

Subdivision (c) of Section 300.7 of Title 12 NYCRR is amended to read as follows:

(c) Individual [b]Board member hearings. When a [case] claim is before a panel of the board and the panel deems new or additional evidence is necessary for a determination thereof, the panel may hear and receive such evidence. The panel may, however, designate one of its members to do so, in which event the [stenographic transcript] record of such hearing in a readable, viewable or audible format shall be made part of the [record] case file maintained by the Board, and the determination of the panel shall be based upon the entire [record] case file maintained by the Board.

Section 300.9 of Title 12 NYCRR is repealed and a new section 300.9 is adopted to read as follows:

(a) All hearings and proceedings shall be conducted in an orderly manner in order to ascertain the substantial rights of the parties. All parties and participants in any hearing or proceeding shall maintain a civil, respectful and professional demeanor when appearing before the Board or when conducting depositions relative to a claim and comply with the Standards of Civility adopted by the Board. Parties and participants who are disrespectful or disruptive in any hearing or proceeding, so as to interfere with the orderly conduct of the hearing or proceeding, will be removed so the hearing or proceeding may continue in an orderly manner.

(b) All witnesses shall testify under oath (or by affirmation). The Board and Workers' Compensation Law Judges may examine and cross-examine all parties and witnesses at any hearing or proceeding. The Board shall not be bound by common law or statutory rules of evidence or by technical or formal rules of procedure.

(c) The Board shall keep a verbatim record of all hearings and proceedings. No other record shall be allowed. The Board will maintain in its case file a copy of the verbatim record it prepared in a readable,

viewable or audible format. No other record of a hearing or proceeding in a readable, viewable or audible format shall be allowed.

Subsection (d) of Section 300.13 of 12 NYCRR is amended to read as follows:

(d) The [b]Board [file] shall [contain a copy of all stenographic minutes of hearings] have the verbatim records of all hearings and proceedings placed in the case file it maintains in a readable, viewable or audible format where the issue or issues raised in the application for review were covered, and the case file shall only be considered by a [b]Board [p]Panel after the [minutes] verbatim records covering the disputed issues are inserted in the case file.[The review bureau shall promptly make arrangements for the transcription of all minutes not heretofore inserted in the file, as set forth above, and such minutes shall be inserted in the file.]

Subdivisions (b), (c), (e), (f) and (g) of Section 300.18 of 12 NYCRR are amended to read as follows:

(b) In the event that the appellant wishes additional [minutes] verbatim records of hearings or proceedings that are not in a viewable or audible format to be transcribed which heretofore have not been transcribed and made part of the case file maintained by the Board [inserted in the file], the board shall make arrangements for the immediate transcription of same, and [a typewritten copy of the minutes] such transcript shall be inserted in the case file. [and a photo or typewritten] A copy of such transcript shall be furnished to the appellant upon the payment of the fees as required by section 122 of the Workers' Compensation Law.

(c) The designation of portions of the case file made on behalf of the respondent [b]Board shall be made by its general counsel's office with the advice of the Attorney General. [Each respondent, except for the Workers'

Compensation Board, shall pay the fee as required by section 122 of the Workers' Compensation Law for the transcribing of any minutes not theretofore transcribed and designated by such respondents, and a typewritten copy of said minutes shall be inserted in the file and a typewritten copy or photocopy furnished to the respondent requesting such minutes.] In the event that a respondent wishes additional verbatim records of hearing or proceedings that are not in a viewable or audible format to be transcribed which heretofore have not been transcribed and made part of the case file maintained by the Board, the Board shall make arrangements for the immediate transcription of the same, and such transcript shall be inserted in the case file. A copy of such transcript shall be furnished to the respondent upon the payment of the fees as required by section 122 of the Workers' Compensation Law, except that the Board is not required to pay such fee.

(e) The [b]Board, upon request of any party, shall render a written decision in the event that there is an unresolved dispute as to the record list or the contents of the case file maintained by the Board.

(f) Within 30 days after certification of the record list, the [b]Board shall, at the prepaid expense of the respective parties other than the respondent Workers' Compensation Board, make arrangement for and provide each party with copies of the [items]documents, exclusive of [stenographic minutes] transcripts of hearings or proceedings recorded and transcribed by a Board employed verbatim reporter, requested by each respective party. In the case of [stenographic minutes] transcripts prepared by a Board employed verbatim reporter, the respective parties, except for the Workers' Compensation Board, shall pay for copies of requested minutes directly to the [hearing]verbatim reporter[as required by section 122 of the Workers' Compensation Law], and the [b]Board, in the interest of expediency, may in its discretion provide photocopies of the same. Any interested party, as authorized by section 110-a of the Workers' Compensation Law, upon prepayment of the appropriate fee, may request a [photo]copy of the entire [b]Board case file to be furnished to him/her.

(g) In the event an additional appeal is filed from a denial of an application to reconsider or reopen a case pending on appeal, said additional appeal shall be processed concurrently with the prior appeal and in accordance with the procedures and limitations set forth in this section. The record on appeal in such instances shall consist of the record list previously certified in accordance with the provisions of section 800.18(d) of the rules of the Appellate Division, Third Department (22 NYCRR 800.18(d)), and, in addition thereto, the parties may designate any additional [papers] documents in the [b]Board case file that they wish to include in the record list relative to the second appeal being filed.

Subdivision (c) of Section 325-4.6 of 12 NYCRR is amended to read as follows:

(c) At the hearing on such charge or charges, the accused hospital or health maintenance organization shall be entitled to have counsel present and to cross-examine witnesses. A [stenographic]verbatim record of the proceedings shall be made, and witnesses shall testify under oath

Subdivision (b) of Section 326-1.5 of 12 NYCRR is amended to read as follows:

(b) At the hearing on such charge or charges, the accused physician, medical bureau or laboratory shall be entitled to be represented by counsel and to cross-examine witnesses. A [stenographic]verbatim record of the proceeding shall be made, and witnesses shall testify under oath.

Section 326-2.7 of 12 NYCRR is amended to read as follows:

If the Medical Appeals Unit shall permit oral argument or the taking of additional testimony, any one or more than one of the members of the Medical Appeals Unit may conduct the hearing. A [stenographic]verbatim record of such oral argument, testimony and evidence shall be made and filed with and become part of the record of the case on appeal or review, and thereupon the Medical Appeals Unit shall make its decision and recommendation thereon

Subdivision (b) of Section 330.4 of 12 NYCRR is amended to read as follows:

(b) On the hearing of such charge or charges, the accused psychologist shall be entitled to be represented by counsel and to cross-examine witnesses. Witnesses shall be placed under oath. A [stenographic]verbatim record of the proceedings shall be made.

Subdivision (b) of Section 340.4 of 12 NYCRR is amended to read as follows:

(b) On the hearing of such charge or charges, the accused podiatrist shall be entitled to be represented by counsel and to cross-examine witnesses. Witnesses shall be placed under oath. A [stenographic]verbatim record of the proceedings shall be made.

Subdivision (b) of Section 345.4 of 12 NYCRR is amended to read as follows:

(b) On the hearing of such charge or charges, the accused chiropractor shall be entitled to be represented by counsel and to cross-examine witnesses. Witnesses shall be placed under oath. A [stenographic]verbatim record of the proceedings shall be made.