

BOARDS AND COMMISSIONS

Board of Nursing (Amendment)

201 KAR 20:225. Reinstatement of license.

RELATES TO: KRS ~~[164.772,]~~194A.540, 314.041(14)~~[(11)]~~, 314.042(6), 314.051(14)~~[(11)]~~, 314.071, 314.073, 314.075, 314.085(1), 314.091, 314.103, 314.109

STATUTORY AUTHORITY: KRS 314.103, 314.131(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.131(1) authorizes the Board of Nursing to promulgate administrative regulations to implement the provisions of KRS 314.011 to 314.991. KRS 314.103 authorizes the board to require a criminal background check investigation of an applicant or nurse. KRS 314.041(11), 314.042(6), and 314.051(11) allow a person whose license has lapsed due to failure to renew to be able to reinstate the license. KRS 314.091 authorizes the board to discipline a licensee for a violation of KRS Chapter 314 or 201 KAR Chapter 20. This administrative regulation establishes procedures for reinstatement of a license that has lapsed or has been subject to disciplinary action.

Section 1. Reinstatement of Lapsed or Retired License.

- (1) A license shall be lapsed if it has expired because of the licensee's failure to:
 - (a) Submit a completed and timely application for renewal;
 - (b) Submit data required to enable the board to complete the processing of an application;
 - (c) Submit the current application fee; or
 - (d) Meet all requirements for renewal of a license, in accordance with KRS 314.071.
- (2) A lapsed or retired license may be reinstated by:
 - (a) Submitting a completed application form required by 201 KAR 20:370, Section 1(1)(a) or (c);
 - (b) Paying the current application fee required by 201 KAR 20:240, Section 1(2)(g) or (l);
 - (c) Submitting a criminal record check completed within six (6) months of the date of the application by the Department of Kentucky State Police (KSP) and the Federal Bureau of Investigation (FBI) using the FBI Applicant Fingerprint Card, and including payment of any required fee of the KSP and the FBI;
 - (d) Submitting a certified or attested copy of the court record of any misdemeanor or felony conviction as required by 201 KAR 20:370, Section 1(3);
 - (e) Submitting a letter of explanation that addresses each conviction, if applicable;
 - (f) Submitting a certified copy of any disciplinary action taken on a nursing or other professional or business license in another jurisdiction with a letter of explanation or a report if there is any disciplinary action pending on a nursing or other professional or business license in another jurisdiction; and
 - (g) Meeting all other requirements of this section.
- (3)
 - (a) If an individual applies for reinstatement of a lapsed license to active status, the applicant shall complete fourteen (14) contact hours of continuing education for each year since the date of last active licensure, if the date of last active licensure is within five (5) years of the application for reinstatement, but more than one (1) year from the date of last active licensure.
 1. Fourteen (14) hours of continuing education shall have been earned within twelve (12) months of the date of the application.
 2. Continuing education earned more than five (5) years preceding the date of application shall not be counted toward meeting this requirement.

- (b) If an applicant has not been engaged in nursing practice during the five (5) years preceding the date of the application, the applicant shall complete at least 120 contact hours of continuing education earned within one (1) year of the date of the application.
- (c) An individual may use the continuing competency methods set out in 201 KAR 20:215, Section 3, for reinstatement if that individual allowed the license to lapse and applies for reinstatement of a lapsed license within one (1) year from the date of lapse.
- (d) Continuing competency used for reinstatement pursuant to paragraph (c) of this subsection shall not be used for renewal of the license.

(4)

- (a) If the applicant has been currently licensed and actively engaged in nursing practice in another jurisdiction for at least 500 hours during the preceding five (5) years, the requirements of subsection (3) of this section shall not apply.

- (b) The applicant shall submit evidence to verify active practice.

- (5) In addition to the requirements of this administrative regulation, an applicant whose license has lapsed for one (1) year or more shall submit evidence of completion of the jurisprudence examination required by KRS 314.041(14)~~(11)~~ for registered nurses and KRS 314.051(14)~~(11)~~ for licensed practical nurses as approved by the board.

Section 2. Reinstatement of License Subject to Disciplinary Action.

- (1) If a license has been revoked, an individual may apply for reinstatement by:

- (a) Completing the appropriate application required by 201 KAR 20:370, Section 1(1)(a) or (c);
- (b) Paying the current application fee required by 201 KAR 20:240, Section 1(2)(g) or (l);
- (c) Meeting the terms of the disciplinary order; and
- (d) Retaking the licensure examination and achieving a passing score.

- (2) A hearing shall be held to determine if the issuance of a license would no longer be a threat to public safety and health.

(3)

- (a) If a license has been suspended or voluntarily surrendered, an individual may apply for reinstatement by:

- 1. Completing an application required by 201 KAR 20:370, Section 1(1)(a) or (c);
- 2. Paying the fee required by 201 KAR 20:240, Section 1(2)(g) or (l); and
- 3. Notifying the board, in writing, that the requirements of the decision or agreed order have been met.

- (b) If the decision or agreed order requires that a hearing be held, the individual shall notify the board, in writing, to request that a hearing be scheduled.

- (4) An individual whose license has been suspended or voluntarily surrendered shall be required to comply with the continuing education requirements of KRS 314.073 for the period during which the license was suspended or surrendered.

(5)

- (a) If a license has been probated and the individual has allowed the license to expire prior to the end of the probationary period, and the individual later applies for reinstatement, the license shall be reinstated subject to the remaining probationary period.

- (b) The individual shall comply with all requirements for reinstatement, in accordance with KRS 314.071.

(6)

- (a) A person may seek reinstatement of a license pursuant to subsection (3) of this section, if an order of immediate temporary suspension has been issued pursuant to:

- 1. KRS 314.085(1) because of a person's failure to obtain an evaluation and the person subsequently obtains the evaluation;

2. KRS 314.075 because of a person's submission of a bad check and the person subsequently makes the check good; or

~~[3.] [KRS 164.772 because of a notice from the Kentucky Higher Education Assistance Authority that a person is in default on a student loan and the Kentucky Higher Education Assistance Authority subsequently notifies the board that the person is no longer in default.]~~

(b) A request for reinstatement of a license following the issuance of an order of immediate temporary suspension as listed in paragraph (a) of this subsection shall be denied, if in the opinion of the board, continuance of the temporary suspension is necessary in order to protect the public.

Section 3. Miscellaneous Requirements.

(1)

(a) A copy of an official name change document shall be submitted by the applicant if making application, if applicable.

(b) Verification of the name change shall be made by submitting a copy of a:

1. Court order;
2. Marriage certificate;
3. Divorce decree; or
4. Social Security card.

(2) An individual whose license lapsed, was suspended, or voluntarily surrendered prior to July 15, 1996 shall earn three (3) hours of continuing education in domestic violence within three (3) years of reinstatement of the license as required by KRS 194A.540.

(3) An individual who holds a nursing license that was revoked by disciplinary order of the board prior to December 31, 1987 shall meet all requirements of Section 2 of this administrative regulation except Section 2(1)(d) of this administrative regulation.

(4) An individual whose license lapsed, was suspended, or voluntarily surrendered prior to July 15, 2010 shall earn one and one-half (1.5) hours of continuing education in pediatric abusive head trauma as required by KRS 314.073(6) within three (3) years of reinstatement of the license.

AUDRIA DENKER, President

APPROVED BY AGENCY: October 19, 2023

FILED WITH LRC: November 2, 2023 at 9:55 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 22, 2024 at 10:00 AM at Kentucky Board of Nursing, 312 Whittington Parkway, Ste 300, Louisville, Kentucky 40222. Individuals interested in being heard at this hearing shall notify this agency in writing by January 15, 2024, five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. 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 through January 31, 2024. 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: Jeffrey R. Prather, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, (502) 338-2851, email Jeffrey.Prather@ky.gov. Or submit a comment at: <https://secure.kentucky.gov/formservices/Nursing/PendReg>

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person:Jeffrey Prather

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation establishes the requirements to reinstate a Registered Nurse (RN) or Licensed Practical Nurse (LPN) license.

(b) The necessity of this administrative regulation:

This administrative regulation is necessary because of KRS 314.041 and KRS 314.051.

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

This administrative regulation conforms to the content of KRS 314.041 and KRS 314.051 which requires the Board to promulgate an administrative regulation concerning reinstating an RN or LPN license.

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

This administrative regulation assists in the effective administration of the statutes by setting the standards and process for reinstating an RN or LPN 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 removes references to a repealed statute, KRS 164.772 and updates other statutory references to KRS 314.041 and 314.051.

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

To remove or update references incorrect statutory references.

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

It removes or updates references incorrect statutory references.

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

By removing confusing or obsolete statutory references.

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

RN and LPN applicants for licensure, number unknown.

(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:

None.

(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 additional cost beyond the \$235 reinstatement fee in 201 KAR 20:240, Section 1(l).

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

The repealed statute will no longer be used during the review of the applicant's reinstatement.

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

(a) Initially:

There is no additional cost.

(b) On a continuing basis:

There is no additional cost.

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

Agency funds.

(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:

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

It does not.

(9) TIERING: Is tiering applied?

Tiering is not applied.

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?

Board of Nursing.

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

KRS 314.131.

(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?

No additional cost.

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

No additional cost.

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

Revenues (+/-):N/A.

Expenditures (+/-):N/A.

Other Explanation:

N/A.

(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?

None.

(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?

None.

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

None.

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

Cost Savings (+/-):

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.