

311.685 Hearing required before imposition of sanctions -- Right to hearing and appeal -- Petition for reissuance of revoked certificate -- Probation -- Decisions of board not subject to judicial review.

- (1) The board, before suspending, revoking, imposing probationary or supervisory conditions upon a certified acupuncturist, imposing an administrative fine, issuing a written reprimand, or any combination of these actions regarding any certified acupuncturist under KRS 311.671 to 311.686, shall set the matter for a hearing under the provisions of KRS Chapter 13B.
- (2) After denying an application under KRS 311.671 to 311.686 or issuing a written admonishment, the board, at the request of the aggrieved party, shall grant a hearing under the provisions of KRS Chapter 13B.
- (3) Except for final orders denying an initial application or renewal for certification or final orders issued pursuant to KRS 13B.125(3), all final orders of the board affecting an acupuncturist's certificate shall become effective thirty (30) days after notice is given to the certificate holder unless otherwise agreed; however, the board's panels may provide that a final order be effective immediately when, in the panel's opinion, based upon sufficient reasonable cause, the health, welfare, and safety of patients or the general public would be endangered by delay.
- (4) Any acupuncturist who is aggrieved by a final order of the board denying an initial or renewal application for certification or rendering disciplinary action against a certificate holder may seek judicial review of the order by filing a petition with the Circuit Court of the county in which the board's offices are located in accordance with KRS Chapter 13B. Decisions of the board's panels relating to petitions for reinstatement of revoked certificates are not final orders for purposes of this statute, and are not subject to judicial review.
- (5) The court shall not award injunctive relief against the board without providing the board with the reasonable opportunity to be heard.
- (6) An acupuncturist whose certificate has been revoked may, after five (5) years from the effective date of the revocation order, petition the board to reissue the certificate to again practice acupuncture in the Commonwealth of Kentucky.
- (7) The board shall not be required to issue a new certificate, and a decision of the board not to reissue a certificate shall not be subject to judicial review. A certificate shall not be reissued following a petition under subsection (6) of this section unless the former certificate holder satisfies the board that he or she is presently of good moral character and qualified both physically and mentally to resume the practice of medicine without undue risk or danger to patients or the public.
- (8) In the event the board reissues a revoked certificate under the circumstances as described in this section, the reissued certificate shall be under probation for a period of not less than two (2) years nor more than five (5) years with conditions fixed by the board, including a condition that any violation of the remaining conditions of probation shall result in automatic revocation of the certificate.

Effective: July 12, 2006

History: Created 2006 Ky. Acts ch. 249, sec. 15, effective July 12, 2006.

Legislative Research Commission Note (7/12/2006). 2006 Ky. Acts ch. 249 related to the regulation of the practice of acupuncture. However, in 2006 Ky. Acts ch. 249, sec. 15, subsec. 7, the drafter of that Act inadvertently included a reference to the "practice of medicine" in the second sentence of that subsection. It is clear to the Reviser of Statutes that reference should have read "practice of acupuncture;" however, since it could not be corrected as a manifest clerical or typographical error under the authority of KRS 7.136(1)(h), subsection (7) of this statute retains the reference as it appeared in 2006 Ky. Acts ch. 249.