

BOARDS AND COMMISSIONS

Board of Physical Therapy

(Amendment)

201 KAR 22:052. Complaint procedure and disciplinary action of a credential holder or applicant.

RELATES TO: KRS 327.020, 327.040, 327.070

STATUTORY AUTHORITY: KRS 327.040 (1), (2), ~~((11)), ((14))~~ (13).

CERTIFICATION STATEMENT: This is to certify that this administrative regulation complies with the requirements of 2025 RS HB 6, Section 8.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 327.040(1), (2) ~~((11))~~ authorizes the board to promulgate and enforce reasonable administrative regulations for the effectuation of the purposes of KRS Chapter 327. KRS 327.040(13) ~~((14))~~ authorizes promulgation of administrative regulations governing the physical and mental examination of credential holders or applicants who may be impaired by reason of a mental, physical, or other condition that impedes his or her ability to practice competently. KRS 327.040(2) authorizes the board to investigate every alleged violation and take action, as appropriate. This administrative regulation is necessary to establish the procedure for filing a complaint and the action to be taken by the board on a complaint and disciplinary action against a credential holder or applicant in violation of KRS 327.020.

Section 1. Definitions.

- (1) "Complaint Committee" means a committee of the board that:
 - (a) Reviews an initiating complaint;
 - (b) Determines whether an investigation should be conducted; and
 - (c) Directs and reviews an investigation of the respondent.
- (2) "Formal complaint" means a formal administrative pleading authorized by the board that sets forth a charge against a credential holder or applicant and commences a formal disciplinary proceeding under KRS Chapter 13B.
- (3) "Initiating complaint" means any complaint that a person has allegedly violated the requirements of KRS Chapter 327 or the administrative regulations of the board.
- (4) "Respondent" means the person against whom an initiating complaint or formal complaint has been made.

Section 2. Initiating Complaint.

- (1) A complaint may be initiated by:
 - (a) A member of the public;
 - (b) or government agency; or
 - (c) The board.
- (2) An initiating complaint shall:
 - (a) Be made in writing to the board and signed by the complainant unless the nature of the initiating complaint alleges an immediate danger to the health, safety and welfare of the public; and
 - (b) Bear the date of the complaint.
- (3) The board may, at any time, conduct an investigation on its own initiative without receipt of a written complaint if the board has reason to believe that there may be a violation of KRS Chapter 327 or the administrative regulations of the board.
- (4) A certified copy of a court record for conviction of a misdemeanor or felony shall be considered a valid initiating complaint.
- (5) An initiating complaint may be received by:
 - (a) A board member;
 - (b) The Office of the Attorney General; or

- (c) A staff member.

Section 3. Consideration of Initiating Complaint.

- (1) Review of an initiating complaint shall take place:
 - (a) At the next regularly-scheduled meeting of the complaint committee; or
 - (b) As soon as practicable.
- (2) The Complaint Committee:
 - (a) Shall:
 - 1. Review the initiating complaint;
 - 2. Determine if an investigation is warranted; and
 - 3. If investigation is warranted, appoint one (1) of its members or an agent or representative of the board to conduct an investigation of the respondent.
 - (b) May be assisted by:
 - 1. Board staff;
 - 2. A board agent; or
 - 3. The Office of the Attorney General.
- (3) If there is reasonable cause to believe that a credential holder or applicant may be physically or mentally incapable of practicing physical therapy or is a danger to the public~~[with reasonable skill and safety to clients]~~:
 - (a) The Executive Director, General Counsel, Board Chair, and Director of the IPTPC or their appointed designee, may determine that immediate temporary suspension of a license or privilege is necessary in order to stop, prevent, or avoid immediate danger to the public health, safety, or welfare. When it appears that this action may be necessary, the Executive Director or the Executive Director's designee shall issue an Immediate Temporary Suspension (ITS), suspending the license or privilege. Upon appeal of an ITS, an emergency hearing shall be conducted in accordance with KRS 13B.125.
 - (b) The board may order the credential holder or applicant to submit to an examination by a psychologist, physician, or certified alcohol and drug counselor designated by the board to determine the credential holder's or applicant's psychological or physical status to practice physical therapy.
 - (c) ~~[(b)]~~ The expense of this examination may be incurred by the board.
 - (d) ~~[(c)]~~ The board shall then consider the findings and conclusion of the examination and the final investigative report at its next regularly-scheduled meeting or soon thereafter.
- (4) Notice to respondent.
 - (a) The board shall notify the respondent of the receipt of the initiating complaint and the essential contents of the initiating complaint. The board may keep the complainant's name confidential until completion of any board investigation.
 - (b) Respondent shall file a reply to the initiating complaint with the board within twenty (20) days after receipt of notice of the initiating complaint.
 - (c) Failure of the respondent to file a timely reply to the initiating complaint shall constitute a violation of a board order or administrative regulation and shall be grounds for disciplinary action under KRS 327.070(2)(k).
- (5) If the Board office receives an allegation of sexual misconduct against a physical therapist or physical therapist assistant, the following shall apply:
 - (a) Upon receipt, the complaint shall be reviewed, and an investigation may be opened by the Executive Director and General Counsel;
 - (b) the complaint shall also be reviewed by the Board at the next regularly-scheduled meeting or a Special Meeting of the Board;
 - (c) the Respondent shall file a reply to the initiating complaint with the Board within ten (10) days after receipt of notice of the initiating complaint;

- (d) The investigation shall be conducted in an expedited manner as determined by the Executive Director;
- (e) If the Board determines there was a violation by a preponderance of the evidence, the Board shall begin the hearing process outlined under KRS Chapter 13b utilizing a hearing officer of its choice to expedite the process; and
- (f) the Board, staff and agents shall utilize a trauma informed approach when conducting sexual misconduct investigations.
- ~~(6) [(5)]~~ Based on consideration of the initiating complaint and the investigative report, the board shall determine if there has been a prima facie violation upon summary and recommendation by the complaint committee. The members of the complaint committee shall not vote on this determination.
- ~~(7) [(6)]~~ If it is determined that the facts alleged constitute a prima facie violation, the board:
- (a)
1. Shall issue a formal complaint, in accordance with KRS Chapter 13B, against the credential holder or applicant; and
 2. May order that a written response be filed with the board; or
- (b) If it is determined that there is a prima facie violation of KRS 327.020, shall proceed under KRS 327.040(2).

Section 4. Procedures for Disciplinary Hearings.

- (1) All procedures for disciplinary hearings shall conform to KRS Chapter 13B.
- (2) Testimony to be considered by the board, hearing panel, or hearing officer, if any, may be taken by deposition. A party or witness may be allowed to testify by deposition, rather than attend the hearing, upon a showing of inability to attend and a showing that other parties shall have an opportunity to cross-examine at said deposition. The presiding officer or hearing officer, if any, shall rule upon motions to allow testimony to be considered by deposition. Other depositions shall not be allowed.
- (3) The presiding officer or hearing officer, if any, may order that at least five (5) days prior to the hearing, each party shall file a summary of each witness' expected testimony.
- (4) The Board may impose fines on individuals for violations of KRS Chapter 327 not to exceed \$5,000 per violation under KRS Chapter 327:070 Section 11.
- (5) The Board may also impose on individual, fees in an amount equal to the cost of investigative and legal fees incurred by the board in processing the case.

Section 5. Final Disposition.

- (1) Upon reaching a decision, the board shall notify, in writing by certified mail, the complainant and respondent of its final disposition of the matter.
- (2) The board shall make public:
- (a) Its final order in a disciplinary action under KRS 327.070(1)(a)-(e) and (g).
- (b) An action to restrain or enjoin the noncredentialed practice of physical therapy.

Section 6. Settlement by Informal Proceedings.

- (1) The board through counsel and the complaint committee 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.
- (2) An 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 chairman.
- (3) The board may employ mediation as a method of resolving the matter informally.

Section 7. Expungement of disciplinary actions. The Board may expunge Minor Violations of KRS Chapter 327 after 5 years of a licensee or applicant who is in good standing with the Board. Each expungement applicant will be reviewed on a case-by-case basis, and it is left to the discretion of the Board to determine which applicants qualify for expungement.

- (1) Any applicant requesting expungement must file an application for expungement with the Board office;
 - (a) At the next regularly-scheduled meeting of the Board; or
 - (b) As soon as practicable.
- (2) Licensees must have the following to be eligible for consideration of expungement:
 - (a) 5 years must have passed since the final resolution of the disciplinary action, which includes completion of any required terms and probation of any Agreements or Orders;
 - (b) no subsequent violations, disciplinary actions or is not currently under investigation during this period; and
 - (c) the license is currently in good standing.
- (3) The Board shall respond in writing of their determination.
- (4) The applicant may appeal the decision of the Board if they have additional information for consideration.

STEPHEN CURLEY, Executive Director

APPROVED BY AGENCY: July 23, 2026

FILED WITH LRC: August 12, 2026 at 11:50 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 28, 2026, at 3:30 p.m. (ET) at 312 Whittington Parkway, Suite 102, Louisville, Kentucky 40222. Individuals interested in being heard at this hearing shall notify this agency in writing five 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 cancelled. This 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 until October 31, 2026. 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: Stephen Curley, Executive Director, Board of Physical Therapy, 312 Whittington Parkway, Suite 102, Louisville, Kentucky 40222, (502) 429-7140 and Fax (502) 429-7142, Stephen.Curley@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Stephen Curley, Executive Director, (502) 429-7140, Stephen.curley@ky.gov.

Subject Headings: Physical Therapy, Occupations and Professions, Boards and Commissions

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation outlines Complaint procedure and disciplinary action of a credential holder.

(b) The necessity of this administrative regulation:

This administrative regulation is a necessity for Complaint procedure and disciplinary action of a credential holder.

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

This administrative regulation is a necessity to comply with KRS 327 020, 040 and 070.

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

This administrative regulation is a necessity to comply with KRS 327 020, 040 and 070.

(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 would update the regulation as required by updates to KRS 327 for Complaint procedure and Disciplinary action of a credential holder.

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

This update is required according to the update to the statute KRS 327 040 and 070.

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

This update is required according to the update to the statute KRS 327 040 and 070.

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

This update is required to comply with KRS 327.

(3) Does this administrative regulation or amendment implement legislation from the previous five years? Yes

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

Approximately 7,500

(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:

None

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

There will be no additional cost.

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

further public protection

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

(a) Initially:

Nothing

(b) On a continuing basis:

Nothing

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

Agency Revenue Fund.

(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:

There will be no increase in fees or funding.

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

None.

(10) TIERING: Is tiering applied?

Tiering was not used in this administrative regulation because the administrative regulation applies equally to all those individuals regulated by it.

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 327.040 and 070.

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

KRS 327.040 and 070.

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

Kentucky Board of Physical Therapy

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

1. Expenditures:

For the first year:Nothing

For subsequent years:Nothing

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):

None

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

(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a):

Physical Therapist and Physical Therapist Assistants

(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:

Nothing

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

no additional costs or fee. Moves disciplinary fine caps into regulation.

(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:

no additional costs or fee. Moves disciplinary fine caps into regulation.