201 KAR 8:510. Advisory opinions.

RELATES TO: KRS 313.021(1)(k)
STATUTORY AUTHORITY: KRS 313.021(1)
CERTIFICATION STATEMENT:
NECESSITY, FUNCTION, AND CONFORMITY: KRS 313.021(1) authorizes the board to issue advisory opinions. This administrative regulation establishes the procedures for submission, consideration, and disposition of a request for an advisory opinion.

Section 1. Form of Request.

(1) The request shall be signed by one (1) or more persons, with each signer's mailing address and telephone number, and if available, fax number and e-mail address, clearly indicated. If a person signs on behalf of a corporation or association, the name of the entity, the address, telephone number, and fax number of the entity shall be included. The signer shall date the request.

(2) The request shall be submitted on the Advisory Opinion Request Form.

Section 2. Consideration.

(1) The board president or designee may, in writing schedule an informal meeting between the requester, any interested persons, and a representative of the board, to present information and discuss questions raised. A final decision shall not be made at an informal meeting.

(2) In rendering an advisory opinion, the board shall:

(a) Consider all materials submitted with the request;

(b) Consider any relevant document, data, or other material; and

(c) Consider comments from the board's staff.

(3) The board may:

(a) Consult experts or other individuals;

(b) Require argument of the question; or

(c) Permit the introduction of evidence.

Section 3. Issuance of Opinion or Refusal to Issue an Opinion. The board shall issue an advisory opinion in response to the request, unless one (1) of the following applies:

(1) The board does not have jurisdiction over the questions presented in the request;

(2) The questions presented are pending in a disciplinary matter, other board, or judicial proceeding that may definitively decide the issues;

(3) The questions presented by the request would be more properly resolved in a different type of proceeding;

(4) The facts or questions presented in the request are unclear, overbroad, insufficient, or otherwise inappropriate as a basis upon which to issue an opinion;

(5) There is no need to issue an opinion because the questions raised in the request have been settled due to a change in circumstances;

(6) The requester is asking the board to determine if a statute is unconstitutional; or

(7) An opinion would not be in the public interest.

Section 4. Publication of Advisory Opinions.

(1) All advisory opinions shall be published and maintained by the office of the board. Publication shall be made by hard copy and by placing the entire opinion on the board's Web site.

(2) All names or references that allow for the identification of a party shall be redacted from the final published advisory opinion.

(3) An index of all final published advisory opinions shall be maintained by the office of the board. The index shall include the subject of each opinion, its publication date, and any prospective changes effectuated by the opinion.

Section 5. Reconsideration and Appeals.

(1) Any person may request the board to reconsider a published advisory opinion within ten (10) working days of the publication of the opinion.

(2) The request for reconsideration shall be submitted on the Advisory Opinion Request Form.

(3) Requests for reconsideration shall contain:

(a) A clear and concise statement of the grounds for the reconsideration;

(b) The proposed conclusion with a summary of the rationale supporting the proposed conclusion;

(c) Any supportive statute, administrative regulation, document, order, or other statement of law or policy, with an explanation of the relevance of the material offered; and

(d) A statement of adverse impact, if any, resulting from the published advisory opinion.

(4) Any notice of appeal to the Franklin Circuit Court filed pursuant to KRS 313.090 shall be served upon the board president, the executive director, and the general counsel for the board.

Section 6. Incorporation by Reference.

(1) "Advisory Opinion Request Form", July 2010, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Dentistry, 312 Whittington Parkway, Suite 101, Louisville, Kentucky 40222, Monday through Friday, 8 a.m. through 4:30 p.m. This material is also available on the board's Web site at http://dentistry.ky.gov.

(37 Ky.R. 616; 1627; eff. 2-4-2011; Crt eff. 4-8-2019; Crt eff. 3-16-2026.)