

7000.9100 PROHIBITED EX PARTE COMMUNICATIONS.

Subpart 1. **Ex parte communication.** "Ex parte communication" means an oral or written, off-the-record communication made between a board member or the commissioner and a person or party, without notice to other interested persons or parties, that is directed to the merits or outcome of a contested case proceeding or rulemaking proceeding after public hearing. This term does not include procedural, scheduling, and status inquiries or other inquiries or for information that have no bearing on the merits or outcome of the proceeding.

Subp. 2. **Communication with board members.** An oral or written ex parte communication must not be made or attempted to be made either directly or indirectly between a board member and a person or party concerning a material issue of fact during a pending contested case proceeding or rulemaking public hearing, from the date the board decides to hold the contested case hearing or the date the rulemaking public hearing is ordered, until the board issues its final order or makes a final decision.

Subp. 3. **Disclosure of ex parte communication.** If a person or party makes a prohibited oral ex parte communication to a board member, the board member must advise the person or party who makes the communication that the communication is prohibited and shall immediately terminate the communication. If a prohibited written or oral ex parte communication is received by a board member, that board member must promptly disclose the following information to the commissioner or vice-chair prior to any decision regarding the contested case or rulemaking proceeding that is the subject of the ex parte communication:

A. to the extent known, the name and address of the person making the communication and the relationship, if any, to the parties to or interested persons in the pending matter or proceeding;

B. the date and time of the communication, its duration, and the means by and circumstances under which it was made;

C. a copy of the written document or a written summary of the matters discussed;
and

D. whether the person or party making the prohibited communication persisted after being advised that the communication was prohibited.

Subp. 4. **Record of ex parte communication.** The commissioner must make the tape recording or meeting transcript showing disclosure of ex parte contacts and all disclosed written ex parte communications part of the record of the proceeding to which those communications relate.

Subp. 5. **Board member abstention.** Any board member not disclosing information regarding a prohibited ex parte communication may voluntarily abstain or may be required

to abstain from voting on the matter that is the subject of the prohibited communication. A determination of an abstention must be made by a majority of board members, based on a finding that a prohibited ex parte communication with a board member occurred and was not disclosed in accordance with subpart 3.

Statutory Authority: *MS s 14.06; 116.07*

History: *19 SR 1310; 20 SR 2629; 28 SR 1249*

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