

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

201 KAR 32:101

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Subject Headings: Licensing, Marriage and Family Therapy, Occupations and Professions

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes a procedure for persons whose license has been suspended or revoked, or have voluntarily surrendered their license as part of a pending disciplinary action, to seek reinstatement of that license upon meeting certain criteria.

(b) The necessity of this administrative regulation: This administrative regulation is necessary because KRS 335.360 permits a person whose license has been revoked or surrendered, to apply for reinstatement after five (5) years. The statute also states that the reinstatement process shall be in accordance with the procedures established by the board through administrative regulation.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation amendment conforms with the Board's authority in KRS 335.320(9) to promulgate administrative regulations to carry out the provisions of KRS Chapter 335.300 to 335.399. KRS 335.360 also enables the board to promulgate administrative regulations to implement the process of seeking reinstatement.

(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 statute by setting forth the procedure and criteria for persons seeking reinstatement of a revoked license, or license that was surrendered while being subjected to disciplinary proceedings.

(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: This amendment establishes a new category of revocation of license for when the licensee agrees to the revocation of licensure in the context of the administrative hearing process, and creates a reinstatement process that is less onerous than one in which the licensee was revoked through a final order issued by the board. It also creates a single application for either category of revoked licenses, and no longer requires the board to hold a hearing to determine whether reinstatement of the license would not pose a danger to the public. It also requires applicants whose license was voluntarily surrendered in lieu of revocation, to pay the same reinstatement fee as those whose license was revoked via a final order of the board, and to use the same application. Finally, it requires that continuing education requirements for former licensees seeking reinstatement be completed within one year prior to the application for reinstatement, and specifies a minimum ethics requirement within the required hours.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to provide a fairer and more expedient pathway to reinstatement for persons seeking such. It also streamlines the process by creating a single required form for all persons seeking reinstatement, regardless of the specific mechanism by which their licensure was revoked.

(c) How the amendment conforms to the content of the authorizing statutes: This administrative regulation amendment conforms with the board's authority in KRS 335.320(9) to promulgate administrative regulations to carry out the provisions of KRS Chapter 335.300 to 335.399. Further, KRS 335.360 permits the board to create a specific process for the reinstatement of licenses after a period of five (5) years.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will assist in the effective administration of the statutes by i) providing a more fair and clearer pathway to reinstatement for persons seeking same; ii) by creating a more streamlined process for determining whether the criteria for reinstatement have been met; and iii) creates a specific ethical requirement for continuing education criteria, that will better equip applicants to comply the statutory and regulatory requirements imposed upon licensees.

(3) Does this administrative regulation or amendment implement legislation from the previous five years? No.

(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation may affect an unknown number of both current licensees (approximately 912) and former licensees of the board; however, based on historical precedent, there are not likely to be any more than five persons in a given year that seek reinstatement of a license previously revoked by either final board order or voluntary agreement.

(5) Provide an analysis of how the entities identified in question (4) 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 (4) will have to take to comply with this administrative regulation or amendment: No action will need to be taken by any current licensees to comply with this amendment. Future applicants for reinstatement will have to ensure that they meet the revised remedial continuing education requirements, and persons applying for reinstatement whose license was voluntarily surrendered in lieu of revocation will now have to pay the full reinstatement fee.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): For former licensees who had surrendered their license in lieu of revocation, they will now have to pay a \$100 reinstatement fee, up from \$50 in the previous version of this regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): Licensees seeking reinstatement will now have a more streamlined determination process, and they will have continuing education requirements with a greater focus on professional issues more relevant to the circumstances which may have initially caused the disciplinary proceedings which led to their license being revoked.

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

(a) Initially: There will be no initial cost to the administrative body to implement this administrative regulation.

(b) On a continuing basis: There will be no continuing cost to the administrative body to implement this administrative regulation.

(7) 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 license holders and applicants.

(8) 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 itself be necessary to implement this change to this administrative regulation.

(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This amendment to an existing administrative regulation increases the fees owed by an applicant for reinstatement who had surrendered their license in lieu of revocation, to \$100 from the previously required \$50.

(10) TIERING: Is tiering applied? (Explain why or why not) Tiering is not applied because this regulation applies to all applicants equally.