

201 KAR 2:270. Expungement.

RELATES TO: KRS 315.121(6), 315.191(1)(a)

STATUTORY AUTHORITY: KRS 315.121(6), 315.191(1)(a)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 315.191(1)(a) authorizes the board to promulgate administrative regulations relating to subject matters governed by KRS Chapter 315. KRS 315.121(6) requires the board to promulgate administrative regulations to establish violations that are considered minor and subject to expungement. This administrative regulation establishes the violations considered minor and the criteria and procedure for expungement.

Section 1. Definition. "Expungement" means:

- (1) The affected records shall be sealed;
- (2) The proceedings to which they refer shall be deemed not to have occurred; and
- (3) The affected party may properly represent that no record exists regarding the matter expunged.

Section 2. Minor Violations and Expungement Procedure.

(1) The following violations shall be considered minor in nature:

- (a) Any unlicensed or unpermitted practice occurring no more than seven (7) days after the expiration of the license or permit due to failure to timely renew a license or permit;
- (b) Failure to timely obtain required continuing education; and
- (c) Failure to comply with any provisions of 201 KAR 2:106 for licensed or permitted facility closures; or
- (d) At the discretion of the board, any other offense:
 1. Not involving the diversion of controlled substances;
 2. Not demonstrating a serious inability to practice the profession or to assist in the practice of pharmacy;
 3. Not adversely affecting public health, safety, or welfare;
 4. Not resulting in economic or physical harm to a person; and
 5. Not creating a significant threat of economic or physical harm.

(2) In accordance with KRS 315.121(6), a licensee, registrant, or permit holder seeking expungement of a record of a disciplinary action resulting from a violation designated in subsection (1) of this section shall:

- (a) Not have been the subject of a subsequent violation of the same nature for a period of three (3) years after the date of completion of disciplinary sanctions imposed for the violation sought to be expunged; and
- (b) Submit a written request to the board.

(3) The board shall consider each request and shall, if the conditions of subsection (2) of this section are satisfied, expunge every record under its custody relating to the subject disciplinary order.

(4) The expungement of a record under this administrative regulation is limited to the removal of records in the board's custody and shall not guarantee expungement of a record previously reported to the National Practitioner's Data Bank.

(29 Ky.R. 2196; 2447; eff. 4-11-2003; 45 Ky.R. 3460, 46 Ky.R. 414; eff. 8-19-2019; 48 Ky.R. 100, 1112; eff. 10-20-2021.)