

## **3110 CONDUCT OF HEARINGS**

- 3110.1 Every hearing before the Director shall be open to the public.
- 3110.2 An applicant or licensee entitled to a hearing shall have the following rights:
- (a) To be represented by counsel;
  - (b) To examine all opposing witnesses on any matter relevant to the issues; and
  - (c) To have subpoenas issued to compel the attendance of witnesses and the production of relevant books, papers, and documents upon making written request therefore to the Director.
- 3110.3 In connection with any hearing held pursuant to this chapter, the Director shall have the power to do the following:
- (a) To administer oaths or affirmations to witnesses called to testify;
  - (b) To subpoena respondents and other witnesses and relevant books, papers, and documents;
  - (c) To take testimony;
  - (d) To examine witnesses;
  - (e) To direct the continuance of any case; and
  - (f) To enter into a consent agreement.
- 3110.4 In proceedings before the Director, if any person refuses to respond to a subpoena or refuses to take the oath or affirmation as a witness or thereafter refuses to be examined, or refuses to obey any lawful order of the Director contained in his or her decision rendered after hearing, the Director may make application to the proper court for an order requiring obedience thereto.
- 3110.5 In all proceedings the Director shall receive and consider any evidence or testimony. However, the Director may exclude incompetent, irrelevant, immaterial, or unduly repetitious evidence or testimony.
- 3110.6 In any proceeding resulting from the Director's contemplated action to deny new licensure or to restore a suspended license or to deny a variance request, the applicant shall have the burden of satisfying the Director of his or her qualifications.
- 3110.7 In any proceeding resulting from the Director's contemplated action to refuse to renew, to revoke, or to issue a limited renewal license, the Department shall have the burden of proving that such action should be taken.
- 3110.8 In a summary or conversion action the Department shall have the burden of establishing a prima facie case of immediate or serious and continuing endangerment.
- 3110.9 In all hearings conducted by the Director, a complete record shall be made of all evidence presented during the course of a hearing. Any party to the proceedings desiring it shall be furnished with a copy of the record, upon payment of the fee prescribed by the Director.

SOURCE: Final Rulemaking published at 39 DCR 5098, 5111 (July 10, 1992).