

~~(A) Any matter which is the subject of a hearing may be settled at any time prior to the close of the hearing record. If settlement negotiations are to continue after the close of the hearing record, the representatives of record must, within ten days of the close of the hearing, jointly present the attorney hearing examiner with written notice specifying a period of time, not to exceed thirty days, for which the record is to be held open for purposes of negotiation. Such notice shall toll the attorney hearing examiner's thirty day time period for issuance of findings of fact and conclusions of law pursuant to section 4731.23 of the Revised Code. If the attorney hearing examiner has not received appropriate written notice that a settlement agreement has been executed within the time period specified by the representatives' joint notice, the tolling of the attorney hearing examiner's thirty day period for issuance of findings of fact and conclusions of law shall cease, no further settlement negotiations shall be undertaken, and no settlement agreement shall be executed in lieu of the issuance of a final order by the board.~~

~~(B)(A) Settlement shall be negotiated on behalf of the state medical board by the secretary and supervising member of the state medical board. Any settlement agreement containing terms not in conformity with the disciplinary guidelines adopted by the board must have the concurrence of the board's president prior to execution.~~

(B) Any matter which is the subject of a hearing may be settled by the parties. If settlement negotiations continue after the final day of hearing, the parties shall, within ten days of the final day of hearing, jointly present the hearing examiner with written notice specifying a period of time, not to exceed thirty days, during which the record shall be held open for purposes of negotiation.

(1) If the hearing record has closed or closes during the period of time specified in the parties' joint notice, such notice shall toll the hearing examiner's thirty-day time period for issuance of findings of fact and conclusions of law pursuant to section 4731.23 of the Revised Code.

(2) If, at the conclusion of the time period specified by the parties' joint notice, the hearing examiner has not received appropriate written notice that a settlement agreement has been executed, the tolling of the hearing examiner's thirty-day period for issuance of findings of fact and conclusions of law shall cease, no further settlement negotiations shall be undertaken, and no settlement agreement shall be executed in lieu of the filing of a report and recommendation by the hearing examiner and the issuance of a final order by the board.

(C) Before being submitted to the board for ratification, all ~~all~~ settlement agreements shall be in writing and shall be signed by the respondent; and by the respondent's attorney, if any secretary and supervising member of the board. ~~The representative~~

~~from the office of the attorney general and the respondent's attorney, if any, shall sign the agreement in their representative capacities.~~

(D) Signed settlement agreements shall be submitted to the board for ratification ~~by the board.~~

(E) If the Board ratifies a settlement agreement, the following shall sign the ratified agreement:

(1) The secretary and supervising member of the board shall sign the ratified agreement.

(2) If the settlement agreement was negotiated prior to the issuance of a notice of opportunity for hearing, an appropriate board staff attorney shall sign the ratified agreement.

(3) If the settlement was negotiated subsequent to the issuance of a notice of opportunity for hearing, an attorney from the office of the attorney general shall sign the ratified agreement.

~~(E)(F) Authorization to enter a notice of dismissal must be received from the board's secretary and supervising member. Such a notice~~ A notice of dismissal may be entered at any time prior to closing of the hearing record the filing of the report and recommendation. If negotiations are to be continued and the hearing record has been closed, continue after the final day of hearing, the procedures in paragraph (A)(B) of this rule must shall be followed. Any A notice of dismissal must shall be authorized and signed by the board's secretary and supervising member.

~~(F)(G)~~ This rule shall not neither apply to nor limit the authority granted the board under division (H) (M) of section 4731.22 of the Revised Code with regard to the surrender of a license or certificate or the withdrawal of an application for a license or certificate.

~~(G)(H)~~ In the event that the board issues an amended notice of opportunity for hearing, the original notice of opportunity for hearing is automatically superseded by the amended notice. To request a hearing pursuant to Chapter 119. of the Revised Code, the respondent must file a new hearing request in response to the amended notice of opportunity for hearing. For purposes of this chapter of the Administrative Code, "amended cite" means a cite in which there has been a substantive alteration to one or more factual allegations or statutory charges, other than correction of a clerical or technical error, that relates to the allegations set forth in the original notice.

Effective: 02/28/2004

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Certification

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Date

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