

**GENERAL GOVERNMENT CABINET
Kentucky Board of Veterinary Examiners
(New Administrative Regulation)**

201 KAR 16:310. Procedures for grievances, investigations, and administrative charges.

RELATES TO: KRS 321.235(2), 321.351, 321.360

STATUTORY AUTHORITY: KRS 321.235(2), (3), 321.240(5), 321.351, 321.360

NECESSITY, FUNCTION, AND CONFORMITY: KRS 321.235(2) authorizes the board to investigate an allegation of a practice which violates the provisions of KRS Chapter 321. This administrative regulation establishes the procedures for handling grievances, investigations, and administrative charges.

Section 1. Intake of Grievances. (1) A complaint, grievance, or other allegation of misconduct (collectively, "grievance") which might constitute a violation of KRS Chapter 321 or 201 KAR Chapter 16 may be submitted by any individual, organization, or entity. The board may submit a grievance on its own initiative based on information in its possession that the board believes is sufficiently credible to justify a request for a response from the licensee (or other individual named in the grievance).

(2) The grievance shall be in writing on a Grievance Form and, if appropriate, an Authorization for the Release of Medical Records form as found in 201 KAR 16:400 provided by the board, and shall include the complaining party's name, address, telephone number, and signature. Electronic signatures shall be accepted.

(3) The board's chair, or the chair's designee, shall perform an initial screen of any grievance that was submitted without identifying the complaining party. The initial screen shall require the chair, or the chair's designee, to determine whether the grievance contains sufficient details or other indicators of credibility to justify a request for a response from the licensee (or other individual named in the grievance). If sufficient details or other indicators of credibility are lacking, then the grievance shall be discarded without further action.

(4) The board shall send a copy of the grievance to the licensee (or other individual named in the grievance) along with a request for a response. The response shall be required within twenty (20) days from the date of when the board sent a copy of the written grievance. Failure to respond in writing within twenty (20) days may constitute a violation of the Code of Ethical Conduct.

Section 2. Initial Review of Grievances. (1) After the time period for the licensee's (or named individual's) response has elapsed, at the next scheduled board meeting the Complaints Screening Committee shall consider the grievance, the response if one was received, and other relevant information that is available to the Committee.

(2) The Complaints Screening Committee shall determine if an investigation is warranted after reviewing the information that is available. An investigation shall be warranted if the committee determines, based on upon a totality of the circumstances, that a reasonable probability exists that the grievance has merit.

(3) If, in the opinion of the board, a grievance does not warrant an investigation, then the board shall notify the complaining party and the respondent that the grievance is being dismissed without investigation.

(4) The dismissal of a grievance without an investigation shall constitute a final action of the board. Following such a dismissal, the grievance, the response from the individual named in

the grievance, and correspondence which is intended to give notice of the dismissal shall be subject to disclosure pursuant to the Kentucky Open Records Act.

(5) If, in the opinion of the board, a grievance warrants an investigation, then the board shall open an investigation into the matter.

Section 3. Investigations. (1) The Complaints Screening Committee shall have the authority to direct an investigation and shall exercise those powers possessed by the board in regard to investigations as provided by KRS 321.235.

(2) The Complaints Screening Committee shall have the authority to request the participation of any person in an investigation. The refusal or failure of any board licensee or certificate holder to participate when requested, or to provide information and documents requested by the committee within the requested timeframe, shall be considered a violation of 201 KAR 16:200.

(3) Investigative reports shall be reviewed at a meeting of the committee.

Section 4. Reports and Recommendations Following Investigation. (1) If the board determines that the results of an investigation do not warrant the issuance of an administrative charge against the individual named in the grievance, then the board shall notify the complaining party and the individual that the grievance is being dismissed without further action.

(2) The dismissal of a grievance following an investigation shall constitute a final action of the board. Following such a dismissal, the grievance, the response from the individual named in the grievance, correspondence which is intended to give notice of the dismissal, and any other documents obtained or generated during the investigation (other than those documents that are subject to a legitimate claim of privilege or otherwise exempt from disclosure by law) shall be subject to disclosure pursuant to the Kentucky Open Records Act.

(3) If the board determines that the results of an investigation warrant the issuance of an administrative charge against a licensee, then the board shall cause an administrative charge to be prepared.

(4) If the board determines that the results of an investigation warrant proceedings against a person who is not a licensee, then the board shall cause a civil action to be prepared for filing in the Franklin Circuit Court or other court of competent jurisdiction.

Section 5. Administrative Charges. (1) The administrative charge shall:

- (a) Be signed and dated by a member of the board or the board's authorized representative;
- (b) Be designated with an administrative charge number;
- (c) Set forth:

- 1. The board's jurisdiction in regard to the subject matter of the administrative charge; and
- 2. In numerical paragraphs, sufficient information to apprise the named licensee or individual of the general nature of the charges.

(d) A licensee's written response shall be due within thirty (30) days after the issuance of the administrative charge. Failure to respond within that time period may be taken by the board as an admission of the charges.

(2) Each notice shall be issued in accordance with KRS 13B.050.

Section 6. Proceedings Following the Issuance of an Administrative Charge. (1) The board shall arrange for the appointment of a hearing officer in accordance with KRS 13B.030 and 13B.040.

(2) The board's legal counsel shall act as the prosecuting attorney in regard to any disciplinary proceeding unless the board appoints a special prosecuting attorney.

(3) The board may appoint a representative of the Attorney General's office or another attorney to act as advisory counsel to the board in regard to any deliberations of the board following the issuance of an administrative charge.

(4) The provisions of KRS Chapter 13B shall govern the conduct of the proceeding.

STEVEN J. WILLS, DVM, Chair

APPROVED BY AGENCY: June 14, 2019

FILED WITH LRC: June 19, 2019 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on August 27, 2019 at 1:00 p.m., at the Kentucky Department of Agriculture, 111 Corporate Drive, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made prior to the end of the hearing. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through August 31, 2019. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Clint Quarles, Staff Attorney, Kentucky Department of Agriculture, 107 Corporate Drive, Frankfort Kentucky 40601, phone (502) 330-6360, fax (502) 564-2133, email clint.quarles@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Clint Quarles

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation establishes the procedures for persons holding a board license or certificate for instances of a grievances, investigations and administrative charges.

(b) The necessity of this administrative regulation: This regulation is necessary to establish the procedure that the KBVE board will follow for grievances, investigations and administrative charges.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 321.235, 321.351 and 321.360 each require the board to approve a procedure for grievances, investigations and administrative charges.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in effective administration by clearly expressing what requirements are created by the KBVE board for grievances, investigations and administrative charges.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a

new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: 2392 veterinary licenses, 421 veterinary technician licenses, 57 animal control agency certificate holders, 196 animal euthanasia specialist certificate holders.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Applicants will be required to submit application materials as outlined in this filing.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No costs are associated with compliance, as this is a prerequisite for application.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Administrative ease of clear communication of the approved requirements.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: No costs are anticipated.

(b) On a continuing basis: No costs are anticipated.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: This administrative regulation does not establish fees. Fees for the KBVE come from license and certification fees.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No fees are necessary at this time.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees are established.

(9) TIERING: Is tiering applied? No. All regulated entities have the same requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The KBVE

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 321.235, 321.351, 321.360

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue will be generated from this filing.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue will be generated.

(c) How much will it cost to administer this program for the first year? Staff time for record keeping.

(d) How much will it cost to administer this program for subsequent years? Staff time will be required for record keeping. Costs will be very minimal.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): None

Expenditures (+/-): None or negligible.

Other Explanation: