

**CHAPTER 266****(HB 376)**

AN ACT relating to the Kentucky Board of Nursing.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

- (1) If a licensee issues payment for a biennial license to the board by a bank check that is dishonored by the bank or financial institution upon which it is drawn and the licensee fails to reimburse the board for the amount of the check and any applicable fee within thirty (30) days of written notice from the board, the board may initiate action for the immediate temporary suspension of the license under Section 5 of this Act until the licensee pays the required fee and meets all requirements for reinstatement of the license. The board shall mail written notice of the dishonored check to the licensee's address on record with the board.*
- (2) A licensee whose license is suspended under subsection (1) of this section may request an emergency hearing under the provisions of KRS 13B.125.*
- (3) Nothing in this section shall supersede the provisions of KRS 314.091.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

- (1) Notwithstanding any provision of law to the contrary, upon receipt of a notice from the Cabinet for Families and Children that a nurse is in violation of KRS 205.712, the board shall issue an order suspending the nurse's license. If the individual is an applicant for licensure, the board shall issue a denial of licensure. The order shall constitute disciplinary action against the nurse or individual.*
- (2) Suspension of a license or denial of licensure under subsection (1) of this section shall continue until the Cabinet for Families and Children notifies the board that the nurse or individual is no longer in violation of KRS 205.712.*
- (3) A nurse shall not be entitled to a hearing before the board on a suspension of a license in child support cases administered by the Cabinet for Families and Children in accordance with 42 U.S.C. secs. 651 et seq.*
- (4) To reinstate a license suspended under this section, a nurse shall comply with all reinstatement requirements.*

Section 3. KRS 314.026 is amended to read as follows:

- (1) The board shall make nursing scholarships in schools of nursing and graduate programs in nursing available to Kentucky residents through the Kentucky nursing incentive scholarship fund, as set forth by KRS 314.025 to 314.027 and by administrative regulations of the board promulgated pursuant to KRS Chapter 13A.
- (2) The board shall administer the Kentucky nursing incentive scholarship fund and may recover reasonable costs for administering the fund. The board shall be responsible for receiving and evaluating all applications for the scholarship made by persons who are bona fide residents of the Commonwealth and who desire to become nurses. The board shall evaluate each application to determine if the applicant complies with criteria for such

scholarships as set forth in KRS 314.025 to 314.027 and in administrative regulations of the board.

- (3) Applications from all persons determined to be qualified shall be forwarded to the ~~[Kentucky Nursing Incentive Scholarship Fund Committee to be comprised of six (6) members including three (3) registered nurses, one (1) of whom shall be nominated by the Kentucky Nurses Association; two (2) licensed practical nurses who shall be appointed by the board; and one (1) member of the ]~~board. The **board**~~[committee]~~ shall designate the persons to receive assistance and the amount thereof. Decisions of the **board**~~[Kentucky Nursing Incentive Scholarship Fund Committee]~~ in these matters shall be final. Disbursement of funds shall be pursuant to a written contract between the board and the applicant.
- (4) The yearly individual nursing scholarship award granted shall be determined annually by the **board**~~[Kentucky Nursing Incentive Scholarship Fund Committee]~~. In determining the amount of the award and the number of scholarships to be granted, the **board**~~[committee]~~ shall use its best judgment and shall seek to maintain the scholarship funds for future use.
- (5) Each recipient of a scholarship shall agree in the written contract to practice as a nurse in Kentucky for at least one (1) year for each academic year funded.
- (6) ***The board shall establish a Kentucky Nursing Incentive Scholarship Fund Grant Review Committee composed of two (2) registered nurses and one (1) licensed practical nurse appointed by the board and one (1) member of the board who shall serve as chair of the committee. The committee shall review all proposals for nursing workforce competency development grants and make recommendations to the board. The board shall make the final decision on all grant proposals.***

Section 4. KRS 314.085 is amended to read as follows:

- (1) If the board has reasonable cause to believe that any licensee; applicant for licensure by examination, endorsement, reinstatement, or change of status; or holder of a temporary work permit is unable to practice with reasonable skill and safety or has abused alcohol or drugs, it may require the person to submit to a mental **health, chemical dependency**, or physical **evaluation**~~[examination]~~ by a **licensed or certified practitioner designated by the board**~~[physician or psychologist it designated]~~. Upon the failure of the person to submit to a mental **health, chemical dependency** or physical **evaluation**~~[examination]~~, unless due to circumstances beyond the person's control, the board may initiate an action for immediate temporary suspension pursuant to KRS 314.089 or deny the application until the person submits to the required **evaluation**~~[examination]~~.
- (2) Every licensee; applicant for licensure by examination, endorsement, reinstatement, or change of status; or holder of a temporary work permit shall be deemed to have given consent to submit to a mental **health, chemical dependency**, or physical **evaluation**~~[examination]~~ when so directed in writing by the board. The direction to submit to an **evaluation**~~[examination]~~ shall contain the basis of the board's reasonable cause to believe that the person is unable to practice with reasonable skill and safety, or has abused alcohol or drugs. The person shall be deemed to have waived all objections to the admissibility of the examining **practitioner's**~~[physician's or psychologist's]~~ testimony or examination reports on the ground of privileged communication.

- (3) The licensee; applicant for licensure by examination, endorsement, reinstatement, or change of status; or holder of a temporary work permit shall bear the cost of any mental **health, chemical dependency**, or physical **evaluation**~~[examination]~~ ordered by the board.

Section 5. KRS 314.089 is amended to read as follows:

- (1) The board's president or the president's designee may determine that immediate temporary suspension of a license against which disciplinary action or an investigation is pending is necessary in order to protect the public. When it appears that this action may be necessary, the executive director or the executive director's designee shall issue an emergency order suspending the nurse's license. Upon appeal of an emergency order, an emergency hearing shall be conducted in accordance with KRS 13B.125.
- (2) No board member shall be disqualified from serving on a disciplinary action hearing panel for the reason that he has previously sat on a hearing panel considering temporary suspension of the same license.
- (3) The board shall expedite disciplinary actions in which a license has been temporarily suspended.
- (4) The order of immediate temporary suspension shall remain in effect until either **reconsidered**~~[retracted]~~ or superseded by final disciplinary action by the board. In cases where disciplinary action is imposed the board may additionally order that the temporary suspension continue in effect until the later of expiration of the time permitted for appeal or termination of the appellate process.

Section 6. KRS 314.171 is amended to read as follows:

- (1) The board may establish an **alternative to discipline program**~~[impaired nurses committee]~~ to promote the early identification, intervention, treatment, and rehabilitation of nurses who may be impaired by reason of ~~[illness,]~~ alcohol or drug abuse~~[, or as a result of any physical or mental condition]~~. **In addition, the board may include in this program nurses or applicants who have practice competency deficits.**
- (2) The board may enter into a contractual agreement with a nonprofit corporation, nursing professional organization, or similar organization for the purpose of creating, supporting, and maintaining an **alternative to discipline program**~~[impaired nurses committee]~~.
- (3) The board may promulgate administrative regulations pursuant to KRS Chapter 13A to effectuate and implement **an alternative to discipline program**~~[a committee]~~ formed pursuant to this section.
- (4) Beginning January 1, 1997, the board shall collect an assessment of five dollars (\$5) to be added to each nurse licensure renewal application fee payable to the board, proceeds from which shall be expended on the operation of an **alternative to discipline program**~~[impaired nurses committee]~~ formed pursuant to this section.
- (5) ~~[Members of an impaired nurses committee formed pursuant to this section,]~~Any administrator, staff member, consultant, agent, volunteer, or employee of the **alternative to discipline program**~~[committee]~~ acting within the scope of their duties and without actual malice, and all other persons who furnish information to the **alternative to discipline program**~~[committee]~~ in good faith and without actual malice, shall not be liable for any claim or damages as a result of any statement, decision, opinion, investigation, or action

taken by the *alternative to discipline program or staff*~~[committee or by any individual member of the committee]~~.

- (6) All information, interviews, reports, statements, memoranda, or other documents furnished to or produced by the *alternative to discipline program*~~[impaired nurses committee]~~, all communications to or from the *alternative to discipline program*~~[committee]~~, and all proceedings, findings, and conclusions of the *alternative to discipline program*~~[committee]~~ including those relating to intervention, treatment, or rehabilitation, which in any way pertain or refer to a nurse who is or may be impaired, shall be privileged and confidential.
- (7) All records and proceedings of the *alternative to discipline program*~~[committee]~~ which pertain or refer to a nurse who is or may be impaired shall be privileged and confidential, shall be used by the *alternative to discipline program, board members, or board staff*~~[committee and its members]~~ only in the exercise of the proper function of the *alternative to discipline program*~~[committee]~~, shall not be considered public records, and shall not be subject to court subpoena, discovery, or introduction as evidence in any civil, criminal, or administrative proceedings except as described in subsection (8) of this section.
- (8) The *alternative to discipline program*~~[committee]~~ may only disclose information relative to an impaired nurse if:
  - (a) It is essential to disclose the information to persons or organizations needing the information in order to address the intervention, treatment, or rehabilitation needs of the impaired nurse;
  - (b) The release is authorized in writing by the impaired nurse; or
  - (c) The *alternative to discipline program*~~[committee]~~ is required to make a report to the board pursuant to KRS 314.031(4).
- (9) *The alternative to discipline program may order an examination or evaluation under Section 4 of this Act at any time following initial contact by a potential applicant to the program.*

Section 7. The following KRS section is repealed:

164.2893 Faculty of associate degree registered nurse education program.

**Approved April 9, 2002**