



STATE OF HAWAII
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
REGULATED INDUSTRIES COMPLAINTS OFFICE
CONSUMER RESOURCE CENTER
OAHU OFFICE
235 SOUTH BERETANIA STREET, 9TH FLOOR
HONOLULU, HI 96813
cca.hawaii.gov/rico

FREQUENTLY ASKED QUESTIONS ABOUT FILING A COMPLAINT

- 1. What is the Regulated Industries Complaints Office (RICO)?** Most people are not aware that a professional or vocational license is required before you can work in certain industries. There are currently over 49 different industries in which a professional or vocational license is required. These industries are the kind that affect the health, safety, and welfare of Hawaii's citizens. RICO is a statewide agency of the Department of Commerce and Consumer Affairs (DCCA) that investigates and prosecutes possible licensing law violations by Hawaii licensees. RICO also works to protect consumers from unscrupulous and unqualified individuals by investigating and prosecuting unlicensed activity. A complete list of the professions and vocations RICO oversees is available at cca.hawaii.gov/pvl.
- 2. What kind of complaints does RICO accept?** RICO accepts complaints about individuals and businesses who work in industries where a professional or vocational license is required, like contractors, doctors, real estate brokers, and auto repair mechanics. Common complaints involve allegations of poor workmanship, negligence, failure to complete, and unlicensed activity. Less common complaints involve allegations involving sexual contact with patients or clients, criminal convictions, and misappropriation of funds. Some things, even if proven true, may not constitute grounds for discipline. For example, concerns that a patient has been made to wait a long time at a doctor's office or that a licensee has charged a lot of money for a particular service. RICO's jurisdiction is limited to the licensing laws and rules for each profession. Violations vary depending on the license type involved.
- 3. Who can file a complaint with RICO?** Anyone can file a complaint with RICO. RICO investigates complaints received from consumers, requests for investigation received from Hawaii's boards, commissions, and programs, from licensing boards in other states, and from anonymous sources. RICO also initiates cases based on referrals from other law enforcement agencies and professional associations. Occasionally, matters are reported by hospitals and employers. RICO also conducts compliance checks, and sweep and sting operations.
- 4. How do I file a complaint with RICO? Does it cost money?** Simply complete a RICO complaint form. Please complete one complaint form per respondent. Complaint forms are available online or from your local RICO office. You can also call or write to RICO's Consumer Resource Center and a complaint form will be mailed to you. There is no fee to file a complaint with our office.
- 5. Does RICO accept anonymous complaints?** Some complaints (like complaints filed by employees or allegations of sexual assault) involve sensitive information. *These types of complaints are especially important to our office and may be filed anonymously or with limited information.* Please note while RICO accepts anonymous complaints, investigation may be challenging if the information provided with the complaint is limited or if we are unable to contact the reporting person if we have questions. RICO does not provide updates on anonymous complaints (but may contact you if additional information is required).
- 6. Can someone file a complaint on my behalf?** Yes. If you would like to designate someone to assist you in the RICO process, complete the portion of the RICO complaint form that asks for information about representatives. If filing a healthcare complaint, your signature will also be required on an Authorization for Release and Disclosure of Health Information and Records.

- 7. What is an Authorization for Release and Disclosure of Health Information and Records?** This form allows RICO to obtain information about a patient's health care from any health care providers involved. The form is available for download on the RICO website and provided with the RICO Healthcare Complaint Form.
- 8. Is there a time limit for filing a complaint?** There is no time limit for filing or prosecuting a complaint, however, complaints that involve situations distant in time may be more challenging to investigate and prosecute.
- 9. Where do I send a completed complaint form?** Mail completed complaint forms to: Regulated Industries Complaints Office, Attention: Consumer Resource Center, 235 South Beretania Street, 9th Floor. Honolulu, Hawaii 96813. Complaint forms are also accepted at all neighbor island office locations for mailing.
- 10. What happens if my complaint is not within RICO's jurisdiction?** If your complaint does not involve a licensed profession or vocation, or if the activity you are complaining about is not covered by Hawaii's licensing laws, your complaint may be closed with no action or referred to another agency. Consumers are notified in writing if complaints are closed or referred.
- 11. What's the difference between a RICO complaint form and the RICO "Report of On-Going Unlicensed Activity" form?** RICO uses unlicensed activity reports to conduct expedited investigations about possible *on-going* unlicensed activity occurring in the State. Additional information about the industries RICO regulates and applicable licensing laws and rules is available on the RICO website, as well as a printable version of this and other RICO complaint forms. **If** you have entered into a contract or agreement with an unlicensed company or individual, please complete the appropriate complaint form (RICO, Contractor, Healthcare Professions, Travel Agency, Motor Vehicle Sales, Motor Vehicle Repairs, Real Estate, Real Estate Appraiser).
- 12. My complaint was received by RICO. What happens next?** After your complaint is received, an intake investigator will be assigned to review your complaint. The intake investigator will conduct a preliminary review to determine if RICO has jurisdiction and if there is sufficient information to indicate a violation may have occurred. The intake investigator will contact you if he/she has questions or needs additional information. Complaints may be closed for insufficient information or other reasons. Warning letters or educational contact letters may be issued at this stage. Consumers are notified in writing when their complaint is received and when an initial review has been completed. If additional investigation is recommended, your complaint will be assigned to an investigator for further action. If your complaint is referred to RICO's Field Investigation Section for investigation, you will be notified in writing.
- 13. Are all complaints referred for investigation?** No. As the enforcement agency for over 49 boards, commissions, and programs, our office is often required to make difficult decisions based on resources and other variables that affect enforcement priorities. Even if a complaint is not referred for investigation, the information included in the complaint may be used by RICO in future sweep, stings, and compliance operations. All information is important to us.
- 14. My case has been referred to RICO's Field Investigation Section. What happens next?** If assigned to a field investigator, the field investigator will conduct an investigation. The RICO investigation may include interviews of the complaining party, the respondent, and any pertinent witnesses, the issuance of subpoenas, and on-site investigations of the respondent's place of business or the location where the alleged violation occurred. Interviews may be conducted by telephone or in person. Investigation is at RICO's discretion and a case may be closed for insufficient evidence or for other reasons. Warning letters or educational contact letters may also be issued at this stage. Completed investigations may be referred to RICO's Legal Section for review. Consumers are notified in writing when work by the Field Section has been completed.
- 15. My case has been assigned to the Legal Section for review. What happens next?** Completed investigations may be referred to RICO's Legal Section for review. Cases referred to the Legal Section are evaluated and may be assigned to a staff attorney who will review the case and determine if enforcement action is appropriate. Prosecution is at RICO's discretion, and a case may be closed for

insufficient evidence or for other reasons. Warning letters or educational contact letters may also be issued at this stage. Consumers are notified in writing when work by the Legal Section has been completed.

- 16. What is a legal action?** A legal action is formal action filed by an attorney from the RICO office. Legal actions asking a licensing authority (i.e. a board, commission, or program) to discipline a licensee are administrative actions and may result in a licensee being fined, ordered to complete continuing education, or placed on probation. A license may also be suspended or revoked. Factors considered by staff attorneys in recommending what sanction may be appropriate in a case include the seriousness of the violation, whether the violation was willful or intentional, whether the respondent acted in good faith or tried to correct the violation, and whether the respondent has engaged in similar violations in the past.
- 17. Is legal action the same in unlicensed cases?** No. Staff attorneys initiate legal actions against unlicensed companies and individuals by filing civil actions in circuit court. The staff attorney must prove the unlicensed company or individual engaged in conduct for which a license is required. Typical sanctions include injunctions (an order by a court not to engage in unlicensed activity in the future) and fines. Decisions are made by a circuit court judge.
- 18. What is a settlement agreement?** Many RICO cases do not involve egregious violations, therefore, legal matters with licensees are frequently resolved through settlement agreements. A settlement agreement may include an admission of liability and may require the licensee pay a fine, complete additional continuing education, or submit to practice monitoring. Settlement agreements must be approved by the board, commission, or program that oversees the profession.
- 19. Does RICO ever settle cases with unlicensed individuals?** Sometimes. Settlements with unlicensed companies and individuals usually include injunctions prohibiting future unlicensed activity and fines. Because unlicensed companies and individuals are not authorized to perform work that requires a license, a RICO staff attorney will never ask a judge to order additional or corrective work.
- 20. What is a citation?** Where appropriate, RICO investigators issue citations to companies and individuals who may be engaged in unlicensed activity and to licensees for specific technical violations (for example, to a massage establishment for not including a license number in an advertisement). Citations are considered legal action and a business or individual who has been issued a citation can request a hearing to contest it.
- 21. What does it mean to be the complainant in a RICO case?** Once you've filed your complaint, you may be contacted by a RICO investigator and/or attorney to be interviewed or to provide additional information about your dispute. If a case proceeds to a hearing or other legal action, you may be called as a witness for the State. Because many of the cases RICO prosecutes are resolved before a hearing or trial is held, a consumer may not have an additional role after the investigation process.
- 22. How long will it take to process my complaint?** The processing of complaints, including investigation and proceedings, may be lengthy. Depending on the nature of the case, the time could range from a few weeks to a few months to sometimes a year or longer.
- 23. Why would it take so long?** The length of time required to process a complaint depends on the seriousness, complexity, the level of investigation required, and whether it goes through informal or formal proceedings. The availability of information and witnesses, the possible need for coordination with other investigations (for example, an on-going criminal prosecution), the need for obtaining expert testimony, and many other factors can affect processing times.
- 24. Will I be updated?** Yes. You will be updated throughout the RICO process and notified in writing about the final outcome of your complaint.
- 25. Are complaints prioritized?** RICO considers all complaints important. Complaints where the alleged behavior is particularly egregious or if there is immediate potential for harm to others may be given priority.

- 26. Will my complaint remain confidential? How about my identity?** RICO makes every effort to hold information and records in confidence unless disclosure is important to the RICO case or otherwise required by law. For example, RICO may share your identity and details about your complaint with the person or business you're complaining about, so they can respond to our inquires. RICO may also share information about your complaint with other state and federal regulators and law enforcement agencies for the express purpose of assisting those agencies with the enforcement of state and federal laws. Should RICO initiate a formal legal proceeding involving your complaint, your complaint and any related documents may become information available to the public through RICO legal filings or any hearing, trial, or proceeding that may result.
- 27. Does the Regulated Industries Complaints Office represent me?** No. As a government agency, RICO represents the State of Hawaii as a whole. We do not represent you and strongly advise all consumers immediately explore any civil remedies they may have. This may require hiring a lawyer or filing a civil action in small claims, district, or circuit court.
- 28. Should I pursue a separate civil action (like a lawsuit) in court?** That is a decision you must make. Because we do not represent individual consumers, we ***strongly encourage*** consumers consider seeking legal advice and immediately explore any civil remedies they may have. Filing a complaint with our office does not prevent you from pursuing any civil remedies or from filing a police report if appropriate. There are time limits for filing a civil lawsuit, so do not rely on, or wait for, a RICO case to be concluded.
- 29. I filed a complaint against a licensee. Will he or she lose their license?** Decisions about what sanction to impose against a licensed professional are made by the licensing board, commission or program that oversees the profession. Boards, commissions, and programs utilize a variety of sanctions, and choose those sanctions based on the seriousness of the violation and the evidence that substantiates the violation. A licensing authority may also take into consideration the potential risk of harm, any mitigating or aggravating circumstances, any corrective action already taken as well as other considerations in determining what disciplinary action may be imposed.
- 30. I filed a complaint against an unlicensed person. Will the unlicensed person be incarcerated?** RICO files civil actions seeking injunctions prohibiting future unlicensed activity and monetary penalties. RICO may work with other law enforcement agencies to assist with the criminal prosecution of cases and a judge may order an unlicensed person be incarcerated as part of a sentence in a criminal case.
- 31. Is there any chance I may be compensated through the RICO action?** Although our role is to enforce regulatory laws and rules, sometimes we are able to achieve some sort of resolution on the part of complaining parties. We do not, however, represent individual consumers and strongly advise all consumers immediately explore any civil remedies they may have. This may require hiring a lawyer or filing a civil action in small claims, district, or circuit court. ***Do not rely on, or wait for, a RICO case to be concluded.***
- 32. What if I have questions about the outcome of my RICO complaint?** Sometimes, matters are closed or cases end with outcomes that do not meet a consumer's expectation. Contact a RICO supervisor if you have questions about the final outcome of your complaint. Please remember, nothing RICO does prevents you from pursuing any civil remedies you may have or from filing a police report if appropriate.

For other useful consumer tips and information, visit the RICO website at cca.hawaii.gov/rico.

For questions about the complaint process or how to complete a RICO complaint form, call RICO's Consumer Resource Center at (808) 587-4272. Neighbor island residents can call toll free – on Kauai, dial 274-3141, extension 7-4272; on Maui, dial 984-2400, extension 7-4272; on Hawaii, dial 974-4000, extension 7-4272; and on Lanai & Molokai dial 1-800-468-4644, extension 7-4272.

This material is available in alternate formats including large print. For assistance, please contact the RICO Complaints and Enforcement Officer at 586-2666.