

§ 90-14.6. Evidence admissible.

(a) Except as otherwise provided in proceedings held pursuant to this Article the Board shall admit and hear evidence in the same manner and form as prescribed by law for civil actions. A complete record of such evidence shall be made, together with the other proceedings incident to the hearing.

(b) Subject to the North Carolina Rules of Civil Procedure and Rules of Evidence, in proceedings held pursuant to this Article, the individual under investigation may call witnesses, including medical practitioners licensed in the United States with training and experience in the same field of practice as the individual under investigation and familiar with the standard of care among members of the same health care profession in North Carolina. Witnesses shall not be restricted to experts certified by the American Board of Medical Specialties. A Board member shall not testify as an expert witness.

(c) Subject to the North Carolina Rules of Civil Procedure and Rules of Evidence, statements contained in medical or scientific literature shall be competent evidence in proceedings held pursuant to this Article. Documentary evidence may be received in the form of a copy or excerpt or may be incorporated by reference, if the materials so incorporated are available for examination by the parties. Upon timely request, a party shall be given an opportunity to compare the copy with the original if available.

(c1) Evidence and testimony may be presented at hearings before the Board or a hearing committee in the form of depositions before any person authorized to administer oaths in accordance with the procedure for the taking of depositions in civil actions in the superior court.

(d) When evidence is not reasonably available under the Rules of Civil Procedure and Rules of Evidence to show relevant facts, then the most reliable and substantial evidence available shall be admitted. At the discretion of the presiding officer of the hearing, the Board may receive witness testimony at a hearing by means of telephone or videoconferencing.

(e) Any final agency decision of the Board shall be based upon a preponderance of the evidence admitted in the hearing. (1953, c. 1248, s. 3; 2003-366, s. 5; 2007-346, s. 19; 2009-558, s. 4; 2019-191, s. 30.)