

**311A.055 Complaint of violation of chapter -- Investigation -- Notification -- Preliminary inquiry board -- Hearing -- Order -- Appeal -- Discipline -- Sexual contact with patient.**

- (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, state medical advisor, board attorney, and hearing panels as provided herein.
- (2) Any person may make a complaint to the executive director that an entity licensed or certified by the board, emergency medical services personnel, or any other person licensed or certified by the board has violated a provision of this chapter, an administrative regulation promulgated pursuant to this chapter, protocol, practice standard, or 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;
  - (e) Be subscribed and sworn to as to the truth of the statements contained in the complaint by the complainant; and
  - (f) Be notarized.
- (4) A complaint which is unsigned shall not be acted upon by the executive director. A complaint which is not subscribed and sworn 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 preliminary inquiry board.
- (7) When the executive director assigns a complaint to a staff investigator, he or she shall notify the person or organization against whom the complaint has been filed, the employer of the emergency services personnel against whom the complaint has been filed, the emergency medical services medical director or mobile integrated healthcare program medical director for the organization against whom the complaint has been filed or that employs the emergency medical services personnel against whom the complaint has been filed, and any other person or organization specified in this chapter.

- (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, the employer, and the emergency medical services medical director 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 time frame 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 license 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) The preliminary inquiry board shall consist of one (1) member of the board selected by the chair, and two (2) persons representing the same category of certification or licensure as the defendant who are not members of the board appointed by the chairman of the board.
- (11) After reviewing the complaint and results of any investigation conducted on behalf of the board, the preliminary inquiry board 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 preliminary inquiry board shall be necessary for action to either remand the matter for hearing or dismiss the complaint without hearing.
- (12) If the preliminary inquiry board dismisses the complaint, all parties notified previously shall be notified of the action. If the preliminary inquiry board remands the matter for a hearing, all parties notified previously shall be notified of the action.
- (13) 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.
- (14) A hearing panel for purposes of making a decision in any disciplinary matter shall consist of one (1) physician who may be a member of the board or who meets the qualifications of an emergency medical services medical director; one (1) person from the category of persons or organizations of the same class as the defendant; and the hearing officer, who shall not be involved in emergency medical services.
- (15) The hearing officer 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.
- (16) 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.

- (17) The emergency medical services provider or related employer of a person licensed or certified by the board and the emergency medical services medical director of such a person who is the defendant in a hearing shall be parties 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.
- (18) To make a finding or recommend discipline, the two (2) members of the hearing panel who are not the hearing officer shall agree on the finding or discipline. In the event of a tie vote, the hearing officer shall cast the deciding vote.
- (19) The final order in any disciplinary proceeding shall be prepared by the executive director and sent to all parties in the manner prescribed by law.
- (20) Any person or entity aggrieved by a final order of the board may appeal to the Franklin Circuit Court in accordance with the provisions of KRS Chapter 13B.
- (21) The only discipline that the board may impose against an emergency medical services medical director is denial, suspension or withdrawal of the board's approval for that person to serve as an emergency medical services medical director.
- (22) If the executive director substantiates that sexual contact occurred between a licensee or certificate holder and a patient while the patient was under the care of or in a professional relationship with the licensee or certificate holder, the license or certification may be revoked or suspended with mandatory treatment of the person as prescribed by the executive director. The executive director may require the licensee or certificate holder to pay a specified amount for mental health services for the patient which are needed as a result of the sexual contact.

**Effective:** June 27, 2019

**History:** Amended 2019 Ky. Acts ch. 100, sec. 8, effective June 27, 2019. -- Amended 2006 Ky. Acts ch. 243, sec. 4, effective July 12, 2006. -- Created 2002 Ky. Acts ch. 211, sec. 10, effective July 15, 2002.

**Legislative Research Commission Note** (7/12/2006). In codifying 2006 Ky. Acts ch. 243, sec. 4, the Reviser of Statutes has corrected a manifest clerical or typographical error in subsection (10) of this statute under the authority of KRS 7.136.