

313.090 Law Enforcement Committee's jurisdiction when complaint filed against dentist, dental hygienist, dental assistant, or other registered person -- Procedure for resolving complaint -- Appeals.

- (1) In accordance with the provisions of KRS Chapter 13B, all discipline for which the board is authorized to conduct investigations, hold hearings, and impose punishments is delegated to the executive director, board attorney, and hearing panel as provided in this section.
- (2) Any person may make a complaint to the executive director that a dentist, dental hygienist, dental assistant, or other person licensed or registered by the board has violated a provision of this chapter, an administrative regulation promulgated pursuant to this chapter, a practice standard, or an order of the board.
- (3) Each complaint shall:
 - (a) Be in writing;
 - (b) Identify specifically the person or organization against whom the complaint is made;
 - (c) Set forth the facts relating to the violation alleged and any other supporting information which may have a bearing on the matter;
 - (d) Contain the name, address, telephone number, facsimile number, and e-mail address, if available, of the complainant; and
 - (e) Be signed by the complainant as the truth of the statements contained in the complaint by the complainant.
- (4) A complaint which is unsigned shall not be acted upon by the executive director unless the complaint involves a violation of standards set forth by the Centers for Disease Control or alleged mental or physical impairment as provided for in KRS 313.130. A complaint which is not signed in the manner specified in subsection (3) of this section shall be returned to the complainant for completion.
- (5) The executive director of the board may, on behalf of the board, based on knowledge available to the Office of the Board, make a complaint against any person or organization regulated by the board in the same manner as provided in subsection (3) of this section.
- (6) Upon receipt of a properly completed complaint, the executive director shall assign the complaint to a staff investigator who shall investigate the complaint and shall make findings of fact and recommendations to the executive director who shall then convene a meeting of the Law Enforcement Committee.
- (7) The staff investigator shall notify the person or organization against whom the complaint has been filed and shall notify the employer of the dentist, dental hygienist, or dental assistant of the complaint.
- (8) The notification shall name the person or organization complained against, the complainant, the violations alleged, and the facts presented in the complaint and shall notify the person or organization complained against and the employer of:
 - (a) The fact that the complaint shall be answered, the steps for answering the complaint, and the action to be taken if the complaint is not answered;

- (b) The timeframe and steps in the proceedings of a complaint;
 - (c) The rights of the parties, including the right to counsel; and
 - (d) The right to testify at any hearing.
- (9) Upon the failure of a licensee or certificate holder to respond to a written accusation or to request a hearing within twenty (20) days after the sending of the accusation, the accused shall be considered to have admitted the truth of the facts and the circumstances in the allegation and appropriate discipline may be imposed.
 - (10) After reviewing the complaint and results of any investigation conducted on behalf of the board, the Law Enforcement Committee shall consider whether the accusation is sufficient to remand the matter for a hearing as provided in this section and KRS Chapter 13B. A majority vote of the members of the Law Enforcement Committee shall be necessary for action to either remand the matter for hearing or dismiss the complaint without a hearing.
 - (11) If the Law Enforcement Committee dismisses the complaint, all parties notified previously shall be notified of the action. If the Law Enforcement Committee remands the matter for a hearing, all parties notified previously shall be notified of the action.
 - (12) Each proceeding to consider the imposition of a penalty which the board is authorized to impose pursuant to this chapter shall be conducted in accordance with KRS Chapter 13B.
 - (13) A hearing panel for purposes of making a decision in any disciplinary matter shall consist of a quorum of the remaining seven (7) members of the board who are not on the Law Enforcement Committee and the hearing officer.
 - (14) The board may issue subpoenas to compel the attendance of witnesses and the production of documents in the conduct of an investigation. The subpoenas may be enforced by any Circuit Court for contempt. Any order or subpoena of the court requiring the attendance and testimony of witnesses and the production of documentary evidence may be enforced and shall be valid anywhere in this state.
 - (15) At all hearings the board attorney or, on request of the board, the Attorney General of this state or one (1) of the assistant attorneys general designated, shall appear and represent the board.
 - (16) The dentist, dental hygienist, or dental assistant who is the defendant in a hearing shall be a party to the action and may appear and testify in the matter at any deposition or hearing on the matter and may propose conclusions of law, findings of fact, and penalties to the hearing panel.
 - (17) To make a finding or impose discipline, a majority of the members of the hearing panel who are not the hearing officer shall agree on the finding or discipline.
 - (18) The final order in any disciplinary proceeding shall be prepared by the hearing officer and sent to all parties in the manner prescribed by law.
 - (19) Any person or entity aggrieved by a final order of the board may appeal the final order to the Circuit Court of the county in which the person or entity resides in accordance with KRS Chapter 13B.

- (20) Upon final disposition of a complaint which results in disciplinary action, the final order shall be published on the Web site of the board, placed in the record of the licensed or registered individual, and reported to the National Practitioner Database.

Effective: July 15, 2010

History: Repealed and reenacted 2010 Ky. Acts ch. 85, sec. 15, effective July 15, 2010.
-- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2636-13.