



## Ohio Administrative Code Rule 4723-16-05 Prehearing processes.

Effective: February 1, 2015

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(A) Any representative of record may serve upon the opposing representative of record a written request for a list of witnesses and copies of proposed exhibits intended to be introduced at hearing. Except in the case of summary suspensions, the opposing representative of record shall supply a list and copies to the requesting representative within a reasonable time, but not less than fourteen days before the hearing date.

(B) In cases of summary suspensions, the exchange of lists of witnesses and proposed exhibits intended to be introduced at hearing shall be completed as soon as possible, but not less than three days before the hearing date.

(C) If a representative of record fails to comply with a request for, or scheduling order requiring the timely exchange of, a list of witnesses, expert witness reports, if any, or copies of proposed exhibits, the opposing representative of record may request, and, absent extraordinary circumstances, the board, board hearing committee or hearing examiner shall grant, a motion to exclude from the hearing the testimony and proposed exhibits that were the subject of request.

(D) Upon written motion of any representative of record or upon the initiative of the board, board hearing committee or the hearing examiner, the board, board hearing committee or hearing examiner shall issue a scheduling order that may include but need not be limited to:

- (1) A schedule for exchange of proposed hearing exhibits;
- (2) A schedule for identifying lay and expert witnesses; and
- (3) A schedule for the exchange of written reports, if any, from expert witnesses.

(E) If expert witness testimony is proposed, the expert may submit a written report. A written report by an expert shall set forth the opinions that the expert will testify about and the basis for the



opinions. In order to be admitted as evidence at hearing, the written report must be provided to the opposing representative of record not less than thirty days before the hearing date. The expert may also testify as a fact witness.

(F) At any time before a hearing, with or without motion from a representative of record, the board, board hearing committee or hearing examiner may schedule a prehearing conference. The conference may be in person or by telecommunication. No witness testimony shall be taken during a prehearing conference. A prehearing conference may be held for reasons including but not limited to:

- (1) Settlement negotiation;
- (2) Identification of issues;
- (3) Obtaining stipulations and admissions;
- (4) Agreements limiting the number of witnesses;
- (5) Discussion of proposed exhibits and witness lists;
- (6) Estimating the time necessary for the hearing; and
- (7) Discussion of any other matter tending to expedite the proceedings.

(G) The board, board hearing committee or hearing examiner may issue orders related to preparation for the hearing and the conduct of the hearing that facilitate the just and efficient disposition of the subject of the hearing. Orders may include, but are not limited to, requirements that by a date specified, a party or both parties submit:

- (1) Legal briefs regarding the relevancy of proposed testimony or evidence;
- (2) Legal briefs regarding a point of law; or
- (3) Written opening statements and closing arguments.



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(H) Any document that is a patient record or that contains information that is required to be kept confidential according to any state or federal law may, for purposes of the administrative hearing only, be provided to a representative of record or to a witness in the proceeding, but shall not be disseminated to any other person unless the confidential information is redacted.