



Standard of Proof

Board-by-Board Overview

- 44 boards exclusively use a preponderance of evidence standard
- 10 boards exclusively use a clear and convincing evidence standard
- 2 boards use a different standard than the above
- 11 boards have *varying* standards according to the nature of the violation

	Preponderance of evidence	Clear and convincing	Evidentiary standard varies	Further information
AL	—	—	—	" Substantial evidence " standard. The Administrative Procedure Act declares that we follow the rules of evidence used in the civil courts of Alabama. Ala. Code § 12-21-12 mandates that, in all civil actions brought in any "state court, proof by substantial evidence is required." In § 12-21-12(d), "substantial evidence" is defined as "evidence of such quality and weight that reasonable and fair-minded persons in the exercise of impartial judgement might reach different conclusions as to the existence of the fact sought to be proven."
AK	X	—	—	Alaska Stat. § 44.62.460
AZ-M	X	X	X	Board's standard of proof is clear and convincing for disciplinary matters; preponderance of evidence for sexual misconduct and licensing cases . See Az. Rev. Stat § 32-1401 re: sexual misconduct cases.
AZ-O	—	X	—	Az. Rev. Stat § 32-1864
AR	X	—	—	" Doctors and Sex Abuse " Report Card, <i>Atlanta Journal-Constitution</i>
CA-M	—	X	—	CMB Newsletter, vol. 160 : "Under California law, the Board must obtain "clear and convincing proof to a reasonable certainty," to prove that disciplinary action is warranted... As a result, prosecuting instances of unprofessional conduct is more difficult, time consuming, and expensive in California, when compared to most other states."
CA-O	—	X	—	CA Bus & Prof Code § 493
CO	X	—	—	CO Rev Stat § 12-240-125
CT	X	—	—	Conn. Gen. Stat. ch. 370 § 20-13c
DE	X	—	—	24 Del.C. § 1731(b)(2)
DC	X	—	—	Law blog " Medical Malpractice Lawsuit Requirements in District of Columbia "
FL-M	—	X	—	Fla. Stat. § 456.50(2)(2) The Health Law Firm blog " Burden of Proof in Administrative Cases Involving Discipline of Professional Licenses "
FL-O	—	X	—	
GA	X	—	—	GA Code § 24-14-3 re: civil cases generally
GU	X	—	—	Guam Board of Medical Examiners Administrative Rules and Regulations, Article VIII, Section 2
HI	X	—	—	Hawaii civil cases generally have a preponderance of evidence standard, see Hawaii Civil Jury Instruction No. 3.1
ID	X	—	X	Idaho Code Ann. § 54-1833 states that the "board of medicine [must have] reasonable cause " however, in malpractice cases, the evidentiary standard is a preponderance of evidence, see Idaho Code Ann. § 6-1012 .
IL	—	X	—	Ill. Admin. Code tit.68, pt. 1110
IN	X	—	—	" Doctors and Sex Abuse " Report Card, <i>Atlanta Journal-Constitution</i>
IA	X	—	—	" Doctors and Sex Abuse " Report Card, <i>Atlanta Journal-Constitution</i>
KS	X	X	X	If felony conviction, presumed revocation. Licensee has to prove by clear and convincing evidence they are rehabilitated and warrant public trust. KSA 65-2838(b) . KSA 65-2844 states "The burden of proof by clear and convincing evidence shall be on the applicant to show sufficient rehabilitation to justify reinstatement." " Doctors and Sex Abuse " Report Card, <i>Atlanta Journal-Constitution</i> "The standard of proof required to discipline a doctor is preponderance of evidence. "

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KY	X	—	—	KBML Guidance Ky. Rev. Stat. Ann. § 13B.090(7)
LA	—	X	—	Law blog “ Attention Louisiana Physicians: State Board of Medical Examiners Issues Final Rules on the Complaint and Investigation Process ” “At the administrative hearing, both parties will make opening and closing statements, examine witnesses and present evidence. The burden of proof is by the preponderance of evidence. ”
ME-M	X	—	—	“ Doctors and Sex Abuse ” Report Card, <i>Atlanta Journal-Constitution</i>
ME-O	X	—	—	
MD	X	—	—	Md. Code Regs. 10.42.04.06(C) Burden of proof Basco, M.D. vs Board of Physicians “the factual findings were proven by a preponderance of evidence”
MA	X	—	—	Law blog “ Massachusetts Medical Malpractice Laws ” “ Doctors and Sex Abuse ” Report Card, <i>Atlanta Journal-Constitution</i>
MI-M	X	X	X	Mich. Admin. Code R. 792.10707 : “the burden of proving, by a preponderance of the evidence , which grounds exist for the imposition of a sanction on a licensee, registrant, or applicant. (2) A petitioner for reinstatement or reclassification of a license or registration has the burden of proving, by clear and convincing evidence. ...”
MI-O	X	X	X	
MN	X	—	—	Minnesota Administrative Procedure; Chapter 10. Evidence; 10.3 Burden of Proof and Standard of Proof
MS	X	—	—	Miss. Code Ann. § 73-25-27
MO	X	—	—	“ Doctors and Sex Abuse ” Report Card, <i>Atlanta Journal-Constitution</i>
MP	X	—	—	Additionally, “non-trivial complaints” are the standard under which a complaint moves forwards.
MT	X	—	—	“ Doctors and Sex Abuse ” Report Card, <i>Atlanta Journal-Constitution</i> Reasonable cause is the standard under which a complaint moves forward.
NE	—	X	—	Davis v. Wright , 243 Neb. 931, 503 N.W.2d 814 (1993) “For the sake of uniformity and clarity, the rule as to the burden of proof in disciplinary proceedings shall hereafter be by clear and convincing evidence...”
NV-M	X	—	—	Nev. Rev. Stat. § 630.346(2) Nev. Rev. Stat. § 633.351(2021)
NV-O	X	—	—	
NH	X	—	—	NH Rev Stat § 507-E:2 (2021) In any action for medical injury, the plaintiff shall have the burden of proving by affirmative evidence which must include expert testimony of a competent witness or witnesses
NJ	X	—	—	Rule 1:38. Public Access to Court Records and Administrative Records “ Doctors and Sex Abuse ” Report Card, <i>Atlanta Journal-Constitution</i> Law blog “ Preponderance of the Evidence Standard ”
NM	X	—	—	In general, N.M. Stat. § 61-1-11. Rules of evidence. Rauth vs. NM Medical Board “the standard or proof to be applied in administrative proceedings is the preponderance of evidence...”
NY	X	—	—	Article 131-A “ Doctors and Sex Abuse ” Report Card, <i>Atlanta Journal-Constitution</i>
NC	X	—	—	In general, NC Gen Stat § 90-14.6 (2021) “ Doctors and Sex Abuse ” Report Card, <i>Atlanta Journal-Constitution</i>
ND	X	X	X	Hsu vs. Board of Medical Examiners (see part IV) Clear and convincing required for ex parte (emergency) suspensions “ Doctors and Sex Abuse ” Report Card, <i>Atlanta Journal-Constitution</i>
OH	X	—	X	Law blog “ Medical Malpractice in Ohio: Statute of Limitations and Burden of Proof ” “ Doctors and Sex Abuse ” Report Card, <i>Atlanta Journal-Constitution</i> “ Reliable, probative and substantial evidence ” standard
OK-M	—	X	—	Okla. Admin. Code § 435:3-3-11. Procedure of hearing Okla. Admin. Code § 510:1-5-6.1. Hearing procedures
OK-O	—	X	—	
OR	X	—	—	“ Doctors and Sex Abuse ” Report Card, <i>Atlanta Journal-Constitution</i> 25 Pa. Code § 1021.122 “ Doctors and Sex Abuse ” Report Card, <i>Atlanta Journal-Constitution</i> Law blog “ Standard, burden of proof in physician discipline proceedings ”
PA-M	X	—	—	
PA-O	X	—	—	P.R. Laws tit. 20, § 134b : “The Board shall have the authority to use the weight of the evidence as the standard of proof in its role as judging officer.”
PR	—	—	—	
RI	X	—	—	“ Doctors and Sex Abuse ” Report Card, <i>Atlanta Journal-Constitution</i>
SC	X	—	—	S.C. Code Regs. § 1-23-600

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SD	X	X	X	Burden of proof is “clear and convincing” in medical inactive status and reinstatement proceedings South Dakota Codified Laws 16-19-91 Generally, the standard of proof required to discipline a doctor is preponderance of evidence “ Doctors and Sex Abuse ” Report Card, <i>Atlanta Journal-Constitution</i>
TN-M	X	—	—	General state law - TN Code § 39-11-201 (2020) “ Doctors and Sex Abuse ” Report Card, <i>Atlanta Journal-Constitution</i>
TN-O	X	—	—	
TX	X	—	—	Law blog “ Can a Texas Doctor Lose His or Her Medical License or Go to Jail Because of Medical Malpractice? ” “ Doctors and Sex Abuse ” Report Card, <i>Atlanta Journal-Constitution</i>
UT-M	X	—	—	Utah Code § 76-1-501 “ Doctors and Sex Abuse ” Report Card, <i>Atlanta Journal-Constitution</i> “Preponderance of evidence is the standard of proof for administrative hearings.” “preponderance of evidence... is the standard by which a plaintiff must prove his/her case in a civil suit.” Utah Courts Glossary
UT-O	X	—	—	
VT-M	X	—	—	The burden of proof in a disciplinary action is on the State to show by a preponderance of the evidence that the person has engaged in unprofessional conduct. 26 V.S.A. § 1354(c) . Expert testimony required for medical malpractice burden of proof
VT-O	X	—	—	“ Doctors and Sex Abuse ” Report Card, <i>Atlanta Journal-Constitution</i>
VI	X	—	—	V.I. Code tit. 27, § 9 (2019)
VA	—	X	—	Overview – Virginia Department of Health Professions: “In order to take disciplinary action against a licensee, a health regulatory board must have clear and convincing evidence that a violation of law or regulation has occurred.”
WA-M	X	X	X	WAC 182-526-0485 : Unless the rules or law states otherwise, the standard of proof in a hearing is a preponderance of the evidence “The state requires clear and convincing evidence to prove a disciplinary case against a medical doctor.” “ Doctors and Sex Abuse ” Report Card, <i>Atlanta Journal-Constitution</i>
WA-O	X	X	X	WAC 246-853-340 : Exam appeal procedures requires clear and convincing evidence General standard of proof for the state is preponderance (same as for WA-M) “for Osteopaths, cases are prosecuted to satisfy both the preponderance of evidence and clear and convincing standards, in order to avoid issues if the case is appealed” “ Doctors and Sex Abuse ” Report Card, <i>Atlanta Journal-Constitution</i>
WV-M	—	X	—	WV Code § 30-3-14 (2021) the evidence must be clear and convincing before the board may find that the physician or podiatrist has demonstrated a lack of professional competence to practice with a reasonable degree of skill and safety for patients
WV-O	X	—	—	WV Code § 30-14-12a (2021) “ Doctors and Sex Abuse ” Report Card, <i>Atlanta Journal-Constitution</i>
WI	X	—	—	In general: Wis. Stat. § 895.443(2) Maldonado vs. Medical Examining Board “ Doctors and Sex Abuse ” Report Card, <i>Atlanta Journal-Constitution</i>
WY	X	X	X	Clear and convincing when charging licensee; (WY Stat § 33-26-407); preponderance of evidence when licensee is getting license back or restrictions lifted (WY Stat § 33-26-406) “ Doctors and Sex Abuse ” Report Card, <i>Atlanta Journal-Constitution</i>

For informational purposes only: This document is not intended as a comprehensive statement of the law on this topic, nor to be relied upon as authoritative. Non-cited laws, regulation, and/or policy could impact analysis on a case-by-case or state-by-state basis. All information should be verified independently.