WEST VIRGINIA CODE: §22B-1-8

§22B-1-8. General provisions governing discovery.

(a) Parties to a hearing may petition a board to obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending hearing, subject to the procedural rules of the boards and the limitations contained herein.

(b) The following limited discovery may be commenced and obtained by any party to the hearing without leave of a board:

(1) Requests for disclosure of the identity of each person expected to be called as a witness at the hearing and, at a minimum, a statement setting forth with specificity the facts alleged, the anticipated testimony and the identity of any documents relied upon in support of the anticipated testimony of each witness and whether that witness will be called as an expert; and

(2) Requests to identify with reasonable particularity the issues which are the subject of the hearing.

(c) Any party may object to a request or manner of discovery authorized by this section provided the objection sets forth with particularity the grounds for the objection. A party may move the board to rule on the propriety of the discovery or objection and request the board to enter an order as the board deems appropriate.

(d) Any party may seek, by motion, a protective order from the discovery sought by another party and, if required, the board may protect a party from unwarranted discovery. Upon motion of a party or upon a board's own motion, the board may enter such protective order limiting discovery, which order shall not be inconsistent with the standards for protective orders set forth in the West Virginia rules of civil procedure.

(e) Upon motion of a party or upon a board's own motion, the board may authorize or order any additional discovery as may be appropriate or necessary to identify or refine the issues which are the subject of the hearing. Upon agreement of the parties, or upon order of a board, the board may authorize or order the taking of the deposition of any witness with information or knowledge relevant to the subject matter of the hearing which deposition may be noticed by subpoena or subpoena duces tecum.

(f) Upon motion of a party or upon a board's own motion, a board may hold a prehearing conference, as soon as practicable after the commencement of an appeal, which conference shall be for purposes of promoting a fair, efficient and expeditious hearing process. Following the conference, the board may enter an order or take such other action as may be appropriate with respect to discovery issues.

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(g) For purposes of this section, in all cases where the board is authorized or empowered to issue orders, a member of the board, with the concurrence of a majority of the board, may act on behalf of the board, the board may act itself or through its clerk or hearing examiner, as such person is authorized to do so by the board.

(h) Every request for discovery or response or objection thereto made by a party shall be signed in the same manner as is provided for in Rule 26 of the West Virginia rules of civil procedure.

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