

78B-3-417 Proceedings -- Authority of panel -- Rights of parties to proceedings.

- (1) No record of the proceedings is required and all evidence, documents, and exhibits are returned to the parties or witnesses who provided the evidence, documents, and exhibits at the end of the proceedings upon the request of the parties or witnesses who provided the evidence.
- (2) The division may issue subpoenas for medical records directly related to the claim of medical liability in accordance with division rule and in compliance with the following:
 - (a) the subpoena shall be prepared by the requesting party in proper form for issuance by the division; and
 - (b) the subpoena shall be accompanied by:
 - (i) an affidavit prepared by the person requesting the subpoena attesting to the fact the medical record subject to subpoena is believed to be directly related to the medical liability claim to which the subpoena is related; or
 - (ii) by a written release for the medical records to be provided to the person requesting the subpoena, signed by the individual who is the subject of the medical record or by that individual's guardian or conservator.
- (3) Per diem reimbursement to panel members and expenses incurred by the panel in the conduct of prelitigation panel hearings shall be paid by the division. Expenses related to subpoenas are paid by the requesting party, including witness fees and mileage.
- (4) The proceedings are informal and formal rules of evidence are not applicable. There is no discovery or perpetuation of testimony in the proceedings, except upon special order of the panel, and for good cause shown demonstrating extraordinary circumstances.
- (5)
 - (a) A party is entitled to attend, personally or with counsel, and participate in the proceedings, except upon special order of the panel and unanimous agreement of the parties. The proceedings are confidential and closed to the public.
 - (b) No party has the right to cross-examine, rebut, or demand that customary formalities of civil trials and court proceedings be followed. The panel may, however, request special or supplemental participation of some or all parties in particular respects.
 - (c) Communications between the panel and the parties, except the testimony of the parties on the merits of the dispute, are disclosed to all other parties.
- (6) The division shall appoint a panel to consider the claim and set the matter for panel review as soon as practicable after receipt of a request.
- (7) Parties may be represented by counsel in proceedings before a panel.

Renumbered and Amended by Chapter 3, 2008 General Session