

## **Title 30: Professions and Occupations**

### **Part 2825: RULES OF PROCEDURE**

#### **Part 2825, Chapter 1: Disciplinary Proceedings**

##### *Rule 1.13 Disciplinary Hearing Procedures Specific to COVID-19.*

- A. Pursuant to the December 11<sup>th</sup>, 2020, Mississippi Board of Nursing Business Meeting, the Board voted to continue conducting informal and formal disciplinary proceedings virtually during the COVID-19 pandemic. The Board adopts the temporary rule herein in an effort to ensure public safety and prevent the spread of COVID-19. The procedures described herein shall be utilized for formal disciplinary proceedings until further notice.
- B. Formal Hearings** will be conducted by telephone or videoconference until further notice. The Board Hearing Panel, or its agent or designee, reserves the right to determine on its own motion, or upon a showing of good cause, that the use of telephone or videoconference is not feasible for a particular hearing, or that justice requires that the parties be permitted to appear in-person.
- 1) **Remote Participation.** The Board Hearing Panel may allow or require proceedings and appearances to be by telephone or videoconference without any requirements for a motion or agreement of the parties.
  - 2) **Requests to Docket.** All requests to docket new cases will be treated as a request for formal hearing via remote participation.
    - (a) A request for an in-person proceeding shall include a petition setting forth reasons why remote participation is not feasible and/or not in the interest of justice.
    - (b) The Board may elect to set a limited number of matters for in-person proceedings.
  - 3) **Exhibits and Evidence.** The parties shall communicate and pre-file documentary evidence or exhibits in strict accordance with 30 Miss. Admin. Code Pt. 2825, R. 1.7. – not later than ten (10) days before the hearing.
    - (a) Respondents shall file exhibits electronically when possible.
    - (b) Respondents shall number exhibits sequentially and paginate and/or Bates stamp multipage documents.
    - (c) Absent good cause, exhibits that are not pre-filed will not be admitted into the record.
  - 4) **Continuances.** If a party wishes to have an in-person proceeding or cannot electronically file exhibits or otherwise timely provide exhibits, that party shall immediately file a request for continuance.
    - (a) All motions to continue or abate cases for reasons related to a party's preference for in-person proceedings must show good cause as to why the use of remote technologies is not feasible or not in the interest of justice.
    - (b) The Board may elect to set a limited number of pending matters for in-person proceedings.

- 5) **Videoconference Technology.** All videoconferences shall be hosted using a videoconference platform controlled by the Board or a court-reporting service. Respondents without an attorney who do not have reasonable access to equipment and/or technology necessary for remote participation in his or her hearing by videoconference should contact the Board to request assistance.
- 6) **Limitation on In-Person Hearings.** The Board may limit and/or give preference to the scheduling of in-person proceedings to emergency hearings and proceedings with statutory priority. Other in-person proceedings may be scheduled by the Board as becomes practicable to ensure compliance with applicable public health and safety guidelines.
- 7) **Prehearing Planning Conference.** By motion of the Board or one or both of the parties, the Board may require the parties to confer at a prehearing planning conference for the purposes of determining or discussing:
  - (a) alternatives for providing adequate notice and an opportunity to participate in proceedings to potentially affected persons or persons seeking party status;
  - (b) venue requirements for the proceeding related to public health and safety, including the availability and feasibility of conducting all or a portion of the proceedings by teleconference or video conference;
  - (c) requirements for court reporters, language interpreters, audio or visual technology, or special accessibility needs;
  - (d) opportunities for referral of the case to mediation or another appropriate alternative dispute resolution procedure; and/or
  - (e) any other special procedures or requirements necessary for the fair and efficient handling of the proceeding.

**C. Requirements for In-Person Proceedings.** Until further notice, any case set for in-person proceeding may be subject to requirements imposed for purposes of ensuring public health and safety, including:

- 1) Lawyers, parties, and witnesses may be required to wait outside of Board's facilities until their hearing is called.
- 2) Attendance may be limited to ten (10) persons, unless otherwise ordered by the Governor, including Board personnel. All attendees will be expected to follow courtroom decorum as announced by the Assistant Attorney General representative, including social distancing.
- 3) Parties to in-person proceedings should wear face coverings where possible.
- 4) When applicable, parties handling physical exhibits should anticipate using sanitizer and wearing gloves as protective measures.
- 5) Parties with a positive COVID-19 test, or any flu-like symptoms—including fever, coughing, or sneezing—should contact the Board legal staff prior to the proceeding. Lawyers should contact Board attorneys if they are aware that agency staff, clients, witnesses or others have these symptoms.
- 6) Parties to in-person proceedings may file a motion with the Board to request remote participation in the proceeding.

Source: Miss. Code Ann. § 73-15-17 (1972, as amended).