

313.130 Examination of licensee, certificate holder, or applicant by physician or psychologist -- Temporary suspension -- Well-being Committee to promote identification, treatment, and rehabilitation of impaired individuals -- Confidentiality of documents -- Limits on disclosure.

- (1) If the Law Enforcement Committee has reasonable cause to believe any licensee or certificate holder or any applicant for licensure or registration by examination, reinstatement, credentials, or change of status is unable to practice with reasonable skill or safety or has abused alcohol or drugs, it may require such person to submit to a mental or physical examination by a physician or psychologist it designates. Upon the failure of the person to submit to a mental or physical examination, unless due to circumstances beyond the person's control, the Law Enforcement Committee may initiate an action for immediate temporary suspension pursuant to this chapter or deny the application until the person submits to the required examination. The Law Enforcement Committee may issue an immediate and temporary suspension from the time of the examination until the hearing.
- (2) Every licensee or certificate holder or applicant for licensure or registration by examination, reinstatement, credentials, or change of status shall be deemed to have given consent to submit to an examination when so directed in writing by the board. The direction to submit to an examination shall contain the basis of the Office of the Board's reasonable cause to believe that the person is unable to practice with reasonable skill or safety, or has abused alcohol or drugs. The person shall be deemed to have waived all objections to the admissibility of the examining physician's or psychologist's testimony or examination reports on the ground of privileged communication.
- (3) The licensee or certificate holder or applicant for licensure or registration by examination, reinstatement, credentials, or change of status shall bear the cost of any mental or physical examination ordered by the Office of the Board.
- (4) The board shall establish a committee for individuals licensed or registered by the board, to be designated as the Well-being Committee, to promote the early identification, intervention, treatment, and rehabilitation of individuals licensed or registered who may be impaired by reasons of illness, alcohol or drug abuse, or as a result of any physical or mental condition. The board may enter into a contractual agreement with a nonprofit corporation or a dental association for the purpose of creating, supporting, and maintaining the Well-being Committee. The board may promulgate administrative regulations in accordance with KRS Chapter 13A to effectuate and implement the committee and may expend any funds it deems necessary to adequately provide for operational expenses of the committee. Any member of the Well-being Committee, as well as any administrator, staff member, consultant, agent, or employee of the committee acting within the scope of their duties and without actual malice, and all other persons who furnish information to the committee in good faith and without actual malice, shall not be liable for any claim of damages as a result of any statement, decision, opinion, investigation, or action taken by the committee, or by any individual member of the committee.
- (5) All information, interviews, reports, statements, memoranda, or other documents

furnished to or produced by the Well-being Committee, as well as communications to or from the committee, and any findings, conclusions, interventions, treatment, rehabilitation, or other proceedings of the committee which in any way pertain to an individual licensed or registered who may be, or who actually is, impaired shall be privileged and confidential.

- (6) All records and proceedings of the Well-being Committee which pertain or refer to an individual licensed or registered who may be, or who actually is, impaired shall be privileged and confidential and shall be used by the committee and its members only in the exercise of the proper function of the committee and shall not be considered public records and shall be subject to court subpoena and subject to discovery or introduction as evidence in any civil, criminal, or administrative proceedings except as described in subsection (4) of this section.
- (7) The Well-being Committee may disclose information relative to an impaired licensee or certificate holder only when:
 - (a) It is essential to disclose the information to further the intervention, treatment, or rehabilitation needs of the impaired individual, and only to those persons or organizations with a need to know;
 - (b) Its release is authorized in writing by the impaired individual;
 - (c) The committee is required to make a report to the board; or
 - (d) The information is subject to court order.

Effective: July 15, 2010

History: Repealed and reenacted 2010 Ky. Acts ch. 85, sec. 17, effective July 15, 2010. -- Amended 2007 Ky. Acts ch. 101, sec. 2, effective June 26, 2007. -- Amended 2005 Ky. Acts ch. 45, sec. 7, effective June 20, 2005; and ch. 93, sec. 4, effective March 16, 2005. -- Amended 2004 Ky. Acts ch. 163, sec. 1, effective July 13, 2004. -- Amended 1992 Ky. Acts ch. 387, sec. 3, effective July 14, 1992. -- Amended 1970 Ky. Acts ch. 75, sec. 3. -- Amended 1966 Ky. Acts ch. 255, sec. 246. -- Amended 1964 Ky. Acts ch. 12, sec. 9. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2636-6a.

Legislative Research Commission Note (6/20/2005). Although KRS 313.130 was included in 2005 Ky. Acts ch. 45, sec. 7 and ch. 93, sec. 4, as having been amended, the amendment relettering paragraphs of this section in those acts became unnecessary when the Office of the Kentucky Attorney General requested that other changes be made to the rearrangement of the paragraphs of KRS 61.878, which was also amended in 2005 Ky. Acts chs. 45 and 93. The Statute Reviser made these changes under the authority of KRS 7.136.