

This is an amendment to 11.21.1 NMAC, Section 17 effective 11/5/2024.

**11.21.1.17 EVIDENCE ADMISSIBLE:** The technical rules of evidence shall not apply, but, in ruling ~~[of]~~ on the admissibility of evidence, the hearing examiner or board may require reasonable substantiation of statements or records tendered, the accuracy or truth of which is in reasonable doubt.

**A.** ~~[Irrelevant]~~ Upon receiving a timely objection by a party or by any person who may be aggrieved by its admission, the hearing examiner may exclude irrelevant, immaterial, unreliable, unduly repetitious or cumulative evidence, and evidence that is confidential or evidence protected by the rules of privilege (such as attorney-client, physician-patient or special privilege) [shall be excluded upon timely objection] unless admissibility is otherwise authorized or required by law or court order.

**B.** The hearing examiner or board may receive any evidence not objected to, or may, upon the hearing examiner's or board's own initiative, exclude such evidence ~~[if it is irrelevant, immaterial, unreliable, unduly repetitious, cumulative or privileged].~~

**C.** Evidence may be tentatively received by the hearing examiner or board, reserving a ruling on its admissibility until the issuance of a report or decision.

**D.** Nothing in this rule requires the hearing examiner or board to provide notice of a tentative or final decision on admissibility of evidence to any person who is not a party to the pertinent proceedings.

[11.21.1.17 NMAC - N, 3/15/2004; A, 11/5/2024]