

657—35.25(17A,124B,126,147,155A,205,272C) Hearing procedures in contested cases.

35.25(1) *Presiding officer.* The presiding officer shall be in control of the proceedings and shall have the authority to administer oaths and to admit or exclude testimony or evidence and shall rule on all motions and objections. The board may request that an administrative law judge assist the board by performing any of these functions.

35.25(2) *Panel of specialists.* When, in the opinion of the board, it is desirable to obtain specialists within an area of practice when holding disciplinary hearings, the board may appoint a panel of three specialists who are not board members to make findings of fact and to report to the board. Such findings shall not include any recommendation for or against licensee discipline.

35.25(3) *Right of participation or representation.* An applicant or respondent has the right to participate or to be represented in all hearings related to the party's case. Partnerships, corporations, or associations may be represented by any member, officer, director, or duly authorized agent. Any applicant or respondent may be represented by an attorney at the party's own expense.

35.25(4) *Objections.* All objections shall be timely made and stated on the record.

35.25(5) *Rights of all parties.* Subject to terms prescribed by the presiding officer, parties have the right to introduce evidence on issues of material fact, cross-examine witnesses present at the hearing as necessary for a full and true disclosure of the facts, present evidence in rebuttal, submit briefs, and engage in oral argument.

35.25(6) *Disorderly conduct.* The presiding officer shall maintain the decorum of the hearing and may refuse to admit or may expel anyone whose conduct is disorderly.

35.25(7) *Sequestering witnesses.* Witnesses may be sequestered during the hearing.

35.25(8) *Appeal of administrative law judge rulings.* All rulings by an administrative law judge who acts either as presiding officer or as an aid to the board are subject to appeal to the board. While a party may seek immediate board review of rulings made by an administrative law judge when the administrative law judge is sitting with and acting as an aid to the board or panel of specialists during a hearing, such immediate review is not required to preserve error for judicial review.

35.25(9) *Conduct of hearing.* The presiding officer shall conduct the hearing in the following manner:

a. The presiding officer shall give an opening statement briefly describing the nature of the proceedings;

b. The parties shall be given an opportunity to present opening statements;

c. Parties shall present their cases in the sequence determined by the presiding officer;

d. Each witness shall be sworn or affirmed by the presiding officer or the court reporter and be subject to examination and cross-examination. The board members and administrative law judge have the right to question a witness. The presiding officer may limit questioning in a manner consistent with law;

e. When all parties and witnesses have been heard, parties may be given the opportunity to present final arguments.

35.25(10) *Open/closed hearing and protective order.* The hearing shall be open to the public unless the respondent requests that the hearing be closed, in accordance with Iowa Code section 272C.6(1). At the request of either party, or on the board's own motion, the presiding officer may issue a protective order to protect documents which are privileged or confidential by law.

[ARC 3344C, IAB 9/27/17, effective 11/1/17]