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# UTAH DEPARTMENT OF COMMERCE

## Division of Professional Licensing

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## PRO'SE INFORMATION GUIDE

The Utah State Commerce Department, Division of Professional Licensing (“DOPL”), has received your Notice of Intent to Commence a Civil Action. This information sheet is intended to assist in acquainting you with the prelitigation process, and to help prepare for the Pre-Litigation Hearing.

Pre-Litigation review panels in alleged medical liability cases, against health care providers, are required under Chapter 14, Title 78, of the Utah Code Annotated. The administrative rules applicable to prelitigation review panels are found in Section R156-78A of the Utah Administrative Code. We recommend that you review those statutes and regulations in order to familiarize yourself with the legal requirements applicable to the Pre-Litigation panel review process.

Find the Pre-Litigation webpage here: <https://dopl.utah.gov/prelitigation/>

Find Pre-Litigation Laws and Rules here: <https://dopl.utah.gov/prelitigation/laws-and-rules/>

The hearing will be electronically through Google Meets. You will receive an invite the week before the hearing.

The Pre-Litigation panel that will hear your case will consist of:

- 1) An attorney-chairperson;
- 2) A lay member who is not a health care provider, hospital employee or attorney;
- 3) A licensed health care provider practicing in each specialty in which each respondent healthcare provider practices; and
- 4) If a hospital or its employees is named as a respondent, a hospital administrator.

Pre-Litigation panel hearings are informal and non-binding. They are confidential, and not open to the public.

Formal rules of evidence, such as those applicable in a court proceeding, do not apply to pre litigation panel hearings.

Unless extraordinary circumstances exist, the hearing is not recorded.

There exists no right of cross-examination by the parties or their counsel, and the findings of the panel are not admissible in evidence in any subsequent court proceeding.

Pre-Litigation hearings are helpful to the parties in evaluating the strengths and weaknesses of their cases. Having a panel of impartial panelists review the evidence and assess the merits of each party's claims affords the parties and their attorneys an opportunity to make valuable decisions on whether or how to continue to pursue or defend a case.

With this in mind, we make the following suggestions to facilitate the presentation of your case at a panel hearing:

1. Prepare a written summary or outline of your case to present to the panel, with appropriate references to medical records, treatises, and other supporting documentary evidence. *Remember, although you may be intimately familiar with the facts of the case, the panel is hearing about the case for the first time. A simple, but adequate, explanation of the medical procedures involved in the case, and the factual basis for the claim or defense is most helpful to the panel in analyzing the claim.*
2. Provide copies of all relevant documentary evidence to all panel members (and opposing counsel), highlighting the pertinent portions.
3. Where appropriate, provide testimony from the parties and verbal explanations relevant to the case.
4. Be prepared to answer questions from the panel. Be prepared to explain the theories of your case, as well as provide medical explanations in response to inquiries from panel members.
5. Avoid verbal sparring or other confrontational conduct. *Although the hearing is informal, the same rules of decorum and personal conduct that attend a court proceeding should be observed before the panel. Because emotions may at times run high at a hearing, and because the parties and their attorneys are in close physical proximity, it may be tempting to make comments or criticisms that would be inappropriate in a more formal setting. Such behavior rarely helps the panel to carry out its purposes.*

Once the hearing is concluded, the panel will make a decision on the merits of the petitioner's claim. That finding, along with a panel opinion prepared by the attorney-chairperson, will be filed within 30 days of the hearing, and, if the panel finds the claims to be meritorious, a "Certificate of Compliance" will be issued to the parties. If the panel finds the claims to be non-meritorious, Affidavits of Merit will be required before a Certificate of Compliance can be issued.

We look forward to your prompt attendance at the scheduled hearing. If you have any questions about the Pre-Litigation panel hearing process, please contact us at [prelitigation@utah.gov](mailto:prelitigation@utah.gov)