

BOVM EVIDENTIARY HEARING PROCEDURES OUTLINE **(When Board Hears Case Without Hearing Officer)**

Preliminary Matters:

1. Board Chair or General Counsel Open Hearing and Introductory Statement
2. Party and Attorney Introductions on the Record; GC acts as Facilitator.
3. Explain Procedures/Process—APA and AG Rules of Procedure Apply
4. Chair or GC Explain Procedural History of Case, if helpful or necessary
5. Preliminary Matters? Pending motions?
6. Stipulations on Exhibits or Testimony?
7. Mark Exhibits on Front End or wait until introduced?—
Pre-marked Exhibits?
Objections?
--Liberal Admissibility of Evidence (67-5251(1))—Test: Prudent Person in Conduct of His Affairs. Typically goes to weight, not admissibility.
--Rulings on Admissibility by Chair with GC assistance if needed
--Official Notice (Complaint and Answer in Record—BUT NOT EVIDENCE). Other documents?

Opening Statements: Optional by Parties: (5-10 Minute Limit?)

Presentation of Evidence: (As to Each Witness)-under oath

1. Board staff or Prosecutor goes first/Respondent (Licensee) second
2. Administer Oath to Witness—use Court Reporter if have one
3. Witness Testimony and Exhibits
--Objections? Rulings on admissibility by Chair with GC assistance if needed
4. Telephonic Testimony? (Readily admissible)
5. Cross Examination
6. Re-Direct? Re-Cross?
7. Questions by Board? Questions by General Counsel?

Closing Matters:

1. Parties request opportunity to submit written briefing?
2. Board can ask for written briefs from parties or conduct further hearing
3. Board or parties request hearing transcript before briefing or decision?
4. Oral Closing Statements or Argument? Time limitations: (10-15 minutes each)?
5. GC notification of law, if necessary
—Burden of Proof on State by Clear & Convincing Evidence
6. Chair Closes Hearing
7. Board deliberate and issue decision in accordance with APA and AG Rules of Administrative Procedure. Board typically decides case right after hearing, but Deadline may be: 56 days from oral argument or receipt of final brief.