BOARDS AND COMMISSIONS

Board of Nursing

(Amendment)

201 KAR 20:162. Administrative ~~[Disciplinary]~~ proceedings.

RELATES TO: KRS Chapter 13B, 314.011, 314.031, 314.071(4), 314.091, 314.161, 314.991, 335B

STATUTORY AUTHORITY: KRS 314.091(8), 314.131(1), 335B.030

CERTIFICATION STATEMENT: This is to certify that this administrative regulation complies with the requirements of KRS 314A.105, because the amendments to this regulation will not have a major economic impact.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.131(1) authorizes the Board of Nursing to promulgate administrative regulations to implement KRS Chapter 314. KRS 314.091(2) requires that an administrative hearing for the denial, limitation, probation, suspension, or revocation of the license of a registered or practical nurse be conducted in accordance with KRS Chapter 13B. KRS 314.404 and KRS 314.137 provide the board with the same authority regarding Licensed Certified Professional Midwives and Dialysis Technicians. KRS 335B.030 authorizes the board to conduct an administrative hearing upon a request from an individual who has been convicted of a crime to determine whether the crime will disqualify the individual from an occupation for which a professional license is required. KRS 314.091(8) authorizes the board, by administrative regulation, to provide for the recovery of costs of an administrative hearing. This administrative regulation establishes procedures for conducting an administrative hearing.~~[relating to disciplinary action.]~~

Section 1. An administrative hearing shall be conducted in accordance with KRS Chapter 13B.

Section 2. Composition of the Hearing Panel.

(1)

(a) Except as established in paragraph (b) of this subsection, a hearing~~[disciplinary action]~~ shall be heard by a hearing panel consisting of two (2) members of the board, one (1) of whom shall be a registered nurse, and a hearing officer qualified in accordance with KRS 13B.040, who shall be:

1. An assistant attorney general; or
2. Other attorney appointed by the board.

(b) A hearing officer meeting the requirements described in this section shall conduct the hearing without a hearing panel:

1. At an emergency hearing pursuant to KRS 13B.125(3);
2. At a hearing pursuant to KRS 335B.030; ~~[or]~~
3. ~~[2.]~~ At a hearing pursuant to KRS 131.1817(5)(e);~~[.]~~

~~[(c)] [A hearing officer meeting the requirements described in this section may conduct the hearing without a hearing panel]~~

4. ~~[1.]~~ For consideration of reinstatement of a license or credential;
5. ~~[2.]~~ For consideration of removal of a license or credential from limited or probationary status or alternative program monitoring upon a notice of hearing filed by the board pursuant to KRS 13B.050;
6. ~~[3.]~~ For consideration of suspension or revocation of a license or credential for violating the terms of a decision, agreed order, or monitoring agreement; or
7. ~~[4.]~~ If each party agrees.

(2) Pursuant to KRS 13B.040, a board member shall not sit on a panel or participate in the adjudication of a matter at hearing in which the member has:

(a) Discussed the merits of the action with agency staff;

(b) Personal knowledge of the facts giving rise to the disciplinary action; or

(c) Participated in the investigation of a disciplinary action.

(3) Notwithstanding subsection (2) of this administrative regulation, a board member may participate in the consideration and ratification of a recommended order that has been submitted to the full board pursuant to KRS 13B.110 and this administrative regulation.

(4) The hearing shall be recorded~~[transcribed by a court stenographer or video recorded]~~.

Section 3. Response to Charges. The licensee or applicant shall file with the board a written answer to the specific allegations contained in a~~[the]~~ notice 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 may result in the issuance of a recommended order by the hearing officer pursuant to KRS 13B.080(6). After the entry of a recommended order, the board may for good cause permit the late filing of an answer.

Section 4. Hearing Pursuant to KRS 335B.030 ~~[Rulings by a Hearing Officer]~~. The documentary exhibits entered into evidence at a hearing conducted in accordance with KRS 335B.030 shall be confined to:

(1) the application;

(2) all evidence referenced in 201 KAR 20:710, Section 1(2) provided by the applicant on or before the date of the application;

(3) the board's initial determination as referenced in the preceding subsection;

(4) rebuttal evidence; and

(5) documents entered into evidence at hearing pursuant to KRS 13B.090(5).

Section 5. Rulings by a Hearing Officer.

(1) The hearing officer shall rule upon each objection or motion, including an objection to evidence.

(2) A decision of the hearing officer may be overridden by a unanimous vote of the board members of the hearing panel.

Section 6. ~~[Section 5.]~~ Recommendation by the Hearing Panel.

(1) Upon the conclusion of the hearing, the panel shall retire into closed session for purpose of deliberations. Each board member of the panel shall be eligible to cast one (1) vote. In case of a tie vote, the tie shall be broken by the hearing officer.

(2) At the conclusion of the panel's deliberations, it shall propose an order based upon the evidence presented. The hearing officer shall draft a recommended order, as required by KRS 13B.110(1) that shall be:

(a) Consistent with the panel's deliberations; and

(b) Submitted to the full board.

(3) This section does not apply to an emergency hearing conducted pursuant to KRS 13B.125(3).

Section 7. ~~[Section 6.]~~ Continuances; Proceedings in Absentia.

(1) The board shall not postpone a case that has been scheduled for a hearing absent good cause. A request by a licensee or applicant for a continuance shall be considered if communicated to the board reasonably in advance of the scheduled hearing date and based upon good cause.

(2) The decision of whether ~~[or not]~~ to grant a continuance shall be made by the hearing officer.

(3) The burden shall be upon the licensee or applicant to be present at a scheduled hearing.

(4) Failure to appear at a scheduled hearing for which a continuance has not been granted in advance shall be deemed a waiver of the right to appear and the hearing may be held as

scheduled without the participation of the absent party, or the hearing officer may adjourn the proceedings and issue a recommended order granting or denying relief as appropriate.

Section 8. ~~[Section 7.]~~ Hearing Costs.

(1) If the order of the board is adverse to a licensee,~~[or]~~ applicant, or individual seeking a determination under KRS 335B.030; or if the hearing is scheduled at the request of a licensee or applicant for relief from sanctions previously imposed by the board pursuant to the provisions of KRS Chapter 314, the board may impose the following costs:

(a) The cost of stenographic services;

(b) The cost of the hearing officer as determined by subsection (2) of this section; and

(c) Other costs listed in subsection (3) of this section as applicable.

(2) The cost of the hearing officer shall be determined as established in paragraphs (a) through (c) of this subsection. The cost of a:

(a) Disciplinary hearing shall be $400 per day;

(b) Reinstatement hearing shall be $350;

(c) Hearing pursuant to KRS 335B.030 shall be $350; and

(d) ~~[(c)]~~ Default shall be $300.

(3) Other costs may include:

(a) Expert witness costs, including travel, lodging and per diem at the rate applicable to Kentucky Executive Branch employees pursuant to 201 KAR 2:006;

(b) Travel for other witnesses, including lodging and per diem at the rate applicable to Kentucky Executive Branch employees pursuant to 201 KAR 2:006;

(c) Document reproduction costs; and

(d) The cost of a certified copy of laboratory testing records.

Section 9. ~~[Section 8.]~~ Reconsideration of Recommended Orders ~~[Entered Pursuant to KRS 13B.080(6)]~~.

(1) A recommended order entered by the hearing officer or hearing panel~~[pursuant to KRS 13B.080(6)]~~ may be:

(a) Accepted and adopted by the board as the agency's final order;

(b) Modified by the board; or

(c) Remanded by the board to the hearing officer or hearing panel for reconsideration or other proceedings as appropriate.

(2) Either party may file exceptions to the ~~[hearing officer's]~~ recommended order pursuant to KRS 13B.080(6) with the agency head in accordance with KRS 13B.110(4).

(3) The board may order that the recommended order be set aside if the exceptions filed by the party demonstrate good cause.

(4) If a recommended order entered pursuant to KRS 13B.080(6) is set aside, the provisions of 201 KAR 20:161 shall apply.

(5) The hearing officer may issue a recommended order pursuant to KRS 13B.080(6) without a motion from the parties after notice.

Section 10. ~~[Section 9.]~~ Prescribing or Dispensing Controlled Substance Cases.

(1) An investigation pertaining to prescribing or dispensing of a controlled substance shall produce a charging decision by the board within 120 days of the receipt of the complaint unless the circumstances of a particular complaint make it impractical to timely produce the charging decision.

(2) The board may hold an investigation pertaining to prescribing or dispensing of a controlled substance in abeyance for a reasonable period of time in order to permit a law enforcement agency to perform or complete essential investigative tasks, following a request by the requesting law enforcement agency.

(3) If an investigation pertaining to prescribing or dispensing of a controlled substance does not produce a charging decision within 120 days of the receipt of the complaint, and

if the investigative report plainly states the circumstances of that particular investigation or complaint that made timely production of a charging decision impractical, the inability to meet the 120-day deadline shall not constitute a defense to a finding of wrongdoing by a licensee, applicant, or person privileged to practice.

Section 11. ~~[Section 10.]~~ Change in Licensure Status.

(1) Pursuant to the Nurse Licensure Compact, KRS 314.475, if a nurse whose primary state of residence is Kentucky and who holds a Kentucky license with multistate privileges incurs a disqualifying event, the license shall be converted to a single state license valid only in Kentucky.

(2) The disqualifying events that may cause this change in status shall be:

(a) Conviction or found guilty of or entered into an agreed disposition of a felony offense;

(b) Conviction or found guilty of or entered into an agreed disposition of a misdemeanor offense related to the practice of nursing;

(c) Current enrollment in an alternative program; or

(d) An encumbered nursing license or privilege to practice due to disciplinary action.

(3)

(a) The board shall inform the nurse in writing of its intent to change the status of the Kentucky license.

(b) The nurse may request an administrative hearing on this action. A request shall be made in writing to the board within twenty (20) days.

(c) Failure to request an administrative hearing within twenty (20) days shall constitute a waiver of the right to a hearing.

(4) The procedure established in this section shall not be in lieu of but may be in addition to any potential disciplinary action the board may seek based on the disqualifying event.

AUDRIA DENKER, President

APPROVED BY AGENCY: October 22, 2026

FILED WITH LRC: November 4, 2026 at 9:30 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 26, 2027, at 10:00 AM at Kentucky Board of Nursing, 312 Whittington Parkway, Ste 300, Louisville, Kentucky 40222. Individuals interested in being heard at this hearing shall notify this agency in writing by January 19, 2027, 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 January 31, 2027. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person or submit a comment at: https://secure.kentucky.gov/formservices/Nursing/PendReg.

CONTACT PERSON: Jeffrey R. Prather, General Counsel, Kentucky Board of Nursing 312 Whittington Parkway, Suite 300 Louisville, Kentucky 40222 (502) 338-2851 Jeffrey.Prather@ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person:Jeffrey Prather, Phone: (502) 338-2851, Email: Jeffrey.prather@ky.gov

Subject Headings:

(1) Provide a brief summary of:

(a) What this administrative regulation does:
This regulation established administrative hearing processes to supplement KRS Chapter 13B.

(b) The necessity of this administrative regulation:
This administrative regulation is necessary because of KRS 314.091(2) and 335B.030.

(c) How this administrative regulation conforms to the content of the authorizing statutes:
This administrative regulation conforms to the content of the authorizing statutes by setting procedures for administrative proceedings.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:
This administrative regulation assists in the effective administration of the statutes by setting disciplinary and administrative proceedings.

(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 regulation is being amended to contemplate administrative hearings in accordance with KRS 335B, as well as KRS 314.091 hearings.

(b) The necessity of the amendment to this administrative regulation:
The regulation is being amended to contemplate the conduct of hearings in accordance with changes to KRS Chapter 335B.

(c) How the amendment conforms to the content of the authorizing statutes:
By providing a process for a hearing under KRS 335B.030.

(d) How the amendment will assist in the effective administration of the statutes:
By providing at regulatory process for hearings under KRS 335B.030.

(3) Does this administrative regulation or amendment implement legislation from the previous five years?Yes. The regulation helps to implement changes to KRS Chapter 335B, which was amended during the 2026 Regular Session with House Bill 185.

(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:
Individuals licensed or credential by the board, approximately 110,000, as well as individuals who may be seeking licensure or employment by the board but may be disqualified due to a criminal history, number unknown.

(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:

The affected individual will need to request a hearing.

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

There is no cost, unless the hearing is adverse to the individual requesting the hearing. The recouperation of costs for an administrative hearing will depend on the length, witnesses, and evidence in a hearing. However, the recovery of costs is provided for under KRS 314.091(8) and enumerated in Section 8 of this administrative regulation.

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

The requesting individual will be afforded statutory and regulatory due process.

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

(a) Initially:

No initial cost.

(b) On a continuing basis:

Any costs will be absorbed by the agency if the individual requesting the hearing prevails.

(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 increase in funds is necessary.

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

No new fees are established directly or indirectly.

(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 314.131, 314.091, 335B.030.

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act:
KRS 314.131, 314.091, 335B.030.

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions:
The Kentucky Board of Nursing.

(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):
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):
Individuals seeking hearing.

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

1. Expenditures:

For the first year:If adverse to the individual, the cost of the hearing.

For subsequent years:If adverse to the individual, the cost of the hearing.

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:
There will not be a fiscal impact on the entities, unless the hearing is adverse to the individual.

(b) Methodology and resources used to reach this conclusion:
Costs are assessed in accordance with Section 8 of this administrative 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):
There will not be a major economic impact.

(b) The methodology and resources used to reach this conclusion:
Not applicable.