

CHAPTER 25

(HB 250)

AN ACT relating to optometrists.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 320.321 is amended to read as follows:

- (1) Grievances may be submitted by an individual, organization, or entity, including the board based upon information within the board's knowledge. The board may investigate any ***licensee or unlicensed individual or entity engaged in the practice of optometry*** suspected of ***conduct which would be*** grounds for disciplinary ***or court*** action and may hire ***or appoint*** persons ***who are knowledgeable in the practice of optometry*** to investigate on its behalf. The board shall have the power to issue investigatory subpoenas for the appearance before the board of any person within the jurisdiction of the Commonwealth of Kentucky and to require production of any record, document, or other item. The board may seek enforcement of investigatory subpoenas in the courts of the Commonwealth as may be necessary. A copy of the grievance shall be mailed to the licensee ***or unlicensed individual or entity engaged in the practice of optometry*** at the last address that the board has on record ***or has been able to determine***. If the licensee ***or unlicensed individual or entity engaged in the practice of optometry*** chooses to respond to the grievance, he or she shall submit a response within ten (10) days after the date on which the grievance was mailed.
- (2) ***Notwithstanding any other provision of law***, the board may initiate disciplinary proceedings ***or court actions*** based upon information within its knowledge or received from other persons. A majority of the board members may direct the issuance of a complaint; in these instances, the board shall prepare a written complaint, in accordance with KRS Chapter 13B, that shall be signed by the chairman of the board and shall contain sufficient information to apprise the named optometrist ***or unlicensed individual or entity engaged in the practice of optometry*** of the nature of the charges. A copy of the complaint shall be delivered to the charged optometrist ***or unlicensed individual or entity engaged in the practice of optometry*** by personal delivery or sent by certified mail to the optometrist's last address that the board has on record ***or to a site found for an unlicensed individual or entity engaged in the practice of optometry***. The optometrist ***or unlicensed individual or entity engaged in the practice of optometry*** shall file a response within twenty (20) days after the complaint was sent or personally served upon the optometrist ***or unlicensed individual or entity engaged in the practice of optometry***. Failure to submit a timely response or avoidance of service may be taken by the board ***or the court*** as an admission of the charges contained in the complaint. The board may then review the grievance, information obtained by the board, and the optometrist's response ***or the response of the unlicensed individual or entity engaged in the practice of optometry***, and dismiss the grievance, issue a complaint and notice of hearing, ~~or~~ investigate further, ***or bring an action in a court of competent jurisdiction to enforce the provisions of this chapter***.
- (3) The hearing shall be conducted in accordance with KRS Chapter 13B.
- (4) The board may impose discipline upon the licensee under KRS 320.310 if the board finds a violation of this chapter or administrative regulations promulgated under this chapter, after a hearing.

- (5) All costs of the proceeding may be assessed against the charged optometrist *or unlicensed individual or entity engaged in the practice of optometry* if a finding of guilt is made by the board *or by the court*.

SECTION 2. A NEW SECTION OF KRS CHAPTER 320 IS CREATED TO READ AS FOLLOWS:

- (1) *The board may institute, in its own name, proceedings to temporarily or permanently restrain and enjoin the practice of optometry by the following:*
- (a) *An individual who is not licensed to practice optometry pursuant to this chapter, or who is involved in conduct not specifically exempted from the requirements of this chapter by KRS 320.220; or*
 - (b) *An individual who was previously licensed by the board to practice optometry but is currently practicing optometry in violation of this chapter, regardless of whether the respondent has been convicted of violating the penal provisions thereof.*
- (2) *A petition for injunction filed under subsection (1) of this section may be filed in Franklin Circuit Court, and the board shall not be required to pay any costs or filing fees or furnish any bond in connection therewith.*
- (a) *In the petition, it shall be sufficient to charge that the respondent on a day certain in a named county engaged in the practice of optometry in violation of this chapter. No showing of damage or injury shall be required.*
 - (b) *Issuance of an injunction shall enjoin any act specified under this chapter and shall remain in place as long as necessary to prevent the unlawful practice of optometry.*
 - (c) *Issuance of an injunction shall not relieve the respondent from being subject to any other proceeding under law provided by this chapter or otherwise.*
 - (d) *Violation of an injunction or restraining order shall be punished as a contempt without the intervention of a jury.*

Section 3. KRS 320.990 is amended to read as follows:

Any person who violates any of the provisions of this chapter shall be guilty of a Class A misdemeanor *and shall pay a fine not to exceed five thousand dollars (\$5,000) per violation.*

Approved March 7, 2003