

7615.0350 HEARINGS.

Subpart 1. **Rights of parties to hearing.** Affected parties have a right to:

- A. a hearing before the board;
- B. representation by an attorney;
- C. present public evidence;
- D. present witnesses who will testify under oath;
- E. cross examine witnesses; and
- F. present rebuttal testimony and argument.

Subp. 2. **Rules of evidence.** The board shall admit and consider any reasonable evidence. The board may exclude evidence it determines to be immaterial, irrelevant, or repetitious. The board shall consider only the evidence which is entered into the public record of the hearing.

If the board desires to use technical facts within its specialized knowledge or publicly accepted facts that were not part of the evidence presented, the board shall notify the parties and give them an opportunity to rebut those facts. After the rebutting evidence is received and reviewed, the board shall review all the evidence when making the decision.

Subp. 3. **Public record of hearing.** The board shall prepare an official record, which shall include:

- A. all pleadings, motions, and intermediate rulings;
- B. evidence received or considered;
- C. a statement of facts not introduced in evidence but considered by the board and questions of those facts by affected persons including rebuttals and objections;
- D. proposed findings and exceptions;
- E. any decision, opinion, or report by the board; and
- F. all memoranda or data submitted to the board by the office except advice of the office's attorney.

Subp. 4. **Verbatim record.** The board shall make a verbatim record of the hearing on recording equipment. Any party may request that a court reporter make the record, but that person shall pay the court reporter's fee. The board shall transcribe the record only upon request and only if the requester agrees to pay for the cost of transcribing.

Subp. 5. **Hearing procedure.** Hearing procedure:

- A. If the appellant fails to appear, the board may declare a default and deny the appeal.

B. After opening the hearing, the chairperson shall read the rights of the parties to the hearing and the rules regarding evidence, from subparts 1 and 2. The chairperson shall also call for the parties to present any written matter that they wish to introduce as an exhibit and offer as evidence.

C. A representative of the office shall introduce the jurisdictional exhibits including the written appeal received by the commissioner, the notice of hearing, and any agreements entered into by the parties to the appeal.

D. The appellant may make an opening statement. Other parties may make statements in the order determined by the board.

E. After opening statements, the appellant may present its case. Other parties may present their cases in the order determined by the board.

F. The board shall determine the order for cross examining witnesses.

G. The parties may next give oral or written rebuttal evidence and final arguments in the order determined by the board.

H. After final arguments, the board may: close the hearing; announce the time and place of the next hearing; or continue the hearing to some future time. The board shall give a five-day written notice to all parties prior to holding a continued hearing.

Subp. 6. **Decorum.** The chairperson may take action to insure the orderly conduct of public business at the hearing, as authorized by Minnesota Statutes, section 624.72, subdivision 3.

Subp. 7. **Decision.** Within five days after the hearing is closed, the board shall issue its decision on the appeal.

The decision shall state that the denial or order of the office was modified, reversed, or upheld. If modified or reversed, the decision must state exactly what action is required. The decision shall state the conclusions of fact and law used to reach the ruling.

The commissioner shall, by the close of the working day following the decision, serve a copy of the decision on the parties to the hearing.

Statutory Authority: *MS s 216C.16*

History: *L 1987 c 312 art 1 s 9*

Published Electronically: *October 11, 2007*