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KENTUCKY BOARD OF NURSING

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Andy Beshear
Governor

MEMORANDUM

TO: All Licensees and Applicants for Licensure
FROM: Kentucky Board of Nursing
RE: Suspension of Regulatory Provisions Affecting Clinical Education of Nursing Students, Provisional Licensure for NCLEX Exam Applicants, and Temporary Work Permits for Endorsement Applicants Pursuant to Executive Order 2020-243
DATE: March 27, 2020

The Governor signed Executive Order 2020-243 on March 18, 2020, and Executive Order 2020-257 on March 25, 2020, in regard to the COVID19 State of Emergency. Among other things, these Executive Orders authorize state boards and commissions to issue orders or other memoranda necessary to clarify the suspension of any statutory or regulatory provisions where appropriate to ensure the continuation of such agencies' support of Life-Sustaining Businesses, while simultaneously implementing social distancing requirements to maximum extent possible. Consistent with this authority, the Kentucky Board of Nursing has temporarily suspended specific requirements contained within three specific regulatory subsections: 201 KAR 20:320 (curriculum for prelicensure nursing programs), 201 KAR 20:070 (provisional licensure for NCLEX exam applicants), and 201 KAR 20:110 (temporary work permits for endorsement applicants).

I. CLINICAL EDUCATION REQUIREMENTS

During the state of emergency regarding COVID19, the Board has directed relaxed enforcement of two (2) clinical education requirements set forth at 201 KAR 20:320, Section 2(9) and Section 3(1)(b), as follows:

Section 2(9) of 201 KAR 20:320 states: "(9) Integrated practicum. (a) The curriculum shall include an integrated practicum. The integrated practicum shall consist of a minimum of 120 clock hours of concentrated clinical experience of direct patient care in a health care facility or health care organization. (b) The integrated practicum shall be completed within a period not to exceed seven (7) consecutive weeks while the governing institution is in session and within seven (7) months of graduation."

During the period of emergency, the following highlighted words shall be regarded as omitted from Section 2(9) of 201 KAR 20:320: "(9) Integrated practicum. (a) The curriculum shall include an integrated practicum. The integrated practicum shall consist of a minimum of 120 clock hours of ~~concentrated~~ clinical experience ~~of direct patient care in a health care facility or health care organization.~~ (b) The integrated practicum shall be completed ~~within a period not to exceed seven (7) consecutive weeks~~ while the governing institution is in session and within seven (7) months of graduation."

Section 3(1) of 201 KAR 20:320 states: "Section 3. Simulation Standards. (1)(a) A program of nursing that uses simulation shall adhere to the standards set in this section. (b) A program of nursing shall not use simulation for more than fifty (50) percent of its total clinical hours required for graduation."

During the period of emergency, the following highlighted words shall be regarded as omitted from Section 3(1) of 201 KAR 20:320: "Section 3. Simulation Standards. (1)(a) A program of nursing that uses simulation shall adhere to the standards set in this section. ~~(b) A program of nursing shall not use simulation for more than fifty (50) percent of its total clinical hours required for graduation~~."

This relaxed enforcement of 201 KAR 20:320, Section 2(9) and Section 3(1)(b) means, that during the state of emergency, Board staff will not enforce the 120 hour integrated practicum requirement in a manner that requires direct patient care, or the completion of the integrated practicum within seven (7) consecutive weeks. Also, Board staff will not enforce the fifty (50) percent threshold for simulation with regard to the one hundred twenty (120) clock hours of integrated practicum, or with regard to the overall clinical requirement set forth in the Program curriculum. This means that, during the emergency, the integrated practicum requirement and overall clinical education requirement of a Program of Nursing may be met through simulation, up to one hundred (100) percent, provided the simulation comports with 201 KAR 20:320 Section 3.

II. PROVISIONAL LICENSES ISSUED TO EXAM APPLICANTS, AND TEMPORARY LICENSES ISSUED TO ENDORSEMENT APPLICANTS

For a two (2) week period following the implementation of social distancing requirements, Pearson VUE test centers were closed. While the NCLEX test has now resumed, the capacity reductions resulting from social distancing requirements may delay testing for some applicants. For this reason, and in anticipation of the possibility that NCLEX testing will not reach full capacity during the state of emergency regarding COVID19, the Board has directed that, upon the expiration of a provisional Licensed Practical Nurse ("LPN") license pursuant to 314.051(5), or the expiration of a provisional Registered Nurse ("RN") license pursuant to KRS 314.041(3), the Board will issue a new provisional license, thus extending the period of permissible provisional licensure by up to six (6) months.

Also, the Kentucky Board of Nursing has received notification from the Kentucky State Police that all fingerprinting locations have been closed, and that the processing of fingerprint-driven criminal background checks have been suspended temporarily, due to the state of emergency regarding COVID19. During the state of emergency, the Board has directed relaxed enforcement of two (2) regulations that pertain to provisional and temporary licensure, as follows.

> 201 KAR 20:070 Section 4(2)(a) states: "The board shall issue the provisional license to the applicant after Section 1(1)(a) and (3) of this administrative regulation are met, but not until the report is received from the FBI and any conviction is addressed by the board."
>
> During the period of emergency, for enforcement purposes, the following highlighted words shall be regarded as omitted from 201 KAR 20:070 Section 4(2)(a): "The board shall issue the provisional license to the applicant after Section 1(1)(a) and (3) of this administrative regulation are met, ~~but not until the report is received from the FBI~~ and any conviction is addressed by the board." Further, the reference in 201 KAR 20:070 Section 4(2)(a) to Section 1(1)(a) shall not be regarded as incorporating one subsection of Section 1(1)(a), namely, Section 1(1)(a)(1)(3), which, by its incorporation, would otherwise preclude the issuance of a provisional license in the absence of "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 to the KSP and the FBI." This relaxation of this requirement in 201 KAR 20:070 for

submission of a fingerprint card/scan and an FBI criminal background report is applicable to provisional licensure only.

201 KAR 20:110 Section 3 states, in pertinent part: "Section 3. Temporary Work Permit. (1) An applicant for licensure by endorsement who meets all of the requirements of Section 1(1)(a) through (i), except for paragraph (g) of this administrative regulation shall be issued a temporary work permit, but not until the report is received from the FBI and any conviction is addressed by the board. (2) A temporary work permit shall be valid for a period not to exceed six (6) months."

During the period of emergency, for enforcement purposes, the following highlighted words shall be regarded as omitted from 201 KAR 20:110 Section 3: "Temporary Work Permit. (1) An applicant for licensure by endorsement who meets all of the requirements of Section 1(1)(a) through (i), except for paragraph (g) of this administrative regulation shall be issued a temporary work permit~~, but not until the report is received from the FBI and any conviction is addressed by the board. (2) A temporary work permit shall be valid for a period not to exceed six (6) months~~." Further, the reference in 201 KAR 20:110 Section 3 to Section 1(1)(a) through (i) shall not be regarded as incorporating Section 1(1)(h), which, by its incorporation, would otherwise preclude the issuance of a temporary license in the absence of "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 to the KSP and the FBI." This relaxation of the requirement in 201 KAR 20:110 for submission of a fingerprint card/scan and an FBI criminal background report is applicable to temporary licensure only.

A fingerprint card/scan and an FBI report still will be required as a condition of full licensure pursuant to: 201 KAR 20:470 (Dialysis Technician); 201 KAR 20:056 (Advanced Practice Registered Nurse); 201 KAR 20:070 (LPN & RN License by Examination); 201 KAR 20:110 (License by endorsement); 201 KAR 20:225 (Reinstatement of License); and 201 KAR 20:411 (Sexual Assault Nurse Examiner).

Dina Byers

Dina Byers, APRN
President
Kentucky Board of Nursing
Dated: March 27, 2020

J. Michael Brown
Secretary of the Executive Cabinet
Commonwealth of Kentucky
Dated: March ____, 2020

STATEMENT OF EMERGENCY

201 KAR 20:225E

(1) Nature of the emergency: Governor Beshear has declared a State of Emergency due to the COVID19 pandemic per Executive Order 2020-215.

(2) An ordinary administrative regulation is not sufficient due to the immediacy of the need for nurses.

(3) An ordinary administrative regulation will not be filed with the Regulations Compiler because these measures are meant to be temporary and in effect only for the duration of the State of Emergency.

Andy Beshear, Governor

Dina Byers, President
Kentucky Board of Nursing

GENERAL GOVERNMENT CABINET

Board of Nursing

(Emergency Administrative Regulation)

201 KAR 20:225E. Reinstatement of license.

RELATES TO: KRS 164.772, 194A.540, 314.041(11), 314.042(6), 314.051(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(11) for registered nurses and KRS 314.051(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.

Section 4. Temporary work permit. (1) The board shall issue a temporary work permit to an applicant who meets the requirements of section 1(2) of this administrative regulation except for subsection (2)(c), unless the application is denied pursuant to KRS 314.091 or 201 KAR 20:161.

(2) The temporary work permit shall be issued for six (6) months and may be reissued.

(3) Prior to issuing a license, the applicant shall obtain a criminal record check pursuant to section 1(2)(c) of this administrative regulation.

Emergency Administrative Regulation

201 KAR 20:225E. Reinstatement of license.

Adopted: March 26, 2020.

Dina Byers

Dina Byers, President
Kentucky Board of Nursing

Date

REGULATORY IMPACT ANALYSIS
AND TIERING STATEMENT

Administrative Regulation No. 201 KAR 20:225E. Reinstatement of license.

Agency Contact Person: Morgan Ransdell, Morgan.Ransdell@ky.gov, (502) 429-3339

(1) Provide a brief summary of:

(a) What this administrative regulation does: This emergency administrative regulation creates a temporary work permit for nurses applying for reinstatement. At this time, applicants cannot obtain a criminal record check from the State Police or the FBI. This will allow them to work as a nurse during the State of Emergency without the criminal record check, which they would obtain before getting a full license. It also eliminates the competency validation mechanism which would present a delay in obtaining a temporary work permit. The elimination of the competency validation mechanism would only be for the duration of the State of Emergency.

(b) The necessity of this administrative regulation: This emergency administrative regulation is necessary because of the State of Emergency declared by the Governor and the need for nurses.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by providing for the ability of a nurse applying for reinstatement to work as a nurse.

(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 providing for the ability of a nurse applying for reinstatement to work as a nurse.

(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:
(b) The necessity of the amendment to this administrative regulation:
(c) How the amendment conforms to the content of the authorizing statutes:
(d) How the amendment will assist in the effective administration of the statutes:

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Nurses applying for reinstatement of a license, 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: They will have to apply for reinstatement.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The reinstatement fee is $135.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): They will be able to work as a nurse.

(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: No increase is needed.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: It does not.

(9) TIERING: Is tiering applied? (Explain why or why not) Tiering was not applied as the changes apply to all equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation Number: 201 KAR 20:225E
Contact Person: Morgan Ransdell
Email address: Morgan.Ransdell@ky.gov
Phone number: (502) 429-3339

(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? The Kentucky 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 (+/-):
Expenditures (+/-):
Other Explanation:

STATEMENT OF EMERGENCY

201 KAR 20:470E

(1) Nature of the emergency: Governor Beshear has declared a State of Emergency due to the COVID19 pandemic per Executive Order 2020-215.

(2) An ordinary administrative regulation is not sufficient due to the immediacy of the need for dialysis technicians.

(3) An ordinary administrative regulation will not be filed with the Regulations Compiler because these measures are meant to be temporary and in effect only for the duration of the State of Emergency.

Andy Beshear, Governor

Dina Byers, President
Kentucky Board of Nursing

GENERAL GOVERNMENT CABINET

Board of Nursing

(Emergency Administrative Regulation)

201 KAR 20:470E. Dialysis technician credentialing requirements and training program standards.

RELATES TO: KRS 314.035, 314.089, 314.091, 314.103, 314.137, 314.991

STATUTORY AUTHORITY: KRS 314.131(1), 314.137

NECESSITY, FUNCTION AND CONFORMITY: KRS 314.137 requires the board to promulgate administrative regulations to regulate dialysis technicians. This administrative regulation establishes the requirements for dialysis technician training programs and for credentialing dialysis technicians.

Section 1. Definitions.

(1) "Approved dialysis technician training program" means a program to train dialysis technicians that is approved by the board in accordance with Sections 7 through 10 of this administrative regulation.

(2) "Central venous catheter" means a catheter that is inserted in such a manner that the distal tip is located in the superior vena cava.

(3) "Conviction" is defined by KRS 314.011(21).

(4) "Dialysis technician applicant" means an individual who has applied for a dialysis technician credential.

(5) "Dialysis technician trainee" means an individual who is enrolled in an approved dialysis technician training program.

(6) "Supervision" means:

(a) Initial and ongoing direction, procedural guidance, observation, and evaluation by a registered nurse or physician; and

(b) While a patient is being dialyzed the registered nurse or physician is in the immediate clinical area.

Section 2. Requirements for Dialysis Technician Credential.

(1)(a) An individual who applies to be credentialed as a dialysis technician in order to engage in dialysis care shall:

1. File with the board the completed Application for Dialysis Technician Credential;

2. Have completed an approved dialysis technician training program or an out-of-state dialysis training program pursuant to paragraph (b) of this subsection;

3. Pay the fee established in Section 12 of this administrative regulation;

4. Provide a criminal record check by the Department of Kentucky State Police (KSP) and the Federal Bureau of Investigation (FBI);

5. Use the FBI Applicant Fingerprint Card;

6. Pay any required fee to the KSP and the FBI;

7. Complete the criminal record check within six (6) months of the submission date of the Application for Dialysis Technician Credential;

8. Provide to the board a certified or attested copy of the court record of any misdemeanor or felony conviction from any jurisdiction, except for:

a. Traffic-related misdemeanors (other than DUI); or

b. Misdemeanors older than five (5) years; and

9. Provide to the board a letter of explanation that addresses each conviction identified pursuant to subparagraph 8. of this paragraph.

(b)1. If the dialysis technician applicant has completed an out-of-state dialysis technician training program, the applicant shall submit the training program curriculum and evidence of completion to the board.

2.a. The board or its designee shall evaluate the applicant's training program to determine its comparability with the standards as established in Section 7 of this administrative regulation.

b. The board or its designee shall advise an applicant if the training program is not comparable and specify what additional components shall be completed to meet the requirements of Section 7 of this administrative regulation.

3. A dialysis technician applicant who has completed an out-of-state dialysis technician training program shall be required to complete that portion of a board-approved dialysis technician training program related to specific portions of the legal and ethical aspects of practice as established in the Dialysis Technician Training Program Guide.

4. An applicant shall submit evidence to the board of successful completion of the following sections of the Dialysis Technician Training Program Guide:

a. State and Federal Regulations Governing Dialysis;

b. The Principles and Legal Aspects of Documentation, Communication and Patient Rights;

c. The Roles of the Dialysis Technician and other Multidisciplinary Team Members; and

d. Principles Related to Patient Safety.

5. A dialysis technician applicant who has completed an out-of-state dialysis technician training program shall submit the completed Checklist for Dialysis Technician Competency Validation signed by the applicant's immediate supervisor in Kentucky. The Checklist for Dialysis Technician Competency Validation shall be filed after the submission of the Application for Dialysis Technician Credential.

6. A dialysis technician applicant who has completed an out-of-state dialysis technician training program shall submit evidence of:

a. Successful completion of a comprehensive, written final examination from a board approved dialysis technician training program; or

b. Dialysis technician certification issued within the past two (2) years by the Nephrology Nursing Certification Commission, the Board of Nephrology Examiners Nursing and Technology, or the National Nephrology Certification Organization.

(2) An individual shall be exempt from the credentialing requirement while enrolled in an approved dialysis technician training program. The individual shall use the title dialysis technician trainee.

(3) Upon approval, pursuant to subsection (1) of this section, of the Application for Dialysis Technician Credential, the board shall initially issue the dialysis technician credential for twenty-four (24) months following the month of issuance. The credential shall lapse on the last day of the credentialing period.

(4)(a) An applicant for a dialysis technician credential may engage in dialysis care as a dialysis technician applicant upon:

1. Receipt by the board of the Application for Dialysis Technician Credential; and

2. Meeting the requirements of subsection (6) of this section.

(b) The dialysis technician applicant shall only practice dialysis care as an applicant until:

1. The credential is issued; or

2. The application is denied by the board.

(5) An Application for Dialysis Technician Credential submitted for initial credentialing shall be valid for six (6) months from the date of receipt by the board.

(6) A felony or misdemeanor conviction shall be reviewed to determine, based on Section 6(2)(c) of this administrative regulation, if:

(a) The Application for Dialysis Technician Credential shall be processed with no further action; or

(b) The Application for Dialysis Technician Credential shall be processed only after:

1. The applicant has entered into an agreed order with the board with terms and conditions as agreed by the parties; or

2. If the parties are unable to agree on terms and conditions, a hearing is held pursuant to KRS 314.091 and 201 KAR 20:162, and a final decision is entered by the board.

(7) An applicant shall not be credentialed until a report is received from the FBI pursuant to the request submitted pursuant to subsection (1)(a)5 of this section and any conviction is addressed by the board.

Section 3. Renewal. (1) To be eligible for renewal of the credential, the dialysis technician shall submit, no later than one (1) month prior to the expiration date of the credential:

(a) The completed Application for Renewal of the Dialysis Technician Credential; and

(b) The fee established in Section 12 of this administrative regulation.

(2) Upon approval of the Application for Renewal of the Dialysis Technician Credential, the credential shall be renewed for twenty-four (24) months. The credential shall lapse on the last day of the credentialing period.

(3) A dialysis technician shall report to the board at renewal the name of the national certification program that has issued the technician's certification and provide a copy of the certification certificate to the board.

Section 4. Reinstatement. (1) Before beginning practice as a dialysis technician or a dialysis technician applicant, the individual shall meet the requirements of this section. If the dialysis technician

credential has lapsed for a period of less than one (1) credentialing period, the individual may reinstate the credential. The reinstatement shall be accomplished by:

(a) Submitting the completed Application for Dialysis Technician Credential;

(b) Paying the fee established in Section 12 of this administrative regulation;

(c) Providing a criminal record check by the KSP and the FBI;

(d) Using the FBI Applicant Fingerprint Card;

(e) Paying any required fee to the KSP and the FBI;

(f) Completing the criminal record check within six (6) months of the submission date of the Application for Dialysis Technician Credential;

(g) Providing to the board a certified or attested copy of the court record of any misdemeanor or felony conviction, except for:

1. Traffic-related misdemeanors (other than DUI); or

2. Misdemeanors older than five (5) years; and

(h) Providing to the board a letter of explanation that addresses each conviction identified pursuant to paragraph (g) of this subsection.

(2) If the dialysis technician credential has lapsed for more than one (1) credentialing period, the dialysis technician may reinstate the credential. The reinstatement shall be accomplished by:

(a) Completing a dialysis technician training program approved by the board pursuant to the criteria established in the Dialysis Technician Training Program Guide before submitting the Application for Dialysis Technician Credential. While enrolled in a training program, the individual shall be referred to as a dialysis technician trainee;

(b) Submitting the completed Application for Dialysis Technician Credential;

(c) Paying the fee established in Section 12 of this administrative regulation;

(d) Submitting the Checklist for Dialysis Technician Competency Validation signed by the individual's immediate supervisor;

(e) Providing a criminal record check by the KSP and the FBI;

(f) Using the FBI Applicant Fingerprint Card;

(g) Paying any required fee to the KSP and the FBI;

(h) Completing the criminal record check within six (6) months of the submission date of the Application for Dialysis Technician Credential;

(i) Providing to the board a certified or attested copy of the court record of any misdemeanor or felony conviction, except for:

1. Traffic-related misdemeanors (other than DUI); or

2. Misdemeanors older than five (5) years; and

(j) Providing to the board a letter of explanation that addresses each conviction identified pursuant to paragraph (i) of this subsection.

(3) An Application for Dialysis Technician Credential submitted for reinstatement shall be valid for six (6) months from the date of receipt by the board.

(4) Upon approval of the Application for Dialysis Technician Credential pursuant to Section 2(1) of this administrative regulation, the credential shall be reinstated for twenty-four (24) months following the month of issuance. The credential shall lapse on the last day of the credentialing period.

(5) An applicant shall not be credentialed until a report is received from the FBI pursuant to the request submitted pursuant to subsection (2)(f) of this section and any conviction is addressed by the board.

(6) Temporary Work Permit. (1)(a) An applicant seeking reinstatement of a dialysis technician credential who meets all of the requirements of subsections (1) and (2) of this section, except for subsection (1)(c), (d), and (e) or subsection (2)(e), (f), and (g) of this section, shall be issued a temporary

work permit, unless reinstatement of the credential is denied or restricted in accordance with Section 2(6) and Section 6 of this administrative regulation.

(b) The temporary work permit shall be issued for six (6) months and may be reissued.

Section 5. Scope of Practice. (1) The scope of practice of a dialysis technician shall include the following and shall be performed under the direct, on-site supervision of a registered nurse or a physician:

(a) Preparation and cannulation of peripheral access sites (arterial-venous fistulas and arterial-venous grafts);

(b) Initiating, delivering, or discontinuing dialysis care;

(c) Administration of the following medications only:

1. Heparin 1:1000 units or less concentration either to prime the pump, initiate treatment, or for administration throughout the treatment, in an amount prescribed by a physician, physician's assistant, or advanced registered nurse practitioner. The dialysis technician shall not administer heparin in concentrations greater than 1:1000 units;

2. Normal saline via the dialysis machine to correct dialysis-induced hypotension based on the facility's medical protocol. Amounts beyond that established in the facility's medical protocol shall not be administered without direction from a registered nurse or a physician; and

3. Intradermal lidocaine, in an amount prescribed by a physician, physician's assistant, or advanced practice registered nurse;

(d) Assistance to the registered nurse in data collection;

(e) Obtaining a blood specimen via a dialysis line or a peripheral access site;

(f) Responding to complications that arise in conjunction with dialysis care; and

(g) Performance of other acts as delegated by the registered nurse pursuant to 201 KAR 20:400.

(2) The scope of practice of a dialysis technician shall not include:

(a) Dialysis care for a patient whose condition is determined by the registered nurse to be critical, fluctuating, unstable, or unpredictable;

(b) The connection and disconnection of patients from, and the site care and catheter port preparation of, percutaneously or surgically inserted central venous catheters; and

(c) The administration of blood and blood products.

Section 6. Discipline of a Dialysis Technician. (1) The board shall have the authority to discipline a dialysis technician for:

(a) Failure to safely and competently perform the duties of a dialysis technician as established in Section 5 of this administrative regulation;

(b) Practicing beyond the scope of practice as established in Section 5 of this administrative regulation;

(c) Conviction of any felony, or a misdemeanor involving drugs, alcohol, fraud, deceit, falsification of records, a breach of trust, physical harm or endangerment to others, or dishonesty under the laws of any state or of the United States. The record of conviction or a copy thereof, certified by the clerk of the court or by the judge who presided over the conviction, shall be conclusive evidence;

(d) Obtaining or attempting to obtain a credential by fraud or deceit;

(e) Abusing controlled substances, prescription medications, or alcohol;

(f) Personal misuse or misappropriation for use of others of any drug placed in the custody of the dialysis technician for administration;

(g) Falsifying or in a negligent manner making incorrect entries or failing to make essential entries on essential records;

(h) Having a dialysis technician credential disciplined by another jurisdiction on grounds sufficient to cause a credential to be disciplined in this Commonwealth;

(i) Practicing without filing an Application for Dialysis Technician Credential or without holding a dialysis technician credential;

(j) Abuse of a patient;

(k) Theft of facility or patient property;

(l) Having disciplinary action on a professional or business license;

(m) Violating any lawful order or directive previously entered by the board;

(n) Violating any applicable requirement of 201 KAR Chapter 20;

(o) Having been listed on the nurse aide abuse registry with a substantiated finding of abuse, neglect, or misappropriation of property; or

(p) Having violated the confidentiality of information or knowledge concerning any patient, except as authorized or required by law.

(2) The discipline may include the following:

(a) Immediate temporary suspension of the credential, following the procedure established in KRS 314.089;

(b) Reprimand of the credential;

(c) Probation of the credential for a specified period of time, with or without limitations and conditions;

(d) Suspension of the credential for a specified period of time;

(e) Permanent revocation of the credential; or

(f) Denying the Application for Dialysis Technician Credential.

(3) The board shall follow the procedures established in and have the authority established in KRS 314.091, 201 KAR 20:161, and 201 KAR 20:162 for management and resolution of complaints filed against a dialysis technician.

(4) In addition to the provisions of subsection (3) of this section, the board may impose a civil penalty of up to $10,000.

Section 7. Dialysis Technician Training Program Standards. (1) Program administrator. Each dialysis technician training program shall have a registered nurse who holds a current Kentucky license, temporary work permit, or multistate privilege, with at least one (1) year of experience in dialysis care, who shall be administratively responsible for planning, development, implementation, and evaluation of the dialysis technician training program.

(a) The name, title, and credentials identifying the educational and professional qualifications of the program administrator shall be provided to the board.

(b) A change in the program administrator shall be reported to the board within thirty (30) days of the change.

(2) Faculty qualifications.

(a) The dialysis technician training program shall be taught by multidisciplinary faculty with expertise in the subject matter.

(b) The name, title, and credentials identifying the educational and professional qualifications of each didactic and clinical instructor shall be provided to the board.

(3) The dialysis technician training program shall be based upon the Dialysis Technician Training Program Guide.

(4) The dialysis technician training program syllabus shall include:

(a) Prerequisites for admission to the program;

(b) Program outcomes. The outcomes shall provide statements of measurable competencies to be demonstrated by the learner; supportive content identified;

(c) Content. The content shall be described in outline format with corresponding time frame and testing schedules;

(d) Teaching methods. The activities of both instructor and learner shall be specified. These activities shall be congruent with stated objectives and content and shall reflect application of adult learning principles;

(e) Instructional or reference materials. All required instructional reference materials shall be identified; and

(f) Evaluation. There shall be:

1. Clearly defined criteria for evaluating the learner's achievement of program outcomes; and

2. A process for annual program evaluation by trainees, program administrator, faculty, and employers.

(5) Any proposed substantive changes to the dialysis technician training program syllabus after initial submission shall be submitted to the board in writing and shall not be implemented without approval from the board pursuant to the criteria established in the Dialysis Technician Training Program Guide.

(6) Trainee clinical practice requirements. The dialysis technician trainee enrolled in a dialysis technician training program shall practice dialysis care incidental to the training program only under the supervision of a faculty member or the faculty member's designee.

(7) The dialysis technician training program shall be at least 400 hours in length. A minimum of 200 hours shall be didactic.

(8) Completion requirements. Requirements for successful completion of the dialysis technician training program shall be clearly specified.

(a) The requirements shall include demonstration of clinical competency and successful completion of a comprehensive, written final examination.

(b) The final examination shall be administered only during the final forty (40) hours of the training program.

(c) There shall be a statement of policy regarding a trainee who fails to successfully complete the training program.

(9) The program shall establish a written records retention plan describing the location and length of time records shall be maintained. At a minimum, the following records shall be maintained by the program:

(a) Provider name, dates of program offerings, and sites of the training program;

(b) The program code number issued by the board; and

(c) Trainee roster, with a minimum of name, date of birth, Social Security number, and program completion date.

(10) An individual who successfully completes the training program shall receive a certificate of completion that documents the following:

(a) Name of individual;

(b) Title of training program, date of completion, and location;

(c) Provider's name;

(d) The program code number issued by the board; and

(e) Name and signature of program administrator.

(11) The program shall submit the List of Dialysis Technician Training Program Graduates within three (3) working days of the program completion date.

(12)(a) The program shall notify the board in writing within thirty (30) days of a training program closure.

(b) The notification shall include:

1. The date of closing;

2. A copy of the program trainee roster from the date of the last renewal to the date of closing;

3. The location of the program's records as established in subsection (9) of this section; and

4. The name and address of the custodian of the records.

(13) A dialysis technician training program that conducts either the didactic portion or the clinical portion in this state shall be required to be approved by the board pursuant to the criteria established in the Dialysis Technician Training Program Guide, and the program shall meet the requirements of this section.

Section 8. Dialysis Technician Training Program Initial Approval. (1) To receive initial approval, a dialysis technician training program shall:

(a) File a completed Application for Dialysis Technician Training Program Approval; and

(b) Pay the fee established in Section 12 of this administrative regulation.

(2) Board approval for a dialysis technician training program shall be:

(a) Based on compliance with the standards established in Section 7 of this administrative regulation; and

(b) Granted for a two (2) year period from the date of approval.

(3) Upon approval, the board shall issue a program code number.

Section 9. Continued Board of Approval of a Dialysis Technician Training Program. (1) To receive continued approval, a dialysis technician training program shall:

(a) File a completed Application for Dialysis Technician Training Program Approval;

(b) Submit an annual program evaluation summary report and any actions taken as a result of the evaluation as required by Section 7(4)(f) of this administrative regulation;

(c) Submit a list of current faculty including the name, title, and credential identifying the educational and professional qualifications of each instructor;

(d) Submit a copy of the program trainee roster for the past two (2) years as required by Section 7(9)(c) of this administrative regulation; and

(e) Pay the fee established in Section 12 of this administrative regulation.

(2) The completed Application for Dialysis Technician Training Program Approval shall be submitted at least two (2) months prior to the end of the current approval period.

(3) Continued approval shall be based on compliance with the standards established in Section 7 of this administrative regulation.

(4) Continued approval shall be granted for a two (2) year period.

(5) If a program fails to maintain continued approval, the approval shall lapse.

Section 10. Reinstatement of Dialysis Technician Training Programs. A program with lapsed approval that seeks to reinstate that approval shall:

(1) File a completed Application for Dialysis Technician Training Program Approval; and

(2) Pay the fee established in Section 12 of this administrative regulation.

Section 11. Board Actions on Dialysis Technician Training Programs. (1) A representative of the board may make a site visit to a dialysis technician training program to evaluate compliance with 201 KAR Chapter 20.

(2) The board shall prepare a report of the site visit, identifying deficiencies for the training program if applicable, and shall include recommendations and requirements to be met in order to maintain compliance with standards.

(3) The program administrator shall submit to the board a response to the site visit report.

(4) Based on the report of deficiencies, the training program's response, and any other relevant evidence, the board shall grant approval, continue approval, continue approval with stipulations, or propose to deny or withdraw approval of the program.

(5) A dialysis technician training program administrator may request a review of a board decision concerning approval. A review shall be conducted using the procedure established in this subsection.

(a) A written request for the review shall be filed with the board within thirty (30) days after the date of notification of the board action that the dialysis technician training program administrator contests.

(b) The board, or the board's designee, shall conduct a review. The dialysis technician training program administrator may appear in person to present reasons why the board's decision should be set aside or modified.

(c) The dialysis technician training program administrator shall be notified of the board's decision.

(6) The board shall deny or withdraw approval of a program after an administrative hearing conducted pursuant to KRS Chapter 13B.

Section 12. Fees. (1) The application fee for the initial credential shall be seventy (70) dollars.

(2) The credential renewal fee shall be seventy (70) dollars.

(3) The credential reinstatement fee shall be $100.

(4) The dialysis technician training program initial approval fee shall be $950.

(5) The dialysis technician training program continued approval fee shall be $800.

(6) The dialysis technician training program reinstatement fee shall be $950.

(7) An additional fee of twenty-five (25) dollars shall be charged for an Application for Renewal of Dialysis Technician Credential that is filed after the deadline for filing.

(8) An additional fee of $150 shall be charged for an Application for Dialysis Technician Training Program Approval that is filed after the deadline for continued approval filing.

(9) A fee of ten (10) dollars shall be charged for issuing a duplicate of the credential.

(10) A check submitted to the board for payment of a fee that is returned by the bank for nonpayment shall be assessed a return check fee of thirty-five (35) dollars.

(11) A fee of ten (10) dollars shall be charged for written verification of a dialysis technician credential. If submitted in list format, a fee of ten (10) dollars for the first name shall be assessed and a fee of one (1) dollar shall be assessed for each additional name.

(12) A fee of twenty-five (25) dollars shall be charged for a duplicate application form that is issued due to the failure to maintain a current mailing address as required by Section 13 of this administrative regulation.

(13) A fee of twenty-five (25) dollars shall be charged for a name change and the issuance of a new credential.

(14) All fees shall be nonrefundable.

Section 13. Miscellaneous Requirements. (1) Any person credentialed by the board as a dialysis technician shall maintain a current mailing address with the board and immediately notify the board in writing of a change of mailing address.

(2)(a) Holding a credential shall constitute consent by the dialysis technician 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) Any dialysis technician credentialed by the board 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) Any dialysis technician credentialed by the board shall immediately notify the board in writing 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 of continuance is denied.

(5) If the board has reasonable cause to believe that any dialysis technician is unable to practice with reasonable skill and safety or has abused alcohol or drugs, it shall require the person to submit to a chemical dependency evaluation or a mental or physical examination by a practitioner it designates.

(a) Holding a credential shall constitute:

1. Consent by the dialysis technician to a chemical dependency 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 technician 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 dialysis technician shall bear the cost of chemical dependency evaluation, mental examination, or physical examination ordered by the board.

(c) Upon failure of the dialysis technician to submit to a chemical dependency 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 chemical dependency evaluation, mental examination, or physical examination pursuant to this subsection results in a finding that indicates that the dialysis technician is unable to practice with reasonable skill and safety or has abused alcohol or drugs, the dialysis technician shall be subject to disciplinary procedures as established in Section 6 of this administrative regulation.

Section 14. Due process procedures, including appeal, pertaining to this administrative regulation shall be conducted in accordance with KRS Chapter 13B.

Section 15. Incorporation by Reference. (1) The following materials are incorporated by reference:

(a) "Application for Dialysis Technician Training Program Approval", Kentucky Board of Nursing, 6/2006;

(b) "Application for Dialysis Technician Credential", Kentucky Board of Nursing, 1/2016;

(c) "Application for Renewal of Dialysis Technician Credential", Kentucky Board of Nursing, 5/2018;

(d) "Checklist for Dialysis Technician Competency Validation", Kentucky Board of Nursing, 9/2007;

(e) "Dialysis Technician Training Program Guide", August 14, 2001, Kentucky Board of Nursing; and

(f) "List of Dialysis Technician Training Program Graduates", Kentucky Board of Nursing, 9/2007.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222-5172, Monday through Friday, 8 a.m. to 4:30 p.m.

Emergency Administrative Regulation

201 KAR 20:470E.

Dialysis technician credentialing requirements and training program standards.

Adopted: March 26, 2020.

Dina Byers

Dina Byers, President
Kentucky Board of Nursing

Date

REGULATORY IMPACT ANALYSIS
AND TIERING STATEMENT

Administrative Regulation No. 201 KAR 20:470E. Dialysis technician credentialing requirements and training program standards.

.Agency Contact Person: Morgan Ransdell, Morgan.Ransdell@ky.gov, 502-429-3339

(1) Provide a brief summary of:
(a) What this administrative regulation does: This emergency administrative regulation creates a temporary work permit for dialysis technicians (DT) applying for reinstatement. At this time, applicants cannot obtain a criminal record check from the State Police or the FBI. This will allow them to work as a DT during the State of Emergency without the criminal record check.
(b) The necessity of this administrative regulation: This emergency administrative regulation is necessary because of the State of Emergency declared by the Governor and the need for DTs.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by providing for the ability of a DT applying for reinstatement to work as a DT.
(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 providing for the ability of a DT applying for reinstatement to work as a DT.

(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:
(b) The necessity of the amendment to this administrative regulation:
(c) How the amendment conforms to the content of the authorizing statutes:
(d) How the amendment will assist in the effective administration of the statutes:

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: DTs applying for reinstatement of a license, 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: They will have to apply for reinstatement.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The reinstatement fee is $100.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): They will be able to work as a DT.

(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: No increase is needed.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: It does not.

(9) TIERING: Is tiering applied? (Explain why or why not) Tiering was not applied as the changes apply to all equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation Number: 201 KAR 20:470E
Contact Person: Morgan Ransdell
Email address: Morgan.Ransdell@ky.gov
Phone number: (502) 429-3339

(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? The Kentucky 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 314.137.

(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 (+/-):
Expenditures (+/-):
Other Explanation: