

§2854. Hearing

1. Procedure. The claimant or a representative of the claimant shall present the case before the panel. The person accused of professional negligence or that person's representative shall make a responding presentation. Wide latitude must be afforded the parties by the panel in the conduct of the hearing including, but not limited to, the right of examination and cross-examination by attorneys. Depositions are admissible whether or not the person deposed is available at the hearing. The chair shall make all procedural rulings and those rulings are final. The Maine Rules of Evidence do not apply. Evidence must be admitted if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. The panel shall make such findings upon such evidence as is presented at the hearing, the records and any expert opinions provided by or sought by the panel or the parties.

After presentation by the parties, as provided in this section, the panel may request from either party additional facts, records or other information to be submitted in writing or at a continued hearing, which continued hearing must be held as soon as possible. The continued hearings must be attended by the same members of the panel who have sat on all prior hearings in the same claim, unless otherwise agreed by all parties.

[PL 1999, c. 523, §2 (AMD).]

1-A. Record; hearings. The panel shall maintain a tape recorded record. Except as provided in section 2857, the record may not be made public and the hearings may not be public without the consent of both or all parties.

[PL 1999, c. 523, §2 (NEW).]

2. Settlement; mediation. The chair of the panel shall attempt to mediate any differences of the parties before proceeding to findings.

[PL 1999, c. 523, §2 (AMD).]

3. Failure to comply. Failure of a party, without good cause, to attend a properly scheduled hearing to participate in authorized discovery, or to otherwise substantially comply with this subchapter, must result in a finding made by a majority of the panel against that party and that finding has the same effect as a finding against that party under section 2857.

[PL 1999, c. 523, §2 (AMD).]

SECTION HISTORY

PL 1985, c. 804, §§12,22 (NEW). PL 1989, c. 361, §§7,10 (AMD). PL 1999, c. 523, §2 (AMD).

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