

7897.0170 CONDUCT OF APPEAL HEARING.

Subpart 1. **Rights of parties.** All parties shall have the right to present evidence, rebuttal testimony, and argument with respect to the issues, and to cross-examine witnesses.

Subp. 2. **Witnesses.** Any party may be a witness or may present witnesses on his or her behalf at the hearing. All oral testimony at the hearing shall be under oath or affirmation. At the request of a party or upon the motion of the hearing panel, witnesses may be sequestered from the hearing room during the testimony of other witnesses.

Subp. 3. **Admissible evidence.** The hearing panel may admit all evidence which possesses probative value, including hearsay, if it is the type of evidence which reasonable, prudent persons are accustomed to rely upon in the conduct of their serious affairs. The hearing panel shall give effect to the rules of legal privilege recognized by law. Evidence which is incompetent, irrelevant, immaterial, or unduly repetitious may be excluded. All rulings on evidentiary matters shall be made by the chair of the hearing panel.

Subp. 4. **Evidence part of record.** All evidence to be considered in the case, including all records and documents in the possession of the stewards or commission, or a true and accurate photocopy thereof, may be offered and made a part of the record in the case. No other factual information or evidence shall be considered in the determination of the case.

Subp. 5. **Documents.** Documentary evidence in the form of copies or excerpts may be received or incorporated into the record by reference in the discretion of the hearing panel, or upon agreement of the parties.

Subp. 6. **Official notice of facts.** The hearing panel may take notice of judicially cognizable facts but shall do so on the record and with the opportunity for any party to contest the facts so noticed.

Subp. 7. **Burden of proof.** The appellant must prove that the stewards' ruling is clearly erroneous or not supported by applicable law.

Subp. 8. **Examination of adverse party.** A party may call an adverse party or his or her managing agent or employees, or an officer, director, managing agent, or employee of the state or any political subdivision thereof or of a public or private corporation or of a partnership or association or body politic which is an adverse party, and interrogate him or her by leading questions and contradict and impeach him or her on material matters in all respects as if he or she had been called by the adverse party. The adverse party may be examined by his or her counsel upon the subject matter of his or her examination in chief under the rules applicable to direct examination, and may be cross-examined, contradicted, and impeached by any other party adversely affected by his or her testimony.

Subp. 9. **Record of proceedings.** All proceedings before the hearing panel must be recorded. Court reporters may be used upon the request of any party; however, the court reporter's cost shall be borne by the requesting party.

Statutory Authority: *MS s 240.08; 240.10; 240.16; 240.19; 240.22; 240.23*

History: *9 SR 2527; 14 SR 2008*

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