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KENTUCKY BOARD OF NURSING

312 Whittington Parkway, Suite 300
Louisville, Kentucky 40222-5172
kbn.ky.gov

Andy Beshear
Governor

MEMORANDUM

TO: All Licensees and Applicants for Licensure

FROM: Kentucky Board of Nursing

RE: Continuation of 201 KAR 20:320 emergency modifications and withdrawal of emergency modifications to 201 KAR 20:056, 201 KAR 20:070, 201 KAR 20:110, 201 KAR 20:225, 201 KAR 20:470, and 201 KAR 20:620

DATE: March 5 , 2021

The Governor signed Executive Order 2020-243 on March 18, 2020, and Executive Order 2020-257 on March 25, 2020, in regard to the COVID-19 State of Emergency. On March 30, 2020, the Governor signed Senate Bill 150 (2020) into law. Section 13 of this bill and these Executive Orders authorize the Kentucky Board of Nursing to modify statutory and regulatory provisions, where appropriate, to eliminate barriers to licensure caused by social distancing requirements and to ensure the continuation of Board support of Life-Sustaining Businesses. Consistent with this authority, the Kentucky Board of Nursing temporarily modified numerous regulations within 201 KAR Chapter 20 for the primary purpose of allowing an expeditious pathway to temporary licensure notwithstanding delays in obtaining fingerprint-driven criminal background reports and with regard to the NCLEX examination. As delays associated with fingerprint-driven criminal background checks and the NCLEX examination have been largely eliminated, the emergency measures referenced below are withdrawn and replaced as specified herein.

The memorandum signed by Dina Byers, KBN Board President, on April 17, 2020, and by J. Michael Brown, Secretary of the Governor's Executive Cabinet, on April 20, 2020, modifying 201 KAR 20:056, and attached hereto as Exhibit A, is withdrawn in its entirety. Also, the memorandum signed by Jessica L. Wilson, KBN Board President, on August 20, 2020, and by J. Michael Brown, Secretary of the Governor's Executive Cabinet, on August 26, 2020, modifying 201 KAR 20:225, 201 KAR 20:470, and 201 KAR 20:620, and attached hereto as Exhibit B, is withdrawn in its entirety. Thirty (30) days from the effective date of this memorandum, the Board shall resume enforcement of 201 KAR 20:056, 201 KAR 20:225, 201 KAR 20:470, and 201 KAR 20:620 as published within the Kentucky Administration Regulations Service pursuant to KRS 13A.050(1). See, https://apps.legislature.ky.gov/law/kar/TITLE201.HTM.

The memorandum signed by Dina Byers, KBN Board President, on March 27, 2020, and by J. Michael Brown, Secretary of the Governor's Executive Cabinet, modifying 201 KAR 20:070, 201 KAR 20:110, and 201 KAR 20:320, and attached hereto as Exhibit C, is hereby withdrawn in its entirety and is replaced with the following text which preserves and restates the emergency modifications to 201 KAR 20:320 only. Thirty (30) days from the effective date of this memorandum, the Board shall resume enforcement of 201 KAR 20:070 and 201 KAR 20:110 as published within the Kentucky Administration Regulations Service pursuant to KRS 13A.050(1). See, https://apps.legislature.ky.gov/law/kar/TITLE201.HTM.

During the state of emergency regarding COVID19, and notwithstanding the withdrawal of emergency modifications to 201 KAR 20:056, 201 KAR 20:070, 201 KAR 20:110, 201 KAR 20:225, 201 KAR 20:470, and 201 KAR 20:620, the Board has directed

continued 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.

Within ten (10) days of the effective date of this memorandum, Board staff shall notify all provisional or temporary license holders by email of the withdrawal of the emergency modifications to 201 KAR 20:056, 201 KAR 20:070, 201 KAR 20:110, 201 KAR 20:225, 201 KAR 20:470, and 201 KAR 20:620, the corresponding reinstatement of NCLEX and fingerprint-driven criminal background check requirements, and the date that their provisional or temporary license will expire if those requirements are not met.

It is noted that provisional and temporary licenses expire on varying dates; more specifically, a date six (6) months after the provisional/temporary license was issued or renewed, whichever occurred later. For thirty (30) days following the effective date of this memorandum, Board staff will continue to renew provisional/temporary licenses by granting an additional six (6) months of temporary/provisional licensure. Beginning on the thirty-first (31st) day following the effective date of this memorandum, all provisional/temporary license expiration dates will be binding.

Jessica L. Wilson, PhD, APRN
President
Kentucky Board of Nursing
Dated: February 19, 2021

J. Michael Brown
Secretary of the Executive Cabinet
Commonwealth of Kentucky
Dated: March 5th, 2021

EXHIBIT A

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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: Modification of 201 KAR 20:056 to Allow Path to Licensure for APRN Applicants During COVID19 State of Emergency

DATE: April 17, 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. On March 30, 2020, the Governor signed Senate Bill 150 (2020) into law. Section 13 of this bill and these Executive Orders authorize the Kentucky Board of Nursing to modify statutory and regulatory provisions, where appropriate, to eliminate barriers to licensure caused by social distancing requirements and to ensure the continuation of Board support of Life-Sustaining Businesses. Consistent with this authority, on April 16, 2020, the Kentucky Board of Nursing has temporarily modified 201 KAR 20:056 as follows, for the duration of the COVID19 State of Emergency.

Section 4 of 201 KAR 20:056 (APRN Practice Pending Licensure) is hereby modified, for purposes of enforcement during the COVID19 State of Emergency, as follows.

> (1) Applicants for APRN licensure by reinstatement, APRN licensure by endorsement, or initial APRN licensure in Kentucky who meet all requirements for practice as an advanced practice registered nurse, other than FBI Applicant Fingerprint processes, a resultant criminal background report, or proof of certification by a National Certifying Organization ~~A registered nurse who meets all the requirements for practice as an advanced practice registered nurse, and who holds a registered nurse temporary work permit issued pursuant to 201 KAR 20:110 pending licensure by endorsement or a privilege to practice as a registered nurse,~~ shall be issued an advanced practice registered nurse temporary work

> permit, and shall be authorized to practice as an ~~advanced practice registered nurse~~ APRN Applicant for a period of time not to exceed the expiration date of the temporary work permit, subject to the limitations set forth in this section.
> (2) Authorization to practice as an APRN Applicant shall be in the form of a letter from the board acknowledging that the applicant has met all the requirements for the issuance of a temporary work permit ~~of this section~~. An applicant shall not practice until the authorization letter has been issued. The authorization letter issued to an applicant for initial licensure, meaning an applicant who has never before held an APRN license, shall specify that the APRN Applicant must practice as an APRN Applicant with another APRN, or an MD, with an active license who is physically present in the facility and immediately available to the APRN Applicant during work hours.
> (3) An individual authorized to practice pursuant to subsection (1) of this section may use the title "APRN Applicant" or "APRN App."

Section 6(4) of 201 KAR 20:056 (APRN License Reinstatement) is hereby modified, for purposes of enforcement during the COVID19 State of Emergency, as follows:

> (4) The license shall not be issued until a report is received from the FBI and any conviction is addressed by the board; however, a temporary work permit may be issued to the applicant in accordance with Section 4 of this regulation.

Section 11 of 201 KAR 20:056 is hereby modified, for purposes of enforcement during the COVID19 State of Emergency, as follows:

> A nurse practicing as an advanced practice registered nurse who is not licensed as an advanced practice registered nurse by the board, an advanced practice registered nurse whose practice is inconsistent with the population focus to which he or she has been designated, an advanced practice registered nurse who does not recertify and continues to practice as an advanced practice registered nurse, or an advanced practice registered nurse applicant who practices in contravention of a limitation specified in Section 4 of this regulation shall be subject to the disciplinary procedures established in KRS 314.091.

The temporary work permit shall expire six (6) months from the date of issuance; however, if the COVID19 State of Emergency is ongoing six (6) months from now, the temporary work permit may be extended for an additional six (6) months. Also, as the cessation of the COVID19 State of Emergency will likely occur unexpectedly, a thirty (30) day grace period will be granted upon notification of the cessation of the State of Emergency. A fingerprint card/scan, FBI report, and

proof of certification from a national certifying body will still will be required as a condition of full APRN licensure pursuant to: 201 KAR 20:056.

Dina Byers, APRN
President
Kentucky Board of Nursing
Dated: April 17, 2020

J. Michael Brown
Secretary of the Executive Cabinet
Commonwealth of Kentucky
Dated: April 20, 2020

EXHIBIT B

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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: Modification of 201 KAR 20:225, 201 KAR 20:470 and 201 KAR 20:620 to Allow Path to Licensure for Reinstatement Applicants, Dialysis Technicians, and Licensed Certified Professional Midwives During COVID19 State of Emergency

DATE: August ____, 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 COVID-19 State of Emergency. On March 30, 2020, the Governor signed Senate Bill 150 (2020) into law. Section 13 of this bill and these Executive Orders authorize the Kentucky Board of Nursing to modify statutory and regulatory provisions, where appropriate, to eliminate barriers to licensure caused by social distancing requirements and to ensure the continuation of Board support of Life-Sustaining Businesses. Consistent with this authority, the Kentucky Board of Nursing has temporarily modified 201 KAR 20:225, 201 KAR 20:470 and 201 KAR 20:620 as follows, for the duration of the COVID19 State of Emergency, to allow an expeditious pathway to temporary licensure notwithstanding delays in obtaining fingerprint-driven criminal background reports.

201 KAR 20:225 (Reinstatement of License)

201 KAR 20:225 §1(3) [Delete entire subsection (3) of §1, to suspend continuing education requirements applicable to

reinstatement applicants with a lapsed license. This revision does not affect continuing education requirements applicable to licensee under a disciplinary sanction.]

201 KAR 20:225 §2(6)(a)3 [Delete entire subsection 3 of §2(6)(a), which references KRS 164.772, a statute repealed 2019 related to compliance with Kentucky Higher Education Assistance Authority student loan repayment. See, 2019 Ky. Acts ch. 6, sec. 5.]

201 KAR 20:225 §4 [Insert the following additional text as a new section: "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."]

201 KAR 20:470 (Dialysis Technician Credentialing Requirements and Training Program Standards)

201 KAR 20:470 §4(6) [Insert the following additional text as a new subsection (6) of §4: "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."]

201 KAR 20:620 (Licensing Requirements for Licensed Certified Professional Midwives)

201 KAR 20:620 §10 [Insert the additional text as a new section: "Temporary Work Permit. (1) The board shall issue a temporary work permit to an LCPM applicant for initial licensure who meets the requirements for initial licensure in

Sections 1 through 4, Subsection 5(2), and Section 6 of this regulation."]

201 KAR 20:620 §9(5) [Insert the following additional text as a new subsection (5) of §9: "(a) The board shall issue a temporary work permit to an applicant who meets all requirements for reinstatement set forth in this Section, except the requirement specified at §5(1) of this regulation, unless the application is denied pursuant to 201 KAR 20:630. (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."]

The temporary work permits described above shall expire six (6) months from the date of issuance; however, if the COVID19 State of Emergency is ongoing six (6) months from now, the temporary work permit may be extended for an additional six (6) months. Also, as the cessation of the COVID19 State of Emergency will likely occur unexpectedly, a thirty (30) day grace period will be granted upon notification of the cessation of the State of Emergency. A fingerprint card/scan, FBI report, and proof of certification from a national certifying body will still will be required as a condition of full licensure or credentialing pursuant to: 201 KAR 20:225, 201 KAR 20:470, and 201 KAR 20:620.

Jessica Wilson

Jessica L. Wilson, PhD, APRN
President
Kentucky Board of Nursing
Dated: August 20, 2020

J. Michael Brown
Secretary of the Executive Cabinet
Commonwealth of Kentucky
Dated: August 26, 2020

EXHIBIT C

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KENTUCKY BOARD OF NURSING

312 Whittington Parkway, Suite 300
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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, APRN
President
Kentucky Board of Nursing
Dated: March 27, 2020

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