

68B.32C Contested case proceedings.

1. Contested case proceedings initiated as a result of the issuance of a statement of charges pursuant to section 68B.32B, subsection 9, shall be conducted in accordance with the requirements of chapter 17A. Clear and convincing evidence shall be required to support a finding that a person has violated this chapter, section 8.7, or any rules adopted by the board pursuant to this chapter. A preponderance of the evidence shall be required to support a finding that a person has violated chapter 68A or any rules adopted by the board pursuant to chapter 68A. The case in support of the statement of charges shall be presented at the hearing by one of the board's attorneys or staff unless, upon the request of the board, the charges are prosecuted by another legal counsel designated by the attorney general. A person making a complaint under section 68B.32B, subsection 1, is not a party to contested case proceedings conducted relating to allegations contained in the complaint.

2. Hearings held pursuant to this chapter shall be heard by a quorum of the board, unless the board designates a board member or an administrative law judge to preside at the hearing. If a quorum of the board does not preside at the hearing, the board member or administrative law judge shall make a proposed decision. The board or presiding board member may be assisted by an administrative law judge in the conduct of the hearing and the preparation of a decision.

3. Upon a finding by the board that the party charged has violated this chapter, chapter 68A, section 8.7, or rules adopted by the board, the board may impose any penalty provided for by section 68B.32D. Upon a final decision of the board finding that the party charged has not violated this chapter, chapter 68A, section 8.7, or the rules of the board, the complaint shall be dismissed and the party charged and the original complainant, if any, shall be notified.

4. The right of an appropriate county attorney or the attorney general to commence and maintain a district court prosecution for criminal violations of the law is unaffected by any proceedings under this section.

5. The board shall adopt rules, pursuant to chapter 17A, establishing procedures to implement this section.

93 Acts, ch 163, §17; 2006 Acts, ch 1035, §6; 2007 Acts, ch 126, §17

Referred to in §68A.101, 68B.32A, 331.756(15)