

**CHAPTER 35****(HB 456)**

AN ACT relating to medical licensure.

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

Section 1. KRS 311.550 is amended to read as follows:

As used in KRS 311.530 to 311.620 and KRS 311.990(4) to (6):

- (1) "Board" means the State Board of Medical Licensure;
- (2) "President" means the president of the State Board of Medical Licensure;
- (3) "Secretary" means the secretary of the State Board of Medical Licensure;
- (4) "Executive director" means the executive director of the State Board of Medical Licensure or any assistant executive directors appointed by the board;
- (5) "General counsel" means the general counsel of the State Board of Medical Licensure or any assistant general counsel appointed by the board;
- (6) "Regular license" means a license to practice medicine or osteopathy at any place in this state;
- (7) "Limited license" means a license to practice medicine or osteopathy in a specific institution or locale to the extent indicated in the license;
- (8) "Temporary permit" means a permit issued to a person who has applied for a regular license, and who appears from verifiable information in the application to the executive director to be qualified and eligible therefor;
- (9) "Emergency permit" means a permit issued to a physician currently licensed in another state, authorizing the physician to practice in this state for the duration of a specific medical emergency, not to exceed thirty (30) days;
- (10) Except as provided in subsection (11) of this section, the "practice of medicine or osteopathy" means the diagnosis, treatment, or correction of any and all human conditions, ailments, diseases, injuries, or infirmities by any and all means, methods, devices, or instrumentalities;
- (11) The "practice of medicine or osteopathy" does not include the practice of Christian Science, the domestic administration of family remedies, the rendering of first aid or medical assistance in an emergency in the absence of a person licensed to practice medicine or osteopathy under the provisions of this chapter, the use of automatic external defibrillators in accordance with the provisions of KRS 311.665 to 311.669, the practice of podiatry as defined in KRS 311.380, the practice of a midlevel health care practitioner as defined in KRS 216.900, the practice of dentistry as defined in KRS 313.010, the practice of optometry as defined in KRS 320.210, the practice of chiropractic as defined in subsection (2) of KRS 312.015, the practice as a nurse as defined in KRS 314.011, the practice of physical therapy as defined in KRS 327.010, the performance of duties for which they have been trained by paramedics licensed under KRS Chapter 311A, first responders, or emergency medical technicians certified under Chapter 311A, the practice of pharmacy by persons licensed and registered under KRS 315.050, the sale of drugs, nostrums, patented or proprietary medicines, trusses, supports, spectacles, eyeglasses, lenses, instruments, apparatus, or mechanisms that are intended, advertised, or represented as being for the

treatment, correction, cure, or relief of any human ailment, disease, injury, infirmity, or condition, in regular mercantile establishments, or the practice of midwifery by women. KRS 311.530 to 311.620 shall not be construed as repealing the authority conferred on the Cabinet for Health Services by KRS Chapter 211 to provide for the instruction, examination, licensing, and registration of all midwives through county health officers;

- (12) "Physician" means a doctor of medicine or a doctor of osteopathy;
- (13) "Grievance" means any allegation in whatever form alleging misconduct by a physician;
- (14) "Charge" means a specific allegation alleging a violation of a specified provision of this chapter;
- (15) "Complaint" means a formal administrative pleading that sets forth charges against a physician and commences a formal disciplinary proceeding;
- (16) As used in KRS 311.595(4), "crimes involving moral turpitude" shall mean those crimes which have dishonesty as a fundamental and necessary element, including but not limited to crimes involving theft, embezzlement, false swearing, perjury, fraud, or misrepresentation;
- (17) "Telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of medical data, and medical education;
- (18) "Order" means a direction of the board or its panels made or entered in writing that determines some point or directs some step in the proceeding and is not included in the final order;
- (19) "Agreed order" means a written document that includes but is not limited to stipulations of fact or stipulated conclusions of law that finally resolves a grievance, a complaint, or a show cause order issued informally without expectation of further formal proceedings in accordance with KRS 311.591(6);
- (20) "Final order" means an order issued by the hearing panel that imposes one (1) or more disciplinary sanctions authorized by this chapter;
- (21) "Letter of agreement" means a written document that informally resolves a grievance, a complaint, or a show cause order and is confidential in accordance with KRS 311.619;
- (22) "Letter of concern" means an advisory letter to notify a physician that, although there is insufficient evidence to support disciplinary action, the board believes the physician should modify or eliminate certain practices and that the continuation of those practices may result in action against the physician's license;
- (23) "Motion to revoke probation" means a pleading filed by the board alleging that the licensee has violated a term or condition of probation and that fixes a date and time for a revocation hearing;
- (24) "Revocation hearing" means a hearing conducted in accordance with KRS Chapter 13B to determine whether the licensee has violated a term or condition of probation;
- (25) "Chronic or persistent alcoholic" means an individual who is suffering from a medically diagnosable disease characterized by chronic, habitual, or periodic consumption of alcoholic beverages resulting in the interference with the individual's social or economic functions in the community or the loss of powers of self-control regarding the use of alcoholic beverages;

- (26) "Addicted to a controlled substance" means an individual who is suffering from a medically diagnosable disease characterized by chronic, habitual, or periodic use of any narcotic drug or controlled substance resulting in the interference with the individual's social or economic functions in the community or the loss of powers of self-control regarding the use of any narcotic drug or controlled substance;
- (27) "Provisional permit" means a temporary permit issued to a licensee engaged in the active practice of medicine within this Commonwealth who has admitted to violating any provision of KRS 311.595 that permits the licensee to continue the practice of medicine until the board issues a final order on the registration or reregistration of the licensee;~~and~~
- (28) "Fellowship training license" means a license to practice medicine or osteopathy in a fellowship training program as specified by the license; *and*
- (29) *"Special faculty license" means a license to practice medicine that is limited to instruction as part of an accredited medical school program or osteopathic school program and any affiliated institution for which the medical school or osteopathic school has assumed direct responsibility.*

Section 2. KRS 311.571 is amended to read as follows:

- (1) No applicant who is a graduate of a medical or osteopathic school located within the United States and its territories and protectorates or Canada shall be eligible for a regular license to practice medicine in the Commonwealth unless the applicant:
- (a) Is able to understandably speak, read, and write the English language;
  - (b) Has graduated from an accredited college or university or has satisfactorily completed a collegiate course of study necessary for entry into an approved medical or osteopathic school or college;
  - (c) Has graduated from a prescribed course of instruction in a medical or osteopathic school or college situated in the United States or Canada and approved by the board;
  - (d) Has satisfactorily completed a prescribed course of postgraduate training of a duration to be established by the board in an administrative regulation promulgated in accordance with KRS Chapter 13A, after consultation with the University of Kentucky College of Medicine, the University of Louisville School of Medicine, and the Pikeville College School of Osteopathic Medicine;
  - (e) Has successfully completed an examination prescribed by the board;
  - (f) Has complied with the requirements of KRS 214.615(1); and
  - (g) Has fulfilled all other reasonable qualifications for regular licensure that the board may prescribe by regulation.
- (2) No applicant who is a graduate of a medical or osteopathic school located outside the United States or Canada shall be eligible for a regular license to practice medicine in the Commonwealth unless the applicant:
- (a) Is able to understandably speak, read, and write the English language;
  - (b) Has successfully completed a course of study necessary for entry into an approved medical or osteopathic school or college;
  - (c) Has graduated from a prescribed course of instruction in a medical or osteopathic school or college situated outside the United States or Canada and approved by the

board or is a citizen of the United States and has been awarded a diploma by an approved medical or osteopathic school located within the United States or Canada as part of a program designed to allow for the transfer of students to such schools from schools located outside the United States or Canada;

- (d) Has successfully completed an examination prescribed by the board;
  - (e) Has been certified by the educational commission for foreign medical graduates or by an approved United States specialty board;
  - (f) Has satisfactorily completed a prescribed course of postgraduate training of a duration to be established by the board in an administrative regulation promulgated in accordance with KRS Chapter 13A, after consultation with the University of Kentucky College of Medicine, the University of Louisville School of Medicine, and the Pikeville College School of Osteopathic Medicine;
  - (g) Has complied with the requirements of KRS 214.615(1); and
  - (h) Has fulfilled all other reasonable qualifications for regular licensure that the board may prescribe by regulation.
- (3) No applicant shall be eligible for a limited license-institutional practice unless the applicant:
- (a) Has fulfilled all the requirements for regular licensure as delineated in subsection (1) of this section; or
  - (b) Has fulfilled the requirements for regular licensure as delineated in paragraphs (a) through (e) and (h) of subsection (2) of this section and in addition has satisfactorily completed a prescribed course of postgraduate training of at least one (1) full year's duration approved by the board;
  - (c) Has complied with the requirements of KRS 214.615(1); and
  - (d) Has fulfilled all other reasonable qualifications for limited licensure that the board may prescribe by regulation.
- (4) The board may grant an applicant a limited license-institutional practice for a renewable period of one (1) year if the applicant:
- (a) Has fulfilled the requirements for regular licensure as delineated in paragraphs (a), (b), (d), (e), and (h) of subsection (2) of this section;
  - (b) Has fulfilled the requirements for a limited license-institutional practice as indicated in subsection (3)(d) of this section;
  - (c) Has satisfactorily completed a prescribed course of postgraduate training of at least one (1) full year's duration approved by the board; and
  - (d) Has complied with the requirements of KRS 214.615(1).
- (5) The board may grant an applicant a fellowship training license for a renewable period of one (1) year if the applicant:
- (a) Has been accepted for a fellowship approved by the administration of any of Kentucky's medical schools and conducted under the auspices of that medical school; or
  - (b) Has graduated from a medical school located outside the United States or Canada that has been approved by the board; and

1. Has been certified by the appropriate licensing authority in his or her home country in the subject specialty of the fellowship; and
  2. Is able to demonstrate that he or she is a physician of good character and is in good standing in the country where he normally practices medicine.
- (6) (a) *The board may grant an applicant a special faculty license for a renewable period of one (1) year if the applicant:*
1. *Holds or has been offered a full-time faculty appointment at an accredited Kentucky medical or osteopathic school approved by the board and is nominated for a special faculty license by the dean of the school of medicine or school of osteopathy;*
  2. *Possesses a current valid license to practice medicine or osteopathy issued by another state, country, or other jurisdiction;*
  3. *Is able to understandably speak, read, and write the English language;*
  4. *Is board certified in his or her specialty;*
  5. *Is not otherwise eligible for a regular license under this chapter; and*
  6. *Is not subject to denial of a license under any provision of this chapter.*
- (b) *The applicant shall submit the fee established by administrative regulation promulgated by the board for an initial license to practice medicine.*
- (c) *An applicant approved for a license under this subsection shall not engage in the practice of medicine or osteopathy outside an academic setting.*
- (d) *The board may grant a regular license to practice medicine or osteopathy to a person who has had a special faculty license for a period of at least five (5) consecutive years.*
- (7) An applicant seeking regular licensure in the Commonwealth who was originally licensed in another state may obtain licensure in the Commonwealth without further testing and training if the applicant:
- (a) Has been endorsed in writing by the applicant's original licensing state as being licensed in good standing in that state; and
  - (b) Would have satisfied all the requirements for regular licensure described in the preceding subsections had the applicant sought original licensure in this state.
- ~~(8)(7)~~ No applicant shall be granted licensure in the Commonwealth unless the applicant has successfully completed an examination prescribed by the board in accordance with any rules that the board may establish by regulation concerning passing scores, testing opportunities and test score recognition.
- ~~(9)(8)~~ Notwithstanding any of the requirements for licensure established by subsections (1) to ~~(8)(7)~~ of this section and after providing the applicant or reregistrant with reasonable notice of its intended action and after providing a reasonable opportunity to be heard, the board may deny licensure to an applicant or the reregistrant of an inactive license without a prior evidentiary hearing upon a finding that the applicant or reregistrant has violated any provision of KRS 311.595 or 311.597 or is otherwise unfit to practice. Orders denying licensure may be appealed pursuant to KRS 311.593.

- ~~(10)~~~~(9)~~ Notwithstanding any of the foregoing, the board may grant licensure to an applicant in extraordinary circumstances upon a finding by the board that based on the applicant's exceptional education, training, and practice credentials, the applicant's practice in the Commonwealth would be beneficial to the public welfare.
- ~~(11)~~~~(10)~~ Notwithstanding any provision of this section, the board may exercise its discretion to grant a visiting professor license to an applicant after considering the following:
- (a) Whether the applicant meets the qualifications for a regular license;
  - (b) Whether the applicant is licensed to practice medicine in other states or in other countries; and
  - (c) The recommendation of the program director of an accredited medical school that confirms the applicant's employment as a visiting professor and that includes, if necessary, written justification for a waiver of the requirements specified in subsections (1) and (2) of this section.

Orders denying applications for a visiting professor license shall not be appealed under KRS 311.593.

Section 3. KRS 311.560 is amended to read as follows:

- (1) Except as provided in subsection (2) of this section, no person shall engage or attempt to engage in the practice of medicine or osteopathy within this state, or open, maintain, or occupy an office or place of business within this state for engaging in practice, or in any manner announce or express a readiness to engage in practice within this state, unless the person holds a valid and effective license or permit issued by the board as hereinafter provided.
- (2) The provisions of subsection (1) of this section shall not apply to:
  - (a) Commissioned medical officers of the Armed Forces of the United States, or medical officers of the United States Public Health Service, the United States Veterans Administration, and other agencies of the government of the United States of America, while said persons are engaged in the performance, within this state, of their official duties under federal laws;
  - (b)
    1. Persons who, being nonresidents of Kentucky and lawfully licensed to practice medicine or osteopathy in their states of actual residence, infrequently engage in the practice of medicine or osteopathy within this state, when called to see or attend particular patients in consultation and association with a physician licensed pursuant to this chapter; or
    2. Persons who, being current participants in a medical residency program outside of Kentucky and lawfully licensed to practice medicine or osteopathy in the states of their medical residency programs, who participate in a temporary residency rotation of no more than sixty (60) days at a hospital in this Commonwealth. All persons who participate in a temporary residency rotation under this paragraph shall register with the board at no cost, on forms provided by the board, and shall be subject to the jurisdiction of the board for so long as they participate in the residency rotation. Persons who wish to participate in a second or subsequent temporary residency rotation under this paragraph shall seek advance approval of the board;

- (c) Graduates of medical or osteopathic schools approved by the board, while engaged in performing supervised internship or first-year postgraduate training approved by the board at hospitals in this state. All first-year postgraduate trainees shall register with the board at no cost, on forms provided by the board. ***No first-year postgraduate trainee shall violate the provisions of KRS 311.595 or KRS 311.597, and any first-year postgraduate trainee who is released or discharged from a training program for a reason that falls within KRS 311.595 or 311.597 shall be reported by the program director to the board***~~[This shall not be construed to otherwise exempt interns or first-year postgraduate trainees, or to exempt in any manner resident or staff physicians of hospitals, from the licensure requirements of KRS 311.530 to 311.620].~~ A residency physician who participates in a temporary residency rotation under paragraph (b) of this subsection shall not be required to obtain a license under KRS 311.530 to 311.620; or
- (d) Physicians employed by a sports entity visiting Kentucky for a specific sporting event when the physician holds an active medical or osteopathic license in another state and limits the practice of medicine in Kentucky to medical treatment of the members, coaches, and staff of the sports entity that employs the physician.

Section 4. KRS 311.617 is amended to read as follows:

The board may enter into a contractual agreement with a nonprofit corporation or a medical professional association for the purpose of creating, supporting, and maintaining a ***program***~~[committee]~~ to be designated as the Kentucky ***Physicians Health Foundation***~~[Committee on Impaired Physicians]~~. The board may promulgate administrative regulations subject to the provisions of KRS Chapter 13A to effectuate and implement any ***program***~~[committee]~~ formed pursuant to this section. The board may expend any funds it deems necessary to adequately provide for operational expenses of any ***program***~~[committee]~~ formed pursuant to this section.

SECTION 5. A NEW SECTION OF KRS 311.840 TO 311.862 IS CREATED TO READ AS FOLLOWS:

- (1) ***Whenever, in the opinion of the executive director, based upon verified information contained in the application, an applicant for a certificate to practice as a physician assistant is eligible therefor under subsections (1) and (2) of KRS 311.844, the executive director may issue to the applicant, on behalf of the board, a temporary certificate which shall entitle the holder to practice as a physician assistant for a maximum of six (6) months from the date of issuance unless the temporary certificate is canceled by the executive director, who may cancel it at any time, without a hearing, for reasons deemed sufficient with appropriate consultation with the president, and who shall cancel it immediately upon direction by the board or upon the board's denial of the holder's application for a regular certificate. The temporary certificate shall not be renewable.***
- (2) ***The executive director shall present to the board the application for certification made by the holder of the temporary certificate. If the board issues a regular certificate to the holder of a temporary certificate, the fee paid in connection with the temporary certificate shall be applied to the regular certificate fee.***

- (3) *If the executive director cancels a temporary certificate, he shall promptly notify, by United States certified mail, the holder of the temporary certificate, at the last known address on file with the board. The temporary certificate shall be terminated and of no further force or effect three (3) days after the date the notice was sent by certified mail.*

**Approved April 2, 2004**