

BOARDS AND COMMISSIONS
Board of Respiratory Care
(Amendment)

201 KAR 29:030. Complaint processing procedures.

RELATES TO: KRS 314A.225

STATUTORY AUTHORITY: KRS 314A.205(3)

CERTIFICATION STATEMENT: This is to certify that this administrative regulation complies with the requirements of 2025 RS HB 6, Section 8, because the amendments to this administrative regulation will not have a major economic impact.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314A.205(1) requires the board to investigate persons engaging in practices which violate the provisions of KRS Chapter 314A. This administrative regulation establishes the detailed procedures for the investigation and disposition of complaints received by the board.

Section 1. Definitions.

(1) "Chairperson" means the presiding official of the board, or the presiding official's designee when the chairperson is absent or has recused themselves from consideration of a specific matter.

(2) ~~["Charge" means a specific allegation contained in a formal complaint issued by the board alleging a violation of a specified provision of KRS Chapter 314A or the administrative regulations promulgated thereunder.]~~

~~[(3)]~~ "Complaint" means any written allegation alleging misconduct which might constitute a violation of KRS Chapter 314A or 201 KAR Chapter 29.~~[the administrative regulations promulgated thereunder by a certified individual or other person.]~~

~~[(4)]~~ ~~["Formal complaint" means a formal administrative pleading authorized by the board which sets forth charges against a certified individual or other person and commences a formal disciplinary proceeding.]~~

(3) ~~[(5)]~~ "Hearing officer" means the person designated and given authority by the board to preside over all proceedings following~~[pursuant to]~~ the issuance of a notice of hearing and statement of charges pursuant to KRS 13B.050~~[any formal complaint.]~~

~~[(6)]~~ ~~["Informal proceedings" means the proceedings instituted at any stage of the disciplinary process with the intent of reaching an informal dispensation of any matter without further recourse to formal disciplinary procedures.]~~

~~[(7)]~~ ~~["Investigative assistant" means an appropriately certified individual designated by the board to assist the board's attorney in the investigation of a complaint or an investigator employed by the Attorney General or the board.]~~

Section 2. Reception of Complaints; Investigations.

(1) A complaint may be submitted by an individual, organization, or entity. A complaint shall be in writing,~~[and shall be]~~ signed by the person offering the complaint unless submitted anonymously, and shall allege acts that may be in violation of the provisions of KRS Chapter 314A or 201 KAR Chapter 29 by the named certificate holder, applicant, or unlicensed individual against whom the complaint was made.~~[. The board may also file a complaint based on information in its possession.]~~

(2) If the board receives an anonymous complaint, an investigation shall be conducted if the complaint is accompanied by sufficient corroborating evidence, or if such evidence is readily available, as would allow the board to believe, based upon a totality of the circumstances, that a reasonable probability exists that the complaint is meritorious.

(3) The chairperson of the board, the executive director or designee shall file an agency-initiated complaint based upon information received by oral, telephone, or written

communications if the facts of the complaint are found to be accurate and indicate acts that may be in violation of the provisions of KRS Chapter 314A or 201 KAR Chapter 29.

(4) With the exception of a self-report or an application that discloses a violation of KRS Chapter 314A or 201 KAR Chapter 29,

~~[(2)] [Upon receipt of a complaint a copy of the complaint shall be sent to the board's attorney for an initial review and preliminary recommendation of subsequent action to the board.]~~ a copy of the complaint shall [also] be sent to the [certified] individual named in the complaint by both regular mail and email to the mailing address and email address of record pursuant to 201 KAR 29:020 §2(15), along with a request for that individual's written, legible, verified response to the complaint within thirty (30) days of the issuance of the complaint. [The response of the individual shall be required for the next regularly scheduled meeting of the board except that the individual shall be allowed a period of twenty (20) days from the date of receipt to make a response.]

(5) The failure, without good cause, of any certificate holder or applicant to file a written, legible, verified response when due shall be considered a violation of 201 KAR 29:020 §2(5) and an admission of the allegations stated in the complaint.

(6) The executive director or designee shall have the authority to direct any investigation and shall possess any and all powers possessed by the board in regard to investigations.

(7) Each complaint shall be investigated as necessary and as promptly as possible, and presented to the board for review and a finding of probable cause or no probable cause to believe a violation of KRS Chapter 314A or 201 KAR Chapter 29 has occurred. A probable cause finding or no probable cause finding shall be determined on a majority vote of a quorum of the board, and shall be recorded in the board meeting minutes.

(8) The executive director shall further be empowered to order the attendance of any certificate holder or applicant at an investigative meeting regarding any complaint.

(9) The failure, without good cause, of any certificate holder or applicant to attend an investigative meeting when requested shall be considered a violation of 201 KAR 29:020 §2(5).

(10) All preliminary information shall be treated as confidential during the investigation and shall not be disclosed to board members or to the public, except during the board review of the case information in closed session when making a finding of probable cause or no probable cause.

(11) If a board member has participated in the investigation or has substantial knowledge of facts prior to a hearing on the complaint that may influence an impartial decision by the member, that member shall not participate in the probable cause finding or the deliberations or decision-making conducted pursuant to KRS 13B.120.

(12) If the board determines that there is no probable cause to believe a violation of KRS Chapter 314A or 201 KAR Chapter 29 has occurred, there shall not be further action unless warranted by further evidence, and the board shall notify both the complaining party and the individual of the no probable cause finding.

(13) Upon a board determination that there is probable cause to believe a violation of KRS Chapter 314A or 201 KAR Chapter 29 by a certificate holder or applicant has occurred, board staff may issue a notice of hearing and statement of charges pursuant to KRS 13B.050, a proposed agreed order pursuant to Section 3 of this administrative regulation, or both.

(14) Upon a board determination that there is probable cause to believe a violation of KRS Chapter 314A or 201 KAR Chapter 29 by a person who has never been a certificate holder in Kentucky, or if their Kentucky credential has been suspended or revoked, Board staff shall cause a referral report to be prepared and signed by the chairperson of the board, stating the basis for the board determination. If the individual has never been licensed or certified to practice as a respiratory care practitioner in another state, the referral report shall be forwarded to the county attorney of the county of residence of the

person allegedly practicing respiratory care without appropriate certification with a request that appropriate action be taken under KRS 314A.990. If the individual has held a license or certificate to practice as a respiratory care practitioner in another state, the referral report shall be forwarded to each state agency who issued a license or certificate to the individual, and to the National Board for Respiratory Care or its equivalent. The board may also initiate action in Franklin Circuit Court for injunctive relief to stop the unauthorized practice of respiratory care.

Section 3. Negotiated Resolution; Letter of Admonishment. ~~[Preliminary Recommendations and Initial Board Review.]~~

(1) At any time subsequent to the issuance of a complaint to a certificate holder or applicant, or a notice of noncompliance pursuant to Section 5 of this administrative regulation, the executive director or designee shall have the authority and the complete discretion to negotiate with the certificate holder or applicant concerning stipulations of fact, conclusions of law, and proposed discipline. The executive director shall also have discretion to reject any or all offers of negotiated resolution and may commence negotiations on the executive director's initiative ~~[After the receipt of a complaint and the period for the individual's response has concluded, the board shall consider the preliminary recommendation of the board's attorney, the individual's response, and any other relevant material available to the board in the initial review of the complaint. The determination that the board makes at this point shall be whether or not there is enough evidence to warrant a formal investigation].~~

(2) When negotiated settlement terms have been accepted by the certificate holder or applicant, and the executive director or designee subject to the approval the board, the executive director or designee shall cause the settlement agreement, signed by the certificate holder or applicant, to be submitted to the board, including a line for the signature of an officer of the board. A settlement agreement shall become effective upon being accepted by a majority of a quorum of the board, signed by the chairperson, and filed of record ~~[When in the opinion of the board a complaint does not warrant the formal investigation of a complaint against an individual, the board shall notify both the complaining party and the individual of the outcome of the complaint].~~

(3) If the board rejects a negotiated resolution that has been signed by the certificate holder or applicant, the matter shall continue to proceed, provided, however, that further negotiations may be conducted and subsequent settlement offers may be presented to the board. Rejection shall not be taken as a finding or determination of any kind on behalf of the board and no orders or other pleadings shall be filed of record in regard to the negotiations or the rejected proposal ~~[When in the opinion of the board a complaint warrants the formal investigation of a complaint against either a certified individual or a person who may be practicing respiratory care without appropriate certification, the board shall authorize its attorney and a designated investigative assistant to investigate the matter and report their findings and recommendations to the board at their earliest opportunity].~~

(4) Upon a finding of probable cause to believe a violation of KRS Chapter 314A or 201 KAR Chapter 29 by a certificate holder or applicant has occurred, the board may direct the issuance of a letter of admonishment to the certificate holder or applicant. This action may be taken if it is determined by the board that this is an appropriate method of dispensing with the complaint. The letter of admonishment shall be signed by the executive director and sent to the individual by both regular mail and email to the mailing address and email address of record pursuant to 201 KAR 29:020 §2(15), with a copy placed in the individual's permanent file. Within thirty (30) days of the date of the letter, the individual shall have the right to file a written response to the letter and have it attached to the letter of admonishment and placed in the permanent file. The individual

shall also have, within thirty (30) days of the date of the letter, the right to contest the letter of admonishment and be granted a full hearing on the complaint pursuant to KRS Chapter 13B. If a hearing is requested, the board shall file a notice of hearing and statement of charges and shall proceed in accordance with Section 4 of this administrative regulation.

Section 4. Disciplinary Proceedings. ~~[Results of Formal Investigation; Board Decision on Hearing.]~~

(1) Disciplinary proceedings following the filing of a notice of hearing and statement of charges pursuant to KRS 13B.050 shall be heard by a hearing officer, who shall be an assistant attorney general or an attorney appointed by the board in accordance with KRS 13B.030 and 13B.040. ~~[Upon completion of the formal investigation, the board's attorney or the investigative assistant shall report to the board his or her findings and recommendations as to the proper disposition of the complaint. The determination that the board makes at this point shall be whether or not there is enough evidence to believe that a violation of the law or administrative regulations may have occurred and that a hearing should be held.]~~

(2) The certificate holder or applicant shall file with the board a written answer to the specific allegations contained in the notice of hearing and statement of charges within twenty (20) days of receipt of the charges. An allegation not properly answered shall be deemed admitted. Failure to file an answer shall be considered a violation of 201 KAR 29:020 §2(5) and may result in the issuance of a default order pursuant to KRS 13B.080(6). The hearing officer shall for good cause permit the late filing of an answer. ~~[When in the opinion of the board a complaint does not warrant the issuance of a formal complaint and the holding of a hearing the complaint shall be dismissed or other appropriate action taken. The board shall notify both the complaining party and the individual of the outcome of the complaint.]~~

(3) The board prosecuting attorney shall be empowered to direct the attendance of any certificate holder or applicant at an administrative hearing conducted pursuant to KRS 13B.080. ~~[When in the opinion of the board a complaint warrants the issuance of a formal complaint, the board shall cause a complaint to be prepared stating clearly the charge or charges to be considered at the hearing. The formal complaint shall be signed by the chairperson and served upon the individual as required by KRS 13B.050.]~~

(4) The failure, without good cause, of any certificate holder or applicant to attend an administrative hearing when directed to do so shall be considered a violation of 201 KAR 29:020 §2(5). ~~[When in the opinion of the board a complaint warrants the issuance of a formal complaint against a person who may be practicing respiratory care without proper certification, the board shall cause a formal complaint to be prepared and signed by the chairperson of the board, stating the board's belief the charges are based upon reliable information. The formal complaint shall be forwarded to the county attorney of the county of residence of the person allegedly practicing respiratory care without appropriate certification with a request that appropriate action be taken under KRS 314A.990. The board may also initiate action in Franklin Circuit Court for injunctive relief to stop the unauthorized practice of respiratory care.]~~

(5) The hearing shall be transcribed by a court stenographer or video recorded.

(6) In a final order is issued by the board in accordance with KRS 13B.120, or in an agreed order issued subsequent to the filing of a notice of hearing and statement of charges pursuant to KRS 13B.050, the board may impose the following as a component of the administrative fine authorized by KRS 314A.225(1) and 314A.990, provided the total fine does not \$1,000:

- (a) The cost of stenographic services;
- (b) The cost of the hearing officer;

- (c) Expert witness costs, including travel;
- (d) Travel for other witnesses, at the rates specified at 200 KAR 2:006 Sections 5-7;
- (e) Document reproduction costs; and
- (f) The cost of a certified copy of laboratory testing records.

Section 5. Noncompliance with Final Order or Agreed Order Terms. ~~{Settlement by Informal Proceedings; Letter of Admonishment.}~~

(1) The executive director or designee may investigate as needed, using any of the methods available in Section 1 of this administrative regulation, to monitor an individual's compliance with the terms of an agreed order or a final order entered by the board pursuant to KRS Chapter 13B.120. ~~{The board, through counsel may, at any time during this process, enter into informal proceedings with the individual who is the subject of the complaint for the purpose of appropriately dispensing with the matter. Any agreed order or settlement reached through this process shall be approved by the board and signed by the individual who is the subject of the complaint and the chairperson of the board.}~~

(2) A written notice of noncompliance shall be sent by the board or the executive director or designee to any individual who has violated the terms of an agreed order or a final order pursuant to KRS Chapter 13B.120. The notice shall specify the noncompliance, the sanctions sought by board staff, and any other remedial action sought as a consequence of the individual's noncompliance. ~~{The board may at any time during this process, issue a letter of admonishment to the individual who is named in the complaint as a means of resolving the complaint. This action may be taken if it is determined by the board that this is an appropriate method of dispensing with the complaint. The letter of admonishment shall be sent to the individual with a copy placed in the individual's permanent file. A copy may also be sent to the government agencies deemed appropriate by the board. Within thirty (30) days of the date of the letter, the individual shall have the right to file a written response to the letter and have it attached to the letter of admonishment and placed in the permanent file. The individual shall also, within thirty (30) days of the date of the letter, have the right to appeal the letter of admonishment and be granted a full hearing on the complaint. If this appeal is requested, the board shall immediately file a formal complaint in regard to the matter and set a date for a hearing.}~~

(3) The individual to whom the notice of noncompliance is sent shall file with the board, within thirty (30) days of issuance of the notice, a written, legible, verified response.

(4) The failure, without good cause, to file a written, legible, verified response when due shall be considered a violation of 201 KAR 29:020 §2(5), an admission of noncompliance, acceptance of the sanctions and remedial actions stated in the notice of noncompliance. If the notice of noncompliance arises from an agreed order that includes a liquidated sanction for noncompliance and a corresponding waiver of the right to hearing with regard to enforcement of the agreed order, including a waiver of the right to be present with counsel, to subpoena witnesses and to confront witnesses, and the full panoply of rights of hearing and appeal, the liquidated sanction specified in the agreed order may be implemented without the necessity of a hearing pursuant to KRS Chapter 13B, and without the associated due process procedures. The board or the executive director shall give notice of the imposition of the liquidated sanctions specified in the agreed order by delivering written notice of the final disposition and the remedial actions imposed to the individual by both regular mail and email to the mailing address and email address of record pursuant to 201 KAR 29:020 §2(15), or the individual's attorney of record.

(5) Upon the receipt of a written, legible, verified response to a notice of noncompliance, the board shall file a notice of hearing and statement of charges pursuant to KRS 13B.050 and shall proceed in accordance with KRS Chapter 13B and Section 4 of this

administrative regulation. The executive director shall be authorized to sign a notice of hearing and statement of charges arising from noncompliance with an agreed order or final order pursuant to KRS Chapter 13B.120.

Section 6. Notice and Service of Process. Except for those items that are required to delivered by certified mail pursuant to KRS 13B.050(2) and 13B.120(5), any notice required by KRS Chapter 314A or this administrative regulation shall be delivered by both regular mail and email to the mailing address and email address of record pursuant to 201 KAR 29:020 §2(15).~~issued in accordance with KRS 13B.050.~~

MARLENE MCKINLEY, RRT, Board Chair

APPROVED BY AGENCY: April 17, 2025

FILED WITH LRC: August 15, 2025 at 9:45 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 28, 2025 at 10:00 a.m. at the Kentucky Board of Respiratory Care, 1712 Perryville Rd, Suite 200, Danville, Kentucky 40422. Individuals interested in being heard at this hearing shall notify this agency in writing by October 21, 2025, 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 October 31, 2025. 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: Morgan G. Ransdell, Board Attorney, Kentucky Board of Respiratory Care, 1712 Perryville Rd, Suite 200, Danville, Kentucky 40422; phone (502) 665-9600, email Morgan.Ransdell@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person:Morgan G. Ransdell

Subject Headings:Boards and Commissions, Respiratory Care, Occupations and Professions

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation establishes detailed procedures for the investigation and disposition of complaints received by the board.

(b) The necessity of this administrative regulation:

KRS 314A.205(1) requires the board to investigate persons engaging in practices which violate the provisions of KRS Chapter 314A or 201 KAR Chapter 29. In addition, the implementation of investigation and discipline processes is called for in KRS 13A.100(5).

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

By setting forth detailed procedures for the investigation and disposition of complaints received by the Board.

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

By setting forth detailed procedures for the investigation and disposition of complaints received by the Board.

(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:

The amendment defines chairperson to include official designee where chairperson is absent or has recused. The amendment addresses anonymous complaints and agency-initiated complaints, and criteria to be followed in determining if a particular filing constitutes an anonymous complaint. The amendment specifies a 30-day response period for all complaints, and service of complaints by both regular mail and email, with non-response constituting a default. The amendment empowers the Executive Director to direct investigations, including mandatory investigative meetings. The amendment states that a Board determination is required for probable cause ("PC") or no probable cause ("NPC") findings. The amendment designates investigative information as confidential and exempt from mandatory disclosure under open records laws. The amendment specifies circumstances where Board member recusal is required. The amendment specifies remedial action where Board finds unlicensed practice. The amendment authorizes the Executive Director to negotiate possible settlement of cases, subject to subsequent approval or rejection by the Board. The amendment requires licensees and applicants to respond to a notice of hearing and statement of charges, or be in default. The amendment authorizes the Board attorney to compel the attendance of KBRC licensees and applicants at a hearing conducted pursuant to KRS Chapter 13B. The amendment states that failure to attend a hearing when directed constitutes unprofessional conduct. The amendment allows for the imposition of hearing costs, including hearing officer and court reporter expenses, as a component of a civil fine, provided the total civil fine does not exceed \$1,000. The amendment streamlines disciplinary process for cases

arising from noncompliance with an agreed order or prior Board decision, where non-response is deemed a waiver of hearing rights and acceptance of remedial measures set forth in the agreed order or final order. The amendment authorizes the Executive Director to sign a notice of charges arising from noncompliance with an agreed order or final order. The amendment specifies that all communication regarding discipline matters shall be sent by regular mail and email to the address of record, except where KRS Chapter 13B requires certified mail (notice of hearing and final order).

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

The amendment is necessary to expedite the investigative process, as well as the time it takes to close contested cases. Under the existing regulation, it typically takes more than six months for the Board to issue notice of hearing and statement of charges, as the process begins with a 20-day period for response to the complaint, followed by a recommendation from the Board attorney whether or not to initiate a formal investigation. The Board meets every two months, which typically delays the determination regarding whether to initiate a formal investigation. If the Board then moves the matter to the "formal complaint" phase, one or more subpoenas is typically issued, and the time spent awaiting the subpoena response and reviewing the subpoenaed materials is often significant. In many instances, the subpoena response triggers the need to interview the respondent or other persons. The completion of interviews, if needed, typically allows the proceeding to move to the next step, presentation of the matter to the Board for a probable cause recommendation; however, as the Board only meets every two months, a delay can result between the completion of the investigation the Board review of the matter. If the Board finds probable cause, staff attempts to resolve the matter by agreed order, which typically results in a 30-day delay, if settlement efforts fail, a draft notice of hearing and statement of charges is presented to the Board for approval, which occurs at a Board meeting, which can again result in a delay. In contrast to the existing regulation, the amendment streamlines the investigative and litigation process in multiple ways. Requiring a written response to complaints and notice of charges allows for an expedited default disposition in cases where no response is filed. Addressing a violation of an agreed order or final order is much simpler than investigating a facility or consumer complaint, and the amendment creates a separate expedited mechanism for such matters. In cases where a violation of KRS Chapter 314A or 201 KAR Chapter 29 is found, the amendment authorizes the recovery of hearing officer fees and transcript costs, within the limits of the Board existing authority to impose monetary penalties. Shifting these costs from the entire pool of licensees and applicants to those persons found to have violated the law facilitates agreed resolutions and deters tactics of delay. The amendment empowers the Executive Director or designee to conduct investigations, thus eliminating the necessity of a Board determination that a "formal" investigation is warranted. The amendment empowers the Executive Director to direct the respondent to attend an investigative meeting, which allow for face-to-face interactive discussion that facilitates a search for the truth. The amendment empowers the Executive Director to negotiate proposed agreed orders, subject to approval or rejection by the Board, at any point subsequent to the service of the complaint upon the respondent. This expedited mechanism for settlement is particularly useful for frequently seen violation types where standardized disciplinary terms are sought, such as continuing education compliance, DUI (1st Offense), or positive urine drug screen result for nonprescribed mood altering substances excluding alcohol. With the exception of instances where certified mail is required per KRS Chapter 13B, the amendment

eliminates the requirement that all required notices be issue by certified mail, and instead directs service by regular mail and email, which greatly reduces turnaround time for written communication.

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

By setting forth detailed procedures for the expedited investigation and disposition of complaints received by the Board.

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

By setting forth detailed procedures for the expedited investigation and disposition of complaints received by the Board.

(3) Does this administrative regulation or amendment implement legislation from the previous five years?No.

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

The 4141 active credential holders subject to the Board's regulatory authority, the 195 inactive credential holders, and future applicants for initial licensure or reinstatement.

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

By imposing an expedited default disposition on those who do not respond, the amendment requires individuals who are alleged to have violated KRS Chapter 314A or 201 KAR 29 to respond to complaints and KRS 13B notice of charges.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4):

The amendment does no impose any new costs upon the persons identified in question (4). The amendment authorizes the Board to seek recovery of its actual hearing officer fees and transcript costs from persons found to have violated KRS Chapter 314A or 201 KAR Chapter 29; however, any such costs must fall within the Board existing statutory authority to impose an administrative fine of up to \$1,000. The net potential monetary liability of such respondents remains unchanged at \$1,000.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (4):

The amendment will expedite the disposition of disciplinary complaints, which serves the Board mission to protect both the public and the integrity of the profession.

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

(a) Initially:

There are no monetary costs associated with the implementation of the amendment, either initially or on an ongoing basis.

(b) On a continuing basis:

There are no monetary costs associated with the implementation of the amendment, either initially or on an ongoing basis.

(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment:

Agency funds.

(8) 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 fee increase or funding is required.

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

It does not. The amendment authorizes the Board to seek recovery of its actual hearing officer fees and transcript costs from persons found to have violated KRS Chapter 314A or 201 KAR Chapter 29; however, any such costs must fall within the Board existing statutory authority to impose an administrative fine of up to \$1,000. The net potential monetary liability of such respondents remains unchanged at \$1,000.

(10) TIERING: Is tiering applied?

Tiering is not applied and is not needed given the context and substance of the regulation.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation:

KRS 314A.205(1) requires the board to investigate persons engaging in practices which violate the provisions of KRS Chapter 314A. This administrative regulation establishes the detailed procedures for the investigation and disposition of complaints received by the board. KRS 13A.100(5) and 314A.205(3) authorize the Board to promulgate administrative regulation related to the investigation and discipline process.

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act:

KRS 314A.205(3) expressly authorizes the agency to promulgate administrative regulations to carry out the purposes of the KRS Chapter 314A.

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions:

The Kentucky Board of Respiratory Care.

(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):

1. Expenditures:

For the first year:The amendment will not impact expenditures.

For subsequent years:The amendment will not impact expenditures.

2. Revenues:

For the first year:The amendment will not impact revenues.

For subsequent years:The amendment will not impact revenues.

3. Cost Savings:

For the first year:The amendment will not impact cost savings.

For subsequent years:The amendment will not impact cost savings.

(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts):

None.

(b) Estimate the following for each affected local entity identified in (4)(a):

1. Expenditures:

For the first year:N/A

For subsequent years:N/A

2. Revenues:

For the first year:N/A

For subsequent years:N/A

3. Cost Savings:

For the first year:N/A

For subsequent years:N/A

(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a):
Licensure applicants and licensees.

(b) Estimate the following for each regulated entity identified in (5)(a):

1. Expenditures:

For the first year:The amendment authorizes the Board to seek recovery of its actual hearing officer fees and transcript costs from persons found to have violated KRS Chapter 314A or 201 KAR Chapter 29; however, any such costs must fall within the Board existing statutory authority to impose an administrative fine of up to \$1,000. The net potential monetary liability of such respondents remains unchanged at \$1,000.

For subsequent years:The amendment authorizes the Board to seek recovery of its actual hearing officer fees and transcript costs from persons found to have violated KRS Chapter 314A or 201 KAR Chapter 29; however, any such costs must fall within the Board existing statutory authority to impose an administrative fine of up to \$1,000. The net potential monetary liability of such respondents remains unchanged at \$1,000.

2. Revenues:

For the first year:No revenues to estimate.

For subsequent years:No revenues to estimate.

3. Cost Savings:

For the first year:No cost savings for regulated entities.

For subsequent years:No cost savings for regulated entities.

(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)

(a) Fiscal impact of this administrative regulation:

The amendment will not have a fiscal impact on the entities identified in (3)(a), (4)(a), and (5)(a). The amendment authorizes the Board to seek recovery of its actual hearing officer fees and transcript costs from persons found to have violated KRS Chapter 314A or 201 KAR Chapter 29; however, any such costs must fall within the Board existing statutory authority to impose an administrative fine of up to \$1,000. The net potential monetary liability of such respondents remains unchanged at \$1,000.

(b) Methodology and resources used to reach this conclusion:

None.

(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):

(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(14):

This administrative regulation will not have a major economic impact as it relates to the entities identified in (3)(a), (4)(a), and (5)(a).

(b) The methodology and resources used to reach this conclusion:

None.