

1 BOARDS AND COMMISSIONS

2 Kentucky Board of Medical Licensure

3 (New Administrative Regulation)

4 201 KAR 9:088. Determination of Eligibility (for those convicted of a crime).

5 RELATES TO: KRS Chapter 13B, Chapter 335B, KRS 311.595(4), 311.850(1)(c),
6 311.909(1)(c), 311.890(1)(a) and (b), 311.684(1)(i)(3) and (4), 311.700(1)(c)

7 STATUTORY AUTHORITY: KRS 311.595(4), 311.850(1)(c), 311.909(1)(c),
8 311.890(1)(a) and (b), 311.684(1)(i)(3) and (4), 311.700(1)(c), 335B.030

9 CERTIFICATION STATEMENT: This is to certify that this administrative regulation
10 complies with the requirements of 2025 RS HB 6, Section 8.

11 NECESSITY, FUNCTION, AND CONFORMITY: KRS 311.595(4), 311.850(1)(c),
12 311.909(1)(c), 311.890(1)(a) and (b), 311.684(1)(i)(3) and (4), and 311.700(1)(c) provide
13 that the Kentucky Board of Medical Licensure may deny a license or certificate to practice
14 medicine, osteopathy, as a physician assistant, as an athletic trainer, as a surgical
15 assistant, acupuncture, or as a genetic counselor, upon proof that the applicant has been
16 convicted of any felony or a misdemeanor, in accordance with KRS Chapter 335B. KRS
17 335B.020 requires that the board implement a process by which an individual, who has
18 been convicted of a crime, may obtain a determination regarding whether the conviction
19 would disqualify the individual from professional licensure before the individual pursues
20 any training or specialized education that is required for the practice of the profession.

21 This administrative regulation establishes procedures for the determination of

1 licensure/certificate eligibility for prospective applicants with a history of criminal
2 conviction.

3 Section 1. Application: (1) Prior to pursuing any training or specialized education
4 that is required to practice as a medical or osteopathic physician, physician assistant,
5 athletic trainer, surgical assistant, acupuncturist or genetic counselor in the
6 Commonwealth of Kentucky, an individual who has previously been convicted of a crime
7 may request a determination regarding whether the prior conviction alone would disqualify
8 the individual from obtaining a license from the board to practice as a medical or
9 osteopathic physician, physician assistant, athletic trainer, surgical assistant,
10 acupuncturist or genetic counselor.

11 (2) To be considered for determination of eligibility, an applicant shall submit:

12 (a) A completed and signed "Determination Application";

13 (b) Copies of the following from the underlying criminal case proceedings, if
14 applicable:

15 1. Original Indictment, Information or other document which set forth
16 the charges for which the applicant was convicted or entered a plea
17 of guilty or nolo contendere, and any amended charging document;

18 2. Judgment or Plea Agreement;

19 3. Sentencing memoranda, if applicable; and

20 4. Any orders releasing the applicant from custody, probation or
21 diversion; and

22 (c) Payment of a fee of \$50.00.

1 (3) The applicant may submit with the application evidence of rehabilitation in
2 accordance with KRS 335B.020(2).

3 Section 2. Hearing on determination of eligibility.

4 (1) Upon receipt of a determination application, the Board's staff shall place the
5 application on the agenda of the next regularly scheduled Board meeting. Applications
6 submitted less than thirty (30) days before a regularly scheduled Board meeting shall
7 pass to the following meeting agenda.

8 (2) A notice of the Board meeting shall be sent to the applicant via email and USPS
9 regular mail to the last known mailing and email address of the applicant no less than
10 twenty (20) days prior to the regularly scheduled Board meeting.

11 (3) The applicant may appear in-person before the Board at the Board meeting. If
12 the applicant appears in-person, he or she shall be given an opportunity to be heard on
13 the application.

14 Section 3. Written Determination.

15 (1) Within fourteen (14) days of the Board meeting at which the applicant's
16 determination application was considered, the Board shall render a written determination
17 of eligibility or ineligibility to the applicant.

18 (2) The written determination shall be sent to the applicant via email and USPS
19 regular mail to the last known mailing and email address of the applicant.

20 (3) If the Board has determined that prior conviction renders the individual ineligible
21 for professional licensure, the written determination shall:

22 (a) Inform the applicant of the specific reasons for the determination in
23 accordance with KRS 335B.030(1);

1 (b) If and when the individual may resubmit a determination application; and

2 (c) Provide notice that, within ten (10) working days after service of the
3 written determination, the applicant may appeal the determination of ineligibility by
4 requesting, in writing, a KRS Chapter 13B administrative hearing pursuant to KRS
5 335B.030(1)(a)(2) and stating the basis of the appeal.

6 (4) If a hearing is not timely requested in accordance with KRS 13B.050(1)(a)(2),
7 the written determination shall become final.

8 Section 4. Appeal hearing and final order.

9 (1) If a written request for hearing is timely submitted, the board shall assign the
10 matter to a hearing officer and issue a notice of hearing in accordance with KRS
11 13B.050(1).

12 (2) Following a hearing, the hearing officer shall render findings of fact, conclusions
13 of law and a recommended order in accordance with KRS Chapter 13B. The board shall
14 render the final order in accordance with KRS 13B.120.

15 (3) If the final order is adverse to an applicant, the board may impose hearing costs
16 upon the applicant pursuant to KRS 311.565(1)(v).

17 Section 5. Incorporation by Reference.

18 (1) "Application for Determination", 092026, is incorporated by reference.

19 (2) This material may be inspected, copied, or obtained, subject to applicable
20 copyright law, at the Kentucky Board of Medical Licensure, 310 Whittington Parkway,
21 Suite 1B, Louisville, Kentucky 40222, Monday through Friday, 8:00 a.m. to 4:30 p.m.

22 (3) This material may also be obtained on the board's Web site at kbml.ky.gov.

Adopted:

09/17/2026

DATE

A handwritten signature in black ink, reading "William C. Thornbury, M.D.", written in a cursive style. The signature is positioned above a horizontal line.

WILLIAM C. THORNBURY, M.D., PRESIDENT
KENTUCKY BOARD OF MEDICAL LICENSURE

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held on Monday, December 21, 2026, at 9:00 a.m., using the Kentucky Board of Medical Licensure Zoom meeting room. A Zoom link will be posted on the agency's web site, kbml.ky.gov, prior to the meeting. Individuals interested in being heard at this hearing shall notify this agency in writing no less than five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received at least five (5) workdays prior to the hearing, the hearing may be cancelled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation. Written comments previously submitted will be considered and new comments shall be accepted through December 31, 2026. 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: Leanne K. Diakov, General Counsel, Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222, phone (502)764-2613, fax (502) 429-7118, email leanne.diakov@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

201 KAR 9:088

Contact Person: Leanne K. Diakov

Phone: (502) 764-2613

Email: leanne.diakov@ky.gov

Subject Headings: Occupations and Professions, Physicians and Practitioners, Licensing

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes a process by which an individual who has been convicted of a crime can obtain a determination about whether the crime alone will disqualify the individual from obtaining a professional license before that individual undertakes the time and expense of any training or specialized education to pursue an occupation for which the professional license is required from this agency (i.e. prospective physicians, physician assistants, athletic trainers, surgical assistants, acupuncturists and genetic counselors).

(b) The necessity of this administrative regulation: At the direction of the General Assembly, it is necessary to promulgate this regulation to establish a process by which an individual who has been convicted of a crime can obtain a determination about whether the crime alone will disqualify the individual from obtaining a professional license before that individual undertakes the time and expense of any training or specialized education to pursue an occupation for which the professional license is required from this agency.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms with KRS 335.032, which requires any hiring or licensing authority that considers a criminal background check as part of its application process to establish and implement a process by which an individual who has been convicted of a crime can obtain a determination about whether the crime will disqualify the individual from a position of public employment or an occupation for which a professional license is required from this agency.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation acts specifically to enact the processes required in KRS 335B.032 so that an individual who has been convicted of a crime can obtain a determination about whether the crime alone will disqualify the individual from obtaining a professional license before that individual undertakes the time and expense of any training or specialized education to pursue an occupation for which the professional license is required from this agency.

(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: N/A

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

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

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

N/A

(3) Does this administrative regulation or amendment implement legislation from the previous five years? Yes. This administrative regulation implements 2026 Kentucky Laws Ch. 72 (HB 185).

(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects individuals who have been convicted of a crime and desire to undertake training or specialized education to pursue an occupation for which a professional license is required from this agency (i.e. prospective physicians, physician assistants, athletic trainers, surgical assistants, acupuncturists and genetic counselors). Because these individuals are not yet licensed by the agency, the number of potentially affected individuals is incalculable.

(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 (3) will have to take to comply with this administrative regulation or amendment: The individual will need to fill out an application, pay an application fee, provide copies of criminal records and be given an opportunity to appear before and be heard by the agency. If an adverse decision is rendered, the individual will have the benefit of appeal process under KRS Chapter 13B and in circuit court.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): The agency application fee is \$50.00.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): Individuals with a history of a criminal conviction can obtain a binding decision from the agency as to whether this history would disqualify them from practicing the desired profession prior to undertaking the extensive time and expense of any training or specialized education required to pursue the occupation for which a professional license is required.

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

(a) Initially: \$50.00 per applicant.

(b) On a continuing basis: \$50.00 per applicant.

(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The agency is self-funded through application and licensure fees. The application fee applies to implementation, processing and enforcement of the determination process.

(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: A \$50.00 application fee will be necessary to apply toward agency costs of implementation, processing and enforcement of the determination process.

(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: A \$50.00 application fee will be applied toward implementation, processing and enforcement of the determination process.

(10) TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals regulated by it.

FISCAL IMPACT STATEMENT

201 KAR 9:088

Contact Person: Leanne K. Diakov

Phone: (502) 764-2613

Email: leanne.diakov@ky.gov

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 335B.032; KRS 311.595(4), 311.850(1)(c), 311.909(1)(c), 311.890(1)(a) and (b), 311.684(1)(i)(3) and (4), and 311.700(1)(c)

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: 2026 Kentucky Laws Ch. 72 (HB 185)

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: Kentucky Board of Medical Licensure

(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):

1. Expenditures:

For the first year: \$50.00 per applicant

For subsequent years: \$50.00 per applicant

2. Revenues:

For the first year: \$50.00 per applicant

For subsequent years: \$50.00 per applicant

3. Cost Savings:

For the first year: None

For subsequent years: None

(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): None

(b) Estimate the following for each affected local entity identified in (4)(a):

1. Expenditures:

For the first year: N/A

For subsequent years: N/A

2. Revenues:

For the first year: N/A

For subsequent years: N/A

3. Cost Savings:

For the first year: N/A

For subsequent years: N/A

(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): Prospective physicians, physician assistants, athletic trainers, surgical assistants, acupuncturists and genetic counselors.

(b) Estimate the following for each regulated entity identified in (5)(a):

1. Expenditures:

For the first year: \$50.00 per application

For subsequent years: \$50.00 per application

2. Revenues:

For the first year: Incalculable. Each individual will have benefit of potential income of practicing a profession for which a license is required by this agency.

For subsequent years: Incalculable. Each individual will have benefit of potential income of practicing a profession for which a license is required by this agency.

3. Cost Savings:

For the first year: Incalculable. Each individual could benefit from avoiding unnecessary costs of undertaking extensive training and education toward a profession they would not be able to obtain a license to practice.

For subsequent years: Incalculable. Each individual could benefit from avoiding unnecessary costs of undertaking extensive training and education toward a profession they would not be able to obtain a license to practice.

(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a):

(a) Fiscal impact of this administrative regulation: The promulgation of this administrative regulation will not have a major fiscal impact on state or local government or regulated entities.

(b) Methodology and resources used to reach this conclusion: This conclusion was reached by estimating that the administrative costs of processing a determination application would be equal to or less than the cost of processing a full regular license application for most non-physician licensees and that number of applications submitted on an annual basis is likely to be less than ten (10).

(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):

(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(14): The amendment of this administrative regulation will not have a major fiscal impact on state or local government or regulated entities.

(b) The methodology and resources used to reach this conclusion: N/A

FEDERAL MANDATE ANALYSIS COMPARISON

201 KAR 9:088

Contact Person: Leanne K. Diakov

Phone: (502) 764-2613

Email: leanne.diakov@ky.gov

(1) Federal statute or regulation constituting the federal mandate: N/A

(2) State compliance standards: KRS 335B.032; KRS 311.595(4), 311.850(1)(c), 311.909(1)(c), 311.890(1)(a) and (b), 311.684(1)(i)(3) and (4), and 311.700(1)(c)

(3) Minimum or uniform standards contained in the federal mandate. N/A

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate?
N/A

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. N/A

Summary of Material Incorporated by Reference

The "Application for Determination" form is a standardized 2-page form through which the applicant provides information necessary for the Board to review and determine whether the applicant's criminal conviction history would bar the applicant from obtaining a license to practice within a certain profession. It requires the identification of the criminal proceedings by case name and number and jurisdiction; it allows the applicant to explain the nature of the offense, its relationship to the performance of the duties and fitness to practice within the desired profession; and it provides an opportunity for the applicant to explain how he/she has been rehabilitated.

DETERMINATION APPLICATION

Pursuant to KRS 335B.010, et seq., prior to pursuing any training or specialized education that is required to practice as a medical or osteopathic physician, physician assistant, athletic trainer, surgical assistant, acupuncturist or genetic counselor in the Commonwealth of Kentucky, an individual who has previously been convicted of a crime may request a determination regarding whether the prior conviction alone would disqualify the individual from obtaining a license from the board to practice as a medical or osteopathic physician, physician assistant, athletic trainer, surgical assistant, acupuncturist or genetic counselor. For information on the determination process, please see the Board's regulation 201 KAR 9:088.

SECTION I:

Applicant's Full Name:

Mailing address (street/city/state/zip): _____

Telephone No.

E-mail address:

Professional license(s) to be sought upon completion of training or specialized education (check):

____ Physician (MD/DO)
____ Physician Assistant (PA)
____ Athletic Trainer (AT)

____ Surgical Assistant (SA)
____ Acupuncturist (Ac.)
____ Genetic Counselor (GC)

SECTION II:

Criminal Case(s):

Name(s) of All Parties:

Jurisdiction (Court and State):

Case No(s).:

Age when offense was committed:

Describe in your own words the nature and the seriousness of the crime:

Describe in your own words the relationship of the crime to the licensed occupation:

Describe in your own words the relationship of the crime to your ability, capacity and fitness to perform the duties and discharge the responsibilities of the licensed occupation:

Describe in your own words the relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the public employment position or licensed occupation;

Describe in your own words how you have been rehabilitated (including description of how you complied with any conditions of community supervision, parole, or mandatory supervision):

SECTION III:

If available, please attach the following:

- ☐ Charging documents (Indictment, Information, Etc.)
- ☐ Judgment or Plea Agreement
- ☐ Sentencing memoranda, if applicable
- ☐ Order releasing (from custody, probation or diversion)

SECTION IV:

Please submit \$50.00 by check made payable to "Kentucky Board of Medical Licensure"
OR
Call (502) 764-2600 to pay by credit card.

Date: _____

Signature: _____

Printed Name: _____