

Kentucky Board of Medical Licensure

Hurstbourne Office Park
310 Whittington Parkway, Suite 1B
Louisville, Kentucky 40222
Telephone: 502/429-7150
Fax: 502/429-7158
Website: www.kbml.ky.gov

TO: To Whom It May Concern

FROM: Kentucky Board of Medical Licensure

RE: Information on Filing a Grievance

Pursuant to your request to register a grievance against a physician licensed in the Commonwealth, please find attached a **“Consumer’s Guide to the Kentucky Board of Medical Licensure (KBML)”** along with a copy of KRS 311.595, which outlines grounds for disciplinary action by the KBML against a physician. The KBML is authorized to conduct investigations, enforce regulations and impose sanctions when a violation of the law and/or regulation has occurred.

Acting through the KBML, physicians have adopted high standards of ethics and professional competence. A license to practice medicine in Kentucky obligates a physician to uphold the laws and to abide by the Medical Practice Act set forth by the Kentucky General Assembly. Those who violate these professional obligations are subject to discipline.

After reviewing this information, should you choose to file a grievance, please complete the attached ***“Grievance Form”*** and return it to this office. **This form must be signed and notarized, providing the dates, location and the full names and addresses of all physicians involved and the particular section of the statute that you feel the physician has violated with a description of the conduct.**

Kentucky Board of Medical Licensure Consumer’s Guide to the KBML

Introduction

Sometimes, health care services can fall below a patient’s expectations. As a health care consumer, you should know what you can do to ensure that you receive quality health care. This means knowing what to do when the care you receive is not of the quality you deserve.

Did you know that the Kentucky Board of Medical Licensure:

- Licenses and regulates medical/osteopathic physicians
- Regulates and certifies Athletic Trainers, Surgical Assistants and Acupuncturists and Genetic Counselors
- Licenses and regulates Physician Assistants
- Receives and investigates complaints regarding quality of care and competency issues

This *Consumer's Guide to the KBML* is designed to answer questions you might have as a patient, as well as tell you what the KBML can do for you.

The following information will provide you with a step-by-step guide through the complaint process. It is hoped that this information will encourage you to contact the KBML when you have legitimate concerns about your physician or other health care providers noted above.

Consumer grievances are an important and direct source of information about the competency of health care professionals and the quality of care they provide. Grievances also show KBML officials that consumers are watching the actions the KBML takes on behalf of the public.

What is the KBML? What does it do?

The KBML is the state agency that administers Kentucky regulatory laws for medical doctors (M.D.'s), osteopathic doctors (D.O.'s), Physician Assistants, Athletic Trainers, Surgical Assistants and Acupuncturists. Practitioners licensed by the KBML are called "licensees". The KBML handles general consumer complaints about its licensees and may directly discipline those who violate the public health and safety standards set by the legislature and the KBML. The KBML may refer a complaint to a more appropriate agency, if necessary.

The KBML does not license chiropractors, dentists, nurses, psychologists, physical therapists, paramedics or other health care providers. Grievances about these professionals should be directed to the regulatory agencies by which they are licensed.

Who are the members of the KBML?

The KBML consists of 15 members, including the Commissioner of Public Health, the Dean of the University of Kentucky College of Medicine, the Dean of the University of Louisville School of Medicine and the Dean of Pikeville College School of Osteopathic Medicine. Eleven members are appointed by the Governor and serve for a four-year term. Of the members appointed by the Governor, one member is a licensed osteopathic physician, seven members are licensed medical physicians and three members are citizens at large who are representatives of a recognized consumer advocacy group with an interest in the delivery of health care.

What kinds of grievances does the KBML handle?

The KBML can discipline its licensees for violations of the Kentucky Medical Practice Act. Grounds for discipline include:

- Impairment of ability to practice due to drug or alcohol abuse, or due to physical or mental illness
- Failing to meet minimal standards of care in treating patients
- Prescribing drugs in an inappropriate manner or without legitimate reason
- Inappropriate sexual conduct/conviction of a misdemeanor in the course of practice or conviction of a felony
- Falsifying information; fraud
- Performing duties beyond the scope of a license
- Failing to meet Continuing Medical Education requirements

What kinds of grievances are not handled by the KBML?

The KBML cannot:

- Help you sue a health care provider for money
- Handle a fee dispute between you and your physician

- Discipline practitioners who are not licensed by the KBML (for example, a doctor licensed in another state or a person licensed by another state agency, such as a nurse or a physical therapist)
- Get money back that you feel is owed to you
- Resolve questions about disability compensation or insurance reimbursement

Do I need an attorney to handle my grievance?

You do not need an attorney to file your grievance with the KBML or to follow through with it. The KBML can take action against a health care provider's privileges to practice, but it cannot help you sue a health care provider for money.

How do I file a grievance?

You can obtain a grievance form on our website, www.kbml.ky.gov, by selecting **Grievances** then printing the **Consumer Guide and Grievance form**.

What is the grievance process?

To maintain confidentiality and assure that every grievance brought to the Board's attention is reviewed, each case is assigned a grievance number. Your grievance is initially reviewed by the Board's Executive Director to determine whether the KBML has the legal authority (jurisdiction) to act.

The Board's jurisdiction is defined by state statutes (Medical Practice Act). The KBML would not have jurisdiction, for example, if your grievance were about a physician's refusal to accept Medicare patients, or about overcharging you for services actually performed, because these actions are not probated by the state statutes the KBML enforces.

Although all grievances are evaluated, many grievances do not result in disciplinary action. The Board's Inquiry Panels review each grievance to determine if there is sufficient evidence to show that a violation of the Board's statutes has occurred. If it is determined that there is not a sufficient basis for proceeding with formal disciplinary action, you will receive a letter telling you that your grievance has been closed.

If the KBML has jurisdiction, the case may be assigned to one of the Board's investigators. The Board's Director of Investigations oversees investigations and serves as advisor on each case. In some instances, outside medical experts will also assist in reviewing a grievance.

Depending on the nature of the grievance, the Board's investigator may gather information from any of the following sources: you; the grievant; the patients, if other than the grievant; the licensee's co-workers; and other sources, such as police agencies or hospital and pharmacy records. The investigator will also contact the physician involved to discuss the grievance.

For additional information about the Board or the grievance process, please look under the **Grievance** section on the Board's website.

What is the disciplinary process?

After the Board's Inquiry Panel votes to issue formal charges, a Complaint will be sent to the licensee giving written notice of the charges and of the opportunity to request an administrative hearing. The hearing is held before a Hearing Officer appointed by the State Attorney General's Office and is generally open to the public. The licensee may be represented by an attorney or present his or her own case. In some cases, the licensee will send his or her arguments in writing instead of coming to the hearing. The hearing is similar to a civil trial: evidence and witnesses are presented and both sides give questions and answers.

After the hearing, the Hearing Officer files a summary of the case and a proposed decision with the Board's Inquiry Panel. A copy of the Hearing Officer's Findings is sent to the licensee, who has ten days to file written objections.

Before discussing the case and rendering a final decision, the Panel reviews the Hearing Officer's Findings of Fact and Conclusions of Law and Recommendation, and any objections filed by the licensee. The members of the Panel can accept, reject or modify the Hearing Officer's Recommendation.

What type of disciplinary action may be taken by the Board's Panel?

The Panel may dismiss the case if it feels that no violation has occurred or if evidence is insufficient to support a finding of a violation. However, if the Panel decides that there has been a violation, it may choose one of the following formal disciplinary actions:

- Reprimand the licensee
- Suspend the physicians license, or
- Put the license on probation under variety of terms and conditions
- Permanently revoke the physicians license
- Limit the practitioner's license (e.g., limit the type of procedures the licensee may perform)
- Fine the licensee

In emergencies, the Board's Inquiry Panel has the authority to temporarily suspend a physician's license pending a hearing. This is called an Emergency Order of Suspension.

At any time after a Complaint is filed, the licensee and the Board's General Counsel may negotiate a resolution or "Agreed Order". The Panel must ratify all Agreed Orders.

A licensee may also surrender their license, if the Panel is willing to accept it.

Can a licensee appeal the KBML's decision?

If a Panel of the KBML formally disciplines a licensee, the licensee may appeal the Panel's decision to the Jefferson County Circuit Court. The licensee may try to keep the KBML from enforcing its disciplinary measures during the appeal process by getting an order from the court called a "stay order". A stay prevents all or part of the disciplinary order from going into effect until a decision on the appeal is made.

Can I get a money award or other relief if the KBML disciplines a licensee?

The KBML does not have the authority to award monetary damages. It also cannot:

- Get money back that you believe is due you
- Settle disputes between you and your physician
- Compel corrective action

These functions are primarily for the courts. Making a complaint to the KBML is not the same thing as filing a lawsuit with a civil court.

Help yourself be a smart healthcare consumer

Throughout the year the KBML receives grievances against physicians practicing in the state. Many times, the grievances turn out to be simple misunderstandings between the physician, the patient, or the patient's family that can be resolved without the intervention by the KBML or another agency. You can help yourself be a smart healthcare consumer by considering the following suggestions:

- Discussing your concerns with your physician
- Asking about the physician's fees when scheduling an appointment
- Understanding your insurance policy coverage
- Checking with your insurance carrier to be sure that your physician is an approved provider for the insurance plan

What other agencies help healthcare consumers

Besides the KBML, there are several other agencies that assist healthcare consumers. The agency you choose may depend on the nature of your complaint or inquiry. Some of the agencies which may be of assistance to you are as follows:

**Kentucky Cabinet for Health & Family Services
Department for Public Health**

275 East Main Street
Frankfort, KY 40621
(502) 564-3970

American Board of Medical Specialties

1007 Church St., Suite 404
Evanston, IL 60201-5913
(847) 491-9091

(Callers may find out if a physician is certified by a specialty board recognized by the American Board of Medical Specialties.)

American Osteopathic Association (AOA)

142 East Ontario Street
Chicago, IL 60611
(800) 621-1773

(Callers may find out if a physician is certified by a specialty board recognized by the American Osteopathic Association.)

American Board of Podiatric Surgery

445 Fillmore St.
San Francisco, CA 94117-3404
(415) 553-7800

(Callers may find out if a physician is certified by a specialty board recognized by the American Board of Podiatric Surgery.)

Kentucky Medical Association (KMA)

The KMA Building
4965 US Highway 42, Suite 2000
Louisville, KY 40222-6301
(502) 426-6200

Kentucky Osteopathic Medical Association (KOMA)

2424 American Lane
Madison, WI 53704
(608) 441-1060

Kentucky Academy of Physician Assistants

3950 Chain Bridge Road, #12
Fairfax, VA 22030
(859) 308-6692

Your Insurance Carrier

Most insurance companies have consumer divisions, which are equipped to take complaints or solve billing disputes.

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Grievance Form
(This Form Must Be Typed or Legibly Printed)

The Kentucky Board of Medical Licensure is a public agency and your completed grievance form may become an open record pursuant to KRS 61.870, Subsection (2).

Date: _____

Name and Address of Grievant:

**Full Name, Address and Phone Number of Physician
Against Whom Grievance is Made:**

Telephone: () _____

Details of Grievance: State in detail all facts, which you believe justify your grievance. If possible, state whether the information is within your personal knowledge, and if not, the source or sources of the information. Also attach any records, documents, letters or other materials that are pertinent to your grievance.

The Following Statement is a Sworn Statement:

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Waiver of Privilege
Agreement to Release Records

Upon receipt of a photostatic or other copy hereof, you are authorized to release to the representative of the Kentucky Board of Medical Licensure for inspection and copying all records in your possession pertaining to me, to discuss with them fully any information you may have about me, and to furnish them a full report concerning me.

This authorization includes medical records, including all hospital records, psychiatric and psychological records, records of physicians and other medical personnel, records of drug abuse, records of alcohol abuse, prescriptions and drug records, and any and all records relating to my physical and mental condition.

Prohibition of Redislosure: This information has been disclosed in compliance with Federal Regulations (42 CFR Part2) which prohibits further disclosure of this information except with specific written consent of the person to whom it pertains. A general authorization for the release of medical or other information, if held by another party, is not sufficient for this purpose. Federal Regulations state that any person who violates any provision of this law shall be fined not more than \$500, in the case of a first offense, and not more than \$5,000 in the case of each subsequent offense.

For Purposes Of Identification:

1. Full Name: _____
2. Date of Birth: _____
3. Last 4 Digits of Social Security Number: _____

Date: _____ Signature: _____