

Judicial Notice

§90.202 Matters which may be judicially noticed. ---

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(9) Rules ~~promulgated~~ enacted by governmental agencies of this state which are published in the Florida Administrative Code or in bound written copies.

Approved Sept. 2011; Approval Confirmed by CREC Sept. 21, 2012, 25-0, 1 abstention

§90.205 Denial of a request for judicial notice. ---

Upon request of counsel, when a court denies a request to take judicial notice of any matter, the court shall ~~inform the parties at the earliest practicable time~~ promptly advise the parties and shall indicate for the record that it has denied the request.

Approved Sept. 2011; Approval Confirmed by CREC Sept. 21, 2012, 25-0, 1 abstention

Relevance

§ 90.406 Habit; Routine Practice.—Evidence of the habit of a person or of the routine practice of an organization, whether corroborated or not and regardless of the presence of eyewitnesses, is admissible to prove that the conduct of the person or organization on a Particular occasion was in conformity with the routine practice.

Approved Sept. 2011; Approval Confirmed by CREC Sept. 21, 2012, 25-0, 1 abstention

Witnesses

§ 90.603 Disqualification of witness. A person is incompetent to be a witness and is disqualified to testify as a witness when the court determines that the person is:

- (1) Incapable of expressing himself or herself concerning the matter in such a manner as to be understood, either directly or through interpretation by one who can understand him or her; or
- (2) Incapable of understanding the duty to tell the truth.

Approved Sept. 2011; Approval Confirmed by CREC Sept. 21, 2012, 25-0, 1 abstention

§ 90.604 Lack of personal knowledge. Except as otherwise provided in § 90.702, a witness may not testify to a matter unless evidence is introduced which is sufficient to support a finding that the witness has personal knowledge of the matter. Evidence to prove personal knowledge may, but need not, consist of the witness' own testimony. ~~Evidence to prove personal knowledge may be given by the witness' own testimony.~~

Approved Sept. 2011; Approval Confirmed by CREC Sept. 21, 2012, 25-0, 1 abstention

§ 90.605 Oath or affirmation of witness.

- (1) Before testifying, each witness shall declare that he or she will testify truthfully, by taking an oath or affirmation administered in a form calculated to awaken the witness' conscience and impress the witness' mind with the duty to do so. An oath or affirmation complies with this section if it is in substantially the following form: "Do you swear or affirm the evidence you are about to give will be the truth, the whole truth, and nothing but the truth?" The witness' answer shall be noted in the record.
- (2) In the court's discretion, a child may testify without taking the oath if the court determines the child understands the duty to tell the truth ~~or~~ and the duty not to lie.

Approved Sept. 2011; Approval Confirmed by CREC Sept. 21, 2012, 25-0, 1 abstention

§ 90.606 Interpreters and translators.

(1)(a) When a judge determines that a witness cannot hear or understand the English language sufficiently to understand questioning and instruction, or cannot express himself or herself in English sufficiently to be understood, an interpreter who the judge determines is duly qualified to interpret for the witness shall be sworn to do so.

Approved Sept. 2011; Approval Confirmed by CREC Sept. 21, 2012, 25-0, 1 abstention

§ 90.607 Competency of certain persons as witnesses.

- (1)(a) Except as provided in paragraph (b), the judge presiding at trial of an action is not ~~competent to~~ shall not testify as a witness in that trial. An objection is not necessary to preserve the point.
- (2)(a) A member of the jury ~~is not competent~~ shall not to testify as a witness in a trial when he or she is sitting as a juror. If the juror is called to testify, the opposing party shall be given an opportunity to object out of the presence of the jury.
- (b) Upon an inquiry into the validity of the verdict or indictment, a juror ~~is not competent~~ to shall not testify as to any matter which essentially inheres in the verdict or indictment.

Approved Sept. 2011; Approval Confirmed by CREC Sept. 21, 2012, 25-0, 1 abstention

HEARSAY

§ 90.803 Hearsay exceptions; availability of declarant immaterial. –

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(13) Family records. – Statements of fact concerning personal or family history in family Bibles, charts, engravings on ~~in~~ rings, inscriptions on family portraits, engravings on urns, crypts, or tombstones, or the like.

Approved Sept. 2011; Approval Confirmed by CREC Sept. 21, 2012, 25-0, 1 abstention

(14) Records of documents affecting an interest in property. – The record of a document purporting to establish or affect an interest in property, as proof of the contents of the original recorded or filed document and its execution and delivery by each person by whom it purports to have been executed, if the record is a record of a public office and an applicable statute authorized the recording or filing of the document in that ~~the~~ office.

Approved Sept. 2011; Approval Confirmed by CREC Sept. 21, 2012, 25-0, 1 abstention

(15) Statements in documents affecting an interest in property. – A statement contained in a document purporting to establish or affect an interest in property; if the matter stated was relevant to the purpose of the document, unless dealings with the property since the document was made have been inconsistent with the truth of the statement or the purport of the document.

Approved Sept. 2011; Approval Confirmed by CREC Sept. 21, 2012, 25-0, 1 abstention

(20) Reputation concerning boundaries or general history. – Evidence of Reputation:

- (a) In a community, arising before the controversy about the boundaries of, or customs affecting lands in, the community, or
- (b) About events of general history which are important to the community, state, or nation where located.

Approved Sept. 2011; Approval Confirmed by CREC Sept. 21, 2012, 25-0, 1 abstention

Contents of Writings, Recordings and Photographs

§ 90.951 Definitions.---

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- (2) “Photographs” include still photographs, X-ray, Magnetic Resonance Imaging (MRI), and Computed Tomography (CT) and other similar radiological films, videotapes, and motion pictures.

Approved Sept. 2011; Approval Confirmed by CREC Sept. 21, 2012, 25-0, 1 abstention

Legislative Changes Re: Expert Witness Certificate

458.3175 Expert witness certificate.-- (Medical Doctors) 9/21/12 Approved by CREC 26-0

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(2) An expert witness certificate authorizes the physician to whom the certificate is issued to do only the following:

...

(b) Provide expert testimony about the prevailing professional standard of care in connection with medical negligence litigation pending in this state against a physician licensed under this chapter or chapter 459, if otherwise qualified under Chapters 90 and 766.

459.0066 Expert witness certificate.—(Osteopaths) 9/21/12 Approved by CREC 26-0

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(2) An expert witness certificate authorizes the physician to whom the certificate is issued to do only the following:

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(b) Provide expert testimony about the prevailing professional standard of care in connection with medical negligence litigation pending in this state against a physician licensed under chapter 458 or this chapter, if otherwise qualified under Chapters 90 and 766.

466.005 Expert witness certificate.—(Dentists) 9/21/12 Approved by CREC 26-0

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(2) An expert witness certificate authorizes the dentist to whom the certificate is issued to do only the following:

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(b) Provide expert testimony about the prevailing professional standard of care in connection with medical negligence litigation pending in this state against a dentist licensed under this chapter, if otherwise qualified under Chapters 90 and 766.