



# Cumberland County Domestic Relations Office

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## IMPORTANT NOTICE: PA RULE OF CIVIL PROCEDURE 1910.29 EVIDENCE

On November 30, 2012, The Pennsylvania Supreme Court amended Rule 1910.29 of the Rules of Civil Procedure. If a party wishes to introduce medical evidence in a Hearing of Record, it is important that you strictly follow the procedure as outlined by the PA Supreme Court. The Cumberland County Domestic Relations Office is providing this information to you as a courtesy. If you have specific questions regarding this notice and how it may affect your support case, you should contact your attorney.

### 1. WHAT IS THIS CHANGE?

The Pennsylvania Rules of Civil Procedure have been modified to address the situation where a party wishes to introduce **medical evidence** to support their allegation that they are unable to work.

### 2. WHO IS AFFECTED BY THIS CHANGE?

The modification of this Rule has a direct impact on both the obligor and obligee in a support matter.

### 3. HOW DO THESE CHANGES AFFECT MY CASE?

The modification of this Rule provides specific time requirements that must be strictly followed if a party wishes to introduce medical evidence of their disability or inability to work.

### 4. WHAT IS A RECORD HEARING? WHAT IS A NON-RECORD PROCEEDING?

The Court of Common Pleas of Cumberland County use a three-tier system. The **first tier** of the system is the **Conference Level**, which is held before your **Conference Officer**. The **second tier** of the system is typically called an **Appeal or De Novo**, which is held before the **Support Master**. The **third tier** is an appeal of the Support Master, which is held before the **Judges** of the Court of Common Pleas of Cumberland County.

In Cumberland County, the **Conference Level (first tier) is a Non-Record Proceeding**. The **Support Master's Hearing (second tier) is a Record Hearing or Hearing of Record**.

## 5. WHAT ARE THE CHANGES?

Typically, during a Record Hearing, medical documents such as the **Physicians Verification Form**, are inadmissible as Hearsay, **unless** the physician who completed the form is available to testify and is subject to cross-examination by the other party.

The modification to Rule 1910.29 provides that “a verified petition, affidavit or document, and any document incorporated by reference therein which would not be excluded under the hearsay rule if given in person shall be admitted into evidence if:

1. At least 20 days’ written notice of the intention to offer them into evidence was given to the adverse party accompanied by a copy of each document to be offered;
2. The other party does not object to their admission into evidence; AND
3. The evidence is offered under oath by the party or witness.”

The objection must be in writing and served on the proponent of the document within 10 days of service of the intention to offer the evidence. When an objection is properly made, the Pennsylvania Rules of Evidence shall apply to determine the admissibility of the document into evidence.

## 6. WHAT STEPS DO I FOLLOW?

### **NON-RECORD PROCEEDING: (First Tier, Conference Level)**

In a **Non-Record Proceeding**, if a physician has determined that a medical condition affects a party’s ability to earn income **AND that party obtains a Physician Verification Form, has it completed by a physician and submits it at the Conference**, this evidence **may** be considered by the Conference Officer.

*IMPORTANT NOTE: The Conference Officer may consider the evidence, but are not required to consider the evidence. Additionally, if a party wishes to have this evidence considered by the Conference Officer, the other party has a right to review the documentation presented to the Conference Officer.*

### **RECORD PROCEEDING: (Second Tier, Support Master)**

In a **Record Proceeding**, if a party wishes to introduce into evidence the **completed Physicians Form (or other medical evidence)**, he or she **must serve the form on the other party not later than 20 days after the conference. The other party must serve an objection within 10 days of the date of service.** If an objection is made, the Court has discretion to allocate the costs of the physician’s testimony between the parties. If there is no objection, the form may be admitted into evidence without the testimony of the physician.

*IMPORTANT NOTE: If a Party objects to the admission of the documents, the party wishing to admit the documents must bring the physician that completed the documents to the Hearing to comply with the Rules of Evidence. The Court has discretion to require the objecting party to pay the cost (or a portion thereof) of the expense required for the witnesses testimony.*