

BOARD OF OPTOMETRIC EXAMINERS
(New Administrative Regulation)

201 KAR 5:105. Expungement.

RELATES TO: KRS 320.310(3)

STATUTORY AUTHORITY: KRS 320.310(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 320.310(3) authorizes the board to promulgate an administrative regulation to establish minor violations that are subject to expungement. This administrative regulation establishes the violations considered minor and the criteria and procedure for expungement.

Section 1. Definitions.

(1) "Expungement" means that:

- (a) The affected records shall be sealed;
- (b) The proceedings to which they refer shall be deemed not to have occurred; and
- (c) The affected party may properly represent that no record exists regarding the matter expunged.

(2) "Minor Violations" means:

- (a) Failure to timely renew a license;
- (b) Failure to timely obtain continuing education; and shall not include
- (c) Any violations of the laws surrounding the advertisement of optometric services by Doctors of Optometry.

Section 2. Eligibility and Expungement Procedure.

(1) The Licensed Doctor of Optometry shall not have been the subject of a subsequent violation of the same nature for a period of three (3) years after the date of completion of disciplinary sanctions imposed for the violation sought to be expunged; and

(2) They shall submit a written request to the board. The board shall consider each request and shall, if the requirements established in KRS 320.310(3) and this administrative regulation are satisfied, expunge the record of the subject disciplinary order.

WILLIAM REYNOLDS, O.D., President

APPROVED BY AGENCY: October 10, 2022

FILED WITH LRC: October 12, 2022 at 2:25 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Wednesday, December, 21st 2022 at 2:00 p.m. at 2365 Harrodsburg Road, Suite A240, Lexington, Kentucky 40504. Individuals interested in being heard at this hearing shall notify this agency of their intent to attend in writing five workdays prior to the hearing. 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 11:59 p.m. on December 31, 2022. 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: CONTACT PERSON: Carson Kerr, Executive Director, Board of Optometric Examiners, 2365 Harrodsburg Road, Suite A240, Lexington, Kentucky 40504, phone (859) 246-2744, fax (859) 246-2746, email Carson.Kerr@ky.gov.