§ 31.17 Formal hearings; procedure.

(a) When a hearing must be afforded pursuant to this chapter, the hearing shall be held without undue delay and all parties shall be given reasonable notice of the time, place, and nature of the hearing.

(b) The commissioner, acting as hearing officer, or any person designated by him as hearing officer shall have power to:

1. administer oaths and affirmations.

2. issue subpoenas, which shall be regulated by the civil practice law and rules.

3. take testimony.

4. control the conduct of the hearing.

(c) The rules of evidence observed by courts need not be observed except that the rules of privilege recognized by law shall be respected. Irrelevant or unduly repetitious evidence may be excluded.

(d) All parties shall have the right to counsel and be afforded an opportunity to present evidence and cross-examine adverse witnesses.

(e) If evidence at the hearing relates to the identity, condition, or clinical record of a patient, the hearing officer may exclude all persons from the room except parties to the proceeding, their counsel and the witnesses. The record of such proceeding shall not be available to anyone outside the department other than a party to the proceeding or his counsel, except by order of a court of record.

(f) The commissioner may establish regulations to govern the hearing procedure and the process of determination of the proceeding.

(g) The commissioner shall issue a ruling within ten days after the termination of the hearing or, if a hearing officer has been designated, within ten days from the hearing officer's report.

(h) The hearing officer shall submit an initial report and proposed order in writing to the commissioner within sixty days of the conclusion of the hearings.