§ 32.23 Formal hearings; procedure.

(a) Unless otherwise provided by law, when a hearing must be afforded pursuant to this article, 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 or her 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; and

4. control the conduct of the hearing.

(c) The rules of evidence observed by the courts need not be observed except that the rules of privilege and confidentiality 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 office other than a party to the proceeding or his or her counsel, except by order of a court of record.

(f) If a hearing officer has been designated, within twenty days of receipt of the stenographic transcript or the date fixed for submission of written memoranda, whichever is later, the hearing officer shall submit a final report of findings and a proposed order to the commissioner, along with the entire record of the hearing.

(g) The commissioner shall issue a determination within ten business days after the termination of the hearing or, if a hearing officer has submitted a report in accordance with subdivision (f) of this section, within ten business days from receipt of such officer's report.

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