

BOARDS AND COMMISSIONS
Board of Private Investigators
(Amendment)

201 KAR 41:060. Renewal and reinstatement procedures.

RELATES TO: KRS 164.772, 329A.045(1)-(3), (8), (11)

STATUTORY AUTHORITY: KRS 329A.025(2)(a), (3)(e)

NECESSITY, FUNCTION AND CONFORMITY: KRS 329A.025(3)(e) authorizes~~[states that]~~ the board to~~[may]~~ renew licenses. KRS 329A.025(2)(a) requires the board to implement the provisions of KRS 329A.010 to 329A.090 through the promulgation of administrative regulations. This administrative regulation provides directions for the biennial renewal of these licenses.

Section 1. An individual private investigator license shall be renewed upon:

(1) Payment of the biennial renewal fee established in 201 KAR 41:040, Section 4(1); and

(2) Submission of a completed PI Individual License Renewal Form with the following written information to the board:

(a) Documentation of completion of continuing professional education requirements during the licensure renewal period established in 201 KAR 41:070;

(b) Written confirmation that, since the license was issued or renewed, the licensee has not:

1. Been convicted of a felony; or

2. Been professionally disciplined by receiving a reprimand, fine, license suspension, probation, or license revocation from the Kentucky Board of Licensure for Private Investigators or any other state private investigator licensing board in the United States and is not currently the subject of a professional disciplinary investigation~~[Had the license disciplined and is not currently under disciplinary review]~~ in Kentucky or another state; and~~[or~~

~~3. Defaulted on the repayment obligation of financial aid programs administered by the Kentucky Higher Education Assistance Authority (KHEAA) per KRS 164.772 or on the repayment obligation of financial aid programs administered by any other state or federal agency; and~~

(c)~~[4.]~~ Copies of the certificate of liability~~[Documentation of proof of continuous]~~ insurance coverage pursuant to KRS 329A.035(3)(n) ~~[for the entire licensure period.~~

~~2. Copies of the certificate of liability insurance shall be submitted along with the renewal application].~~

Section 2. A licensee convicted of a felony or professionally disciplined in the interim period between issuance and renewal of the license, or between renewal periods, shall submit notice of the conviction or professional discipline along with a written explanation to the board within thirty (30) days of the entry of the conviction or final order imposing professional discipline~~[prior to license renewal].~~

Section 3. Failure to provide all information required by this administrative regulation, and the renewal fee,~~[If payment and complete information are not received by the board]~~ on or before September 1 of the renewal year, shall result in the automatic termination of the license,~~[the license shall terminate]~~ and the person shall not work as a private investigator in Kentucky.

Section 4. Company License Renewal. Private investigation companies who want to renew their licenses shall submit a completed PI Company License Renewal Form and comply with

the provisions of KRS 329A.045(3).

Section 5. A license terminated pursuant to Section 3 of this administrative regulation ~~may~~~~terminated license shall~~ be reinstated, if the applicant submits:

(1) A completed Application for Reinstatement form within five (5) years of the termination date;

(2)~~[(a)]~~ Evidence of receiving twelve (12) hours of continuing education within the two (2) year period immediately preceding the date that reinstatement is requested; ~~[or~~

~~(b)1. Evidence of receiving six (6) hours of continuing education within the first six (6) months of reinstatement of licensure.~~

~~2. Failure to obtain six (6) hours within six (6) months shall result in termination of licensure.~~

~~3. This requirement is in addition to the continuing education requirements for licensure renewal established in 201 KAR 41:070;]~~ and

(3) Payment of renewal and reinstatement fees set forth in 201 KAR 41:040.

Section 6.~~[A license previously revoked as a disciplinary action shall be considered for reinstatement as follows:~~

~~(1) An applicant for reinstatement shall:~~

~~(a) Submit to the board fifteen (15) days prior to the next scheduled meeting, a letter:~~

~~1. Requesting reinstatement; and~~

~~2. Specifying the manner in which the applicant for reinstatement has complied with the terms of a disciplinary order of the board, if applicable;~~

~~(b) Meet the requirements established in Section 5(2) of this administrative regulation; and~~

~~(c) Pay of renewal and reinstatement fees as established in 201 KAR 41:040.~~

~~(2) Upon receipt of an Application for Reinstatement, the board shall:~~

~~(a) Review the request for reinstatement and the Final Order; and~~

~~(b) Affirm or deny the request; or~~

~~(c) State in writing the corrective or remedial education, training, or review required before reinstatement shall be granted.~~

~~(3) The board shall not consider a request for reinstatement submitted to the board prior to the end of a revocation period.~~

~~Section 7.]~~ (1) An applicant whose request for reinstatement is denied may file a written request for a hearing before the board within thirty (30) days of the letter denying reinstatement.

(2) A hearing held pursuant to the provisions of this section shall be conducted in accordance with KRS Chapter 13B.

Section 7~~[8]~~. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "PI Company License Renewal Form", 2008 Edition;

(b) "PI Individual License Renewal Form", 2008 Edition; and

(c) "Application for Reinstatement", 2008 Edition.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at Kentucky Board of Licensure for Private Investigators, 911 Leawood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

RICK HESSIG, Board Chair

APPROVED BY AGENCY: May 14, 2019

FILED WITH LRC: May 15, 2019 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on 10:00 a.m. on June 24, 2019 at 911 Leawood Drive, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through 11:59 p.m. on June 30, 2019. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

CONTACT PERSON: Jamar Carter, Board Administrator, 911 Leawood Drive, Frankfort, Kentucky 40601, phone 502-564-3296, fax 502-564-4818, email jamar.carter@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Jamar Carter

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation provides the procedures for renewal and reinstatement of a Private Investigator license.

(b) The necessity of this administrative regulation: This regulation is necessary to establish the continuing education requirements prior to renewal and to establish the procedures to renew a license as well as the requirements for submitting proof of insurance.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 329A.045 provides the conditions upon which a license shall be renewed, and KRS 329A.025 authorizes the Board to promulgate administrative regulations to enforce the provisions of KRS Chapter 329A. KRS 329A.025(3)(e) authorizes the Board to require continuing education requirements as a condition for renewal.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation will assist the Board in carrying out its statutory duties to renew licenses.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment removes the ability of a licensee to obtain their continuing education requirements within six (6) months of obtaining their renewed license. The Board does not have sufficient resources to ensure compliance with this option and it is the Board's opinion that a person should meet the continuing education requirements prior to renewal or reactivation of a license. This amendment also removes the ability for a revoked license to be reinstated. Revocation is a permanent action and it defies logic that a permanently revoked license can be reinstated. A person whose license is revoked must apply for a new license. Finally, this amendment removes the requirement that a licensee provide proof of insurance for the entire two (2) year renewal period. Insurance policies may not directly line up with a licensee's renewal period and a licensee need only provide proof that it meets the insurance requirements established in KRS 329A.025(3)(n) at the time of renewal. KRS 329A.025 does not require proof of insurance that lasts during the entire license period, only that a licensee be insured while acting as a Private Investigator.

(b) The necessity of the amendment to this administrative regulation: This amendment is

necessary to provide licensees with instructions regarding the continuing education requirements for renewal, to remove the illogical option that a permanently revoked license can be reinstated, and to provide greater flexibility in a licensee's ability to obtain qualifying insurance.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 329A.045 provides the conditions upon which a license shall be renewed, and KRS 329A.025 authorizes the Board to promulgate administrative regulations to enforce the provisions of KRS Chapter 329A. KRS 329A.025(3)(e) authorizes the Board to require continuing education requirements as a condition for renewal.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will assist the Board in ensuring all applicants for renewal have completed the required continuing education hours prior to the Board renewing the license. The amendment is also necessary to create flexibility for the applicant regarding their submission of proof of insurance. Without this amendment, applicants would still be required to show proof of insurance for a full two year period which can create an economic burden on the applicant. The amendment also assists the administration of KRS Chapter 329A by ensuring revocation of a license is a permanent action by the Board.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects all licensees.

(4) Provide an analysis of how the entities identified in the previous question will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions each of the regulated entities have to take to comply with this regulation or amendment: A licensee will not have to take additional steps other than those required since 2009. The amendment also allows greater flexibility for a licensee to obtain and submit proof of qualifying insurance.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: Licensees will not incur additional costs due to this amendment.

(c) As a result of compliance, what benefits will accrue to the entities: Licensees will be given greater flexibility in obtaining proof of qualifying insurance.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: There are no anticipated initial costs.

(b) On a continuing basis: There are no anticipated costs associated with this regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No additional funding is needed to implement this regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No additional fees or funding are necessary.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish any fees.

(9) TIERING: Is tiering applied? No tiering is applied because this regulation applies equally to the regulated entities.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Board of Licensure for Private Investigators.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 329A.025(2)(a), (3)(e)

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will not generate revenue for state or local government.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate revenue for state or local government.

(c) How much will it cost to administer this program for the first year? There is no additional cost to administer this program for the first year.

(d) How much will it cost to administer this program for subsequent years? There is no additional cost to administer this program for subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): Neutral

Expenditures (+/-): Neutral

Other Explanation: None