

RCW 18.32.775 Disciplinary proceedings—Cost and fee recovery.

(1) In any disciplinary case pertaining to a dentist where there is a contested hearing, if the commission or its hearing panel makes the finding requisite for, and imposes upon the dentist, a disciplinary sanction or fine under RCW 18.130.160, unless it determines to waive the assessment of a hearing fee, it shall assess against the licensee a partial recovery of the state's hearing expenses as follows:

(a) The partial recovery hearing fee must be:

(i) An amount equal to six thousand dollars for each full hearing day in the proceeding and one-half of that amount for any partial hearing day; and

(ii) A partial recovery of investigative and hearing preparation expenses in an amount as found to be reasonable reimbursement under the circumstances but no more than ten thousand dollars;

(b) Substantiation of investigative and hearing preparation expenses for purposes of (a) of this subsection may be by affidavit or declaration descriptive of efforts expended, which are reviewable in the hearing as would be a cost bill;

(c) The commission or its hearing panel may waive the partial recovery hearing fee if it determines the assessment of the fee (i) would create substantial undue hardship for the dentist, or (ii) in all the circumstances of the case, including the nature of the charges alleged, it would be manifestly unjust to assess the fee.

Consideration of the waiver must be applied for and considered during the hearing itself. This may be in advance of the decision related to RCW 18.130.160.

(2) If the dentist seeks judicial review of the disciplinary action and there was a partial recovery hearing fee assessed, then unless the license holder achieves a substantial element of relief, the reviewing trial court or appellate court shall further impose a partial cost recovery fee in the amount of twenty-five thousand dollars at the superior court level, twenty-five thousand dollars at the court of appeals level, and twenty-five thousand dollars at the supreme court level. Application for waiver may be made to the court at each level and must be considered by the court under the standards stated in subsection (1)(c) of this section.

(3) In any disciplinary case pertaining to a dentist where the case is resolved by agreement prior to completion of a contested hearing, the commission shall assess against the dentist a partial recovery of investigative and hearing preparation expenses in an amount as found to be reasonable reimbursement in the circumstances but no more than ten thousand dollars, unless it determines to waive this fee under the standards stated in subsection (1)(c) of this section.

(4) In any stipulated informal disposition of allegations pertaining to a dentist as contemplated under RCW 18.130.172, the potential dollar limit of reimbursement of investigative and processing costs may not exceed two thousand dollars per allegation.

(5) Should the dentist fail to pay any agreed reimbursement or ordered cost recovery under the statute, the commission may seek collection of the amount in the same manner as enforcement of a fine under RCW 18.130.165.

(6) All fee recoveries and reimbursements under this statute must be deposited to the health professions account for the portion of it allocated to the commission. The fee recoveries shall be fully

credited in reduction of actual or projected expenditures used to determine dentist license renewal fees.

(7) The authority of the commission under this section is in addition to all of its authorities under RCW 18.130.160, elsewhere in chapter 18.130 RCW, or in this chapter. [2009 c 177 § 1.]