

PLEASE NOTE:
The following Rules are effective as of January 1, 2021, but they are subject to possible revision by the New Mexico Supreme Court

New Mexico Medical Review Commission
Rules of Procedure

Rule 1. Video-Taping/Recording of Hearings. Video-taping or video recording is not permitted of New Mexico Medical Review Commission hearings.

[Effective 01/01/21. Amends rule dated 12/12/1983]

Rule 2. Disqualifications. No disqualification of a panel member, as provided in §41-5-17(H), N.M.S.A. (1978) will be honored by the Commission unless:

- a. It complies with the Act.
- b. It is filed in the office of the Commission by noon not later than six (6) business days prior to the day set for the panel hearing. The party submitting the challenge assumes the risk of the means utilized to notify the Commission.
- c. The Commission is required to comply with the following deadlines:
 - A list of all panelists responding to the Panel Poll will be emailed to counsel fourteen (14) calendar days prior to the day set for the panel hearing.
 - The list will designate (1) the panelists chosen by the applicable committee chair and (2) the alternate panelists,
 - The Commission will promptly forward to the panelists all records and other matter timely submitted by the parties.

[Effective 01/01/2021. Amends rules dated 02/17/1984, and 04/15/1994.]

Rule 3. Hearings.

A. **Format.** The chairperson of the panel, as defined in N.M. Stat. Ann. § 41-5-17(H) (1978), shall determine whether a panel screening will be live versus electronic. Panel hearings may be held (1) with all panelists, counsel, parties and witnesses (known collectively as participants) making live appearances; (2) with all participants appearing through an online video platform (e.g., ZOOM, GoToMeeting); (3) with some participants making live appearances and others appearing through an online video platform, and (4) through any other means approved by all parties and the chair of the panel.

B. Presentations to Panelists.

1. Patient Duties.

- a. If the patient feels the application is adequate to provide the brief introductory statement required by § 41-5-19(A), no supplementary 'brief' is necessary.
- b. If the patient desires to submit a supplementary brief, the brief must be received at the Commission offices within **15 calendar days before** the panel hearing.
- c. Within **15 calendar days before** the panel hearing, the patient must also provide copies of the medical records it will be presenting to the panelists).
- d. After receiving briefs on behalf of the providers, if any (see Rule 2 below), within **5 calendar days before** the hearing the patient may submit a one-page brief responding to each brief submitted by each provider.

2. Provider Duties.

- a. If the provider feels its answer to the application is adequate to provide the introductory statement permitted by § 41-5-19(A), no supplementary 'brief' is required.
- b. If the provider desires to submit a supplementary brief, the brief must be received at the Commission offices at least **10 calendar days before** the panel hearing.
- c. At least **10 calendar days before** the panel hearing, the provider must also provide copies of the medical records it will be presenting to the panelists as specified in Rule 3(b), below.

3. Duties of All Parties. Copies of all communications with-, and documents provided to-, the Commission must be provided to all counsel.

a. **Briefs.** Briefs are to be double-spaced with 12-point legible font. If a party desires to submit a brief in excess of five (5) pages (or one page for a responsive brief), it must arrange a timely (i.e. before the deadline for submission of the brief) conference call with all counsel and the Director to justify the length of the brief.

b. **Medical Records.** Within the time limits contained in Rules No. 1 and 2 above, each party must provide a PDF with consecutively numbered pages of those medical records that are germane to the claims and defenses. If a

party desires to provide more than 50 pages to support its position, it must first arrange a timely (i.e., before the deadline for submission of the records) conference call with all counsel and the Director to justify the number of documents.

c. **Other Documents.** At least **5 calendar days before** the hearing, each party must provide PDFs of all literature, visual aids, summaries, and the like the party plans to provide to the panel. At the hearing, counsel will not be hampered from introducing a *reasonable* number of additional records, literature, visual aids, etc. If the hearing is live, counsel must bring sufficient copies of additional materials for other counsel, the panelists and chairperson, and the court reporter. If the hearing is done by electronic means, the presenting party must be prepared in advance of the hearing to utilize the electronic presentation function of the on-line video platform.

d. **Audio Recording.** A party has a statutory right to make an audio recording of panel presentations, excluding panel deliberations, at the party's expense. Due to HIPAA and security issues associated with electronic meeting services, the Commission will not record panel presentations held electronically.

e. Throughout the Commission process, counsel are encouraged to confer on all issues, especially to avoid duplication of documents.

[Effective 01/01/2021]