



**Arbitration Hearings**  
May 20, 2025  
2:00-3:15 PM ET

Presented by:  
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 AMERICAN  
**HEALTH LAW**  
ASSOCIATION

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## **Avoid Problems with Thoughtful Preliminary Hearings**

- Preparation for the hearing starts early
- Logistics, deadlines to be dealt with at preliminary hearing
- Final check-in conference call
- Pre-hearing submissions force cooperation (e.g., joint exhibits)

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## **Logistics Must Be Addressed**

- Technology needs
  - computer setups
  - video/telephone testimony
- Court reporter(s) – expensive, usually left up to the parties

## **Opening and Closing Arguments**

- Can be skipped in favor of opening and/or closing briefing
- Adapt to nature of case
- Counsels' agreement

## Evidentiary Ground Rules/ Guidelines

- Strict rules per party agreement
- Authenticity vs. relevance of documents
  - documents admitted en masse at start
  - relevance objections must be prompt
- Handling objections to testimony – consistency
  - hearsay
  - leading
- Privilege and confidentiality concerns
- Previews of demonstratives
- Notice of next witness
- Use of sworn affidavits/declarations/witness statements

## Flexing Order of Proof

- Accommodating witnesses
- Dealing with interim briefing of issues

## Managing Emotions

- Reminder – there is no jury here
- High stakes tension is palpable
- Professional, respectful, not derisive

## Creative Expert Testimony

- Reports as direct; only cross-exam
- Document setting forth agreements and disagreements
- “Hot tubbing”

## **Time Management – A Cost Issue**

- Total number of hearing days
- Allocation of hearing time
- Start on time; go longer
- Start and end with “administrative” or housekeeping issues
- End of day preview

## **Asking Questions/Making Observations**

- Clarifying vs. advocating
  - when to do it
  - helping get the evidence
- Summarizing the point made
- Note taking vs. listening

## **Closing and Reopening the Hearings**

- Closing the evidence vs. closing the hearing
- Preliminary vs. final award
- Attorneys' fees, costs
- Reopening the hearing

## **Objectives**

- Full, complete and fair hearing for both parties and arbitrator

## **Making merits conclusions along the way**

- Keep the claims/contract in mind
- Daily or weekly personal summaries
- Aids award issuance



# Questions?





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