

§2857. Confidentiality and admissibility

1. Proceedings before panel confidential. Except as provided in this section and section 2858, all proceedings before the panel, including its final determinations, must be treated in every respect as private and confidential by the panel and the parties to the claim.

A. The findings and other writings of the panel and any evidence and statements made by a party or a party's representative during a panel hearing are not admissible and may not otherwise be submitted or used for any purpose in a subsequent court action and may not be publicly disclosed, except that:

- (1) Any testimony or writings made under oath may be used in subsequent proceedings for purposes of impeachment; and
- (2) The party who made the statement or presented the evidence may agree to the submission, use or disclosure of that statement or evidence. [PL 1999, c. 523, §4 (RPR).]

B. If the panel findings as to both the questions under section 2855, subsection 1, paragraphs A and B are unanimous and unfavorable to the person accused of professional negligence, the findings are admissible in any subsequent court action for professional negligence against that person by the claimant based on the same set of facts upon which the notice of claim was filed. [PL 1999, c. 523, §4 (RPR).]

C. If the panel findings as to any question under section 2855 are unanimous and unfavorable to the claimant, the findings are admissible in any subsequent court action for professional negligence against the person accused of professional negligence by the claimant based on the same set of facts upon which the notice of claim was filed. [PL 1999, c. 523, §4 (NEW).]

The confidentiality provisions of this section do not apply if the findings were influenced by fraud. [PL 1999, c. 523, §4 (RPR).]

2. Deliberations, discussions and testimony privileged and confidential. The deliberations and discussion of the panel and the testimony of any expert, whether called by any party or the panel, shall be privileged and confidential, and no such person may be asked or compelled to testify at a later court proceeding concerning the deliberations, discussions, findings or expert testimony or opinions expressed during the panel hearing, unless by the party who called and presented that nonparty expert, except such deliberation, discussion and testimony as may be required to prove an allegation of fraud. [PL 1985, c. 804, §§12, 22 (NEW).]

3. Discovery; subsequent court action. The Maine Rules of Civil Procedure govern discovery conducted under this subchapter. The chair has the same authority to rule upon discovery matters as a Superior Court Justice. Notwithstanding subsection 1, in a subsequent Superior Court action all discovery conducted during the prelitigation screening panel proceedings is deemed discovery conducted as a part of that court action.

This subsection applies to all claims of professional negligence in which the notice of claim is served or filed on or after January 1, 1991.

[PL 1989, c. 931, §2 (NEW).]

SECTION HISTORY

PL 1985, c. 804, §§12,22 (NEW). PL 1989, c. 931, §2 (AMD). PL 1999, c. 523, §4 (AMD).

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