

Kansas State Board of Healing Arts

Information about Hearings held during Board Meetings

Filings exhibits, and motions relating to scheduled hearings:

All filings, including exhibits and motions must be filed with the Office of the Executive Director by mail, email, in person, or by fax at (785) 368-7102. A separate copy must also be sent to the opposing party/attorney as identified in the Notice of Hearing or any entries of appearance. When a case is docketed, all attorneys should file an entry of appearance so that mailings can be directed to represented parties. All filings should include the sender's mailing address, email address, and telephone number. Documents relating to a scheduled hearing must never be sent directly to any Board member. Communication with a Board member may result in the Board member's recusal from the case.

Initial filings:

Initial requests for Board action, including but not limited to Petitions for Discipline, Applications, Motions for Modification that are filed with the Executive Director at least forty-five (45) calendar days prior to the next scheduled Board Meeting are set for an administrative hearing at the next scheduled Board Meeting. If a Presiding Officer is assigned to a case, the Presiding Officer will schedule and conduct a hearing apart from the Board meeting. If an initial filing is made less than forty-five (45) days prior to the next regularly scheduled Board Meeting, it will be set for the subsequent scheduled Board Meeting. If a response to the initial request for Board action is filed by an adverse party's filing and is received at least thirty (30) days prior to the next scheduled Board Meeting, the response will be deemed timely and the matter will remain scheduled for hearing at the next scheduled Board Meeting. If an adverse party files a response to the initial pleading or supplemental exhibits in support of a response, and they are received by the Board twenty-nine (29) days or less prior to the next scheduled Board Meeting, the response will be deemed untimely and moved to the subsequent scheduled Board meeting. If an untimely document is filed, the matter may, at the discretion of the Executive Director and/or General Counsel, remain scheduled for hearing at the next scheduled Board Meeting.

Motions to extend the time to file or for a continuance of a hearing:

All requests to continue a scheduled hearing or to extend the time to file, must be filed with the Executive Director and be in writing. If a motion to extend or continue is received at least thirty (30) days prior to the next scheduled Board Meeting, the request will be considered timely. Continuances or extensions of time may be granted or denied at the discretion of the Executive Director and/or General Counsel. No party should consider any request relating to a scheduled hearing granted unless the party receives

notification in writing from the Executive Director or General Counsel that the request has been granted.

Exhibits:

Exhibits in support or opposition to a pleading or in support or opposition to claims or defenses contained in filings should be filed with the party's filing identifying the exhibit and are subject to the same scheduling deadlines as other filings guidelines as the party's pleading, as described above. Copies of any exhibits must be forwarded to the opposing party/attorney as early as possible and may be subject to other deadlines in case management orders. This does not apply to exhibits for rebuttal of matters raised at the time of the hearing. The agency's administrative staff electronically provides hearing documents to the Board members approximately 2-3 weeks in advance of the Board meeting date. Therefore, any legal objections to the admissibility of another party's exhibits should be filed with the Executive Director in writing as early as feasible, and not later than 10 days after service of the exhibit.

Attendance at Hearing:

A Notice of Hearing scheduled for a Board Meeting generally requires in-person attendance of the parties at the hearing. A party may be held in default for failing to attend or participate. See K.S.A. 77-520.

Hearing Procedure:

A matter scheduled for a hearing at a Board meeting is presented to the full Board. The procedure used for hearings is the Kansas Administrative Procedure Act, K.S.A. 77-501 et seq. Typically, hearings last less than a half hour and do not involve complex disputed factual issues. There may be portions of a hearing which are closed to the public to consider information or evidence which is confidential by law. Examples include settlement offers in matters still under investigation, impairment issues, patient-identifying information and peer review. During a "closed" portion of the hearing, only the parties and agency staff are present in the hearing. Additionally, the Board may recess a hearing to privately obtain legal advice from General Counsel staff about the case or to deliberate on their decision. The statutory reason for any closed session must be stated before the session is closed.

Board Decisions Following Hearings:

The Board may announce their decision at the Board meeting or at a subsequent date. However, unless otherwise stated, the decision is not effective until a written order is issued. The Board generally issues the written order within 30 days following the hearing. The written order will include the Board's decision and any specific provisions required for implementation.

Disclaimer:

This document does not constitute legal advice. Additionally, it does not create legal rights for any party. The Board encourages all parties who desire legal advice to seek independent legal counsel immediately.