

OFFICE OF THE GOVERNOR
STATE OF HAWAII

**EMERGENCY PROCLAMATION
RELATED TO THE COVID-19 RESPONSE**

By the authority vested in me by the Constitution and laws of the State of Hawai'i, to provide relief for disaster damages, losses, and suffering, and to protect the health, safety, and welfare of the people, I, DAVID Y. IGE, Governor of the State of Hawai'i, hereby determine, designate and proclaim as follows:

WHEREAS, on March 4, 2020, I issued a **Proclamation** declaring a state of emergency to support ongoing State and county responses to the Coronavirus Disease (COVID-19);

WHEREAS, I subsequently issued several proclamations related to the COVID-19 pandemic, including proclamations that *inter alia* suspended certain laws to enable State and county responses to COVID-19; implemented a mandatory self-quarantine for all persons entering the State and traveling between counties; and mandated safe practices to reduce the spread of COVID-19;

WHEREAS, as of August 5, 2021, the State's efforts to vaccinate our population have met with commendable success and the activities of the State have continued with appropriate and additional mitigation measures in place;

WHEREAS, despite the success of our mitigation and vaccination efforts, the recorded number of cases and deaths has continued to increase, with more than 44,617 documented cases of COVID-19 in the State and 538 deaths attributed to this disease;

WHEREAS, Delta, a highly contagious SARS-CoV-2 virus strain, has resulted in spiking case numbers around the world and in the United States of America, and continues to spread at an alarming rate in our State;

WHEREAS, this variant of the SARS-CoV-2 virus creates considerable risk of infection for members of our community who are not vaccinated, including children under the age of 12 who are not yet eligible to be vaccinated, such that COVID-19 continues to endanger the health, safety, and welfare of the people of Hawai'i and requires the serious attention, effort, and sacrifice of all people in the State to avert unmanageable strains on our healthcare system and other

catastrophic impacts to the State;

WHEREAS, COVID-19 continues to directly and indirectly cause fiscal and economic catastrophe not previously experienced by the State;

NOW, THEREFORE, I, DAVID Y. IGE, Governor of the State of Hawai'i, hereby authorize and invoke the following as set forth herein:

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Exhibit A. Statewide Face Covering Requirement

Exhibit B. Rules Relating to COVID-19 Screening Process and Travel Self-Quarantine (amended)

Exhibit C. Rules Relating to Contested Cases and Sunshine Law

I. Invocation of Laws

For the purposes of this COVID-19 emergency only, I hereby invoke section 127A-13(a)(5), Hawaii Revised Statutes (HRS), as it is my opinion that it is necessary to coordinate emergency management functions. Accordingly, I direct all counties to obtain my approval, or the approval of the Director of Hawaii Emergency Management Agency (HIEMA), prior to issuing any emergency order, rule, or proclamation. I further suspend sections 127A-14(b) and 127A-25, HRS, to the limited extent necessary to ensure statewide coordination.

The following additional emergency provisions are expressly invoked, if not already in effect upon declaration of an emergency on March 4, 2020:

Sections 127A-12(a)(5), 127A-13(a)(6), and 127A-13(a)(7), HRS, directing the Director of HIEMA and the administrators of each county emergency management agency to take appropriate actions to direct or control, as may be necessary for emergency management.

Section 127A-12(b)(13), HRS, requiring each public utility, or any person owning, controlling, or operating a critical infrastructure, to protect and safeguard its or the person's property, or to provide for the protection and safeguarding thereof, and provide for the protection and safeguarding of all critical infrastructure and key resources; provided that without prejudice to the generality of the foregoing two clauses, the protecting or safeguarding may include the regulation or prohibition of public entry thereon, or the permission of the entry upon terms and conditions as I may prescribe.

Section 127A-12(b)(16), HRS, directing all state agencies and officers to cooperate with and extend their services, materials, and facilities as may be required to assist in emergency response efforts.

Section 127A-16, HRS, activating the Major Disaster Fund.

This (Proclamation) does not apply to the United States government.

II. Act with Care

A. Safe Practices

All persons in the State shall wear a face covering over their nose and mouth as set forth in Exhibit A, which shall be enforced by each county.

All persons shall comply with applicable safety, hygiene and physical distancing guidance from the Centers for Disease Control and Prevention (CDC) as well as with State, county, industry and regulatory practices for safety, hygiene and physical distancing, including standards and requirements adopted and issued by Hawaii Department of Health (DOH).

B. Hotels

All hotel operators in the State shall adopt a COVID-19 Health and Safety Plan for each property they operate while this Proclamation is in effect. A hotel property's COVID-19 Health and Safety Plan shall identify the measures the operator has enacted in response to the COVID-19 pandemic and what guests, customers, invitees, employees, contractors, vendors and other persons who enter the property's premises may expect in terms of service, accommodations and required safety protocols. A hotel property's COVID-19 Health and Safety Plan shall address all applicable guidance from the CDC and it shall be the responsibility of the hotel operator of each property to accommodate guests who become positive for COVID-19 or are identified as close contacts of a person who is positive for COVID-19, either by accommodating these guests at the property or by securing alternative accommodations. All hotel operators shall publish the COVID-19 Health and Safety Plans of each property they operate, including by making it available on their websites and by submitting it to the Hawaii Tourism Authority for posting on its website.

C. Force and Effect of Law

Pursuant to section 127A-25, HRS, all provisions set forth in Section II of this Proclamation are hereby adopted as rules that shall have the force and effect of law. In the event of any inconsistency, conflict or ambiguity between this Proclamation and any county emergency order, rule, directive or proclamation, the relevant documents shall be read to allow a county maximum flexibility to exercise its respective emergency management authority.

Pursuant to section 127A-29, HRS, any person who intentionally, knowingly or recklessly engages in conduct that violates any provision set forth in Section II of this Proclamation shall be guilty of a misdemeanor, and upon conviction, the person shall be fined not more than \$5,000, or imprisoned not

more than one year, or both, unless noncompliance is designated by a county as a lesser offense with lesser penalties as provided by section 127A-29, HRS.

III. Vaccination and Testing for State and County Employees

Pursuant to sections 127A-12(b)(10), 127A-12(b)(16), 127A-12(b)(19), 127A-13(a)(1) and 89-9(d)(8), HRS, beginning on August 16, 2021, all State and county employees must attest to their respective department, office, or agency whether they are (1) fully vaccinated for COVID-19; (2) partially vaccinated for COVID-19 (including receipt of one dose of a two-dose course of vaccination); or (3) not vaccinated for COVID-19. Consistent with guidance from the CDC, “fully vaccinated” means two weeks have passed since an employee’s second dose in a two-dose series or two weeks have passed since a single-dose vaccine.

For purposes of this Proclamation, “State and county employees” means all permanent and temporary employees of the executive branch of the State and its departments, offices, and agencies, including the Department of Education and the University of Hawai’i, and all permanent and temporary employees of each of the counties, but excluding unpaid members of boards and commissions.

As an alternative, State and county employees who do not, by August 16, 2021, provide proof that (i) they are fully vaccinated for COVID-19; (ii) have completed a single-dose vaccine; or (iii) have completed the second dose of a two-dose series shall be subject to regular COVID-19 testing and may also be subject to restrictions on official travel. The testing shall occur either once or twice per week, at the discretion of the relevant State or county department, office, or agency. The location of free testing sites can be found on the COVID-19 State of Hawai’i Portal (<https://hawaiicovid19.com>). State and county employees not tested at a free testing site shall be responsible for any testing costs.

State and county employees who provide proof after August 16, 2021 that they are fully vaccinated will no longer be subject to regular COVID-19 testing.

The requirements set forth in this Section shall be enforceable through disciplinary action, up to and including termination. A violation of the provisions of Section III shall not give rise to a prosecution under section 127A-29, HRS, or enforcement as an infraction under chapter 291D, HRS.

All State and county departments, offices, and agencies shall ensure, consistent with law, that any documentation related to vaccination status or test results obtained for purposes of this section are not disclosed to individuals other than as necessary to ensure compliance with this Proclamation or as required by law or court order.

Notwithstanding the provisions set forth in this Section III, the mayor of any county may issue directives related to vaccinations and testing that are applicable only to that county's permanent and temporary employees, as defined by the county. Nothing in this Section III is intended or construed to preempt the mayor of any county from issuing such a vaccination mandate directive.

IV. Travel to the State

A. Health Screening for Travelers to the State

Pursuant to section 127A-11, HRS, all persons entering the State of Hawai'i shall submit to the mandatory screening process and complete the mandatory documentation identified in the Rules Relating to COVID-19 Screening Process and Travel Self-Quarantine, attached hereto as Exhibit B and hereinafter referred to as the "Travel Rules," and must comply with all applicable State and county rules, directives, and orders related to travelers.

B. Self-Quarantine for Travelers to the State

Pursuant to section 127A-13(a)(1), HRS, all persons entering the State of Hawai'i shall be subject to mandatory self-quarantine as provided in the Travel Rules. The period of self-quarantine shall begin from the day of entry into the State and shall last 10 days or the duration of the person's presence in the State, whichever is shorter. Persons who require paid or commercial lodging while subject to the mandatory self-quarantine shall not designate as their quarantine location a short-term rental, as defined by the applicable ordinances in each county, or as mandated by county order, rule or directive. Where a county rule, directive or order prohibits intended residents from residing in a short-term rental, as defined by the applicable county ordinances, all intended residents of that county must designate a hotel or motel as their quarantine location. The self-quarantine mandated in the Travel Rules, or any waiver or exemption therefrom, does not affect or in any way impede or supersede the authority of CDC, or DOH

pursuant to sections 321-1 and 325-8, HRS, to require persons to quarantine if they test positive for COVID-19 or if they are a close contact of a person confirmed positive for COVID-19, regardless of whether a negative test result was subsequently obtained.

1. Self-Quarantine Exemptions

Persons entering the State to perform critical infrastructure functions shall be subject to self-quarantine but may obtain a limited exemption to break self-quarantine when performing their critical infrastructure functions. Persons seeking such an exemption should visit travelexemption.hawaii.gov. If granted an exemption, persons shall comply with all conditions and requirements set forth in the limited exemption, including any required testing protocols, and be subject to all quarantine restrictions when not performing their critical infrastructure work or engaging in the activity expressly exempted. Only persons who have an exemption from the State may temporarily break self-quarantine and only for the purposes identified in the written exemption. Persons who fail to follow the Safe Practices in Section II.A of this Proclamation or any conditions of their limited exemption shall render such exemption void.

Persons who previously tested positive for COVID-19 but are no longer at risk of infecting others may obtain an exemption allowing them to break quarantine. The conditions under which a person qualifies for this exemption shall be set forth by DOH, whose guidance on this type of exemption is subject to change.

A travel self-quarantine exemption from the State does not require businesses or operations to recognize the exemption. In addition, such an exemption does not affect or in any way impede or supersede the authority of DOH to require persons to quarantine pursuant to sections 321-1 and 325-8, HRS.

2. Self-Quarantine Exceptions

The following persons entering the State shall not be subject to self-quarantine: (1) persons who enter by boat into any harbor that had been at sea for at least 10 consecutive days before entering State waters and have no persons on board who are ill or are exhibiting symptoms of COVID-19; (2)

persons who, prior to departure to the State, comply with **all** the requirements of the State's Safe Travels program regarding obtaining a negative test result from an approved provider within 72 hours from the final leg of departure and otherwise comply fully with the Travel Rules; or (3) persons who, prior to departure to the State, comply with **all** the requirements of the State's Safe Travels program regarding validating completion of a vaccination regimen approved by DOH, provide consent and authorization to access vaccination information as set forth in the Safe Travels program and otherwise comply fully with the Travel Rules. Persons under the age of five accompanied by a traveler who meets one of the enumerated exceptions are not required to obtain a test prior to arrival. To the limited extent necessary to effectuate the third exception, and only as expressly allowed by the consents and authorizations voluntarily provided as part of the Safe Travels program by persons wishing to apply for the third exception, DOH and providers of vaccinations may use and disclose protected health information as expressly allowed by the State's Safe Travels program.

A county may require travelers five years and older to obtain a subsequent test after arrival into the State, which test shall be paid for and administered by the county at a county-designated site. Persons who arrive in a county that requires a subsequent test do not need to self-quarantine prior to obtaining the subsequent test. A county requiring travelers to obtain this subsequent test shall integrate the test protocol into the State's Safe Travels program and implement it through county emergency orders, rules or proclamations approved in accordance with Section I of this Proclamation.

C. Host Responsibility

All hosts of any guest(s) within the State of Hawai'i shall be responsible for ensuring their guest(s) abide by the mandatory self-quarantine set forth in Sections IV.A and B above. A commercial lodging that implements single-use room keys to ensure compliance with the mandatory self-quarantine shall not be liable under this paragraph but shall promptly notify law enforcement if it determines a guest(s) has violated self-quarantine.

Any host violates this section if the host intentionally, knowingly, or recklessly fails to notify law enforcement immediately: when a guest(s) subject to the self-quarantine fails to remain within the confines of their designated quarantine location or when a guest(s) subject to self-quarantine obtains subsequent lodging with the host after leaving the confines of their designated quarantine location during their period of self-quarantine.

It shall be the duty of all hosts to ascertain the period of self-quarantine for their guest(s) and to determine whether their guest(s) remain confined to their designated quarantine location throughout the period of self-quarantine. It shall not be a defense to a violation of this section that the host did not know the period of self-quarantine for their guest(s), that they did not know their guest(s) were subject to the mandatory self-quarantine, or that they did not know their guest(s) had failed to remain within the confines of the designated quarantine location.

For purposes of this section, the following definitions apply:

“Designated quarantine location” means any hotel, motel, house, townhouse, condominium, or apartment in the State of Hawai‘i, that is or will be occupied, with the permission of the owner, renter, lessor, or manager of the accommodations, by persons entering the State of Hawai‘i during their period of quarantine. In the case of hotels, motels, townhouses, condominiums, and apartments, “designated quarantine location” refers to the person’s individual room or unit.

“Hosts” means any individual, partnership, corporation, company, association, or any other person, group, or entity, who is the owner, renter, or lessor of any designated quarantine location or who provides lodging to a person subject to the mandatory self-quarantine.

“Guest or guest(s)” means any person or persons subject to mandatory self-quarantine who are renting, leasing, or otherwise occupying any designated quarantine location from a host during the period of self-quarantine.

“Period of self-quarantine” means the period of time that begins the day a person enters the State of Hawai‘i and lasts the number of days set forth in

Section IV.B or the duration of the person's presence in the State, whichever is shorter.

D. Prohibition on Renting Vehicles

Persons subject to self-quarantine pursuant to Section IV of this Proclamation are prohibited from renting motor vehicles in the State, whether through a rental car company, online service, or through a peer-to-peer platform or car sharing service including but not limited to Turo and Zipcar. Any reservations or confirmation of reservations by a person subject to self-quarantine shall be presumed to be the rental of a motor vehicle in violation of this order.

For purposes of this section:

"Period of self-quarantine" is as set forth above in Section IV.B.

"Motor vehicle" means an automobile, motorcycle, moped, or other vehicle propelled by a motor, whether gasoline, electric, or hybrid, which is offered for rent or lease within the State of Hawai'i through any car sharing service.

E. Car Sharing Services Responsibility

All persons who provide motor vehicles through peer-to-peer platforms or car sharing services, including but not limited to Turo and Zipcar (hereinafter collectively referred to as "car sharing services"), shall be responsible for ensuring that they do not rent, lease, or otherwise provide any motor vehicle to any person subject to a self-quarantine, whether a visitor or returning resident, during the person's period of self-quarantine.

Any person violates this section if the person intentionally, knowingly, or recklessly provides a motor vehicle through a car sharing service to a person subject to the self-quarantine.

It shall be the duty of all persons providing a motor vehicle through a car sharing service to determine whether the person is seeking to obtain the vehicle during the person's period of self-quarantine. It shall not be a defense to a violation of this section that a person providing a motor vehicle through a car sharing service did not know the person seeking the motor vehicle was subject to the mandatory self-quarantine.

For purposes of this section:

“Period of self-quarantine” is as set forth above in Section IV.B.

“Motor vehicle” is as set forth above in Section IV.D.

F. Force and Effect of Law

Pursuant to section 127A-25, HRS, all provisions set forth in Section IV of this Proclamation and the Travel Rules are hereby adopted as rules and shall have the force and effect of law.

Pursuant to section 127A-29, HRS, any person who intentionally, knowingly, or recklessly engages in conduct that violates Section IV of this Proclamation or the Travel Rules shall be guilty of a misdemeanor, and upon conviction, the person shall be fined not more than \$5,000, or imprisoned not more than one year, or both, unless noncompliance is designated by a county as a lesser offense with lesser penalties as provided by section 127A-29, HRS.

V. Suspension of Laws

The following provisions of law are suspended, but only as explicitly set forth below and as allowed by federal law, pursuant to section 127A-13(a)(3), HRS:

Section 76-16(a), HRS, **civil service and exemptions**, and section 383-91(b), HRS, **duties and powers of department, director**, only to the extent necessary and as allowed by federal law, to enable the Director of the Department of Labor and Industrial Relations (DLIR) to waive the requirement to appoint all persons employed in the administration of chapter 383, HRS, on a merit basis in accordance with civil service recruitment procedures. These suspensions align with federal law and ensure DLIR has adequate personnel resources to respond to the unemployment crisis caused by COVID-19.

Section 89-9, HRS, **scope of negotiations; consultation**, section 89-10(d), HRS, **written agreements; enforceability; cost items**, and section 89-13, HRS, **prohibited practices**, to the extent necessary to allow State and county departments, agencies, and other public entities to implement policies, practices, procedures, and to take other actions necessary to mitigate risks posed by COVID-19 and its variants, including but not limited to imposition of requirements pertaining to or requiring employee testing and/or vaccination. This

suspension ensures government can provide essential services safely and is necessary for the execution of emergency functions, including the efficient execution of Section III.

Chapter 91, HRS, **administrative procedure**, only to the extent necessary to minimize the potential spread of COVID-19 and its variants. This suspension ensures departments and agencies can conduct contested case hearings safely using interactive conference technology. Hearings shall be conducted according to the requirements established by the Legislature in Act 168 (2021), which are set forth in Exhibit C attached hereto. Any administrative rule changes needed to conform to these requirements shall be promulgated pursuant to section 91-3(b), HRS, as necessary. Departments and agencies not subject to Chapter 91, HRS, shall promulgate administrative rules pursuant to section 91-3(b), HRS, as necessary, should these departments or agencies wish to conduct contested case or other hearings by interactive conference technology.

Section 91-4(b)(2), HRS, **filing and taking effect of rules**, only for the limited purpose of allowing departments and agencies to adopt emergency rules to respond to the COVID-19 emergency pursuant to section 91-3(b), HRS, and to suspend the publication requirement for an emergency rule adopted pursuant to section 91-3(b), HRS. Rules previously promulgated pursuant to proclamations related to the COVID-19 emergency shall be separately promulgated by the relevant agencies or boards pursuant to Section 91-3(b), HRS. All agencies adopting such rules are required to comply with all other requirements of section 91-4(b)(2), HRS, by filing the rules with the Lieutenant Governor of the State and including the agency's findings and a brief statement of the reasons for the promulgation of any emergency rules. All relevant agencies also shall ensure the emergency rules, agency findings, and brief statement of the reasons for the promulgation are posted on their agency website.

Chapter 92, HRS, **public agency meetings and records**, only to the extent necessary to minimize the potential spread of COVID-19 and its variants. This suspension ensures boards can conduct meetings safely under the sunshine law using interactive conference technology, while retaining the option

to conduct traditional in-person meetings at a single meeting site or at multiple meeting sites connected by interactive conference technology. Meetings shall be conducted according to the requirements established in Exhibit C attached hereto, which incorporates the intent of the Legislature in Act 220 (2021).

Section 103-53, HRS, **contracts with the State or counties; tax clearances, assignments**, and section 103D-310(c), **responsibility of offerors**, only to the extent necessary to waive the Internal Revenue Service (IRS) tax clearance requirement. Due to COVID-19, the IRS has been unable to provide federal tax clearances timely and currently, there are approximately 1000 such requests pending with the IRS. Without a federal tax clearance, prospective contractors are unable to obtain a Hawai'i Compliance Express certificate and are unable to enter or receive final payments on contracts with the State and counties.

Section 127A-25(c), HRS, **rules and orders**, only to the extent that rules adopted pursuant to chapter 127A, HRS, need not be published in a newspaper of general circulation in the State. This suspension reduces costs and avoids duplication because such rules shall be posted on the applicable state or county government website or by other means of official announcement, as provided by this section, to ensure content reaches the attention of the general public.

Section 127A-30, **rental or sale of essential commodities during a state of emergency; prohibition against price increases**. This suspension addresses the otherwise automatic invocation of this provision during an emergency.

Section 286-106, HRS, **expiration of licenses**, except subsection (3) relating to expiration at end of legal time in the United States; sections 286-107(a), (g), and (h), HRS, **license renewals; procedures and requirements**; section 286-107.5, HRS, **reactivation of expired license; fees; road test waived**; section 286-110(c)(1), (f), (g) and (h), **instruction permits**; and section 286-306(a), HRS, **expiration; renewal; replacement**. The suspension of these sections enables the Director of Transportation to waive or extend the renewal, expiration, or other deadlines for licenses and state identification cards that occurred or will occur during the emergency period. These suspensions also

ensure the counties can conduct in-person operations at county satellite city halls and driver licensing centers safely. Finally, these suspensions ensure that renewals can occur without restarting the application process.

Sections 302D-12(h)(1) - (5), HRS, **charter school governing boards; powers and duties**, only to the extent necessary to minimize the potential spread of COVID-19 and its variants. This suspension ensures the governing board of a charter school can safely conduct business in person or through remote technology. The governing boards shall consider reasonable measures to allow public participation consistent with physical distancing practices, such as providing notice of meetings, allowing submission of written testimony on agenda items, live streaming meetings, and posting minutes of meetings online. Because charter school governing boards are exempt from chapter 92, HRS, the suspension of sections 302D-12(h)(1) – (5), HRS, allows the charter school governing boards to hold meetings open to the public through remote technology. Charter school governing boards are encouraged to use the provisions of Exhibit C wherever possible.

Section 323D-44.5, HRS, **administrative review of certain applications for certificate of need**, only to the extent necessary to enable the State Health Planning and Development Agency (SHPDA) to conduct public information meetings without the certificate of need applicant, the person(s) requesting the meeting, or members of the public physically to be present in the same location. This suspension ensures that SHPDA can safely conduct public information meetings, which are exempt from Chapter 92, using interactive conference technology. If SHPDA has the staffing, technological and other resources to hold a secure video-teleconference, i.e., both video and audio, it must in good faith attempt to provide the certificate of need applicant, the person(s) requesting the meeting, and the public with the opportunity to observe the meeting as it happens and an opportunity to provide oral testimony. No SHPDA action shall be invalid if SHPDA's good faith efforts to implement remote technology for observation, listening, or providing testimony do not work. If SHPDA does not have the staffing, technological or other resources to hold a secure video-teleconference, i.e., it is limited to audio only, it must provide the certificate of need applicant, the

person(s) requesting the meeting, and the public with the opportunity to listen to the meeting as it happens and should make a good faith effort to provide an opportunity to provide oral testimony.

Section 353-62(b)(5), HRS, **Hawaii paroling authority; responsibilities and duties; operations; records, reports, staff**, and related administrative rules, only to the extent necessary to allow a hearing before a panel of at least two members of the paroling authority in all cases, and section 353-63, HRS, **service of Hawaii paroling authority members; compensation; expenses**, only to the extent necessary to allow compensation paid to part-time members of the Hawaii paroling authority to exceed eighty percent of the total regular working hours in a month. All other requirements and limitations set forth in section 353-63 shall remain in full force and effect. These limited suspensions of chapter 353 ensure the Hawaii Paroling Authority can address the increased volume of parole hearings caused by the COVID-19 emergency and also postpone certain hearings when facilities enter a COVID-19-related lockdown requiring medical isolation, cohorting and quarantine measures.

Sections 383-29(a)(2) and (a)(4), HRS, **eligibility for benefits**, only to the extent necessary and as allowed by federal law to enable the Director of DLIR to waive the registered for work requirement and the one-week waiting period for unemployment insurance claimants. These suspensions align with federal law and allow payments for the one-week waiting period to unemployment insurance claimants and otherwise ensure DLIR can adequately respond to the unemployment crisis caused by COVID-19.

Section 453-2, HRS, **license required; exceptions**, and Chapters 16-85, HAR, **medical examiners**, and 16-93, HAR, **osteopaths**, only to the extent necessary to allow out-of-state physicians, osteopathic physicians, and physician assistants with a current and active license, or those previously licensed pursuant to Chapter 453, HRS, but who are no longer current and active, to practice in Hawai'i without a license. These suspensions ensure all health care demands are met while Hawai'i continues to respond to the impacts of COVID-19 and its variants. These suspensions only apply where a license has not previously been revoked or suspended and where hiring is by a state or county

agency or facility, or by a hospital, including related clinics and rehabilitation hospitals, a nursing home, hospice, pharmacy, or clinical laboratory, or other health care entity.

Section 457-1, HRS, **purpose**, and chapter 16-89, HAR, **nurses**, only to the extent necessary to allow out-of-state licensed practical nurses, registered nurses, advanced practice registered nurses, and advance practice registered nurses with prescriptive authority with a current and active license, or those previously licensed pursuant to Chapter 457, HRS, but who are no longer current and active, to practice in Hawai'i without a license. These suspensions ensure all health care demands are met while Hawai'i continues to respond to the impacts of COVID-19 and its variants. These suspensions only apply where a license has not previously been revoked or suspended and where hiring is by a state or county agency or facility, or by a hospital, including related clinics and rehabilitation hospitals, a nursing home, hospice, pharmacy, clinical laboratory, or other health care entity.

Section 457-7, HRS, **registered nurses; qualifications; licenses; fees; title; existing licensed nurses; verification of licenses; eligibility**, only to the extent necessary to waive the licensure and accompanying requirements so as to permit graduates, after May 1, 2020, of nursing education programs approved by the State Board of Nursing or a national accrediting body, to be employed to practice nursing under the supervision of a registered nurse, with the endorsement of the employing health care entity. This suspension is necessary because the capacity of testing centers to provide testing opportunities has been significantly reduced by the need to comply with social distancing and other site safety requirements.

Section 457-8, HRS, **licensed practical nurse; qualifications; license; fees; title; existing licensed nurses; verification of licenses; eligibility**, only to the extent necessary to waive the licensure and accompanying requirements so as to permit graduates, after May 1, 2020, of nursing education programs approved by the State Board of Nursing or a national accrediting body, to be employed to practice nursing under the supervision of a registered licensed practical nurse, with the endorsement of the employing health care entity. This

suspension is necessary because the capacity of testing centers to provide testing opportunities has been significantly reduced by the need to comply with social distancing and other site safety requirements.

Section 457-8.5, HRS, **advanced practice registered nurse; qualifications; licensure; endorsement; fees; eligibility**, only to the extent necessary to waive the licensure and accompanying requirements so as to permit graduates, after May 1, 2020, of an accredited graduate-level education program preparing the nurse for one of the four recognized advanced practice registered nurse roles licensed by the State Board of Nursing, to be employed to practice as an advanced practice registered nurse, with the endorsement of the employing health care entity. This suspension is necessary because the capacity of testing centers to provide testing opportunities has been significantly reduced by the need to comply with social distancing and other site safety requirements.

Section 461-5, HRS, **qualifications for license**, and Section 461-6, HRS, **examination; license**, only to the extent necessary to waive the licensure and accompanying requirements to permit graduates, after May 1, 2020, of a pharmacy college accredited by the Accreditation Council for Pharmacy Education, to be employed to practice pharmacy under the supervision of a registered pharmacist, with the endorsement of the employing health care entity. These suspensions are necessary because the capacity of testing centers to provide testing opportunities has been significantly reduced by the need to comply with social distancing and other site safety requirements.

Section 465-7.6, HRS, **licensure of state employed clinical psychologists**, only to the extent necessary to allow personnel in civil service clinical psychologist positions to continue the practice of psychology without having obtained licensure under chapter 465. This suspension allows state agencies to continue providing essential mental health services.

Section 466D-3, HRS, **license required**, and section 466D-9, HRS, **licensure by endorsement**, only to the extent necessary to allow an out-of-state respiratory therapist with a current and active license, or those previously licensed pursuant to Chapter 466D, HRS, but who are no longer current and active, to practice in Hawai'i without a license. These suspensions ensure all

health care demands are met while Hawai'i continues to respond to the impacts of COVID-19 and its variants. These suspensions only apply where a license has not previously been revoked or suspended and where hiring is by a state or county agency or facility, or by a hospital, including related clinics and rehabilitation hospitals, a nursing home, hospice, pharmacy, clinical laboratory, or other health care entity.

Section 466J-4, **licenses required**, only to the extent necessary to allow an out-of-state radiographer, radiation therapist and nuclear medicine technologist licensed and in good standing in another state or foreign jurisdiction comparable licensing requirements, or those previously licensed pursuant to Chapter 466J-5, HRS, but who are no longer current and active, to practice in Hawai'i without a license. This suspension ensures all health care demands are met while Hawai'i continues to respond to the impacts of COVID-19 and its variants. The suspension only applies where a license has not previously been revoked or suspended and where hiring is by a state or county agency or facility, or by a hospital, including related clinics and rehabilitation hospitals, a nursing home, hospice, pharmacy, clinical laboratory, or other health care entity.

Sections 706-669 and 706-670, HRS, **disposition of convicted defendants**, only to the extent these sections and related administrative rules prescribe time limits for matters before the Hawaii Paroling Authority. These suspensions address any delays caused when state facilities must implement measures necessitated by the COVID-19 emergency, including medical isolation, cohorting, quarantine and transfer restrictions.

VI. Severability

If any provision of this Proclamation is rendered or declared illegal for any reason, or shall be invalid or unenforceable, such provision shall be modified or deleted, and the remainder of this Proclamation and the application of such provision to other persons or circumstances shall not be affected thereby but shall be enforced to the greatest extent permitted by applicable law.

VII. Enforcement

No provision of this Proclamation, or any rule or regulation hereunder, shall be construed as authorizing any private right of action to enforce any

requirement of this Proclamation, or of any rule or regulation. Unless the Governor, Director of HIEMA, or their designee issues an express order to a non-judicial public officer, no provision of this Proclamation, or any rule or regulation hereunder, shall be construed as imposing any ministerial duty upon any non-judicial public officer and shall not bind the officer to any specific course of action or planning in response to the pandemic or interfere with the officer's authority to utilize his or her discretion.

I FURTHER DECLARE that this Proclamation supersedes all prior proclamations issued by me related to the COVID-19 emergency, and that the disaster emergency relief period shall continue through October 4, 2021, unless terminated or superseded by a separate proclamation, whichever shall occur first.

Done at the State Capitol, this
5th day of August 2021.



DAVID Y. IGE,
Governor of Hawai'i

APPROVED:



Clare E. Connors
Attorney General
State of Hawai'i

EXHIBIT A
Statewide Face Covering Requirement

EXHIBIT B
(amended)
Rules Relating to COVID-19 Screening Process and Travel
Self-Quarantine

EXHIBIT C
Rules Relating to Contested Cases and Sunshine Law

Face Coverings

All individuals shall wear face coverings over their noses and mouths when in public settings.

The only exceptions to this requirement are:

- A. Individuals with medical conditions or disabilities where the wearing of a face covering may pose a health or safety risk to the individual;
- B. Children under the age of 5;
- C. While working at a desk or work station and not actively engaged with other employees, customers, or visitors, provided that the individual's desk or workstation is not located in a common or shared area and physical distancing of at least six (6) feet is maintained;
- D. While eating, drinking, smoking, as permitted by applicable law;
- E. Inside private automobiles, provided the only occupants are members of the same household/living unit/residence or all occupants have been vaccinated with a vaccination regimen approved by the Department of Health;
- F. While receiving services allowed under a State or county order, rule, or proclamation that require access to that individual's nose or mouth;
- G. Where federal or state safety or health regulations, or a financial institution's policy (based on security concerns), prohibit the wearing of facial coverings;
- H. Individuals who are communicating with the hearing impaired while actively communicating (e.g., signing or lip reading);
- I. First responders (police, fire fighters, lifeguards, etc.) to the extent that wearing face coverings may impair or impede the safety of the first responder in the performance of his/her duty;
- J. While outdoors; and
- K. As specifically allowed by a provision of a State or county COVID-19 related order, rule, or proclamation.

An owner or operator of any business or operation *shall* refuse admission or service to any individual who fails to wear a face covering, unless an exception applies under this section. Businesses or operations may adopt stricter protocols or requirements related to face coverings and face shields. Businesses or operations not enforcing this rule may be subject to enforcement, including fines and mandatory closure.

Definition: "Face covering" as used herein means a tightly woven fabric (without holes, vents, or valves) that is secured to the head with either ties or straps, or simply wrapped and tied around the wearer's nose and mouth. Face coverings must comply with the recommendations of the Center for Disease Control and Prevention ("CDC"), as such recommendations may change from time to

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time. The current CDC guidelines are available at <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/about-face-coverings.html>. Examples of compliant homemade masks and other facial coverings may be found at: <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/diy-cloth-face-coverings.html>. A medical grade face-covering is not required.

Face shields (plexiglass/clear plastic shields, etc.) are not permitted as substitutes for face coverings unless an exception to the face covering requirement applies. Individuals who are unable to wear a face covering due to medical conditions or disabilities where the wearing of a face covering may pose a health or safety risk to the person, or other exception, are encouraged to wear a face shield instead.

The wearing of face coverings is intended to complement, not serve as a substitute, for physical distancing and cleanliness.

Any seller of face coverings, or materials or supplies to make or manufacture such face coverings, shall abide by Haw. Rev. Stat. §127A-30.

Rules Relating to
COVID-19 Screening Process and Travel Self-Quarantine
(amended)

§1 Purpose and Authority
§2 Definitions
§3 Health Screening
§4 Mandatory Self-Quarantine
§5 Order of Self Quarantine
§6 [~~Defenses~~] Falsified Vaccination Documents
§7 Defenses
§8 Costs to be Paid by Quarantined Person
§9 Criminal Penalties

§1 Purpose and Authority. These rules are adopted pursuant to sections 127A-11, 12, 13, 25, 29, and 31, Hawaii Revised Statutes, to respond to the COVID-19 emergency declared by the Governor and have the force and effect of law.

§2 Definitions. "Health Screening" means a process used to detect the presence of a communicable or dangerous disease in an individual and may include the measuring of a person's temperature through thermal temperature screening, and the administration of one or more questionnaires used to conduct surveillance of disease activity or to determine to whom a diagnostic tool is administered.

"Mandatory State of Hawaii Travel and Health Form" means a form or questionnaire developed by the State for travelers. It may be amended from time to time by the Director of Emergency Management, and amendments shall be posted on the websites for the Governor and the Hawaii Emergency Management Agency.

"Order for Self-Quarantine" means an order from the Director of Emergency Management directing a mandatory self-quarantine. It may be amended from time to time by the Director of Emergency Management, and amendments shall be posted on the websites for the Governor and the Hawaii Emergency Management Agency.

"State approved COVID-19 test" means a test to determine the presence of active COVID-19 infection that has been approved for use under these rules by the Hawaii Department of Health (DOH) and is administered through a Trusted Testing Partner. Currently approved is the processing by laboratories that are licensed or certified by Clinical Laboratories Improvement Amendments (CLIA) of specimens for nucleic acid amplification testing approved or authorized by the United States Food and

Drug Administration, pursuant to an Emergency Use Authorization or other authorization for COVID-19 testing.

"Thermal temperature screening" means a non-contact means of measuring a person's temperature.

§3 Health Screening. All persons entering the State of Hawaii shall submit to a health screening as determined by the Director of Emergency Management to be necessary to prevent the spread of COVID-19 to protect the public health and safety. Any person violates this section if the person intentionally, knowingly or recklessly:

- (1) Refuses or fails to truthfully, accurately and fully complete a Mandatory State of Hawaii Travel and Health Form defined in Section 2; or
- (2) Refuses or fails to undergo thermal temperature screening conducted by state personnel.

§4 Mandatory Self-Quarantine. (a) As set forth in the Governor's ~~[Twenty-First]~~ Emergency Proclamation Related to the COVID-19 [Emergency] Response and Recovery, travelers shall be subject to mandatory self-quarantine, except:

- (1) those persons performing critical infrastructure functions or who have otherwise been exempted; or
- (2) those persons who have obtained a negative COVID-19 test result for a State approved COVID-19 test in compliance with all requirements of the State's Safe Travels program~~[, including use of an approved provider for a test administered within 72 hours from the final leg of departure and whose negative test results for the COVID-19 disease are either uploaded into the State's Safe Travels program prior to departure or are received by the traveler prior to the traveler's departure on the final leg of travel and are provided upon arrival].~~
- (3) those persons who have obtained validation that they have completed a vaccination regimen approved by the DOH and in compliance with all requirements of the State's Safe Travels program. ~~[This exception for vaccinated travelers shall become effective upon approval of the Director of Emergency Management, which date and related details shall be available at <https://hawaiiicovid19.com/>.]~~

(b) The period of self-quarantine shall begin from the day of entry into the State and shall last ~~[the number of days set forth in Section [IV] III.B. of the emergency proclamation]~~ 10 days or the duration of the person's presence in the State, whichever is shorter.

§5 Order of Self Quarantine. (a) All persons subject to mandatory self-quarantine shall remain in self-quarantine for ~~[the number of days set forth in Section IV.B. of the emergency proclamation, which period commences]~~ 10 days, which shall begin from the day of entry into the State, or the duration of the person's presence in the State of Hawaii, whichever is shorter.

(b) Any person subject to such quarantine violates this section if the person intentionally, knowingly or recklessly:

- (1) Refuses or fails to truthfully, accurately and fully complete the Order for Self-Quarantine;
- (2) Refuses or fails to enter or remain within the confines of the quarantine location designated by the person to the Director of Emergency Management or the Director's authorized representative for the period of self-quarantine;
- (3) Refuses or fails to follow any of the orders contained within the Order for Self-Quarantine; or
- (4) Refuses or fails to obey the orders of the Director of Emergency Management or the Director's authorized representative.

§6 Falsified Vaccination ~~[Cards]~~ Documents.

(a) No person shall upload, provide, present, utter or otherwise use a falsified ~~[CDC COVID-19 Vaccination Record Card]~~ document verifying their COVID-19 vaccination information.

(b) Any person violates this rule if the person intentionally, knowingly or recklessly uploads, provides, presents, utters or otherwise uses a falsified ~~[CDC COVID-19 Vaccination Record Card]~~ document verifying their COVID-19 vaccination information.

A ~~[CDC]~~ document verifying a person's COVID-19 Vaccination ~~[Record Card]~~ information ("~~[card]~~ document") is falsified if:

- i) the person uploading, providing, presenting, uttering or otherwise using the ~~[card]~~ document, did not receive the vaccination(s) as stated on the ~~[card]~~ document ; or
- ii) the person uploading, providing, presenting, uttering or otherwise using the ~~[card]~~ document, is an adult who is uploading, providing, presenting, uttering, or otherwise using the ~~[card]~~ document on behalf of a minor, and the minor has not received the vaccination(s) as stated on the ~~[card]~~ document .

§7 Defenses. It shall be an affirmative defense to a violation of Sections 4 and 5 of the Rules Relating to COVID-19 [Health] Screening Process and Travel Self-Quarantine if the person:

- (1) Entered the State by [~~recreational~~] boat into [~~the State's small boat (non-commercial) harbors~~] any harbor that had been at sea for at least 10 consecutive days before entering State waters and has no persons on board who are ill or are exhibiting symptoms of COVID-19;
- (2) Obtained a negative COVID-19 test result for a State approved COVID-19 test in compliance with all requirements of the State's Safe Travels program, including use of an approved provider for a test administered within 72 hours from the final leg of departure and whose negative test results for the COVID-19 disease are either uploaded into the State's Safe Travels program prior to departure or are received by the traveler prior to the traveler's departure and provided upon arrival;
- (3) Applied for an exemption from mandatory self-quarantine through travelexemption.hawaii.gov and receives confirmation of the exemption from covidexemption@hawaii.gov, and breaks self-quarantine for the sole purpose of performing critical infrastructure functions, wears appropriate protective gear, and follows the safe practices identified in the Proclamation; or
- (4) Obtained validation of a completed vaccination regimen approved by the Department of Health and in compliance with all requirements of the State's Safe Travels program. [~~This defense for vaccinated travelers shall become effective upon approval of the Director of Emergency Management, which date and related details shall be available at [https://hawaiiicovid19.com./](https://hawaiiicovid19.com/)~~]
- (5) Is otherwise exempt from the self-quarantine requirements.

§8 Costs to be Paid by Quarantined Person. Any person under the mandatory self-quarantine prescribed by these rules shall be responsible for all costs associated with that person's quarantine, including transport, lodging, food, medical care, and any other expenses to sustain the person during the self-quarantine period.

§9 Criminal Penalties. (a) Any person who intentionally, knowingly or recklessly engages in conduct that

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violates any of these rules shall be guilty of a misdemeanor and upon conviction, the person shall be fined not more than \$5,000, or imprisoned not more than one year, or both, unless noncompliance is designated as an emergency period infraction with penalties adopted as provided by section 127A-29, HRS.

(b) Penalties prescribed by these rules are in addition to any other lawful penalties established by law.

Rules Relating to
Contested Cases and Sunshine Law

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| | Subchapter 1 | Contested Cases |
| §1 | Purpose and authority | |
| §2 | Limited Suspension | |
| §3 | Contested Cases; notice; hearing; interactive conference technology; records | |

§1 Purpose and Authority. Senate Bill 873, passed by the 2021 Legislature of the State of Hawaii and signed into law by the Governor on July 1, 2021 as Act 168, amends Section 91-9, Hawaii Revised Statutes (HRS), to authorize contested case hearings to be conducted through the use of interactive conference technology. Because Act 168 takes effect on October 1, 2021, it is necessary to adopt these rules to effectuate the Legislature's intent prior to the effective date. These rules adopt the provisions of Act 168 in their entirety to address the current emergency response and recovery.

These rules are adopted pursuant to section 127A-11, 13, and 25, Hawaii Revised Statutes, to respond to the COVID-19 emergency declared by the Governor and have the force and effect of law.

§2 Limited Suspension. Section 91-9, HRS, is suspended to the extent necessary to enable contested case hearings to be conducted through the use of interactive conference technology.

§3 Contested cases; notice; hearing; interactive conference technology; records. (a) Subject to section 91-8.5, HRS, in any contested case, all parties shall be afforded an opportunity for hearing after reasonable notice.

(b) The notice shall include a statement of:

- (1) The date, time, place, and nature of hearing;
- (2) The legal authority under which the hearing is to be held;
- (3) The particular sections of the statutes and rules involved;
- (4) An explicit statement in plain language of the issues involved and the facts alleged by the agency in support thereof; provided that if the agency is unable to state [such] the issues and facts in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved, and thereafter upon application a bill of particulars shall be furnished; and
- (5) The fact that any party may retain counsel if the party so desires and the fact that an individual may appear on the individual's own behalf, or a member of a partnership may represent the partnership, or an officer or authorized employee of a corporation or trust or association may represent the corporation, trust, or association.

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(c) The hearing may be held by interactive conference technology that allows interaction by the agency, any party, and counsel if retained by the party, and the notice identifies electronic contact information for each agency, party, and counsel if retained by the party. A contested case hearing held by interactive conference technology shall be recessed for up to one hour when audio communication cannot be maintained; provided that the hearing may reconvene when only audio communication is reestablished. If audio-only communication is reestablished, then each speaker shall state the speaker's name prior to making remarks.

(d) Opportunities shall be afforded all parties to present evidence and argument on all issues involved[.]; provided that, if the hearing is held by interactive conference technology evidence may be submitted and exchanged by electronic means.

(e) Any procedure in a contested case may be modified or waived by stipulation of the parties and informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default.

(f) For the purpose of agency decisions, the record shall include:

- (1) All pleadings, motions, intermediate rulings;
- (2) Evidence received or considered, including oral testimony, exhibits, and a statement of matters officially noticed;
- (3) Offers of proof and rulings thereon;
- (4) Proposed findings and exceptions;
- (5) Report of the officer who presided at the hearing; and
- (6) Staff memoranda submitted to members of the agency in connection with their consideration of the case.

(g) It shall not be necessary to transcribe the record unless requested for purposes of rehearing or court review.

(h) No matters outside the record shall be considered by the agency in making its decision except as provided herein."

(i) For the purposes of this subsection, "interactive conference technology" means any form of audio or audio and visual conference technology, including teleconference, videoconference, and voice over internet protocol, that facilitates interaction between the agency, any party, and counsel if retained by the party.

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| | Subchapter 2 | Sunshine Law |
| §1 | Purpose and authority | |
| §2 | Limited Suspension | |
| §3 | Remote meeting by interactive conference technology; notice; quorum. | |
| §4 | Definition of "interactive conference technology" | |
| §5 | In-person meeting at multiple sites by interactive conference technology; notice; quorum. | |
| §6 | Notice | |

§1 Purpose and Authority. Senate Bill 1034, passed by the 2021 Legislature of the State of Hawaii and signed into law by the Governor on July 6, 2021 as Act 220, amends Chapter 92, Hawaii Revised Statutes (HRS), and allows boards the option to use interactive conference technology to conduct remote meetings under the sunshine law, while still retaining the option to conduct traditional in-person meetings at a single meeting site or at multiple meeting sites connected by interactive conference technology. Because Act 220 takes effect on January 1, 2022, it is necessary to adopt these rules to effectuate the Legislature's intent prior to the effective date. These rules are based on the provisions of Act 220 with minor revisions to address the current emergency response and recovery.

These rules are adopted pursuant to section 127A-11, 13 and 25, HRS, to respond to the COVID-19 emergency declared by the Governor and have the force and effect of law.

§2 Limited Suspension. Chapter 92, HRS, Part I, Meetings, is suspended to the extent necessary to enable boards as defined in Section 92-2, HRS, to conduct meetings without any board members or members of the public physically present in the same location. The physical locations of the board members need not be listed on the agenda. Specifically, section 92-3.5(a) through (c), and section 92-7, HRS, are suspended

§3 Remote meeting by interactive conference technology; notice; quorum. (a). A board may hold a remote meeting by interactive conference technology; provided that the interactive conference technology used by the board allows audiovisual interaction among all members of the board participating in the meeting and all members of the public attending the meeting, except as otherwise provided under this section. A board holding a remote meeting pursuant to this section shall not be required to allow members of the public to join board members in person at nonpublic locations where board members are physically present or to identify those locations in the notice required by section 92-7, HRS; provided that at the meeting, each board member shall state who, if anyone, is present at the nonpublic location with the member. The notice required by section 92-7, HRS, shall:

- (1) [Intentionally left blank]
- (2) Inform members of the public how to contemporaneously:
 - (A) Remotely view the video and audio of the meeting through internet streaming or other means; and
 - (B) Provide remote oral testimony in a manner that allows board members and other meeting participants to hear the testimony, whether through an internet link, a telephone conference, or other means.

The board may provide locations open for public participation. The notice required by section 92-7, HRS, and section 6 of these rules, shall list any locations open for public participation and specify, in the event a location loses its audiovisual connection to the

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remote meeting, whether the meeting will continue without that location or will be automatically recessed to restore communication as provided in subsection (c).

(b) Boards are encouraged to consider the following guidelines for a remote meeting held by interactive conference technology pursuant to this section:

- (1) The interactive conference technology used by the board shall allow interaction among all members of the board participating in the meeting and all members of the public attending the meeting;
- (2) Except as provided in subsections (c) and (d), a quorum of board members participating in the meeting shall be visible and audible to other members and the public during the meeting; provided that no other meeting participants shall be required to be visible during the meeting;
- (3) Any board member participating in a meeting by interactive conference technology shall be considered present at the meeting for the purpose of determining compliance with the quorum and voting requirements of the board;
- (4) At the start of the meeting the presiding officer shall announce the names of the participating members;
- (5) All votes shall be conducted by roll call unless unanimous; and
- (6) When practicable, boards shall record meetings open to the public and make the recording of any meeting electronically available to the public as soon as practicable after a meeting and until a time as the minutes required by section 92-9, HRS, are electronically posted on the board's website.

(c) A meeting held by interactive conference technology shall be automatically recessed for up to thirty minutes to restore communication when audiovisual communication cannot be maintained with all members participating in the meeting or with any public location identified in the board's notice or with the remote public broadcast identified in the board's notice pursuant to subsection (a)(2)(A). This subsection shall not apply based on the inability of a member of the public to maintain an audiovisual connection to the remote public broadcast, unless the remote public broadcast itself is not transmitting an audiovisual link to the meeting. The meeting may reconvene when either audiovisual communication is restored, or audio-only communication is established after an unsuccessful attempt to restore audiovisual communication, but only if the board has provided reasonable notice to the public as to how to access the reconvened meeting after an interruption to communication. If audio-only communication is established, then each speaker shall be required to state their name before making their remarks. Within fifteen minutes after audio-only communication is established, copies of nonconfidential visual aids that are required by or brought to the meeting by board members or as part of a scheduled presentation shall be made available either by posting on the Internet or by other means to all meeting participants, including those participating remotely, and those agenda items for which visual aids are not available for all participants shall not be acted upon at the meeting. If it is not possible to reconvene the meeting as provided in this subsection within thirty minutes after an interruption to communication and the board has not provided reasonable notice to the public as to how the meeting will be continued at an alternative date and time, then the meeting shall be automatically terminated.

(d) During executive meetings from which the public has been excluded, board members shall be audible to other authorized participants but shall not be required to be visible. To preserve the executive nature of any portion of a meeting closed to the public, the presiding officer shall publicly state the names and titles of all authorized participants, and, upon convening the executive session, all participants shall confirm to the presiding officer that no unauthorized person is present or able to hear them at their remote locations or via another audio or audiovisual connection. The person organizing the interactive conference technology shall confirm that no unauthorized person has access to the executive meeting as indicated on the control panels of the interactive conference technology being used for the meeting, if applicable.

(e) A board must in good faith attempt to provide the public with the opportunity to observe the meeting as it happens and an opportunity to provide oral testimony. No board action shall be invalid if the board's good faith efforts to implement remote technology for public observations and comments do not work.

§4 Definition of "interactive conference technology." For purpose of these rules, "interactive conference technology" means any form of audio and visual conference technology, or audio conference technology where permitted under these rules, including teleconference, videoconference, and voice over internet protocol, that facilitates interaction between the public and board members.

§5 In-person meeting at multiple sites by interactive conference technology; notice; quorum. (a) A board may hold an in-person meeting at multiple meeting sites connected by interactive conference technology; provided that the interactive conference technology used by the board allows audio or audiovisual interaction among all members of the board participating in the meeting and all members of the public attending the meeting, and the notice required by section 92-7, HRS, and section 6 of these rules, identifies all of the locations where participating board members will be physically present. The board may provide additional locations open for public participation but where no participating board members will be physically present. The notice required by section 92-7, HRS, and section 6 of these rules, shall list any additional locations open for public participation but where no participating board members will be physically present and specify, in the event one of those additional locations loses its audio connection to the meeting, whether the meeting will continue without that location or will be automatically recessed to restore communication as provided in subsection (c).

(b) Any board member participating in a meeting by interactive conference technology under this section shall be considered present at the meeting for the purpose of determining compliance with the quorum and voting requirements of the board.

(c) A meeting held by interactive conference technology under this section shall be automatically recessed for up to thirty minutes to restore communication when audio communication cannot be maintained with all locations where the meeting by interactive conference technology is being held, even if a quorum of the board is physically present in one location. The meeting may reconvene when either audio or audiovisual communication is restored. Within fifteen minutes after audio-only communication is

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established, copies of nonconfidential visual aids that are required by or brought to the meeting by board members or as part of a scheduled presentation shall be made available either by posting on the Internet or by other means to all meeting participants, and those agenda items for which visual aids are not available for all participants at all meeting locations shall not be acted upon at the meeting. If it is not possible to reconvene the meeting as provided in this subsection within thirty minutes after an interruption to communication, and the board has not provided reasonable notice to the public as to how the meeting will be continued at an alternative date and time, then the meeting shall be automatically terminated.

§6 Notice. (a) The board shall give written public notice of any regular, special, emergency, or rescheduled meeting, or any executive meeting when anticipated in advance. The notice shall include an agenda that lists all of the items to be considered at the forthcoming meeting; the date, time, and place of the meeting; the board's electronic and postal contact information for submission of testimony before the meeting; instructions on how to request an auxiliary aid or service or an accommodation due to a disability, including a response deadline, if one is provided, that is reasonable; and in the case of an executive meeting, the purpose shall be stated. If an item to be considered is the proposed adoption, amendment, or repeal of administrative rules, an agenda meets the requirements for public notice pursuant to this section if it contains a statement on the topic of the proposed rules or a general description of the subjects involved, as described in section 91-3(a)(1)(A), HRS, and a statement of when and where the proposed rules may be viewed in person and on the Internet as provided in section 91-2.6, HRS. The means specified by this section shall be the only means required for giving notice under this part notwithstanding any law to the contrary.