

GENERAL GOVERNMENT CABINET
Board of Licensed Professional Counselors
(Amendment)

201 KAR 36:075. Renewal, late renewal, and reinstatement of license.

RELATES TO: KRS 335.535

STATUTORY AUTHORITY: KRS 335.515(1), (3), (6), 335.535

NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.515(3) requires the Board of Licensed Professional Counselors to promulgate administrative regulations necessary for the proper performance of its duties. KRS 335.515(6) and KRS 335.535 require the holder of a license to renew that license annually. This administrative regulation establishes the requirements for renewal, late renewal, and reinstatement of a license.

Section 1.

- (1) A license shall be renewed by October 31 of each year.
- (2) A person receiving an initial license within 120 days prior to the renewal date shall not be required to renew until October 31 of the following year.

Section 2.

- (1) To apply for renewal, a licensed professional clinical counselor shall:
 - (a) Submit a completed LPCC Renewal Application to the board; and
 - (b) Pay to the board the appropriate renewal fee established in 201 KAR 36:020, Section 2(1)(a), for the renewal of a license.
- (2) After the sixty (60) day grace period, in order to apply for reinstatement, an individual who has a terminated license as a licensed professional clinical counselor shall:
 - (a) Submit a completed LPCC Reinstatement Application;
 - (b) Submit proof of completing ten (10) hours of board-approved continuing education within one (1) year ~~prior to~~ the filing of an application for reinstatement;
 - (c) Complete three (3) hours of continuing education on the law for regulating professional counseling, KRS 335.500 to 335.599 and 201 KAR Chapter 36 within one (1) year ~~prior to~~ the filing of an application for reinstatement;
 - (d) Submit a background check performed within the last ninety (90) days by the Kentucky State Police and a criminal background check performed by the Federal Bureau of Investigation;
 - (e) Pay the renewal fee established in 201 KAR 36:020, Section 2(1)(a); and
 - (f) Pay the reinstatement fee established in 201 KAR 36:020, Section 2(3)(a).

Section 3.

- (1) To apply for renewal, a licensed professional counselor associate shall:
 - (a) Submit a completed LPCA Renewal Application to the board; and
 - (b) Pay to the board the appropriate renewal fee established in 201 KAR 36:020, Section 2(1)(b), for the renewal of a license.
- (2)
 - (a) After the sixty (60) day grace period or revocation of a license, in order to apply for reinstatement, an individual who has a terminated license as a professional clinical counselor associate shall:
 1. Submit a completed LPCA Reinstatement Application;
 2. Submit a background check performed within the last ninety (90) days by the ~~Kentucky State Police and a criminal background check performed by the~~ Federal Bureau of Investigation;
 3. Submit proof of completing ten (10) hours of board-approved continuing education completed within one (1) year of the filing for reinstatement;

4. Complete three (3) hours of continuing education on the law for regulating professional counseling, KRS 335.500 to 335.599 and 201 KAR Chapter 36, within one (1) year of the filing for reinstatement;
 5. Pay the renewal fee established in 201 KAR 36:020, Section 2(1)(b); and
 6. Pay the reinstatement fee established in 201 KAR 36:020, Section 2(3)(b).
- (b) A person who applies for reinstatement within three (3) years of termination or revocation of the license shall be required to meet current continuing education requirements established in 201 KAR 36:030.
- (c) A person who fails to apply for reinstatement within three (3) years of termination or revocation of the license shall meet the current licensure requirements.

Section 4.

- (1) A person shall not engage in the practice of professional counseling after a license has been terminated.
- (2) The ten (10) hours of continuing education completed within one (1) year of the filing of reinstatement shall not count towards the applicant's continuing education requirement under 201 KAR 36:030, Section 1(1).
- (3) If a supervisor fails to verify the hours required for a licensed professional counselor associate by the termination date of the license, then the LPCA Supervision Agreement, as incorporated by reference in 201 KAR 36:060, shall be terminated.

Section 5.

- (1) A licensee for renewal or applicant for reinstatement shall maintain good moral character.
- (2) If an applicant lacks good moral character and the incident that resulted in the lack of good moral character occurred since issuance of the initial license or last renewal date, the applicant has the duty to provide available evidence relative of rehabilitation.
- (3) For evidence relative of rehabilitation, the board shall consider evidence such as the successful completion of probation, the years since the incident without additional incidents, and the successful completion of inpatient or outpatient treatment.
- (4) If the board finds that an applicant has not provided sufficient evidence of rehabilitation then the board may deny the application.

Section 6. Incorporation by Reference.

- (1) The following material is incorporated by reference:
 - (a) "LPCC Renewal Application", DPL-LPC-07, July 2023 ~~[February 2017]~~;
 - (b) "LPCA Renewal Application", DPL-LPC-08, July 2023 ~~[February 2017]~~;
 - (c) "LPCC Reinstatement Application", DPL-LPC-09, July 2023 ~~[February 2017]~~; and
 - (d) "LPCA Reinstatement Application", DPL-LPC-10, July 2023 ~~[February 2017]~~.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Licensed Professional Counselors, 500 Mero Street ~~[944 Leewood Drive]~~, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:00 ~~[4:30]~~ p.m. This material may also be found on the board's website at lpc@ky.gov.

DR. HANNAH COYT, Chair

APPROVED BY AGENCY: September 13, 2023

FILED WITH LRC: September 14, 2023 at 2 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on November 28, 2023 at 1:00 PM EST in Room 127CW, The Mayo-Underwood Building, 500 Mero Street, Frankfort, Kentucky 40601. Members of the public may also utilize the following link to attend the meeting by video conference: Topic: LPC Regulation Public Hearing

CONTACT PERSON: Sara Boswell Janes, Title: Staff Attorney III, Agency: Department of Professional Licensing, Office of Legal Services, Address: 500 Mero Street, 2 NC WK#2, Phone Number: (502) 782-2709 (office), Fax: (502) 564-4818, Email: Sara.Janes@ky.gov, Link to public comment portal: https://ppc.ky.gov/reg_comment.aspx

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person:Sara Boswell Janes

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation establishes the procedure and requirements for the renewal, reinstatement, and reactivation of a license.

(b) The necessity of this administrative regulation:

The necessity of this regulation is to inform a licensee of the procedure and requirements for the renewal, reinstatement, and reactivation of a license.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

The regulation is in conformity as the authorizing statute gives the board the ability to promulgate regulations regarding the renewal, reinstatement, and reactivation of a license

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

This regulation will assist in establishing and clarifying the procedure and requirements for the renewal, reinstatement, and reactivation of a license.

(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 amendment includes some housekeeping clarifications and amends the background check to be conducted solely by the FBI since it is a comprehensive check that includes a statewide criminal history.

(b) The necessity of the amendment to this administrative regulation:

The amendment is necessary to streamline the application process, reduce steps and costs to the applicant, and for efficiency in administration.

(c) How the amendment conforms to the content of the authorizing statutes:

See (1)(c).

(d) How the amendment will assist in the effective administration of the statutes:

The amendment will expedite the application process by using the most efficient, national resource and create more efficient administration.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

There are presently 4017 active and 56 inactive licensees who will be affected by this administrative regulation in some capacity. The board reviews approximately 800 to 1000 applications annually.

(4) Provide an analysis of how the entities identified in question (3) 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 (3) will have to take to comply with this administrative regulation or amendment:

An applicant licensee will have to take no additional action to comply with the regulation. The processes were currently being implemented.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

There is no new cost associated to the amendments. However, the existing costs may be reduced due to one fewer background check being required under certain circumstances.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

The regulation clarifies and notifies licensees of the specific requirements for a background check for the renewal, reinstatement, and reactivation of a license.

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

(a) Initially:

No new costs will be incurred by the changes

(b) On a continuing basis:

No new costs will be incurred by the changes.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

The board's operations are funded by fees paid by credential holders and applicants.

(7) 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 fees or funding will be required to implement the changes made by this regulation.

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

This administrative regulation establishes no new fee.

(9) TIERING: Is tiering applied?

This regulation does not distinguish between similarly situated individuals on the basis of any factor.

FISCAL NOTE

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

Kentucky Board of Licensed Professional Counselors.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS 335.515(3), 335.525(6), and 335.535.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?

None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?

None.

(c) How much will it cost to administer this program for the first year?

There are no additional costs to administer this program.

(d) How much will it cost to administer this program for subsequent years?

See 3(c).

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year?

If an applicant is required to obtain a background check for reinstatement, a savings of \$20 will be realized due to the removal of the KSP background check.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years?

None.

(c) How much will it cost the regulated entities for the first year?

The cost of renewal or reinstatement plus the cost of the record check, if required.

(d) How much will it cost the regulated entities for subsequent years?

Renewal costs are annual. Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Cost Savings (+/-): If a background check is required for reinstatement, the cost is \$20 less due to the removal of the KSP background check requirement.

Expenditures (+/-):

Other Explanation:

(5) Explain whether this administrative regulation will have a major economic impact, as defined below.

"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)]. This administrative regulation will not have a major economic impact.