

**314.171 Alternative to discipline program -- Authority for administrative regulations -- Nonliability for actions -- Confidentiality of materials and proceedings -- Disclosure of information.**

- (1) The board may establish an alternative to discipline program to promote the early identification, intervention, treatment, and rehabilitation of nurses who may be impaired by reason of alcohol or drug abuse. In addition, the board may include in this program nurses or applicants who have practice competency deficits.
- (2) The board may enter into a contractual agreement with a nonprofit corporation, nursing professional organization, or similar organization for the purpose of creating, supporting, and maintaining an alternative to discipline program.
- (3) The board may promulgate administrative regulations pursuant to KRS Chapter 13A to effectuate and implement an alternative to discipline program formed pursuant to this section.
- (4) Beginning January 1, 1997, the board shall collect an assessment of five dollars (\$5) to be added to each nurse licensure renewal application fee payable to the board, proceeds from which shall be expended on the operation of an alternative to discipline program formed pursuant to this section.
- (5) Any administrator, staff member, consultant, agent, volunteer, or employee of the alternative to discipline program acting within the scope of their duties and without actual malice, and all other persons who furnish information to the alternative to discipline program in good faith and without actual malice, shall not be liable for any claim or damages as a result of any statement, decision, opinion, investigation, or action taken by the alternative to discipline program or staff.
- (6) All interviews, reports, statements, memoranda, or other documents furnished to or produced by the alternative to discipline program, all communications to or from the alternative to discipline program, and all proceedings, findings, and conclusions of the alternative to discipline program including those relating to intervention, treatment, or rehabilitation, which in any way pertain or refer to a nurse who is or may be impaired, shall be privileged and confidential.
- (7) All records and proceedings of the alternative to discipline program which pertain or refer to a nurse who is or may be impaired shall be privileged and confidential, shall be used by the alternative to discipline program, board members, or board staff only in the exercise of the proper function of the alternative to discipline program, shall not be considered public records, and shall not be subject to court subpoena, discovery, or introduction as evidence in any civil, criminal, or administrative proceedings except as described in subsection (8) of this section.
- (8) The alternative to discipline program may only disclose information relative to an impaired nurse if:
  - (a) It is essential to disclose the information to persons or organizations needing the information in order to address the intervention, treatment, or rehabilitation needs of the impaired nurse;
  - (b) The release is authorized in writing by the impaired nurse; or

- (c) The alternative to discipline program is required to make a report to the board pursuant to KRS 314.031(4).
- (9) The alternative to discipline program may order an examination or evaluation under KRS 314.085 at any time following initial contact by a potential applicant to the program.
- (10) Notwithstanding any other provision of law to the contrary, the board shall disclose the fact of a nurse's participation in the alternative to discipline program to the public. No information other than the nurse's participation in the alternative to discipline program shall be disclosed.

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 85, sec. 64, effective July 15, 2010. -- Amended 2002 Ky. Acts ch. 266, sec. 6, effective July 15, 2002. -- Created 1996 Ky. Acts ch. 26, sec. 8, effective July 15, 1996.