

## APPENDIX A

### RULES OF ORDER FOR ALL APPEALS BEFORE THE LONG TERM CARE FACILITY ADVISORY BOARD

1. The Long Term Care Facility Advisory Board shall hear all appeals by licensed long term care facilities, long term care administrators, or other parties regulated by the Office of Long Term Care with regards to licensure and certification under the authority of Section II of Act 58 of 1969 as amended by Act 28 of 1979 (Ark. Stat. Ann §82-2211).
2. All appeals shall be made in writing to the Chairman of the Board within thirty (30) days of receipt of notice of intended action. The notice shall include the nature of intended action, regulation allegedly violated, and the nature of the evidence supporting allegation and set forth with particularity asserted basis for the appeal with supporting documentation attached and set forth with particularity those asserted violations, discrepancies, and dollar amounts which the appellant contends are in compliance with all rules and regulations.
3. Appeals must be heard by the Board within sixty (60) days following date of Chairman's receipt of written appeal unless otherwise agreed by both parties. The Chairman shall notify the party or parties of the date, time, and place of the hearing at least seven (7) working days prior to the hearing date.
4. Preliminary motions must be made in writing and submitted to the Chairman and/or hearing officer with service to opposing party at least three (3) days prior to hearing date unless otherwise directed by the Chairman of hearing officer.
5. All papers filed in any proceeding shall be typewritten on white paper using one side of the paper only and will be double-spaced. They shall bear a caption clearly showing the title of the proceeding in connection with which they are filed together with the docket number if any. All papers shall be signed by the party or his authorized representative or attorney and shall contain his address and telephone number. All papers shall be served either on the Legal Department of Social Services, the attorney for the party, or if no attorney for the party, service shall be made on the party.
6. The Chairman of the Board shall act as Chairman in all appeal hearings. In the absence of the Chairman, the Board may elect one of their members to serve as Chairman. The Chairman shall vote only in case of a tie. The Chairman and/or Board may request legal counsel and staff assistance in the conduct of the hearing and in the formal preparation of their decision.
7. A majority of the members of the Board shall constitute a quorum for all appeals.
8. If the appellant fails to appear at a hearing, the Board may dismiss the hearing and render a decision based on the evidence available.
9. Any dismissal may be rescinded by the Board if the appellant makes application to the Chairman in writing within ten (10) calendar days after the mailing of the decision,

showing good cause for his failure to appear at the hearing. All parties shall be notified in writing of an order granting or denying any application to vacate a decision.

10. Any party may appear at the hearing and be heard through an attorney at law or through a designated representative. All persons appearing before the Board shall conform to the standards of conduct practiced by attorneys before the courts of the State.
11. Each party shall have the right to call and examine parties and witnesses; to introduce exhibits; to question opposing witnesses and parties on any matter relevant to the issued; to impeach any witness regardless of which party first called him to testify; and to rebut the evidence against which party first called him to testify; and to rebut the evidence against him.
12. Testimony shall be taken only on oath or affirmation under penalty of perjury.
13. Irrelevant, immaterial, and unduly repetitious evidence shall be excluded. Any other oral or documentary evidence, not privileged, may be received if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. Objections to evidentiary offers may be made and shall be noted of record. When a hearing will be expedited, and the interests of the parties will not be substantially prejudiced, any part of the evidence may be received in written form.
14. The Chairman or hearing officer shall control the taking of evidence in a manner best suited to ascertain the facts and safeguard the rights of the parties. The Office of Long Term Care shall present its case first.
15. A party shall arrange for the presence of his witnesses at the hearing.
16. Any member of the Board may question any party or witness.
17. A complete record of the proceedings shall be made. A copy of the record may be transcribed and reproduced at the request of a party to the hearing provided he bears the cost thereof.
18. Written notice of the time and place of a continued or further hearing shall be given, except that when a continuance or further hearing is ordered during a hearing, oral notice of the time and place of the hearing may be given to each party present at the hearing.
19. In addition to these rules, the hearing provisions of the Administrative Procedure Act (Ark. Stat. Ann §5-701 et. seq.) shall apply.
20. At the conclusion of testimony and deliberations by the Board, the Board shall vote on motions for disposition of the appeal. After reaching a decision by majority vote, the Board may direct that findings of fact and conclusions of law be prepared to reflect the Board's recommendations to the Commissioner of Social Services. At this discretion and for good cause the Commissioner of Social Services shall have the right to accept, reject or modify a recommendation, or to return the recommendation to the Board for further consideration for a more conclusive recommendation. All decisions shall be based on

findings of fact and law and are subject to and must be in accordance with applicable State and Federal laws and regulations. The final decision by the Commissioner of Social Services shall be rendered in writing to the appellant.

21. All decisions of the Commissioner may be reviewed by a court of competent jurisdiction as provided under the Administrative Procedure Act.