

## **201 KAR 20:450. Alternative program.**

RELATES TO: KRS 314.085, 314.091, 314.171, 314.470,

STATUTORY AUTHORITY: KRS 314.131(1), (2), 314.171(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.131(1) authorizes the Board of Nursing to promulgate administrative regulations as may be necessary to enable it to carry into effect the provisions of KRS Chapter 314. KRS 314.171 authorizes the board to establish an alternative to discipline program to promote early identification, intervention, treatment, and rehabilitation of nurses who may be impaired by reason of illness, alcohol or drug abuse, or as a result of any physical or mental condition. This administrative regulation provides procedures for the implementation of an alternative program.

### Section 1. Definitions.

- (1) "Approved treatment provider" means an alcohol or drug treatment provider that meets the standards as established in Section 7 of this administrative regulation.
- (2) "Board" means the Board of Nursing.
- (3) "Program" means the Kentucky Alternative Recovery Effort for Nurses which is the alternative program operated by the board for nurses.
- (4) "Substance use disorder" means the combined DSM-IV categories of substance abuse and substance dependence.

### Section 2. Admission and Denial to the Program.

- (1) In order to gain admission to the program, an individual shall:
  - (a) Be an advanced practice registered nurse, a registered nurse, or a licensed practical nurse licensed in the Commonwealth of Kentucky, a holder of a multistate licensure privilege pursuant to KRS 314.470, or an applicant for a credential issued by the board;
  - (b) Request in writing participation in the program;
  - (c) Admit in writing to having a substance use disorder;
  - (d) Agree in writing to the terms established in the program agreement;
  - (e) Obtain a current substance use disorder assessment, which may include a complete physical and psychosocial evaluation performed by a licensed or certified medical, mental health or psychological specialist in the field of drug, alcohol, or other substance use disorder;
  - (f) Provide any evaluation and treatment information, disclosure authorizations, and releases of liability as may be requested by the program staff;
  - (g) Agree to abide by the program staff's finding regarding employment as a nurse pending admission; and
  - (h) Have attended or be enrolled in an approved treatment provider program.
- (2) Admission to the program shall be denied if the applicant:
  - (a) Does not meet the eligibility requirements for admission as established in subsection (1) of this section; or
  - (b) Is not eligible for licensure in Kentucky or if the board does not grant authorization to practice under KRS 314.470 Article V(f) or 201 KAR 20:500, Section 3(2).
- (3) Admission to the program may be denied if the applicant:
  - (a) Diverted scheduled substances for other than self-administration;
  - (b) Will not substantially benefit from participation in the program;
  - (c) Has a criminal conviction related to the sale or distribution of scheduled substances or legend prescription drugs; or
  - (d) Has been terminated from alternative program participation in Kentucky or any other state.
- (4) In the case of an applicant for a credential issued by the board, admission to the program shall be conditioned upon obtaining licensure in Kentucky. Failure to obtain licensure shall result in denial of admission to the program.

### Section 3. Requirements for Participation in the Program.

- (1) A participant shall:
  - (a) Enter into a program agreement; and
  - (b) Comply with all of the terms and conditions of the program agreement for the time period specified in the agreement.
- (2) The program agreement may include any of the following:
  - (a) A requirement that the participant undergo and successfully complete substance use disorder treatment by an approved treatment provider;
  - (b) A requirement that the participant agree not to practice in any capacity in a patient care setting or area which requires licensure until approved to do so by the program;
  - (c) A requirement that the participant undergo and successfully complete the continuing care program recommended by the approved treatment provider and designated in the program agreement. The continuing care program may include individual or group counseling or psychotherapy;
  - (d) A requirement that the participant remain free of alcohol, mood-altering substances including herbal preparations, over-the-counter medications containing alcohol or mood-altering substances, and any other medication except for substances prescribed by a practitioner authorized by law to prescribe for a specific medical condition;
  - (e) A requirement that the participant inform all treating health care practitioners of the participant's substance use disorder and recovery status prior to receiving a prescription for any medication, mood-altering substance, or herbal preparation;
  - (f) A requirement, if a participant shall take any substance prescribed or recommended by a practitioner, that the participant provide the program written documentation from the practitioner that the use of the substance does not impair the participant's ability to practice nursing in a safe and effective manner and will not interfere with the participant's recovery program provided the substance is used in accordance with the prescription or recommendation;
  - (g) A requirement that if the participant is prescribed, recommended, or dispensed any medication by a practitioner, the participant shall cause the practitioner to report the medication to the program. The report shall include the diagnosis, the name of the medication, the quantity prescribed, any refills or any other information about the medication requested by the program staff, and shall be submitted to the program within the time specified in the program agreement. Consultation with a physician addictionologist may be required by the program and the participant shall agree to abide by any finding made by the physician addictionologist;
  - (h) A requirement that the participant cause all treatment providers and counselors to provide any reports as may be required by the program at the intervals specified in the program agreement;
  - (i) A requirement that the participant submit to random alcohol and drug testing when requested by the program, and that the participant comply with all requirements of the program concerning random alcohol and drug testing;
  - (j) A requirement that the participant attend twelve (12) step group meetings, or other group meetings as specified by the program agreement, and that the participant verify attendance at these meetings by signature of a group or meeting representative and submit the signatures to the program;
  - (k) A requirement that the participant comply with the employment and nursing practice restrictions specified by the program agreement;
  - (l) A requirement that the participant sign a waiver which may allow the program to communicate with the participant's treatment providers, counselors, employers, work site monitors, law enforcement officials, and support group facilitators, if applicable;
  - (m) A requirement that the participant be responsible for paying the costs of the physical and psychosocial assessment, substance use disorder treatment, and random

alcohol and drug testing, or any other costs incurred in complying with the program agreement;

(n) A requirement that the participant submit a written personal report to the program at the intervals specified by the program agreement;

(o) A requirement that the participant meet in person with a program representative at the intervals specified by the program agreement;

(p) A requirement that the participant shall not work as a nurse in another Nurse Licensure Compact state without the permission of this state and the other state; and

(q) A requirement that the participant comply with all other terms and conditions specified in the program agreement which the program staff finds are necessary to ensure that the participant is able to practice nursing in accordance with acceptable and prevailing standards of safe nursing care.

#### Section 4. Successful Completion of the Program.

(1) A participant successfully completes the program when the participant fully complies with all of the terms of the program agreement for the period as specified in the agreement.

(2) When a participant successfully completes the program, the program shall notify the participant of the successful completion in writing. Once the participant receives this written notification of successful completion of the program, the participant shall no longer be required to comply with the program agreement.

(3) A participant who successfully completes the program shall not be reported to the National Council of State Boards of Nursing's disciplinary data bank.

#### Section 5. Causes for Termination from the Program. A participant may be terminated from the program for the following causes:

(1) Noncompliance with any aspect of the program agreement; or

(2) Being unable to practice according to acceptable and prevailing standards of safe nursing care.

#### Section 6. Resignation From the Program.

(1) A participant may resign from the program.

(2) Upon resignation, the participant shall sign an agreed order in conformity to 201 KAR 20:161, Section 2(4) voluntarily surrendering the nursing license.

#### Section 7. Standards for Approved Treatment Providers. In order to be an approved treatment provider, the treatment provider shall:

(1) Be:

(a) Accredited by the Joint Commission for the Accreditation of Healthcare Organizations or be state-certified and shall have operated as a substance use disorder treatment program for a minimum of one (1) year; or

(b) A licensed or certified specialist in the field of substance use disorder treatment as outlined in 201 KAR 20:163, Section 2(2);

(2) Provide inpatient or outpatient care;

(3) Be based on a twelve (12) step program of Alcoholics Anonymous, Narcotics Anonymous, or an equivalent support group;

(4) Provide development of an individualized treatment and aftercare program to meet the specific needs of the participant and make recommendations regarding an ongoing rehabilitation plan;

(5) Be based on an evaluation that meets the standards of 201 KAR 20:163, Section 3;

(6) Provide clearly-stated costs and fees for services, and offer fee schedules and flexibility in payment plans to accommodate participants who are underinsured or experiencing financial difficulties;

- (7) Demonstrate willingness to provide information to the alternative program regarding the status of the participant after applicable consents to release information are obtained;
- (8) Work closely with the alternative program staff to assure proper implementation and administration of policies and procedures related to the program;
- (9) Maintain timely and accurate communication with program staff, including assessments, diagnosis, prognosis, discharge summary, and follow-up recommendations as well as reports on significant events which occur in treatment that are related to impairment and the ability to practice safely; and
- (10) Provide written reports of progress at intervals as requested by program staff.

Section 8. An individual who is admitted to the program but does not hold a Kentucky nursing license shall pay a participation fee of fifty (50) dollars per year.

Section 9.

- (1) A participant in the alternative program who moves to another jurisdiction may transfer to the new jurisdiction's alternative program.
- (2) If the participant is accepted into the new jurisdiction's alternative program, the participant may relinquish his or her Kentucky license pursuant to 201 KAR 20:510.
- (3) The provisions of Section 6 of this administrative regulation shall not apply in this situation.
- (4) If the participant relinquishes his or her Kentucky license, the alternative program in Kentucky shall cease monitoring the participant.

(27 Ky.R. 879; Am. 1252; eff. 11-17-2000; 28 Ky.R. 130; eff. 9-10-2001; 29 Ky.R. 2948; eff. 8-13-03; 33 Ky.R. 869; eff. 11-15-06; 34 Ky.R. 355; 715; eff. 10-17-2007; TAm eff. 7-15-2010; 38 Ky.R. 1994; 39 Ky.R. 203; eff. 8-15-2012; 40 Ky.R. 2609; 41 Ky.R. 29; eff. 8-1-2014; Cert. eff. 7-15-2021.)