

Chapter 1. Administrative Operations

Subchapter 3. General Course and Method of Operations

510:1-3-4. Board meetings

The Board holds regular quarterly meetings ~~on the third Thursday of June, and September and the second Thursday of March and December of each year~~ except that such regularly scheduled meetings may be cancelled or changed at the Board's discretion. The Board may hold other meetings of a special or emergency nature in its discretion. Meetings will be conducted at the Board office or other designated locations as necessary or desirable. A majority of the members of the Board constitute a quorum and may transact any business of the Board by a simple majority vote of the quorum present. The Board Executive Director, or designee, shall ensure all notice and final Agenda posting requirements for any meeting of the Board comply with 25 O.S. § 311.

510:1-3-5. Public access to records

The following documents shall be available for public inspection and copying or printing at the Board's principal office during regular office hours: all records of receipt and expenditure of funds, rules adopted by the Board, declaratory rulings issued by the Board, minutes of Board meetings, applications for licensure and renewal, the official record of individual proceedings and other records required to be maintained by Oklahoma law and to be made public by the Oklahoma Open Records Act. The records to be made public do not include documents that are confidential or subject to an evidentiary privilege (including patient records and attorney/client communications) or are protected from disclosure under the work product doctrine, the Board's litigation files, the Board's investigatory files ~~and to include~~ reports, informal complaint resolutions, including safe harbor agreements, and communications to the Board about current and prospective licensees. Printed copies of the documents available to the public will be provided upon the Board's receipt of a written request and payment of required fees, including \$.25 for each page printed. [59 O.S., Section 627, 51 O.S., Section 24A.1 et seq.]

Subchapter 5. Individual Proceedings

510:1-5-1. Initiation of individual proceedings, ~~complaint, and citation~~

An individual proceeding may be initiated, upon information indicating the possible violation of the Act, through the filing of a petition by the Board staff setting out the matters enumerated in 75 O.S., Section 309, and containing a statement setting forth the allegations and naming the licensee against whom the complaint is made. The General Counsel, or Board staff, ~~shall issue a citation notifying~~ give notice to the respondent ~~of the by~~ serving a petition and the date and place of the hearing.

510:1-5-3. Service

- (a) The petition ~~and citation~~ and all subpoenas shall be served personally in the manner authorized by state law for service of summons in a judicial proceeding or by certified mail, return receipt requested, delivery restricted to the addressee. If personal service or service by certified mail cannot be completed, service of the petition ~~and citation~~ may be made by first class mail to the respondent at the last address furnished to the Board by the respondent or by publication in a newspaper or newspapers for the time, or posting at the places, the Secretary of the Board determines will be most likely to provide notice to the respondent.
- (b) Personal service may be made by any person appointed by the Executive Director, Board Investigators, or any person authorized by State law to serve process in judicial proceedings.
- (c) Service of all other papers shall be made by first-class mail to the address at which service of the petition ~~and citation~~ was made or in the manner by which such service was made if not by mail or personal service or such other address designated by the respondent; to the Board at its office; and to the address designated by any other party to the proceeding.
- (d) Service by mail shall be complete three (3) days after the date the notice is placed in the U.S. Mail with sufficient postage prepaid. Service by publication shall be complete on the date of the first publication. Service by posting shall be complete on the date the notice is posted. Personal service shall be complete upon delivery.

510:1-5-4. Hearing date, continuance, or extension of time

- (a) The hearing, shall ~~not be no~~ less than twenty (20) days after service of the petition ~~and citation~~ unless an agreement of the parties is made in writing and on the record. The Board may suspend a license without notice if

the Board determines, upon the vote of three-fourths ($\frac{3}{4}$) of the quorum present at the meeting that an emergency exists and the Board schedules a hearing within thirty (30) days of the date the suspension takes effect.

(b) Written motions for any continuance or extension of time by either party shall state the additional time desired and the reason for the request, unless a written agreement is made by the Board's Executive Director and the respondent. The Board's Executive Director must rule on these motions prior to the scheduled hearing. Any agreement to continue the hearing must be on the record at the next regularly scheduled meeting. If the request is denied, either party may renew the request and make a proper showing at the hearing.

510:1-5-5. Written answer, extension of time

The respondent shall file a written answer under oath with the Board within twenty (20) days after the service of a ~~citation~~ petition. If said answer is not filed, the respondent shall be considered in default and appropriate sanctions may be imposed, if the evidence is deemed sufficient by the Board. Unless by agreement of the Board Executive Director and the respondent, only one (1) continuance is allowed by Executive Director for extension of time. The Secretary of the Board may extend the time within which an answer must be filed; however, in no case shall the time to file an answer be extended beyond the hearing date.

510:1-5-6.1. Hearing procedures

(a) **Order of proceeding;** rules of evidence. Hearings shall be conducted in public view and in an orderly manner by the President of the Board. The order of proceeding will follow that which applies in civil proceedings of law. However, the rules of evidence shall be those specified by the Oklahoma Administrative Procedures Act.

(b) **Rulings of the President.** The President of the Board, or general counsel of the Board, shall rule upon the admissibility of evidence and objections thereto, and shall rule upon other motions or objections as they arise during the course of the hearing. The rulings of the President, in all questions, shall be the rulings of the Board unless reversed by a majority vote of the Board upon a party's appeal from such rulings of the President.

(c) **Burden of proof.** The Board's decisions to suspend or revoke a license shall be based on clear and convincing evidence presented at a public hearing. The Board shall establish, by greater weight of evidence, all other administrative actions against a physician [59 O.S. § 637(C)].

510:1-5-7. Respondent's failure to appear

Any respondent who fails to appear at a scheduled hearing as directed by the provisions of 510:1-5-~~23~~, after first having received proper notice, shall be determined to have waived his/her right to present a defense to the allegations in the petition and appropriate sanctions may be imposed by the Board if it appears, after having reviewed the evidence, that action is warranted.

Subchapter 7. Rulemaking Procedures

510:1-7-3. Notice and hearing requirements

(a) In any rule-making action, whether initiated by the Board or by petition, the Board shall comply with the current notice requirements in the Administrative Procedures Act [75 O.S., Section ~~304~~ 250 et seq.].

(b) Notice of the Board's consideration of proposed rulemaking action shall be mailed to all interested persons who have made a request of the Board for advance notice of the rulemaking proceedings, or who were specified in the petition and shall be published in the Oklahoma Register.

(c) Unless otherwise specified in the notice, all hearings will be conducted in the Office of the Board, or designated location.

(d) Appearance may be made individually, or by an authorized agent.