

NOT ORIGINAL DOCUMENT

01/15/2026 11:31:38 AM

RSTRAUSE@STRAUSELAWGROUP

JEFFERSON CIRCUIT COURT

DIVISION SIX (6)

HON. JESSICA E. GREEN

NO. 21-CI-004092
c/w NO. 21-CI-5230

ALI ALSADIQ, RN, et al.

PETITIONERS

v.

OPINION AND ORDER

KENTUCKY BOARD OF NURSING

RESPONDENT

This matter is before the Court in a consolidated action involving Petitioners, Ali Alsadiq, RN (“Alsadiq”), and Cameron Hershey, RN (“Hershey”) (collectively “Petitioners”), in which the two challenge Final Orders below of Respondent, Kentucky Board of Nursing (“the KBN”).¹ The parties have submitted briefs on the merits. After consideration of the official record submitted by the KBN, the record of this Court (including filed briefs and oral arguments presented in open court by counsel for the parties), consideration of applicable case, statutory, procedural, and evidentiary law, and being otherwise sufficiently advised, the Court rules as follows:

BACKGROUND

Alsadiq – He obtained his nursing license in September 2016. In a Final Order of the KBN dated June 17, 2021, said license was permanently reprimanded with various conditions applied. Alsadiq’s punishment was the result of him self-reporting employment termination from Kindred Hospital for what he claimed was preventing a potential emergency consequence when the physician on call asked not to be disturbed while off duty.

¹ Circuit courts in the Commonwealth are authorized by the General Assembly to review final orders of most of Kentucky’s administrative agencies. KRS 13B.140; KRS 13B.020 (list of exempt determinations). An “appeal” to a circuit court from a final administrative decision is in actuality an original action, not an “appeal” in the traditional sense of the term.

NOT ORIGINAL DOCUMENT

01/15/2026 11:31:38 AM

RSTRAUSE@STRAUSELAWGROUP.

More specifically, during the night shift at Kindred on April 30, 2018, a patient showed signs of medical distress. The patient's nasogastric tube had dislodged earlier in the night, meaning Dilaudid could not be administered orally. The physician on call had directed Alsadiq not to contact him after midnight and also said he would sign any entered orders the next morning. Alsadiq believed the patient needed Dilaudid immediately and therefore placed an order under the physician's name for a one-time IV dose. Alsadiq administered the Dilaudid IV, and the patient is said to have responded in a positive manner. In the morning, the physician signed the order Alsadiq placed. Even so, Kindred later terminated Alsadiq for not speaking with a physician before entering the order.

The KBN issued a formal complaint on June 12, 2018, in response to Alsadiq's self-reporting of the incident (through counsel), as well as a complaint submitted by Kindred. More than a year later, the KBN assigned Alsadiq's case to an investigator, and Alsadiq participated in an investigative meeting on September 3, 2019. According to Alsadiq, the KBN's investigator did not interview anyone at Kindred nor request any patient records from the facility.

KBN staff next forwarded Alsadiq's case to the Credentials Review Panel ("CRP") on October 17, 2019, to obtain direction on how to proceed. The CRP determined Alsadiq's license should be formally disciplined and directed an agreed order be extended to him to resolve the complaint.

The proposed agreed order would have required Alsadiq to accept a reprimand on his license and also admit he violated KRS 314.091(1)(d); (h), and (j), i.e., that he negligently or willfully acted in a manner inconsistent with the practice of nursing; that he falsified or in a negligent manner made incorrect entries or failed to make essential entries on essential records; and that he had violated provisions of KRS Chapter 314. The agreed order also would have

required Alsadiq to pay a civil penalty and complete continuing-education hours. Further, the agreed order would have been reported to the National Practitioners Databank, meaning Alsadiq would have to disclose the discipline in other jurisdictions in which he was licensed or in which he sought licensure.

Alsadiq refused to accept the terms of the agreed order, which prompted the KBN approximately nine months later to begin investigating the case. On September 2, 2020, the KBN sent a subpoena to Kindred seeking production of the patient's medical records, including nursing notes and doctor orders related to Kindred's complaint. But apparently before any documents were received, the KBN issued a formal Notice of Charges against Alsadiq, alleging he violated KRS 314.091(1).

Next, an administrative hearing was held on March 24, 2021, April 21, 2021, and April 23, 2021. The Hearing Panel consisted of KBN Board members Audria Denker, RN, Jacob Higgins, RN, and Nathan Goldman, an employee of the KBN who served as Hearing Officer. On May 12, 2021, a four-page Recommended Findings of Fact, Conclusions of Law, and Order ("the Recommended Decision") was entered. The Recommended Decision concluded Alsadiq violated KRS 314.091(1)(d) and (j) and thus ordered that his license be reprimanded.² Additionally, it required him to complete 15 additional hours of continuing education, pay a fine equal to the full cost of the stenographic services for hearing transcripts, and a fine to cover the services of the Hearing Officer. Pursuant to KRS 13B.110(4), Alsadiq filed Exceptions to the Recommended Decision.

On June 17, 2021, the full Board of the KBN convened for purposes of rendering a Final Order. The Board went into closed session to discuss separate Recommended Decisions and

² The Recommended Decision specifically rejected the charge that Alsadiq had violated subsection (h) of KRS 314.091(1), a conclusion later adopted by the full Board.

personnel actions. The Board was in session to discuss these numerous matters for apparently about 20 minutes. Discovery revealed the KBN had used an agenda sent to Board members the day before the meeting allegedly communicating a predetermined outcome of Alsadiq's case and directing members how to rule. The Board did eventually vote to affirm the Recommended Decision against Alsadiq in a four-page Findings of Fact, Conclusions of Law, and Order (the "Final Order") entered on June 17, 2021; the same incorporated all Findings of Fact and Conclusions of Law set forth in the Recommended Decision.

Hershey – He obtained his nursing license in May 2016. In a Final Order of the KBN dated August 19, 2021, Hershey's license was permanently reprimanded with various conditions.

As for the source of his punishment, Hershey was accused of posting four images of patient information on his Instagram account in August 2018. Next, in November 2018, the KBN sent Hershey a formal complaint, and he submitted a response denying any wrongdoing by posting the information. An investigative meeting was held on May 13, 2019, and the KBN later proposed an agreed order for a reprimand on September 10, 2019.

The proposed agreed order would have required Hershey to admit he violated KRS 314.091(1)(d), (j), and (n), i.e., that he negligently or willfully acted in a manner inconsistent with the practice of nursing; that he violated provisions of KRS Chapter 314; and that he violated the confidentiality of information/knowledge concerning a patient. The agreed order also would have required Hershey to pay a civil penalty and complete additional continuing-education hours. Further, the agreed order would be reported to the National Practitioner Databank, meaning Hershey would have to disclose its existence to employers and in any licensure applications.

Hershey would not acquiesce to the terms of the agreed order, and, as a consequence, the KBN filed a formal Notice of Charges against him on September 1, 2020, alleging he violated

KRS 314.091(1). An administrative hearing was held on May 27, 2021. The KBN's Hearing Panel consisted of KBN Board Members Jessica Wilson, APRN/RN and Mandi Walker, RN, and, once again, KBN employee Nathan Goldman served as Hearing Officer. On June 23, 2021, a six-page Recommended Findings of Fact, Conclusions of Law, and Order (hereinafter the "Recommended Decision") was entered. The Recommended Decision concluded Hershey had violated KRS 314.091(1)(d), (j), and (n) and ordered that his license be reprimanded. Under the Recommended Decision, Hershey was required to complete 30 hours of continuing education, pay a fine equal to the full cost of the stenographic services for the hearing transcripts, a fine for hearing-officer services, and a civil penalty. On July 8, 2021, pursuant to KRS 13B.110(4), counsel for Hershey filed Exceptions to the Recommended Decision.

Next, prior to the full Board meeting set for August 19, 2021, the KBN's Executive Legal Secretary, Administrative Assistant, and Hearing Officer Goldman exchanged emails regarding the meeting. On August 6, 2021, Goldman recommended the Board be given the option of adopting the Recommended Decision or amending it. He also stated he needed to explain a procedural issue to the Board concerning Hershey's case. The day before the meeting, the KBN's Administrative Assistant emailed Board members a copy of an agenda for the same. This agenda gave the Board two options, namely adopting the Recommended Order or amending it, which is what Goldman had recommended. Hershey argues these were all impermissible *ex parte* communications.

At the meeting, the Board went into closed session to discuss Hershey's case and other matters. Hershey maintains the Board did not consider the entire record in his case, including his Exceptions. When the Board returned from closed session, it adopted the Recommended Decision but modified it to require that 15 of 30 hours of continuing education hours be on patient

confidentiality and 15 hours be on ethical issues in nursing. The Final Order was entered by the KBN on August 19, 2021.

* * * * *

In a nutshell, Petitioners argue herein that “the KBN acted in excess of its power in sanctioning [them], deprived [them] of due process, and sanctioned [them] despite the lack of evidentiary support for such action.” Petits. Brf., at p. 3.

The KBN counters, in brief, that the Final Orders are supported by “substantial evidence,” that Petitioners were provided due process, and that they also had notice of the charges against them with an opportunity to be heard. KBN Brf., at p. 10.

ANALYSIS

As a general matter, review of a decision rendered by a Kentucky administrative agency (such as the KBN here) proceeds in accordance with KRS 13B.150. Subsection (2) of said statute reads as follows:

The [reviewing] court shall not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact. The court may affirm the final order or it may reverse the final order, in whole or in part, and remand the case for further proceedings if it finds the agency's final order is:

- (a) In violation of constitutional or statutory provisions;
- (b) In excess of the statutory authority of the agency;
- (c) Without support of substantial evidence on the whole record;
- (d) Arbitrary, capricious, or characterized by abuse of discretion;
- (e) Based on an ex parte communication which substantially prejudiced the rights of any party and likely affected the outcome of the hearing;
- (f) Prejudiced by a failure of the person conducting a proceeding to be disqualified pursuant to KRS 13B.040(2); or
- (g) Deficient as otherwise provided by law.

Consistent with the foregoing, a reviewing court may overturn the agency's final disposition only if the latter applied an incorrect rule of law, acted arbitrarily or outside the scope of its authority, or delivered a decision unsupported by “substantial evidence” in the record.

Lindall v. Kentucky Retirement Systems, 112 S.W.3d 391, 394 (Ky. App. 2003) (citation omitted).³

Accordingly, so long as there is “substantial evidence” to support the KBN’s ultimate determinations, this Court must defer to it, even if conflicting evidence exists. *Kentucky State Racing Comm’n v. Fuller*, 481 S.W.2d 298, 308 (Ky. 1972); *Kentucky Unemployment Ins. Comm’n v. King*, 657 S.W.2d 250, 251 (Ky. App. 1983) (circuit court’s role is “one of review, not of reinterpretation”).⁴

Before proceeding with an analysis under KRS 13B.150, however, the Court must first address Petitioners’ arguments that they were denied due process to the extent subsections of KRS 314.091(1) and, separately, 201 KAR 20:162, Section 7 – as applied against them by the KBN – are “unconstitutionally vague.”⁵

The void-for-vagueness doctrine targets arbitrariness; in said vein, requiring a statute or regulation to provide “fair notice of prohibited conduct and contain reasonably clear guidelines”

³ There is a seeming connection between the requirement of “substantial evidence” and the one that an agency’s final action not be “arbitrary, capricious, or characterized by abuse of discretion”; if an agency’s findings and conclusions are not supported by “substantial evidence” as mandated by KRS 13B.150(c), its final decision is also arguably violative of KRS 13B.150(d). See *Bourbon County Board of Adjustment v. Currans*, 873 S.W.2d 836, 838 (Ky. App. 1994).

⁴ “Substantial evidence” is “evidence of substance and relevant consequence having the fitness to induce conviction in the minds of reasonable men.” *Kentucky Retirement Systems v. Bowens*, 281 S.W.3d 776, 780 (Ky. 2009). Even if it finds an agency’s decision is supported by “substantial evidence,” a reviewing court should assess whether the agency applied the correct rule of law. In this context, conclusions of law are reviewed *de novo* by a circuit court, with no deference being owed an agency’s interpretations of relevant statutes and regulations. See KRS 13B.150(3) (added by SB 80, eff. June 27, 2025).

⁵ In *Curd v. Kentucky State Board of Licensure for Professional Engineers and Land Surveyors*, 433 S.W.3d 291, 304 (2014), the Supreme Court of Kentucky recognized that the existence of “substantial evidence” inescapably “becomes a fallacy when the agency action is premised on unconstitutional footing.” The *Curd* Court added, “[w]hether an agency’s decision is based on substantial evidence has little to no bearing on the individual’s claim that some or all of the statutes necessary for the agency’s decision are, as applied to him, unconstitutional.” *Id.* (As an aside, the Court notes here that, in their respective initiating Petitions, Alsadiq and Hershey provided the requisite notice to the Commonwealth’s Attorney General of their intention to challenge the constitutionality of various subsections of KRS 314.091(1) and, separately, 201 KAR 20:162, Section 7.)

is designed to prevent “arbitrary and discriminatory enforcement.” *Curd, supra*, at 304 (citations omitted). “A statute [or regulation] is unconstitutionally vague if . . . individuals . . . affected by it cannot reasonably understand what [it] requires.” *Id.* at 305 (citation omitted).

Alsadiq – Once more, he challenges the constitutionality of subsections (d) and (j) of KRS 314.091(1), arguing the same are void for vagueness, and so the Court initially focuses its analysis on these two provisions. A reprimand can occur under subsection (d) when a nurse “[h]as negligently or willfully acted in a manner inconsistent with the practice of nursing.” As for subsection (j) of the statute, a reprimand can be leveled if a nurse “[h]as violated any of the provisions of this chapter.”

Relying on the Supreme Court of Kentucky’s decision in *Curd*, the Court agrees with Alsadiq that subsection (d) is “unconstitutionally vague.” *Petits. Brf.*, at pp. 12-13. The terms “negligently” and “willfully” were borrowed by the General Assembly from the field of law, not nursing. Separately, the terminology “act[ing] in a manner inconsistent with the practice of nursing” is so profoundly broad as to fail to provide a nurse of average intelligence with any meaningful guidance as to what specific conduct is prohibited. In either instance – whether trying to interpret legal terminology or intuit which wide range of professional duties might apply to him under a given set of circumstances – a nurse is effectively and unreasonably required by subsection (d) to assume the role of an all-knowing legal or nursing expert. Accordingly, based on its interpretation and application of the void-for-vagueness doctrine, the Court rules here that KRS 314.091(1)(d) is constitutionally unsound.

As for subsection (j) of KRS 314.091(1), the same fails to provide “fair notice” of anything. Though most subsections of the statute delineate specific conduct that can lead to a reprimand, subsection (j) is quite the opposite; why the General Assembly included the same as

perhaps some sort of “catch-all” provision is, to be frank, a curiosity. The bottom line is that nurses in the Commonwealth should be able to consult KRS 314.091(1) and discern definitively from it alone what specific actions will result in discipline. Put another way, nurses should not be required to scour the entirety of KRS Chapter 314 trying to find disciplinary pitfalls.⁶

Based on the foregoing, the Court declares subsections (d) and (j) of KRS 314.091(1) “unconstitutionally vague” in the context of the proceedings below. Because the entirety of the KBN’s Final Order pertaining to Alsadiq is “premised on [this] unconstitutional footing,” the same cannot stand and must be reversed.⁷

Hershey – Again, he attacks the constitutionality of subsections (d), (j), and (n) of KRS 314.091(1) as void for vagueness; consequently, the Court turns now to subsection (n) alone, having already addressed above the constitutional infirmities of subsections (d) and (j). Per subsection (n), a reprimand can occur when a nurse “[h]as violated the confidentiality of information or knowledge concerning any patient, except as authorized or required by law.”

The Court disagrees with Hershey that subsection (n) is “unconstitutionally vague.” First, the Court in its discretion takes judicial notice of the fact that healthcare professionals, including nurses, are knowledgeable about, and sensitive to, the confidentiality surrounding patient information. The Court takes further judicial notice of the fact that these same healthcare

⁶ Whether subsection (j) refers only to violations of the other enumerated subsections of KRS 314.091(1) or to the entire content of KRS Chapter 314 is not entirely clear. The former interpretation makes little sense, however, in that it would render subsection (j) wholly cumulative/redundant in relation to the other subsections under KRS 314.091(1). Whatever the case, the Recommended Decision and Final Order are devoid of any specificity as to which “provisions of [KRS Chapter 314]” serve as a basis for disciplining Alsadiq per subsection (j), aside from subsection (d). In this regard, the Final Order is also devoid of “substantial evidence” of a subsection (j) violation, which would constitute a separate ground for reversal on that count.

⁷ Given this disposition, the Court does not perceive a need to address here other arguments made by Alsadiq in favor of reversing the Final Order of the KBN.

professionals have access to a plethora of sources, including colleagues, with which and with whom to consult on the issue.⁸ Accordingly, the Court concludes that subsection (n) of KRS 314.091(1) provides nurses in the Commonwealth with “fair notice” of prohibited conduct.

The Court also disagrees with Hershey that 201 KAR 20:162, Section 7, is “unconstitutional” and “illegal.” No authorities are cited by him in support of either proposition, and his statistical-based argument concerning the supposed “chilling effect” of the regulation’s cost-assessment regimen strikes the Court as speculative. Without anything more, the Final Order in Hershey’s case will not be upset simply because the KBN chose to enforce this particular regulation against him.

Even so, Hershey advances numerous additional arguments in favor of reversing the Final Order; the Court, though, focuses here on his position that said Order – which adopted the Findings of Fact, Conclusions of Law, and Order of the Hearing Officer, with one small punishment modification – is “without support of substantial evidence on the whole record.” KRS 13B.150(2)(c).⁹

The images Hershey posted on his Instagram account are discussed briefly in Paragraphs 7 and 8 of the Recommended Decision’s Findings of Fact. One of the four images is Hershey’s own photo ID badge from when he was employed by UCLA Health; another is a brain scan the Hearing Officer conceded contained “no patient information.” Neither of these two postings can possibly

⁸ Subsection (n) itself alludes in part to such sources by referencing requirements under the law.

⁹ In parallel fashion, Hershey maintains that the Final Order is “arbitrary, capricious, or characterized by abuse of discretion.” KRS 13B.150(2)(d). As stated earlier (*see supra* fn. 3), the Court believes there is a connection between the requirement of “substantial evidence” and the one that an agency’s final action not be “arbitrary, capricious, or characterized by abuse of discretion.”

NOT ORIGINAL DOCUMENT

01/15/2026 11:31:38 AM

RSTRAUSE@STRAUSELAWGROUP.

violate subsection (n) because neither actually exposes the identity of a “patient,” meaning there could not have been a violation of “patient” confidentiality. There is no dispute the other two postings – an Emergency Services Sign-In Sheet and an EKG printout – do not contain “patient” names given redaction of the same.

Once again, “substantial evidence” is “evidence of substance and relevant consequence having the fitness to induce conviction in the minds of reasonable men.” *Kentucky Retirement Systems v. Bowens*, 281 S.W.3d 776, 780 (Ky. 2009). The Court maintains “reasonable persons” would conclude, in the absence of a specific name being connected to the information or knowledge revealed, that there is no violation of the “confidentiality of information or knowledge concerning [said] patient.” KRS 314.091(1)(n). Consequently, the Court agrees here with Hershey that the KBN’s Final Order is “without support of substantial evidence” and must therefore be reversed.¹⁰

ORDER

For the foregoing reasons, IT IS HEREBY ORDERED AND ADJUDGED that the two Final Orders of Respondent, Kentucky Board of Nursing, at issue herein are **REVERSED**. The matter is now **REMANDED** to the Kentucky Board of Nursing for purposes of unwinding *in toto*

¹⁰ The Court also believes the KBN’s Final Order – adopting the Recommended Decision as it did – is “arbitrary, capricious, or characterized by abuse of discretion” to the extent the Hearing Officer refused to consider defenses Hershey offered under HIPAA. *See* KRS 13B.150(2)(d). Despite subsection (n)’s validation of patient-information disclosures “authorized or required by law,” the Hearing Officer inexplicably ruled that the charges against Hershey are controlled alone by Kentucky law, not federal legislation such as HIPAA. Simply put, the General Assembly did not qualify or restrict subsection (n) in said regard, and it was inappropriate for the Hearing Officer to have concluded otherwise. From the Court’s perspective, this represents yet another basis to reverse the Final Order.

In light of this disposition of the “substantial evidence” and “arbitrary, capricious, or characterized by abuse of discretion” issues, the Court will not address other arguments made by Hershey in favor of reversing the Final Order of the KBN.

NOT ORIGINAL DOCUMENT

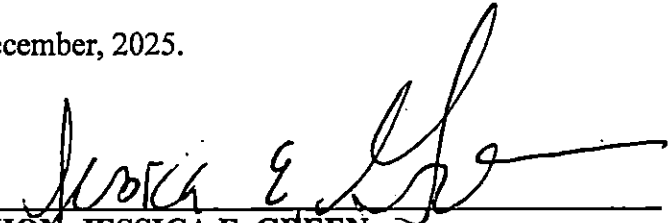
01/15/2026 11:31:38 AM

RSTRAUSE@STRAUSELAWGROUP

all forms of disciplinary action ordered against Petitioners, Ali Alsadiq, RN, and Cameron Hershey, RN.

This is a final and appealable Order, there being no just reason for delay.

SO ORDERED this 10th day of December, 2025.



HON. JESSICA E. GREEN
Judge, Jefferson Circuit Court

cc: Counsel of Record