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REGULATIONS COMPILER

GENERAL GOVERNMENT BOARDS & COMMISSIONS

BOARD OF PODIATRY

(Amendment)

201 KAR 25:051. Complaint management; [~~Procedure for complaints and hearings involving~~
~~licensees~~] temporary suspension.

RELATES TO: KRS 218A.205, 311.490

STATUTORY AUTHORITY: KRS 218A.205(3), 311.410(4)

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311.410 authorizes the board to promulgate administrative regulations that are necessary to implement the provisions of KRS 311.380 to 311.500. KRS 218A.205(3)(d)[~~218A.205(3)(e)~~] requires the board to establish a procedure for suspending, limiting, or restricting a license. KRS 218A.205(3)(e)[~~218A.205(3)(d)~~] requires the board to establish a procedure for the expedited review of complaints pertaining to improper prescribing or dispensing of controlled substances. This administrative regulation establishes procedures relating to [the] complaint management and temporary suspension[~~administrative adjudication procedure for all proceedings before the board.~~]

Section 1. Definitions.

(1) "Board" means the Kentucky State Board of Podiatry.

(2) [~~"Complaint review committee" means a committee of the board members appointed by the board that:~~

(a) ~~Reviews an initiating complaint;~~

1 (b) ~~Determines whether an investigation should be conducted; and~~

2 (c) ~~Directs and reviews an investigation of the respondent.~~

3 [~~(3) "Contested case" means an adjudicatory proceeding before the board in which the legal rights,~~
4 ~~duties, or privileges of any person are required by law to be determined after an opportunity for a~~
5 ~~hearing, without regard to whether the proceeding is instituted by the board or by some other~~
6 ~~person.~~

7 (4) ~~"Order" means the whole or any part of a final disposition of an adjudication.~~

8 (5) ~~"Party" means any person or agency named or admitted as a party to any proceedings of the~~
9 ~~board and shall include only persons who have a real interest in a matter before the board.~~

10 (6) ~~"Person" means any individual, partnership, corporation, association, or public or private~~
11 ~~organization of any character other than an agency.]~~

12 [(7)] ~~"Respondent" means the licensee against whom a complaint has been filed.~~

13 Section 2. Receipt of~~[Form of]~~ Complaints.

14 (1) A complaint:

15 (a) May be submitted by an:

16 1. Individual;

17 2. Organization; or

18 3. Entity;

19 (b) Shall be:

20 1. In writing and provided on the "Complaint Form with Information Sheet and
21 Authorization for Release of Medical and Patient Records", DPL-BOP-03; and

22 2. Signed by the person submitting the complaint; and

1 (c) May be filed by the board on its own initiative either on the basis of information in its
2 possession if the board has reasonable cause to believe there may be a violation by a
3 licensee.

4 (2)

5 (a) Upon receipt of the complaint, a copy of the[The] complaint shall be sent to the individual
6 named in the complaint at the last known address [of the licensee that] the board has on file along
7 with a request for that individual's response to the complaint and a request for a copy of all relevant
8 podiatric medical records.

9 (b)[(2)] The individual[licensee] shall be allowed a period of[file a response within] twenty
10 (20) days from the date of receipt to submit a written response to the complaint and [the board's
11 letter and include with the response] a copy of the relevant podiatric medical records requested by
12 the board.

13 Section 3. Initial Review.

14 (1)[(3)] After the receipt of a complaint and the expiration of the period for the individual's
15 written response with the relevant podiatric medical records, the board[Upon receipt of the
16 response or after the twenty (20)-day period has passed without a response, the complaint review
17 committee] shall review the complaint and the individual's[licensee's] response, if any, the
18 relevant podiatric medical records, and any other material available, and make a
19 determination[recommendation to the board] whether there is enough evidence to warrant a formal
20 investigation of the complaint.[the nature and quality of the allegations warrant dismissal, further
21 investigation or the initiation of a formal administrative complaint[hearing].

22 (2) If the board determines before formal investigation that a complaint is without merit, it
23 shall:

1 (a) Dismiss the complaint; and

2 (b) Notify the complainant and respondent of the board's decision.

3 (3) If the board determines that a complaint warrants a formal investigation, it shall:

4 (a) Authorize an investigation into the matter in accordance with Section 3 of this
5 administrative regulation; and

6 (b) Order a report to be made to the board at the earliest opportunity.

7 (4) In making its determination, the board shall consider whether the charges if proven would
8 warrant sanction by the board.

9 (5) If the board determines there has been a prima facie violation based upon its review of the
10 relevant podiatric medical records and other relevant material available, the board may refer the
11 matter for a formal administrative hearing without investigation, and a formal administrative
12 complaint shall be prepared which states clearly the charge or charges to be considered at the
13 hearing. The formal administrative complaint shall be reviewed by the board and, if approved,
14 signed by the chair and served upon the individual in accordance with KRS Chapter 13B.

15 (6) If the complaint involves the improper, inappropriate, or illegal prescribing of controlled
16 substances, the board shall proceed under Section 4(5) [Section 4(2)] of this administrative
17 regulation.

18 ~~[(6) The board may at any time proceed against a licensee on its own initiative either on the~~
19 ~~basis of information contained in its own records or on the basis of information obtained through~~
20 ~~its own investigation.]~~

21 ~~[(7) The filing of a formal administrative complaint[charges] shall require the affirmative vote~~
22 ~~of a majority of the board.]~~

23 ~~[(8)~~

1 (a) ~~If the board finds that allegations against a licensee are insufficient for initiation of a formal~~
2 ~~disciplinary procedure, it shall dismiss the matter and notify all interested parties.~~

3 (b) ~~If the board determines that disciplinary proceedings are appropriate, the board shall set~~
4 ~~the matter for hearing and shall notify the licensee of the charges against him and the time and~~
5 ~~place of the hearing] in accordance with KRS Chapter 13B.~~

6 (c)

7 1. ~~The board is also entitled to resolve the matter informally through mediation or negotiation.~~

8 2. ~~Any agreed order reached through mediation or negotiation shall be approved by the board~~
9 ~~and signed by the individual who is the subject of the complaint, the individual's attorney, and the~~
10 ~~chair of the board.]~~

11 Section 4. Results of Formal Investigation; Board Decision on Hearing~~[Section 3. Investigations.]~~

12 (1) Upon completion of the investigation, if any, the investigator shall submit a report to the
13 board of the facts regarding the complaint. The board shall review the investigative report and
14 determine whether there has been a prima facie violation of KRS 311.380 to 311.520 or the
15 administrative regulations promulgated thereunder and whether a formal administrative complaint
16 shall be filed.

17 (b) If the board determines that a complaint does not warrant issuance of a formal
18 administrative complaint, it shall:

19 1. Dismiss the complaint; and

20 2. Notify the complainant and respondent of the board's decision.

21 (3) If the board determines that a complaint warrants the issuance of a formal administrative
22 complaint against a respondent, a formal administrative complaint shall be prepared which states
23 clearly the charge or charges to be considered at the hearing. The formal administrative complaint

1 shall be reviewed by the board and, if approved, signed by the chair and served upon the individual
2 as required by KRS Chapter 13B.

3 (4) If the board determines that a person may be in violation of KRS 311.380 to 311.510, it
4 shall make a referral to the county attorney, Commonwealth attorney, and the Attorney General,
5 within their respective jurisdictions, and request that appropriate action be taken under KRS
6 311.495. [Upon the receipt of a complaint and following the expiration of the twenty (20) days
7 provided for in Section 2(3) of this administrative regulation, the board or its appointed committee
8 may cause an investigation to be made by an individual board member, by any investigation
9 committee, or by any agent or representative appointed by the board. The board may also cause an
10 investigation to be made on its own initiative at any time without a complaint.]

11 ~~{(2)}~~

12 (5) If a complaint involves the improper, inappropriate, or illegal prescribing of controlled
13 substances, the board shall:

14 (a) Inform the Department of Kentucky State Police, the Office of the Attorney General,
15 and the Cabinet of Health and Family services with three (3) days of the receipt of the
16 complaint;

17 (b) Commence an investigation within seven (7) days of the filing of the complaint; and

18 (c) Complete the investigation and determine whether to proceed with adjudicatory
19 proceedings against the respondent within 120 days of receipt of the complaint, unless an
20 extension for a definite period of time is requested by a law enforcement agency due to an
21 ongoing criminal investigation.

22 ~~[Section 4. Commencement of Adjudicatory Proceedings.~~

1 ~~Upon completion of the investigation referred to in Section 4 of this administrative regulation~~
2 ~~or after the expiration of the twenty (20) day period referred to in Section 2(3) of this administrative~~
3 ~~regulation where an investigation is not made or whenever the board has completed an~~
4 ~~investigation made on its own initiative, the board may begin formal adjudicatory proceedings in~~
5 ~~accordance with KRS Chapter 13B.]~~

6 ~~[(2) In any case in which the board has denied an application for a license or failed to renew~~
7 ~~a license, a hearing shall only be scheduled upon receipt by the board of a written request submitted~~
8 ~~by or on behalf of the person whose application for license was denied or not renewed.]~~

9 Section 5. Temporary Suspension.

10 (1) The board chair or the board as a whole may issue an emergency order for the immediate
11 temporary suspension of a license ~~[or certificate]~~ against which disciplinary action or an
12 investigation is pending if it determines that there is a substantial likelihood that the licensee's
13 practice constitutes a danger to patients or the public.

14 (2) The emergency order shall be made in accordance with KRS 13B.125 and shall be based
15 upon a finding by the board that the emergency order is in the public interest and there is substantial
16 evidence of immediate danger to the health, welfare, and safety of any patient or the general public.

17 (3) A licensee may appeal the emergency order by a written request to the board for an
18 emergency hearing in accordance with KRS 13B.125 within thirty (30) days after receipt of the
19 order.

20 Section 6. Settlement by Informal Proceedings.

21 (1) The board may, at any time during this process, enter into informal proceedings with the
22 licensee who is the subject of the complaint for the purpose of appropriately dispensing with the
23 matter.

1 (2) An agreed order or settlement reached through this process shall be approved by the board
2 and signed by the individual who is the subject of the complaint and the president.

3 (3) The board may employ mediation or negotiation as a method of resolving the matter
4 informally.

5 Section 7. Board Ordered Examination. If the board determines that there is reasonable cause
6 to believe that a license holder or applicant for a license is physically or mentally incapable of
7 practicing podiatry with reasonable skill and safety to patients, the board may order the license
8 holder or applicant to submit to an examination by a mental health professional or a physician
9 designated by the board to determine the license holder's or applicant's mental health or physical
10 status to practice podiatry.

11 Section 8. Notice and Service of Process. A notice required by KRS 311.390 to 311.500 or
12 this administrative regulation shall be served in accordance with KRS Chapter 13B.

13 Section 9. Notification.

14 (1) The board shall immediately submit all disciplinary and other reportable information to
15 the National Practitioner Data Bank of the United States Department of Health and Human
16 Services or any successor entity; and

17 (2) The board shall make public:

18 (a) Its final order in a disciplinary action under KRS 311.490; and

19 (b) An action to restrain or enjoin a violation of KRS 311.400.

20 Section 10. Authorization for Release of Medical and Patient Records. If the complaint relates
21 to services provided by a licensee, the board or its authorized representative may contact the
22 complainant or patient for an "Authorization for Release of Medical and Patient Records", DPL-
23 BOP-04. This involves health oversight activities and administrative proceedings of the board and

1 disclosure is permitted by 45 C.F.R. Section 164.512, the federal regulations implementing the
2 Health Insurance Portability Accountability Act (HIPAA).

3 Section 11. Incorporation by Reference.

4 (1) The following material is incorporated by reference:

5 (a) "Complaint Form with Information Sheet and Authorization for Release of Medical and
6 Patient Records", DPL-BOP-03, March 2026; and

7 (b) "Authorization for Release of Medical and Patient Records", DPL-BOP-04, March 2026.

8 (2) This material may be inspected, copied, or obtained, subject to applicable copyright law,
9 at the Board of Podiatry, 500 Mero Street, Frankfort, Kentucky 40601, from 8:00 a.m. to 4:30
10 p.m., Monday through Friday. This material is also available on the board's Web site at bop.ky.gov.

11 ~~[The board shall immediately submit all disciplinary and other reportable information to the~~
12 ~~National Practitioner Data Bank of the United States Department of Health and Human Services~~
13 ~~or any successor entity.]~~

APPROVED BY AGENCY:

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Date: 09/10/2026