description;

(C) source of referral, such as self, employer/supervisor, labor union or other;

(D) medical and emotional condition or history;

(E) family or personal relationships; and

(F) treatment referrals.

(7) Categories of other data include name, address, telephone number, date of birth, racial/ethnic designation, social security number, and health insurance information.

(8) Records are used by the EAP staff to reflect treatment planning and services provided to or on behalf of EAP clients and their families.

(9) Personal data in EAP client records are collected, maintained and used under authority of section 17-155k et seq of the Connecticut General Statutes and 42 C.F.R. (Code of Federal Regulations) Part 2.

(Effective March 4, 1991)

**Sec. 17a-636-3. Maintenance of personal data**

(a) Personal data shall not be maintained unless relevant and necessary to accomplish the lawful purposes of the Commission. Where the Commission finds irrelevant or unnecessary public records in its possession, the Commission shall dispose of the records in accordance with its record retention schedule and with the approval of the Public Records Administrator as per Connecticut General Statutes section 11-8a, or, if the records are not disposable under the records retention schedule, request permission from the Public Records Administrator to dispose of the records under Connecticut General Statutes section 11-8a.

(b) The Commission shall collect and maintain all records with accurateness and completeness.

(c) Insofar as it is consistent with the needs and mission of the Commission, the Commission shall, whenever practical, collect personal data directly from the person to whom a record pertains.

(d) Commission employees involved in the operations of the Commission's personal data systems shall be informed of the provisions of: (i) the Personal Data Act; (ii) the Commission's regulations adopted pursuant to Connecticut General Statutes section 4-196; (iii) the Freedom of Information Act and (iv) any other state or federal statute or regulations concerning maintenance or disclosure of personal data kept by the Commission.

(e) All Commission employees shall take reasonable precautions to protect personal data under their custody from the danger of fire, theft, flood, natural disasters and other physical threats.

(f) The Commission shall incorporate by reference the provisions of the Personal Data Act and regulations promulgated thereunder in all contracts, agreements or licenses for operation of a personal data system or for research, evaluation and reporting of personal data for the Commission or on its behalf.

(g) The Commission shall insure that personal data requested and received from any other agency is maintained in conformance with Connecticut General Statutes section 4-190, et seq.

(h) Only Commission employees who have a specific need to review personal data records for lawful purposes of the Commission shall be entitled to access to such records under the Personal Data Act.

(i) The Commission shall maintain a written up-to-date list of individuals entitled to access to each of the Commission's personal data systems.

(j) The Commission shall insure against unnecessary duplication of personal data records. In the event it is necessary to send personal data records through interdepartmental mail, such records shall be sent in envelopes or boxes sealed and marked "confidential."

(k) The Commission shall insure that all records in manual personal data systems are kept under lock and key and, to the greatest extent practical, are kept in controlled access areas.

(l) With respect to automated personal data systems, the Commission shall:

(1) to the greatest extent practical, locate automated equipment and records in a limited access area;

(2) to the greatest extent practical, require visitors to such area to sign a visitor's log and permit access to said area on a bona-fide need-to-enter basis only;

(3) to the greatest extent practical, insure that regular access to automated equipment is limited to operations personnel;

(4) utilize appropriate access control mechanisms to prevent disclosure of personal data to unauthorized individuals.

(m) Records for each personal data system are maintained in accordance with schedules prepared by the Connecticut State Library, Department of Public Records Administration and records retention schedule as approved by the Public Records Administrator as authorized by section 11-8a of the Connecticut General Statutes. Retention schedules shall be maintained on file at the Central Office of the Commission and may be examined during normal business hours.

(n) When an individual is asked by the Commission to supply personal data about him/herself, the Commission, upon request, shall disclose to that individual:

(1) the name of the division within the Commission requesting the personal data;

(2) the legal authority under which the Commission is empowered to collect and maintain the personal data;

(3) the individual's rights pertaining to such records under the Personal Data Act and Commission regulations;

- (4) the known consequences arising from supplying or refusing to supply the requested personal data;
  - (5) the proposed use to be made of the requested personal data.
- (Effective March 4, 1991)

**Sec. 17a-636-4. Disclosure of personal data**

- (a) The Commission shall not disclose to the public personal records of a confidential or private nature except as required under state and federal law.
  - (b) Within four business days of receipt of a written request therefore, the Commission shall mail or deliver to the requesting individual a written response in plain language, informing him/her as to whether or not the Commission maintains personal data on that individual, the category and location of the personal data maintained on that individual and procedures available to review the records.
  - (c) Except where non-disclosure is required or specifically permitted by law, the Commission shall disclose to any person upon written request all personal data concerning that individual which is maintained by the Commission. The procedures for disclosure shall be in accordance with Connecticut General Statutes sections 1-15 through 1-21k, inclusive. If the personal data is maintained in coded form, the Commission shall transcribe the data into commonly understandable form before disclosure.
  - (d) The Commission is responsible for verifying the identity of any person requesting access to his/her own personal data.
  - (e) The Commission is responsible for ensuring that disclosure made pursuant to the Personal Data Act is conducted so as not to disclose any personal data concerning persons other than the person requesting the information.
  - (f) The Commission may refuse to disclose to a person medical, psychiatric or psychological data on that person if the Commission determines such disclosure would be detrimental to that person.
  - (g) In any case where the Commission refuses disclosure, it shall advise that person of his/her right to seek judicial relief pursuant to the Personal Data Act.
  - (h) If the Commission refuses to disclose medical, psychiatric or psychological data to a person based on its determination that disclosure would be detrimental to that person and nondisclosure is not mandated by law, the Commission shall, at the written request of such person, permit a qualified medical doctor to review the personal data contained in the person's record to determine if the personal data should be disclosed. If disclosure is recommended by such person's medical doctor, the Commission shall disclose the personal data to such person; if nondisclosure is recommended by such person's medical doctor, the Commission shall inform such person of the judicial relief provided under the Personal Data Act.
  - (i) The Commission shall maintain a complete log of each person, individual, agency or organization who has obtained access or to whom disclosure has been made of personal data under the Personal Data Act, together with the reason for each such disclosure or access. This log must be maintained for not less than five years from the date of such disclosure or access or for the life of the personal data record, whichever is longer.
- (Effective March 4, 1991)

**Sec. 17a-636-5. Contesting the content of personal data records**

- (a) Any person who believes that the Commission is maintaining inaccurate, incomplete or irrelevant personal data concerning him/her may file a written request

with the official of the Commission who is responsible for maintaining such records for correction of said personal data.

(b) Within thirty (30) days of receipt of such request, the official of the Commission who is responsible for maintaining the records shall give written notice to that person that the Commission will make the requested correction, or if the correction is not to be made as submitted, the official of the Commission shall state the reason for the Commission's denial of such request and notify the person of his/her right to add his/her own statement to his/her personal data records.

(c) Following such denial by the Commission, the person requesting such correction shall be permitted to add a statement to his/her personal data records setting forth what that person believes to be an accurate, complete and relevant version of the personal data in question. Such statements shall become a permanent part of the Commission's personal data system and shall be disclosed to any individual, agency or organization to which the disputed data is disclosed.

(Effective March 4, 1991)

### **Description of Agency and Rules of Practice**

**Secs. 17a-636-6—17a-636-10. Reserved**

### **Description of Organization**

**Sec. 17a-636-11. Description**

(a) The Alcohol and Drug Abuse Commission is the designated Single State Agency for alcohol and drug abuse problems in Connecticut. The Commission operates under the authority of Connecticut General Statutes sec. 17a-634 and is a part of the Department of Mental Health for administrative purposes only.

(b) The Executive Director is responsible for organizing and directing the Commission staff in carrying out the duties assigned to and by the Commission. He is assisted by a Deputy Director.

(c) At the direction of the Commission, the Executive Director and staff fulfill the following major functions:

(1) planning and developing a comprehensive State Plan for dealing with alcohol and drug abuse;

(2) awarding state and federal funds to programs which provide prevention and treatment services and monitoring the use of those funds;

(3) overseeing the performance of programs funded by the agency and providing technical assistance to such programs to improve service delivery;

(4) identifying new service needs and developing programs to meet them;

(5) coordinating service delivery with other state and federal agencies;

(6) coordinating state-wide drug and alcohol abuse prevention activities and assisting in developing and implementing prevention programs;

(7) planning, developing, implementing and coordinating a comprehensive state-wide training system for personnel in alcohol and drug programs and related services;

(8) developing employee assistance and alcoholism programs and working with state agencies and business and industry to provide counseling services to employees;

(9) collecting, tabulating, analyzing and distributing data related to alcohol and drug abuse;

(10) establishing standards for, contracting with, and monitoring programs providing services to participants in the Pretrial Alcohol Education System.

(Effective June 1, 1992)

**Sec. 17a-636-12. Public information**

(a) The public may obtain information or make submissions or requests by writing to the Commission office at 999 Asylum Avenue, Hartford, Connecticut 06105.

(b) A compilation of all regulations, written policy statements, rulings, forms and instructions are available at the Commission office.

(Effective June 1, 1992)

**Secs. 17a-636-13—17a-636-20. Reserved**

**Rules of Practice**

**ARTICLE ONE**

**General Provisions**

**Part 1**

**Scope of Rules**

**Sec. 17a-636-21. Procedure governed**

These regulations define the rules of practice before the Alcohol and Drug Abuse Commission and set forth the nature and requirements of all formal and informal procedures available under the applicable laws of the state of Connecticut.

(Effective June 1, 1992)

**Part 2**

**Construction of the Rules**

**Sec. 17a-636-22. Definitions**

As used in these regulations

(a) “Commission” means the Connecticut Alcohol and Drug Abuse Commission.

(b) “Contested case” means a proceeding in which the legal rights, duties, privileges of a party are required by statute to be decided by the Commission after an opportunity for a hearing or in which a hearing is in fact held.

(c) “Executive Director” means the executive director of the Connecticut Alcohol and Drug Abuse Commission or his designee.

(d) “Person” means any individual, partnership, corporation, association, governmental subdivision, or public or private organization.

(e) “Petition” means a formal, written request for the Commission to adopt regulations or for a declaratory ruling.

(f) “Presiding officer” means any person designated by the Commission to preside at a hearing.

(g) “Respondent” means any person against whom a complaint has been brought which asserts a violation of a statute or regulation properly coming under the jurisdiction of the Commission.

(Effective June 1, 1992)

**Sec. 17a-636-23. Construction and amendment**

These rules shall be construed liberally by the Commission to secure a just, speedy and inexpensive determination of the issues presented. Amendments and additions to these rules may be adopted by the Commission by being duly promulgated as regulations in accordance with Chapter 54 of the General Statutes.

(Effective June 1, 1992)

### Part 3

#### Formal Requirements

**Sec. 17a-636-24. Principal office**

The principal office of the Commission is located at 999 Asylum Avenue, Hartford, Conn. The office is open from 8:30 a.m. to 4:30 p.m. each weekday except Saturdays, Sundays and holidays.

(Effective June 1, 1992)

**Sec. 17a-636-25. Date of filing**

All orders, decisions, findings of fact, correspondence, motions, petitions, applications and any other document governed by these rules shall be deemed to have been filed or received on the date on which they are issued or received by the Commission at its principal office, or the date postmarked if sent by certified mail.

(Effective June 1, 1992)

**Sec. 17a-636-26. Extensions of time**

At the discretion of the Commission, for good cause shown, any time limit prescribed or allowed by these rules may be extended. All requests for extension shall be made before the expiration of the period originally prescribed or as previously extended.

(Effective June 1, 1992)

**Sec. 17a-636-27. Signatures**

Every request, application, notice, motion, petition, brief and memorandum addressed to the presiding officer, the executive director or Commission shall be signed by the person filing.

(Effective June 1, 1992)

**Sec. 17a-636-28. Identification of communications**

Communications should embrace only one matter and should contain the name and address of the sender. When the subject matter pertains to a proceeding pending before the Commission, sufficient information must be provided to enable identification of the proceeding in question. Failure to supply such information shall result in rejection and return of the communication.

(Effective June 1, 1992)

**Sec. 17a-636-29. Copies of documents and other papers filed in proceedings**

In addition to the original, there shall also be filed three (3) copies for the use of the Commission, unless the filing of a greater or lesser number of such copies is directed by the Commission or presiding officer.

(Effective June 1, 1992)

**Sec. 17a-636-30. Effect of filing, public records**

(a) The filing with the Commission of any complaint, petition or other request of any nature whatsoever shall not relieve any person of the obligation to comply with any statute of the state of Connecticut or any regulation or order of the Commission.

(b) Any request, petition, or application filed for the purpose of securing from the Commission any final decision or other action authorized by law shall be part of the public records of the Commission as defined by statute.

(Effective June 1, 1992)

**Sec. 17a-636-31. Service**

(a) **General rule.** Service of all documents and other papers filed in all proceedings, including but not limited to motions, petitions, applications, notices, briefs, and exhibits shall be by personal delivery or by first class mail, except as hereinafter provided.

(b) **On whom served.** All documents and other papers shall be served by the person filing the same on every party in the proceeding and all such additional persons as the Commission shall direct.

(c) **Service by the Commission.** A copy of any document or other paper served at the direction of the Commission or presiding officer, showing the addresses to whom the document or other paper was mailed shall be placed in the Commission's files and shall be prima facie evidence of such service and the date thereof.

(d) **Service as written notice.** Written notice of all orders, decisions or authorizations, issued by the Commission shall be given to the party or parties affected thereby and to such other person as the Commission or presiding officer may deem appropriate by personal service upon such persons or by first class mail, as the Commission or presiding officer determines.

(Effective June 1, 1992)

**ARTICLE TWO**

**Hearing Procedures for Contested Cases**

**Part 1**

**Hearing – General Provisions**

**Sec. 17a-636-32. Purpose of hearing**

The purpose of the hearing in a contested case shall be to provide to all parties an opportunity to present evidence and argument on all issues to be considered by the agency.

(Effective June 1, 1992)

**Sec. 17a-636-33. Designation of presiding officer**

The Commission may in its discretion designate a sole presiding officer or a hearing panel for the purpose of conducting the hearing on the complaint as provided herein. No individual who has carried out the function of an investigator in a contested case may serve as the presiding officer or a hearing officer in that case.

(Effective June 1, 1992)

**Sec. 17a-636-34. Commencement of contested case**

When a hearing is required by law as to any person, the contested case shall commence on the date of filing of the request, application or petition for purposes of C.G.S. secs. 4-174 to 4-182.

(Effective June 1, 1992)

**Sec. 17a-636-35. Place of hearings**

All hearings shall be at the principal office, unless a different place is designated by statute or by the direction of the Commission or the presiding officer.

(Effective June 1, 1992)

**Sec. 17a-636-36. Notice of hearing**

(a) **Person notified.** The Commission shall give written notice of a hearing in any pending matter to all persons designated as parties, to all persons who have been permitted to participate as intervenors, to all persons otherwise required by statute to be notified, and to such other persons as have filed with the Commission their written request for notice of hearing in the particular matter. Written notice shall be given to such additional persons as the Commission or presiding officer shall direct. The Commission or presiding officer may give such public notice of the hearing as the Commission or presiding officer shall deem appropriate.

(b) **Contents of notice.** Notice of a hearing shall include but not be limited to: (1) a statement of the time, place and nature of the hearing; (2) a statement of the legal authority and jurisdiction under which the hearing is to be held; (3) a reference to the particular sections of the statutes and regulations involved; and (4) a short and plain statement of matters asserted. If the agency or party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definite and detailed statement shall be furnished.

(Effective June 1, 1992)

**Part 2****Parties, Intervention and Participation****Sec. 17a-636-37. Designation of parties**

(a) **Designation as party.** The Commission or presiding officer will designate as parties those persons whose legal rights, duties or privileges are being determined in the contested case and any persons whose participation as a party is then deemed necessary to the proper disposition of such proceeding. All other persons proposing to be named or admitted as parties shall apply for such designation in the manner hereinafter described. No other person shall be or have standing as a party in the proceeding.

(b) **Filing of petition.** Any person that proposed to be admitted as a party to any proceeding shall file a written petition to the Commission or presiding officer and mail copies to all parties, at least 5 days before the date of the hearing. The five day requirement of this subsection may be waived by the Commission or the presiding officer at any time before or after commencement of the hearing on a showing of good cause.

(c) **Contents of petition.** The petition to be designated a party shall state: (1) the name and address of the petitioner; (2) facts that demonstrate that the petitioner's legal rights, duties or privileges shall be specifically affected by the agency's decision in the contested case; (3) the contention of the petitioner concerning the issue of the proceeding; (4) the relief sought by the petitioner; (5) the statutory or other authority therefor; (6) a summary of any evidence that the petitioner intends to present in the event the petition is granted; and (7) that the petitioner has mailed copies of this petition to all parties at least five days prior to the hearing.

(Effective June 1, 1992)

**Sec. 17a-636-38. Designation of an intervenor**

(a) **Request to participate.** Prior to the commencement of oral testimony in any hearing in a contested case, any person may request permission from the presiding officer to participate in the hearing as an intervenor. Such person shall file a written

petition with the presiding officer and mail copies to all parties, at least 5 days before the date of the hearing. The five day requirement of this subsection may be waived by the Commission or presiding officer at any time before or after commencement of the hearing on a showing of good cause.

(b) **Contents of requests.** The request of the proposed intervenor shall: (1) state such person's name and address; (2) state the facts that demonstrate that the petitioner's participation is in the interest of justice and will not impair the orderly conduct of the proceedings; (3) describe the manner and extent to which that person proposes to participate in the hearing; (4) describe the manner in which such participation will furnish assistance to the presiding officer in resolving the issues of the case; and (5) summarize any evidence that person proposes to offer.

(c) **Designation as intervenor.** The presiding officer shall determine whether and to what extent the proposed intervenor may participate in the hearing, taking into account whether such participation will furnish assistance to the presiding officer in resolving the issues of the contested case. The presiding officer may grant the request to intervene if such officer finds that the proposed participation as an intervenor is in the interest of justice and will not impair the orderly conduct of the proceedings.

(Effective June 1, 1992)

#### **Sec. 17a-636-39. Participation by persons admitted to participate as intervenors**

The intervenor participation shall be limited to those particular issues, that stage of the proceeding, and that degree of involvement in the presentation of evidence and argument that the presiding officer shall permit at the time such intervention is allowed, and thereafter by express order upon further application by the said intervenor.

(Effective June 1, 1992)

#### **Sec. 17a-636-40. Procedure concerning added parties**

(a) **During hearing.** In addition to the designation of parties in the initial notice and in response to petition, the presiding officer may add parties at any time during the pendency of any hearing upon the presiding officer's finding that the legal rights, duties or privileges of any person will be determined by the decision of the presiding officer after the hearing or that the participation of such person as a party is necessary to the proper disposition of the contested case.

(b) **Notice of designation.** In the event that the presiding officer thus designates or admits any party after service of the initial notice of hearing in a contested case, the presiding officer shall give notice thereof to all parties theretofore designated or admitted. The form of the notice shall be a copy of the order of the presiding officer naming or admitting such added party and a copy of any petition filed by such added party requesting designation as a party. Service of such notice shall be in the manner provided in these rules.

(Effective June 1, 1992)

#### **Sec. 17a-636-41. Status of party and of intervenor as party in interest**

(a) **Party as party in interest.** By the decision of a contested case the Commission shall dispose of the legal rights, duties and privileges of each party designated or admitted to participate as a party in the proceeding. Each such party is deemed to be a party in interest who may be aggrieved by any final decision, order or ruling of the Commission or presiding officer.

(b) **Status of a non-party that has been admitted to participate.** No grant of leave to participate as a non-party or as an intervenor shall be deemed to be a determination by the Commission or presiding officer that the person admitted to intervene is a party in interest who may be aggrieved by any final decision, order or ruling of the Commission or presiding officer unless such grant of leave explicitly so states.

(Effective June 1, 1992)

#### **Sec. 17a-636-42. Notice of appearance**

Each person, or their duly authorized representative, authorized to participate in a contested case as a party or as an intervenor shall file a written notice of appearance with the presiding officer.

(Effective June 1, 1992)

### **Part 3**

#### **Hearings – Procedure**

#### **Sec. 17a-636-43. General provisions**

(a) **Order of presentation.** Order of presentation shall be determined by the presiding officer at the time of the hearing.

(b) **Limiting number of witnesses.** To avoid unnecessary cumulative evidence, the presiding officer may limit the number of witnesses or the time for testimony upon a particular issue in the course of any hearing.

(c) **Prefiling of testimony.** The presiding officer may require any party or other participant that proposes to offer substantive, technical or expert testimony to prefile such testimony in written form before or during the public hearing as the presiding officer shall direct. Such prefiled written testimony may subsequently be received in evidence.

(d) **Improper conduct.** The presiding officer may exclude from the hearing room or from further participation in the proceedings any person who engages in improper conduct during the hearing.

(Effective June 1, 1992)

#### **Sec. 17a-636-44. Witnesses, subpoenas, and production of records**

The presiding officer in a contested case shall have the power to administer oaths and take testimony under oath relative to the matter of inquiry or investigation. The presiding officer may subpoena witnesses and may require the production of records, papers and documents pertinent to such inquiry. If any person disobeys such process or refuses to answer any pertinent question put to him by the presiding officer or to produce any records or papers pursuant thereto, the Commission may apply to the Superior Court for the Judicial District of Hartford-New Britain, or to any judge of said court, if the same is not in session, setting forth such disobedience to process or refusal to answer.

(Effective June 1, 1992)

#### **Sec. 17a-636-45. Rights of parties at hearings**

All parties to a hearing may call, examine and cross-examine witnesses and introduce papers, documents or other evidence into the record of the proceedings subject to the ruling of the Commission. All parties shall be afforded the opportunity to inspect and copy relevant and material records, papers, and documents not in the

possession of the party, except as otherwise provided by federal law or any other provision of the General Statutes.

(Effective June 1, 1992)

### **Sec. 17a-636-46. Examination of witnesses**

Witnesses at all hearings shall be examined orally under oath or affirmation and a record of the proceedings shall be made by the presiding officer.

(Effective June 1, 1992)

### **Sec. 17a-636-47. Rules of evidence**

The following rules of evidence shall be followed in the admission of testimony and exhibits in all hearings held under Chapter 54, C.G.S.

(a) **General.** Any oral or documentary evidence may be received, but the presiding officer shall, as a matter of policy, exclude irrelevant, immaterial, or unduly repetitious evidence. The presiding officer shall give effect to the rules of privilege recognized by Connecticut where appropriate to the conduct of the hearing.

(b) **Written testimony.** The presiding officer may permit any party to offer testimony in written form. All prepared written testimony shall be received in evidence with the same force and effect as though it were stated orally by the witnesses, provided that each such witness shall be present at the hearing at which such prepared written testimony is offered, shall adopt such testimony under oath, and shall be made available for cross examination as directed by the presiding officer. Prior to its admission, such written testimony shall be subject to objection by the parties.

(c) **Documentary evidence. copies.** Documentary evidence should be submitted in original form, but may be received in the form of copies or excerpts at the discretion of the presiding officer. Upon request by any party an opportunity shall be granted to compare the original if available, which shall be produced for this purpose by the person offering such copy as evidence.

(d) **Cross-examination.** Cross-examination may be conducted as the presiding officer deems necessary for a full and true disclosure of the facts.

(e) **Facts noticed. committee records.** The Commission or presiding officer may take administrative notice of judicially cognizable facts, including the records and prior decisions and orders of the Commission in accordance with C.G.S. sec. 4-180a (b). Any exhibit admitted as evidence by the Commission or presiding officer in a prior hearing may be offered as evidence in a subsequent hearing and admitted as an exhibit therein; but the presiding officer shall not deem such exhibit to be judicially cognizable in whole or in part and shall not consider any facts set forth therein unless such exhibit is duly admitted as evidence in the contested case being heard. No written order or final decision may be relied on as precedent by the Commission unless it has been made available for public inspection and copying, and also indexed by name and subject, pursuant to sec. 17a-636-44 of these regulations.

(f) **Facts noticed. procedure.** The presiding officer may take notice of generally recognized technical or scientific facts within the Commission's special knowledge. Parties shall be afforded an opportunity to contest the material so noticed by being notified before or during the hearing, or by an appropriate reference in the preliminary reports or otherwise of the material noticed. The presiding officer shall nevertheless employ the Commission's experience, technical competence, and specialized knowledge in evaluating evidence presented at the hearing for the purpose of making its finding of facts and arriving at a decision in any contested case.

(Effective June 1, 1992)

**Sec. 17a-636-48. Filing of added exhibits and testimony**

Upon order of the Commission or presiding officer before, during or after the hearing any party shall prepare and file added exhibits and written testimony. Such added exhibits and testimony shall be deemed to be an offer of evidence and shall be subject to such comment, reply, and contest as due process shall require.

(Effective June 1, 1992)

**Sec. 17a-636-49. Ex parte communication**

(a) Unless required for the disposition of ex parte matters authorized by law, neither the Commission members nor any hearing officer nor any person designated as a presiding officer shall communicate directly or indirectly with any person or party concerning any issue of fact or law involved in any contested case that has been commenced under these rules, except upon notice and opportunity for all parties to participate.

(b) Any hearing officer or any person designated as a presiding officer and the executive director may severally communicate with each other ex parte and may have the aid and advice of such members of the Commission staff as are assigned to assist them in such contested case. The names of the Commission staff so assigned shall be made part of the hearing record. This rule shall not be construed to preclude such routine communications as are necessary to permit the Commission staff to investigate facts, to conduct informal conferences, and to audit the applicable records of any party in a contested case at any time before, during, and after the hearing thereof.

(Effective June 1, 1992)

**Sec. 17a-636-50. Uncontested disposition of case**

Unless precluded by law, any contested case may be resolved by stipulation, agreed settlement or consent order upon order of the Commission. Upon such disposition, a copy of the order of the Commission shall be served on each party.

(Effective June 1, 1992)

**Sec. 17a-636-51. Record in a contested case**

The record in a contested case shall include: (1) written notices related to the case; (2) all petitions, pleadings, motions and intermediate rulings; (3) evidence received or considered; (4) questions and offers of proof, objections and rulings thereon; (5) the official transcript, if any, of proceedings relating to the case, or, if not transcribed, any recording or stenographic record of the proceedings; (6) proposed final decisions and exceptions thereto; and (7) the final decision.

(Effective June 1, 1992)

**Sec. 17a-636-52. Transcription**

Oral proceedings or any part thereof shall be transcribed on request of any party. The requesting party shall pay the cost of such transcription or part thereof. Within thirty days after the service of an appeal to the superior court, or within such further time as may be allowed by the court, the agency shall transcribe any portion of the record that has not been transcribed and transmit to the reviewing court the original or certified copy of the entire record of the proceedings appealed, which shall include the agency's findings of fact and conclusions of law, separately stated. By stipulation of all parties to such appeal proceedings, the record may be shortened.

(Effective June 1, 1992)

**Sec. 17a-636-53. Final decision in a contested case**

(a) The presiding officer shall proceed with reasonable dispatch to conclude any pending matter and shall submit a proposed final decision to the Commission. The Commission shall render a final decision in all contested cases within 90 days following the close of evidence and filing of briefs, whichever is later, in such proceeding.

(b) All decisions and orders of the Commission concluding a contested case shall be in writing or orally stated on the record, and if adverse to a party, shall include the commission's findings of fact and conclusions of law necessary to its decision. The Commission shall state in the final decision the name of the party and the most recent mailing address provided by the party or his authorized representative.

(c) The final decision shall be delivered promptly to each party or his authorized representative in the manner required by these rules of practice and by Chapter 54, C.G.S. The final decision shall be effective when personally delivered or mailed or on a later date specified by the Commission.

(Effective June 1, 1992)

**Sec. 17a-636-54. Reconsideration or modification of final decision**

(a) Within 15 days after the personal delivery or mailing of the final decision, a party in a contested case may file with the Commission a petition for reconsideration in accordance with sec. 4-181a, C.G.S. Within 25 days of the filing of the petition, the Commission shall decide whether to reconsider the final decision. Failure of the Commission to make that determination shall constitute a denial of the petition.

(b) Within 40 days of the personal delivery or mailing of the final decision, the Commission, regardless of whether a petition for reconsideration has been filed, on its own initiative may decide to reconsider the final decision.

(c) If the Commission chooses to reconsider the final decision pursuant to subsection (a) or (b) of this section, it shall proceed within a reasonable time to conduct any necessary additional hearings and to render a decision modifying, affirming, or reversing the final decision.

(d) At any time, on the showing of changed conditions, the Commission may conduct proceedings to consider reversing or modifying the final decision. The parties who were subject to the original final decision or their successors if known, and the intervenors shall be notified and given the opportunity to participate in the proceedings. All such proceedings will be conducted in accordance with these rules of practice.

(Effective June 1, 1992)

**Sec. 17a-636-55. Indexing of written orders and final decisions**

The Commission shall index all written orders and final decisions by name and subject and shall make them available for public inspection and copying to the extent required by Chapter 3, C.G.S. No written order or final decision may be relied on as precedent by the Commission unless it has been so indexed and made available to the public for inspection and copying.

(Effective June 1, 1992)

## ARTICLE THREE

### Regulations

#### Sec. 17a-636-56. General rules

These rules set forth the procedure to be followed by the Commission in the disposition of a request concerning the promulgation, amendment, or repeal of regulations.

(Effective June 1, 1992)

#### Sec. 17a-636-57. Form of petition

Requests by interested persons shall be submitted to the Commission in writing, signed by the petitioner. Each such request shall contain: (1) the name and address of the petitioner and the name and address of any agent or counsel, if applicable; (2) the text of the proposed regulations, amendment or repeal; (3) the reasons for the proposal; and (4) an explanation of the person's interest in the particular subject matter. Within 30 days of receipt of the request, the Commission shall either deny it in writing, stating its reasons for denial or initiate regulation-making proceedings.

(Effective June 1, 1992)

## ARTICLE FOUR

### Declaratory Rulings and Rulemaking

#### Sec. 17a-636-58. General rules

These rules set forth the procedure to be followed by the Commission in the disposition of requests for declaratory rulings as to the validity of any regulation, or the applicability to specified circumstances of a provision of the general statutes, a regulation, or a final decision on a matter within the jurisdiction of the Commission.

Such a ruling of the Commission disposing of a petition for a declaratory ruling shall have the same status as any decision or order of the Commission in a contested case.

(Effective June 1, 1992)

#### Sec. 17a-636-59. Form of petition for declaratory rulings

(a) Any person may petition the Commission or the Commission may on its own initiate a proceeding for declaratory ruling as to the validity of any regulation, or the applicability to specified circumstances of a provision of the General Statutes, a regulation, or a final decision on a matter with the agency, provided that a petition to contest any regulation on the ground of non-compliance with the procedural requirements of Chapter 54 C.G.S. may only be filed within two years from the effective date of the regulation. Such petition shall be addressed to the Commission and be sent by mail or delivered in person during normal business hours. Petitioner must file with the Commission an original and five (5) copies of the petition.

(b) If the Commission determines that a declaratory ruling will not be rendered, the Commission shall within sixty (60) days thereafter notify the person so inquiring that the petition has been denied and furnish a statement of the reasons on which the Commission relied in so deciding.

(c) A petition for declaratory ruling shall contain the following sections in the order indicated here:

(1) A statement of the questions being presented for a ruling, expressed in the terms and circumstances of the specific request but without unnecessary detail. This

statement shall identify the statute, regulation, or final decision which is the basis for the petition and shall identify the particular aspects thereof and special circumstances to which the question of validity or applicability is directed.

(2) A statement of the facts material to the consideration of the questions presented.

(3) A statement of the position of the petitioner with respect to the questions being presented.

(4) An argument amplifying the reasons relied upon for the petitioner's position, including any appropriate legal citations, must be included with the petition or be in an attached brief.

(5) A signature by the petitioner or legal representative, his address, telephone number and facsimile machine telephone number, if any, of the petitioner or legal representative, if applicable.

(d) The date for the filing of any petition shall be the date the petition is received by the Commission in the form prescribed by this regulation. Only complete petitions filed in conformance with this section will be considered by the Commission.

(Effective June 1, 1992)

#### **Sec. 17a-636-60. Procedure after petition for declaratory ruling filed**

(a) Within thirty (30) days after the receipt of a petition for a declaratory ruling, the Commission shall give notice to all persons to whom notice is required by any provision of law and to all persons who have requested notice of declaratory ruling petitions on the subject matter of the petition.

(b) If the Commission deems a hearing necessary or helpful in determining any issue concerning the request for declaratory ruling, the Commission may schedule such hearing and give notice thereof as shall be appropriate.

(c) Within forty-five (45) calendar days of the submission of the complete petition for a declaratory ruling, persons wishing to be admitted to the proceeding as parties or intervenors shall file a petition with the Commission. Such persons, in submitting their position and evidence in the declaratory ruling proceeding, shall comply with the other provisions of these regulations concerning the form, content and filing procedures for a petition. If the Commission conducts a hearing, the Commission or designated hearing officer or presiding officer has the discretion to limit the participation of intervenors in such hearing, including the rights to inspect and copy records, to introduce evidence and to cross-examine, so as to promote the orderly conduct of the proceedings.

(d) Within sixty (60) days after the receipt of a petition for a declaratory ruling, the Commission in writing shall: (1) issue a ruling declaring the validity of a regulation or the applicability of a provision of the General Statutes, the regulation, or the final decision in question to the specified circumstances; (2) order the matter set for specified proceedings; (3) agree to issue a declaratory ruling by a specified date; (4) decide not to issue a declaratory ruling or initiate regulation-making proceedings, under C.G.S. section 4-169, on the subject; or (5) decide not to issue a declaratory ruling, stating the reasons for this action.

(e) A copy of all rulings and any actions taken under this section shall be promptly delivered to the petitioner and other parties personally or by the United States mail, certified or registered, postage prepaid, return receipt requested.

(f) A declaratory ruling shall contain the names of all parties to the proceeding, the particular facts on which it is based and the reasons for its conclusion.

(g) A declaratory ruling shall be effective when personally delivered or mailed or on such later date specified by the agency in the ruling. It shall have the same status and binding effect as an order issued in a contested case.

(h) If the agency conducts a hearing in a proceeding for declaratory ruling, the provisions of C.G.S. sec 4-177c (b), C.G.S. sec. 4-178 and C.G.S. sec. 4-179 shall apply to the hearing, except that if the Commission delegates to the presiding officer or hearing officer the power to render final decision directly, he or she may do so.

(i) If the Commission renders a declaratory ruling, a copy of the ruling shall be sent personally or by the United States mail, certified or registered, postage prepaid, return receipt requested to the person requesting it and to that person's attorney, if applicable, and to any other person who has filed a written request for a copy with the Commission.

(j) If the Commission does not issue a declaratory ruling within one hundred eighty days (180) after the filing of a petition therefore, the Commission shall be deemed to have decided not to issue such a ruling.

(k) Any time requirement in this section may be extended with the agreement of the petitioner.

(l) The Commission shall keep a record of the proceeding as provided in C.G.S. sec. 4-177.

(Effective June 1, 1992)

## ARTICLE FIVE

### Miscellaneous Provisions

#### **Sec. 17a-636-61. Investigative hearings**

The Commission may hold investigative hearings for the purpose of: (1) ascertaining compliance with any statute or regulation within the agency's jurisdiction to administer or enforce; or (2) receiving information concerning any matter which reasonably may be the subject of regulation by the Commission. The Commission shall provide reasonable notice of such hearing to all interested persons and the general public.

(Effective June 1, 1992)

#### **Sec. 17a-636-62. Procedures**

The rules of notice, practice and procedure regarding contested cases as described above shall govern any hearing held in the course of such investigation.

(Effective June 1, 1992)