

1 AN ACT relating to professions and occupations.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 335B.010 is amended to read as follows:

4 As used in KRS 335B.020 to 335B.070, unless the context requires otherwise:

5 (1) **"Conviction of a crime" is limited to convictions of felonies or misdemeanors;**

6 (2) **"Hiring or licensing authority" means the official, board, commission, or**
7 **department of the Commonwealth of Kentucky, its agencies, or political**
8 **subdivisions, responsible by law for the hiring of persons for public employment**
9 **or the licensing of persons for occupations;**

10 (3) ~~["Occupation" includes all occupations, trades, vocations, professions, businesses,~~
11 ~~or employment of any kind for which a license is required to be issued by the~~
12 ~~Commonwealth of Kentucky, its agencies, or political subdivisions.~~

13 (2) ~~]"License" includes all licenses, permits, certificates, registrations, or other means~~
14 ~~required to engage in an occupation which are granted or issued by the~~
15 ~~Commonwealth of Kentucky, its agents or political subdivisions before a person~~
16 ~~can pursue, practice, or engage in any occupation;[-]~~

17 (4) **"Occupation" includes all occupations, trades, vocations, professions,**
18 **businesses, or employment of any kind for which a license is required to be issued**
19 **by the Commonwealth of Kentucky, its agencies, or political subdivisions;**

20 (5) **"Pose a reasonable threat" means the nature of the criminal conduct for which**
21 **the person was convicted involved an act or threat of harm against another and**
22 **has a bearing on the person's fitness or ability to serve the public or work with**
23 **others in the occupation; and**

24 (6) ~~(3)]~~ "Public employment" includes all employment with the Commonwealth of
25 Kentucky, its agencies, or political subdivisions[-]

26 (4) ~~"Conviction of a crime" shall be limited to convictions of felonies or~~
27 ~~misdemeanors.~~

1 ~~(5) "Hiring or licensing authority" shall mean the person, board, commission, or~~
2 ~~department of the Commonwealth of Kentucky, its agencies or political~~
3 ~~subdivisions, responsible by law for the hiring of persons for public employment or~~
4 ~~the licensing of persons for occupations].~~

5 ➔Section 2. KRS 335B.020 is amended to read as follows:

6 (1) No person shall be disqualified from public employment, nor shall a person be
7 disqualified from pursuing, practicing, or engaging in any occupation for which a
8 license is required, solely because of a:

9 (a) Prior conviction of a crime, unless the crime for which convicted directly
10 relates to the position of employment sought or the occupation for which the
11 license is sought **and poses a reasonable threat to public safety, health, or**
12 **welfare; or**

13 **(b) Finding that an applicant lacks good character or fails to meet any other**
14 **similar standard where a criminal conviction is the basis for the finding.**

15 (2) In determining if a conviction directly relates to the position of public employment
16 sought or the occupation for which the license is sought, the hiring or licensing
17 authority shall consider:

18 (a) The nature and seriousness of the crime for which the ~~person~~^{individual} was
19 convicted and the passage of time since its commission;

20 **(b) The age of the person at the time the crime was committed;**

21 ~~(c)~~^(b) The relationship of the crime to the purposes of regulating the position
22 of public employment sought or the occupation for which the license is
23 sought;

24 ~~(d)~~^(e) The relationship of the crime to the ability, capacity, and fitness required
25 to perform the duties and discharge the responsibilities of the position of
26 employment or occupation;

27 **(e) Evidence relevant to the circumstances of the crime, including any**

1 aggravating or mitigating circumstances or social conditions surrounding
 2 the commission of the crime; and

3 (f) Any evidence of rehabilitation submitted by the applicant, including but not
 4 limited to evidence related to the person's compliance with any conditions of
 5 community supervision, parole, or mandatory supervision, the conduct and
 6 work activity of the person, treatment undertaken by the person, and
 7 testimonials or personal reference statements.

8 ➔Section 3. KRS 335B.030 is amended to read as follows:

9 (1) Before a hiring or licensing authority denies a person a position of public
 10 employment solely because of the person's prior conviction of a crime, the hiring
 11 or licensing authority shall notify the person in writing of the following:

12 (a) The specific offense that is the basis of the intended denial;

13 (b) The reasons the offense was determined to directly relate to the duties and
 14 responsibilities of the occupation and pose a reasonable threat to public
 15 safety, health, or welfare, including findings for each of the factors in
 16 subsection (2) of Section 2 of this Act that the hiring or licensing authority
 17 deemed relevant to the determination; and

18 (c) The right to submit additional evidence relevant to each of the factors listed
 19 in subsection (2) of Section 2 of this Act within thirty (30) days, which the
 20 hiring or licensing authority shall consider before issuing a final
 21 determination.

22 ~~(2)~~~~(1)~~ (a) If a hiring or licensing authority denies a person~~[an individual]~~ a
 23 position of public employment solely because of the person's~~[individual's]~~
 24 prior conviction of a crime, the hiring or licensing authority shall notify the
 25 person~~[individual]~~ in writing of the following:

26 1. The grounds and reasons for the denial or disqualification, including the
 27 specific offense that is the basis of the denial;

- 1 2. *The reasons the offense was determined to directly relate to the duties*
- 2 *and responsibilities of the occupation and posed a reasonable threat to*
- 3 *public safety, health, or welfare, including findings for each of the*
- 4 *factors in subsection (2) of Section 2 of this Act that the hiring or*
- 5 *licensing authority deemed relevant to the determination;*
- 6 3. That the person[individual] has the right to a hearing conducted in
- 7 accordance with KRS Chapter 13B, if written request for hearing is
- 8 made within ten (10) days after service of notice;
- 9 4.~~[3.]~~ The earliest date the person may reapply for a position of public
- 10 employment or a license; and
- 11 5.~~[4.]~~ That evidence of rehabilitation may be considered upon reapplication.
- 12 (b) Any party aggrieved by a final order issued by a hiring or licensing authority
- 13 after a hearing under this subsection may appeal to Franklin Circuit Court in
- 14 accordance with KRS Chapter 13B.
- 15 ~~(3)~~~~(2)~~ (a) Except as provided in paragraph (b) of this subsection, a hiring or
- 16 licensing authority shall not disqualify a person[an individual] from pursuing,
- 17 practicing, or engaging in any occupation for which a license is required
- 18 solely because of the person's[individual's] prior conviction of a crime, unless
- 19 the authority provides the person[individual] with a written notice that the
- 20 authority has determined that the prior conviction may disqualify the person,
- 21 demonstrates the connection between the prior conviction and the license
- 22 being sought, and affords the person[individual] an opportunity to be
- 23 personally heard before the board prior to the board making a decision on
- 24 whether to disqualify the person[individual]. If the license is denied after the
- 25 person was heard, the hiring or licensing authority shall notify the
- 26 person[individual] in writing of the following:
- 27 1. The grounds and reasons for the denial or disqualification, including the

1 specific offense that is the basis for the denial;
 2 2. The reasons the offense was determined to directly relate to the duties
 3 and responsibilities of the occupation and pose a reasonable threat to
 4 public safety, health, or welfare, including findings for each of the
 5 factors in subsection (2) of Section 2 of this Act that the hiring or
 6 licensing authority deemed relevant to the determination;

7 3. That the person~~[individual]~~ has the right to a hearing conducted in
 8 accordance with KRS Chapter 13B, if a written request for hearing is
 9 made within ten (10) days after service of notice;

10 ~~4.~~~~[3.]~~ The earliest date the person may reapply for a license; and

11 ~~5.~~~~[4.]~~ That evidence of rehabilitation may be considered upon reapplication.

12 (b) If a person's~~[an individual's]~~ prior conviction was for a Class A felony, a
 13 Class B felony, or any felony offense that would qualify the
 14 person~~[individual]~~ as a registrant pursuant to KRS 17.500, there shall be a
 15 rebuttable presumption that a connection exists between the prior conviction
 16 and the license being sought.

17 (c) Any party aggrieved by a final order issued by a hiring or licensing authority
 18 after a hearing under this subsection may appeal to Franklin Circuit Court in
 19 accordance with KRS Chapter 13B.

20 ~~(4)~~~~[(3)]~~ Except as provided in subsection ~~(3)~~~~[(2)]~~(b) of this section, in any
 21 administrative hearing or civil litigation authorized under this section, the hiring or
 22 licensing authority shall carry the burden of proof on the question of whether the
 23 prior conviction directly relates to the position of employment sought or the
 24 occupation for which the license is sought.

25 ➔SECTION 4. A NEW SECTION OF KRS 335B.020 TO 335B.070 IS
 26 CREATED TO READ AS FOLLOWS:

27 (1) A person with a prior conviction of a crime may at any time, including before

1 obtaining any required education or training for an occupation, make a request
2 to a hiring or licensing authority for a determination of whether his or her prior
3 conviction may disqualify him or her from obtaining the desired license or
4 certification in the occupation.

5 (2) The request in subsection (1) of this section shall be in writing and shall include:

6 (a) A copy of the person's criminal history record with explanation of each
7 conviction mentioned in the criminal history record; or

8 (b) A statement describing each criminal conviction including the date of each
9 conviction, the court of jurisdiction, and the sentence imposed.

10 (3) The request under subsection (1) of this section may include a statement
11 describing additional information for consideration by the hiring or licensing
12 authority, including but not limited to information relevant to any of the factors
13 for consideration described in subsection (2) of Section 2 of this Act.

14 (4) Upon receipt of a written request in accordance with subsection (1) of this
15 section, the hiring or licensing authority shall:

16 (a) Evaluate the request and make a determination based upon the information
17 provided; and

18 (b) Provide notice of the determination to the requestor within sixty (60) days
19 from the date the request was received by the hiring or licensing authority
20 unless the hiring or licensing authority regulates fifty thousand (50,000) or
21 more members, in which case the hiring or licensing authority shall provide
22 notice of the initial determination to the requestor within ninety (90) days
23 from the date such request was received by the hiring or licensing authority.

24 (5) The notice of determination under subsection (4)(b) of this section shall be in
25 writing and mailed to the requestor at the address provided in his or her request,
26 and shall include the following:

27 (a) Whether the person is eligible for licensure or certification in the

1 occupation at the current time based upon the information submitted by the
2 requestor;

3 (b) Whether there is a disqualifying offense that would disqualify the person
4 from engaging in the occupation at the current time and a statement
5 identifying such offense in the criminal history record or information
6 submitted for consideration;

7 (c) Any actions the person may take to remedy a disqualification, if any;

8 (d) The earliest date the person may submit another request for consideration,
9 if any; and

10 (e) A statement that the determination may be rescinded if, at the time before a
11 full application for a license or certificate is submitted, the applicant has
12 subsequently been convicted of a crime or has a previously undisclosed
13 conviction of a crime.

14 (6) A hiring or licensing authority may charge a fee not to exceed ninety-five dollars
15 (\$95) for each initial determination of eligibility it makes for the occupation
16 based upon the information provided by the requestor.

17 (7) A hiring or licensing authority may promulgate forms for requests for initial
18 determinations for the occupation in accordance with this section.

19 ➔SECTION 5. A NEW SECTION OF KRS 335B.020 TO 335B.070 IS
20 CREATED TO READ AS FOLLOWS:

21 A determination made in accordance with Section 4 of this Act that a person is not
22 disqualified for licensure or certification due to criminal history shall be binding upon
23 a hiring or licensing authority unless, at the time a full application for a license or
24 certificate is submitted, the applicant has subsequently been convicted of a crime or has
25 previously undisclosed convictions of a crime.

26 ➔SECTION 6. A NEW SECTION OF KRS 335B.020 TO 335B.070 IS
27 CREATED TO READ AS FOLLOWS:

1 Each hiring or licensing authority shall include in its application for a license or
 2 certificate and publish on its public website the following information:

3 (1) Whether an applicant's conviction of a crime may be used as a basis for denial;

4 (2) If conviction of a crime may be used as a basis for denial under Section 2 of this
 5 Act, which offenses the hiring or licensing authority shall consider; and

6 (3) Notice of the right to request a determination in accordance with Section 4 of this
 7 Act.

8 ➔SECTION 7. A NEW SECTION OF KRS 335B.020 TO 335B.070 IS
 9 CREATED TO READ AS FOLLOWS:

10 Each hiring or licensing authority authorized to consider the criminal conviction of an
 11 applicant shall provide a report on or before September 30 of each year to the
 12 Legislative Research Commission for referral to the Interim Joint Committee on
 13 Economic Development and Workforce Investment and the Interim Joint Committee
 14 on Licensing, Occupations, and Administrative Regulations detailing:

15 (1) The number of license applications received;

16 (2) The number of applications that resulted in a license being granted;

17 (3) The number of applications that resulted in a license being denied;

18 (4) The number of applications that were denied due to criminal history;

19 (5) A list of criminal offenses reported by persons who were granted a license;

20 (6) A list of criminal offenses reported by persons who were denied a license due to
 21 criminal history, along with the time elapsed since the commission of the offense;

22 and

23 (7) The number of requests for a determination received by the licensing or
 24 certification authority in accordance with Section 4 of this Act.

25 ➔Section 8. KRS 309.362 is amended to read as follows:

26 (1) The board may deny or refuse to renew a license, may suspend or revoke a license,
 27 may issue an administrative reprimand, or may impose probationary conditions or

1 fines not to exceed one thousand dollars (\$1,000) per violation when the licensee
2 has engaged in unprofessional conduct that has endangered or is likely to endanger
3 the health, welfare, or safety of the public. Unprofessional conduct shall include the
4 following:

- 5 (a) Obtaining or attempting to obtain a license by fraud, misrepresentation,
6 concealment of material facts, or making a false statement to the board;
- 7 (b) Being convicted of a felony in any court if the act or acts for which the
8 licensee or applicant for license was convicted are determined by the board to
9 have a direct bearing on whether the person is trustworthy to serve the public
10 as a licensed massage therapist, if in accordance with KRS Chapter 335B.
11 "Conviction," as used in this paragraph, shall include a finding or verdict of
12 guilty, an admission of guilt, or a plea of nolo contendere in a court of law;
- 13 (c) Violating any lawful order or administrative regulation promulgated by the
14 board;
- 15 (d) Violating any provision of this chapter or administrative regulations
16 promulgated thereunder;
- 17 (e) Having sexual contact as defined by KRS 510.010(7) with a client or having
18 engaged or attempted to engage in lewd or immoral conduct with any client or
19 patient;
- 20 (f) Engaging in fraud or material deception in the delivery of professional
21 services, including reimbursement or advertising services, in a false or
22 misleading manner;
- 23 (g) Evidence of gross negligence or gross incompetence in the practice of
24 massage therapy;
- 25 (h) Violating the standards of practice or the code of ethics as promulgated by
26 administrative regulations;
- 27 (i) Violating KRS 304.39-215; or

1 (j) Engaging in conduct that is subject to the penalties under KRS 304.99-060(4)
2 or (5).

3 **(2) In making a decision about alleged lewd or immoral conduct under subsection**
4 **(1)(e) of this section, the board shall follow the provisions in Sections 2, 3, 4, and**
5 **5 of this Act.**

6 ~~(3)~~ The board may, at its discretion, deny, refuse to renew, suspend or revoke a
7 license, or impose probationary conditions following an administrative hearing
8 pursuant to KRS Chapter 13B and in accordance with administrative regulations
9 promulgated by the board.

10 ~~(4)~~ The surrender of a license shall not deprive the board of jurisdiction to
11 proceed with disciplinary actions under KRS 309.350 to 309.364.

12 ➔Section 9. KRS 317A.140 is amended to read as follows:

13 (1) The board may refuse to issue or renew a license or permit, or may suspend or
14 revoke a license or permit, impose probationary conditions upon, impose an
15 administrative fine, issue a written reprimand or admonishment, or take any
16 combination of these actions regarding proof of any applicant's, permittee's, or
17 licensee's:

- 18 (a) Conviction of a felony, if in accordance with KRS Chapter 335B;
- 19 (b) Gross malpractice or incompetence;
- 20 (c) Mental or physical health that would endanger public health or safety;
- 21 (d) False or deceptive practice or misrepresentation including advertising;
- 22 (e) Practicing in an unlicensed salon or in a salon knowing that the salon is not in
23 compliance with this chapter or the administrative regulations of the board
24 promulgated pursuant to this chapter;
- 25 (f) Immoral conduct, unprofessional conduct, or a violation of the code of ethics;
- 26 (g) Teaching in an unlicensed school or in a school knowing that the school is not
27 in compliance with this chapter or the administrative regulations of the board

1 promulgated pursuant to this chapter;

2 (h) Failure to comply with the administrative regulations of the board.

3 **(2) In making a decision about alleged immoral conduct or unprofessional conduct**
4 **under subsection (1)(f) of this section, the board shall follow the provisions in**
5 **Sections 2, 3, 4, and 5 of this Act.**

6 ~~(3)(2)~~ Payments in lieu of suspension collected by the board shall be deposited in the
7 State Treasury and credited to the general fund.

8 ~~(4)(3)~~ The board may require retesting of any licensee upon proper showing of gross
9 malpractice or incompetence on the part of the licensee.

10 ➔Section 10. KRS 327.070 is amended to read as follows:

11 (1) The board, after due notice and an opportunity for an administrative hearing
12 conducted in accordance with KRS Chapter 13B may take any one (1) or a
13 combination of the following actions against any licensee, certificate holder, or
14 applicant:

15 (a) Refuse to license or certify any applicant;

16 (b) Refuse to renew the license or certificate of any person;

17 (c) Suspend or revoke or place on probation the license or certificate of any
18 person;

19 (d) Impose restrictions on the scope of practice of any person;

20 (e) Issue an administrative reprimand to any person;

21 (f) Issue a private admonishment to any person; and

22 (g) Impose fines for violations of this chapter not to exceed two thousand five
23 hundred dollars (\$2,500).

24 (2) The following acts by a licensee, certificate holder, or applicant may be considered
25 cause for disciplinary action:

26 (a) Indulgence in excessive use of alcoholic beverages or abusive use of
27 controlled substances;

- 1 (b) Engaging in, permitting, or attempting to engage in or permit the performance
2 of substandard patient care by himself, herself, or by persons working under
3 his or her supervision due to a deliberate or negligent act or failure to act,
4 regardless of whether actual injury to the patient is established;
- 5 (c) Having engaged in or attempted to engage in a course of lewd or immoral
6 conduct with any person:
- 7 1. While that person is a patient of a health care facility defined by KRS
8 216B.015 where the physical therapist or physical therapist's assistant
9 provides physical therapy services; or
- 10 2. While that person is a patient or client of the physical therapist or
11 physical therapist's assistant;
- 12 (d) Having sexual contact, as defined by KRS 510.010(7), without the consent of
13 both parties, with an employee or coworker of the licensee or certificate
14 holder;
- 15 (e) Sexually harassing an employee or coworker of the licensee or certificate
16 holder;
- 17 (f) Conviction of a felony or misdemeanor in the courts of this state or any other
18 state, territory, or country which affects his ability to continue to practice
19 competently and safely on the public, if in accordance with KRS Chapter
20 335B. "Conviction," as used in this paragraph, shall include a finding or
21 verdict of guilt, an admission of guilt, or a plea of nolo contendere;
- 22 (g) Obtaining or attempting to obtain a license or certificate by fraud or material
23 misrepresentation or making any other false statement to the board;
- 24 (h) Engaging in fraud or material deception in the delivery of professional
25 services, including reimbursement, or advertising services in a false or
26 misleading manner;
- 27 (i) Evidence of gross negligence or gross incompetence in his practice of

- 1 physical therapy;
- 2 (j) Documentation of being declared mentally disabled by a court of competent
3 jurisdiction and not thereafter having had his rights restored;
- 4 (k) Failing or refusing to obey any lawful order or administrative regulation of the
5 board;
- 6 (l) Promoting for personal gain an unnecessary device, treatment, procedure, or
7 service, or directing or requiring a patient to purchase a device, treatment,
8 procedure, or service from a facility or business in which he *or she* has a
9 financial interest;
- 10 (m) Being impaired by reason of a mental, physical, or other condition that
11 impedes his or her ability to practice competently;
- 12 (n) Violation of KRS 304.39-215; and
- 13 (o) Conduct that is subject to the penalties under KRS 304.99-060(4) or (5).

14 **(3) In making a decision about lewd or immoral conduct under subsection (2)(c) of**
15 **this section, the board shall follow the provisions in Sections 2, 3, 4, and 5 of this**
16 **Act.**

17 ~~(4)~~~~(3)~~ A private admonishment shall not be subject to disclosure to the public under
18 KRS 61.878(1)(l). A private admonishment shall not constitute disciplinary action
19 but may be used by the board for statistical purposes or in subsequent disciplinary
20 action against the same licensee, certificate holder, or applicant.

21 ➔Section 11. KRS 309.318 is amended to read as follows:

- 22 (1) The board may refuse to issue a license or suspend, revoke, impose probationary
23 conditions upon, impose an administrative fine, issue a written reprimand, or any
24 combination thereof regarding any licensee upon proof that the licensee has:
- 25 (a) Been convicted of a crime as described in KRS 335B.010~~(4)~~ that directly
26 relates to the occupation of interpreter, if in accordance with KRS Chapter
27 335B. A plea of "no contest" may be treated as a conviction for purposes of

- 1 disciplinary action;
- 2 (b) Knowingly misrepresented or concealed a material fact in obtaining a license
3 or in reinstatement thereof;
- 4 (c) Committed any fraudulent act or practice;
- 5 (d) Been incompetent or negligent in the practice of interpreting;
- 6 (e) Violated any state statute or administrative regulation governing the practice
7 of interpreting;
- 8 (f) Violated the code of ethics of the national organization issuing the licensee's
9 certification as incorporated in administrative regulation; or
- 10 (g) Violated any federal or state law considered by the board to be applicable to
11 the practice of interpreting.
- 12 (2) When the board issues a written reprimand to the licensee, a copy of the reprimand
13 shall be placed in the permanent file of the licensee. The licensee shall have the
14 right to submit a response within thirty (30) days of its receipt and to have that
15 response filed in the permanent file.
- 16 (3) At any time during the investigative or hearing processes, the board may accept an
17 assurance of voluntary compliance from the licensee which effectively deals with
18 the complaint.
- 19 (4) The board may reconsider, modify, or reverse its probation, suspensions, or other
20 disciplinary action.
- 21 (5) Five (5) years from the date of a revocation, any person whose license has been
22 revoked may petition the board for reinstatement. The board shall investigate the
23 petition and may reinstate the license upon a finding that the individual has
24 complied with any terms prescribed by the board and is again able to competently
25 engage in the practice of interpreting.
- 26 (6) Any party aggrieved by a disciplinary action of the board may bring an action in
27 Franklin Circuit Court in accordance with the provisions of KRS Chapter 13B.

1 ➔Section 12. This Act takes effect January 1, 2026.