

BOARDS AND COMMISSIONS

Board of Veterinary Examiners

(Amendment)

201 KAR 16:610. Procedures for grievances, investigations, and administrative charges.

RELATES TO: KRS Chapter 13B, 61.870 - 61.884, 321.190, 321.235(2), 321.351, 321.353, 321.360

STATUTORY AUTHORITY: KRS 321.235(2), (3), 321.240(5), 321.351, 321.353, 321.360

NECESSITY, FUNCTION, AND CONFORMITY: KRS 321.235(2) authorizes the Kentucky Board of Veterinary Examiners to investigate an allegation of a practice that violates the provisions of KRS Chapter 321. KRS 321.235(3) and 321.240(5) authorize the board to promulgate administrative regulations to implement KRS Chapter 321. This administrative regulation establishes the procedures for handling grievances, investigations, and administrative charges.

Section 1. Definition. "Grievance" means a complaint or any allegation of misconduct that might constitute a violation of KRS Chapter 321 or 201 KAR Chapter 16.

Section 2. Intake of Grievances.

(1)

(a) A grievance may be submitted by any individual, organization, credential holder, or entity.

(b) The board or its chair or its executive director may submit a grievance on its own initiative based on information in its possession that the board concludes is sufficiently credible to justify a request for a response from the credential holder (or other individual named in the grievance).

(2) The grievance shall be in writing on a Grievance Form or online equivalent form provided by the board, and shall include the complaining party's name, address, telephone number, and signature. Electronic signatures shall be accepted.

(3) At any time, the board may investigate or seek further information about any subject regarding a grievance filed with the board, or upon information received which may lead to a grievance filed with or by the board.

(4) The board shall send a copy of each grievance to the credential holder (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 KRS Chapter 321 and 201 KAR Chapter 16.

Section 3. Initial Review of Grievances.

(1) After the time period for the credential holder's (or named individual's) response has elapsed, at the next scheduled board meeting the Grievance Committee shall consider the grievance, the response if one was received, and other relevant information that is available to the Committee.

(2) The Grievance Committee shall determine if an investigation is warranted after reviewing the information that is available.

(3) If, in the opinion of the Grievance Committee, a grievance does not warrant an investigation, then the board shall notify the complaining party and the respondent that the grievance is being dismissed.

(4) The dismissal of a grievance shall constitute a final action of the board. Following the dismissal, the grievance, the response from the individual named in the grievance, and

correspondence that is intended to give notice of the dismissal shall be subject to disclosure pursuant to the Kentucky Open Records Act, KRS 61.870 through 61.884.

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

Section 4. Investigations.

(1) The Grievance 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 Grievance Committee shall have the authority to request the participation of any person in an investigation. The refusal or failure of any board credential 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 KRS Chapter 321 and 201 KAR Chapter 16.

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

Section 5. Reports and Recommendations Following Investigation.

(1) If the committee 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 the dismissal, the grievance, the response from the individual named in the grievance, correspondence that 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, KRS 61.870 through 61.884.

(3) If the committee determines that the results of an investigation warrant the issuance of an administrative charge against a credential holder, then the board may seek settlement or file a notice of administrative hearing under KRS Chapters 13B and 321.

(4) If the committee determines that the results of an investigation warrant proceedings against a person who is not a credential holder, 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 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.

(5) The board shall order the respondent to file an Answer to the Notice of Administrative Hearing within twenty (20) days of the date the Notice of Administrative Hearing was served on the respondent.

Section 7. At the conclusion of the case, the board shall notify the complainant of the outcomes.

Section 8. Incorporation by Reference.

(1) "Grievance Form", 12/2022, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subjected to applicable copyright law, at the Kentucky Board of Veterinary Examiners, 107 Corporate Drive, Frankfort, Kentucky 40601, Monday through Friday, 8:30 a.m. to 4:30 p.m. This material may also be obtained at www.kybve.com.

(46 Ky.R. 1747, 2620; eff. 6-30-2020; 49 Ky.R. 1480; eff. 7-5-2023.)

STEVEN J. WILLS, DVM, Board Chair

APPROVED BY AGENCY: December 15, 2022

FILED WITH LRC: December 15, 2022 at 11:45 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on February 23, 2023 at 9:00 a.m., at the Kentucky Department of Agriculture, 109 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 February 28, 2023. 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: Michelle Shane, Executive Director, Kentucky Board of Veterinary Examiners, 107 Corporate Drive, Second Floor, Frankfort, Kentucky 40601, phone (502) 782-0273, fax (502) 695-5887, email michelle.shane@ky.gov.