**Section 100.13 Hearings**

a) All hearings conducted in any proceedings shall be open to the public.

b) Hearings will be conducted by the Director or by an administrative law judge appointed by the Director. If the Director conducts the hearings, any reference in this Section to the administrative law judge shall be read to refer to the Director.

c) The administrative law judge shall have all authority necessary to conduct a hearing, take all necessary actions to avoid delay, maintain order, to ensure the development of a clear and complete record, and to set reasonable limits on the scope of testimony or argument. He or she shall also have the authority to:

1) Administer oaths and ensure that all witnesses are duly sworn;

2) Issue subpoenas;

3) Hold informal conferences for the settlement, simplification, or definition of issues;

4) Make rulings on all procedural requests, motions, and other similar matters;

5) Continue the hearing from time to time when necessary;

6) Examine witnesses; and

7) Rule upon the admissibility of any evidence or testimony which a party seeks to enter into the record.

d) In instances where a party has failed to comply with an administrative law judge's rulings, orders, or instructions, the administrative law judge, may, on motion or *sua sponte*, enter such orders as are just, including, among others, the following:

1) that further proceedings be stayed until the order or rule is complied with;

2) that the offending party be barred from filing any other pleadings relating to any issue to which the refusal or failure relates;

3) that the offending party be barred from maintaining any particular claim or defense relating to that issue;

4) that a witness be barred from testifying concerning that issue;

5) that, as to claims or defenses asserted in any pleading to which that issue is material, an order of default be entered against the offending party or that his or her pleading be dismissed without prejudice; or

6) that any portion of the offending party's pleadings relating to that issue be stricken and, if thereby made appropriate, judgment be entered as to the issue.

e)In addition, the administrative law judge shall have the authority to prohibit the participation of any person who acts with disrespect towards the administrative law judge or the participants in a hearing, or who creates a disturbance, poses a safety risk, or otherwise impedes the administrative law judge from being able to conduct a hearing. Upon their own authority, or at the request of a party to the proceeding, the administrative law judge may recommend dismissal of an action when a party's conduct is so obstreperous, disruptive, or dangerous as to make the conduct of further proceedings in a matter impractical, potentially dangerous, or otherwise ill-advised.

f) The administrative law judge shall direct all parties to enter their appearances on the record.

g) Written opening arguments and written closing arguments shall not be permitted unless allowed by the administrative law judge.

h) Parties may, by stipulation, agree upon any facts involved in the proceeding. The facts stipulated shall be considered as evidence in the proceeding. The administrative law judge shall accept all stipulations as conclusive fact binding the stipulating parties, unless he or she makes a finding on the record that the stipulation is made in bad faith, together with the basis of the bad faith determination. Unless precluded by law, disposition may be made of any contested case by stipulation, agreed settlement, consent order, default or motion.

i) At any stage of the hearing or after all parties have completed the presentation of their evidence, the administrative law judge may call for further testimony, subject to cross-examination by the parties.

j) *The rules of evidence and privilege as applied in civil cases in the circuit courts of this State shall be followed. Evidence not admissible under* those *rules of evidence may be admitted, however, (except where precluded by statute) if it is of a type commonly relied upon by reasonably prudent* persons *in the conduct of their affairs.* Immaterial, irrelevant or unduly repetitious material shall be excluded*.* A copy of the whole or any part of an admissible book, record, paper or memorandum of the Department that is made by photostatic or other method of accurate and permanent reproduction shall be admitted in evidence at the hearing without further proof of the accuracy of the copy. *Objections to evidentiary offers may be made and shall be noted in the record.* (Section 10-40(a) of the IAPA)

k) Official *notice may be taken of matters of which the circuit courts of this State may take judicial notice. In addition,* official *notice may be taken of generally recognized technical or scientific facts within the* Department's *specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed. The* Department's *experience, technical competence and specialized knowledge may be utilized in the evaluation of evidence.* (Section 10-40(c) of the IAPA)

l) A party may offer into evidence any of the following documents without foundation or other proof, provided that a copy of the document has been timely provided to all other parties in accordance with Section 100.12(b):

1) Records and reports of health care facilities, doctors, nurses, physical therapists or other health care providers; however, these records and reports shall not include affidavits or other documents specifically prepared for litigation;

2) Investigation reports from governmental law enforcement agencies;

3) Records of any regularly conducted activity; and,

4) The enforcing agency's inspection or investigative reports produced pursuant to Section 100.12(a).

m) Evidentiary depositions shall be allowed for good cause shown, including, but not limited to, age, infirmity, or inability to travel due to ill health.

n) Absent a showing of good cause, no document shall be offered into evidence that was not disclosed in accordance with the requirements of Section 100.12(b), and no witness shall testify whose name was not provided pursuant to Section 100.12(c). For purposes of this subsection, a showing of good cause shall mean that a party, through no fault of its own, did not have knowledge of a document to be offered into evidence or the name of a witness within the timeframe necessary for compliance with Section 100.12(b) and (c), and provided notice of the evidence or witness to the opposing party as soon as possible after learning about the existence of the evidence or witness.

o) The Director or the administrative law judge will make a record of the hearing in all administrative hearings under this Part, using such technology for recording the hearing as either the Director or the administrative law judge determines to be adequate for preserving a record of the hearing. Any person may make arrangements to obtain a copy of the record. The Department reserves the right to employ a certified stenographic reporter, and will do so when required by statute. Unless an applicable statute expressly provides otherwise, the actual costs of the stenographic reporter's attendance, if one was employed, and the transcript or transcripts shall be shared equally among the parties whenever a party requests review of a Department decision by the circuit court. The party shall provide payment prior to the Department's transmission of the transcript to the circuit court.

p) Corrections to the transcript of the record limited to transcription errors may be made by the Director or an administrative law judge.

q) At the request of any party, the administrative law judge may exclude all witnesses from the hearing room, or, in the case of video conferenced proceedings, by barring witnesses from the videoconference until such time as they have first testified in the hearing, except that each party or a representative of a party, in addition to legal counsel, shall be allowed to remain.

r) All objections shall be raised using a short and concise statement of the basis for the objection.

s) The administrative law judge shall have the authority to conduct hearings on motions and other matters by telephonic or other electronic means, so long as all parties of record are afforded the option to attend using a similar electronic method. If the administrative law judge permits the use of electronic means, the administrative law judge and all parties may choose to participate from any location. However, if a controlling statute mandates the location of a hearing, all parties shall be afforded the option to attend from a statutorily mandated location.

(Source: Amended at 46 Ill. Reg. 8158, effective May 5, 2022)