

Kansas Administrative Regulations

State Board of Pharmacy

Article 20.—Controlled Substances

68-20-13. Hearings generally.

In any case where the board shall hold a hearing on any registration or application therefor, the procedures for such hearing shall be conducted in accordance with the procedural provisions of the act and paragraph 68-20-13 of these regulations. Any hearing under this part shall be independent of and not in lieu of, criminal proceedings or other proceedings under the act or any other law of this state.

(A) *Purpose of hearing*—The board shall hold a hearing for the purpose of receiving factual evidence regarding the issues involved in the denial, revocation, or suspension of any registration. Extensive argument should not be offered into evidence but rather presented in opening or closing statements of counsel or in memoranda or proposed findings of fact and conclusions of law.

(B) *Waiver or modification of rules*—The board or its presiding officer (with respect to matters pending before him), may modify or waive any rule or regulation in paragraph 68-20-13 of these regulations by notice in advance of the hearing, if the board determines that no party in the hearing will be unduly prejudiced and the ends of justice will thereby be served. Such notice of modification or waiver shall be made a part of the records of the hearing.

(C) *Hearing; waiver.*

(1) Any person entitled to a hearing may file with the board a waiver of an opportunity for a hearing or to participate in a hearing, together with a written statement regarding his position on the matters of fact and law involved in such hearing. Such statement, if admissible, shall be made a part of the record and shall be considered in light of the lack of opportunity for cross-examination in determining the weight to be attached to matters of fact asserted therein.

(2) If any person entitled to a hearing or to participate in a hearing waives his opportunity to participate in the hearing, the board may proceed without the presence of such person.

(D) *Burden of proof.*

(1) At any hearing for the denial of a registration, the board shall have the burden of proving that the requirements of such registration pursuant to the act (K.S.A. 65-4117, K.S.A. 65-4118) are not satisfied.

(2) At any hearing for the revocation or suspension of a registration, the board shall have the burden of proving that the requirements for such revocation or suspension in accordance with the provisions of the act (K.S.A. 65-4119).

(E) *Time and place of hearing*—The hearing will commence at the place and time designated in the order to show cause (unless expedited pursuant to paragraph 68-20-12D of these regulations) but thereafter, it may be moved to a different place and may be continued from day to day or recessed to a later day without notice other than announcement thereof by the presiding officer at the hearing.

(F) *Final order*—As soon as practicable after the presiding officer has certified the record to the board, the board shall issue its order on the granting, denial, revocation or suspension of the registration. In the event that any application for registration is denied, or any registration is revoked or suspended, the order shall include the findings of fact and conclusions of law upon which the order is based. The order shall specify the date on which it shall take effect. The board shall serve one copy of its order upon each party in the hearing by registered, return receipt requested mail.

(Authorized by K.S.A. 65-4117, 65-4118, 65-4119; effective, E-72-24, Aug. 25, 1972; effective Jan. 1, 1973.)

***** Authenticated Kansas Administrative Regulation *****