4731-13-23 **Witnesses.**

(A) All witnesses at any hearing before the hearing examiner shall testify under oath or affirmation.

(B) A witness may be accompanied and advised by legal counsel. Participation by counsel for a witness other than the respondent is limited to protection of that ~~witness'~~witness's rights, and that legal counsel may neither examine nor cross-examine any witnesses.

(C) ~~Should a witness refuse to answer a question ruled proper at a hearing or disobey a subpoena,~~ The ~~the~~ board may institute contempt proceedings pursuant to section 119.09 of the Revised Code~~.~~, if a witness refuses to answer a question ruled proper at a hearing or disobeys a subpoena.

(D) For purposes of this chapter:

(1) A sitting board member is an individual who is currently a member of the board.

(2) A presiding board member is a sitting board member who has a decisive role in the outcome of the matter in question and who is neither the secretary nor the supervising member as appointed pursuant to Chapter 4731. of the Revised Code.

(3) A non-presiding board member is a sitting board member who does not have a decisive role in the outcome of the matter in question due to recusal, absence or other reason.

(4) A presiding hearing examiner is a hearing examiner who is assigned to the matter in question pursuant to section 4731.23 of the Revised Code.

(5) A non-presiding hearing examiner is a hearing examiner who is not assigned to the matter in question pursuant to section 4731.23 of the Revised Code.

(E) Neither a presiding board member nor a presiding hearing examiner shall be a competent witness in any adjudication proceeding. Evidence from other persons relating to the mental processes of a presiding board member or a presiding hearing examiner shall not be admissible.

(F) Unless the testimony of a non-presiding board member or a non-presiding hearing examiner is material to the factual allegations set forth in the notice of opportunity for hearing, neither a non-presiding board member nor a non-presiding hearing

examiner shall be a competent witness in any adjudication proceeding.

(G) A sitting board member shall not be subpoenaed to provide expert testimony.

(H) Any party may move for a separation of witnesses. Expert witnesses shall not be separated.

(I) Upon commencement of a hearing, each party shall inform the hearing examiner of the identity of each potential witness for his or her cause who is present in the hearing room. Failure to so identify potential witnesses may be grounds for their later disqualification as witnesses.

(J) A witness may, in the discretion of the attorney hearing examiner, testify as to an ultimate issue of fact. An expert witness may testify regarding the appropriate treatment for impairment.

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CERTIFIED ELECTRONICALLY

Certification

09/15/2016

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