

CALIFORNIA CODE OF REGULATIONS
TITLE 10 INVESTMENT
CHAPTER 5. INSURANCE COMMISSIONER
SUBCHAPTER 4.3 PROCEDURES FOR NONCOMPLIANCE HEARINGS
ARTICLE 1 GOVERNING PROCEDURE FOR NONCOMPLIANCE HEARINGS

§ 2614. Definitions and applicability

In this ~~chapter~~ subchapter unless the context or subject matter otherwise requires:

(a) "Department" means the California Department of Insurance.

(b) "Commissioner" means the Insurance Commissioner.

(c) "Enforcement action" means any action based upon an allegation by the Department that an insurer, organization, group or association, or any rate, rating plan, rating system, or underwriting rule does not comply with the requirements and standards of Chapter 9 of the California Insurance Code entitled Rates and Rating and Other Organizations.

(d) "Party" includes the Department, the respondent, intervenors, and any person, other than an officer or an employee of the Department in his or her official capacity, who has been allowed to appear or participate in the proceeding.

(e) "Respondent" means any person or entity against whom a Notice of Noncompliance is filed.

(f) "Intervenor" means any person or entity whose petition to intervene pursuant to California Insurance Code section 1861.10 has been granted.

(g) "Notice of noncompliance" means the administrative document issued by the Commissioner. A notice of noncompliance shall set forth in ordinary and concise language in what manner and to what extent noncompliance is alleged to exist.

(h) "Administrative Hearing Bureau" means that office, within the office of the Commissioner and, except where otherwise specified in this subchapter, designated for receipt of all pleadings filed pursuant to this subchapter.

(i) "Administrative law judge" means a judge in the Administrative Hearing Bureau within the office of the Commissioner.

(j) "Hearing Officer" means a person appointed by the Commissioner to conduct a noncompliance hearing.

Authority cited: Section 11400.20, Government Code. Reference: Sections 1858, 1858.01, 1858.1 and 1858.2, Insurance Code.

§ 2614.7. Discovery: Exclusive Provisions

The provisions of Section 2614.8 provide the exclusive right to and method of discovery as to any proceeding governed by this ~~chapter~~ subchapter.

Authority cited: Section 11400.20, Government Code. Reference: Sections 1858, 1858.01, 1858.1 and 1858.2, Insurance Code.

§ 2614.13. Prepared Testimony.

(a) Prepared direct testimony, in narrative statement or question and answer format, of each direct witness expected to be called to testify by the Department or intervenor or participant in a proceeding, shall be filed and served on all parties at least forty (40) business days before the first day of the evidentiary hearing. Prepared direct testimony, in narrative statement or question and answer format, of each direct witness expected to be called to testify in a proceeding by respondent, shall be filed and served on all parties no later than twenty (20) business days after service of the prepared direct testimony by the Department or intervenor or participant. Prepared direct testimony shall be signed under penalty of perjury under the laws of the state of California. Expert witness testimony shall be accompanied by the witnesses' curriculum vitae and list of authored or co-authored publications. Additionally, any documents reviewed by the expert for purposes of testifying in the specific case that were not previously provided to the other parties shall be produced with the testimony. Prepared direct testimony is required only for witnesses who, at the time the testimony is offered, are employees, agents, officers, directors, or independent contractors of the party offering the testimony or experts retained by the party offering the testimony.

(b) Within ten (10) business days of service of any prepared direct testimony, any party may file a motion to strike all or part of the testimony and object to admission of exhibits referenced in such testimony. The motion shall state the specific page(s) and line(s) to which the party is objecting, and the specific legal authority for the objection. Within five (5) business days of service of a motion to strike, the party filing the prepared direct testimony may respond to the motion to strike. A hearing on any motion to strike shall be held within five (5) business days of service of any response to the motion to strike. At or before the commencement of the hearing on the motion to strike, the administrative law judge or hearing officer shall inform the parties of his or her tentative ruling on the motion. The administrative law judge or hearing officer shall rule on the motion to strike no later than three (3) business days after the hearing on the motion to strike. Any testimony not objected to and any testimony not stricken, together with exhibits referenced in that testimony, shall be deemed admitted.

(c) If rebuttal prepared testimony is allowed, motions to strike may be made orally and ruled upon immediately in order to expedite the proceeding.

(d) At the evidentiary hearing, the person whose prepared testimony is being offered shall be available for cross-examination by all parties.

(e) Prepared testimony of more than twenty (20) pages shall contain a subject index.

Authority cited: Section 11400.20, Government Code. Reference: Sections 1858, 1858.01, 1858.1 and 1858.2, Insurance Code.