

## BOARDS AND COMMISSIONS

### Board of Nursing

#### (Amendment)

#### **201 KAR 20:360. Continuing approval and periodic evaluation of prelicensure registered nursing and licensed practical nursing programs.**

RELATES TO: KRS 314.111

STATUTORY AUTHORITY: KRS 314.131(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.131(1) authorizes the Board of Nursing to promulgate administrative regulations to implement KRS Chapter 314. KRS 314.111 requires nursing programs to be approved by the board. This administrative regulation establishes evaluative standards to assure that the programs of nursing provide the necessary instruction and services to prepare graduates for licensure eligibility ~~for as~~ registered nurses or as practical nurses.

#### Section 1. Program of Nursing Accredited by a National Nursing Accrediting Body.

(1)

(a)

1. A prelicensure registered nursing or licensed practical nursing program that is accredited by a national nursing accrediting body recognized by the United States Department of Education shall be deemed to be in compliance with the standards of 201 KAR 20:260 through ~~201 KAR 20:~~360.

2. A national nursing accrediting body shall include:

a. The Accreditation Commission for Education in Nursing (ACEN);

b. The Commission for Nursing Education Accreditation (CNEA);

c. The Commission on Collegiate Nursing Education (CCNE); or

d. Any other national nursing accrediting body recognized by the United States Department of Education.

3. The accredited program shall comply with Sections 3 through 10 of this administrative regulation.

(b) The board shall retain jurisdiction over accredited programs and may conduct site visits or other investigations into any allegation that may constitute a violation of 201 KAR 20:260 through 201 KAR 20:360. The board may also conduct site visits in accordance with Section 5 of this administrative regulation or when a national nursing accreditation board visits the program.

(2) A prelicensure program of nursing that is accredited by a national nursing accrediting body recognized by the United States Department of Education shall submit all correspondence and reports to and from the accrediting body to the board within thirty (30) days of submission or receipt.

#### Section 2. Programs of Nursing Not Accredited by a National Nursing Accrediting Body.

(1) A program of nursing that is not accredited by a national nursing accrediting body on the effective date of this administrative regulation shall:

(a) Obtain candidacy status with a national nursing accrediting body within three (3) years; and

(b) Obtain full accreditation within four (4) years of the effective date of this administrative regulation.

(2) A program of nursing that is not accredited by a national nursing accrediting body on the effective date of this administrative regulation shall submit a copy of all correspondence and reports to and from the national nursing accrediting body within thirty (30) days of submission or receipt.

(3) A program of nursing that does not obtain or maintain accreditation from a national nursing accrediting body may have its approval withdrawn by the board pursuant to Section 7 of this administrative regulation.

### Section 3. Reports and Evaluation.

(1) A program of nursing shall submit the Annual Report of the Program of Nursing to the board regarding its compliance with 201 KAR 20:260 through 201 KAR 20:360. It shall also submit the benchmarks set out in Section 5(2)(f) of this administrative regulation.

(2) To verify continued compliance with 201 KAR 20:260 through 201 KAR 20:360, the program of nursing shall submit progress reports or periodic supplemental reports, completed questionnaires, surveys, and other related documents as requested by the board.

(3) Pursuant to 201 KAR 20:260, Section 2(7)(a), the faculty shall engage in an evidence based planning and evaluation process that incorporates a systematic review of the program of nursing that results in continuing improvement. This process shall result in an evaluation report that is submitted to the board.

(4) Data collection for the evaluation report shall be on-going and shall reflect aggregate analysis and trending.

(5) The evaluation report shall include specific responsibilities for data collection methods, individuals or groups responsible, frequency of data collection, indicators of achievement, findings, and outcomes for evaluating the following aspects of the program:

- (a) Organization and administration of the program of nursing;
- (b) Curriculum;
- (c) Resources, facilities, and services;
- (d) Teaching and learning methods including distance education;
- (e) Faculty evaluation;
- (f) Student achievement of program outcomes;
- (g) Graduation rates;
- (h) Licensure examination pass rates;
- (i) Employment rates of graduates; and
- (j) Clinical resources, including laboratory and simulation.

(6) If a program of nursing utilizes distance education for didactic instruction, it shall evaluate and assess the educational effectiveness of its distance education program to ensure that the distance education program is substantially comparable to a campus based program.

(7) The evaluation report shall provide evidence that the outcomes of the evaluation process are used to improve the quality and strength of the program.

Section 4. Benchmarks. The board shall utilize the following benchmarks to evaluate a program of nursing. Except for the pass rate, the benchmarks shall be calculated annually from July 1 to June 30. The board shall calculate the pass rate for a program of nursing on an annual basis from January 1 to December 31 for all first time takers of the NCLEX.

(1) The pass rate for first time takers of the NCLEX who tested within twelve (12) months of the program completion date as reported on the Certified List of Kentucky Program of Nursing Graduates or the Certified List of Out-of-state Program of Nursing Graduates incorporated by reference in 201 KAR 20:070;

(2) The faculty turnover rate. A faculty member whose employment ends on or before June 30 of any year shall be counted in that year's calculation;

(3) The program administrator turnover rate;

(4) The graduation rate;

(5) The faculty grievance rate; and

(6) The student grievance rate.

Section 5. Site Visits.

- (1) The board may conduct site visits at any time.
- (2) The following situations may be cause for a site visit to determine if the standards of 201 KAR 20:260 through 201 KAR 20:360 are being met:
  - (a) Denial, withdrawal, or change of status by a national nursing accrediting agency;
  - (b) Providing false or misleading information to students or the public concerning the program;
  - (c) A written complaint received from faculty, students, or the general public relating to a violation of 201 KAR 20:260 through 201 KAR 20:360;
  - (d) A change in physical facilities;
  - (e) Information received by the board that may indicate a violation of 201 KAR 20:260 through 201 KAR 20:360;
  - (f) A change in any of the benchmarks listed in Section 4 of this administrative regulation as follows:
    1. A pass rate as calculated by Section 4 of this administrative regulation that:
      - a. Is less than an average of eighty (80) percent for three (3) consecutive years; or
      - b. Varies above and below eighty (80) percent from year to year over the previous five (5) years;
    2. A faculty turnover rate greater than thirty (30) percent for two (2) consecutive years;
    3. A program administrator turnover rate of more than three (3) individuals in five (5) years;
    4. A graduation rate of less than sixty (60) percent of the original admitted cohort of newly-enrolled students within the standard length of the program of nursing.~~[within the maximum time frame allowed for completion. The maximum time frame shall be determined by multiplying the standard program length for normally progressing students by one and five tenths (1.5). Calculation of]~~ The graduation rate shall ~~[include]~~ be calculated by comparing the number of students who started in each graduating cohort within the reporting period to those who graduated on time from the cohort.~~[are enrolled for the first time in the first nursing course of the nursing program curriculum. All students admitted within the original cohort shall be included in the calculation regardless of whether a student may be excluded from the calculation utilized by a national nursing accrediting body]~~ The graduation rate calculation may exclude students who have left the program of nursing due to documented extenuating circumstances, such as hospitalization, long-term illness, family obligations, relocation, financial barriers, or decisions to change major or transfer to another institution;
    5. Twenty-five (25) percent or more of the total number of nursing faculty who file grievances or appeals that are substantiated; or
    6. Substantiated student grievances and appeals of more than ten (10) percent of the student population enrolled in the nursing program each year; or
  - (g) Failure to submit reports as required by 201 KAR 20:260 through 201 KAR 20:360.
- (3) A program of nursing that fails to meet one (1) or more benchmarks for a year shall submit a report that examines the factors that contributed to the failure to meet and shall provide a description of the corrective measures to be implemented.
- (4)
  - (a) The board shall annually compile information on how the programs of nursing met the benchmarks. This information shall be published on the board's Web site~~[at [www.kbn.gov](http://www.kbn.gov)]~~.
  - (b) A program of nursing shall post a link to the information compiled pursuant to paragraph (a) of this subsection on the program of nursing's Web site. The link shall be

easy to locate on the program's home page.

#### Section 6. Action Following Site Visit.

(1)

(a) Following a site visit and prior to board consideration, a draft of the site visit report shall be made available to the program administrator for review and correction of factual data.

(b) The program administrator shall be available during the discussion of the report at the board committee to provide clarification.

(c) If the site visit results in a finding of non-compliance with 201 KAR 20:260 through 201 KAR 20:360 by the program of nursing, a letter shall be sent to the program administrator regarding any requirements to be met.

(d) The board shall notify the program of nursing of the time frame within which it shall meet the requirements. The board shall verify that the requirements have been met.

(2)

(a) If the program of nursing is unable to meet the requirements in the time set by the board, it may request additional time. The board, in its discretion, may grant or deny this request based on the rationale for the request.

(b) If the board denies the request for additional time, it shall begin the process established in Section 7 of this administrative regulation.

#### Section 7. Withdrawal of Approval.

(1) If, in the opinion of the board, the standards established by 201 KAR 20:260 through 201 KAR 20:360 are not being met, the board shall send notice to the program administrator of the affected program of nursing of its intent to withdraw approval. The notice shall be sent return receipt requested.

(2) When making this determination, the board shall consider the following factors:

(a) The number and severity of the deficiencies;

(b) The length of time in which the deficiencies have existed; and

(c) Any exigent circumstances.

(3) Within thirty (30) days of receipt of the notice, the program administrator of the affected program may request an administrative hearing pursuant to KRS Chapter 13B. If an administrative hearing is not requested, program approval shall be withdrawn and the program shall be closed. A closed program shall comply with subsection (5) of this section.

(4)

(a) If a program of nursing requests an administrative hearing, that hearing shall be held within sixty (60) days of the request.

(b) The hearing shall be held before a hearing officer or before the full board.

(5)

(a) A program of nursing whose approval has been withdrawn by the board shall be removed from the official approved status listing upon the effective date of the decision. Students currently enrolled in the last semester or quarter of the program may complete the program. If the student graduates, he or she may apply for licensure and make take the licensure examination. Any other student shall not be allowed to apply for licensure or take the licensure examination, unless the student graduates from another approved program of nursing.

(b) The program of nursing that has been closed shall assist a currently enrolled student to transfer to an approved program of nursing.

#### Section 8. Voluntary Closure of a Program.

- (1) A governing institution seeking to close a program of nursing shall submit written notification to the board at least six (6) months prior to the planned closing date.
- (2) A governing institution may choose one (1) of the following procedures for closing a program of nursing as established in paragraph (a) or (b) of this subsection.
  - (a) The governing institution shall continue the program of nursing until the last class enrolled has graduated.
    1. The program shall continue to meet the standards until all students enrolled in nursing courses have graduated or transferred.
    2. The official closing of the program shall be the date on the degree, certificate, or diploma of the last graduate.
    3. The governing institution shall notify the board in writing of the official closing date.
  - (b) The governing institution shall close the program following the transfer of students to other approved programs.
    1. The program shall continue to meet the standards until all students have transferred.
    2. The names of students who have transferred to approved programs and the date of the last student transfer shall be submitted to the board by the governing institution.
    3. The date of the last student transfer shall be the official closing date of the program.
- (3) Custody of records.
  - (a) The governing institution that continues to operate shall retain responsibility for the records of the students and graduates. The board shall be advised of the arrangement made to safeguard the records.
  - (b) The governing institution that ceases to exist shall transfer the academic transcript of each student and graduate to a third party vendor approved by the Council for Postsecondary Education for safekeeping.

#### Section 9. Change in Ownership or Organization of the Governing institution.

- (1) The governing institution shall notify the board in writing of any intent to transfer administrative authority or ownership. The new administrative authority or owner shall inform the board of its plans for immediate and future operation.
- (2) The board shall conduct a site visit to ensure adherence by the program of nursing to 201 KAR 20:260 through 201 KAR 20:360.
- (3) Following this site visit, approval of the program of nursing shall continue under the new ownership or administrative authority if the approval standards continue to be met.

#### Section 10. Incorporation by Reference.

- (1) "Annual Report of the Program of Nursing", 10/22~~[10/18]~~, Kentucky Board of Nursing, is incorporated by reference.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available on the board's Web site at <https://kbn.ky.gov/General/Pages/Document-Library.aspx>.

*AUDRIA DENKER, Board President*

APPROVED BY AGENCY: January 30, 2023

FILED WITH LRC: February 10, 2023 at 10:45 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on April 24, 2023 at 10:00 a.m. at Kentucky Board of Nursing, 312 Whittington Parkway, Ste 300, Louisville, Kentucky 40222. Individuals

interested in being heard at this hearing shall notify this agency in writing by April 17, 2023, five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. 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 April 30, 2023. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Jeffrey R. Prather, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, (502) 338-2851, Jeffrey.Prather@ky.gov or submit a comment at: <https://secure.kentucky.gov/formservices/Nursing/PendReg>.

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

**Contact Person: Jeffrey Prather**

**(1) Provide a brief summary of:**

**(a) What this administrative regulation does:**

It sets standards for continued approval of programs of nursing.

**(b) The necessity of this administrative regulation:**

It is required by KRS 314.111.

**(c) How this administrative regulation conforms to the content of the authorizing statutes:**

By setting standards.

**(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:**

By setting standards.

**(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:**

It updates the Annual Report and how the on-time graduation rate will be calculated by prelicensure programs of nursing.

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

To bring the annual reporting requirements into alignment with other compact states and the National Council of State Boards of Nursing (NCSBN).

**(c) How the amendment conforms to the content of the authorizing statutes:**

KRS 314.111 requires the Board to set standards and the annual report provides data regarding those standards.

**(d) How the amendment will assist in the effective administration of the statutes:**

By streamlining and standardizing reporting requirements.

**(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:**

There are approximately 80 approved pre-licensure nursing programs in the state of Kentucky.

**(4) Provide an analysis of how the entities identified in question (3) 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 that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:**

The form of reporting is being updated, but the reporting requirement is the same.

**(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):**

None.

**(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):**

The new report will be streamlined and simplify the reporting process.

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

**(a) Initially:**

There is no additional cost.

**(b) On a continuing basis:**

No additional cost.

**(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:**

Agency general funds.

**(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:**

It will not.

**(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:**

It will not.

**(9) TIERING: Is tiering applied?**

Tiering is not applicable.

## FISCAL NOTE

**(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?**

Board of Nursing.

**(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.**

KRS 314.111, KRS 314.131.

**(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.**

**(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?**

None.

**(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?**

None.

**(c) How much will it cost to administer this program for the first year?**

No additional cost.

**(d) How much will it cost to administer this program for subsequent years?**

No additional costs.

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

**Revenues (+/-):**

**Expenditures (+/-):**

**Other Explanation:**

**(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.**

Cannot be determined.

**(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year?**

Cannot be determined.

**(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years?**

Cannot be determined.

**(c) How much will it cost the regulated entities for the first year?**

None.

**(d) How much will it cost the regulated entities for subsequent years?**

None.

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

**Cost Savings (+/-):**

**Expenditures (+/-):**

**Other Explanation:**

Difficult to estimate, but working time, materials, and energy spent producing annual report should be reduced.

**(5) Explain whether this administrative regulation will have a major economic impact, as defined below.**

"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)] This administrative regulation will not have a major economic impact.