

BOARDS AND COMMISSIONS
BOARD OF OPHTHALMIC DISPENSERS
(Amended at ARRS Committee)

201 KAR 13:075. Administrative hearings.

RELATES TO: KRS Chapter 13B, 326.020(5), 326.090, 326.100

STATUTORY AUTHORITY: KRS 326.020(3)(a) ~~and (5), 326.090, 326.100~~

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 326.020(3)(a) ~~authorizes~~requires the board to promulgate administrative regulations necessary to carry out the purposes and provisions KRS 326.010 through 326.990. KRS 326.100 requires the board to conduct administrative hearings in accordance with KRS Chapter 13B. This administrative regulation sets forth the procedures by which such hearings are to be conducted.

Section 1. Right of Administrative Hearing to Appeal the Denial of License or Refusal to Renew or Reinstate a License.

(1) If the board denies an application for licensure, or refuses to renew or reinstate a license for failure to meet the regulatory requirements for renewal or reinstatement, the board shall issue a notice of denial informing the applicant of the specific reason for the board's action, including:

- (a) The statutory or regulatory authority the application fails to meet for issuance, renewal, or reinstatement of the license;
- (b) The factual basis on which the denial is based; and
- (c) The right to an appeal through an administrative hearing pursuant to KRS Chapter 13B.

(2) ~~Requirements for Appeal.~~ A written request for an administrative hearing shall be made in writing to the board within twenty (20) calendar days after receipt of this notification, excluding the day the applicant receives notice, or the date that the notification is returned to the board as unclaimed. The request shall identify the specific issues in dispute and the legal basis on which the board's decision on each issue is believed to be erroneous.

(3) If the request for an appeal is not timely filed, the notice of denial shall be effective upon the expiration of the time for the applicant to request an appeal.

(4) If a request for an appeal is made, the board, through counsel, shall prepare the notice of administrative hearing in accordance with KRS Chapter 13B.

(5) The administrative hearing shall be conducted in accordance with KRS Chapter 13B.

(6) The documentary evidence shall be limited to the application and supporting documents submitted to the board during the application process and what was considered as part of the application denial.

(7) A renewal applicant may petition the board, in writing, for a stay of the license denial until completion of the administrative hearing process.

Section 2. Administrative Hearing ~~for~~For Denial, Refusal to Renew or Reinstate, Suspension, Revocation, or Imposition of Probationary Conditions upon a License Due to Unprofessional Conduct.

(1) All administrative hearings for the board's denial, refusal to renew or reinstate, suspension, revocation, or imposition of probationary conditions upon a license shall be conducted in accordance with KRS Chapter 13B.

(2) The board, through counsel, shall prepare the formal administrative complaint and notice of administrative hearing in accordance with KRS Chapter 13B.

Section 3. Revocation of Probation.

(1) If the board moves to revoke probation, the board shall issue written notice of the revocation to the last known address on file with the board for the licensee and inform the licensee:

- (a) Of the factual basis on which the revocation is based;
- (b) Of each probation term violated;
- (c) Of the sanction to be imposed; and
- (d) That the licensee may appeal the revocation to the board within twenty (20) calendar days after receipt of this notification, excluding the day he or she receives notice, or the date that the notification is returned to the board as unclaimed.

(2) A written request for an administrative hearing shall be filed with the board within twenty (20) calendar days after receipt of this notification, excluding the day the licensee receives notice, or the date that the notification is returned to the board as unclaimed. The request shall identify the specific issues in dispute and the legal basis on which the board's decision on each issue is believed to be erroneous.

(3) If the request for an administrative hearing is not timely filed, the revocation shall be effective upon the expiration date for the licensee to request an appeal.

Section 4. **Request for Administrative Hearing.** A request for an administrative hearing shall be sent to the Kentucky Board of Ophthalmic Dispensers by mail to P.O. Box 1360, Frankfort, Kentucky 40602;~~ff~~ by hand-delivery to 500 Mero Street, Frankfort, Kentucky 40601;~~ff~~ or by email to bod@ky.gov.

Section 5. **Costs and Fees.** If the final order of the board is adverse to a licensee or applicant, or if the hearing is scheduled at the request of a licensee or applicant for relief from sanctions previously imposed by the board, the costs in an amount equal to the cost of stenographic services, the cost of the hearing officer, and the board's attorney fees may be assessed against the licensee or applicant. In a case of financial hardship, the board may waive all or part of the fee.

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