

BOARDS AND COMMISSIONS

Board of Respiratory Care

(Amendment)

201 KAR 29:040. Reporting of final orders and agreed orders. ~~{Posthearing procedures.}~~

RELATES TO: KRS ~~{Chapter 13B, }~~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.225 authorizes the board to impose disciplinary sanctions against certificate holders and applicants where appropriate. Federal statutes such as 42 U.S.C. 1396r-2, and federal regulations such as 45 C.F.R. §60.9, mandate reporting to federal authorities of some but not all board disciplinary actions~~{mandates a hearing upon the filing of a complaint alleging a violation of KRS Chapter 314A or the administrative regulations promulgated thereunder}~~. This administrative regulation establishes procedures following the issuance of a final order pursuant to KRS 13B.120, an agreed order, or a letter of admonishment~~{conducting of a hearing pursuant to KRS Chapter 13B}~~.

Section 1. Notification of Final Decision of the Board~~{of Directors}~~. A final order of the board, issued to a certificate holder or applicant in accordance with KRS 13B.120, an agreed order signed by the certificate holder or applicant and approved by the board, and an admonishment may be sent by regular mail or email~~{The board, upon completion of the hearing and final approval, shall send notification}~~ to the following:

- (1) Complaining party. ~~{Certificate holder}~~;
- (2) Employer;
- (3) Appropriate national and state agencies; and
- (4) The National Board of Respiratory Care, or its equivalent.

Section 2. The board shall not adopt an agreed order that includes a confidentiality provision, other than as necessary to comply with and implement KRS 61.878(1).

Section 3. Admonishments, and agreed orders based solely on continuing education, continuing education audit noncompliance, or working on an expired license if the agreed order is entered within thirty (30) days of expiration, shall not be automatically reported by the board to persons or entities listed in Section 1 of this administrative regulation, but may be released if requested in accordance with KRS 61.870 to 61.884.

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 procedures following the issuance of a final order pursuant to KRS 13B.120, an agreed order, or a letter of admonishment.

(b) The necessity of this administrative regulation:

KRS 314A.225 authorizes the board to impose disciplinary sanctions against certificate holders and applicants where appropriate. Federal statutes such as 42 U.S.C. 1396r-2, and federal regulations such as 45 C.F.R. §60.9, mandate reporting to federal authorities of some but not all board disciplinary actions.

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

By establishing procedures for the reporting of certain disciplinary actions following the issuance of a final order pursuant to KRS 13B.120, an agreed order, or a letter of admonishment.

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

By establishing procedures for the reporting of certain disciplinary actions following the issuance of a final order pursuant to KRS 13B.120, an agreed order, or a letter of admonishment.

(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:

Consistent with KRS 61.870 to 61.884, the amendment clarifies that final orders, agreed orders, and admonishments, referred to herein as the "closing document" in a Board administrative proceeding, shall not include confidentiality provisions, and may be released in response to a request pursuant to KRS 61.870 to 61.884, other than as necessary to comply with and implement KRS 61.878(1). The amendment authorizes the release of the closing document to the complaining party, which is pertinent with regard to consumer complaints.

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

The amendment is needed to ensure conformity with KRS 61.870 to 61.884, federal statutes such as 42 U.S.C. 1396r-2, and federal regulations such as 45 C.F.R. §60.9.

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

By establishing procedures for the reporting of certain disciplinary actions following the issuance of a final order pursuant to KRS 13B.120, an agreed order, or a letter of admonishment.

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

By establishing procedures for the reporting of certain disciplinary actions following the issuance of a final order pursuant to KRS 13B.120, an agreed order, or a letter of admonishment.

(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:

No actions are needed.

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

No costs will result from the amendment.

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

The amendment will serve 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.

(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.225 authorizes the board to impose disciplinary sanctions against certificate holders and applicants where appropriate. 42 U.S.C. 1396r-2 and 45 C.F.R. §60.9 mandate reporting to federal authorities of some but not all board disciplinary actions.

(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 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 cost savings.

For subsequent years: The amendment will not cost savings.

(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).

(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.