

MANDATORY REPORTING OF CRIMINAL CONVICTIONS



Kentucky law requires that licensed/credentialed individuals report criminal convictions to the Kentucky Board of Nursing within ninety (90) days of the conviction, KRS 314.109.

Kentucky Board of Nursing Administrative Regulation 201 KAR 20:370 also requires applicants to report criminal convictions and states what must be submitted when reported.

This brochure addresses the most commonly asked questions raised by individuals with criminal convictions. For additional information, contact the Board office or visit our website.

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What criminal convictions must I report to the Kentucky Board of Nursing?

The *Kentucky Nursing Laws* require that **ALL** misdemeanor and felony convictions occurring in Kentucky or any other state, regardless of when they occurred, must be reported to the Kentucky Board of Nursing (KBN). Federal and military convictions must also be reported. Any person licensed/credentialed by the KBN shall, within ninety (90) days of entry of the final judgment, notify the KBN in writing of any misdemeanor or felony criminal conviction in this or any other jurisdiction. Upon learning of any failure to notify the KBN under this section, the KBN may initiate disciplinary action..

Traffic related **misdemeanors**, with the exception of Driving Under the Influence (DUI), conviction(s) do not have to be reported.

What is the Board's definition of a conviction?

KRS Chapter 314.011(21) defines a conviction as the following: (a) An unvacated adjudication of guilt; (b) Pleading no contest or nolo contendere or entering an *Alford* plea; or (c) Entering a guilty plea pursuant to a pretrial diversion order; Regardless of whether the penalty is rebated, suspended, or probated. You should contact the court to determine whether the above definition of conviction applies to you.

How do I know whether I've been convicted of a crime?

You have been convicted if you have pled guilty to, entered an *Alford* plea or *Nolo Contendre* plea, have entered into a pre-trial diversion program or were found guilty of a criminal offense in any court. You should contact the court to determine whether the conviction was a violation, misdemeanor or felony offense.

What if my charge was dismissed?

You are not required to report charges that have been dismissed by the court. You may be required to provide records verifying the conviction(s) have been dismissed if requested.

Do I report convictions when I was a juvenile?

Juvenile convictions that occurred when you were under the age of 18 do not need to be reported unless you **were convicted as an adult**.

How will my conviction be reviewed?

There are three methods of criminal conviction review:

1. Staff Member Review
2. Board Member Review
3. Credentials Review Panel

A determination will be made to request additional information, request a personal interview with you or approve/deny your application (for applicants by examination denial of your application will prohibit you from being allowed to take the NCLEX examination in Kentucky).

How long will it take for my conviction to be reviewed?

It may take up to three or more months to review your information. You may be contacted by mail if additional information is needed.

Will my conviction make me ineligible for a nursing license?

Not necessarily. The statute states that the KBN may take action on criminal convictions that bear directly on an individual's qualifications or ability to practice nursing. The regulation clarifies that the type of convictions referred to are those that involve dishonesty, substance abuse, sexual offenses, breach of trust, danger to the public safety, or physical harm or endangerment.

Can I be denied licensure?

Yes. The KBN can deny a license for criminal conviction(s).

What if I am denied licensure, what can I do?

You may request a formal hearing before a KBN hearing panel. Your request must be in writing:

- You will be notified of the date, time, and location of the hearing
- You may bring legal counsel
- The panel will make a recommendation regarding the approval or denial of your application for licensure.

Will a denial of licensure be on my permanent KBN record?

Yes. Denial of licensure is a formal disciplinary action. The denial will be published in the KBN Connection and reported to the National Council of State Boards of Nursing Disciplinary Data Bank.

What if the KBN previously reviewed my conviction?

Attach a letter of explanation to the application to inform the KBN about previous conviction reviews.

What documents do I need to submit to the Board when reporting my conviction(s)?

For felony conviction(s):

- Submit a letter of explanation for each conviction
- Provide certified/attested copy of court records

For misdemeanor conviction(s) and (DUI) conviction(s) five (5) years old or less:

- Submit a letter of explanation for each conviction
- Provide certified/attested copy of court records

For misdemeanor conviction(s) and (DUI) conviction(s) over five (5) years old:

- No additional documentation required beyond the report of each conviction unless requested by the Board

When do I send the information to the KBN?

The letter of explanation and certified/attested copy of the court record must accompany your letter of self-report and/or your application.

What is the letter of explanation?

The letter of explanation is a personally written summary of the events that led to your conviction. It gives you the opportunity to tell what happened and to explain the circumstances that led to your conviction.

Where do I get the certified copy of the court record?

You should contact the court clerk in the county where the conviction occurred to obtain a certified/attested copy of the court record. The certification/attestation verifies the conviction, date of the conviction and the judgment entered against you.

What if the court can't find a record of my conviction?

If a court record has been "purged" or expunged, you may submit a statement from the court to affirm that the physical record no longer exists. This statement will be accepted in lieu of the court record.

What additional information may be requested from me?

The most frequently requested information is proof of compliance with a court ordered alcohol education/treatment program or of successful completion of a court ordered probation.

Do I report a conviction that has been appealed?

You should report the appealed conviction to the KBN, unless the conviction has been reversed and vacated by the appellate court.

Will the KBN verify my criminal history?

Yes. The KBN requires a state and federal criminal history search on applicants. The record search is NOT the official court record. Discrepancies related to criminal convictions or failure to report a criminal conviction will delay the processing of the application.

What if I fail to report a conviction(s)?

Failing to report a conviction on your application, or failing to report a conviction within ninety (90) days of entry of the final judgment is a violation of the nursing law and you could be subjected to disciplinary action. In some situations the Board may issue a consent decree. A consent decree is not "formal" disciplinary action taken by the Board. The consent decree will consist of the applicant/licensee paying a civil penalty to the Board before the license is issued and/or the investigation is lifted.

