

### **320.321 Grievances -- Disciplinary proceedings.**

- (1) Grievances may be submitted by an individual, organization, or entity, including the board based upon information within the board's knowledge. The board may investigate any licensee or unlicensed individual or entity engaged in the practice of optometry suspected of conduct which would be grounds for disciplinary or court action and may hire or appoint persons who are knowledgeable in the practice of optometry to investigate on its behalf. The board shall have the power to issue investigatory subpoenas for the appearance before the board of any person within the jurisdiction of the Commonwealth of Kentucky and to require production of any record, document, or other item. The board may seek enforcement of investigatory subpoenas in the courts of the Commonwealth as may be necessary. A copy of the grievance shall be mailed to the licensee or unlicensed individual or entity engaged in the practice of optometry at the last address that the board has on record or has been able to determine. If the licensee or unlicensed individual or entity engaged in the practice of optometry chooses to respond to the grievance, he or she shall submit a response within ten (10) days after the date on which the grievance was mailed.
- (2) Notwithstanding any other provision of law, the board may initiate disciplinary proceedings or court actions based upon information within its knowledge or received from other persons. A majority of the board members may direct the issuance of a complaint; in these instances, the board shall prepare a written complaint, in accordance with KRS Chapter 13B, that shall be signed by the chairman of the board and shall contain sufficient information to apprise the named optometrist or unlicensed individual or entity engaged in the practice of optometry of the nature of the charges. A copy of the complaint shall be delivered to the charged optometrist or unlicensed individual or entity engaged in the practice of optometry by personal delivery or sent by certified mail to the optometrist's last address that the board has on record or to a site found for an unlicensed individual or entity engaged in the practice of optometry. The optometrist or unlicensed individual or entity engaged in the practice of optometry shall file a response within twenty (20) days after the complaint was sent or personally served upon the optometrist or unlicensed individual or entity engaged in the practice of optometry. Failure to submit a timely response or avoidance of service may be taken by the board or the court as an admission of the charges contained in the complaint. The board may then review the grievance, information obtained by the board, and the optometrist's response or the response of the unlicensed individual or entity engaged in the practice of optometry, and dismiss the grievance, issue a complaint and notice of hearing, investigate further, or bring an action in a court of competent jurisdiction to enforce the provisions of this chapter.
- (3) The hearing shall be conducted in accordance with KRS Chapter 13B.
- (4) The board may impose discipline upon the licensee under KRS 320.310 if the board finds a violation of this chapter or administrative regulations promulgated under this chapter, after a hearing.
- (5) All costs of the proceeding may be assessed against the charged optometrist or unlicensed individual or entity engaged in the practice of optometry if a finding of

guilt is made by the board or by the court.

**Effective:** June 24, 2003

**History:** Amended 2003 Ky. Acts ch. 25, sec. 1, effective June 24, 2003. -- Amended 2000 Ky. Acts ch. 361, sec. 13, effective July 14, 2000. -- Amended 1996 Ky. Acts ch. 318, sec. 280, effective July 15, 1996. -- Created 1990 Ky. Acts ch. 256, sec. 1, effective July 13, 1990.