

BOARDS AND COMMISSIONS
APPLIED BEHAVIOR ANALYSIS LICENSING BOARD
(Amendment)

201 KAR 43:060. Complaint and disciplinary process.

RELATES TO: KRS 319C.050(4), 319C.060(2), 319C.070, 319C.110

STATUTORY AUTHORITY: KRS 319C.060(2)

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319C.060(2) requires the board to promulgate an administrative regulation governing the regulation of licensees. KRS 319C.070, 319C.050(4), and 319C.110 require the board to investigate and take disciplinary action against licensees who violate KRS Chapter 319C and the associated administrative regulations. This administrative regulation details the process by which the board completes those investigations and takes that action.

Section 1. Definitions.

- (1) "Act" means KRS Chapter 319C.
- (2) "Board" is defined by KRS 319C.010(3).
- (3) "Charge" means a specific allegation contained in a document issued by the board or hearing panel alleging a violation of a specified provision of KRS Chapter 319C or 201 KAR Chapter 43.
- (4) "Complaint Committee" means the committee appointed pursuant to Section 2 of this administrative regulation.
- (5) "Formal complaint" means a formal administrative pleading or notice of administrative hearing authorized by the board that sets forth charges against a licensee or applicant and commences a formal disciplinary proceeding in accordance with KRS Chapter 13B.
- (6) "Initiating complaint" means an allegation alleging misconduct by a licensee or applicant or alleging that an unlicensed person is engaging in unlicensed practice or using a title without holding a license.
- (7) "Order" means the whole or a part of a final disposition of a hearing.
- (8) "Presiding officer" means the person appointed by the board to preside at a hearing held pursuant to KRS Chapter 13B, and shall include a hearing officer, a member or members of the hearing panel, or both.
- (9) "Respondent" means the person against whom an initiating or a formal complaint has been made.

Section 2. Initiating Complaint.

- (1) Source of initiating complaint. An initiating complaint may be initiated by the board, by the public, or by a governmental agency. A certified copy of a court record for a misdemeanor or felony conviction shall be considered a valid initiating complaint.
- (2) Form of initiating complaint. Initiating complaints shall:
 - (a) Be in writing;
 - (b) Clearly identify the person against whom the initiating complaint is being made;
 - (c) Contain the date;
 - (d) Identify by signature the person making the initiating complaint; and
 - (e) Contain a clear and concise statement of the facts giving rise to the initiating complaint.
- (3) Receipt of initiating complaint. An initiating complaint shall be submitted to the Board Office at the Department of Professional Licensing.
- (4) Response. A copy of the initiating complaint shall be transmitted by electronic mail, ~~mailed~~ to the respondent at the electronic mail address on file for the respondent. The

respondent shall file with the board a written response to the initiating complaint:

(a) Within fifteen (15) days of the date on which the initiating complaint was mailed;

or

(b)

1. Within a specified period of time if an extension is requested in writing by the respondent and granted by the board. In order to be granted an extension, the respondent shall provide proof of good cause justifying the extension.

2. Good cause includes instances such as family emergencies, medical needs, and undue hardship.

(5) Complaint Committee.

(a) The complaint committee shall consist of three (3) board members appointed by the chair of the board to:

1. Review initiating complaints, responses, and investigative reports;

2. Participate in informal proceedings to resolve formal complaints; and

3. Make recommendations for disposition of initiating complaints and formal complaints to the full board.

(b) The complaint committee may be assisted by the board staff and counsel to the board.

(6) Consideration of initiating complaint. At the next regularly-scheduled meeting of the board or as soon thereafter as practicable, the board or the complaint committee shall review the initiating complaint and response. The board, upon recommendation of the complaint committee, shall determine if an investigation is warranted, and if so, the board shall appoint an agent or representative of the board to conduct an investigation of the initiating complaint.

(7) Investigation.

(a) If the board directs that an investigation be completed, the respondent shall be interviewed as a part of that investigation. With the consent of the respondent, a meeting may be scheduled at which time the respondent may respond further to the allegations of the initiating complaint. The board and the respondent shall have the right to be represented at the meeting by legal counsel. The respondent's failure to submit to an interview or cooperate with an investigation shall not deprive the board of the authority to take action pursuant to paragraph (c) of this subsection.

(b) Report of investigation. Upon the completion of the investigation, the person or persons making that investigation shall submit a written report to the board containing a succinct statement of the facts disclosed by the investigation.

(c) Consideration of complaint and investigative report. Based on consideration of the complaint; the investigative report, if any; and the psychological or physical examination, if any, the board shall determine if there has been a prima facie violation of the Act.

1. If it is determined that the facts alleged in the initiating complaint or investigative report do not constitute a prima facie violation of KRS Chapter 319C or 201 KAR Chapter 43, the board shall provide written notice to the person or entity making the initiating complaint and the respondent that no further action shall be taken at the present time.

2.

a. If it is determined that there is a prima facie violation of KRS Chapter 319C or 201 KAR Chapter 43, the board shall issue a formal complaint against the licensee or applicant.

b. In the case of a prima facie violation of KRS 319C.020(1) and the respondent is not a licensee or an applicant, the board shall take one (1) or all of the following actions:

(i) Issue a cease-and-desist~~[cease and desist]~~ order;

- (ii) File suit to enjoin the violator pursuant to KRS 319C.050(2); or
- (iii) Seek criminal prosecution pursuant to KRS 319C.050(2).~~fff~~

Section 3. Formal Complaint. If the board votes to file a formal complaint, a notice of administrative hearing shall be filed as required by KRS 13B.050.

Section 4. Formal Response.

- (1) Within twenty (20) days of service of the notice of administrative hearing, the respondent shall file with the board a written response to the specific allegations set forth in the notice of administrative hearing.
- (2) Allegations not properly responded to shall be deemed admitted.
- (3)
 - (a) The board may, if there is good cause, permit the late filing of a response.
 - (b) Good cause includes instances such as family emergencies, medical needs, and undue hardship.

Section 5. Composition of the Hearing Panel. Disciplinary actions shall be heard by a hearing officer and:

- (1) The full board or a quorum of the board;
- (2) A hearing panel consisting of at least one (1) board member appointed by the board;
or
- (3) The hearing officer alone in accordance with KRS 13B.030(1).

Section 6. Notification of Complainant. Upon final resolution of a complaint submitted pursuant to this process, the board shall notify the person or entity making the initiating complaint of the outcome of the action in writing.

KIRSTI SINGER, Chair

APPROVED BY AGENCY: May 1, 2026

FILED WITH LRC: May 5, 2026 at 1:30 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on July 21, 2026 at 10:00 a.m., eastern time, in the Applied Behavior Analysis Board, 500 Mero Street, First Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five working days 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. The 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 July 31, 2026 at 11:59 p.m., Eastern time. Send written notification of the intent to be heard at the public hearing or written comments on the proposed administrative regulation by the above date to the contact person below:

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jennifer Wolsing **Phone:** (502) 401-7617 **Email:** jennifer.wolsing@ky.gov

Subject Headings: Behavioral Health, Mental Health, Education

(1) Provide a brief summary of:

(a) What this administrative regulation does:

KRS 319C.060(2) requires the board to promulgate an administrative regulation governing the regulation of licensees. KRS 319C.070, 319C.050(4), and 319C.110 require the board to investigate and take disciplinary action against licensees who violate KRS Chapter 319C and the associated administrative regulations. This administrative regulation details the process by which the board completes those investigations and takes that action.

(b) The necessity of this administrative regulation:

This administrative regulation is required by KRS 319C.060(2).

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

KRS 319C.060(2) requires the board to promulgate an administrative regulation governing the regulation of licensees. KRS 319C.070, 319C.050(4), and 319C.110 require the board to investigate and take disciplinary action against licensees who violate KRS Chapter 319C and the associated administrative regulations. This administrative regulation details the process by which the board completes those investigations and takes that action.

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

This regulation assists in the effective administration of KRS Chapter 319C by carrying out the legislative mandate for the board to establish regulations for the practice of behavior analysis.

(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 requires the Board to transmit complaints to a licensee's last-known email address, which was provided to the Board, rather than transmitting complaints via mail.

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

This amendment allows for more efficient transmission of complaints and shows with specificity when the complaint was transmitted.

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

KRS 319C.070, 319C.050(4), and 319C.110 require the board to investigate and take disciplinary action against licensees who violate KRS Chapter 319C and the associated administrative regulations. This administrative regulation details the process by which the board completes those investigations and takes that action.

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

This amendment will make the Board's complaint process more efficient and streamlined. It will also allow the Board to save on mailing costs.

(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:

This regulation will affect approximately 11 licensed assistant behavior analysts, approximately 482 licensed behavior analysts, approximately 6 temporary behavior analysts, and approximately 6 temporary registered telehealth providers.

(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:

Each regulated entity will need to keep its email address updated with the Board.

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

Licensees will not incur costs in order to comply with this proposed amendment.

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

Licensees will be updated more quickly when there is a complaint against their license, which will allow them to provide more efficient responses.

(6) 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 to administer this regulatory amendment.

(b) On a continuing basis:

There are no anticipated continuing costs to administer this regulatory amendment.

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

Any department costs of implementation will be met with existing 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:

An increase in fees or funding will not be required to comply with this regulatory amendment. Keeping an updated email address on file with the board is free.

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

This amendment will not necessitate an increase in fees or require funding from the agency for implementation.

(10) TIERING: Is tiering applied?

Tiering is not applied.

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 319C.060(2).

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

No.

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

This regulation impacts the Kentucky Applied Behavior Analysis Licensing Board.

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

1. Expenditures:

For the first year:None.

For subsequent years:None.

2. Revenues:

For the first year:None.

For subsequent years:None.

3. Cost Savings:

For the first year:None.

For subsequent years:None.

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

This proposed regulatory amendment will not affect local entities.

(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):

ABA licensees may be impacted by this regulation.

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

1. Expenditures:

For the first year:None.

For subsequent years:None.

2. Revenues:

For the first year:None.

For subsequent years:None.

3. Cost Savings:

For the first year:None.

For subsequent years:None.

(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:

This proposed amendment will not create a fiscal impact, because transmitting complaints via email rather than US Mail will not result in anything more than a nominal cost savings to the board; nor will this proposed amendment generate expenditures or revenues.

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

Please see the answer to (5)(a).

(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):

No.

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

Please see the answer to (5)(a).