Evidentiary Issues at Contested Proceedings



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Austin, Texas

Preliminary matters



Lawyerly caveats

- Presentation summarizes selected topics, omits details, and focuses on law re: Texas admin law cases in general. Consider law and facts relevant to your case.
- The examples are generic and simplified. There might be more than one correct answer, or the answer might depend on facts not stated.
- Any opinions I express are only mine and not necessarily those of the State Office of Administrative Hearings (SOAH) or anyone else at SOAH.



Scope and credit

- This presentation:
  - Focuses on evidence's admissibility, not its effect on the ultimate decision (*e.g.,* not its weight or the burden of proof)
  - Does not address official notice, or privileges (which often instead arise during discovery)
  - Includes some SOAH practices and procedures re: evidence
- My thanks to SOAH intern Ross Van De Kop for his research assistance

What evidence rules apply?

- Relevant Administrative Procedure Act (APA) (Tex. Gov't Code ch. 2001) provisions
- Texas Rules of Evidence (TRE) (per APA sec. 2001.081 and 1 Tex. Admin. Code (TAC) sec. 155.429)
- Relevant statutes and constitutional provisions (per TRE 101)
- Relevant SOAH procedural rules (1 TAC ch. 155; ch. 159 re: automatic license revocation (ALR))

TRE 102: purpose of TRE

Construe so as to:

- Fairly administer the proceeding
- Eliminate unjustifiable expense and delay
- Ascertain the truth
- Secure a just determination



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