

July 30, 2018

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Minnesota Attorney General's Office
445 Minnesota St Ste 1400
Saint Paul, MN 55101

Gregory R. Merz
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Minneapolis, MN 55402


**Re: *In the Matter of the License Application of Children's Minnesota*
OAH 71-0913-35344**

Dear Counsel:

Enclosed and served upon you please find the **PREHEARING ORDER** in the above-entitled matter.

If you have any questions, please contact my legal assistant Lisa Armstrong at (651) 361-7888, lisa.armstrong@state.mn.us, or facsimile at (651) 539-0310.

Sincerely,


JESSICA A. PALMER-DENIG
Administrative Law Judge

JPD:la

Enclosure

cc: Docket Coordinator

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE EMERGENCY MEDICAL SERVICES REGULATORY BOARD

In the Matter of the License Application of
Children's Minnesota

PREHEARING ORDER

This matter came before Administrative Law Judge Jessica A. Palmer-Denig for a prehearing conference on July 27, 2018.

Gregory J. Schaefer, Assistant Attorney General, appeared on behalf of the Emergency Medical Services Regulatory Board (Board), along with Anthony Spector, the Board's Executive Director. Gregory R. Merz, Gray, Plant, Mooty, Mooty & Bennett, P.A., appeared on behalf of Children's Minnesota (Applicant).

Based upon the submissions of counsel and the hearing record,

IT IS HEREBY ORDERED:

1. The date to identify expert witnesses and serve expert witness statements related to matters for which a party has the burden of proof shall be **August 31, 2018**. The disclosure of expert witnesses shall include a report, prepared and signed by the witness, as set forth in Minn. R. Civ. P. 26.01(b)(2), which contains the following information for each expert:

- The name, business address, and telephone number of the expert witness;
- A complete statement of all opinions the witness will express and the basis and reasons for them;
- The facts or data considered by the witness in forming them;
- Any exhibits that will be used to summarize or support them;
- The witness's qualifications, including a list of all publications authored in the previous 10 years;
- A list of all other cases in which, during the previous four years, the witness testified as an expert at trial or by deposition; and

- A statement of the compensation to be paid for the study and testimony in the case.

2. The parties have not requested that a deadline for discovery be set. The parties are encouraged to resolve any discovery disputes between themselves but may request a telephone conference if their efforts are unsuccessful. To obtain copies of the agency's file, a party should make a written demand pursuant to Minn. R. 1400.6700 (2017). The parties should not copy the Administrative Law Judge on discovery requests or responses unless such documents are the subject of a filed motion.

3. The parties have indicated that they believe this case is not amenable to a negotiated resolution. If the parties do wish to engage in dispute resolution efforts, they are encouraged to consider settlement and/or mediation. Requests for a settlement conference or mediation shall be made to the Chief Administrative Law Judge so that she can promptly assign a mediator to conduct the mediation or settlement conference. See Minn. R. 1400.5950 and 1400.6550 (2017). Note that all parties must join in a request for mediation.

4. The deadline to request subpoenas for the attendance of witnesses or the production of documents shall be **September 10, 2018**. Requests for subpoenas for the attendance of witnesses or for the production of documents shall be made in writing to the Administrative Law Judge pursuant to Minn. R. 1400.7000 (2017). A copy of the subpoena request shall be served on the other parties. A subpoena request form is available at <http://mn.gov/oah/forms-and-filing/forms/>.

5. Not later than **4:30 p.m. on September 10, 2018**, the Board shall file, and serve upon Applicant, a notification identifying any interested persons who have indicated to the Board that they wish to participate in the hearing in this matter.

6. A prehearing conference shall be held at **1:30 p.m. on September 17, 2018**, at the Office of Administrative Hearings, 600 North Robert Street, St. Paul, Minnesota 55101. The prehearing conference will address procedures for the presentation of evidence at the hearing, the manner in which interested persons will participate in the hearing, and other preliminary issues. Interested persons who wish to participate in the hearing in this matter must participate in the prehearing conference. If appearing in person at the prehearing conference imposes an undue burden upon any interested person, that person should submit a request for permission to appear by telephone to the Administrative Law Judge as soon as possible prior to the prehearing conference, explaining the reason for the request.

7. By **4:30 p.m. on September 17, 2018**, the parties shall exchange and file with this Office their proposed pre-labeled exhibits, an index of the proposed exhibits, and their witness lists. See Minn. R. 1400.6950 (2017). Due to the procedural posture of this matter, the Board does not anticipate providing evidence at the hearing. If the Board determines that it will offer exhibits, the Board's exhibits shall be labeled sequentially using numbers 1 through 99. Applicant shall label its exhibits sequentially beginning with the number 100. All exhibit pages should be separately numbered. Any

party filing proposed hearing exhibits using the eFiling system or by fax shall also provide a paper copy of the proposed hearing exhibits to the Administrative Law Judge on the same date the exhibits are faxed or eFiled. Paper copies of exhibits shall be tabbed and placed in three-ring binders if exceeding 100 pages. For hearings held at the Office of Administrative Hearings (OAH), OAH can provide a projector capable of attaching to a laptop or flash drive to display electronic exhibits on a wall in the courtroom. To utilize this technology, parties may bring their own laptops, a flash drive, or a disc containing their electronic exhibits. OAH can provide a laptop, if necessary. If you wish to reserve the projector system, please contact leeann.cary@state.mn.us at least 24 hours prior to the scheduled hearing. Please note that in all cases, parties are required to bring an extra copy of their pre-marked exhibits in a tabbed binder for the witnesses to use on the stand.

8. Not later than **4:30 p.m. on September 19, 2018**, interested persons who wish to participate in the hearing shall submit any written materials on which they intend to rely to the Administrative Law Judge and provide a copy of the materials to the Board and Applicant. Written materials may be submitted to the Administrative Law Judge: (1) **by eFiling** through the Office of Administrative Hearings' eFiling system at <http://mn.gov/oah/forms-and-filing/efiling/>; (2) **by mail**; (3) **by fax**; or (4) **by personal delivery**.

9. To the extent possible, the parties shall enter into prehearing stipulations regarding the facts involved in the hearing and the foundation for anticipated exhibits. Any party objecting to the foundation for any written exhibit shall notify the offering party and the judge in writing at least two (2) working days prior to the hearing or the foundation objection is considered waived.

10. A hearing in this matter will be held at the Office of Administrative Hearings, 600 North Robert Street, St. Paul, Minnesota 55101, on **September 24-28, 2018**, beginning at **9:30 a.m.**

11. Hearings are ordinarily digitally recorded. A copy of the digital recording of the hearing can be obtained by a party who makes a written request. Transcripts of the hearing are not provided unless the cost for such transcription is paid in advance by the party making the request. Any party may arrange to have a court reporter at the hearing. A party shall notify the Office of Administrative Hearings prior to the hearing if the party has arranged for a court reporter to be at the hearing. All logistical and payment arrangements related to such are the responsibility of the requesting party, not the Office of Administrative Hearings. If a transcript is requested by any party, the requesting party is required to provide a copy of the transcript to the Chief Administrative Law Judge. If the assigned judge requests the presence of a court reporter and the preparation of a transcript, the costs of such will be borne by the agency pursuant to Minn. R. 1400.7400, subp. 2 (2017).

12. The parties have not requested accommodation for a disability nor the appointment of an interpreter. Please advise the Office of Administrative Hearings in writing as soon as possible if either an accommodation or an interpreter is needed.

13. Pursuant to Minn. R. 1400.7500 (2017), requests for continuances of a hearing shall be granted only upon a showing of good cause. A request for a continuance filed within five (5) business days of the hearing shall be denied unless the reason for the request could not have been earlier ascertained or unless good cause is shown.

14. Under Minn. R. 1400.6000 (2017), the failure of a party to appear at a prehearing conference or hearing without the prior consent of the Administrative Law Judge shall be considered a default by that party. Upon default, the allegations in this matter may be accepted as true and a default ordered against the nonappearing party.

15. If the matter is resolved prior to hearing, please provide written notice to the Office of Administrative Hearings immediately, and provide notice to the Administrative Law Judge by contacting Judge Palmer-Denig's legal assistant, Lisa Armstrong, at lisa.armstrong@state.mn.us or (651) 361-7888.

16. Any document filed with the Office of Administrative Hearings, or which a party wishes to make part of the record in this matter, may be filed with the Office of Administrative Hearings in any one of the following ways: (1) **by eFiling** through the Office of Administrative Hearings' eFiling system at <http://mn.gov/oah/forms-and-filing/efiling/>; (2) **by mail**; (3) **by fax**; or (4) **by personal delivery**. See Minn. Stat. § 14.58 (2016); Minn. R. 1400.5550, subp. 5 (2017). Attorneys representing government agencies are encouraged to eFile. Any party filing proposed hearing exhibits using the eFiling system or by fax shall also provide a paper copy of the proposed hearing exhibits to the Administrative Law Judge on the same date the exhibits are faxed or eFiled. Filings are effective on the date the Office of Administrative Hearings receives the filing. See Minn. R. 1400.5550, subp. 5, .5500(J), (Q) (2017).

Dated: July 30, 2018



JESSICA A. PALMER-DENIG
Administrative Law Judge