201 KAR 20:630. Disciplinary actions for licensed certified professional midwives.

RELATES TO: KRS 314.089, 314.091, 314.400 – 314.414, 314.991, 335B.020
STATUTORY AUTHORITY: KRS 314.131(1), 314.404
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 314.404(4) requires the board to promulgate an administrative regulation to establish provisions for disciplinary actions for licensed certified professional midwives. This administrative regulation establishes conditions for disciplinary action, permits a penalty in addition to other disciplinary actions, and provides an appeals process.

Section 1. The Board of Nursing may reprimand, deny, limit, revoke, probate, or suspend the license of an LCPM upon proof that the person:

(1) Has obtained a license by means of fraud, misrepresentation, or concealment of material facts, including making a false statement on an application or any other document required by the board for licensure;
(2) Has engaged in unprofessional conduct;
(3) Has been convicted of a felony;
(4) Has been convicted of a misdemeanor that meets the provisions of KRS 335B.020;
(5) Has performed an act that exceeds the scope of practice pursuant to KRS 314.400 to 314.414 and 201 KAR 20:600 to 201 KAR 20:690;
(6) Has had a license revoked, suspended, denied, or otherwise disciplined in any other territory or jurisdiction of the United States;
(7) Is unfit or incompetent to practice midwifery by reason of negligence or other causes, including being unable to practice midwifery with reasonable skill or safety;
(8) Has misused or appropriated any drugs placed in the custody of the midwife for the use of others;
(9) Has falsified or in a negligent manner made incorrect entries or failed to make essential entries on essential records such as patient records, lab reports, and newborn records;
(10) Has been listed on the nurse aide abuse registry with a substantiated finding of abuse, neglect, or misappropriation of property;
(11) Has violated the confidentiality of information or knowledge concerning any patient, except as authorized or required by law such as pursuant to the Health Insurance Portability and Accountability Act (HIPAA) of 1996, Pub.L. No. 104-191, 110 Stat.1936; or
(12) Has violated 201 KAR 20:600 to 201 KAR 20:690 or any lawful order or directive previously entered by the board.

Section 2. The Board of Nursing shall follow the procedures established in and have the authority established by KRS 314.091(2) through (6) and (8), 201 KAR 20:161, and 201 KAR 20:162 for management and resolution of complaints filed against an LCPM.

Section 3. In addition to the provisions of Section 2 of this administrative regulation, the Board of Nursing may impose, pursuant to KRS 314.991(3), a civil penalty of up to $10,000.

Section 4. Miscellaneous Requirements.

(1) An LCPM shall maintain a current mailing address with the board and notify the board in writing of a change of mailing address.
(2)
(a) Holding a license shall constitute consent by the LCPM to service of notices or orders of the board. Notices and orders shall be sent to the mailing address on file with

the board.

(b) Any notice or order of the board mailed or delivered to the mailing address on file with the board shall constitute valid service of the notice or order.

(3)

(a) An LCPM shall, within ninety (90) days of entry of the final judgment, notify the board in writing of any misdemeanor or felony conviction in this or any other jurisdiction.

(b) Upon learning of any failure to notify the board pursuant to this subsection, the board shall initiate an action for immediate temporary suspension until the person submits the required notification.

(4) An LCPM shall notify the board in writing within thirty (30) days if any professional or business license that is issued to the person by any agency of the commonwealth or any other jurisdiction:

(a) Is surrendered or terminated under threat of disciplinary action;

(b) Is refused, limited, suspended, or revoked; or

(c) If renewal or continuance is denied.

(5) If the board has reasonable cause to believe that an LCPM is unable to practice with reasonable skill and safety or has abused alcohol or drugs, it shall require the person to submit to a substance use disorder evaluation or a mental or physical examination by a practitioner it designates.

(a) Holding a license shall constitute:

1. Consent by the LCPM to a substance use disorder evaluation, mental examination, or physical examination if directed in writing by the board. The direction to submit to an evaluation or examination shall contain the basis for the board's concern that the LCPM is unable to practice safely and effectively; and

2. Waiver of objections to the admissibility of the examining practitioner's testimony or examination reports on the grounds of privileged communication.

(b) The LCPM shall bear the cost of substance use disorder evaluation, mental examination, or physical examination ordered by the board.

(c) Upon failure of the LCPM to submit to a substance use disorder evaluation, mental examination, or physical examination ordered by the board, unless due to circumstances beyond the person's control, the board shall initiate an action for immediate temporary suspension pursuant to KRS 314.089 or deny an application until the person submits to the required examination.

(d) If a substance use disorder evaluation, mental examination, or physical examination pursuant to this subsection results in a finding that indicates that the LCPM is unable to practice with reasonable skill and safety or has abused alcohol or drugs, the LCPM shall be subject to disciplinary procedures as established in this administrative regulation.

Section 5. Due process procedures, including appeal, pertaining to this administrative regulation shall be conducted in accordance with KRS Chapter 13B.

(46 Ky.R. 2168, 2899; eff. 7-29-2020)