

315.131 Proceedings before fine, probation, suspension, revocation of license, permit, or certificate -- Appeals -- Emergency suspension prior to disciplinary hearing.

- (1) Every proceeding imposing a fine or for probation, suspension, or revocation of a license, permit, or certificate issued pursuant to this chapter shall be conducted in accordance with KRS Chapter 13B. Upon failure of the licensee, permit holder, or certificate holder to respond to the complaint at or before the time of the hearing, the allegations set forth in the complaint shall be taken by the board as confessed.
- (2) All decisions revoking or suspending a license, permit, or certificate or placing a licensee, permit holder, or certificate holder on probation or imposing a fine shall be made by the board.
- (3) The board may when in its opinion the continued practice of the licensee or certificate holder or the continued operation of the permit holder would be dangerous to the health, welfare, and safety of the general public, issue an emergency order as provided in KRS 13B.125.
- (4) A licensee, permit holder, or certificate holder aggrieved by a final order of the board may within ten (10) days after notice thereof move the board to reconsider this order. A motion to reconsider based on newly-discovered material evidence must be made within one (1) year of the entry of the order.
- (5) A licensee, permit holder, or certificate holder aggrieved by a final order of the board may appeal to the Franklin Circuit Court in accordance with KRS Chapter 13B.
- (6) The board may, without benefit of a hearing, temporarily suspend a license, certificate, or permit for not more than sixty (60) days if the president of the board finds on the basis of reasonable evidence that a licensee, certificate holder, or permit holder:
 - (a) Has violated a statute or administrative regulation the board is empowered to enforce, and continued practice or operation by the licensee, certificate holder, or permit holder would create imminent risk of harm to the public; or
 - (b) Suffers a mental or physical condition that through continued practice or operation could create an imminent risk of harm to the public.

The emergency suspension shall take effect upon receipt by the licensee, certificate holder, or permit holder of written notice, delivered by certified mail or in person, specifying the statute or administrative regulation violated. At the time the emergency suspension order issues, the board shall schedule a disciplinary hearing to be held in accordance with the provisions of KRS Chapter 13B within sixty (60) days thereafter.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 257, sec. 16, effective July 15, 1996; and ch. 318, sec. 271, effective July 15, 1996. -- Amended 1982 Ky. Acts ch. 191, sec. 12, effective July 15, 1982. -- Created 1966 Ky. Acts ch. 260, sec. 8.

Legislative Research Commission Note (10/16/96). The initial 1996 codification of the amendments to this statute from the 1996 Regular Session has been revised with respect to subsection (5) of the statute. 1996 Ky. Acts ch. 257, sec. 16, made the venue for appeals "the Franklin Circuit Court" while 1996 Ky.

Acts ch. 318, sec. 271, changed "permittee" to "permit holder," in existing language that set the venue for appeals as "the Circuit Court of the county in which the licensee, permittee or certificate holder conducts his practice or place of business." The changing of the word "permittee" to "permit holder" in this phrase was purely stylistic. Therefore, although Acts ch. 318 was a later enactment than Acts ch. 257 for purposes of KRS 446.250, the substantive amendment on this point in Acts ch. 257 prevails over the nonsubstantive, stylistic amendment in Acts ch. 318 pursuant to 1996 Ky. Acts ch. 318, sec. 358. The text of subsection (5) has been altered to reflect this determination.

Legislative Research Commission Note (7/15/96). This section was amended by 1996 Ky. Acts chs. 257 and 318. Where these Acts are not in conflict, they have been codified together. Where a conflict exists, Acts ch. 318, which was last enacted by the General Assembly, prevails under KRS 446.250.