

**1405.2000 AVAILABILITY OF WITNESSES.**

All witnesses who offer prefiled direct testimony in compliance with part 1405.1900 shall be available for questioning by interested persons at each hearing date and place. In the event a witness cannot be available throughout the hearing process, the party on whose behalf the witness testified shall request an exemption from this rule of the administrative law judge prior to the publication of the notice of hearing. The request shall state the reasons why the witness cannot be present at each hearing, and the date, or dates, on which the witness can be available. For good cause shown, the administrative law judge shall grant the exemption and shall immediately notify the board. The board shall then include in the notice of hearing a statement indicating the name of the witness, the nature of the testimony, and the dates and places where the witness will be available for questioning by all parties and persons. The party requesting the exemption shall do so in writing and shall serve a copy of the request on all other parties. Any party may object to the exemption by filing a written objection with the administrative law judge and serving a copy on all parties within five working days of the date of the request. In the event an objection is made, the administrative law judge shall immediately notify all parties of the date, time, and place to hear arguments on the request, and subsequent to which shall issue an order granting or denying the request for exemption. The administrative law judge may also grant exemptions, at any time, upon a showing of need due to unforeseeable circumstances. The same notice and objection procedure may be followed if circumstances permit, or the administrative law judge may utilize any other procedure on deeming it more appropriate. A subsequent notice of hearing shall issue reflecting any such exemption granted by the administrative law judge.

In the event a witness has prefiled testimony and fails to appear for questioning, such prefiled testimony shall be given such weight as the administrative law judge deems appropriate.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *L 1984 c 640 s 32; 17 SR 1279*

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