

§ 90-14.1. Judicial review of Board's decision denying issuance of a license.

Whenever the North Carolina Medical Board has determined that a person who has duly made application to take an examination to be given by the Board showing his education, training and other qualifications required by said Board, or that a person who has taken and passed an examination given by the Board, has failed to satisfy the Board of his qualifications to be examined or to be issued a license, for any cause other than failure to pass an examination, the Board shall immediately notify such person of its decision, and indicate in what respect the applicant has so failed to satisfy the Board. Such applicant shall be given a formal hearing before the Board upon request of such applicant filed with or mailed by registered mail to the secretary of the Board at Raleigh, North Carolina, within 10 days after receipt of the Board's decision, stating the reasons for such request. The Board shall within 20 days of receipt of such request notify such applicant of the time and place of a public hearing, which shall be held within a reasonable time. The burden of satisfying the Board of his qualifications for licensure shall be upon the applicant. Following such hearing, the Board shall determine whether the applicant is qualified to be examined or is entitled to be licensed as the case may be. Any such decision of the Board shall be subject to judicial review upon appeal to the Superior Court of Wake County upon the filing with the Board of a written notice of appeal with exceptions taken to the decision of the Board within 20 days after service of notice of the Board's final decision. Within 30 days after receipt of notice of appeal, the secretary of the Board shall certify to the clerk of the Superior Court of Wake County the record of the case which shall include a copy of the notice of hearing, a transcript of the testimony and evidence received at the hearing, a copy of the decision of the Board, and a copy of the notice of appeal and exceptions. Upon appeal the case shall be heard by the judge without a jury, upon the record, except that in cases of alleged omissions or errors in the record, testimony may be taken by the court. The decision of the Board shall be upheld unless the substantial rights of the applicant have been prejudiced because the decision of the Board is in violation of law or is not supported by any evidence admissible under this Article, or is arbitrary or capricious. Each party to the review proceeding may appeal to the Supreme Court as hereinafter provided in G.S. 90-14.11. (1953, c. 1248, s. 3; 1995, c. 94, s. 14.)