

**THE INDUSTRIAL ACCIDENT BOARD  
OF THE STATE OF DELAWARE**

**ORDER**

**WHEREAS**, on March 11, 2020, in response to the serious health threat posed by the novel coronavirus (“COVID-19”), the Industrial Accident Board (“the Board”) issued an order (“First Board Order”) setting forth certain precautionary measures to protect the health of the Board Members, Hearing Officers, staff, litigants, witnesses and the public, while still allowing Board hearings to proceed in-person; and

**WHEREAS**, on March 12, 2020 Governor John C. Carney declared a State of Emergency for the State of Delaware due to the public health threat caused by COVID-19;

**WHEREAS**, on March 16, 2020, in response to further developments concerning the COVID-19 outbreak, the Board issued another order (“Second Board Order”) which suspended/continued all workers’ compensation hearings through April 3, 2020, subject to review and extension and subject to further order of the Board; and

**WHEREAS**, the Delaware Supreme Court, on March 22, 2020, issued a directive temporarily closing court facilities, but indicating that “[a]ll non-emergency and non-essential telephonic and video hearings shall proceed at the discretion of each court;” and

**WHEREAS**, on March 31, 2020, the Board issued another order (“Third Board Order”) which extended the suspension of workers’ compensation hearings through April 10, 2020, but

which advised that, effective April 13, 2020, using video meeting technology, workers' compensation hearings (including merit hearings, evidentiary hearings and motion hearings) could proceed, by stipulation of the parties, in front of a Workers' Compensation Hearing Officer, provided that certain technical requirements were met; and

**WHEREAS**, on May 11, 2020, the Board issued a further order ("Fourth Board Order") that directed that, as of May 18, 2020, scheduled matters would proceed by video hearing before two Board Members in accordance with title 19, section 2301A(c) of the Delaware Code (or, if the parties so stipulate, before a solo Hearing Officer in accordance with title 19, section 2301B(a)(4)); and

**WHEREAS**, on June 1, 2020, non-essential businesses were permitted, subject to certain limitations, to reopen in Delaware under the Nineteenth Modification to Governor Carney's order declaring a State of Emergency; and

**WHEREAS**, on June 8, 2020, the Delaware Supreme Court commenced a phased in reopening plan of the Courts, allowing a limited amount of matters to proceed in person; and

**WHEREAS**, on October 5, 2020, the Delaware Courts entered phase 3 of their reopening plan, which increased the number of people allowed in State court facilities; and

**WHEREAS**, COVID-19 continues to pose a risk to public health and safety, prohibiting the Board from resuming the amount of in-person hearings that occurred prior to the State of Emergency; and

**WHEREAS**, certain limited workers' compensation hearings have proven impractical to handle by video technology, but which still involve matters concerning necessary requested relief and which require a means of proceeding "in person"; and

**WHEREAS**, although the Department of Labor buildings remain closed to the public, steps have been taken by the Department of Labor and the Industrial Accident Board to try to provide a safe environment for "in-person" hearings on a very limited basis.

**NOW, THEREFORE, it is HEREBY ORDERED, that:**

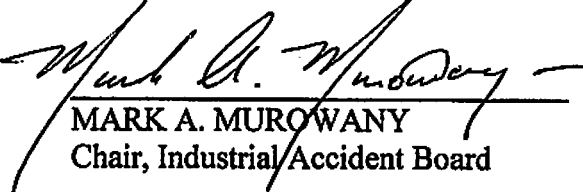
1. Although the majority of hearings will continue to be done as video hearings, beginning on November 2, 2020, a very limited number of hearings will be permitted to proceed on an in-person basis at the Department of Labor, Fox Valley location, at the discretion of the Industrial Accident Board. Because of the ongoing spread of the coronavirus, these in-person hearings will be strictly limited to those that require immediate relief that cannot otherwise be obtained by a virtual hearing and are not suitable for a video hearing.
2. These in-person hearings will be subject to the participants strictly following the attached safety protocols ("In-Person Hearings Procedures"). Each participant must complete a COVID-19 Screening Form prior to admittance to the building. The

screening form can be found at: <https://dia.delawareworks.com/workers-comp/forms.php>.

3. Such in-person hearings must be scheduled for a morning time slot only, to allow for proper cleaning and disinfecting of the hearing room. There will be no more than one hearing per hearing room per day.
4. In order to comply with building occupancy limits, all parties must provide the appropriate Workers' Compensation Specialist an accurate list of witnesses to appear at the hearing at least 2 business days prior to the in-person hearing. Late substitutions of one person for another will be permitted, but late additions of new names will not be allowed.
5. If a hearing is selected to proceed on an in-person basis, no later than 2 business days prior to the hearing, the parties are required to provide electronic versions and hand delivered hard copies to the Fox Valley location of certain anticipated exhibits, such as Hearing Stipulations and depositions, to the Workers' Compensation Administrator or her designee and to the Chief Hearing Officer or his designee, with each document separately and clearly identified and submitted. Failure to provide this documentation in compliance with this Board order may lead to administrative action.
6. Only a very limited number of hearings will be permitted to go in-person as exceptions to the Department's closed building status. Most hearings shall continue to proceed in video format, in accordance with the instructions given in the Fourth Board Order.

IT IS SO ORDERED this 22<sup>ND</sup> day of October, 2020.

**INDUSTRIAL ACCIDENT BOARD**

  
MARK A. MUROWANY  
Chair, Industrial Accident Board

# **Industrial Accident Board**

## **In-Person Hearings Procedures**

**Every person entering the Department of Labor (“DOL”) MUST adhere to the following general guidelines:**

- 1) Everyone must wear a face covering prior to entering the building.
- 2) Members of the public should provide their own face covering.
- 3) Everyone must maintain social distancing of at least 6 feet.
- 4) Only two people are permitted in the elevator at one time.
- 5) Everyone must use hand sanitizer and wash their hands frequently.
- 6) The proper occupancy rate, as determined by DOL Administration, will be maintained at all times.

**While the building is not open to the public except for the scheduled IAB Hearings:**

**Upon arrival at the DOL Facility:**

- 1) When all members of your party have arrived, one person (on behalf of each party/group) is to check in with Security and/or the designated Covid Consultant via cell phone. That designated person will leave a cell phone number with Security or Covid Consultant, so that the group can be contacted when the room is available. Entrance into the building is prohibited until the parties have been notified that the room is available. Entry will be through the side employee entrance. (green double doors to the right of the main entrance)
- 2) Check in contact numbers are :

- Fox Valley DOL security 302-761-8037 and front desk secretary 302-761-8042.
- Covid Consultants: Allison: 761-8215; Rob: 302-761-8177; Jean: 302-761-8193

3) A list of all people attending the hearing must be filed with the appropriate Worker's Compensation Specialist at least 2 business days prior to the IAB hearing. This list will be provided to the Covid Consultant by the WC Specialist. All visitors must be on an approved list for allowable entry per IAB BOARD Covid Order dated October 22, 2020 section 4.

4) All visitors must have their temperature taken by the Covid Consultant, and will complete a Coronavirus Screening form to given to the receptionist/security located at the allowable entrance. It is recommended that this form be filled out prior to entry to ensure social distancing is maintained. The form is available on the Workers' Compensation Section of the DIAWORKS website and will be emailed to the attorneys, along with the Notice of Hearing; per section 2 of the Covid IAB Board Order dated October 22, 2020.

5) Temperature readings will be evaluated as follows:

- If the thermometer/temperature reading shows a green indicator, entry will be permitted.
- If the thermometer/temperature reading shows a yellow indicator, a re-reading will be taken, and entry will be allowed when/if the reading shows a green indicator.
- If the thermometer/temperature reading shows a red indicator, the visitor will not be allowed entry and the parties shall consult with the Board/Hearing Officer to determine if the hearing should be rescheduled.

## **Upon entry into the IAB Hearing Rooms:**

All parties will:

- Utilize the provided hand sanitizer prior to taking a seat.
- Wear a face covering at all times.
- Maintain social distancing of at least 6 feet.
- Refrain from moving any furniture, which has been spaced appropriately.
- Provide their own supplies, including paper, pens, tissues, etc.

**Testimony/Speaking:**

A witness testifying or attorney questioning that witness must keep their mask on at all times. The examiner and witness must also ensure that a screen is between them while the questioning takes place.

**Witness Sequestration:**

Witnesses can wait in the second hearing room, or if a room is not available, witnesses may wait in chairs in the hallway. A chair will be placed at the far end so witnesses cannot hear the testimony. There are 4 witness chairs outside of the Hearing rooms.

**Exhibits and Depositions:**

Per IAB Board Order dated October 22, 2020, section 5:

If a hearing is selected to proceed on an in-person basis, no later than 2 business days prior to the hearing, the parties are required to provide electronic versions and hand delivered hard copies to the Fox Valley location of certain anticipated exhibits, such as Hearing Stipulations and depositions to the Workers'



his designee, with each document separately and clearly identified and submitted. Failure to provide this documentation in compliance with this Board order may lead to administrative action.

**Other Information:**

Each hearing room will be stocked with disinfectant spray and wipes.

The hearing rooms will be cleaned nightly and locked after cleaning.

The waiting area outside of the hearing room (FV) will be cleaned and spaced accordingly.



State of Delaware Department of Labor – IAB Hearings  
Coronavirus Screening

|   |  |
|---|--|
| Visitor's Name  | Location   |
| Job Title (if applicable)   | Date/Time  |
| 1. Have you had or do you currently have a fever greater than 99.5° Fahrenheit?                                       | FV <input type="checkbox"/> D <input type="checkbox"/> FV 2 <input type="checkbox"/> |
| 2. Are you experiencing symptoms of lower respiratory illness (e.g. cough, shortness of breath)?                      | Yes <input type="checkbox"/> No <input type="checkbox"/>                             |
| 3. Have you had close contact with a person who is under investigation for <b>COVID 19</b> while that person was ill? | Yes <input type="checkbox"/> No <input type="checkbox"/>                             |

Individuals answering "Yes" to any of the questions above should immediately leave the location and seek guidance from their medical provider or the Division of Public Health.

If answered "NO" to all questions: Individual is cleared for purpose of this screening.

Visitor Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Completed by  
Printed Name: \_\_\_\_\_ Date: \_\_\_\_\_