

September 1, 2020

Senator Stephen West, Co-Chair  
Representative David Hale, Co-Chair  
c/o Emily Caudill, Regulation Compiler  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort KY 40601

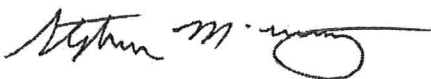
Re: 12 KAR Chapter 1, Seed Regulations

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by the administrative regulation numbers listed below, the Division of Regulatory Services proposes the attached amendments to the administrative regulation numbers listed below.

12 KAR 1:120	Noxious weed seed
12 KAR 1:125	Identification of seed not for sale
12 KAR 1:130	Labeling of seed mixtures
12 KAR 1:140	Permits, reports, and fees for persons using own tags
12 KAR 1:155	Schedule of charges for samples submitted for testing
12 KAR 1:160	Seed not required to be labeled by variety name
12 KAR 1:170	Germination standards for flower seed
12 KAR 1:175	Seed certification in Kentucky

Sincerely,



Stephen McMurry, Director of Fertilizer and Seed Programs  
Division of Regulatory Services  
University of Kentucky  
103 Regulatory Services Building  
Lexington, KY 40546-0275

see blue.



**Suggested Substitute**  
**Final 8/31/2020 11:53 AM**

**AGRICULTURAL EXPERIMENT STATION**

**12 KAR 1:120. Noxious weed seed.**

RELATES TO: KRS 250.081(1)(c)3

STATUTORY AUTHORITY: KRS 250.081

NECESSITY, FUNCTION, AND CONFORMITY: KRS 250.081(1)(c)3 requires the director to~~to~~ designate the kinds of weed seed to be considered noxious in Kentucky and to establish their maximum permitted rate of occurrence in agricultural seed. This administrative regulation establishes ***the kinds of~~those~~* weed seed ***to be considered noxious in Kentucky*** and their ***maximum allowed rate of*** occurrence for the administration of the Kentucky Seed Law.**

Section 1. Noxious Weed Seed. (1) The following kinds of weed seed ***shall be~~are~~*** designated noxious in Kentucky and the maximum permitted rate of occurrence per pound of agricultural seed shall be as ***established in the table in this subsection.~~follows~~***

Name of Kind	<b><i><u>Number of Seed</u></i></b> Allowed Per Pound
Balloon vine (Cardiospermum halicacabum)	0
Purple moonflower (Ipomoea turbinata)	0
Canada thistle (Cirsium arvense)	0
Johnsongrass (Sorghum halepense and sorghum al- mum) and perennial rhizoma- tous derivatives of these)	0
Quackgrass (Agropyron repens)	0
Annual bluegrass (Poa annua)	256
Buckhorn plantain (Plantago lanceolata)	304
Corncockle (Agrostemma githago)	192
Dodder (Cuscuta spp.)	192
Giant foxtail (Setaria faberii)	192
Oxeye daisy (Chrysanthemum	256



leucanthemum)	
Sorrel (Rumex acetosella)	256
Wild onion and wild garlic (Allium spp.)	96

(2) Other limitations.

(a) Seed ~~that~~*[which]* contains in excess of a sum total of 480 noxious weed seed per pound (subject to the ~~[above]~~ limitations ***established in the table in subsection (1) of this section***) ~~shall be~~*[is]* prohibited from sale in Kentucky.

(b) There shall be no tolerance applied to prohibited noxious weed seed.



**Suggested Substitute**  
**Final 8/24/2020 11:26 AM**

**AGRICULTURAL EXPERIMENT STATION**

**12 KAR 1:125. Identification of seed not for sale.**

RELATES TO: KRS 250.081(1)(c)4

STATUTORY AUTHORITY: KRS 250.081

NECESSITY, FUNCTION, AND CONFORMITY: KRS 250.081(1)(c)4 requires the director to~~[Tø]~~ indicate a means for identifying seed in storage or in or consigned to a seed cleaning or processing plant, but not offered for sale in locations where some, but not all, seed is for sale. This administrative regulation establishes the proper procedures for the identification of seed for sale.~~[is needed to facilitate fair and efficient inspection by enforcement officers.]~~

Section 1. The **procedures established in subsections (1) and (2) of this section**~~[following procedure]~~ shall be used if some, but not all, seed in or consigned to a seed cleaning or processing establishment is planned for distribution.~~[:]~~

(1) All seed lots shall be maintained separately to prevent the accidental or mechanical mixing of different lots.

(2) All seed not intended for distribution shall be clearly identified with printed signs **that**~~[which]~~ indicate the owner or the specific intended use of the seed.

Section 2. **(1)** All seed intended for distribution shall be plainly identified with a tag on each container~~[,]~~ or with a lot number stenciled or taped on each container.

**(2)** If the seed is in a box, frame, crib, wagon, or other enclosed space, that storage space shall be construed to be a container.



**Suggested Substitute**  
**Final 8/24/2020 12:17 PM**

**AGRICULTURAL EXPERIMENT STATION**

**12 KAR 1:130. Labeling of seed mixtures.**

RELATES TO: KRS **250.041**, 250.081(1)(c)9

STATUTORY AUTHORITY: KRS 250.081

NECESSITY, FUNCTION, AND CONFORMITY: KRS 250.081(1)(c)9 requires the director to secure the efficient enforcement of the provisions of KRS 250.021 **through**~~[TO]~~ 250.111. This administrative regulation establishes ~~[To prescribe]~~ a uniform manner of avoiding contradictory information on printed seed bags and on tags attached to the printed bags in situations **in which**~~[where]~~ analysis after bagging reveals that a mixture of seed kinds is present rather than a single seed kind.

Section 1. Labeling Tall Fescue and Orchardgrass Seed Mixtures in Printed Bags. (1) Seed of mixtures sold in a bag printed with the words "Kentucky 31 Tall Fescue" on the front (broad) side shall have a seed tag attached that complies with **KRS 250.041**~~[applicable statutes]~~, and the words "and Orchardgrass Mixture" printed or applied by stencil on the front (broad) side of the bag in lettering that is at least one (1) inch high and located no more than three (3) inches from the "Kentucky 31 Tall Fescue" letters.

(2) Seed in a bag on which "Kentucky 31 Tall Fescue" is printed on the back (broad) side shall have the words "and Orchardgrass Mixture" printed on the back (broad) side of the bag and the words "and Orchardgrass Mixture" printed or applied by stencil on the bag in lettering that is at least one (1) inch high and located no more than three (3) inches from the "Kentucky 31 Tall Fescue" letters.

Section 2. The information on the bag of other kinds of mixtures in printed bags shall be the same as the information on the attached tag. If alteration of a printed bag is necessary to show that the seed is a mixture, the alteration shall be accomplished by use of stencil on the bag in lettering that is at least one (1) inch high and that is located no more than three (3) inches from the original lettering.



**Suggested Substitute**  
**Final 8/24/2020 12:43 PM**

**AGRICULTURAL EXPERIMENT STATION**

**12 KAR 1:140. Permits, reports, and fees for persons using own tags.**

RELATES TO: KRS 250.021, 250.031, 250.041, 250.051, 250.061, 250.071, 250.081, 250.091, 250.101, 250.111

STATUTORY AUTHORITY: KRS 250.081

NECESSITY, FUNCTION, AND CONFORMITY: KRS 250.081(1)(c)7 requires the director of the Agricultural Experiment Station to establish~~[promulgate]~~ procedures for obtaining a permit to label, responsibilities of permit holders, method to be used in determining inspection fees, and the procedure for permit holders to make payment of fees for distributing agricultural seed. This administrative regulation establishes the procedures to obtain a permit to label agricultural seed, the responsibilities of permit holders, the method that shall be used to determine inspection fees, and the procedures for payment of fees for the distribution of agricultural seed~~[fulfills that statutory mandate]~~.

Section 1. Obtaining Permits. (1) Application for permits to label agricultural seed shall be made on Form RS-68-01~~[(6/13)]~~, Application for Permit for User to Provide Own Labels for Agricultural Seed and Mixtures of Agricultural Seed Sold in Kentucky.

(2) Application for permits to label vegetable seed, flower seed, or combination mulch, seed and fertilizer products shall be made on Form RS-68-02~~[(6/13)]~~, Application for Permit for User to Provide Own Labels for Vegetable Seed, Flower Seed, or Combination Mulch, Seed and Fertilizer Products Sold in Kentucky.

Section 2. Reporting Sales. (1) A person who has been granted a permit to label agricultural seed under Section 1 of this administrative regulation shall:

(a)~~1. Submit quarterly reports on Form RS-63-01 until January 1, 2017; or~~

~~2.] Submit semi-annual reports on Form RS-63-02, Seed Semi-annual Report~~~~[beginning January 1, 2017]; and~~

(b) Pay a labeling and inspection fee determined on the basis of quantity of seed sold and on the fee schedule established in Section 3 of this administrative regulation.

~~[(2) Quarters shall be from January through March, April through June, July through September, and October through December. An added assessment of twenty-five (25) dollars or ten (10) percent of the unpaid fee, whichever is greater, shall be made for each seed quarterly report received more than forty-five (45) days after the quarter ends.]~~

~~(2)(a)~~~~[(3)]~~ Semi-annual shall be from January through June~~[,]~~ and July through December.



**(b)** An added assessment of twenty-five (25) dollars or ten (10) percent of the unpaid fee, whichever is greater, shall be made for each seed semi-annual report received more than forty-five (45) days after the reporting period ends.

Section 3. Labeling and Inspection Fee. The labeling and inspection fee for agricultural seed permit holders shall be:

(1) For packages weighing one (1) pound and up to and including twenty-five (25) pounds: eight (8) cents per package;

(2) For packages or units of seed in excess of twenty-five (25) pounds in weight and up to and including 100 pounds: twelve (12) cents per package or unit.

(a) A unit of corn shall be 80,000 seeds.

(b) A unit of soybeans shall be 140,000 seeds; and

(3) For packages in excess of 100 pounds and seed distributed in bulk:

(a) Twenty-four (24) cents per 100 pounds; or

(b) Twelve (12) cents per unit.

Section 4. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Application for Permit for User to Provide Own Labels for Agricultural Seed and Mixtures of Agricultural Seed Sold in Kentucky", RS-68-01, 6/13;

(b) "Application for Permit for User to Provide Own Labels for Vegetable Seed, Flower Seed, or Combination Mulch, Seed, and Fertilizer Products Sold in Kentucky", RS-68-02, 6/13;

~~[(c) "Seed Quarterly Report", RS-63-01, 8/13;]~~ and

(c)~~[(d)]~~ "Seed Semi-Annual Report", RS-63-02, 8/16.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Regulatory Services, 103 Regulatory Services Building, University of Kentucky, Lexington, Kentucky 40546-0275, Monday through Friday, 8 a.m. to 4:30 p.m.



**Suggested Substitute**  
**Final 8/31/2020 11:58 AM**

**AGRICULTURAL EXPERIMENT STATION**

**12 KAR 1:155. Schedule of charges for samples submitted for testing.**

RELATES TO: KRS 250.021 ~~to~~ 250.111

STATUTORY AUTHORITY: KRS 250.081(1)(c)6

NECESSITY, FUNCTION, AND CONFORMITY: KRS 250.081(1)(c)6 requires the director of the Agricultural Experiment Station to promulgate administrative regulations establishing charges for tests of samples submitted to the Kentucky Agricultural Experiment Station Seed Laboratory for testing. This administrative regulation establishes a schedule of charges for service tests, analysis, and examination of seed samples in the Kentucky Agricultural Experiment Station Seed Laboratory.

Section 1. Definition. "Free test" means:

(1) A complete test consisting of a purity analysis, a noxious weed seed examination for Kentucky, and a germination test; or

(2) A test with a cost equivalent to a complete test.

Section 2. Except as provided by KRS 250.091, which authorizes one (1) free test per year, the service charges established in this section shall be assessed for samples submitted to the Kentucky Agricultural Experiment Station Seed Laboratory.

(1) Basic ***charges shall be as established in the table in this subsection.***~~*charge list.*~~

Kind of Seed	Complete Test	Purity and Noxious Weed Seed Test	Germination Only
Group 1 Corn and soybeans	\$18.00	\$9.00	\$11.00
Group 2 Small grains	\$14.00	\$7.00	\$9.00
Group 3 Tobacco	\$21.00	\$16.00	\$11.00
Group 4 Clovers, alfalfas, and lespedezas	\$18.00	\$9.00	\$11.00



Group 5 Lawn and forage grasses	\$20.00	\$14.00	\$12.00
Group 6 Native grasses, flowers, and forbs	\$40.00	\$30.00	\$30.00
Group 7 Vegetables	\$18.00	\$13.00	\$12.00
Group 8 Ornamentals (trees, shrubs, and flowers) and herbs	\$30.00	\$18.00	\$20.00

(2) Nonresidents shall be assessed an additional charge of fifteen (15) dollars per sample.

(3) A complete test shall include a purity analysis, a noxious weed seed examination (for Kentucky only), and a germination test.

(4) A purity and noxious weed test shall include a purity analysis and a noxious weed seed examination (for only those seed designated as noxious in Kentucky).

(5) In ryegrass samples, a complete test shall be assessed a charge of twenty-five (25) dollars and shall include a fluorescence test, which distinguishes perennial ryegrass seed **from[and]** annual ryegrass seed.

(6) Mixtures, difficult, or dirty samples **shall[may]** be charged an additional forty (40) dollars per hour for extra separation time.

(7) Mixtures submitted for germination testing shall be charged a fifteen (15) dollar separation fee. Each component over five (5) percent of the total in mixtures shall be charged individually for germination testing.

(8) Rush service may be provided upon request at an additional charge of twenty-five (25) dollars per sample.

(9) Samples of coated, encrusted, pelleted, film-coated, or treated seed shall be charged an additional fifteen (15) dollars for hand washing and disposal of toxic substances.

(10) The schedule of charges for special tests shall be:

(a) Noxious weed seed examinations:

1. Kentucky only: ten (10) dollars;

2. Other states: fifteen (15) dollars per state; and



3. All states: fifty (50) dollars;
- (b) Moisture test: eight (8) dollars;
- (c) Seed count per pound: ten (10) dollars;
- (d) Varietal identification:
  1. Soybean hypocotyl color test: fifteen (15) dollars;
  2. Phenol test of wheat: eighteen (18) dollars; and
  3. Peroxidase test of soybean: eighteen (18) dollars;
- (e) Vigor tests:
  1. Accelerated aging: eighteen (18) dollars;
  2. Cold test: eighteen (18) dollars; and
  3. Conductivity: eighteen (18) dollars;
- (f) Tetrazolium test:
  1. Groups 1 and 2: eighteen (18) dollars;
  2. Groups 4, 5, and 7: thirty (30) dollars; and
  3. Groups 3, 6, and 8: forty (40) dollars;
- (g) Seed or plant tall fescue endophyte~~;~~ one (1) to 100 specimens: \$~~125~~~~[145]~~;
- (h) Biotechnology trait identification~~;~~ herbicide bioassay: thirty (30) dollars; and
- (i) Reexamination of a sample to secure information not requested initially, or any analysis or test to obtain information not specifically required by the Kentucky Seed Law, KRS 250.021 ~~through~~~~[to]~~ 250.111 and 12 KAR Chapter 1, shall be assessed forty (40) dollars per hour for analytical time.
- (11) Testing performed in compliance with International Seed Testing Association (ISTA) rules shall be charged fifteen (15) dollars in addition to test fees.
- (12) Testing performed in compliance with Canadian Methods and Procedures (M & P) for Testing Seed shall be charged eighteen (18) dollars in addition to test fees.
- (13) Charges for kinds not listed in this ~~section~~~~[subsection]~~ shall be ~~commensu-~~~~rate~~~~[in accord]~~ with charges made for other kinds of seed of similar size.



AGRICULTURAL EXPERIMENT STATION

**12 KAR 1:160. Seed not required to be labeled by variety name.**

RELATES TO: KRS 250.081(1)(c)9

STATUTORY AUTHORITY: KRS 250.081

NECESSITY, FUNCTION, AND CONFORMITY: KRS 250.081(1)(c)9 requires the director to secure the efficient enforcement of the provisions of KRS 250.021 ~~through~~~~to~~ 250.111. This administrative regulation establishes ~~[To designate]~~ the kinds of seed for which labeling of variety name is not required.***[For all other kinds, the variety name is an essential part of the information on the label.]***

Section 1. The following kinds of seed ***shall not be required***~~[are omitted from the requirement for labeling]~~ to show the variety name and the statements "Variety Unknown", "Variety Not Stated, or "VNS":

- (1) Bermudagrass (*Cynodon dactylon*);~~;~~
- (2) Bluegrass, Canada (*Poa compressa*);~~;~~
- (3) Bluegrass, Rough (*Poa trivialis*);~~;~~
- (4) Bromegrass, Field (*Bromus arvensis*);~~;~~
- (5) Buckwheat (*Fagopyrum esculentum*);~~;~~
- (6) Canarygrass (*Phalaris canariensis*);~~;~~
- (7) Clover, Alsike (*Trifolium hybridum*);~~;~~
- (8) Fescue, Chewings (*Festuca rubra*, var *commutata*);~~;~~
- (9) Fescue, Meadow (*Festuca elatior*);~~;~~
- (10) Lespedeza, Korean (*Lespedeza stipulacea*);~~;~~
- (11) Lespedeza, Striate (*Lespedeza striata*);~~;~~
- (12) Lovegrass, Sand (*Eragrostis trichodes*);~~;~~
- (13) Lovegrass, Weeping (*Eragrostis curvula*);~~;~~
- (14) Millet, Browntop (*Panicum ramosum*);~~;~~
- (15) Millet, Foxtail (*Setaria italica*);~~;~~
- (16) Millet, Japanese (*Echinochloa crusgalli*);~~;~~
- (17) Millet, Proso (*Panicum miliaceum*);~~;~~
- (18) Rape (*Brassica* spp.);~~;~~
- (a) Annual (*B. napus*, var *annua*);~~;~~
- (b) Turnip, Annual or Bird (*B. campestris*);~~;~~
- (c) Turnip, Biennial (*B. campestris*, var *autumnalis*);~~;~~
- (19) Redtop (*Agrostis alba*);~~;~~
- (20) Sweetclover, White (*Melilotus alba*);~~;~~
- (21) Sweetclover, Yellow (*Melilotus officinalis*);~~;~~
- (22) Vetch, Common (*Vicia sativa*); ***and***~~;~~
- (23) Vetch, Hairy (*Vicia villous*).



**Suggested Substitute**  
**Final 8/26/2020 10:32 AM**

**AGRICULTURAL EXPERIMENT STATION**

**12 KAR 1:170. Germination standards for flower seed.**

RELATES TO: KRS 250.081(1)(c)9

STATUTORY AUTHORITY: KRS 250.081

NECESSITY, FUNCTION, AND CONFORMITY: KRS 250.081(1)(c)9 requires the director to secure the efficient enforcement of the provisions of KRS 250.021 ~~through~~**[to]** 250.111. This administrative regulation establishes ~~[To prescribe]~~ standards for flower seed and to list those kinds for which standard testing procedures are ~~**established**~~**[prescribed]**. ~~**[The information required to be shown on the label is dependent upon whether or not standard testing procedures have been prescribed and whether or not a lot being labeled falls above or below the standard.]**~~

Section 1. Flower Seed Standards. (1) The kinds of flower seed listed **in the table established in this subsection shall be**~~**[below are]**~~ those for which standard testing procedures have been ~~**established**~~**[prescribed]**. Common names are listed first, followed by Latin names. The percentage listed opposite each kind is the germination standard for that kind. For the kinds marked with an asterisk, the percentage is the total of percentage germination and percentage hard seed. For other kinds, it is the percentage germination.

Kind	Germination %
Archillea (The Pearl) - Achillea ptarmica	50
African daisy - Dimorphotheca aurantiaca	55
African violet - Saintpaulia spp.	30
Ageratum - Ageratum mexicanum	60
Agrostemma (rose campion) - Agrostemma coronaria	65
Alyssum - Alyssum compactum, A. maritimum, A. procumbens, and A. saxatile	60
Amaranthus - Amaranthus spp.	65
Anagalis (Pimpernel) - Anagalis arvensis, A. coerulia, and A. grandiflora	60



Anemone - Anemone coronaria, and A. pulsatilla	55
Angel's trumpet - Datura arborea	60
Arabis - Arabis alpina	60
Arctotis (African lilac daisy) - Arctotis grandis	45
Armeria - Armeria formosa	55
Asparagus, Fern - Asparagus plumosus	50
Asparagus, Sprenger - Asparagus sprengeri	55
Aster, China - Callistephus chinensis; except Pompon, Powderpuff, and Princess types	55
Aster, China - Callistephus chinensis; Pompon, Powderpuff, and Princess types	50
Aubretia - Aubretia deltoides	45
Baby Smilax - Aparagus asparagoides	25
Balsam - Impatiens balsamina	70
Begonia - (Begonia fibrous rooted)	60
Begonia - (Begonia tuberous rooted)	50
Bells of Ireland - Molucella laevis	60
Brachycome (Swan River daisy) - Brachycome iberidifolia	60
Browallia - Browallia elata and B. speciosa	65
Bupthalum (Sunwheel) - Bupthalum salicifolium	60
Calceolaria - Calceolaria spp.	60
Calendula - Calendula officinalis	65
California poppy - Eschscholtzia californica	60



Calliopsis - Coreopsis bicolor, C. drummondi, and C. elegans	65
Campulana:	
Canterbury bells - Campanula medium	60
Cup and saucer bellflower - Campanula medium calycanthema	60
Carpathian bellflower - Campanula carpatica	50
Peach bellflower - Campanula persicifolia	50
Candytuft, Annual - Iberis amara, and I. umbellata	65
Candytuft, Perennial - Iberis gibraltarica, and I. sempervirens	55
*Castor bean - Ricinus communis	60
Cathedral bells - Cobaea scandens	65
Celosia - Celosia argentea	65
Centaurea: Basket flower - Centaurea americana, Cornflower - C. cyanus, Dusty miller - C. candidissima, Royal Centaurea - C. imperialis, Sweet sultan - C. moschata, and Velvet Centaurea - C. gymnocarpa	60
Cerastium (Snow-in-summer) - Cerastium biebersteini and C. tomentosum	65
Chinese forget-me-not - Cynoglossum amabile	55
Chrysanthemum, Annual - Chrysanthemum carinatum, C. coronarium, and C. segetum	40
Cineraria - Senecio cruentus	60
Clarkia - Clarkia elegans	65
Cleome - Cleome gigantea	65



Coleus - <i>Coleus blumei</i>	65
Columbine - <i>Aquilegia</i> spp.	50
Coral bells - <i>Heuchera sanguinea</i>	55
Coreopsis, Perennial - <i>Coreopsis lanceolata</i>	40
Corn, Ornamental - <i>Zea mays</i>	75
Cosmos: Sensation, Mammoth, and Crested types - <i>Cosmos bipinnatus</i> ; and Klondyke type - <i>C. sulphureus</i>	65
Crossandra - <i>Crossandra infundibuliformis</i>	50
Dahlia - <i>Dahlia</i> spp.	55
Daylily - <i>Hemerocallis</i> spp.	45
Delphinium, Perennial: Belladonna and Bellamosum types; Cardinal larkspur - <i>Delphinium cardinale</i> ; Chinensis types; and Pacific giant, Gold medal, and other hybrids of <i>D. elatum</i>	55
Dianthus:	
Carnation - <i>Dianthus caryophyllus</i>	60
China pinks - <i>Dianthus chinensis</i> , <i>D. heddwigi</i> , and <i>D. heddensis</i>	70
Grass pinks - <i>Dianthus plumarius</i>	60
Maiden pinks - <i>Dianthus deltoides</i>	60
Sweet William - <i>Dianthus barbatus</i>	70
Sweet Wivelsfield - <i>Dianthus allwoodii</i>	60
Didiscus (Blue lace flower) - <i>Didiscus coerulea</i>	65
Doronicum (Leopard's bane) -	60



Doronicum caucasicum	
Dracaena - Dracaena indivisa	55
Dragon tree - Dracaena draco	40
English daisy - Bellis perennis	55
Flax:	
Golden flax - Linum flavum, Flowering flax - L. grandiflorum, and Perennial flax - L. perenne	60
Flowering maple - Abutilon spp.	35
Foxglove - Digitalis spp.	60
Gaillardia, Annual - Gaillardia pulchella and G. picta	45
Gaillardia, Perennial - G. grandiflora	45
Gerbera (transvaal daisy) - Gerbera Jamesoni	60
Geum - Geum spp.	55
Gilia - Gilia spp.	65
Glosiosa daisy (rudbeckia) - Echinacea purpurea and Rudbeckia hirta	60
Gloxinia - Sinningia speciosa	40
Godetia - Godetia amoena and G. grandiflora	65
Gourds:	
Yellow flowered - Cucurbita pepo, White flowered - Lagenaria siceraria, and Dishcloth - Luffa cylindrica	70
Gypsophila:	
Annual baby's breath - Gypsophila elegans; and Perennial baby's breath - G. paniculata, G. pacifica, and G. repens	70
Helenium - Helenium autumnale	40
Helichrysum - Helichrysum	60



monstrosum	
Heliopsis - Heliopsis scabra	55
Heliotrope - Heliotropium spp.	35
Helipterum (Acroclinium) - Helipterum roseum	60
Hesperis (Sweet rocket) - Hes- peris matronalis	65
*Hollyhock - Althea rosea	65
Hunnemania (Mexican tulip poppy) - Hunnemania fumar- iaefolia	60
*Hyacinth bean - Dolichos lab- lab	70
Impatiens - Impatiens holstii and I. sultani	55
*Ipomea:	
Cypress vine - Ipomea quamoclit; Moonflower - I. Noctiflora; and Morning glories, Cardinal climber, Hearts and Honey vine - Ipomea spp.	75
<u>Jerusalem-cross</u> [Jerusalem cross] (Maltese cross) - Lychnis chalcedonica	70
Job's tears - Coix lacrymajobi	70
Kochia - Kochia childsii	55
Larkspur, Annual - Delphinium ajacis	60
Lantana - Lantana camara, L. hybrida	35
Lilium (Regal lily) - Lilium re- gale	50
Linaria - Linaria spp.	65
Lobelia, Annual - Lobellia eri- nus	65
Lunaria, Annual-Lunaria annua	65
*Lupine - Lupinus spp.	65
Marigold - Tagetes spp.	65
Marvel of Peru - Mirabilis jala-	60



pa	
Matricaria (Feverfew) - Matricaria spp.	60
Mignonette - Reseda odorata	55
Myosotis - Myosotis alpestris, M. oblongata, and M. palustris	50
Nasturtium - Tropaeolum spp.	60
Nemesia - Nemesia spp.	65
Nemophila - Nemophila insignis	70
Nemophila, Spotted - Nemophila maculata	60
Nicotiana - Nicotiana affinis, N. sanderae, and N. sylvestris	65
Nierembergia - Nierembergia spp.	55
Nigella - Nigella damascena	55
Pansy - Viola tricolor	60
Penstemon - Penstemon barbatus, P. grandiflorus, P. laevigatus, and P. pubescens	60
Petunia - Petunia spp.	45
Phacelia - Phacelia campanularia, P. minor, and P. tanacetifolia	65
Phlox, Annual - Phlox drummondii (all types and varieties)	55
Physalis - Physalis spp.	60
Platycodon (Balloon flower) - Platycodon grandiflorum	60
Plumbago, Cape - Plumbago capensis	50
Ponytail - Beaucarnea recurvata	40
Poppy:	
Shirley poppy - Papaver rhoeas, Iceland poppy - Papaver nudicaule, Oriental poppy - P. orientale, and Tulip poppy - P.	60



glaucum	
Portulaca - Portulaca grandiflora	55
Primula (primrose) - Primula spp.	50
Pyrethrum (painted daisy) - Pyrethrum coccineum	60
Salpiglossis - Salpiglossis gloxiniaeflora and S. sinuata	60
Salvia:	
Scarlet sage - Salvia splendens, and Mealycup sage (Blue bedder) - Salvia farinacea	50
Saponaria - Saponaria ocyroides and S. vaccaria	60
Scabiosa, Annual - Scabiosa atropurpurea	50
Scabiosa, Perennial - Scabiosa caucasica	40
Schizanthus - Schizanthus spp.	60
*Sensitive plant (mimosa) - Mimosa pudica	65
Shasta daisy - Chrysanthemum maximum and C. leucanthemum	65
Silk oak - Grevillea robusta	25
Snapdragon - Antirrhinum spp.	55
Solanum - Solanum spp.	60
Statice - Statice sinuata and S. suworonii (flower heads)	50
Stocks:	
Common - Mathiola incana and Evening scented - Mathiola bicornis	65
Sunflower - Helianthus spp.	70
Sunrose - Helianthemum spp.	30
*Sweet pea, Annual and Perennial other than dwarf bush - Lathyrus odoratus and L. lati-	75



folius	
*Sweet pea, Dwarf bush - Lathyrus odoratus	65
Tahoka daisy - Machaeanthera tanacetifolia	60
Thunbergia - Thunbergia alata	60
Torch flower - Tithonia speci- osa	70
Torenia (Wishbone flower) - Torenia fournieri	70
Tritoma - Kniphofia spp.	65
Verbena, Annual - Verbena hybrida	35
Vinca - Vinca rosea	60
Viola - Viola cornuta	55
Virginian stocks - Malcolmia maritima	65
Wallflower - Cheiranthus al- lioni	65
Yucca (Adam's needle) - Yucca filamentosa	50
Zinna (except Linearis and Creeping) Zinnia angustifolia, Z. elegans, Z. grandiflora, Z. gracillima, Z. haegeana, Z. mul- tiflora, and Z. pumila	65
Zinnia, Linearis and Creeping - Zinnia linearis and Sanvitaila procumbens	50
All other kinds	50

(2) A mixture of kinds of flower seed ***shall[will]*** be considered to be below the standard if the germination of any kind or combination of kinds constituting twenty-five (25) percent or more of the mixture by number is below standard for the kind or kinds involved.



**Suggested Substitute  
Final 8/26/2020 10:46 AM**

**AGRICULTURAL EXPERIMENT STATION**

**12 KAR 1:175. Seed certification in Kentucky.**

RELATES TO: KRS 250.081(1)(c)1

STATUTORY AUTHORITY: KRS 250.081

NECESSITY, FUNCTION, AND CONFORMITY: KRS 250.081(1)(c)1 requires the director to establish seed certification standards. This administrative regulation establishes [To prescribe] the procedure for certifying seed for varietal purity in Kentucky. ***[Certification assures genetic identity and purity of superior plant varieties.]***

Section 1. Certification Procedure. (1) The procedures and standards established in the Kentucky Certified Seed Handbook shall be applied to all seed certified in Kentucky.

***Section 2. [(2)]*** Incorporation by reference.

***[(1)][(a)]*** "Kentucky Certified Handbook 2020[Kentucky Seed Certification Standards]," Kentucky Seed Improvement Association, 3250 Iron Works Pike, Unit 13, [P. O. Box 42008,] Lexington, Kentucky, 40511, 2020,[June 18, 1994,] is incorporated by reference.

***[(2)][(b)]*** This material [document] may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Regulatory Services, 103[404] Regulatory Services Building, University of Kentucky, Lexington, Kentucky 40546-0275, Monday through Friday, 8 a.m. to 4:30 p.m.





COMMONWEALTH OF KENTUCKY  
KENTUCKY BOARD OF PODIATRISTS  
500 MERO STREET  
FRANKFORT, KENTUCKY 40601  
502.892.4259  
BOP@Ky. Gov

September 3, 2020

Senator Stephen West, Co-Chair  
Representative David Hale, Co-Chair  
c/o Emily Caudill, Regulation Compiler  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort KY 40601

Re: 201 KAR 25:011 Approved schools; licensure application; fees

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 25:011, the Kentucky Board of Podiatry proposes the attached amendment to 201 KAR 25:011.

Sincerely,

A handwritten signature in black ink, appearing to be "KM", with a long horizontal stroke extending to the right.

Keith Myrick, M.D.  
Board Chair and President  
Kentucky Board of Podiatry  
500 Mero Street  
Frankfort, KY 40601



Final 9-3-2020

## **SUGGESTED SUBSTITUTE**

### **BOARDS AND COMMISSIONS**

#### **Board of Podiatry**

#### **201 KAR 25:011. Approved schools; licensure application; fees.**

RELATES TO: KRS 218A.205, 311.420, 311.480

STATUTORY AUTHORITY: KRS 218A.202(2), 311.420(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311.420 requires all persons engaging in the practice of podiatry in Kentucky to be licensed by the Board of Podiatry. KRS 311.420 provides that each applicant shall submit to an examination conducted by the board. KRS 218A.202(2) requires licensees that prescribe controlled substances to be registered with the Kentucky All-Schedule Prescription Electronic Reporting System (KASPER). KRS 218A.205 requires the board to place restrictions on licensees and applicants that have specific convictions or restrictions related to prescribing or dispensing controlled substances. This administrative regulation establishes the procedures to be followed in obtaining an application, the fees to be charged, and the procedures relating to the examination and issuance of a license to practice podiatry in this state.

Section 1. (1) The board approves the following schools or colleges of podiatry as having standards and requirements adequate to satisfy the educational requirement for taking the podiatry examination for licensure:

- (a) Barry University School of Podiatric Medicine, Miami Shores, Florida;
- (b) California School of Podiatric Medicine at Samuel Merritt University, Oakland, California;
- (c) Des Moines University College of Podiatric Medicine and Surgery, Des Moines, Iowa;
- (d) Kent State University College of Podiatric Medicine, Independence, Ohio;
- (e) Midwestern University Arizona School of Podiatric Medicine, Glendale, Arizona;
- (f) New York College of Podiatric Medicine, New York, New York;
- (g) Dr. William M. Scholl College of Podiatric Medicine at the Rosalind Franklin University of Medicine and Science, Chicago, Illinois;
- (h) Temple University School of Podiatric Medicine, Philadelphia, Pennsylvania; and
- (i) Western University of Health Sciences College of Podiatric Medicine, Pomona, California.

(2) All other schools or colleges of podiatry shall have academic standards and requirements equivalent to the schools or colleges listed above as evaluated by the board in order to be approved by the board. Evaluation of the academic standards and requirements shall be made by the board after an applicant has filed an Application for Podiatry License with the board.

Section 2. (1) Every applicant, otherwise eligible to take the examination pursuant to the provisions of KRS 311.420, shall file a completed and notarized Application for Podiatry License with the board at its principal office at least forty (40) days prior to the date of the examination in order to be eligible to take the examination.

(2) The president of the board may permit a partially completed application to be filed if good cause is shown by the applicant. For the purposes of this subsection, good cause includes situations such as an applicant applying late, having to retake the board examination, or waiting for pending board examination results.

(3) The fee for the examination or reexamination shall be [~~\$250~~] \$300 and shall be paid when the Application for Podiatry License is filed with the board. The fee shall be made payable to the



Kentucky State Treasurer in United States currency by certified check, cashier's check, or postal money order and shall not be refundable.

(4) Any applicant who fails to attain a passing score as required by the board may apply to the board for reexamination.

(5) The applicant along with the application shall: (a) Have three (3) letters of recommendation sent to the board verifying good moral character and not addicted to alcohol or drugs;

(b) Have verification of licensure sent directly from the state or states from which the applicant has or has ever held a license;

(c) Attach a dated photo taken within the past six (6) months;

(d) Have schools, colleges, or institutions send official transcripts directly to the board; and

(e) Have the Federal Bureau of Investigation background check results sent directly to the board.

Section 3. (1) Prior to approval for licensure, an applicant shall:

(a) Submit to a nation-wide criminal background investigation by means of fingerprint check by the Department of Kentucky State Police and the Federal Bureau of Investigation;

(b) Submit to a query to the National Practitioner Data Bank of the United States Department of Health and Human Services; and

(c) Report to the board, with the Application for Podiatry License, any conviction or disciplinary action on a license held by the applicant relating to prescribing or dispensing controlled substances.

Section 4. (1) Pursuant to KRS 218A.205(3)~~(f)(e)~~, an applicant for licensure by the board:

(a) Convicted after July 20, 2012 of any felony offense relating to controlled substances shall be permanently banned from prescribing or dispensing a controlled substance by the board;

(b) Convicted after July 20, 2012 of any misdemeanor offense relating to prescribing or dispensing a controlled substance shall have his or her authority to prescribe controlled substances suspended for at least three (3) months, and shall be further restricted as determined by the board; or

(c) Who has had any disciplinary limitation placed on an application or license by a licensing board of another state that resulted from improper, inappropriate, or illegal prescribing or dispensing of controlled substances shall be subject to a restriction on the license that is at least as restrictive in time and scope as that placed on the license by the licensing board of the other state.

(2) In addition to the actions listed in subsection (1) of this section, the board may take any other action provided for in KRS 311.480 against a licensee or applicant that comes under the provisions of that subsection.

Section 5. Requirements for a person issued a license by the board. (1) A person who has been approved for a license from the board shall register with the Kentucky All-Schedule Prescription Electronic Reporting System (KASPER) administered by the Cabinet for Health and Family Services after issuance of the license and immediately submit proof of the registration to the board.

(2) A person who has received a license from the board shall not prescribe any controlled substance before he or she is registered with KASPER.

(3)(a) The board shall temporarily suspend a license pursuant to 201 KAR 25:051, Section ~~5~~6, if a licensee:

1. Fails to register with KASPER after the approval for licensure by the board; or
2. Prescribes a controlled substance prior to registration with KASPER.



(b) In addition to the temporary suspension, the board may take additional disciplinary action against a license pursuant to KRS 311.480.

Section 6. Incorporation by Reference. (1) "Application for Podiatry License", **September 2020**~~[February, 2014]~~, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Podiatry, Department of Professional Licensing, 500 Mero Street [944 Leawood Drive], Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

CONTACT PERSON: David C. Trimble, Board Attorney, 500 Mero Street, Frankfort, Kentucky 40601, phone +1 (502) 782-8823, fax +1 (502) 564-3969, email DavidC.Trimble@ky.gov.

## **MATERIAL INCORPORATED BY REFERENCE**

The agency needs to file one (1) clean copy of the updated "Application for Podiatry License" at the time that it files this staff suggested amendment and that includes the following changes:

- Updates the edition date to September 2020
- Updates the \$250 fee to the increased \$300 fee for the examination or reexamination that is submitted with the application



# KENTUCKY BOARD OF PODIATRY

P.O. Box 1360  
Frankfort, KY 40602  
Phone (502) 892-4259  
Fax (502) 564-4818  
e-mail: bop@ky.gov

## APPLICATION FOR PODIATRY LICENSE

Your full name, social security number, and date of birth are essential for identification purposes. Please supply this key information.

There is space for two addresses on the application, a public mailing address and a restricted use address. The public mailing address is the address where the Board will send all mail. The restricted use address is the street address where you reside and is not public information, unless it is the same as your public mailing address.

### GENERAL INFORMATION

Soc. Sec. No.: \_\_\_\_\_ Date of Birth: \_\_\_\_\_  
Last Name: \_\_\_\_\_ Maiden Name: \_\_\_\_\_  
First Name: \_\_\_\_\_ Middle Name: \_\_\_\_\_  
Gender (Male or Female): \_\_\_\_\_

### PUBLIC MAILING ADDRESS

Street: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ County: \_\_\_\_\_  
Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_  
Email: \_\_\_\_\_

### RESTRICTED USE ADDRESS

Street: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ County: \_\_\_\_\_  
Telephone: (home) \_\_\_\_\_ (cell) \_\_\_\_\_  
(work) \_\_\_\_\_



**UNDERGRADUATE EDUCATION REQUIREMENT:** (Use additional sheets if necessary)

**COLLEGE:**

Name: \_\_\_\_\_ Dates Attended: \_\_\_\_\_ to \_\_\_\_\_

City and State: \_\_\_\_\_ Date of Graduation: \_\_\_\_\_

Name: \_\_\_\_\_ Dates Attended: \_\_\_\_\_ to \_\_\_\_\_

City and State: \_\_\_\_\_ Date of Graduation: \_\_\_\_\_

**PODIATRIC EDUCATION REQUIREMENT**

**COLLEGE**

Name: \_\_\_\_\_ Dates Attended: \_\_\_\_\_ to \_\_\_\_\_

City and State: \_\_\_\_\_ Date of Graduation: \_\_\_\_\_

**PROFESSIONAL EXAMINATION REQUIREMENT:**

Answer "Yes" or "No"

\_\_\_\_\_ NBPME Part I, Date(s) Taken: \_\_\_\_\_ Passed \_\_\_\_\_

\_\_\_\_\_ NBPME Part II, Date(s) Taken: \_\_\_\_\_ Passed \_\_\_\_\_

\_\_\_\_\_ NBPME Part III, Date(s) Taken: \_\_\_\_\_ Passed \_\_\_\_\_

**CHARACTER REFERENCES**

Please have three (3) letters of recommendation sent the Board verifying that you are of good moral character and not addicted to alcohol or drugs. These letters should be from non-family members.



**LICENSES:**

List all licenses, registrations, or certifications issued by any state which you now hold or have ever held in a regulated profession. Use additional sheets if necessary.

(1) Issuing State: \_\_\_\_\_

Profession: \_\_\_\_\_

Date Verification Was Requested: \_\_\_\_\_

(2) Issuing State: \_\_\_\_\_

Profession: \_\_\_\_\_

Date Verification Was Requested: \_\_\_\_\_

(3) Issuing State: \_\_\_\_\_

Profession: \_\_\_\_\_

Date Verification Was Requested: \_\_\_\_\_

The following states have refused to issue a verification of licensure directly to me and will send the document directly to the Board. Use additional sheets if necessary.

Issuing State: \_\_\_\_\_

Date Verification Was Requested: \_\_\_\_\_

**NOTE: We MUST have a verification of licensure directly from the state or jurisdiction in which you hold, or have held a license. A printed verification from the state Board's website is NOT sufficient. Be sure to request the verification in sufficient time for the Board to process it and get it to us at least 20 days prior to our next examination date.**



**LIST ALL PRECEPTORSHIP/RESIDENCY PROGRAMS YOU HAVE PARTICIPATED IN  
(Whether completed or not)**

Name: \_\_\_\_\_ Dates Attended: \_\_\_\_\_ to \_\_\_\_\_

City and State: \_\_\_\_\_ Date of Completion: \_\_\_\_\_

Type of Program \_\_\_\_\_ Reason for Departure (if not completed) \_\_\_\_\_

\_\_\_\_\_

Name: \_\_\_\_\_ Dates Attended: \_\_\_\_\_ to \_\_\_\_\_

City and State: \_\_\_\_\_ Date of Completion: \_\_\_\_\_

Type of Program \_\_\_\_\_ Reason for Departure (if not completed) \_\_\_\_\_

\_\_\_\_\_

**If you are now or have served in the Military Service list Branch of Service, Rank and name and address where you served:**

\_\_\_\_\_

\_\_\_\_\_

**If you hold a license to practice medicine in other States or Commonwealths list by name, license numbers and if CME credit is needed for renewal:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**List any sanctions, restrictions, suspensions or revocations against your licenses, name and address of State or Commonwealth:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Have you defaulted on a student loan through KHEAA or the state of Kentucky?** \_\_\_\_Yes \_\_\_\_No

**List any criminal suit against you that is pending or that you have been convicted of (include name of City, County, State and Court:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



**If you have a drug or alcohol dependency, other than prescribed for a valid disease, name the substance and give the particulars of treatment:**

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**List memberships in medical societies by name and address:**

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**PRACTICE HISTORY:**

List all clinics, practitioners, and locations you have been affiliated with or practiced at during the past 10 years. Use additional sheets if necessary.

1.    Name of Facility/Practitioner: \_\_\_\_\_  
      Address: \_\_\_\_\_  
      Dates of Employment: \_\_\_\_\_ to \_\_\_\_\_ Hours worked each week: \_\_\_\_\_  
      Duties/Responsibilities: \_\_\_\_\_  
      \_\_\_\_\_

2.    Name of Facility/Practitioner: \_\_\_\_\_  
      Address: \_\_\_\_\_  
      Dates of Employment: \_\_\_\_\_ to \_\_\_\_\_ Hours worked each week: \_\_\_\_\_  
      Duties/Responsibilities: \_\_\_\_\_  
      \_\_\_\_\_



**Notarized affidavit of Applicant:**

I certify that the statements contained in this application are true, complete and correct and that they shall form the basis of my application.

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date

I certify that this application was sworn and subscribed before me by \_\_\_\_\_

\_\_\_\_\_, whose signature appears herein, on this \_\_\_\_\_ (day) of

\_\_\_\_\_ (month), \_\_\_\_\_ (year)

My Commission expires the \_\_\_\_\_ (day) of \_\_\_\_\_ (month), \_\_\_\_\_ (year)

Signature: \_\_\_\_\_

**APPLICATION REQUIREMENTS:**

1. Attach a dated photo of yourself taken within the past 6 months. Sign your name in the left margin of the photo.

2. Attach a check or money order for \$300.00 made payable in U.S. Funds to KENTUCKY BOARD OF PODIATRY. Application fees are nonrefundable regardless of circumstances.

5. Have the appropriate schools, colleges or institutions send OFFICIAL transcripts directly to the Kentucky State Board of Podiatry. Copies of transcripts sent by the applicant are not accepted. ***OFFICIAL means it MUST be received in a SEALED ENVELOPE, directly from the institution, agency or school.***

- a. Undergraduate colleges or universities
- b. Graduate colleges or universities
- c. Podiatry, medical, dental schools or colleges
- d. Clinical evaluations from podiatry school
- e. List of 4th year rotations or externships
- e. National Board Certification for Part I, II and III (PM Lexis)
- f. National Practitioner Data Bank and Healthcare Integrity and Protection Data Bank (www.npdbh-hipdbh.com) (students or new graduates who have no other state licenses are exempt)
- g. Primary source verification of licenses from other states including any disciplinary action, sanctions, or suspension of license. Printed verification from the state's website, or a copy of a current license is NOT sufficient.
- h. FBI background check (results are to be sent directly to the Board of Podiatry)





COMMONWEALTH OF KENTUCKY  
KENTUCKY BOARD OF PODIATRISTS  
500 MERO STREET  
FRANKFORT, KENTUCKY 40601  
502.892.4259  
BOP@Ky. Gov

September 3, 2020

Senator Stephen West, Co-Chair  
Representative David Hale, Co-Chair  
c/o Emily Caudill, Regulation Compiler  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort KY 40601

Re: 201 KAR 25:021 Annual renewal notice for licenses, fees

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 25:021, the Kentucky Board of Podiatry proposes the attached amendment to 201 KAR 25:021.

Sincerely,

A handwritten signature in black ink, appearing to be "KM", with a long horizontal stroke extending to the right.

Keith Myrick, M.D.  
Board Chair and President  
Kentucky Board of Podiatry  
500 Mero Street  
Frankfort, KY 40601



**SUGGESTED SUBSTITUTE**

**BOARDS AND COMMISSIONS**

**Board of Podiatry**

**201 KAR 25:021. Annual renewal of licenses, fees.**

RELATES TO: KRS 218A.205, 311.450, 311.480

STATUTORY AUTHORITY: KRS 218A.202(2), 311.410(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311.450 requires the board to send notices to all podiatrists licensed by the board to their last known address on or before June 1 of each year. KRS 218A.202(2) requires licensees that prescribe controlled substances to be registered with the Kentucky All-Schedule Prescription Electronic Reporting System (KASPER). KRS 218A.205 requires the board to place restrictions on licensees and applicants that have specific convictions or restrictions related to prescribing or dispensing controlled substances. This administrative regulation requires all licensed podiatrists to complete the annual renewal application and return it, along with the annual renewal fee, to the board. This administrative regulation further establishes an annual license renewal fee and a delinquent penalty fee.

Section 1. (1) The annual renewal fee in the amount of [~~\$175~~] \$200 shall be attached to the completed **[annual]** Kentucky Board of Podiatry **Application for Annual** License Renewal **[Application]** when the application is returned to the board by the podiatrist seeking licensure renewal.

(2) The annual renewal fee shall be made payable to the Kentucky State Treasurer in United States currency by certified check, cashier's check, postal money order, personal check, or credit card.

(3) All information requested on the annual renewal application form shall be furnished to the board when the completed annual renewal application form is returned to the board, together with a statement of compliance with the continuing education requirements in 201 KAR 25:031.

(4) Every renewal application shall include proof of current registration with the Kentucky All-Schedule Prescription Electronic Reporting System (KASPER) administered by the Cabinet for Health and Family Services.

Section 2. (1) Failure to complete the requirements for annual renewal of the license by July 1 of each year shall result in a delinquent penalty fee of \$200 in addition to the renewal fee.

(2) A licensee shall immediately report to the board any conviction or disciplinary action on a license held by the applicant relating to prescribing or dispensing controlled substances.

Section 3. (1) Pursuant to KRS 218A.205(3)(~~h~~)(~~e~~), a licensee:

(a) Convicted after July 20, 2012 of any felony offense relating to controlled substances shall be permanently banned from prescribing or dispensing a controlled substance by the board;

(b) Convicted after July 20, 2012 of any misdemeanor offense relating to prescribing or dispensing a controlled substance shall have his or her authority to prescribe controlled substances suspended for at least three (3) months, and shall be further restricted as determined by the board; or

(c) Who has had any disciplinary limitation placed on an application or license by a licensing board of another state that resulted from improper, inappropriate, or illegal prescribing or dispensing of controlled substances shall be subject to a restriction on the license that is at least as



restrictive in time and scope as that placed on the license by the licensing board of the other state.

(2) In addition to the actions listed in subsection (1) of this section, the board may take additional disciplinary action against a licensee pursuant to KRS 311.480.

Section 4. Incorporation by Reference. (1) "**Application for Annual**~~**Kentucky Board of Podiatry**~~ License Renewal **[Application]**", **9/2020**~~**8/15**~~, is incorporated by reference

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Podiatry, Department of Professional Licensing, ~~[911 Leawood Drive]~~ 500 Mero Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

CONTACT PERSON: David C. Trimble, Board Attorney, 500 Mero Street, Frankfort, Kentucky 40601, phone +1 (502) 782-8823, fax +1 (502) 564-3969, email DavidC.Trimble@ky.gov.

#### **MATERIAL INCORPORATED BY REFERENCE**

The agency needs to file one (1) clean copy of the "Application for Annual License Renewal" at the time that it files this staff suggested amendment and that includes the following changes:

- Updates the edition date to September 2020
- Updates the \$175 renewal fee to the increased fee of \$200



# APPLICATION FOR ANNUAL LICENSE RENEWAL KENTUCKY STATE BOARD OF PODIATRY

## Important Notice:

Completion of this application form is necessary for consideration for license renewal under KRS 311.450 of the Kentucky Revised Statutes. ***All licensees have an obligation to update and supplement the information and responses on file with the Board office if they change.*** Failure to supplement the information and responses provided on this application may result in denial or other appropriate action.

**Carefully follow the directions on this application form. In addition, note the following:**

1. Print legibly with black or blue ink only.
2. The renewal fee, or any part thereof, is **NOT** refundable.

## Supporting Documentation and Fees:

If you are applying for license renewal as an **actively** practicing Kentucky Licensed Podiatrist you **MUST** submit the following documents and fees:

### ☐ **ACTIVE LICENSE**

- \$200 Renewal Fee (Made payable to Kentucky State Treasurer)
- Completed License Renewal Application (4 pages)

If you are applying for an **INACTIVE** status license renewal, no fee is required.

### ☐ **INACTIVE LICENSE**

- Completed License Renewal Application (4 pages)

Your application is **NOT** considered complete until **ALL** supporting documents and fees have been received by the Kentucky Board of Podiatry. **INCOMPLETE RENEWAL APPLICATIONS WILL BE RETURNED TO THE LICENSEE.**

**NO RENEWAL WILL BE PROCESSED UNTIL ALL REQUIRED  
DOCUMENTATION IS RECEIVED**

**THERE WILL BE A \$200 LATE FEE ASSESSED TO ANY  
LICENSE NOT RENEWED PRIOR TO JUNE 30.**

**ABSOLUTELY NO EXCEPTIONS!**

☐

☐

☐

☐



# PART I: Applicant Identifying Information

Complete this section of the form by providing all of the requested information. You must notify the Kentucky Board of Podiatry, in writing, of any address changes after you file this application in order to receive any further information.

1. Last Name	2. First Name	3. MI	4. Suffix (Jr., III, etc )
5. Business Mailing Address including zip code (If PO Box, Must provide street address as well)			
6. Home Mailing Address including zip code			
7. Identify Preferred mailing address for Official Board Use. <input type="checkbox"/> Business <input type="checkbox"/> Home			
Note: The preferred mailing address shall be available to the public.			
8. Identify any maiden name, surname, or any other names or aliases you have been known by or used and identify the reason for your name change.			
9. County of Primary Practice:	10. Date of Birth MM/DD/YYYY	11. <input type="checkbox"/> Male <input type="checkbox"/> Female	
12. Contact Information			
(a) Office Numbers:			
Phone:			
Fax:			
(b) Personal numbers:			
Home:			
Cell:			
(c) E-mail address:			
13. Social Security Number:			
14. Name of primary Podiatry office at which you practice (If you practice at various locations, please attach a separate sheet with name(s), address(es), phone number(s) and county(ies) of additional office(s):			
15. NPI # (National Provider Identifier)			
16. UPIN #			
17. DEA #			



## PART IV. Personal History Information

Please answer each of the following questions by putting a check (☐) in the appropriate box on the right. You must answer each question with a "Yes" or "No" response as no other response is acceptable. *All "Yes" answers **MUST** be explained in detail in a separate **SIGNED** and **NOTARIZED** affidavit.* The affidavit should include all relevant dates and identify the relevant jurisdiction and/or entity involved. Failure to disclose any of the requested information may result in the denial of your application or other appropriate action.

***You are only required to provide affidavits on any NEW information that was not reported to the Board in your last renewal application.***

1. Since your last application for renewal, have you had any application for a podiatry license refused or denied by any licensing authority?	YES <input type="checkbox"/> NO <input type="checkbox"/>
2. Since your last application for renewal, have you been refused or denied the privilege of taking an examination required for a podiatry license?	YES <input type="checkbox"/> NO <input type="checkbox"/>
3. Since your last application for renewal, have you voluntarily surrendered your podiatry license?	YES <input type="checkbox"/> NO <input type="checkbox"/>
4. Since your last application for renewal, have you allowed your podiatry license to lapse, or had a limited license issued by any podiatry licensing authority?	YES <input type="checkbox"/> NO <input type="checkbox"/>
5. Since your last application for renewal, have you had any podiatry license revoked?	YES <input type="checkbox"/> NO <input type="checkbox"/>
6. Since your last application for renewal, have you been the subject of disciplinary action with regard to your podiatry license or been sanctioned by any podiatry licensing authority other than Kentucky?	YES <input type="checkbox"/> NO <input type="checkbox"/>
7. Have your podiatry privileges ever been restricted or terminated by any podiatry licensing authority other than Kentucky?	YES <input type="checkbox"/> NO <input type="checkbox"/>
8. To your knowledge have any unresolved or pending complaints ever been filed against you with any podiatry licensing agency other than Kentucky?	YES <input type="checkbox"/> NO <input type="checkbox"/>
9. Is there any disciplinary action pending against you by any licensing jurisdiction other than Kentucky? If YES, where and when?	YES <input type="checkbox"/> NO <input type="checkbox"/>
10. Since your last application for renewal, have you had been convicted (including a nolo contendere plea or guilty plea) of a felony (or criminal offense) in any state or in federal court (other than minor traffic violations) whether or not sentence was imposed or suspended? If YES, in addition to the affidavit, attach a certified copy of the court records regarding your conviction, the nature of the offense date of discharge, if applicable, as well as a statement from the probation or parole officer.	YES <input type="checkbox"/> NO <input type="checkbox"/>
11. Have you ever been pardoned from a felony (or criminal) conviction?	YES <input type="checkbox"/> NO <input type="checkbox"/>
12. Since your last application for renewal, have you had been convicted (including a nolo contendere plea or guilty plea) of any violation of any local, state or federal law, whether or not sentence was imposed or suspended? (Excluding minor traffic violations)	YES <input type="checkbox"/> NO <input type="checkbox"/>
13. Since your last application for renewal, have you had been convicted (including a nolo contendere plea or guilty plea) of a violation of any federal or state drug law(s) or rule(s) whether or not sentence was imposed or suspended?	YES <input type="checkbox"/> NO <input type="checkbox"/>
14. Do you currently have any disease or condition that interferes with your ability to competently and safely perform the essential functions of podiatry?	YES <input type="checkbox"/> NO <input type="checkbox"/>
15. Have you been named as a defendant to a civil suit related to your profession (i.e. malpractice), in the last five (5) years, NOT PREVIOUSLY REPORTED TO THE BOARD? If YES, you must provide the name of the action (Doe v. Smith, DPM) which provides the name of the Court in which the case was filed, along with a copy of the Complaint and the Final Judgment or Settlement Agreement, if any.	YES <input type="checkbox"/> NO <input type="checkbox"/>
16. Have you ever been court-martialed or discharged other than honorably from the armed service?	YES <input type="checkbox"/> NO <input type="checkbox"/>



17. Are you now, or have you ever, been in arrears with the Kentucky Higher Education Assistance Authority? If yes, please provide documentation that this matter has been resolved.

YES ☐ NO ☐

## PART V. Certifying Statement

"By virtue of filing this application, I do solemnly swear or affirm that I am of good moral character, and that I understand the instructions and terms as set forth in this application form, that I have personally completed this form, that the information given in this application is true, correct, and complete to the best of my knowledge. I further certify that I have completed a total of at least 20 hours of continuing education, including a minimum of 15 hours of Category A and a maximum of 5 hours of Category B (all 20 hours can be Category A; however ONLY 5 hours can be Category B), INCLUDING 1.5 hours on KASPER, pain management, or addiction disorders. I hereby authorize The Kentucky Board of Podiatry to verify any and all information contained in this application."

\_\_\_\_\_  
Signature of Applicant (Do not print)

\_\_\_\_\_  
Printed Name of Applicant

\_\_\_\_\_  
Date

**PLEASE RETURN ALL PAGES OF  
APPLICATION, INCLUDING COVER PAGE**

**PLEASE SEND YOUR COMPLETED APPLICATION AND \$200 FEE (made payable to the Kentucky State Treasurer) TO:**

**KENTUCKY BOARD OF PODIATRY  
500 Mero Street  
Frankfort, KY 40601**

**The Late Fee is \$200 for any  
License Renewed after June 30!  
NO EXCEPTIONS**





COMMONWEALTH OF KENTUCKY  
KENTUCKY BOARD OF PODIATRISTS  
500 MERO STREET  
FRANKFORT, KENTUCKY 40601  
502.892.4259  
BOP@Ky. Gov

September 3, 2020

Senator Stephen West, Co-Chair  
Representative David Hale, Co-Chair  
c/o Emily Caudill, Regulation Compiler  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort KY 40601

Re: 201 KAR 25:031 Continuing Education

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 25:031, the Kentucky Board of Podiatry proposes the attached amendment to 201 KAR 25:031.

Sincerely,

A handwritten signature in black ink, appearing to be "KM", written over a horizontal line.

Keith Myrick, M.D.  
Board Chair and President  
Kentucky Board of Podiatry  
500 Mero Street  
Frankfort, KY 40601



**SUGGESTED SUBSTITUTE**

**BOARDS AND COMMISSIONS**

**Kentucky Board of Podiatry**

**201 KAR 25:031. Continuing education.**

RELATES TO: KRS 218A.205, 311.450(2)

STATUTORY AUTHORITY: KRS 218A.205(3)(i)(h), 311.410(4), 311.450(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311.450(2) requires the board to promulgate an administrative regulation to establish continuing education requirements for a podiatrist. KRS 218A.205(3)(i)(h) requires the board to mandate continuing education related to the use of the Kentucky All-Schedule Prescription Electronic Reporting System (KASPER). This administrative regulation establishes those continuing education requirements.

Section 1. (1) Each podiatrist licensed by the board shall annually complete twenty (20) hours of continuing education relating to the practice of podiatry.

(2) The twenty (20) hours shall include:

(a) At least fifteen (15) Category A continuing education hours; and

(b) Not more than five (5) Category B continuing education hours.

(3) A continuing education hour shall equal fifty (50) clock minutes of participating in continuing education instruction or presentation that meets the requirements of this administrative regulation for continuing education courses.

(4)(a) Beginning on July 1, 2012, and annually thereafter, each podiatrist licensed by the board shall complete at least one and one-half (1.5) hours of continuing education related to the use of the Kentucky All-Schedule Prescription Electronic Reporting System (KASPER), pain management, or addiction disorders.

(b) This requirement shall be included in the twenty (20) hours of continuing education required by this administrative regulation.

Section 2. Categories of Continuing Education Hours. (1) A Category A continuing education hour shall specifically relate to podiatric medicine, surgery, or science and shall:

(a) Be earned by attendance at:

1. A professional seminar, including the Kentucky Podiatric Medical Association's annual conference;

2. An accredited school of podiatry continuing education program; or

3. Another program approved by the board under Section 6 of this administrative regulation; and

(b) Be approved by the American Podiatric Medical Association/Council on Podiatric Medical Education (APMA/CPME), except if the course provider or the licensee that intends to take a course has requested and received board approval of the course under Section 6 of this administrative regulation prior to the course's presentation.

(2) A Category B continuing education hour may relate to non-podiatric medical issues or general practice issues and may be earned by attendance at or participation in:

(a) Home study courses;

(b) Hospital, clinic, or in-house staff lectures; or

(c) Local or regional medical society or medical association meetings.



Section 3. (1) A licensee shall keep a valid record of each continuing education program completed. The record shall:

- (a) Include a receipt or certification received for the program;
- (b) Be kept for three (3) years;
- (c) Be presented upon request by the board for audit. If selected by the board for audit, the licensee shall submit the requested proof of continuing education to the board within fifteen (15) days of the request; and
- (d) For Category A programs, include proof of APMA/CPME certification or a written letter of approval from the board.

(2) The period during which continuing education courses shall be completed shall be from July 1 of each year until June 30 of the following year.

Section 4. (1) On application, the board shall consider granting a waiver of the continuing education requirements or an extension of time within which to fulfill the requirements in the following cases:

- (a) Medical disability of the licensee;
  - (b) Illness of the licensee or an immediate family member; or
  - (c) Death or serious injury of an immediate family member.
- (2) A written request for waiver or extension of time involving medical disability or illness shall be:

- (a) Submitted by the person holding the license; and
  - (b) Accompanied by a document verifying the illness or disability signed by the:
    - 1. Licensee's personal physician; or
    - 2. Immediate family member's personal physician.
- (3) A waiver of or extension of time within which to fulfill the minimum continuing education requirements shall not exceed one (1) year.
- (4) If the medical disability or illness upon which a waiver or extension has been granted continues beyond the period of the waiver or extension, the licensee shall reapply for the waiver or extension.

Section 5. Inactive Status. (1) A licensee may apply for inactive status by submitting a written letter to the board.

(2) A licensee granted inactive status shall be relieved of the obligation to meet the requirements for continuing education established in this administrative regulation.

(3) A person on inactive status may use the term "podiatrist" but the licensee shall not engage in the practice of podiatry. Any person who practices podiatry while on inactive status shall be deemed to be practicing podiatry without a license in violation of KRS 311.400.

(4) A licensee seeking relicensure from inactive to active status shall fulfill the requirements established in this subsection.

(a) If the licensee has been inactive for no more than five (5) consecutive years, the licensee shall:

- 1. Provide written notice to the board requesting reactivation to active status by filing a Kentucky Board of Podiatry License Renewal Application, as incorporated by reference in 201 KAR 25:021, and requesting in writing that the license be made active;
- 2. Have completed twenty (20) hours of Category A continuing education requirements within a period of six (6) months preceding the request for active status; and
- 3. Pay:
  - a. The renewal fee of ~~\$200~~**\$175** established in 201 KAR 25:021, Section 1; and
  - b. A reactivation fee of ~~[\$200]~~ \$250.



(b) If a licensee has been in inactive status for more than five (5) consecutive years, the licensee shall:

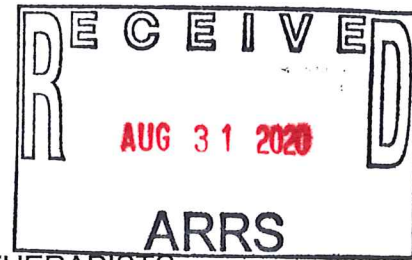
1. File a completed Application for Podiatry License in accordance with 201 KAR 25:011, **Section 2** and pay the required **examination** fee;
2. Be approved by the board to take the examination; and
3. Successfully complete a satisfactory examination before the board as provided by 201 KAR 25:012.

Section 6. Board Approval of Continuing Education. (1) A course provider or a licensee shall submit a written request to the board for approval of a continuing education course.

- (2) A written request for board approval shall contain:
  - (a) A brief summary of the continuing education;
  - (b) The educational objectives of the continuing education;
  - (c) The date, time, and place of the provision of the continuing education;
  - (d) The name and credentials of the individual providing the continuing education; and
  - (e) The name of the organization providing the continuing education, if applicable.
- (3) In determining whether to approve continuing education, the board shall consider whether the continuing education:
  - (a) Is designed to provide current developments, skills, procedures, or treatments related to the practice of podiatry;
  - (b) Is developed and provided by an individual with knowledge and experience in the subject area; and
  - (c) Contributes directly to the professional competence of a licensee.

CONTACT PERSON: David C. Trimble, Board Attorney, 500 Mero Street, Frankfort, Kentucky 40601, phone +1 (502) 782-8823, fax +1 (502) 564-3969, email DavidC.Trimble@ky.gov.





KENTUCKY BOARD OF LICENSURE FOR MARRIAGE & FAMILY THERAPISTS

**Andy Beshear**  
Governor

P. O. Box 1360  
Frankfort, Kentucky 40602  
Phone (502) 7882-8809  
Fax (502) 564-4818  
<http://mft.ky.gov>

**Shawn Oak**  
Chair

August 31, 2020

Senator Stephen West, Co-Chair  
Representative David Hale, Co-Chair  
c/o Emily Caudill, Regulation Compiler  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort KY 40601

Re: 201 KAR 32:110. Telehealth.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 32:110, the Kentucky Board of Licensure for Marriage and Family Therapists proposes the attached amendment to 201 KAR 32:110.

Please contact me by e-mail at [Bryan.Morrow@ky.gov](mailto:Bryan.Morrow@ky.gov) or by phone at (502) 229-6917 if you have any questions regarding this matter.

Sincerely,

Bryan D. Morrow, Board Counsel  
Kentucky Board of Licensure for  
Marriage and Family Therapists  
P.O. Box 1360  
500 Mero Street, 2SC32  
Frankfort, KY 40602



## SUGGESTED SUBSTITUTE

8/25/2020

### BOARDS AND COMMISSIONS

#### Board of Licensure of Marriage and Family Therapists (Amended After Comments)

##### 201 KAR 32:110. Telehealth.

RELATES TO: KRS 335.300, 335.305, 335.310, 335.320, 335.325, 335.332, 335.380, 335.399  
STATUTORY AUTHORITY: KRS 335.320(9), 335.380

NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.320(9) requires the Board of Licensure for Marriage and Family Therapists to promulgate administrative regulations to implement the purpose and scope of KRS 335.300 to 335.399. KRS 335.380 requires the board to promulgate administrative regulations to govern telehealth services in the provision of marriage and family therapy services. This administrative regulation establishes procedures for the use of telehealth by licensees and associates.

##### Section 1. Definitions.

(1) "Asynchronous" means a communication that does not occur simultaneously in real time.

(2) "Electronic communication" means the use of Web sites[websites], cell phones, email, texting, online social networking, video, or other digital methods and technology used to send and receive messages or post information.

(3) "Encryption" means a mathematical process that converts text, video, or audio streams into a scrambled, unreadable format when transmitted electronically.

(4) "Fee-splitting" means offering or accepting payment for referrals other than in an employer-employee or contractor-contractee relationship.

(5) "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, Pub L. No. 104-191, 110 Stat. 1936 (1996).

(6)[(5)] "HITECH" means the Health Information Technology for Economic and Clinical Health Act of 2009, 42 U.S.C. 17901-17953.

(7)[(6)] "Social media" means a Web-based communication tool that enables people to interact with each other by both sharing and consuming information.

(8)[(7)] "Synchronous" means a communication that occurs simultaneously in real time.

(9)[(8)] "Telehealth" is defined by KRS 335.380(3).

##### Section 2. Licensure, Standard of Practice, and Competency.

(1) License or permit required. Each[Any] licensed marriage and family therapist, or permit-  
ted marriage and family therapy associate practicing telehealth[teletherapy] in this state shall be licensed by the board, or hold a permit issued by the board, and comply with all statutes, administrative regulations, and ethics guidelines applicable to the practice of marriage and family therapy.



(2) Standard of appropriate practice. A licensed marriage and family therapist, or **permitted marriage and family therapy associate** providing telehealth services in this state shall be held to the same standards of practice as those applicable for in-person therapy settings.

(3) Competency. A licensed marriage and family therapist, or **permitted marriage and family therapy associate** shall only provide telehealth services in this state in those instances in which the licensed marriage and family therapist, or **permitted marriage and family therapy associate** has successfully completed all requirements set forth in Section 3(1) of this administrative regulation.

(4) Continued competency. A licensed marriage and family therapist, or **permitted marriage and family therapy associate** providing telehealth services in this state shall have an ongoing obligation to assess **his or her[their]** technical and clinical competency to render these services by successfully completing all requirements set forth in Section 3(2) of this administrative regulation.

(5) Fee splitting. A licensed marriage and family therapist, or **permitted marriage and family therapy associate** providing telehealth services shall not split fees.

### Section 3. Education and Continuing Education Requirements.

(1) Initial educational requirements. Effective January 1, 2020, a licensed marriage and family therapist, or a **permitted marriage and family therapy associate** providing telehealth services in this state, **and/or** a licensed marriage and family therapist who is supervising a marriage and family therapy associate providing telehealth services in this state shall have completed fifteen (15) hours of board-approved training in the practice of telehealth as provided in 201 KAR 32:060, Section 2(2), which shall include three (3) hours of ethics in the practice of telehealth. Each approved course shall be live or online. Areas to be covered in the training shall include:

- (a) Appropriateness of teletherapy;
- (b) Teletherapy theory and practice;
- (c) Modes of delivery;
- (d) Legal and ethical issues;
- (e) Handling online emergencies; and
- (f) Best practices and informed consent.

(2) Continuing education requirements. A licensed marriage and family therapist, or **permitted marriage and family therapy associate** who has completed the initial training in the practice of telehealth shall complete at least two (2) credit hours of continuing education approved by the board, in accordance with 201 KAR 32:060, in the practice of telehealth during each subsequent ~~[licensure]~~ renewal period.

(3) Credit hours earned to comply with subsections (1) and (2) **of this Section[above]** may be applied to continuing education requirements set forth in 201 KAR 32:060.

Section 4. Verification of the Client. Prior to providing **initial** telehealth services in this state a licensed marriage and family therapist, or **permitted marriage and family therapy associate** shall require the client to produce a valid photo identification. **If the client is a minor, prior to providing telehealth services in this state a licensed marriage and family therapist, or permitted marriage and family therapy associate shall verify the identity of the parent, guardian, or other person consenting to the minor's treatment.**



#### Section 5. Client Assessment.

(1) Initial assessment. Prior to providing telehealth services in this state a licensed marriage and family therapist, or permitted marriage and family therapy associate shall conduct an initial assessment of the client to determine if telehealth is an appropriate delivery of treatment considering the professional, intellectual, or emotional needs of the client.

(2) Ongoing assessment. Throughout the duration of providing telehealth services in this state, a licensed marriage and family therapist, or permitted marriage and family therapy associate shall engage in a continual assessment of the appropriateness of providing these services to the client.

(3) Telehealth may not be appropriate if the client:

- (a) Recurrently experiences, or is likely to experience, crises or emergencies;
- (b) Is a suicide risk, or likely to become a suicide risk;
- (c) Is violent, or likely to become violent; or
- (d) Otherwise poses a risk to themselves or to others.

Section 6. Informed Consent. (1) Generally. Prior to providing telehealth services in this state, the licensed marriage and family therapist, or permitted marriage and family therapy associate providing these services shall obtain the informed consent of the client, which shall include:

(a) Disclosure of specific information regarding the licensed marriage and family therapist's, or permitted marriage and family therapy associate's:

- 1. Training and credentials;
- 2. License or permit number;
- 3. Physical location and contact information;
- 4. Social media policy;
- 5. Encryption policy; and
- 6. Collection, documentation, tracking, and storage of client information;
- (b) Client confidentiality and the limits to confidentiality in electronic communication;
- (c) Information on reporting complaints to the board and other appropriate licensing bodies;
- (d) The specific services to be provided;
- (e) The risks and benefits of engaging in telehealth in the clinical setting;
- (f) The possibility of technology failure and alternate methods of service delivery;
- (g) Time zone differences, if any;
- (h) Cultural or language differences that may affect the delivery of services;
- (i) The possible denial of insurance benefits;
- (j) The pertinent legal rights and limitations governing practice across state lines or international boundaries, if applicable; and
- (k) Whether delivery of service will be asynchronous or synchronous.

(2) Minors. **Except as allowed by KRS 214.185, if** the client is a minor, prior to providing telehealth services in this state the licensed marriage and family therapist, or permitted marriage and family therapy associate shall, pursuant to Section 4 of this administrative regulation, verify the identity of the parent, guardian, or other person consenting to the minor's treatment and obtain from that person the informed consent required by this section.



Section 7. Emergency Procedures, Coordination of Care and Referrals. Prior to providing telehealth services in this state, the licensed marriage and family therapist, or permitted marriage and family therapy associate shall establish with the client:

- (1) Acceptable ways to contact the licensed marriage and family therapist, or permitted marriage and family therapy associate in an emergency;
- (2) Emergency procedures to include emergency services at the client's location;
- (3) Coordination of care with other professionals; and
- (4) Conditions under which telehealth services may be terminated and a referral made to in-person care.

Section 8. Compliance with Privacy Laws, Documentation, and Recordkeeping. A licensed marriage and family therapist, or permitted marriage and family therapy associate performing telehealth services in this state shall:

- (1) Comply with all privacy laws and regulations relating to the transmission and protection of protected health information, including HIPAA and HITECH; and
- (2) Comply with all state and federal laws and regulations relating to the practice of telehealth, documentation of services delivered, and related recordkeeping.

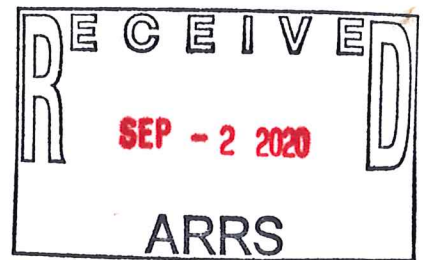
DR. C. SHAWN OAK, Ph.D., LMFT, Chairman

APPROVED BY AGENCY: August 10, 2020

FILED WITH LRC: August 13, 2020 at noon

CONTACT PERSON: Bryan D. Morrow, Board Attorney, 500 Mero Street, 218 NC, phone +1 (502) 782-0766, fax +1 (502) 564-3969, email Bryan.Morrow@ky.gov.





**Board of Medical Imaging and Radiation Therapy**

**Andy Beshear**  
Governor

125 Holmes Street, Suite 320  
Frankfort, KY 40601  
502-782-5687  
<http://kbmirt.ky.gov/>

**Amy L. Adkins**  
Board Chair

September 1, 2020

Senator Stephen West, Co-Chair  
Representative David Hale, Co-Chair  
c/o Emily Caudill, Regulation Compiler  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort KY 40601

Re: **201 KAR 46:035**, Practice standards, scopes of practice, and ethical standards.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 46:035, the Board of Medical Imaging and Radiation Therapy proposes the attached **suggested** amendment to 201 KAR 46:035.

Sincerely,

A handwritten signature in cursive script that reads "Elizabeth Morgan".

Elizabeth Morgan, Executive Director  
Board of Medical Imaging and Radiation Therapy  
125 Holmes Street, Suite 320  
Frankfort, Kentucky 40601



**SUGGESTED SUBSTITUTE**

**BOARDS AND COMMISSIONS**

**Board of Medical Imaging and Radiation Therapy**

**201 KAR 46:035. Practice standards, scopes of practice, and ethical standards.**

RELATES TO: 311B.080

STATUTORY AUTHORITY: KRS 311B.050(2), 311B.080

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311B.050(2) requires the Kentucky Board of Medical Imaging and Radiation Therapy to promulgate administrative regulations to administer and enforce KRS Chapter 311B. KRS 311B.080 requires the board to recognize and enforce national practice standards, scopes of practice, and ethical standards. This administrative regulation establishes uniform standards for the licensure of individuals who perform medical imaging and radiation therapy for diagnostic and therapeutic purposes while under the supervision of a licensed practitioner of the healing arts.

Section 1. Applicability. A licensee shall only perform medical imaging or radiation therapy for diagnostic medical imaging or therapeutic purposes while under the direct or indirect supervision as specified by a licensee's practice standards, by a licensee's scope of practice, or in the ACR-AAPM Technical Standard for the Management of the Use of Radiation in Fluoroscopic Procedures as listed in Section 3 of this administrative regulation.

Section 2. If a licensee's practice standards, a licensee's scope of practice, or the ACR-AAPM Technical Standard for the Management of the Use of Radiation in Fluoroscopic Procedures fails to specify who may provide direct or indirect supervision, a licensee shall only perform medical imaging or radiation therapy for diagnostic medical imaging or therapeutic purposes while under the direct or indirect supervision of a licensed practitioner of the healing arts.

Section 3. Practice Standards. A licensee shall perform according to practice standards of the discipline for which the licensee holds a credential, as established by the American Society of Radiologic Technologists (ASRT), the American College of Radiology (ACR), the American Association of Physicists in Medicine (AAPM), and the Society of Nuclear Medicine and Molecular Imaging (SNMMI) and incorporated by reference. These standards include the:

(1) **The ASRT[Radiography] Practice Standards *for Medical Imaging and Radiation Therapy – Radiography*;**

(2) Nuclear Medicine Technologist Scope of Practice and Performance Standards;

(3) Positron Emission Tomography (PET) Technologist Scope of Practice and Performance Standards;

(4) Scope of Practice for the Nuclear Medicine Advanced Associate;

(5) **The ASRT[Radiation Therapy] Practice Standards *for Medical Imaging and Radiation Therapy – Radiation Therapy*;**

(6) **The ASRT[Bone Densitometry] Practice Standards *for Medical Imaging and Radiation Therapy – Bone Densitometry*;**

(7) **The ASRT Practice Standards for Medical Imaging and Radiation Therapy – Cardiac Interventional and Vascular Interventional Technology [Practice Standards];**

(8) **The ASRT[Computed Tomography] Practice Standards *for Medical Imaging and Radiation Therapy – Computed Tomography*;**



- (9) **The ASRT Practice Standards for Medical Imaging and Radiation Therapy – Limited X-ray Machine Operator [Practice Standards];**
- (10) **The ASRT[Mammography] Practice Standards for Medical Imaging and Radiation Therapy – Mammography;**
- (11) **The ASRT[Radiologist Assistant] Practice Standards for Medical Imaging and Radiation Therapy – Radiologist Assistant;**
- (12) ACR ASRT Joint-Policy Statement-Radiologist Assistant: Roles and Responsibilities;
- (13) ACR-AAPM Technical Standard for Management of the Use of Radiation in Fluoroscopic Procedures;
- (14) The American Registry of Radiologic Technologists' Code of Ethics; and
- (15) The Nuclear Medicine Technology Certification Board's Code of Ethics[; and
- (16) ~~The Practice Standards for Medical Imaging and Radiation Therapy, Glossary].~~

#### Section 4. Incorporation by Reference.

- (1) The following material is incorporated by reference:
  - (a) **"The ASRT[Radiography] Practice Standards for Medical Imaging and Radiation Therapy – Radiography"**, revised June 23[25], 2019[2017];
  - (b) "Nuclear Medicine Technologist Scope of Practice and Performance Standards", June 2017[2016];
  - (c) "Positron Emission Tomography (PET) Technologist Scope of Practice and Performance Standards", revised January 26, 2013;
  - (d) "Scope of Practice for the Nuclear Medicine Advanced Associate", created 2009;
  - (e) **"The ASRT[Radiation Therapy] Practice Standards for Medical Imaging and Radiation Therapy – Radiation Therapy"**, revised June 23[25], 2019[2017];
  - (f) **"The ASRT[Bone Densitometry] Practice Standards for Medical Imaging and Radiation Therapy – Bone Densitometry"**, revised June 23[25], 2019[2017];
  - (g) **"The ASRT Practice Standards for Medical Imaging and Radiation Therapy – Cardiac- Interventional and Vascular-Interventional Technology [Practice Standards]"**, revised June 23[25], 2019[2017];
  - (h) **"The ASRT[Computed Tomography] Practice Standards for Medical Imaging and Radiation Therapy – Computed Tomography"**, revised June 23[25], 2019[2017];
  - (i) **"The ASRT Practice Standards for Medical Imaging and Radiation Therapy – Limited X-ray Machine Operator [Practice Standards]"**, revised June 23[25], 2019[2017];
  - (j) **"The ASRT[Mammography] Practice Standards for Medical Imaging and Radiation Therapy – Mammography"**, revised June 23[25], 2019[2017];
  - (k) **"The ASRT[Radiologist Assistant] Practice Standards for Medical Imaging and Radiation Therapy – Radiologist Assistant "**, revised June 23[25], 2019[2017];
  - (l) "ACR ASRT Joint Policy Statement-Radiologist Assistant: Roles and Responsibilities", May 2003;
  - (m) "ACR-AAPM Technical Standard for Management of the Use of Radiation in Fluoroscopic Procedures", revised 2018[2013] (Resolution 44);
  - (n) The American Registry of Radiologic Technologists' Code of Ethics, (September 1, 2019[November 15, 2017]); and
  - (o) The Nuclear Medicine Technology Certification Board's Code of Ethics, (November 15, 2017).]; and]
  - (p) ~~The Practice Standards for Medical Imaging and Radiation Therapy, Glossary, (June 25, 2017); and]~~
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at:



(a) American Society of Radiologic Technologists, 15000 Central Ave. SE Albuquerque, NM 87123-3909, <https://www.asrt.org/main/standards-regulations/practice-standards/practice-standards>;

(b) Society for Nuclear Medicine and Molecular Imaging, 1850 Samuel Morse Drive Reston, Virginia 20190, <http://www.snmmi.org>;

(c) The American Registry of Radiologic Technologists' Code of Ethics, 125 Northland Drive, Saint Paul, Minnesota 55120, <https://www.arrt.org/docs/default-source/Governing-Documents/code-of-ethics.pdf?sfvrsn=10>;

(d) The Nuclear Medicine Technology Certification Board, 3558 Habersham at Northlake, Building I, Tucker, Georgia 30084, <https://www.nmtcb.org/policies/ethics.php>; or

(e) The Board of Medical Imaging and Radiation Therapy, 125 Holmes Street, Suite 320, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m.

CONTACT PERSON: Elizabeth Morgan, Executive Director, 125 Holmes St, Suite 320, Frankfort, Kentucky 40601, phone +1 (502) 782-5687, fax +1 (502) 782-6495, email [elizabeth.morgan@ky.gov](mailto:elizabeth.morgan@ky.gov).





**Board of Medical Imaging and Radiation Therapy**

**Andy Beshear**  
Governor

125 Holmes Street, Suite 320  
Frankfort, KY 40601  
502-782-5687  
<http://kbmirt.ky.gov/>

**Amy L. Adkins**  
Board Chair

September 1, 2020

Senator Stephen West, Co-Chair  
Representative David Hale, Co-Chair  
c/o Emily Caudill, Regulation Compiler  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort KY 40601

Re: **201 KAR 46:040**, Medical imaging technologist, advanced imaging professional, radiographer, nuclear medicine technologist, and radiation therapist licenses.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 46:040, the Board of Medical Imaging and Radiation Therapy proposes the attached **agency** amendment to 201 KAR 46:040.

Sincerely,

A handwritten signature in cursive script that reads "Elizabeth Morgan".

Elizabeth Morgan, Executive Director  
Board of Medical Imaging and Radiation Therapy  
125 Holmes Street, Suite 320  
Frankfort, Kentucky 40601



Final 8-31-2020

## **AGENCY AMENDMENT**

### **BOARDS AND COMMISSIONS**

#### **Board of Medical Imaging and Radiation Therapy**

**201 KAR 46:040. Medical imaging technologist, advanced imaging professional, radiographer, nuclear medicine technologist, and radiation therapist licenses.**

**NOTE TO COMPILER: Make these changes to the Suggested Substitute of this administrative regulation**

#### **Section 9**

After "Section 9.", insert the following:

Lapsed Credential. A licensee shall not allow a credential to lapse while the license is active. If a licensee's credential is suspended, revoked, or otherwise discontinued by a national organization, the licensee shall notify the board immediately. A licensee seeking reinstatement following a lapse in credential shall submit:

- (1) Verification of current active status with the ARRT or NMTCB; and
- (2) Payment of reinstatement fee as established by 201 KAR 46:020, Section 7. Section 10.

#### **Sections 10-15**

**NOTE TO COMPILER: Renumber all remaining Sections of the administrative regulation, Sections 10 through 15, as Sections 11 through 16 in this administrative regulation.**





**Board of Medical Imaging and Radiation Therapy**

**Andy Beshear**  
Governor

125 Holmes Street, Suite 320  
Frankfort, KY 40601  
502-782-5687  
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**Amy L. Adkins**  
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Senator Stephen West, Co-Chair  
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c/o Emily Caudill, Regulation Compiler  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort KY 40601

Re: 201 KAR 46:040, Medical imaging technologist, advanced imaging professional, radiographer, nuclear medicine technologist, and radiation therapist licenses.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 46:040, the Board of Medical Imaging and Radiation Therapy proposes the attached suggested amendment to 201 KAR 46:040.

Sincerely,

A handwritten signature in cursive script that reads "Elizabeth Morgan".

Elizabeth Morgan, Executive Director  
Board of Medical Imaging and Radiation Therapy  
125 Holmes Street, Suite 320  
Frankfort, Kentucky 40601



**SUGGESTED SUBSTITUTE**

**BOARDS AND COMMISSIONS**

**Board of Medical Imaging and Radiation Therapy**

**201 KAR 46:040. Medical imaging technologist, advanced imaging professional, radiographer, nuclear medicine technologist, and radiation therapist licenses.**

RELATES TO: KRS 311B.020, 311B.050, 311B.100(2), 311B.110, 311B.120, 311B.180, 311B.190

STATUTORY AUTHORITY: KRS 311B.050, 311B.080, 311B.100(2), 311B.110

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311B.050 requires the Board of Medical Imaging and Radiation Therapy to promulgate administrative regulations to establish the procedures for the issuance and renewal of a license. KRS 311B.100(2) and KRS 311B.110(6) require the board to promulgate administrative regulations to establish the qualifications for an advanced imaging professional, a medical imaging technologist, a radiographer, a radiation therapist, and a nuclear medicine technologist. This administrative regulation establishes requirements for licensure, renewal, and reinstatement.

Section 1. Eligibility for an Advanced Imaging Professional, a Medical Imaging Technologist, a Radiographer, a Radiation Therapist, and a Nuclear Medicine Technologist License. A person shall not be eligible for a license pursuant to this administrative regulation for diagnostic imaging or therapeutic purposes unless the person has:

(1) Satisfactorily passed the national examination administered by the American Registry of Radiologic Technologists or the Nuclear Medicine Technology Certification Board examination; [and]

(2) Satisfactorily completed an accredited educational program; and

(3) Maintained current active status of certification and registration with ARRT or NMTCB.

Section 2. Application for Initial License.

(1) An applicant shall submit:

(a) A completed and signed application KBMIRT Form 1;

(b) A nonrefundable initial application and license fee as established by 201 KAR 46:020, Section 1, **unless the fee is waived in accordance with KRS 311B.140;**

(c) The results of a criminal background check completed within the past six (6) months in state of residence and employment and any other state of residence and employment within the past five (5) years;

(d) A copy of a government-issued photo ID;

(e) Documentation of active registration or certification with the ARRT or NMTCB; and

(f) Verification of graduation from an accredited educational program.

Section 3. Applicant from an Unaccredited Educational Program.

**(1)** If an applicant qualifies for licensure under KRS 311B.100(3), the applicant shall submit and satisfy the requirements of Section 2(1)(a) through (e) of this administrative regulation and shall submit proof:

**(a) [(1)]** Of an active valid license or certificate from another jurisdiction's regulatory board to practice as an advanced imaging professional, medical imaging technologist, radiographer, radiation therapist, or nuclear medicine technologist and is in good standing;

**(b) [(2)]** Of certification or licensure by a national organization recognized by the board;



~~(c)~~~~(3)~~ That the applicant has not been disciplined as an advanced imaging professional, medical imaging technologist, radiographer, radiation therapist, or nuclear medicine technologist by any jurisdiction or national organization that has issued a license or certificate to the applicant;

~~(d)~~~~(4)~~ Of a minimum of five (5) years of work experience as a certified or licensed advanced imaging professional, medical imaging technologist, radiographer, radiation therapist, or nuclear medicine technologist; and

~~(e)~~~~(5)~~ That the applicant maintained continuing education requirements during the applicant's period of licensure or certification, which includes copies of any continuing education certificates received for attending from the sponsor.

**(2) If an applicant qualifies for licensure under KRS 12.245, 12.354, or 12.357, the applicant shall submit and satisfy the requirements of Section 2(1)(a) through (e) of this administrative regulation, subsection (1)(a) through (c) of this Section, and shall submit form DD-214 or other proof of active or prior military service for the applicant or spouse of the applicant.**

Section 4. The issued license shall identify the licensee as an advanced imaging professional, a medical imaging technologist, a radiographer, a radiation therapist, or a nuclear medicine technologist. The medical imaging technologist license shall also identify any ARRT or NMTCB disciplines awarded to the licensee.

Section 5. The license shall expire annually on the last day of the licensee's birth month. If a license is first issued to an individual less than six (6) months before the individual's birth month, the license issued to the individual shall not expire on that date, but instead it shall expire at the last day of the individual's birth month in the following calendar year.

Section 6. Renewal of License. To renew a license, the licensee shall submit:

- (1) KBMIRT Form 2;
- (2) Verification of current active status with the ARRT or NMTCB; and
- (3) The renewal license fee as established by 201 KAR 46:020, Section 2, **unless the fee is waived in accordance with KRS 311B.140.**

Section 7. Reinstatement of Lapsed License. (1) A licensee who has allowed the license to lapse up to twelve (12) months shall be eligible to be reinstated upon:

- (a) Submission of KBMIRT Form 2;
- (b) Verification of current active status with the ARRT or NMTCB;
- (c) Submission of documentation of twenty-four (24) hours of approved continuing education biennially; and

~~(d)~~~~(e)~~ The payment of reinstatement and renewal fees as established by 201 KAR 46:020, Sections 2 and 7, **unless the fees are waived in accordance with KRS 311B.140.**

(2) A licensee whose license has lapsed for more than twelve (12) months shall submit:

- (a) Verification of current active status with the ARRT or NMTCB;
- (b) KBMIRT Form 1;
- (c) Continuing education KBMIRT Form 8, as incorporated by reference in 201 KAR 46:060, that documents twenty-four (24) hours of approved continuing education;
- (d) The payment of nonrefundable initial application and license fee and reinstatement fee as established by 201 KAR 46:020, Sections 1 and 7, **unless the fees are waived in accordance with KRS 311B.140;**

(e) The results of a criminal background check completed within the past six (6) months in state of residence and employment and any other state of residence and employment within the past five (5) years; and



(f) A copy of a government-issued photo ID.

Section 8. Reinstatement of Revoked License. An applicant seeking reinstatement after a license revocation shall follow the same process as a new applicant as required under KRS 311B.100, 311B.110, and this administrative regulation.

Section 9. Temporary License. The board may, upon completion of Form KBMIRT 3, as incorporated by reference in 201 KAR 46:045, and payment of the fee established in 201 KAR 46:020, Section 3, issue a temporary license to an applicant who has successfully completed an approved course of study in radiography, nuclear medicine technology, radiation therapy, or an advanced imaging profession and meets the other requirements of 201 KAR 46:045 other than having taken the required examination. A temporary license shall be effective for up to one (1) year only and shall not be renewable. Upon certification, a temporary license may be converted to a permanent license as described in 201 KAR 46:045, Section 2. A temporary license shall expire upon issuance of a permanent license.

Section 10. Continuing Education Audit Process. (1) The board shall select a sample of licensees to audit for continuing education compliance.

(2) The board shall send each licensee selected for audit a notification of audit.

(3) Each licensee shall maintain his or her personal files such as certificates or records of credit from approved continuing education programs from the current biennium and immediate prior biennium.

(4) A licensee selected for audit shall provide the board with a copy of his or her certificate or records of completion.

(5) Failure to comply with an audit may result in nonrenewal, suspension, or revocation of license.

Section 11. Contrast Procedures. Only individuals holding a license pursuant to this administrative regulation shall perform diagnostic imaging or radiation therapy procedures regulated by KRS Chapter 311B at facilities where contrast studies are performed.

Section 12. CT Training for Nuclear Medicine Technologists and Radiation Therapists. Individuals who are licensed in the primary discipline of nuclear medicine or radiation therapy, are certified by the ARRT or NMTCB, and are seeking post-primary certification in computed tomography (CT) may work under the direct supervision of a licensed and certified CT technologist to gain clinical competency. An individual who wishes to complete clinical training in CT shall submit a Provisional License Application, as incorporated by reference in 201 KAR 46:050, which shall expire twenty-four (24) months from the date of issuance.

Section 13. PET Training for Radiographers and Radiation Therapists. Individuals who are licensed in the primary discipline of radiography or radiation therapy, are certified by the ARRT, and are seeking post-primary certification in positron emission tomography (PET) may work under the direct supervision of a licensed and certified PET technologist with the permission of an authorized user to gain clinical competency. An individual who wishes to complete clinical training in PET shall submit a Provisional License Application, as incorporated by reference in 201 KAR 46:050, which shall expire twenty-four (24) months from the date of issuance.

Section 14. Applications for licensure shall be filed with the Board of Medical Imaging and Radiation Therapy, 125 Holmes Street, Suite 320, Frankfort, Kentucky 40601.



Section 15. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) KBMIRT Form 1, "License Application-Medical Imaging or Radiation Therapy", **Au-**  
**gust[March] 2020[2019]**; and

(b) KBMIRT Form 2, "License Renewal Application-Medical Imaging or Radiation Therapy",  
**August[March] 2020[2019]**.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Board of Medical Imaging and Radiation Therapy, 125 Holmes Street, Suite 320, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m.

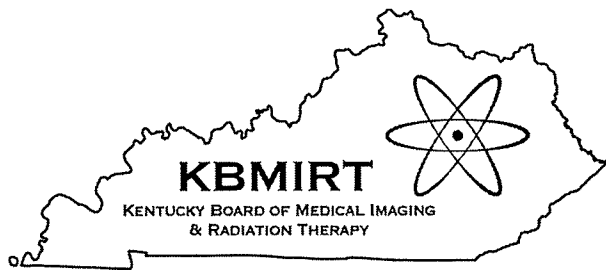
CONTACT PERSON: Elizabeth Morgan, Executive Director, 125 Holmes St, Suite 320, Frankfort, Kentucky 40601, phone +1 (502) 782-5687, fax +1 (502) 782-6495, email elizabeth.morgan@ky.gov.

#### **MATERIAL INCORPORATED BY REFERENCE**

The agency needs to file **one (1) clean** and **one (1) dirty copy** of **KBMIRT, Form 1** and **KBMIRT, Form 2** at the time that it files this staff suggested substitute that includes the following changes:

- Updates edition date to **8/2020**
- Updates the question on the forms relating to KRS 12.245
- Clarifies that pursuant to KRS 311B.140, that if in active duty in the United States Armed Forces and proof submitted of active duty status, that licensure fees shall be waived





# Kentucky Board of Medical Imaging and Radiation Therapy

125 Holmes Street, Suite 320  
Frankfort, KY 40601  
Phone: (502)782-5687

For Office Use Only:

## License Application- Medical Imaging or Radiation Therapy

### Applicant Information

Application for (select one): ☐ Initial License ☐ Reinstatement of Expired License (more than 12 mos)

Full Name: \_\_\_\_\_ Date: \_\_\_\_\_  
Last First M.I.

Address: \_\_\_\_\_  
Street Address Apartment/Unit #  
\_\_\_\_\_  
City State ZIP Code

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Social Security Number (last 4 digits): \_\_\_\_\_ Date of Birth: \_\_\_\_\_  
Month Day Year

### Fees

Medical Imaging or Radiation Therapy License (if selecting more than one discipline below, only one fee is required):

- ☐ Radiography..... \$100.00
- ☐ Nuclear Medicine ..... \$100.00
- ☐ Radiation Therapist..... \$100.00
- ☐ Radiologist Assistant..... \$100.00
- ☐ Nuclear Medicine Advanced Associate..... \$100.00

*Payments can be made by check or money order payable to: The Kentucky State Treasurer.*

In addition to the application fee, please include the following, if applicable:

- ☐ Reinstatement Fee..... \$100.00

### Eligibility

Have you been convicted of a felony? ☐ Yes ☐ No If yes, please explain \_\_\_\_\_

Have you previously been issued a license in another state(s)? ☐ Yes ☐ No If yes, please provide the following:

State: \_\_\_\_\_ License Number: \_\_\_\_\_  
State: \_\_\_\_\_ License Number: \_\_\_\_\_  
State: \_\_\_\_\_ License Number: \_\_\_\_\_



Has your license in another state(s) been denied, suspended, revoked, or otherwise disciplined? ☐ Yes ☐ No

If yes, please explain \_\_\_\_\_

Has your registration or certification with the ARRT or NMTCB ever been sanctioned, suspended, revoked or otherwise disciplined? ☐ Yes ☐ No

If yes, please explain \_\_\_\_\_

How many years of work experience do you have in medical imaging or radiation therapy? \_\_\_\_\_

Pursuant to KRS 12.245, are you a member of the United States military, Reserves, or National Guard, or his or her spouse, or a veteran, or the spouse of a veteran? ☐ Yes ☐ No

Pursuant to KRS 311B.140, are you active duty in the United States Armed Forces? ☐ Yes\* ☐ No

*\*If yes, please submit proof of active duty status, and licensure fees shall be waived.*

### Employment Information

Place of Employment: \_\_\_\_\_

Business Address: \_\_\_\_\_  
(Street, Road, or Box No.)

City State Zip Code

Work Telephone Number: \_\_\_\_\_ Work Email: \_\_\_\_\_

Start Date: \_\_\_\_\_ Title: \_\_\_\_\_

☐ I am currently not employed as a medical imaging technologist or radiation therapist.

If you are on a travel assignment within the Commonwealth of Kentucky, please include your temporary employment information:

☐ Not applicable

Place of Temporary Employment: \_\_\_\_\_

Business Address: \_\_\_\_\_  
(Street, Road, or Box No.)

City State Zip Code

Work Telephone Number: \_\_\_\_\_ Work Email: \_\_\_\_\_

Start Date: \_\_\_\_\_ Title: \_\_\_\_\_



## Education Information

Please provide information about the educational program(s) where you received your medical imaging or radiation therapy education.

Select one:

☐ Radiography   ☐ Nuclear Medicine   ☐ Radiation Therapist   ☐ Radiologist Assistant   ☐ Nuc Med Advanced Associate

Name of educational institution: \_\_\_\_\_

Address: \_\_\_\_\_

Date of graduation: \_\_\_\_\_

Additional educational information:

☐ Not applicable

☐ Radiography   ☐ Nuclear Medicine   ☐ Radiation Therapist   ☐ Radiologist Assistant   ☐ Nuc Med Advanced Associate

Name of educational institution: \_\_\_\_\_

Address: \_\_\_\_\_

Date of graduation: \_\_\_\_\_

## Required Documents

Please submit the following documentations with your application:

- ☐ Verification of graduation from education program(s) listed above;
- ☐ A copy of your ARRT or NMTCB certification;
- ☐ A copy of your government issued photo identification; and
- ☐ Results of criminal background check

*Pursuant to 201 KAR 46:040 applicants are required to submit "results of criminal background check completed within the past six (6) months in state of residence and employment and any other states of residence or employment within past five (5) years."*

If you are applying for reinstatement of an expired license, in addition to the documents listed above, also submit the following:

- ☐ KBMIRT Form 8 that documents twenty-four (24) hours of approved continuing education

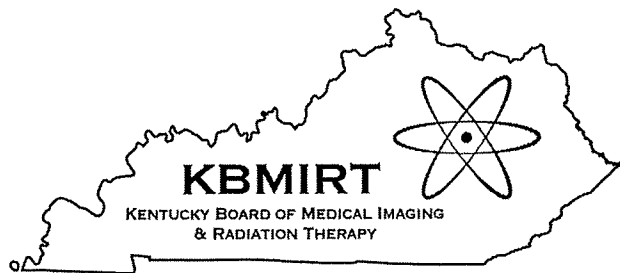
## Disclaimer and Signature

*All applicants please read, sign, and date the statement below. All applications will be null and void unless properly signed and dated.*

I hereby submit this complete application and supporting documents and attest to its authenticity and the accuracy of the application and all information contained herein. I further understand that if any information contained in this application or the supporting documents submitted on my behalf, is determined to be false or misleading, this may be cause for denial, revocation or suspension of any license pursuant to this application and criminal prosecution and punishment.

Signature of Applicant: \_\_\_\_\_ Date: \_\_\_\_\_





# Kentucky Board of Medical Imaging and Radiation Therapy

125 Holmes Street, Suite 320  
Frankfort, KY 40601  
Phone: (502)782-5687

## License Renewal Application- Medical Imaging or Radiation Therapy

### Licensee Information

Application for (select one): ☐ License Renewal ☐ Reinstatement of Lapsed License (less than 12 mos)

Full Name: \_\_\_\_\_ Date: \_\_\_\_\_  
Last First M.I.

Address: \_\_\_\_\_  
Street Address Apartment/Unit #  
\_\_\_\_\_  
City State ZIP Code

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

KY Radiation License Number: \_\_\_\_\_ Date of Birth: \_\_\_\_\_  
Month Day Year

### Fees-Annual

Medical Imaging or Radiation Therapy License (if selecting more than one discipline below, only one fee is required):

- ☐ Radiography..... \$50.00
- ☐ Nuclear Medicine ..... \$50.00
- ☐ Radiation Therapist..... \$50.00
- ☐ Radiologist Assistant..... \$50.00
- ☐ Nuclear Medicine Advanced Associate..... \$50.00

Payments can be made online during your renewal cycle at <http://kbmirt.ky.gov> or by submitting check or money order payable to: The Kentucky State Treasurer.

In addition to the application fee, please include the following, if applicable:

- ☐ Reinstatement Fee..... \$100.00

### CE Attestation

If licensee is completing continuing education biennium, pursuant to 201 KAR 46:060 licensee is required "to complete twenty four (24) continuing education hours per biennium."

- ☐ As a licensee, pursuant to 201 KAR 40:060, I have completed the required continuing education hours.
- ☐ As a licensee, pursuant to 201 KAR 40:060, I am not at the end of my biennium and do not need to complete continuing education for this renewal.

It is the responsibility of the licensee to maintain all continuing education documentation for current and prior biennium and submit documentation if selected for continuing education audit.



## Employment Information

Current

Employer: \_\_\_\_\_

Address: \_\_\_\_\_

*Street Address*

*City*

*State*

*ZIP Code*

Phone: (        )        -        Business email: \_\_\_\_\_

☐ I am not currently employed as a medical imaging technologist or radiation therapist.

## Eligibility

Have you been convicted of a felony or a misdemeanor since your last renewal involving drugs, alcohol, fraud, deceit, falsification of records, a breach of trust, physical harm or endangerment to others, or dishonesty under the laws of any state or the United States [per KRS 311B.150 (4)(a)]?

☐ Yes ☐ No

If yes, please explain (attach court documents):

Has your license in another state(s) been denied, suspended, revoked, or otherwise disciplined since your last renewal?

☐ Yes ☐ No ☐ Not applicable

If yes, please explain \_\_\_\_\_

Is your ARRT or NMTCB certification or registration currently valid and active? ☐ Yes ☐ No

Has your registration or certification with the ARRT or NMTCB been reprimanded, revoked, or otherwise disciplined since your last renewal? ☐ Yes ☐ No

If yes, please explain \_\_\_\_\_

Pursuant to KRS 12.245, are you a member of the United States military, Reserves, or National Guard, or his or her spouse, or a veteran, or the spouse of a veteran? ☐ Yes ☐ No

Pursuant to KRS 311B.140, are you active duty in the United States Armed Forces? ☐ Yes\* ☐ No

*\*If yes, please submit proof of active duty status, and licensure fees shall be waived.*

## Disclaimer and Signature

*All licensees please read, sign, and date the statement below. All license renewal forms will be null and void unless properly signed and dated.*

I hereby submit this complete renewal form and attest to its authenticity and the accuracy of the form and all information contained herein. I further understand that if any information contained in this application or the supporting documents submitted on my behalf, is determined to be false or misleading, this may be cause for denial, revocation or suspension of any license pursuant to this application and criminal prosecution and punishment.

Signature of Applicant: \_\_\_\_\_ Date: \_\_\_\_\_





**Board of Medical Imaging and Radiation Therapy**

**Andy Beshear**  
Governor

125 Holmes Street, Suite 320  
Frankfort, KY 40601  
502-782-5687  
<http://kbmirt.ky.gov/>

**Amy L. Adkins**  
Board Chair

September 1, 2020

Senator Stephen West, Co-Chair  
Representative David Hale, Co-Chair  
c/o Emily Caudill, Regulation Compiler  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort KY 40601

Re: 201 KAR 46:081, Limited X-Ray machine operator.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 46:081, the Board of Medical Imaging and Radiation Therapy proposes the attached agency amendment to 201 KAR 46:081.

Sincerely,

A handwritten signature in cursive script that reads "Elizabeth Morgan".

Elizabeth Morgan, Executive Director  
Board of Medical Imaging and Radiation Therapy  
125 Holmes Street, Suite 320  
Frankfort, Kentucky 40601



**AGENCY AMENDMENT**

**BOARDS AND COMMISSIONS**

**Board of Medical Imaging and Radiation Therapy**

**201 KAR 46:081. Limited X-Ray machine operator.**

**NOTE TO COMPILER:** Make these changes to the Suggested Substitute of this administrative regulation.

**Section 1 and Section 1(1)**

After "Applicability.", delete "(1)".

**Section 1(2)**

Delete the following:

(2) Limited diagnostic radiography shall include routine chest and cranium, extremity, podiatric, vertebral column radiography, and bone densitometry procedures.

**Section 7**

After "operators.", insert "(1)".

After "Programs", insert the following:  
for general limited x-ray machine operators

**Section 7(1) through Section 7(14)**

**NOTE TO COMPILER:** Renumber Sections (1) through (14) as paragraphs (a) through (n) as now under subsection (1) of this Section.

**Section 7(14) (paragraph (n) with compiler renumbering)**

After "board's representative.", insert the following:

(2) Programs for limited podiatry x-ray machine operators shall:

(a) Consist of instruction that reflects current modules of the Examination Content Specifications - Limited Scope of Practice in Radiography published by the ARRT. The curriculum shall include items such as:

1. Safety, including radiation physics; radiation protection, including personnel protection; radiation exposure, monitoring, and radiation units; biological effects of radiation; low-dose technique and minimizing patient exposure; applicable federal and state radiation regulations;

2. Image Production, including principle of the radiographic equipment; image acquisition and technical evaluation; equipment operation and quality assurance; developing and using technique charts; and

3. Patient Care, including patient interactions and management; and

(b) Consist of at least six (6) months of clinical experience of foot and ankle limited x-ray procedures while under the direct supervision of a licensed practitioner of the healing arts, a licensed radiologic technologist, or a licensed limited x-ray machine operator.

(3) Programs for limited bone densitometry x-ray machine operators shall:



(a) Consist of instruction that reflects current content categories of the Examination Content Specifications - Bone Densitometry Equipment Operator published by the ARRT. The curriculum shall include items such as:

1. Patient Care, including osteoporosis, bone physiology, bone health and patient education, and patient preparation;
2. Safety, including fundamental principles, biological effects of radiation, units of measurement, and radiation protection; and
3. Image Production, including fundamentals of x-ray production, quality control, measuring and determining quality in bone mineral density; and

(b) Consist of at least six (6) months of bone densitometry clinical experience under the direct supervision of a licensed practitioner of the healing arts, a licensed radiologic technologist, or a licensed limited x-ray machine operator.

**Section 13(1)(c)**

After "August, 2020, insert the following:

- (d) "Examination Content Specifications - Limited Scope of Practice in Radiography", January 2018; and
- (e) "Examination Content Specifications - Bone Densitometry Equipment Operator", January 2018

**MATERIAL INCORPORATED BY REFERENCE:**

The agency needs to file one (1) clean copy of each of the following at the time that it files this agency amendment:

- "Examination Content Specifications – Limited Scope of Practice in Radiography" with the January 2018 Edition date
- "Examination Content Specifications – Bone Densitometry Equipment Operator" with the January 2018 Edition date





**Board of Medical Imaging and Radiation Therapy**

**Andy Beshear**  
Governor

125 Holmes Street, Suite 320  
Frankfort, KY 40601  
502-782-5687  
<http://kbmirt.ky.gov/>

**Amy L. Adkins**  
Board Chair

September 1, 2020

Senator Stephen West, Co-Chair  
Representative David Hale, Co-Chair  
c/o Emily Caudill, Regulation Compiler  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort KY 40601

Re: 201 KAR 46:081, Limited X-Ray machine operator.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 46:081, the Board of Medical Imaging and Radiation Therapy proposes the attached suggested amendment to 201 KAR 46:081.

Sincerely,

A handwritten signature in cursive script that reads "Elizabeth Morgan".

Elizabeth Morgan, Executive Director  
Board of Medical Imaging and Radiation Therapy  
125 Holmes Street, Suite 320  
Frankfort, Kentucky 40601



**SUGGESTED SUBSTITUTE**

**BOARDS AND COMMISSIONS**

**Board of Medical Imaging and Radiation Therapy**

**201 KAR 46:081. Limited X-Ray machine operator.**

RELATES TO: KRS 311B.020, 311B.150, 311B.100(2), 311B.110, 311B.120, 311B.180, 311B.190

STATUTORY AUTHORITY: KRS 311B.050, 311B.100(2), 311B.110

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311B.050 requires the Board of Medical Imaging and Radiation Therapy to promulgate administrative regulations to establish the procedures for the issuance and renewal of a license. KRS 311B.100(2) and KRS 311B.110(6) require the board to promulgate administrative regulations to establish the qualifications for a limited x-ray machine operator. This administrative regulation establishes the requirements for the licensure of a limited x-ray machine operator.

Section 1. Applicability.

(1) This administrative regulation shall apply to individuals who perform limited diagnostic radiography while under the direct supervision or indirect supervision of a licensed practitioner of the healing arts.

(2) Limited diagnostic radiography shall include routine chest and thorax, cranium, extremity, podiatric, vertebral column radiography, and bone densitometry procedures.

Section 2. Limited Licensee Employment Prohibition. An individual who holds a limited license shall not be employed as an operator of a source of radiation at a facility where contrast studies, fluoroscopy, mammography, computed tomography, magnetic resonance imaging, bedside radiography, nuclear medicine, positron emission tomography, or radiation therapy procedures are performed.

Section 3. Pathway to the Limited X-ray Machine Operator License.

**(1)** An applicant shall complete an approved postsecondary educational program that meets the American Society of Radiologic Technologists (ASRT) Limited X-Ray Machine Operator Curriculum requirements. An individual shall complete a formal education program for limited x-ray machine operators approved by the board.

**(2) If an applicant qualifies for licensure under KRS 12.245, 12.354, or 12.357, the applicant shall submit and satisfy the requirements of Section 5(1) through (6) of this administrative regulation, and shall submit form DD-214 or other proof of active or prior military service for the applicant or spouse of the applicant.**

Section 4. Application for Temporary Limited X-ray Machine Operator License.

(1) An applicant who has completed a formal educational program shall submit:

(a) A completed and signed application Form KBMIRT Form 5;

(b) A nonrefundable, non-transferrable temporary limited x-ray machine operator application and license fee as mandated in 201 KAR 46:020, Section 5, **unless the fee is waived in accordance with KRS 311B.140;**

(c) The satisfactory results of a criminal background check completed within the past six (6) months in state of residence and employment and any other state of residence and employment within the past five (5) years; and



- (d) A copy of a government-issued photo ID.
- (2) The temporary limited x-ray machine operator license shall be effective for up to one (1) year from date of program completion~~[only]~~ and shall not be renewable.
- (3) Upon completion of the limited x-ray machine operator training program, individuals shall:
  - (a) Apply for the limited scope radiography exam; and
  - (b) Submit the nonrefundable, non-transferrable limited x-ray machine operator examination fee as mandated in 201 KAR 46:020, Section 9.
- (4) ~~An individual shall~~~~[If a temporary licensee has not]~~ successfully ~~pass~~~~[passed]~~ the American Registry of Radiologic Technologists (ARRT) administered limited scope radiography exam within one (1) calendar year of program completion and prior to the expiration date of the temporary license, **except in the case of instances such as, disability, major illness, accident, or if an active duty member of the Armed Forces of the United States**~~[prior to the expiration date of the temporary license, the licensee shall cease to perform radiographic procedures. The licensee remains eligible to sit for the exam, however, the individual shall not perform radiographic procedures. Upon successful completion of the exam, the individual shall submit:~~
  - (a) A limited x-ray machine operator license application using KBMIRT Form 4; and
  - (b) An initial application and license fee as mandated in 201 KAR 46:020, Section 1].
- (5) If a temporary licensee has successfully passed the ARRT administered limited scope radiography exam prior to the expiration date of the temporary license, the licensee shall be issued a limited x-ray machine operator license which shall expire on the last day of the licensee's birth month. If the limited x-ray machine operator license is first issued to an individual less than six (6) months before the individual's birth month, the license issued to the individual shall not expire on that date, but instead it shall expire at the last day of the individual's birth month in the following calendar year.

**Section 5. Application for Initial Limited X-ray Machine Operator License. An Applicant shall submit:**

- (1) A completed and signed application, KBMIRT Form 4;**
- (2) A nonrefundable initial application and license fee as established in 201 KAR 46:020, Section 1, unless the fee is waived in accordance with KRS 311B.140;**
- (3) The results of a criminal background check completed within the past six (6) months in the state of residence and employment, and any other state of residence and employment within the past five (5) years;**
- (4) A copy of government-issued photo ID;**
- (5) Documentation of passing results of the ARRT administered limited scope radiography exam within one (1) calendar year of program completion, except in the case of instances such as, disability, major illness, accident, or if an active duty member of the Armed Forces of the United States; and**
- (6) Verification of graduation from a formal education program for limited x-ray machine operators approved by the board.**

**Section 6.** The issued license shall identify the licensee as a limited x-ray machine operator. The license shall also identify the category as general, bone densitometry, or podiatry.

Section **7.[6.]** Curricular Standards for Formal Educational Program. This administrative regulation applies to institutions offering a postsecondary program for limited x-ray machine operators. Programs shall:

- (1) Meet the curricular standards established by the American Society of Radiologic Technologists (ASRT);
- (2) Include a minimum of 240 classroom hours of didactic instruction and 360 clinical hours of education which shall include supervised practice and demonstration of clinical competency;



- (3) Supply data requested for a complete evaluation of its administration, organization, faculty, physical facilities, student policies, and curriculum;
- (4) Provide a structured curriculum with clearly written course descriptions, lesson plans, and objectives;
- (5) Provide an adequate faculty, which shall be qualified through academic preparation or experience to teach the subjects assigned;
- (6) Have a program director who is a licensed radiographer with a minimum of three (3) years of clinical or teaching experience or a combination of clinical and teaching experience;
- (7) Provide a licensee-to-student ratio consistent with professional educational guidelines in the appropriate field of practice;
- (8) Provide appropriate facilities, sufficient volume, and a variety of diagnostic exams to properly conduct the educational program;
- (9) Prohibit students from applying radiation to human beings for diagnostic purposes until they have obtained practical experience and have had their performance evaluated as satisfactory by the program faculty;
- (10) Provide direct or indirect supervision by a licensed practitioner of the healing arts or a licensee as required by the student's level of competency;
- (11) Prohibit students from administering radiation to a human being unless under direct or indirect supervision as required by the student's level of competency;
- (12) Maintain records of each student's attendance, grades, clinical competency, and subjects completed;
- (13) Designate a radiation safety officer; and
- (14) Permit site inspections by the board's representative.

Section **8.[7.]** Approved Radiographic Procedures for the Limited X-ray Machine Operator. An individual who holds a limited license is limited to performing the procedures authorized for his or her license as described in subsections (1), (2), and (3) of this section.

(1) An individual holding a general limited x-ray machine operator license shall perform only the following:

- (a) Radiography of the thorax, lungs and ribs;
- (b) Radiography of the abdomen;
- (c) Radiography of the skull and facial structures;
- ~~(d)[(e)]~~ Radiography of the upper and lower extremities;
- ~~(e)~~ Radiography of ~~the~~ including the pectoral girdle, ~~and the~~ hips, and pelvis; and
- ~~(f)[(d)]~~ Radiography of the cervical, thoracic, and lumbar spines.

(2) An individual holding a limited podiatry x-ray machine operator license shall perform radiographic procedures on the foot and ankle only.

(3) An individual holding a limited bone densitometry x-ray machine operator license shall perform bone densitometry radiographic procedures only.

(4) A limited x-ray machine operator shall comply with the Limited X-ray Machine Operator Practice Standards as incorporated by reference in 201 KAR 46:035, Section 4.

Section **9.[8.]** Continuing Education Requirements. Licensees shall complete and document twelve (12) hours of continuing education biennially as required by 201 KAR 46:060. A minimum of six (6) hours shall be related to radiation safety or medical imaging.

Section **10.[9.]** Continuing Education Audit Process.

(1) The board shall select a sample of twenty-five (25) percent of limited x-ray machine operator licensees to audit for continuing education compliance annually.

(2) The board shall send each licensee selected for audit a notification of audit.



(3) Each licensee shall maintain his or her personal files such as certificates or records of credit from approved continuing education programs from the current biennium and immediate prior biennium.

(4) A licensee selected for audit shall complete KBMIRT Form 8, as incorporated by reference in 201 KAR 46:060, and provide the board with a copy of his or her certificates or records of completion.

(5) Failure to comply with an audit may result in nonrenewal, suspension or revocation of license.

Section **11.[10.]** Renewal of License. A licensee shall renew annually prior to the expiration of his or her current license, which is the last day of the licensee's birth month, by:

(1) Completing KBMIRT Form 6; and

(2) Submitting the Renewal License Fee in accordance with 201 KAR 46:020, Section 2, **unless the fee is waived in accordance with KRS 311B.140.**

Section **12.[11.]** Reinstatement of Lapsed License. A licensee who has allowed the license to lapse for up to twelve (12) months is eligible to be reinstated upon submission of KBMIRT Form 6, documentation of twelve (12) hours of continuing education, and the payment of reinstatement and renewal fees pursuant to 201 KAR 46:020, Sections 2 and 7, **unless the fees are waived in accordance with KRS 311B.140.** A licensee whose license has lapsed for more than twelve (12) months shall:

(1) Successfully pass the ARRT limited scope radiography examination;

(2) Submit a completed and signed application KBMIRT Form 4;

(3) Submit a nonrefundable initial application and license fee and reinstatement fee as mandated in 201 KAR 46:020, Sections 1 and 7, **unless the fees are waived in accordance with KRS 311B.140.**

(4) Submit satisfactory results of a criminal background check completed within the past six (6) months in state of residence and employment and any other state of residence and employment within the past five (5) years; and

(5) Submit a copy of a government-issued photo ID.

Section **13.[12.]** Incorporation by Reference. (1) The following material is incorporated by reference:

(a) KBMIRT Form 4, "Limited X-ray Machine Operator License Application", **August[March] 2020[03/2019];**

(b) KBMIRT Form 5, "**Temporary** Limited X-ray Machine Operator **[Temporary]** License Application", **August[March] 2020[03/2019];**

(c) KBMIRT Form 6, "Limited X-ray Machine Operator Renewal Application", **August[March] 2020[09/2018].**

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Board of Medical Imaging and Radiation Therapy, 125 Holmes Street, Suite 320[42 Fountain Place], Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

CONTACT PERSON: Elizabeth Morgan, Executive Director, 125 Holmes St, Suite 320, Frankfort, Kentucky 40601, phone +1 (502) 782-5687, fax +1 (502) 782-6495, email elizabeth.morgan@ky.gov.

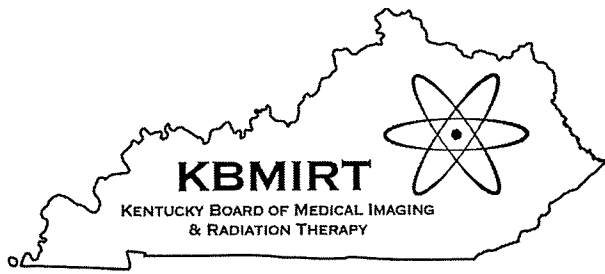
#### **MATERIAL INCORPORATED BY REFERENCE**

The agency needs to file **one (1) clean and one (1) dirty copy** of **KBMIRT, Form 4, KBMIRT, Form 5, and KBMIRT, Form 6** at the time that it files this staff suggested substitute that includes the following changes:



- Updates edition date to 8/2020
- Updates the question on the forms relating to KRS 12.245
- Clarifies that pursuant to KRS 311B.140, that if in active duty in the United States Armed Forces and proof submitted of active duty status, that licensure fees shall be waived





# Kentucky Board of Medical Imaging and Radiation Therapy

125 Holmes Street, Suite 320  
Frankfort, KY 40601  
Phone: (502)782-5687

For Office Use Only:

## Limited X-Ray Machine Operator License Application

### Applicant Information

Application for (select one): ☐ Initial License ☐ Reinstatement of Expired License (more than 12 mos)

Full Name: \_\_\_\_\_ Date: \_\_\_\_\_  
Last First M.I.

Address: \_\_\_\_\_  
Street Address Apartment/Unit #  
\_\_\_\_\_  
City State ZIP Code

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Social Security Number (last 4 digits): \_\_\_\_\_ Date of Birth: \_\_\_\_\_  
Month Day Year

### Fees

Limited X-Ray Machine Operator License (if selecting more than one license type below, only one fee is required):

- ☐ General (Kentucky)..... \$100.00  
☐ Podiatry (Kentucky)..... \$100.00  
☐ Bone Densitometry (Kentucky)..... \$100.00

*Payments can be made by check or money order payable to: The Kentucky State Treasurer.*

In addition to the application fee, please include the following, if applicable:

- ☐ Reinstatement Fee..... \$100.00

### Eligibility

Have you ever been convicted of a felony? ☐ Yes ☐ No If yes, please explain (attach court documents): \_\_\_\_\_

Have you previously been issued any type of medical imaging license in another state? ☐ Yes ☐ No  
If yes, what state: \_\_\_\_\_ License Number: \_\_\_\_\_

Has your license in another state(s) been denied, suspended, revoked, or otherwise disciplined? ☐ Yes ☐ No  
If yes, please explain \_\_\_\_\_



Pursuant to KRS 12.245, are you a member of the United States military, Reserves, or National Guard, or his or her spouse, or a veteran, or the spouse of a veteran? ☐ Yes ☐ No

Pursuant to KRS 311B.140, are you active duty in the United States Armed Forces? ☐ Yes\* ☐ No

*\*If yes, please submit proof of active duty status, and licensure fees shall be waived.*

## Employment Information

Place of Employment: \_\_\_\_\_

Business Address: \_\_\_\_\_  
(Street, Road, or Box No.)

City State Zip Code

Work Telephone Number: \_\_\_\_\_ Work Email: \_\_\_\_\_

Start Date: \_\_\_\_\_ Title: \_\_\_\_\_

A. Are any medical imaging examinations that utilize contrast media (e.g. GI series, IVP, CT, MRI, etc.) performed at your place of employment?

☐ Yes ☐ No

B. Are any of the following performed at your place of employment:

☐ Yes ☐ No Mammography

☐ Yes ☐ No CT

☐ Yes ☐ No MRI

☐ Yes ☐ No Bedside Radiography

☐ Yes ☐ No Nuclear Medicine

☐ Yes ☐ No PET

☐ Yes ☐ No Radiation Therapy

☐ I am not currently employed as a Limited X-ray Machine Operator.

## Education Information

Please provide information about the education completed for Limited X-ray Machine Operators:

Name of Educational Institution: \_\_\_\_\_

Address: \_\_\_\_\_

Contact Phone Number: \_\_\_\_\_

Date of Completion: \_\_\_\_\_



## Required Documents

Please submit the following documentations with your application:

- ☐ Verification of graduation from education program(s) listed above;
- ☐ A copy of passing results of limited scope radiography examination;
- ☐ A copy of your government issued photo identification; and
- ☐ Results of criminal background check

*Pursuant to 201 KAR 46:040 applicants are required to submit "results of criminal background check completed within the past six (6) months in state of residence and employment and any other states of residence or employment within past five (5) years."*

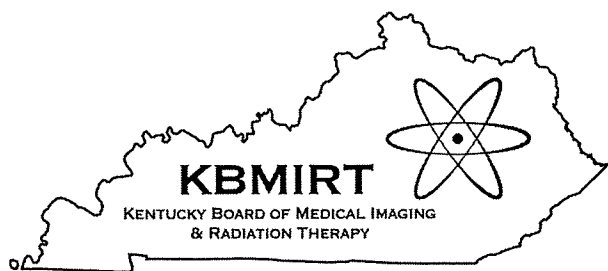
## Disclaimer and Signature

*All applicants please read, sign, and date the statement below. All applications will be null and void unless properly signed and dated.*

I hereby submit this complete application and supporting documents and attest to its authenticity and the accuracy of the application and all information contained herein. I further understand that if any information contained in this application or the supporting documents submitted on my behalf, is determined to be false or misleading, this may be cause for denial, revocation or suspension of any license pursuant to this application and criminal prosecution and punishment.

Signature of Applicant: \_\_\_\_\_ Date: \_\_\_\_\_





# Kentucky Board of Medical Imaging and Radiation Therapy

125 Holmes Street, Suite 320  
Frankfort, KY 40601  
Phone: (502)782-5687

For Office Use Only:

## Temporary Limited X-Ray Machine Operator License Application

### Applicant Information

Full Name: \_\_\_\_\_ Date: \_\_\_\_\_  
Last First M.I.

Address: \_\_\_\_\_  
Street Address Apartment/Unit #  
\_\_\_\_\_  
City State ZIP Code

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Social Security Number (last 4 digits): \_\_\_\_\_ Date of Birth: \_\_\_\_\_  
Month Day Year

### Fees

Limited X-Ray Machine Operator Temporary License (if selecting more than one below, only one fee is required):

**\*VALID FOR UP TO ONE YEAR FROM DATE OF PROGRAM COMPLETION- NOT RENEWABLE\***

- ☐ General (Kentucky)..... \$100.00  
☐ Podiatry (Kentucky)..... \$100.00  
☐ Bone Densitometry (Kentucky)..... \$100.00

Payments can be made by check or money order payable to: The Kentucky State Treasurer.

### Eligibility

Have you ever been convicted of a felony? ☐ Yes ☐ No If yes, please explain (attach court documents): \_\_\_\_\_

Have you previously applied for a Kentucky Medical Imaging License? ☐ Yes ☐ No

If yes, Date: \_\_\_\_\_ Name applied under: \_\_\_\_\_

Have you previously been issued any type of medical imaging license in another state? ☐ Yes ☐ No

If yes, what state: \_\_\_\_\_ License Number: \_\_\_\_\_



Pursuant to KRS 12.245, are you a member of the United States military, Reserves, or National Guard, or his or her spouse, or a veteran, or the spouse of a veteran? ☐ Yes ☐ No

Pursuant to KRS 311B.140, are you active duty in the United States Armed Forces? ☐ Yes\* ☐ No

*\*If yes, please submit documentation of active duty, and licensure fees shall be waived.*

## Employment Information

Place of Employment: \_\_\_\_\_

Business Address: \_\_\_\_\_  
(Street, Road, or Box No.)

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Work Telephone Number: \_\_\_\_\_ Work Email: \_\_\_\_\_

Start Date: \_\_\_\_\_ Title: \_\_\_\_\_

A. Are any medical imaging examinations that utilize contrast media (e.g. GI series, IVP, CT, MRI, etc.) performed at your place of employment?

☐ Yes ☐ No

B. Are any of the following performed at your place of employment:

☐ Yes ☐ No Mammography

☐ Yes ☐ No CT

☐ Yes ☐ No MRI

☐ Yes ☐ No Bedside Radiography

☐ Yes ☐ No Nuclear Medicine

☐ Yes ☐ No PET

☐ Yes ☐ No Radiation Therapy

☐ I am not currently employed as a Limited X-ray Machine Operator.

## Education Information

Please provide information about the education completed for Limited X-ray Machine Operators:

Name of Educational Institution: \_\_\_\_\_

Address: \_\_\_\_\_

Contact Phone Number: \_\_\_\_\_

### Your program director must complete the following and sign:

By signing below, the program director confirms the individual applying for the Temporary Limited X-ray Machine Operator license has completed or will complete all requirements for graduation and will notify the board of any changes in status of the individual's graduation date.

Date of graduation: \_\_\_\_\_

Program Director Name (printed): \_\_\_\_\_

Program Director Signature: \_\_\_\_\_ Date: \_\_\_\_\_



## Required Documents

Please submit the following documentations with your application:

- ☐ A copy of your government issued photo identification; and
- ☐ Results of criminal background check

*Pursuant to 201 KAR 46:040 applicants are required to submit "results of criminal background check completed within the past six (6) months in state of residence and employment and any other states of residence or employment within past five (5) years."*

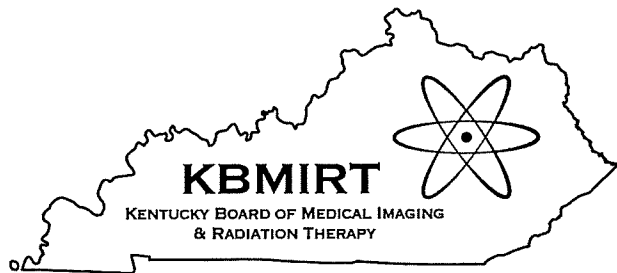
## Disclaimer and Signature

*All applicants please read, sign, and date the statement below. All applications will be null and void unless properly signed and dated.*

I hereby submit this complete application and supporting documents and attest to its authenticity and the accuracy of the application and all information contained herein. I further understand that if any information contained in this application or the supporting documents submitted on my behalf, is determined to be false or misleading, this may be cause for denial, revocation or suspension of any license pursuant to this application and criminal prosecution and punishment.

Signature of Applicant: \_\_\_\_\_ Date: \_\_\_\_\_





# Kentucky Board of Medical Imaging and Radiation Therapy

125 Holmes Street, Suite 320  
Frankfort, KY 40601  
Phone: (502)782-5687

## Limited X-Ray Machine Operator Renewal Application

### Licensee Information

Application for (select one): ☐ License Renewal ☐ Reinstatement of Expired License (less than 12 mos)

Full Name: \_\_\_\_\_ Date: \_\_\_\_\_  
Last First M.I.

Address: \_\_\_\_\_  
Street Address Apartment/Unit #  
\_\_\_\_\_  
City State ZIP Code

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

KY Limited X-ray Machine Operator License Number: \_\_\_\_\_ Date of Birth: \_\_\_\_\_  
Month Day Year

### Fees-Annual

Limited X-Ray Machine Operator License (if selecting more than one license type below, only one fee is required):

- ☐ General (Kentucky)..... \$50.00  
☐ Podiatry (Kentucky)..... \$50.00  
☐ Bone Densitometry (Kentucky)..... \$50.00

Payments can be made online at <http://kbmirt.ky.gov> or by submitting check or money order payable to: The Kentucky State Treasurer.

In addition to the application fee, please include the following, if applicable:

- ☐ Reinstatement Fee..... \$100.00

### Continuing Education Documentation

If licensee is completing continuing education biennium, pursuant to 201 KAR 46:081 a licensee is required to complete twelve (12) continuing education hours per biennium in which six (6) hours must be in radiation safety or medical imaging.

- ☐ As a licensee, pursuant to 201 KAR 40:081, I have completed the required continuing education hours.  
☐ As a licensee, pursuant to 201 KAR 40:081, I am not at the end of my biennium and do not need to complete continuing education for this renewal.

It is the responsibility of the licensee to maintain all continuing education documentation for current and prior biennium and submit documentation if selected for continuing education audit.



## Employment Information

Current

Employer: \_\_\_\_\_

Address: \_\_\_\_\_

Street Address

City

State

ZIP Code

Phone: (       )       -       Business email: \_\_\_\_\_

☐ I am not currently employed as a Limited X-ray Machine Operator.

## Eligibility

Have you been convicted of a felony or a misdemeanor since your last renewal involving drugs, alcohol, fraud, deceit, falsification of records, a breach of trust, physical harm or endangerment to others, or dishonesty under the laws of any state or the United States [per KRS 311B.150 (4)(a)]?

☐ Yes ☐ No

If yes, please explain (attach court documents):

Has your license in another state(s) been denied, suspended, revoked, or otherwise disciplined since your last renewal?

☐ Yes ☐ No ☐ Not applicable

If yes, please explain \_\_\_\_\_

Pursuant to KRS 12.245, are you a member of the United States military, Reserves, or National Guard, or his or her spouse, or a veteran, or the spouse of a veteran? ☐ Yes ☐ No

Pursuant to KRS 311B.140, are you active duty in the United States Armed Forces? ☐ Yes\* ☐ No

*\*If yes, please submit documentation of active duty, and licensure fees shall be waived.*

## Disclaimer and Signature

*All licensees please read and sign/date the statement below. All license renewal forms will be null and void unless properly signed and dated.*

I hereby submit this renewal form and attest to the authenticity and accuracy of the form and all information contained herein. I further understand that if any information contained in this application or supporting documents submitted on my behalf, is determined to be false or misleading, this may be cause for denial, revocation or suspension of any license pursuant to this application and criminal prosecution and punishment.

Signature of Applicant: \_\_\_\_\_ Date: \_\_\_\_\_



MIR attached.



**Board of Medical Imaging and Radiation Therapy**

**Andy Beshear**  
Governor

125 Holmes Street, Suite 320  
Frankfort, KY 40601  
502-782-5687  
<http://kbmirt.ky.gov/>

**Amy L. Adkins**  
Board Chair

September 1, 2020

Senator Stephen West, Co-Chair  
Representative David Hale, Co-Chair  
c/o Emily Caudill, Regulation Compiler  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort KY 40601

Re: **201 KAR 46:100**, Medical Imaging and Radiation Therapy Scholarship and Continuing Education Fund.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 46:0100, the Board of Medical Imaging and Radiation Therapy proposes the attached **suggested** amendment to 201 KAR 46:0100.

Sincerely,

A handwritten signature in cursive script that reads "Elizabeth Morgan".

Elizabeth Morgan, Executive Director  
Board of Medical Imaging and Radiation Therapy  
125 Holmes Street, Suite 320  
Frankfort, Kentucky 40601



**SUGGESTED SUBSTITUTE**

**BOARDS AND COMMISSIONS**

**Board of Medical Imaging and Radiation Therapy**

**201 KAR 46:100. Medical Imaging and Radiation Therapy Scholarship and Continuing Education Fund.**

RELATES TO: KRS 311B.050, 311B.130

STATUTORY AUTHORITY: KRS 311B.050, 311B.130

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311B.050 requires the Board of Medical Imaging and Radiation Therapy to promulgate administrative regulations to administer and enforce KRS Chapter 311B and designate funds for scholarships, program development, or continued education. KRS 311B.130 appropriates that moneys collected shall be used for the payment of operational expenses incurred in fulfilling the board's duties as described in KRS Chapter 311B and administrative regulation. This administrative regulation implements the Kentucky Medical Imaging and Radiation Therapy Scholarship and Continuing Education Fund and establishes the requirements relating to the program.

**Section 1. Application:**

(1) To be eligible for the scholarship, an applicant shall submit:

(a) A completed and signed application, KBMIRT Form 10;

(b) A current resume or curriculum vitae;

(c) Three **(3)** letters of recommendation;

(d) Official transcripts from highest level of education achieved; and

(e) **A** written statement describing applicant's professional goals, not to exceed ~~[two hundred fifty (250)]~~ words.

(2) In addition to items listed in subsection[Section] 1(1)(a) through (e) **of this Section**, an individual seeking scholarship for a non-degree program, such as structured education or limited x-ray machine operator program, shall also submit a document describing the financial obligations required of the program.

(3) Applications shall be accepted from January 1 through April 1 annually.

**Section 2. Criteria for Awards.**

(1) The board shall consider the following criteria in evaluating an application:

(a) Resident of Kentucky or employed in Kentucky;

(b) Potential for academic success as determined by the high school, vocational school, college, or university grade point average for whichever institution the applicant most recently attended;

(c) Previous healthcare experience, either paid or volunteer, for each year in which service is validated; and

(d) Written statement of professional goals.

(2) The applicant shall be considered ineligible for award if the application is:

(a) Postmarked after April 1;

(b) Deemed incomplete; or

(c) Submitted for a medical imaging modality not recognized by the board.

**Section 3. Procedure for Disbursement of Awards.**



(1) The board shall be notified by the board's fiscal officer as to the current fund balance prior to making an award. The amount of award shall be determined by the board and shall not exceed \$1500 annually per recipient.

(2) Disbursement of funds shall be made directly to the recipient.

(3) Each educational institution in which a student receiving a medical imaging, radiation therapy, or limited x-ray machine operator scholarship award is enrolled shall certify to the board no later than thirty (30) days from the beginning of each semester on KBMIRT Form 11, that the recipient:

(a) Has enrolled; and

(b) Is in good standing in the medical imaging, radiation therapy, or limited x-ray machine operator program.

(4) For a recipient receiving award for continued education, the recipient shall provide:

(a) A confirmation of enrollment into structured education course; and

(b) An approval letter from clinical site.

Section 4. Disbursement Contract and Promissory Note. Prior to disbursement of initial funds, the recipient shall sign a notarized KBMIRT Form 12 and KBMIRT Form 13.

Section 5. Repayment and Deferral.

(1) A recipient shall immediately become liable to the board to pay the sum of all scholarships received and the accrued interest on the scholarships if the recipient fails to complete the:

(a) Medical imaging, radiation therapy, or limited x-ray machine operator program in which the individual is enrolled within the time specified by the program;

(b) Structured education course or clinical requirements required to qualify for the post-primary certification within the time specified by the ARRT or NMTCB; or

(c) Required employment as specified in the contract, KBMIRT Form 12.

(2) Written notification of demand for repayment shall be sent by the board to the scholarship recipient's last known address and shall be effective upon mailing.

(a) The board may agree to accept repayment in installments in accordance with a schedule established by the board.

(b) Payments shall first be applied to interest and then to principal on the earliest unpaid contracts.

(3) Repayment may be deferred in the case of instances such as disability, major illness, ~~for~~ accident, or if an active duty member of the Armed Forces of the United States that prevents a recipient from completing a program or being employed as a medical imaging technologist, radiation therapist, or limited x-ray machine operator in Kentucky. Request for deferment requires completion of KBMIRT Form 14 and a physician's statement, or form DD-214, or other proof of active military status.

(4) A student enrolled in a program may defer repayment if the student fails to achieve successful academic progression. Request for deferral requires completion of KBMIRT Form 14 and a certified official transcript.

Section 6. Verification.

(1) Verification of employment as a medical imaging technologist, radiation therapist, or limited x-ray machine operator in Kentucky pursuant to the contract, KBMIRT Form 12 shall be submitted to the board when the recipient's employment commitment begins and when it is completed. A termination of employment prior to completion shall be reported to the board within thirty (30) days by the employer and the recipient.

(2) A recipient shall notify the board of a change of name or address or enrollment status in school immediately and within thirty (30) days of change.



Section 7. ~~Incorporation~~~~Incorporated~~ by Reference. (1) The following ~~material is~~~~forms are~~ incorporated by reference:

(a) KBMIRT Form 10, "~~Scholarship Application~~ - Medical Imaging and Radiation Therapy Scholarship and Continuing Education Fund ~~[Application]~~", March 2020;

(b) KBMIRT Form 11, "~~Scholarship Application~~ - Verification of Student Status", March 2020;

(c) KBMIRT Form 12, "~~Medical Imaging and Radiation Therapy~~ Scholarship ~~and Continuing Education~~ Fund Contract", March 2020;

(d) KBMIRT Form 13, "~~Medical Imaging and Radiation Therapy~~ Scholarship ~~and Continuing Education~~ Fund Promissory Note", March 2020; ~~and~~

(e) KBMIRT Form 14, "~~Medical Imaging and Radiation Therapy~~ Scholarship ~~and Continuing Education~~ Fund Request for ~~Deferment~~~~Deferral~~", ~~August~~~~March~~ 2020.

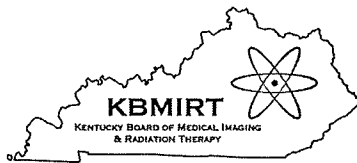
**(2) This material may be inspected, copied, or obtained, subject to applicable copy-right law, at the Board of Medical Imaging and Radiation Therapy, 125 Holmes Street, Suite 320, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m.**

CONTACT PERSON: Elizabeth Morgan, Executive Director, 125 Holmes St, Suite 320, Frankfort, Kentucky 40601, phone +1 (502) 782-5687, fax +1 (502) 782-6495, email elizabeth.morgan@ky.gov.

#### **MATERIAL INCORPORATED BY REFERENCE**

- The agency needs to file one (1) clean and one (1) dirty copy of KBMIRT, Form 14 at the time it files this staff suggested substitute that includes the following changes:
  - Edition Date, 8/2020
  - Clarifies deferment for active duty members of the Armed Forces of the United States





## Medical Imaging and Radiation Therapy Scholarship and Continuing Education Fund REQUEST FOR DEFERMENT

To be completed by Medical Imaging and Radiation Therapy Scholarship and Continuing Education Fund recipient.

Full Name:

\_\_\_\_\_  
*Last First M.I. Social Security Number*

Address:

\_\_\_\_\_  
*Street Address Apartment/Unit #*

\_\_\_\_\_  
*City State ZIP Code*

Phone:

Email:

I request deferment of the payment of the principal on my scholarship pursuant to 201 KAR 46:100. The reason for my request for deferment is:

- ☐ I currently have either a disability, a major illness, or have had an accident that prevents me from completing (Temporarily ☐ or Permanently ☐) the medical imaging, radiation therapy, limited x-ray machine operator program in which I am enrolled or the post-primary certification requirements. **A physician's statement must be included with the deferment form.**
- ☐ I currently have either a disability, a major illness, or have had an accident that prevents me from being employed (Temporarily ☐ or Permanently ☐) as a medical imaging technologist, radiation therapist, or limited x-ray machine operator in Kentucky. **A physician's statement must be included with the deferment form.**
- ☐ I currently am an active duty member of the Armed Forces of the United States that prevents me from completing the medical imaging, radiation therapy, limited x-ray machine operator program in which I am enrolled or the post-primary certification requirements. **Form DD-214 or other proof of active military status must be included with the deferment form.**
- ☐ I currently am an active duty member of the Armed Forces of the United States that prevents me from being employed as a medical imaging technologist, radiation therapist, or limited x-ray machine operator in Kentucky. **Form DD-214 or other proof of active military status must be included with the deferment form.**
- ☐ I have failed to achieve successful academic progression for the \_\_\_\_\_ school year. **A certified official transcript must be included with the deferment form. Deferment applies for only one academic year.**

I agree: 1) that interest shall accrue on the principal balance during the period of deferment; 2) to notify the Kentucky Board of Medical Imaging and Radiation Therapy immediately upon termination of my claimed status; and 3) to provide documentation at least once every six months to support my continued deferment status.

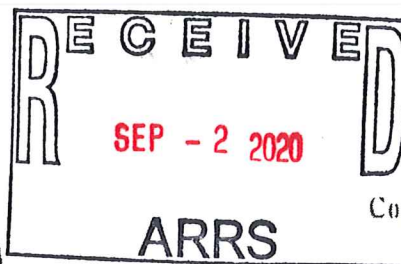
\_\_\_\_\_  
Recipient's Signature

\_\_\_\_\_  
Date

OFFICIAL USE ONLY: Approved ☐ Denied ☐ Deferment Begin Date: \_\_\_\_\_ End Date: \_\_\_\_\_



Ryan F. Quarles  
Commissioner



Corporate Drive  
Complex  
Frankfort, KY 40601  
(502) 573-0282

## Kentucky Department of Agriculture

August 2, 2020

Senator Stephen West, Co-Chair  
Representative David Hale, Co-Chair  
c/o Emily Caudill  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort KY 40601

Re: **302 KAR 60:010**. Produce safety.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 302 KAR 60:010 the Kentucky Department of Agriculture proposes the attached amendment to 302 KAR 60:010.

Sincerely,

A handwritten signature in black ink, appearing to read "Clint Quarles".

Clint Quarles  
Staff Attorney  
Kentucky Department of Agriculture  
107 Corporate Drive  
Frankfort, KY 40601





**Suggested Substitute**  
**Final 9/2/2020 11:00 AM**

**DEPARTMENT OF AGRICULTURE**  
**Office of Agricultural Marketing**

**302 KAR 60:010 Produce safety.**

RELATES TO: KRS **Chapter** 260, 21 C.F.R. Part 112

STATUTORY AUTHORITY: KRS 260.**020(3), 260.030(1)(d), 260.766, 260.769(1)**

NECESSITY, FUNCTION, AND CONFORMITY: KRS 260**769(1)** authorizes the ~~[Commissioner of Kentucky]~~ Department of Agriculture to promulgate administrative regulations for the efficient administration and enforcement of Kentucky's Produce Safety Rule for covered produce and covered farms. This administrative regulation establishes a uniform code for the growing, harvesting, packing, and holding of produce for human consumption.

Section 1. Definitions. (1) "Adulterated" means covered produce in any growing, harvesting, packing, or holding area that has been subject to conditions whereby it **could[may]** have become contaminated with filth or microorganisms of public health significance, or whereby it **could[may]** have been rendered injurious to health.

(2) "Certificate of compliance" means a certificate issued by the department for covered farms that are inventoried and **subject to[under]** regulatory inspection by the department.

(3) "Certificate of exemption" means a certificate of exempt status issued by the department pursuant to Section 5 of this administrative regulation for:

(a) Farms growing only produce that is rarely consumed raw,

(b) Farms growing only produce for personal consumption or produced for consumption on the farm,

(c) Produce that receives commercial processing that adequately reduces the presence of microorganisms of public health significance, or

(d) Farms where, during the previous **three (3) year[3-year]** period, a farmers' average of all produce sales was \$25,000 or less (on a rolling basis), adjusted for inflation using 2011 as the baseline year for calculating the adjustment.

(4) "Certificate of qualified exemption" means a certificate of exempt status issued by the department pursuant to Section 4 of this administrative regulation.

(5) "Covered farm" **is defined by KRS 260.765(2)[means a farm that is subject to the provisions of 21 C.F.R. Part 112, KRS 260, and this Administrative Regulation].**

(6) "Covered produce" is defined by KRS 260.**765(1)**.

(7) "Department" **is defined by KRS 260.765(3)[means Kentucky Department of Agriculture].**



(8) "Egregious condition" means a practice, condition, or situation that is reasonably likely to lead to:

(a) Serious adverse health consequences or death from the consumption of or exposure to covered produce; or

(b) An imminent public health hazard if corrective action is not taken immediately.

(9) "Farm" is defined in 21 C.F.R. Part 112 and includes both a Primary Production Farm and a Secondary Activities Farm.

(10) "Farmer" is defined as the owner, operator, or agent in charge of a covered farm that is subject to some or all of the requirements in 21 C.F.R. 112, KRS **Chapter** 260, and this administrative regulation.

(11) "Inspection" means an official regulatory visit conducted by the department for the purpose verifying compliance with 21 C.F.R. Part 112, KRS **Chapter** 260 and this administrative regulation.

(12) "~~Microorganisms~~~~[Microbial—pathogens]~~" means microbial pathogens~~[microorganisms]~~ of public health significance~~["]~~.

(13) "No Action Indicated" or "NAI" means a farm inspection classification that indicates the farm is in substantial compliance, with no violating conditions or only minor violations noted at the time of inspection.

(14) "Official Action Indicated" or "OAI" means a farm inspection classification that indicates one **(1)** or more egregious violations materially related to food safety have been cited, or that an uncorrected VAI condition on a previous inspection has been cited.

(15) "Qualified exempt farm" means a farm that has met the eligibility requirements of KRS **Chapter** 260 for qualified exemption and has been issued a certificate of qualified exemption from the department.

(16) "Stop Use Order" ~~means~~~~[is defined as]~~ an order issued by the department declaring the cessation of a covered activity; use of a utensil, piece of equipment, or machinery~~;~~~~[, or]~~ water distribution device; or room or area used for the production, handling, or storage of covered produce.

(17) "Voluntary Action Indicated" or "VAI" means a farm inspection classification that indicates a farm is generally in compliance, with only minor violations cited, ~~which;~~ ~~however the violations cited]~~ are not significant enough to pose an imminent health hazard.

Section 2. Right to Scheduled On-site Verification Visits. The department reserves the right to schedule, at any reasonable time, an on-site visit to verify ~~if~~~~[whether]~~ a farm is exempt, covered, or eligible for a qualified exemption.

Section 3. Produce Farm Survey. All covered farms~~;~~ and farms eligible for exemption shall be required to **annually** complete an Informational Survey~~[provided by the department annually]~~.



Section 4. Qualified Exemption. (1) A covered farm that meets the requirements for a qualified exemption ~~[as outlined in KRS 260]~~ may apply for qualified exempt status with the department by submitting an Application for Qualified Exemption ~~[available from the Department]~~.

(2) Upon the department's review of the Application for Qualified Exemption, a farm verified as having met the requirements for exemption status shall be issued a certificate of qualified exemption.

(3) A certificate of qualified exemption shall be non-transferrable.

(4) A certificate of qualified exemption shall only be issued:

(a) In the name of the applicant; and

(b) For the FSA location or locations identified in the application.

(5) Unless otherwise withdrawn, the certificate of qualified exemption shall be valid for up to three (3) years.

(6) Qualified exemption status shall be valid~~[is good]~~ for the balance of the calendar year of issuance regardless of date, and for the two (2) calendar years ending December 31 thereafter. Renewals for an additional three (3) year period shall be upon submission of an Application for Qualified Exemption and accompanied by verification of the successful completion of an FDA-approved training course by the farmer.

(7) Failure to submit an updated Application for Qualified Exemption to the Department by the expiration date noted on the certificate of exemption shall result in forfeiture of the qualified exemption and the presumption by the Department that the farm shall be~~[is]~~ subject to all requirements of the KRS Chapter 260~~[Produce Safety Rule]~~.

(8) All qualified exempt farms shall be required to complete a yearly evaluation of qualified exemption status. Once a farm's qualified exempt status changes to covered status, the farmer shall immediately notify the department.

(9) The department shall only~~[may]~~ withdraw a qualified exemption as established~~[set forth]~~ under 21 C.F.R. Part 112, Subpart R or this administrative regulation. Withdrawal shall be by written notice to the farm.

(10) If a farm's qualified exemption is withdrawn by the department, the farm shall be considered "covered" and shall~~[will]~~ be subject to all requirements of 21 C.F.R. Part 112, KRS Chapter 260, or this administrative regulation.

(11) Any applicant whose application for qualified exemption has been denied or withdrawn by the department may appeal the action as established~~[provided for]~~ in Section 11~~[12]~~ of this administrative regulation.

(12) Any person whose qualified exemption has been withdrawn by the department may submit a written request for reinstatement of the qualified exemption.

(13) Within ten (10) days following receipt of a written request for reinstatement, including a statement signed by the farmer that, in the farmer's~~[their]~~ opinion, the condition causing the withdrawal of qualified exemption has been corrected, the depart-



ment shall make an inspection, and if the inspection reveals that the condition causing the withdrawal has been corrected, the qualified exemption shall be reinstated.

Section 5. Certificate of Exemption: (1) A farm that meets the requirements for an exemption, as established[outlined] in KRS Chapter 260 may apply for a certificate of exempt status with the department by submitting an Application for Qualified Exemption~~[, available from the Department]~~.

(2) One (1) or more of the ~~[following]~~ requirements established in paragraphs (a) through (d) of this subsection shall[must] be met for a Certificate of Exemption.~~[:]~~

(a) The farm shall only grow[ONLY grows] produce that is rarely consumed raw, specifically including[the produce on the following exhaustive list]: asparagus, black beans, great Northern beans, kidney beans, lima beans, navy beans, pinto beans, beets, garden (roots and tops) beets, sugar beets, cashews, sour cherries, chickpeas, cocoa beans, coffee beans, collards, sweet corn, cranberries, dates, dill (seeds and weed), eggplants, figs, ginger, hazelnuts, horseradish, lentils, okra, peanuts, pecans, peppermint, potatoes, pumpkins, mature southern field peas (such as black-eyed peas, cowpeas, crowder peas, purple hull peas, sea island peas, silver peas, and speckled peas), winter squash, sweet potatoes, and water chestnuts as established[outlined] in 21 C.F.R. Part 112.2.~~[:]~~

(b) Produce grown shall[is used] only be used for personal consumption or produced for consumption on the farm as outlined in 21 C.F.R. Part 112.2.~~[:]~~

(c) Produce grown shall receive[receives] commercial processing that adequately reduces the presence of microorganisms of public health significance as established[outlined] in 21 C.F.R. Part 112.2.~~[;-or]~~

(d) During the previous three (3) year[3-year] period, a farmer's average of all produce sales was \$25,000 or less (on a rolling basis) adjusted for inflation using 2011 as the baseline year for calculating the adjustment as established[outlined] in 21 C.F.R. Part 112.4.

(3) Upon the department's review of the Application for Qualified Exemption, a farm verified as having met the requirements for exemption status shall be issued a Certificate of Exemption.

(4) A Certificate of Exemption shall be non-transferrable.

(5) A Certificate of Exemption shall only be issued:

(a) In the name of the applicant; and

(b) For the FSA location or locations identified in the application.

(6) Unless otherwise withdrawn, the Certificate of Exemption shall be valid for as long as the farm remains in exempt status.

(7) All exempt farms shall be required to complete a yearly evaluation of exemption status. If[Once] a farm's exempt status changes to covered status, the farmer shall immediately notify the department.



Section 6. Inspection Frequency, Notices, Records. (1) Risk prioritization. The department shall assign a risk prioritization level to each farm based on ~~the following factors~~:

- (a) Commodities handled. ~~]~~
- (b) Farm acreage. ~~]~~
- (c) Annual produce sales. ~~]~~
- (d) Farmer attendance at a Produce Safety Alliance or FDA-approved grower training. ~~]~~
- (e) Compliance history. ~~]~~
- (f) Participation in an on-farm readiness review. ~~]~~
- (g) Agricultural water source. ~~]~~
- (h) Presence of a farm food safety plan. ~~]~~
- (i) GAP certification or recent participation in other food safety programs. ~~]~~
- (j) Adjacent land use. ~~]~~
- (k) Likelihood of wildlife or animal intrusion. ~~]~~ **and]**
- (l) Geographical location of the farm.

(2) Priority designation. Inspection frequencies shall be assigned as follows:

- (a) Priority 1 farms shall receive a minimum of one (1) inspection per year.
- (b) Priority 2 farms shall receive a minimum of one (1) inspection every two **(2)** years.
- (c) Priority 3 farms shall receive a minimum of one (1) inspection every three **(3)** years.

(3) Regardless of a farm's priority designation, the department shall make as many additional inspections and re-inspections as are necessary for the enforcement of this administrative regulation.

(4) Inspection records. The department representative inspecting a covered farm shall record the findings on the Produce Farm Inspection Observations Report ~~]~~ and shall provide a copy of the inspection report to the farmer.

(5) Issuances of notices. If an inspection reveals a violation of this administrative regulation, the department shall notify the farmer. In the notification, the department shall establish:

- (a) The specific violations found; and
- (b) A specific and reasonable period of time for the correction **based on the nature** of the violations found pursuant to this paragraph. The report of inspection shall state:
  - 1. Failure to comply with a notice from the department, or with a time limit for correction of a violation, shall result in regulatory action up to and including civil penalties, as **established**~~provided~~ in KRS **Chapter** 260, and
  - 2. An opportunity for appeal from an adverse notice or inspection finding shall be provided if a written request is filed with the department within ten (10) days following service of notice.



(6) Service of notice. A notice provided for under this section shall be properly served if a copy of the Produce Farm Inspection Observations Report or other notice has been delivered personally to the farmer, or the notice has been sent by registered or certified mail, return receipt requested, to the last known address of farmer.

Section 7. Violations and Corrective Action Plans. (1) If a farm has committed a violation of 21 C.F.R. Part 112, KRS **Chapter** 260, or this administrative regulation, an opportunity to correct the violation shall be provided in accordance with the following classifications:

(a) NAI - No changes in the inspection frequency **shall be[are]** warranted under this classification;

(b) VAI - A follow-up inspection **shall be[is]** warranted within a period of time not to exceed the date of the next routine inspection to determine if the violation causing this classification has been corrected; or

(c) OAI - A follow-up inspection shall be conducted within a period of time not to exceed thirty (30) days to determine if the violation causing the classification has been corrected. A farm **shall[may]** also be classified as OAI if it continually fails to correct a violation previously classified under a VAI designation or if an egregious violation is noted during an inspection.

(2) Upon completion of the inspection, a recommended classification of NAI, VAI, or OAI and the timeframe for correction of the violation shall be specified on the Produce Farm Inspection Observations Report.

(3) A farm that receives an inspection classification of VAI or OAI shall submit a plan of corrective action to the department**[as follows]:**

(a) VAI: Within thirty (30) days following the inspection;**and[.]**

(b) OAI: Within ten (10) days following the inspection.

(4) Failure to submit a plan of corrective action to the department within the **[specified]time frame established in subsection (3) of this section shall[may]** result in the initiation of enforcement provisions pursuant to KRS **Chapter** 260 and Section 10 of this administrative regulation.

(5) If, during the next inspection, the violation noted on the previous inspection has not been corrected within the timeframe **established in subsection (3) of this section[specified by the Department]**, the department **shall[may]**:

(a) Extend the timeframe for corrective action if the department determines that progress towards compliance has been made;

(b) Issue a warning letter;

(c) Initiate enforcement provisions pursuant to Sections 8 and 10 of this administrative regulation; or

(d) Initiate enforcement provisions pursuant to KRS **Chapter** 260.

Section 8. Stop Use. (1) **If[Whenever]** a duly authorized agent of the department finds, or has probable cause to believe, that a covered activity or the continued use of a



utensil, piece of equipment or machinery, water distribution device, or room or area used for the production, handling or storage of covered produce ~~could~~**[may]** result in adulterated product, the department shall issue a Stop Use Order to the farmer.

(a) The reason for the Stop Use Order shall be documented on the Notice to Stop Use.

(b) The Notice to Stop Use shall notify all persons to discontinue a covered activity or use of a utensil, piece of equipment or machinery, water distribution device, or room or area used for the production, handling, or storage of covered produce until conditions causing the Stop Use Order have been corrected and permission for use is given by a duly authorized agent of the department.

(2) ~~A~~**[It shall be unlawful for any]** person ~~shall not, without department permission, to~~ utilize a piece of equipment, room, or area used for the production, handling, or storage of covered produce for which a Stop Use Order has been issued~~[without such permission]~~.

(3) If the department has evidence that a farmer has violated the provisions contained in this section, enforcement provisions ~~shall~~**[may]** be initiated pursuant to KRS **Chapter** 260 and Section 10 of this administrative regulation.

Section 9. Egregious Conditions, Examination, and Detention of Foods. (1) The department shall have the authority to examine and collect water, produce, and environmental samples as often as necessary for the enforcement of this administrative regulation.

(2) A farmer shall take immediate steps to correct any egregious condition.

(3) ~~If~~**[Whenever]** a duly authorized agent of the department finds or has probable cause to believe that covered produce in any growing, harvesting, packing, or holding area has been subject to conditions whereby ~~the covered produce could~~**[it may]** have become contaminated with filth or microorganisms of public health significance, or whereby ~~the covered produce could~~**[it may]** have been rendered injurious to health ~~as established by~~**[within the meaning of]** KRS **Chapter** 260, the department shall issue a Stop Movement Order to the farmer.

(a) The reason for the order shall be documented on the Stop Movement Order.

(b) The Stop Movement Order shall give notice that ~~the covered~~**[such]** produce is, or is suspected of, being contaminated or injurious to health and notifying all persons not to remove or dispose of ~~the produce~~**[such article]** by sale or otherwise until permission for removal, disposal, or diversion is given by ~~an~~**[such]** agent ~~of the department~~ or the court.

(4) The department shall issue a Notice of Voluntary Destruction to a farmer who elects to voluntarily destroy covered produce for which a Stop Movement Order has been issued.

(5) ~~If~~**[Provided that]** covered produce for which a Stop Movement Order has been issued can be safely diverted by the farmer for alternative uses that do not pose a risk to



human or animal health, the department if requested, shall[may] issue a Notice of Diversion/Change Order to the farmer.

(6) In all other instances, the department shall comply with~~follow the provisions set forth in~~ KRS Chapter 260 regarding the disposition of produce for which a Stop Movement Order was issued.

(7) If the department has evidence that a farmer has failed to act to correct an egregious condition, enforcement provisions shall[may] be initiated pursuant to KRS Chapter 260 and Section 10 of this administrative regulation.

Section 10. Enforcement Provisions. (1) If the department has substantial reason to believe that a covered farm has failed to act to correct an egregious condition; if a farm owner, operator, or agent in charge has interfered with the department in the performance of its duties after its agents have duly and officially identified themselves; or if a farm has failed to comply with an OAI inspection notice within the timeframe granted, the department shall:

(a) Issue a stop work order for that portion or portions of the covered farm affected by the egregious condition;

(b) Issue a stop movement order; or

(c) Seek civil or criminal penalties under KRS Chapter 260.

(2) In all other instances of violation of this administrative regulation, the department shall serve the registered farm with a written notice specifying the violation and afford the holder of the registration an opportunity to correct.

(3) Notices provided for under this administrative regulation shall be deemed to have been properly served if:

(a) A copy of the inspection report or other notice has been delivered personally to the registration holder or the farm person-in-charge, or

(b) The notice has been sent by registered or certified mail, return receipt.

(4) Failure to comply with any provision of this administrative regulation, 21 C.F.R. Part 112, or KRS Chapter 260 shall subject the farmer to~~may result in~~ civil penalties pursuant to KRS 260.990.

Section 11. Appeals. All appeals of KDA determinations shall be donein accordance with KRS Chapter 13B.

Section 12. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Informational Survey", 06/2020;

(b) "Application for Qualified Exemption", 06/2020;

(c) "Produce Farm Inspection Observations", 06/2020;

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Agriculture, 111 Corporate Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.



**Andy Beshear**  
GOVERNOR

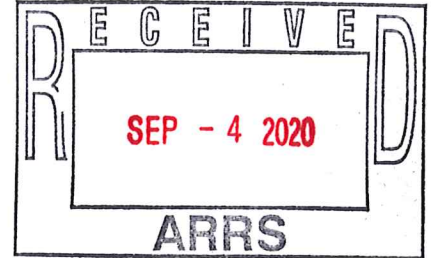


**KENTUCKY JUSTICE &  
PUBLIC SAFETY CABINET**

**Justice Mary C. Noble, Ret.**  
CABINET SECRETARY

**Robyn Bender**  
GENERAL COUNSEL

September 4, 2020



Senator Whitney Westerfield, Co-Chair  
Representative Jason Petrie, Co-Chair  
Interim Joint Committee on Judiciary  
c/o Emily Caudill, Regulations Compiler  
Legislative Research Commission  
029, Capitol Annex  
Frankfort KY 40601

Re: 501 KAR 6:220. Treatment for sex offenders

Dear Co-Chairs Westerfield and Petrie:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 501 KAR 6:220, the Justice and Public Safety Cabinet, Department of Corrections proposes the attached suggested substitute for 501 KAR 6:220.

Sincerely,

Deanna Smith  
Paralegal Consultant

enclosure



9/3/2020

SUGGESTED SUBSTITUTE

JUSTICE AND PUBLIC SAFETY CABINET  
Department of Corrections  
Sex Offender Risk Assessment Advisory Board

501 KAR 6:220. Treatment for sex offenders.

RELATES TO: KRS 17.500, 17.550-17.576, 17.991, 197.010

STATUTORY AUTHORITY: KRS 17.564

NECESSITY, FUNCTION, AND CONFORMITY: KRS 17.564 authorizes the Sex Offender Risk Assessment Advisory Board to promulgate administrative regulations to establish the minimum requirements for treatment of sex offenders. This administrative regulation establishes minimum treatment requirements [requirements] for providers.

Section 1. Definitions. (1) "Adjunctive therapy" means additional interventions or programs that enhance gains made in evidence based treatment sessions, directly target criminogenic risk factors, and may include interventions that are considered promising as well as evidence based.

(2) "Approved provider" is defined ~~by~~[in] KRS 17.550(3).

(3)[(2)] "Board" is defined ~~by~~[in] KRS 17.550(1).

(4) "Criminogenic needs" means factors that ~~if~~[when] targeted in treatment, can reduce sexual re-offending. ]

(3) "Community standards of care" means the standards of care generally accepted by sex offender treatment professionals within the Commonwealth of Kentucky and taking into account the general standards of care for the mental health profession for which the approved provider is licensed or certified.]

(5)[(4)] "Department" is defined ~~by~~[in] KRS 197.010(3).

(6) "Dynamic risk factors" means factors that:

(a) If targeted and changed during treatment, can result in a reduction in sexual re-offending; and

(b) Research has proven to reduce sexual recidivism.

(7) "Evidence based standards of care" means standards and practices ~~that~~:

(a) Are based on the best available clinical scientific research or evidence for treatment of sex offenders;

(b) ~~[that]~~Take into account the offender's current clinical state and circumstances that may influence treatment gain; and

(c) Are generally accepted.

(8) "Non-criminogenic needs" ~~means~~[are] factors that if targeted can assist with removing obstacles to effectively targeting criminogenic factors, for example, self-esteem, fear of punishment.

(9) "Responsivity factors" means factors that impact an offender's ability to begin, engage in, and complete treatment and can interfere with the ability of the offender to respond to treatment.

(10) "Risk" means the risk of sexual reoffending.

(11) "Risk assessment tool" means a validated instrument designed to measure risk of sexually reoffending.

(12) "Session" means at least forty-five (45) minutes for an individual session or ninety (90) minutes for a group session.

(13) "Static factors" means factors that do not change but predict future sexual re-offending.



(14) "Stages of change" means the change process occurs gradually over time and includes levels or stages as follows:

(a) ~~[""]~~Precontemplation, *in which* ~~[" means"]~~ the individual does not intend to make a change in the behavior;

(b) ~~[""]~~Contemplation, *in which* ~~[" means"]~~ the individual has an awareness of the problem and may consider the pluses and minuses of change;~~[""]~~

(c) ~~[""]~~Preparation, *in which* ~~[" means"]~~ the individual intends to take action within one (1) month and may make small behavioral changes;

(d) ~~[""]~~Action, *in which* ~~[" means"]~~ the individual modifies the problem behavior for one (1) to six (6) months; ~~and~~ ~~[""]~~

(e) ~~[""]~~Maintenance, *in which* ~~[" means"]~~ the behavior change extends from six (6) months and the individual works to prevent relapse.

~~[(5) "Treatment services" is defined in KRS 197.420(2)(b).]~~

Section 2. General Procedures for Treatment of All Sex Offenders. (1) Treatment shall conform to evidence based ~~[community]~~ standards of care, and shall include:

(a) A diagnosis from one (1) of the manuals below, using the edition that is in effect at the time of diagnosis:

1. Diagnostic and Statistical Manual (DSM); or

2. International Statistical Classification of Diseases and Related Health Problems (ICD); and

(b) A written treatment plan based on a comprehensive, psycho-sexual evaluation consistent with the risk-~~[""]~~need-~~and~~responsivity (RNR) principles or RNR model of assessment and treatment. The plan~~[" which"]~~ shall include:

1. Goals and objectives consistent with the individual client's risk level considering:

a. Static factors;

b. Dynamic *risk* factors;

c. Criminogenic and non-criminogenic needs;

d. Responsivity factors; and

e. Stage of change; and

2. Systems and modalities of treatment and the rationale therefor.

(2) Treatment shall be conducted using a cognitive behavioral approach including individual or group sessions~~["in a psychotherapy format"]~~.

(3) Treatment may utilize psychoeducational and other adjunctive therapy components if indicated.

(4) Prior to providing treatment, an approved provider shall:

(a) Obtain written informed consent for treatment from the offender;

(b) Contact the offender's supervising probation and parole officer to discuss the offender and obtain offender information;

(c) Obtain or make a good faith effort to obtain the offender's mental health records; and

(d) Submit a general treatment curriculum to the board that includes the required elements in Sections 2 and 3~~[Section 3(4)]~~ of this administrative regulation. If the approved provider intends to treat an offender who has already completed a sex offender treatment program, then the approved provider shall also submit a treatment curriculum that includes the required elements in Section 4~~[(2)]~~ of this administrative regulation. If an approved provider ~~[proposes]~~ changes the ["in his"] submitted treatment curriculum, the approved provider shall submit a treatment curriculum with the changes to the board ~~[for approval]~~.

(5) An approved provider shall:

(a) Provide psychological services, ~~["or"]~~ pharmaco-therapy services, ~~["or"]~~ testing, or adjunctive therapy as needed or make the appropriate referral and act as liaison for the provision~~["provisions"]~~ ~~["provision"]~~ of services;



- (b) Provide treatment consistent with current professional literature ~~that~~which minimizes the risk of reoffending and emphasizes community safety;
- (c) Maintain an individual record, which shall include documentation of the offender's attendance and evaluative progress notes;
- (d) Obtain a release of information signed by the sex offender, which allows the approved provider to release information to probation and parole personnel responsible for the sex offender's supervision and the Sex Offender Risk Assessment Advisory Board;~~;~~;
- (e) Notify the offender's supervising probation and parole officer in writing if the offender fails to attend a treatment session or fails to make a good faith effort to participate in the treatment;
- (f) Provide the Required Monthly Progress Report to the supervising probation and parole officer each month;
- (g) Cooperate fully with the probation and parole supervision team responsible for a sex offender under the approved provider's treatment;
- (h) Prepare a treatment summary at discharge from treatment; and
- (i) Provide written notice of the sex-offender's discharge from treatment and the ~~reasons~~reason for discharge to the supervising probation and parole officer within ten (10) days of discharge.

Section 3. Procedures for Treatment of Sex Offenders Who Have Not Completed a Sex Offender Treatment Program. If a sex offender has not completed a sex offender treatment program, an approved provider shall:

- (1) Use a treatment curriculum which, at a minimum, shall include:
  - (a) Integrated treatment services as ~~may be~~ necessary to meet the sex offender specific and mental health needs of the individual offender including~~;~~;
    - 1. Sex offender specific treatment:
      - a. The cycle of sexual abuse;
      - b. Human sexuality;
      - c. Deviant arousal and its reduction;
      - d. Cognitive restructuring;
      - e. Relapse prevention;
      - f. Partner and family interactions and support, if applicable;
      - g. Victim empathy awareness; and
      - h. Relationship skills; and
    - 2. Mental health treatment:
      - a. Substance abuse;
      - b. Mental health including personality disorder;
      - c. Domestic violence;
      - d. Anger management;
      - e. Mood problems including depression and anxiety;
      - f. Trauma;
      - g. Psychotropic medication; and
      - h. Pornography addiction;
  - (b) Treatment dosage based on risk level;
  - (c) An emphasis on motivating the offender to move through the stages of change and towards acceptance of responsibility [by the offender] for present and past sexual offending behavior; and
  - (d)~~(e)~~ Gender and culture specific programming~~;~~; and
  - (d) Education of the offender in:
    - 1. The cycle of sexual abuse;
    - 2. Human sexuality;
    - 3. Deviant arousal and its reduction;
    - 4. Cognitive restructuring;



5. Relapse prevention;
6. Partner and family interactions and support, if applicable;
7. Victim empathy awareness; and
8. Relationship skills; and]

(2) For a low risk offender, provide between sixty (60) to 100 hours of face-to-face, evidence based, cognitive behavioral treatment sessions with at least thirty (30) hours in the first year. If denial or other risk-need-responsivity factors are present in a low risk offender, treatment hours may be increased to focus on treatment readiness or other responsivity factors identified by the treatment provider;

(3) For a medium risk offender, between 160 to 200 hours of face-to-face, evidence based, cognitive behavioral treatment sessions with at least eighty (80) hours in the first year. If denial or other risk-need-responsivity factors are present in the medium risk offender, treatment hours may be increased to focus on treatment readiness or other responsivity factors identified by the treatment provider; and

(4) For a high risk offender, provide between 400 to 540 hours of face-to-face evidence based, cognitive behavioral treatment sessions with at least 200 hours in the first year. If denial or other risk-need-responsivity factors are present in the high risk offender, treatment hours may be increased to focus on treatment readiness or other responsivity factors ~~[are present in the high risk offender, treatment hours may be increased to focus on treatment readiness or other responsivity factors]~~ identified by the treatment provider.~~[Provide a minimum of eighty (80) face to face sessions of at least forty five (45) minutes for an individual session or ninety (90) minutes for a group session for at least twenty four (24) months with a minimum of forty (40) face-to-face sessions conducted during the first twelve (12) months.]~~

Section 4. Procedures For Treatment of Sex Offenders Who Have Completed a Sex Offender Treatment Program. (1) If a sex offender has completed a sex offender treatment program, an approved provider shall:

(a) Obtain documentation from the sex offender treatment program showing completion of the program;

(b) Assess and document whether the offender can demonstrate acceptable levels of skills and knowledge of treatment areas listed in Section 3(1)(a)~~1(4)~~~~[(4)]~~ of this administrative regulation;

(c) Assess the offender's current risk level using risk assessment tools;

(d) Based on the offender's level of risk and need, determine which of the following is required:

1. A full treatment program;

2. A partial treatment program to address sex offender specific treatment concerning missing skills or knowledge; or

3. Maintenance sessions including supportive counseling; and

(e) Implement a treatment program that meets the following:

1. A full treatment program shall follow the requirements in Section 3 **of this administrative regulation**;

2. A maintenance program shall include:

a. For a low risk offender, forty-five (45) to sixty (60) hours of supportive counseling sessions focused on re-entry issues for a minimum of twelve (12) months and thereafter as needed, including booster sessions, unless the approved provider determines that this level of treatment may be detrimental to the offender based on current scientific treatment studies;

b. For a moderate risk ~~offender~~~~[offer]~~:

(i) Provide a maintenance relapse prevention program with sessions two (2) times per month for the first year after release and then as needed, including booster sessions; and

(ii) Provide or refer for adjunctive therapies as needed; or

c. For a high risk offender:



(i) Provide a maintenance program with sessions one (1) time per week for the first year after release and thereafter as needed, including booster sessions; and

(ii) Provide or refer for adjunctive therapies as needed; or

3. For a partial treatment program, ~~the approved provider shall~~:

a. Determine the additional hours above the minimum hours required for a maintenance program needed to address the missing skills or knowledge and include those additional hours of treatment **with the required hours for a maintenance program**; and

~~b. [(f) For a partial treatment program,] Document in the treatment file how the approved provider determined the skills and knowledge in required areas were met in prior treatment. [Require an offender to repeat the areas in Section 3(1)(d) of this administrative regulation in which he has not demonstrated competence; and~~

(d) Provide a minimum of fifty (50) face to face sessions of at least forty five(45) minutes for an individual session or ninety (90) minutes for a group session for at least eighteen (18) months with a minimum of forty (40) face to face sessions conducted during the first twelve (12) months;

(2) Based on the determination of whether a full, partial, or maintenance program is required, [If the offender has completed a sex offender treatment program,] the approved provider shall use a treatment curriculum which, at a minimum, shall target and include:

(a) Treatment dosage based on current risk level[Dynamic risk factors assessment];

(b) Treatment readiness and stage of change[Basic ownership, which means a component for offender responsibility for sexual offending behavior];

(c) Relapse prevention;

(d) Development of treatment partner relationship, including partner alert sessions;

(e) Collaborative development of a practical living skills plan;

~~(f) [(g)] Existing sex offender specific treatment needs identified in **subsection (1)(b) of this section** integrated with the mental health needs as stated in Section 3(1)(a)(2) of this administrative regulation; and~~

~~(g) [(f)] Commitment to follow up with adjunct therapies where needed, including the following: Substance abuse; Domestic violence; Anger management; and Psychotropic medications; and [(h)] [(g)] A plan for family and children reintegration options, if appropriate, and the victim approves.~~

(3) Reintegration.

(a) Reintegration with a victim shall not be considered [comply with treatment requirements] unless it is approved by the approved provider and the probation and parole officer.

(b) If the offender victimized a child, reintegration with other children shall not be considered [comply with treatment requirements] unless approved by the approved provider and the probation and parole officer.

(c) The approved provider and probation and parole officer shall address at a minimum the following when considering reintegration of an offender with a child victim or other children:

1. Assessment of quality of parental relationship;

2. Assessment of victim's progress if participating in treatment;

3. Assessment of age and sex of child victims and offender potential for cross-over;

4[2]. Assessment of how the offender accessed prior child victims and similarities to situations and persons with whom he is currently considering to reside;

5[3]. Assessment of adult partner's knowledge and insight into offender's dynamics; and

6[4]. A written, gradual reintegration process plan.

Section 5. Incorporation by Reference. (1)The Sex Offender Risk Assessment Advisory Board form "Required Monthly Progress Report", 2020[4/12/05], is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, Monday through Friday, 8 a.m. to



4:30 p.m. This material may be obtained from the Department of Corrections Web site in the sex offender treatment area at <https://corrections.ky.gov/Divisions/healthservices/Pages/sotp.aspx>.

This is to certify that the Sex Offender Risk Assessment Advisory Board approved this administrative regulation prior to its filing by the Department of Corrections with the Legislative Research Commission as required by KRS 13A.120(3) and 13A.220(6)(a) as reflected by the signature below.

CONTACT PERSON: Amy V. Barker, Assistant General Counsel, Justice & Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, email [Justice.RegContact@ky.gov](mailto:Justice.RegContact@ky.gov).



Andy Beshear  
Governor



Lt. Gov. Jacqueline Coleman  
Secretary  
Education and Workforce  
Development Cabinet

Kevin C. Brown  
Interim Commissioner of Education

**KENTUCKY DEPARTMENT OF EDUCATION**  
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September 1, 2020

Emily Caudill, Regulation Compiler  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort, KY 40601

Re: 701 KAR 8:020. Evaluation of charter school authorizers

Dear Ms. Caudill:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 701 KAR 8:020, the Kentucky Board of Education proposes the attached suggested substitute.

Sincerely,

A handwritten signature in black ink that reads "Todd G. Allen".

Todd G. Allen  
General Counsel

Attachment



**Subcommittee Substitute**

**EDUCATION AND WORKFORCE DEVELOPMENT CABINET**

**Kentucky Board of Education**

**Department of Education**

**(Amendment)**

**701 KAR 8:020. Evaluation of charter school authorizers.**

RELATES TO: KRS 158.070, 158.649, 160.1590, 160.1591, 160.1592, 160.1593, 160.1594, 160.1595, 160.1596, 160.1597, 160.1598, 160.1599, 161.141

STATUTORY AUTHORITY: KRS 160.1596

NECESSITY, FUNCTION, AND CONFORMITY: KRS 160.1596 requires the Kentucky Board of Education to promulgate an administrative regulation to establish the process to be used to evaluate the performance of a charter school authorizer, based upon the requirements of KRS 160.1590 to 160.1599 and 161.141, and the actions to be taken in response to failures in performance. This administrative regulation establishes requirements for the competence, performance, and evaluation process for charter school authorizers.

Section 1. Definitions. (1) "Academically behind" means at risk of academic failure.

(2) "Achievement gap" is defined by KRS 160.1590(2) and KRS 158.649(1).

(3) "Adult student" means a student who is eighteen (18) years or older who is still eligible for enrollment and attendance at a school program pursuant to KRS 158.030 and 158.100.

(4) "Applicant" is defined by KRS 160.1590(3).

(5) "Areas of exceptionality" means categories of disabilities of students with special needs.

(6) "At risk" means at risk of academic failure.

(7) "At risk of academic failure" means:

(a) Attendance at a school identified pursuant to KRS 160.346(2) for targeted support and improvement ~~[or intervention]~~;

(b) Attendance at a school identified pursuant to KRS 160.346(3) for comprehensive support and improvement;

(c) Current achievement two (2) or more grade levels below the student's age group;

(d) Demonstration of poor academic skills, such as failure of two (2) or more subjects in two (2) of the past four (4) school years;

(e) Consistent absence or tardy and absence twenty-five (25) or more unexcused ~~["~~student attendance days~~," as defined by KRS 158.070,~~ in the last two (2) school years and an overall grade average below a C;

(f) Suspension (in-school suspension or home suspension) two (2) or more times during the past school year and an overall grade average below a C;

(g) Family history of dropping out or lack of family support for the student in the completion of school;

(h) Little or no participation in school cocurricular or extracurricular programs;

(i) Below grade level in reading or math skills;

(j) Indication of being socially isolated; or



(k) An applicant's definition for this term in the applicant's authorizer approved charter application, pursuant to KRS 160.1594(2).

(8) "Authorizer" or "public charter school authorizer" is defined by KRS 160.1590(13).

(9) "Authorizer's board of directors" means:

(a) The board of education for the local school district for an ["]authorizer["] defined by KRS 160.1590(13)(a); and

(b) The boards of education that have collaborated to set up a regional public charter school for an ["]authorizer["] defined by KRS 160.1590(13)(b).

(10) "Bilingual students" means students who are fluent in English and a foreign language, which can include American Sign Language.

(11) "Charter" means charter contract.

(12) "Charter application" is defined by KRS 160.1590(4).

(13) "Charter contract" or "contract" is defined by KRS 160.1590(5).

(14) "Charter school" means a public charter school.

(15) "Charter school board of directors" is defined by KRS 160.1590(6).

(16) "Cocurricular programs" means school programs that have activities that are unequivocally instructional in nature, directly related to the instructional program, and scheduled to minimize absences from classroom instruction.

(17) "Comprehensive learning experiences" or "Expanded learning opportunities" means daily, rigorous learning experiences that build on a student's talents, challenge the student's skills and understandings, and develop the student's ability to reason, problem solve, collaborate, and communicate to prepare the student for success in postsecondary.

(18) "Conversion public charter school" or "conversion charter school" is defined in KRS 160.1590(7).

(19) "Days" means calendar days calculated pursuant to KRS 446.030.

(20) "Education service provider" is defined by KRS 160.1590(8).

(21) "Emancipated youth" means a student under the age of eighteen (18) who is or has been married or has by court order or otherwise been freed from the care, custody, and control of the student's parents.

(22) "Enrollment preference" means the priority of the student application from students pursuant to KRS 160.1591(5).

(23) "Extracurricular programs" means voluntary programs that are offered by a school but are not part of the required school program.

(24) "Fiscal year" is defined by KRS 160.450.

(25) "Foreign entity" is defined by KRS 14A.1-070(10).

(26) "Gifted" means a gifted and talented student as defined by KRS 157.200(1)(n).

(27) "Governing board of the authorizer" means the authorizer's board of directors.

(28) "Governing body of the authorizer" means the authorizer's board of directors.

(29) "Grade" or "Grade Level" means a single elementary, middle, or high school grade of school.

(30) "Knowingly" means that a person knew that in authorizing, ordering, or carrying out an act or omission that the act or omission constituted a violation of a statute or administrative regulation.

(31) "Local school district" is defined by KRS 160.1590(10).



(32) "Parent" is defined by KRS 160.1590(11).

(33) "Persistently low-achieving public schools" or "Persistently low-achieving noncharter public schools" means noncharter schools identified for comprehensive support and improvement pursuant to KRS 160.346.

(34) "Person with custody or charge" means any adult, pursuant to KRS 159.010, who falls within the definition for [""]interested person or entity[""] as defined by KRS 387.010(2) for an interested person or entity and with whom the student resides.

(35) "Primary enrollment preference" means any enrollment preference other than a secondary enrollment preference.

(36) "Public charter school" is defined by KRS 160.1590(12).

(37) "Regional achievement academy" is defined by KRS 160.1590(15).

(38) "Regional achievement zone" is defined by KRS 160.1590(16).

(39) "School level" or "Level" or "Educational level" means the configuration of grade levels that form elementary, middle, and high schools.

(40) "Secondary enrollment preference" means the priority of a resident student application for enrollment in a public charter school, after acceptance of all the student applications with primary enrollment preference, if the public charter school's capacity has not been exceeded.

(41) "Start-up public charter school" is defined by KRS 160.1590(17).

(42) "Student" is defined by KRS 160.1590(19) and includes any person who is entitled to enrollment and attendance at a school program as provided in KRS 158.030 and 158.100.

(43) "Student attendance day" is defined by KRS 158.070(1)(e).

(44) "Students with special needs" or "Special needs students" means:

(a) Exceptional children and youth students, as defined in KRS 157.200, who are eligible pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. secs. 1400 et seq. for an individual education plan, as described in KRS 157.196, or an individual education program, as described in KRS 158.281; or

(b) Students who are eligible for services under Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. sec. 794, to prevent substantial limitation of one (1) or more major life activities.

(45) "Substantial hardship" means a significant, unique, and demonstrable economic, technological, legal, or other impact on a local school district that impairs the district's ability to continue to successfully meet the requirements of educational programs or services for the district's students.

(46) "Superintendent" means the local school district employee tasked with the duties established in KRS 160.370.

(47) "Traditionally underperforming" means at risk of academic failure.

(48) "Unilateral imposition of conditions" means the authorizer has placed or attempted to place conditions or requirements that are not required by KRS 160.1590 to 160.1599, 161.141, or 701 KAR Chapter 8:

(a) On the applicant in the authorizer's formal action approving the charter application; or

(b) On the charter school in the charter contract or an amendment.

(49) "Unilaterally imposed conditions" or "Unilateral conditions" or "Conditions unilaterally imposed" means conditions or requirements not required by KRS 160.1590 to 160.1599, 161.141, or 701 KAR Chapter 8 that the authorizer places or attempts to place:



- (a) On the applicant in the authorizer's formal action approving the charter application; or
- (b) On the charter school in the charter contract or an amendment.

(50) "Year", "academic year", or "school year" means school year as established in KRS 158.050.

Section 2. Policies and Procedures. (1) Pursuant to KRS 160.1594, an authorizer shall create policies and procedures governing the authorizer's performance of its duties under KRS 160.1590 to 160.1599, 161.141, and 701 KAR Chapter 8 and ***shall*** include in its policies and procedures:

(a) The authorizer's strategic vision for chartering, including a clear statement of any preference for a charter application that demonstrates the intent, capacity, and capability to provide comprehensive learning experiences or expanded learning opportunities to students identified in KRS 160.1594(2) or KRS 160.1592(19);

(b) Identification of any charter application preferences of the authorizer pursuant to KRS 160.1594(2);

(c) Information on the authorizer's performance contracting requirements, including:

1. Academic, financial, and operational measures, and the performance frameworks, that the authorizer has developed for public charter school oversight and evaluation and with which the authorizer shall evaluate the charter school's performance under the charter contract, in accordance with KRS 160.1594 and 701 KAR Chapter 8; and

2. Requirements for executing a contract with a charter school board of directors that articulates:

- a. The rights and responsibilities of each party regarding school autonomy;
- b. Funding;
- c. Administration and oversight;
- d. Outcomes;
- e. Measures for evaluating success or failure;
- f. Performance consequences; and
- g. Other material terms;

(d) The evidence the authorizer shall require, the evaluation the authorizer shall conduct using the performance framework, and other aspects of the authorizer's ongoing monitoring of the charter school including:

- 1. Ensuring a charter school's legally entitled autonomy;
- 2. Protecting student's civil, disability, safety, and educational rights;
- 3. Informing intervention, revocation, and renewal decisions; and
- 4. Providing annual reports as required by KRS 160.1597(5);

(e) The requirements for reporting to the public;

(f) The authorizer's authority to intervene in charter schools, ***[when and]*** if necessary;

(g) Guidelines concerning the format and content essential for an applicant to demonstrate the capacities necessary to establish and operate a public charter school, pursuant to KRS 160.1590 to 160.1599, 161.141, and 701 KAR Chapter 8;

(h) The timeline for submission, review, decision, and appeal for a charter application, and a request for renewal. An authorizer described in KRS 160.1590(13)(c) and (d) shall consult with the superintendent of the resident local school district if planning this timeline;

(i) A template of the assurances an authorizer shall require in a charter contract;

(j) The following evidence sufficiency requirements for the charter application:



1. The charter school board of directors' ability to meet the financial solvency and sustainability demands of their proposed budget;

2. Competent and timely charter school start-up and operation;

3. Foreseen and unforeseen closure; and

4. All debts and obligations during each fiscal year of the charter contract and during the entire contract term;

(k) The financial transparency requirements that shall apply to a charter school, including specific provisions regarding publication on the authorizer's website and the charter school's website [Web-site];

(l) The charter school closure protocol and requirements;

(m) A description of the authorizer's organizational capacity, including its commitment of human and financial resources necessary to conduct authorizing duties effectively and efficiently;

(n) The authorizer's requirements for solicitation and evaluation of a charter application, including its implementation of a comprehensive application process that includes use of the Kentucky Charter School Application and Addendum, and rigorous criteria, and approval of only a charter application that demonstrates a strong capacity to establish and operate a charter school;

(o) The authorizer's charter renewal and revocation processes and rigorous criteria, including its design and implementation of a transparent and rigorous process that uses comprehensive academic, financial, and operational performance data to make merit-based renewal and revocation decisions; and

(p) The requirements of KRS 160.1590 to 160.1599, 161.141, and 701 KAR Chapter 8 for an applicant, a board of directors, an education service provider, a charter school, and their employees.

Section 3. Standards of Authorizer Performance Generally. (1) Prior to authorizing a charter school, an authorizer as established in KRS 160.1590(13)(c) and (d) shall file the Notice of Intent with the Kentucky Board of Education.

(2) An authorizer shall restrict the expenditure of funds received as a result of charter authorization and oversight to the purpose of fulfilling authorizing obligations pursuant to KRS 160.1590 to 160.1599, 161.141, and 701 KAR Chapter 8.

(3) Pursuant to KRS 160.1596(5)(e), an authorizer shall include in its report and place in a publicly accessible location on its website information on the following:

(a) The oversight and any services provided by the authorizer to the public charter schools under the authority of the authorizer;

(b) The authorizing functions provided by the authorizer to the public charter schools under its jurisdiction, including the operating costs and expenses of the authorizer as detailed in annual audited financial statements that conform to generally accepted accounting principles;

(c) All use of charter authorizing revenue including expenditures, contracts, and revenues, in the format required by the commissioner of education; and

(d) The reports that an authorizer is required to make pursuant to KRS 160.1590 to 160.1599, 161.141, and 701 KAR Chapter 8.

(4) ~~The authorizer, or its designee for charter authorizing, shall participate in annual in-service training as follows:~~



(a) Pursuant to KRS 160.1594 and except as specified in Section 3(4)(b) of this administrative regulation, prior to evaluating a charter application, each ~~[Each]~~ authorizer or member of the authorizer's board of directors or governing board ~~[of the authorizer]~~ shall complete[:

1. ~~Twelve (12)] six (6) hours of [annual] training, as approved by the Commissioner of Education, [for an authorizer or member with zero to eight (8) years of experience as an authorizer and eight (8) hours for an authorizer or a member with more than eight (8) years of experience as an authorizer; or~~

2. ~~Competency-based annual in-service training;~~

(b) ~~In-service training toward the board of education member training requirements of KRS 160.180 may also count toward this requirement, to the extent the requirements of both are met by the content of the training, and the training for this requirement]~~ that shall include the following topics pertinent to ~~[of]~~ authorizer responsibility and charter school formation and operation:

1. Financial governance and transparency;
2. Conflict of interest;
3. Charter application;
4. Charter school contracting;
5. Charter school monitoring;
6. Charter school renewal, nonrenewal, and revocation;
7. Charter school closure;
8. Ethics;
9. Curriculum and instruction;
10. Educational services provided for special needs, at risk, English learner, gifted, and other special population students; and
11. Physical restraint and seclusion of students; and

(b) ~~[(c) The training shall be approved by the commissioner of education.] An authorizer or member of the authorizer's board of directors or governing board that completed all training requirements pursuant to Section 3(4)(a) of this administrative regulation in the immediately preceding twelve (12) months prior to receipt of a charter school application shall be exempt from completing training pursuant to Section 3(4)(a) of this administrative regulation prior to evaluating that charter school application.~~

(5) An authorizer shall submit to the department a written assurance of a charter school's compliance with the pre-operating requirements in this administrative regulation and in the charter contract before the opening of the charter school.

(6) An authorizer shall require the sharing of best practices between the charter school and the resident local school district.

Section 4. Standards of Authorizer Performance Concerning Charter Applications. (1) Pursuant to KRS 160.1591 and 160.1594(1)(e)2., and to the extent not prohibited by federal law, an authorizer shall not approve a charter application that is:

- (a) From an applicant that is or includes:
1. A for-profit organization, or its designee;
  2. An organization, or its designee, that is organized for religious purposes, within the meaning of 501(c)(3) of the Internal Revenue Code of 1986, as amended, and qualifying for tax-exempt



status pursuant to 501(c)(3) of the Internal Revenue Code of 1986, as amended; or

3. A business entity, or its designee, that is not authorized to do business and in good standing in the Commonwealth of Kentucky, pursuant to KRS Chapter 14A; or

(b) That has in the proposed board of directors:

1. A for-profit organization, or its designee;

2. An organization, or its designee, that is organized for religious purposes, within the meaning of 501(c)(3) of the Internal Revenue Code of 1986, as amended, and qualifying for tax-exempt status pursuant to 501(c)(3) of the Internal Revenue Code of 1986, as amended; or

3. A business entity, or its designee, that is not authorized to do business and in good standing in the Commonwealth of Kentucky, pursuant to KRS Chapter 14A.

(2) An authorizer shall require a charter application to be submitted on the Kentucky Charter School Application and Addendum and may require additional information from the applicant.

(3) An authorizer shall publish a copy of a submitted charter application on its website within three (3) days of submission by the applicant to the authorizer.

(4) An authorizer shall provide a copy of a submitted charter application to the resident local school district superintendents and to any other authorizer of charter schools in that local school district within three (3) days of submission by the applicant to the authorizer.

(5) An authorizer established in KRS 160.1590(13)(a) or (b) shall provide a copy of a submitted charter application for a regional achievement academy within a regional achievement zone to the superintendents of the other local school districts of the regional achievement zone within three (3) days of submission by the applicant to the authorizer.

(6) An authorizer shall allow a resident local school district superintendent to file a letter with supporting evidence objecting to the approval of the charter application on the basis of the substantial hardship that may result for the students of the resident local school district who do not attend the charter school. An authorizer shall publish a copy of the letter and supporting evidence from the resident local school district superintendent on the authorizer's website within three (3) days of submission by the superintendent to the authorizer and the authorizer shall review this evidence prior to approving a charter application.

(7) An authorizer shall allow a resident local school district superintendent to file a letter of support for a charter application and shall publish a copy of the resident local school district superintendent letter on the authorizer's website within three (3) days of submission by the superintendent to the authorizer.

(8) An authorizer shall require a resident local school district superintendent to provide information and evidence regarding the academic performance of the students identified in the charter application as the targeted student body or community. An authorizer shall publish a copy of this information on the authorizer's website within three (3) days of submission by the superintendent to the authorizer, to the extent not prohibited by confidentiality laws.

(9) An authorizer shall comply with the following requirements in reviewing the charter application:

(a) Request and secure a certificate of existence from the Secretary of State, pursuant to KRS 14A.2-130, for any business entity or its designee included in the applicant or in the proposed charter school board of directors; and

(b) If the applicant or the board of directors includes a foreign entity, request and secure a certificate of authorization for the foreign entity from the Secretary of State, pursuant to KRS



14A.2-140.

~~(10) [The department shall develop a charter application scoring rubric that an authorizer may utilize in reviewing a charter application.]~~

~~(11)~~ An authorizer shall require an applicant or proposed board of directors for a charter school to include in the charter application:

(a) Performance information, financial information, and closure information for any charter school under the applicant or board of directors;

(b) Details and documentation of the outreach the applicant or proposed board of directors has had with the students or community that is the focus of the charter application; and

(c) Details of whether the charter application replicates or substantially replicates:

1. A charter application that the applicant, the proposed board of directors, or another entity previously withdrew from consideration and the reasons the charter application was withdrawn;

2. A charter application that was rejected by an authorizer and the reasons the charter application was rejected; or

3. A charter school that was previously closed and the reasons for the closure.

~~(11) [(12)]~~ An authorizer shall provide on the authorizer's website the names of all persons, and their roles, who are involved in the review of charter applications. Review of charter applications shall be conducted pursuant to the requirements of the Open Meetings Act, KRS 61.800 et seq.

~~(12) [(13)]~~ An authorizer shall not approve a charter application that does not meet the requirements of KRS 160.1590 to 160.1599, 161.141, and 701 KAR Chapter 8.

~~(13) [(14)]~~ Within five (5) days of the authorizer's approval, the authorizer shall submit an approved charter application to the commissioner of education for review and approval in accordance with Section 5(11) of this administrative regulation.

Section 5. Standards of Authorizer Performance Concerning Charter Contracts. (1) Prior to negotiating a charter contract with a board of directors, an authorizer shall verify the charter school board of directors' registration as a non-profit business entity with the Kentucky Secretary of State pursuant to KRS Chapter 14A.

(2) An authorizer shall negotiate and enter a charter contract with a charter school board of directors in compliance with KRS 160.1590(5) and (6); 160.1591(2); 160.1592(3), (7), (8), (9), (10), (11), and (20); 160.1593(3); 160.1594(1); 160.1596(1); 160.1597(1), (2), and (6); **and** 160.1598(1), (5), (6), and (7).

(3) An authorizer shall include pre-opening requirements or conditions in the charter contract as follows:

(a) An authorizer shall establish mutually agreed upon pre-opening requirements or conditions to:

1. Monitor the start-up progress of a newly approved public charter school;

2. Ensure that the charter school is prepared to open timely and smoothly on the date agreed; and

3. Ensure that the charter school meets all benchmarks related to facilities, health, safety, insurance, school personnel, enrollment, curriculum and instruction, operations and fiscal management, governance, and other legal requirements for the charter school opening; and

(b) Failure by the charter school to comply with the pre-opening requirements or conditions may result in the immediate revocation of the charter contract and:



1. May result in the delay in the opening of the charter school by up to one (1) year if the authorizer does not determine that the charter school is more likely than not to close during the school year; or

2. Shall result in the delay in the opening of the charter school by up to one (1) year if the authorizer does determine that the charter school is more likely than not to close during the school year.

(4) An authorizer shall include in the charter contract with the charter school board of directors provisions for charter school financial solvency and sustainability, including:

(a) A requirement that no member of the charter school board of directors, no education service provider, and no charter school employee shall knowingly recommend and no member of the charter school board of directors shall knowingly vote for an expenditure in excess of the charter school's income and revenue of any fiscal year, as shown by the budget adopted by the charter school board of directors and approved by the authorizer;

(b) A requirement that a member of the charter school board of directors, an education service provider, or a charter school employee who knowingly expends or authorizes the expenditure of charter school funds or who knowingly authorizes or executes any employment, purchase, or contract, in violation of this section, shall be jointly and severally liable in person and upon any official fidelity bond given to the authorizer to the extent of any payments on the void claim; and

(c) A requirement that, if at any time during any fiscal year of the charter school's existence, a member of the charter school board of directors, an education service provider, or a charter school employee knows or reasonably should know that the charter school has or will become unable to pay in full its projected expenses as they fall due, the charter school shall immediately so advise the department and the authorizer, and shall provide the department and the authorizer with all financial information relating to revenues and expenses of the charter school necessary for the department and the authorizer to determine the extent and cause of any potential operating deficit. If the member of the charter school board of directors, the education service provider, or the charter school employee fails to provide the notice to the department and the authorizer required by this subsection or fails to cooperate with the department and the authorizer in the production of financial information pursuant to this subsection:

1. The authorizer shall determine if grounds exist to revoke the charter contract; and

2. The knowingly acting member of the charter school board of directors, the education service provider, or the charter school employee may be subject to the liability established in paragraph (4)(b) of this section.

(5) An authorizer shall include in the charter contract the specific, exclusive reasons and timelines for closure initiated by the charter school board of directors[,] and the closure protocol and policies and procedures applicable to closure of the charter school.

(6) An authorizer shall require in the charter contract the closure requirements of KRS 160.1590 to 160.1599, 161.141, and 701 KAR Chapter 8.

(7) An authorizer shall require in the charter contract that the charter school shall not prohibit a student from attending and shall not unenroll or withdraw a student unless the charter school has complied with KRS 158.150.

(8) An authorizer shall require in the charter contract that the charter school board of directors maintain separate accountings of all funds received and disbursed by each charter school under the charter school board of directors.



(9) An authorizer shall require in the charter contract that any contract the charter school board of directors enters with an education service provider has to be approved by the authorizer prior to execution and that any contract the charter school board of directors enters with an education service provider shall comply with the following:

(a) Clearly establish the primacy of the charter contract over the contract between the charter board of directors and the education service provider;

(b) Clearly identify the charter school board of directors as the party ultimately responsible for the success or failure of the charter school, and clearly define the education service provider as a vendor of services;

(c) Prohibit the education service provider from selecting, approving, employing, compensating, or serving as members of the charter school board of directors;

(d) Require the charter school board of directors to directly select, retain, and compensate the charter school's legal counsel, finance staff, audit firm, and school leader;

(e) Provide for payments to the charter school to be made to an account controlled by the charter school board of directors, not the education service provider;

(f) Require all instructional materials, furnishings, and equipment purchased or developed with charter school funds be the property of the charter school, not the education service provider;

(g) Identify and describe the roles and responsibilities of the charter school board of directors and the education service provider, including all services to be provided under the contract between the charter school board of directors and the education service provider;

(h) Identify and describe the performance measures and consequences by which the charter school board of directors shall hold the education service provider accountable for performance, aligned with the performance measures in the charter contract;

(i) Identify and describe with specificity all compensation to be paid to the education service provider, including all fees, bonuses, and the conditions, consideration, and restrictions on **the** **[such]** compensation;

(j) Identify and describe the terms of any facility agreement that may be part of the relationship between the charter school board of directors and the education service provider;

(k) Identify and describe financial reporting requirements and provisions for the charter school board of directors' financial oversight of the education service provider and the charter school;

(l) Identify and describe all other financial terms of the contract, including disclosure and documentation of all loans or investments by the education service provider to the charter school board of directors, and provision for the disposition of assets upon closure in accordance with KRS 160.1590 to 160.1599, 161.141, and 701 KAR Chapter 8;

(m) Include assurances that the charter school board of directors, at all times, shall maintain independent fiduciary oversight and authority over the charter school budget and ultimate responsibility for the charter school's performance;

(n) Include provisions for contract termination without penalties for the charter school and without costs beyond the pro-rated value of the services provided by the education service provider;

(o) Assure:

1. That the charter school board of directors shall be structurally independent from the education service provider and shall set and approve charter school policies;

2. That the terms of the contract between the charter school board of directors and the



education service provider are reached through arm's-length negotiations in which the charter school board of directors is represented by legal counsel that does not also represent the education service provider; and

(p) Identify and describe the respective responsibilities of the charter school board of directors and the education service provider in the event of school closure.

(10) An authorizer shall prohibit a charter school board of directors, in the charter contract, from delegating the charter school board of directors' responsibilities in subsection (9) of this section to the education service provider.

(11) An authorizer shall not enter a charter contract for start-up, conversion, or renewal of a charter school, or agree to any charter contract amendment, unless the charter contract or amendment is approved by the commissioner of education as follows:

(a) An authorizer shall provide the commissioner of education a copy of a proposed charter contract or proposed amendment;

(b) Within fifteen (15) days of receipt of the proposed charter contract or amendment from the authorizer, pursuant to KRS 160.1594(9), the commissioner of education shall provide to an authorizer and the charter school board of directors approval of the contract or:

1. The reasons for a denial and any suggestions for remedy of these reasons; and

2. Notice of the opportunity for resubmission of the remedied contract or amendment to the commissioner of education; and

(c) Any failure to meet the commissioner of education's requirements for approval shall render the charter contract or its amendment void.

Section 6. Standards of Authorizer Performance Concerning Charter School Monitoring. (1) An authorizer[~~h~~] that determines a charter school board of directors has governance over more than one (1) charter school and has failed to meet the requirements of KRS 160.1592, shall commence an investigation to determine if the charter school board of directors is in compliance with the charter contracts for every other charter school under the authorizer's jurisdiction.

(2) An authorizer shall monitor the performance of the charter contract by a charter school board of directors, and any educational service provider. If the authorizer believes there is an issue with any aspect of performance of the charter contract, or compliance with any of the requirements of KRS 160.1590 to 160.1599, 161.141, or 701 KAR Chapter 8, the authorizer shall commence an investigation.

(3) An authorizer that verifies an issue with any aspect of performance of the charter contract, or compliance with any of the requirements of KRS 160.1590 to 160.1599, 161.141, or 701 KAR Chapter 8, shall notify the commissioner of education and may request assistance from the commissioner of education in addressing and remedying the issue.

(4) An authorizer that verifies an issue with any aspect of the performance of the charter contract, or compliance with any of the requirements of KRS 160.1590 to 160.1599, 161.141, or 701 KAR Chapter 8, shall notify the charter school of the issue and take necessary action, including unilateral imposition of conditions on the charter school, revocation, or nonrenewal of the charter contract, to resolve the issue and to provide notice of the issue and the resolution to the charter school's adult students, emancipated youth students, parents, persons with custody or charge, and the department.

(5) An authorizer shall at least monthly review the financial budget reports of the charter school



and take the following action:

(a) If the budget projections indicate that the charter school's annual operating expenses may at any time during the school year cause the annual operating revenues to fall below two (2) percent of the total projected annual operating revenues included in the school's approved budget, the charter school shall provide specific notice of this to the authorizer and the authorizer shall:

1. Require the charter school to implement a cash management plan approved by the authorizer;
2. Commence a more in-depth review, and an audit if necessary, of the charter school's financial budget reports, expenditures, and revenues;
3. Request financial management assistance for the charter school from the department; and
4. Restrict the charter school's expenditures and require the authorizer's approval prior to expenditure of charter school funds for the remainder of the school year; and

(b) If the charter school defaults on a financial obligation or if the authorizer otherwise suspects the charter school may close prior to the end of the school year or the charter contract term, the authorizer shall:

1. Consult with the commissioner of education;
2. Communicate with the charter school board of directors to determine the need for charter contract revocation;
3. Commence actions under **paragraph (a) of this subsection [above]**;
4. Review the closure protocol;
5. Review the charter contract termination provisions;
6. Communicate with the charter school board of directors regarding the closure protocol and contract provisions for termination; and
7. Notify students and resident local school districts, as soon as necessary to ensure all students and resident local school districts are provided adequate time to prepare for the student transitions and to provide free and appropriate public education to any returning students.

(6) An authorizer shall revoke the charter contract and determine the timeline for closure if the authorizer determines the charter school:

- (a) Is financially insolvent;
  - (b) Is financially unsustainable for the remainder of the school year or the charter contract term;
- or
- (c) Has violated or threatened the health and safety of the students of the public charter school, pursuant to KRS 160.1598(7).

(7) The department shall develop a charter contract performance framework that an authorizer may utilize in developing a charter contract performance framework. In addition to the requirements of KRS 160.1596, the authorizer's charter contract performance framework shall include academic, financial, and organizational performance frameworks, and targets in the following areas:

- (a) Student assessment and accountability;
- (b) Student graduation rates;
- (c) Student promotion rates;
- (d) Student attendance rates;
- (e) Student admission and enrollment in postsecondary institutions; and



(f) Other outcomes.

Section 7. Standards of Authorizer Performance Concerning Charter Approval, Revocation, Renewal, and Nonrenewal. (1) An authorizer shall not approve a charter application, contract with, or renew a contract with a charter school board of directors for a charter school that:

(a) Does not operate:

1. A breakfast program under the Child Nutrition Act of 1966, 42 U.S.C. 1773, as amended (CNA), and a lunch program under the Richard B. Russell National School Lunch Act, 42 U.S.C. 1751 et seq. (NSLA); or

2. A breakfast and lunch program with provision of meals at no cost to students who qualify for free meals under the CNA and NSLA and with the provision of meals at a reduced cost to students who qualify for reduced price meals under the CNA and NSLA; or

(b) Does not provide initial and continuing evidence and assurances of the charter school's financial solvency and financial sustainability, as demonstrated initially by the financial plan in the charter application, to cover the expenses of start-up or conversion, operation, and any foreseen or unforeseen closure of the charter school during the fiscal year or during the contract term.

(2) An authorizer shall require for approval of a charter application, for contracting with a charter board of directors, for performance of a charter contract, and for renewal of a charter contract, the following:

(a) Inclusion of at least two (2) local school district resident parents or persons with custody or charge of local school district resident students who will attend the charter school in a charter school board of directors;

(b) Exercise by a charter school board of directors of their authority in KRS 160.1592(3)(p)4 and 5 only as allowed for a local board of education in KRS 160.540;

(c) Participation of all members of a charter school board of directors in annual training, approved by the commissioner of education, on topics of charter school governance and operation including financial governance and transparency; conflict of interest; curriculum and instruction; educational services provided for special needs, at risk, English learner, gifted, and other special population students; physical restraint and seclusion of students; and ethics. Fulfillment of this requirement shall occur through:

1. Twelve (12) hours of annual training for a new charter school board member or a member with zero to eight (8) years of experience as a charter school board member and eight (8) hours for a charter school board member with more than eight (8) years of experience as a charter school board member; or

2. Competency-based annual training;

(d) Attendance by the authorizer, or its designee for authorizing, or at least one (1) member of the authorizer's board of directors at any due process hearing conducted pursuant to KRS 158.150 to suspend or expel a charter school student. A charter school board of directors, with the consent of the parent, person with custody or charge, adult student, or emancipated youth student, and as otherwise allowed by confidentiality laws, may invite the resident local district superintendent to attend the due process hearing and to provide information to the charter school board of directors as to the educational services the resident local school district would provide the student:

1. If the student is expelled from the charter school; and

2. If the charter school board of directors determines, on the record and supported by clear



and convincing evidence, that the charter school cannot provide or assure that educational services are provided to the student in an appropriate alternative program or setting because the expelled student posed a threat to the safety of other students or school staff and could not be placed into a state-funded agency program;

(e) Provision, to the authorizer by the charter school board of directors and any education service provider, of information and copies of all records of use of the Individual with Disabilities Education Act dispute resolution procedures, 707 KAR 1:340, regarding a student attending a charter school or the services provided by a charter school;

(f) Provision, to the authorizer by the charter school board of directors and any education service provider, of information and copies of all records of use of physical restraint or seclusion of charter school students;

(g) Provision, to the authorizer by the charter school board of directors and any education service provider, of information and copies of all records of allegations received or substantiation of violation of any health, safety, civil rights, and disability rights of students, staff, or parents or persons with custody or charge;

(h) Pursuant to KRS 160.1592(14), adherence by the charter school board of directors, and any education service provider, to the requirements of KRS 160.330 and 702 KAR 3:220 for the waiver of fees for students eligible for free or reduced price lunch;

(i) Provision, to the authorizer and to the public by the charter school board of directors and any education service provider, updates on the charter school's performance of the charter contract, according to the charter contract and performance framework;

(j) Restriction on expenditure of charter school resources and funds for school purposes only;

(k) Prohibition on the expenditure of charter school resources and funds in excess of the fair market value of the product, service, or consideration received;

(l) Prohibition on the disposal of charter school resources for less than the fair market value of the resource disposed;

(m) Restriction on the addition or moving of any location of the charter school without the written consent of the authorizer and amendment of the charter contract; and

(n) Provision, to the authorizer by the charter school board of directors and any education service provider, of student enrollment and attendance records and data at least monthly during the school year.

(3) An authorizer shall revoke, effective at the end of the school year, a charter contract for any of the reasons in KRS 160.1598(6).

(4) An authorizer shall require continuous enrollment at a charter school of at least eighty (80) percent of the charter contract minimum student enrollment requirements and shall monitor and take action as follows if that minimum is not met:

(a) The charter school shall provide reports to the authorizer on student enrollment and attendance at least twice a month; and

(b) Failure of the charter school to maintain this continuous, minimum student enrollment shall result in an immediate review by the authorizer of:

1. The charter school's operations;

2. The charter school's financial solvency;

3. The charter school's financial sustainability through the end of the school year and the end of the charter contract term;



4. The potential for closure;

5. Violation of the charter contract; and

6. The need for imposition of unilateral conditions, amendment, nonrenewal, or revocation of the charter contract, or immediate revocation of the charter contract pursuant to KRS 160.1598(7).

(5) An authorizer shall not approve a charter application for a start-up public charter school or conversion charter school if the applicant or proposed member of the board of directors has been previously found to have knowingly violated the requirements for interscholastic athletic activity sanctioned by the Kentucky Board of Education or its designated agency, and the authorizer shall ensure compliance with this requirement as follows:

(a) The authorizer shall consult with the Kentucky Board of Education's designated agency to ensure compliance with this requirement;

(b) The Kentucky Board of Education's designated agency may provide copies of its relevant written reports described in 702 KAR 7:065 Section 3(17) to the authorizer; and

(c) If the authorizer does determine a member of the applicant or the proposed board of directors has previously been found to have knowingly violated the requirements for interscholastic athletic activity sanctioned by the Kentucky Board of Education or its designated agency, the authorizer may only approve a charter application, contract with, or renew a charter for a start-up public charter school or conversion charter school that does not sponsor interscholastic athletic activities, unless the charter school's sponsorship of interscholastic athletic activities is approved by the Kentucky Board of Education.

(6) An authorizer shall remove a member of a board of directors that has been convicted of a crime described in KRS 61.040 and remove any or all of the members of the board of directors of the public charter school in connection with ensuring a smooth and orderly closure when the member or members threaten the health, safety, civil rights, or disability rights of the students or the community pursuant to KRS 160.1598(11).

(7) An authorizer shall revoke or nonrenew a charter school contract if the commissioner of education has determined a member of the board of directors, or an education service provider at the direction of a member of the board of directors, or an employee at the direction of a member of the board of directors, has knowingly violated 703 KAR 5:080, Administration Code for Kentucky's Assessment Program or KRS 160.1592(3)(g), for a student assessment included in:

(a) The performance framework of the charter contract; or

(b) The state accountability system.

(8) For issues in a charter school's performance that do not require immediate action by the authorizer, as stated in KRS 160.1590 to 160.1599, and 701 KAR Chapter 8, or otherwise to protect the health, safety, civil rights, disability rights, and well-being of students and the community, an authorizer may utilize a progressive system of monitoring consequences including notices of deficiencies or conditions unilaterally imposed on the charter school prior to revocation or nonrenewal. An authorizer shall share publicly a notice of deficiency or a condition unilaterally imposed on the charter school as well as the underlying charter school performance issue and shall provide a copy to the commissioner of education and to the Kentucky Board of Education.

(9) An authorizer shall comply with the following prior to approving a charter application for a charter school or renewing a charter school contract:

(a) Holding in the resident local school district a public hearing to allow for public comment on the charter application; and



(b) Allowing public comment to be submitted in writing prior to the hearing, or oral or written public comment at the hearing and allowing comment at the public hearing by a resident superintendent who has filed an objection to the charter application.

Section 8. Standards of Authorizer Performance Concerning Charter Closure. (1) An authorizer's charter school closure protocol shall include the following:

(a) Provision, to the authorizer by the charter school, of contact information and resident local school district information for all parents, persons with custody or charge, adult students, and emancipated youth students;

(b) Notification to all parents, persons with custody or charge, adult students, and emancipated youth students of:

1. The closure decision;
2. The closure process;
3. Information on student instruction and reassignment;
4. Information on courses, levels, and credits completed by the student;
5. Information on the process for obtaining a copy of the student's education records; and
6. Contact information for additional information;

(c) Notification to the resident local school districts and the department of:

1. The closure decision;
2. The closure date;
3. The closure process;
4. Availability and timeline for appeals and their intersection with the closure protocol;
5. A copy of the notification provided to charter school parents, persons with custody or charge, adult students, and emancipated youth students;
6. Information on student instruction and reassignment; and
7. Contact information for additional information;

(d) Budget review and revision to limit expenditures to only those in the approved budget required for fulfilling the obligations through closure;

(e) Communication of the budget information to parents, persons with custody or charge, adult students, emancipated youth students, resident local school districts, the department, and the Kentucky Board of Education;

(f) Meeting of the authorizer with the charter school board of directors and charter school employees to notify and coordinate:

1. The closure;
2. The closure process;
3. The closure timeline and dates;
4. Information on student instruction and reassignment;
5. Employment, payroll, and benefits information;
6. Transfer of federal and state funds and assets according to the federal and state requirements; and

7. Contact information for additional information;

(g) Additional and final notification to parents and resident local school districts, including:

1. Information on the existence and role of any appeal of the closure;
2. Identifying the last student attendance day;



3. Detailing end of the year activities and transition activities for students; and
  4. Providing information and assistance for reassignment of students;
- (h) Procedures and requirements for establishment of transition teams, development of closure plan, and assignment of roles for closure;
- (i) Procedures and requirement for scheduling closure meetings with the transition team, parents, persons with custody or charge, adult students, emancipated youth students, resident local school districts, the department, and employees;
- (j) Procedures and requirements for a final report from the charter school board of directors to the authorizer and the department detailing completion of the closure plan;
- (k) Maintenance of the charter school facilities;
- (l) Identification and notification of all creditors and debtors of the board of directors and the Teachers' Retirement System and the County Employees Retirement System;
- (m) Notification of federal, state, local, and private grantors;
- (n) Termination of any contract with an education service provider;
- (o) Accounting, inventory, and protection of assets;
- (p) Notification of employee benefit providers;
- (q) Notification of all contractors and termination of all contracts;
- (r) Transfer of student and personnel records;
- (s) Notification of the IRS;
- (t) Issuance of final grades to students;
- (u) Dissolution of the charter school;
- (v) Maintenance of records; and
- (w) Completion of an independent final audit within six (6) months of the closure of the charter school that may function as the annual audit, and that includes at least:
1. An accounting of all financial assets, including cash and accounts receivable and an inventory of property, equipment, and other items of material value;
  2. An accounting of the liabilities, including accounts payable and any reduction in apportionments as a result of audit findings or other investigations, loans or grants, and unpaid staff compensation; and
  3. An assessment of the disposition of any restricted funds received by or due to the charter school.
- (2) An authorizer's charter school closure protocol shall include the following regarding distribution of assets upon closure:
- (a) The assets of the charter school, if sufficient to satisfy all the outstanding debts of the charter school, shall be distributed in the following order:
1. To satisfy outstanding payroll obligations for employees of the public charter school;
  2. To creditors of the charter school; and
  3. To the resident local school districts, in direct proportion to the percentage of the charter school student body that will be returning to each resident local school district after closure;
- (b) If the assets of the public charter school are insufficient to satisfy all debts of the charter school, the prioritization of the distribution of assets may be determined by a court of law; and
- (c) A charter school board of directors shall distribute its assets within six (6) months of closure of the charter school, unless granted an extension by the authorizer or ordered otherwise by a court of law.



(3) The commissioner of education, upon request by the authorizer, may appoint an independent third-party, paid from the charter school's funds, to manage the closure with assistance from the department. The commissioner of education may remove an appointed independent third-party for cause and appoint a replacement.

(4) The department shall develop a charter closure protocol guide that an authorizer may utilize in developing the closure protocol.

Section 9. Investigation of an Authorizer. (1) The Kentucky Board of Education shall conduct a special review of an authorizer as follows:

(a) If there is persistently unsatisfactory performance of the portfolio of the public charter schools of the authorizer;

(b) If there is a pattern of well-founded complaints about the authorizer or its public charter schools; or

(c) If the Kentucky Board of Education finds other objective circumstances warranting investigation.

(2) The Kentucky Board of Education shall request investigation by the commissioner of education.

(3) In reviewing and evaluating the performance of an authorizer, the Kentucky Board of Education shall apply nationally recognized standards for quality in charter authorizing, in addition to the standards of performance included in KRS 160.1590 to 160.1599, 161.141, and 701 KAR Chapter 8.

(4) If at any time the Kentucky Board of Education determines that an authorizer is not in compliance with an existing charter contract or the requirements for an authorizer, the Kentucky Board of Education shall either:

(a) Notify the authorizer in writing of any identified problem and the authorizer shall have a reasonable opportunity to respond and remedy the problem; or

(b) If deemed necessary, take action against the authorizer under Section 10.

Section 10. Consequences. (1) The Kentucky Board of Education may, in addition to its authority over authorizers and their action on a charter application, renewal, nonrenewal, revocation, charter amendment, or unilateral imposition of conditions on a charter school pursuant to KRS 160.1595(1), place an authorizer on probation and require the following during probation of an authorizer:

(a) Additional training for the authorizer;

(b) Meeting with the commissioner of education to provide status reports and solicit feedback on charter school performance during a charter contract;

(c) Written and in-person status reports to the Kentucky Board of Education on the authorizer's monitoring of charter schools and other authorizing activity;

(d) Approval by the commissioner of education on the authorizer's monitoring activities, imposition of unilateral conditions, and revocation decisions;

(e) Approval of the Kentucky Board of Education for any renewal, nonrenewal, revocation, charter amendment, or unilateral imposition of conditions on a charter contract; and

(f) Any other consequences the Kentucky Board of Education deems necessary to ensure compliance with KRS 160.1590 to 160.1599, 161.141, and 701 KAR Chapter 8.



(2) The Kentucky Board of Education shall establish the length and extent of the probation of the authorizer's authority and reporting requirements for the authorizer to report on the progress of the charter schools authorized by the authorizer.

(3) The Kentucky Board of Education shall state in its order probating the authority of the authorizer:

(a) The extent of the probation of the authorizer's authority;

(b) The length of the probation of the authorizer's authority;

(c) The grounds under KRS 160.1590 to 160.1599, 161.141, and 701 KAR Chapter 8 for the probation of the authorizer's authority; and

(d) The anticipated changes that would have to occur for the Kentucky Board of Education to consider ending the probation of the authorizer's authority under KRS 160.1590 to 160.1599, 161.141, and 701 KAR Chapter 8.

(4) The Kentucky Board of Education may entertain a request by the authorizer for termination of the probation if the authorizer submits, at least forty-five (45) days prior to the Kentucky Board of Education's regular meeting, the following:

(a) The authorizer's request for ending the probation; and

(b) The authorizer's evidence of:

1. Its efforts to correct the grounds for the probation of its authorizing authority;

2. The changes required in the Kentucky Board of Education's order; and

3. Its plan to ensure future compliance with the requirements of KRS 160.1590 to 160.1599, 161.141, and 701 KAR Chapter 8.

~~Section 11. [Statewide Evaluation of Public Charter School Authorizers. (1) Beginning with the conclusion of the 2018-2019 fiscal year, the department shall provide an annual report on the state's public charter school authorizers and their charter schools to the Governor, the Interim Joint Committee on Education, the secretary of the Education and Workforce Development Cabinet, and the public that includes information from the annual reports submitted by every authorizer as well as any additional relevant data compiled by the department.~~

~~(2) The annual report shall include:~~

~~(a) For all public charter schools in the state, by individual charter school, and by authorizer, and disaggregated by level, school level, or educational level; race; free and reduced price lunch eligibility status; and status as a student with special needs;~~

~~1. The academic performance;~~

~~2. The number of students enrolled, withdrawn, suspended, and expelled;~~

~~3. Financial audit results;~~

~~4. Financial solvency and sustainability for the fiscal year and the contract term;~~

~~5. Closure information; and~~

~~6. For charter schools with education service providers, information on the contracts and relationships between charter schools and education service providers and any financial risk, lack of accountability, and program performance risk resulting from the contracts and relationships between charter schools and education service providers;~~

~~(b) A comparison of the performance and growth of public charter school students with the performance and growth of comparable groups of students in noncharter public schools;~~

~~(c) A detailed update on the authorizing process;~~



~~(d) Recommendations for adjustments to public charter school governance and oversight; and~~  
~~(e) The department's assessment of the successes, challenges, and areas for improvement in meeting the purposes of KRS 160.1591, including the department's recommendations as to any suggested changes in state law or policy necessary to strengthen the state's public charter schools.~~

Section 12:] Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Kentucky Charter School Application and Addendum", February 2018,~~is incorporated by reference.]; and~~

(b) "Notice of Intent", February 2018.

(2) [~~"Notice of Intent", February 2018, is incorporated by reference.~~] This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Education, Office of Legal~~], Legislative and Communication]~~ Services, ~~[5th floor, 300 Building,]~~ 300 Sower Boulevard, 5<sup>th</sup> Floor, Frankfort, Kentucky, Monday through Friday, 8 a.m. to 4:30 p.m.

CONTACT PERSON: Todd G. Allen, Interim General Counsel, Kentucky Department of Education, 300 Sower Boulevard, 5<sup>th</sup> Floor, Frankfort, Kentucky 40601, phone 502-564-4474, fax 502-564-9321; email [regcomments@education.ky.gov](mailto:regcomments@education.ky.gov).



Andy Beshear  
Governor



Lt. Gov. Jacqueline Coleman  
Secretary  
Education and Workforce  
Development Cabinet

Kevin C. Brown  
Interim Commissioner of Education

**KENTUCKY DEPARTMENT OF EDUCATION**  
300 Sower Boulevard • Frankfort, Kentucky 40601  
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September 1, 2020

Emily Caudill, Regulation Compiler  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort, KY 40601



Re: 702 KAR 1:180. School security risk assessment tool

Dear Ms. Caudill:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 702 KAR 1:180, the Kentucky Board of Education proposes the attached suggested substitute.

Sincerely,

A handwritten signature in black ink, appearing to read "Todd G. Allen".

Todd G. Allen  
General Counsel

Attachment



**Subcommittee Substitute**

**EDUCATION AND WORKFORCE DEVELOPMENT CABINET**

**Kentucky Board of Education**

**Department of Education**

**(New Administrative Regulation)**

**702 KAR 1:180. School security risk assessment tool.**

RELATES TO: KRS 156.160, 158.4410, 158.4412, 158.442, 158.443, 158.444

STATUTORY AUTHORITY: KRS 156.029, 156.070, 156.160, 158.442, 158.443, 158.444

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.029(7) **establishes [states]** that the primary function of the Kentucky Board of Education (KBE) is to adopt administrative regulations governing ~~["the educational programs, services, and activities["]~~ within the KBE's jurisdiction that the Kentucky Department of Education (department) administers and operates, and KRS 156.160 requires the KBE **to** ~~["promulgate administrative regulations establishing standards which school districts shall meet in student, program, service, and operational performance.["]~~ In accordance with KRS 158.442, which establishes the Center for School Safety (KCSS), the KCSS is required to ~~["advise the Kentucky Board of Education on administrative policies and administrative regulations relating to school safety and security.["~~ **Further,** KRS 158.443(9)(b) requires **that** the board of directors for the KCSS ~~["approve a school security risk assessment tool and updates as necessary in accordance with KRS 158.4410 to be incorporated by reference within an administrative regulation promulgated in accordance with KRS Chapter 13A.["]~~ KRS 158.444 requires the Kentucky Board of Education **to** promulgate administrative regulations related to school safety, student discipline, and related matters. **Accordingly,** This administrative regulation incorporates by reference the school security risk assessment tool approved by the KCSS board of directors.

Section 1. **Verification[Incorporation by Reference]**. (1) As required by KRS 158.4410, each local district superintendent shall annually verify **that** all schools within the district have completed the Internal School Security Risk Assessment Tool approved by the KCSS board of directors and incorporated by reference within this administrative regulation pursuant to KRS 158.443.

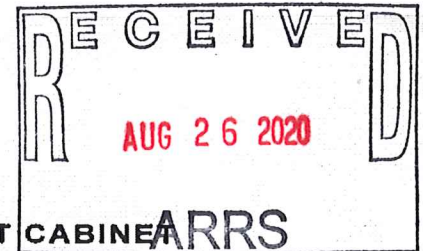
**Section 2. Incorporated by Reference. (1) "Internal School Security Risk Assessment Tool", June 2020, is incorporated by reference.**

(2) ~~**[The following material is incorporated by reference: "Internal School Security Risk Assessment Tool," June 2020.**~~

~~**(3)**~~ This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Education, 300 Sower Boulevard, 5<sup>th</sup> Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

CONTACT PERSON: Todd G. Allen, Interim General Counsel, Kentucky Department of Education, 300 Sower Boulevard, 5<sup>th</sup> Floor, Frankfort, Kentucky, 40601, phone 502-564-4474, fax 502-564-9321; email [regcomments@education.ky.gov](mailto:regcomments@education.ky.gov).





**EDUCATION and WORKFORCE DEVELOPMENT  
Department for Libraries & Archives**

**Andy Beshear**  
Governor

**Jacqueline Coleman**  
Lieutenant Governor  
and Secretary

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**Mary Pat Regan**  
Deputy Secretary

**Terry Manuel**  
Commissioner  
and State Librarian

August 26, 2020

Senator Stephen West, Co-Chair  
Representative David Hale, Co-Chair  
c/o Emily Caudill, Regulation Compiler  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort KY 40601

Re: **725 KAR 2:060** Certification of public librarians

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 725 KAR 2:060, the Dept. for Libraries & Archives proposes the attached suggested amendments to 725KAR 2:060.

Sincerely,

Terry Manuel, Commissioner  
Kentucky Department for Libraries & Archives  
300 Coffee Tree Rd.  
Frankfort, KY 40601



8/3/2020, FINAL VERSION

SUGGESTED SUBSTITUTE

EDUCATION AND WORKFORCE DEVELOPMENT CABINET

Department for Libraries and Archives

Division of Library Services

(Amended After Comments)

**725 KAR 2:060. Certification of public librarians.**

RELATES TO: KRS 171.250, 171.260, 171.270

STATUTORY AUTHORITY: KRS 171.250(1[2]), 171.260, 171.270

NECESSITY, FUNCTION, AND CONFORMITY: KRS 171.260 requires certification of public librarians and other full-time employees. KRS 171.250(1[2]) requires the board to promulgate administrative regulations in order to establish the requirements for the certification of public librarians. This administrative regulation establishes the requirements for certification of public librarians.

Section 1. Definitions. (1) "ALA" means the American Library Association.

(2) "Asynchronous training" means training that allows students to access content or learn outside the classroom at their convenience or independent of the instructor.

(3)[(2)] "Board" means the Kentucky State Board for the Certification of Librarians.

**(4) "Educational contact hours" means a measurement used for an educational activity that applies extended, in-depth study in the field of library and information science or any job-related field.**

(5)[(4)][(3)] "Full-time" means working [more than] 100 hours or more per month.

(6)[(5)] "Job-related field of study" means an area other than library science that is directly related to the applicant's job duties.

(7)[(6)][(4)] "Library [information] services" means duties performed by library employees that require special skills and knowledge to be performed properly.

(8)[(7)][(5)] "Library work experience" means employment in a library that includes administration, collection development, technical services, public services, or support for public service areas, and excludes secretarial, custodial, groundskeeping, security, food service, [driver,] and messenger duties.

(9)[(8)] "Part-time" means working less than 100 hours per month.

Section 2. Required Certification by Public Library Position. (1) A full-time or part-time library director serving a population of more than 15,000 shall hold or obtain a Professional I or II certificate.

(2) A full-time or part-time library director serving a population of 15,000 or less shall hold or obtain at least the [paraprofessional] Professional III or IV certificate.



(3) A full-time or part-time~~[An]~~ assistant director, ~~[bookmobile librarian,]~~ branch head, ~~[or]~~ department head, manager, supervisor, or bookmobile librarian, as determined by the library director or designee, shall hold or obtain at least the Paraprofessional I certificate.

(4) Any other full-time position providing library ~~[information]~~ services, as determined by the library director or designee ~~[assigned by local library personnel]~~ using the Approved Guidelines for Determination of Paraprofessional Level of Certification, shall hold or obtain the Paraprofessional II or Paraprofessional III ~~[library experience]~~ certificate.

Section 3. Types of Certificates. (1) A Professional I Certificate ~~[I]~~ shall be:

(a) Awarded if the applicant has obtained a master's degree in library science from an [a] ALA accredited school; and

(b) Valid for five (5) years.

(2) A Professional II Certificate ~~[II]~~ shall be:

(a) Awarded if the applicant has obtained:

1. A master's degree in library science from a library school that has not been ALA accredited; or

2. A master's degree with at least fifteen (15) graduate hours in library science; and

(b) Valid for five (5) years.

(3) A Professional III Certificate ~~[III]~~ shall be:

(a) Awarded if the applicant has obtained ~~[the following requirements before July 1, 2011]:~~

1. A bachelor's degree with at least twenty-one (21) graduate or undergraduate college credit hours in library science; or

2. A master's degree with at least fifteen (15) ~~[twelve (12)]~~ graduate or undergraduate college credit hours in library science; and

(b) Valid for five (5) years.

(4) A Professional IV Certificate ~~[IV]~~ shall be:

(a) Awarded if the applicant has obtained: ~~[passed the library certification examination before July 1, 1980; and]~~

1. A bachelor's degree with at least nine (9) graduate or undergraduate college credit hours in library science and six (6) graduate or undergraduate college credit hours in a job-related field of study; or

2. A master's degree with six (6) graduate or undergraduate college credit hours in library science and three (3) graduate or undergraduate college credit hours in a job-related field of study; and

(b) Valid for five (5) years.

(5) A Paraprofessional I Certificate shall be:

(a) Awarded if the applicant has completed or obtained:

1.a. ~~[Sixty (60) hours of college training, including at least twelve (12) hours in library science; and~~

~~b. Two (2) years of full-time work experience;~~

2.a.] A high school diploma or high school equivalency diploma~~[GED];~~

b. 360 total job-related educational contact hours, including 144 educational contact hours in library science and seventy-two (72) educational contact hours in Human Resources or Management ~~[At least fifteen (15) hours in library science]; and~~



- c. ~~4,000 hours of library work experience~~[Five (5) years of full-time library work experience;
- 3. A bachelor's degree with at least twelve (12) hours in library science; or
- 4. A master's degree with at least six (6) hours in library science]; and
- (b) Valid for five (5) years.
- (6) A Paraprofessional II ~~[library experience]~~ Certificate shall be:
  - (a) Awarded if the applicant has completed or obtained:
    - 1.a. A high school diploma or ***high school equivalency diploma***[GED]; ***[and]***[
    - 2.a. Twelve (12) hours of library science;]
    - b. ~~288 job-related educational contact hours~~[Nine (9) hours of library science and three (3) hours in a related field of study]; and
    - c. ~~4,000 hours of library work experience~~[Six (6) hours in library science and ten (10) years of full-time library work experience; or
    - d. A bachelor's degree and six (6) hours in library science]; and
    - (b) Valid for five (5) years.
  - (7) A Paraprofessional III Certificate shall be:
    - (a) Awarded if the applicant has completed or obtained:
      - 1.a. A high school diploma or ***high school equivalency diploma***[GED]; ***[and]***
      - b. 144 job-related educational contact hours; and
      - c. 2,000 hours of library work experience; and
      - (b.) Valid for five (5) years.
- (8[7]) A Professional or[,] Paraprofessional ~~[or library experience]~~ Certificate shall be renewed according to 725 KAR 2:070.
- (9[8]) A Temporary Certificate shall be valid for five (5) years and shall be issued to a person who:
  - (a) Holds or is promoted to a job requiring certification as provided in Section 2 of this administrative regulation; or
  - (b) Does not meet the requirements of Section 2 of this administrative regulation[; and
  - (c) ~~Is promoted to a job requiring a higher level of certification as provided in Section 2 of this administrative regulation].~~

Section 4. Sources of Education for Initial Certification. (1) The board shall accept academic credit from college credit courses offered by an institution of higher education, which is accredited by its respective regional association.

(2) The board shall accept library and information science academic credits from college credit courses offered by:

(a) Graduate schools accredited by the Committee on Accreditation of the American Library Association and these college credit courses shall be approved for all types of certificates;

(b) Colleges whose library and information science departments are accredited by their respective regional associations and these college credit courses shall be approved for all types of certificates;

(c) Accredited colleges that offer individual library and information science courses and these college credit courses shall be approved for Professional III and IV[;] and Paraprofessional I, II, and III[; and Library Experience] certificates; or



(d) Community and technical colleges that offer library or information science courses and these courses shall be approved for Professional III and IV, and Paraprofessional I, II, and III~~and Library Experience~~ certificates.~~;~~

**(3)(e) The board shall also accept** asynchronous training courses with a minimum of ten (10) educational contact hours in length provided by an institution or organization that meets the requirements of the Approved Guidelines for Asynchronous Training Courses.

**(4)(3)**As an alternative source of education for the Professional III, IV, and Paraprofessional ~~[or the library experience certificate]~~ certificates, the board shall accept completion of a library institute, which ~~[a library institute]~~ shall be an in-depth program of library and information science developed according to the Approved Guidelines for Library Institutes.

(a) The program shall be submitted to the board for approval sixty (60) days in advance of implementation.

(b) One (1) institute shall substitute for a three (3) hour college credit~~[level]~~ library and information science course and shall only be substituted once for initial certification.

Section 5. Application for public library certification shall be made to the board by submitting a completed Application for Certification of Librarianship.

Section 6. A fee of twenty (20) dollars shall be charged for each certificate issued.

Section 7. A Professional or, Paraprofessional ~~[or library experience]~~ certificate shall be issued to an applicant who meets the requirements and submits the required fee.

Section 8. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Approved Guidelines for Library Institutes", January 8, 2010; **[and]**

(b) "Application for Certification of Librarianship", October 18, 2019~~[December 15, 2008]~~; **[and]**

(c) "Approved Guidelines for Determination of Paraprofessional Level of Certification", July 8, 2019; and

(d) "Approved Guidelines for Asynchronous Training Courses", July 8, 2019.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department for Libraries and Archives, 300 Coffee Tree Road, Frankfort, Kentucky 40601~~[40602-0537]~~, Monday through Friday, 9~~[8]~~ a.m. to 4~~[30]~~ p.m.

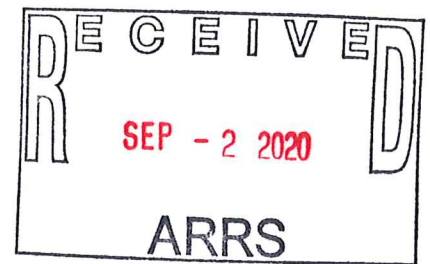
TERRY MANUEL, Commissioner

APPROVED BY AGENCY: March 12, 2020

FILED WITH LRC: March 13, 2020

CONTACT PERSON: Terry Manuel, Commissioner, Kentucky Department for Libraries & Archives, P.O. Box 537, 300 Coffee Tree Road, Frankfort, Kentucky 40602, phone (502) 564-8303, email [kdla.certification@ky.gov](mailto:kdla.certification@ky.gov).





**CABINET FOR HEALTH AND FAMILY SERVICES**  
**Office of the Secretary**

**Andy Beshear**  
Governor

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**Eric C. Friedlander**  
Secretary

September 2, 2020

Ms. Emily Caudill, Regulations Compiler  
Legislative Research Commission  
029, Capitol Annex  
702 Capitol Avenue  
Frankfort, Kentucky 40601

Re: **907 KAR 1:604**. Recipient cost-sharing.

Dear Regulations Compiler:

After discussions with various stakeholders relating to the issues raised by 907 KAR 1:604, the Department for Medicaid Services proposes the attached **agency** amendment to 907 KAR 1:604.

If you have any questions, please feel free to contact Jonathan Scott, Regulatory and Legislative Advisor with the Department for Medicaid Services at (502) 564-4321 ext. 2015.

Sincerely,

Donna Little  
Deputy Executive Director  
Office of Legislative and Regulatory Affairs  
Cabinet for Health and Family Services



**AGENCY AMENDMENT**

**CABINET FOR HEALTH AND FAMILY SERVICES**

**Department for Medicaid Services**

**907 KAR 1:604. Recipient cost-sharing.**

**Pages 4 to 12**

**Sections 2 to 6**

**Beginning on Page 4, Line 7, through the end of Page 12, Line 12**

**On Page 4, Line 7, after “Section 2.” insert the following:**

Copayments. (1) Except as provided by subsection (4) of this section, the following table shall establish the copayment amounts that a recipient shall pay, unless the recipient is otherwise exempt from cost sharing.

<u>Benefit</u>	<u>Copayment Amount</u>
<u>Emergency room for a nonemergency visit</u>	<u>\$1</u>
<u>Prescription and over- the-counter drugs</u>	<u>\$1</u>
<u>Ambulance services provided to individuals in need of nonemergency health transportation services</u>	<u>\$1</u>

(2) The full amount of the copayment established in the table in subsection (1) of this section shall be deducted from the provider reimbursement, unless the recipient has already met any copayment obligation for the year pursuant to Section 3(1)(b) of this administrative regulation.

(3) The maximum amount of cost-sharing shall not exceed five (5) percent of a family’s income for a quarter.

(4) A prescription co-payment shall not apply to:

(a) Certain antipsychotic medications;

(b) Contraceptives for family planning;

(c) Tobacco cessation medications;

(d) All covered diabetes or diabetic supplies;

(e) Pregnant recipients;

(f) Long-term care residents; or

(g) Any recipient exempted pursuant to Sections 3 or 5 of this administrative regulation.

Section 3. Copayment General Provisions and Exemptions. (1)(a) Cost-sharing or copayments for the delivery of Medicaid services within the



Commonwealth shall not exceed the amounts established in the table in Section 2 of this administrative regulation.

(b) After paying for one (1) copayment each calendar year for any service or product within the table established in Section 2 of this administrative regulation, a recipient shall not be subject to additional copayments or cost-sharing for that service or any other Medicaid covered service or product for the remainder of that calendar year.

(2) A Medicaid beneficiary who is younger than nineteen (19) years of age shall be exempt from the copayment or cost-sharing requirements established pursuant to this administrative regulation.

(3) A copayment shall not be imposed for a service, prescription, item, supply, equipment, or any type of Medicaid benefit provided to a foster care child or a pregnant woman.

(4) The department shall impose no cost sharing for an individual or recipient who is exempt pursuant to 42 C.F.R. 447.56.

(5) A provider shall not deny services to a recipient who cannot pay any required cost sharing.

(6) Any amount of uncollected copayment by a provider from a recipient shall not be considered a debt to the provider.

(7) A provider shall not collect:

(a) A copayment from an enrollee for a service or item if a copayment is not imposed for that service or item; or

(b) Any copayment or cost sharing from an enrollee that is greater than the copayment amounts established in the table in Section 2 of this administrative regulation.

(8) Cumulative cost sharing for copayments for a family with children who receive benefits under Title XXI, 42 U.S.C. 1397aa to 1397jj, shall be limited to five (5) percent of the annual family income.

(9) In response to a declared emergency relating to or rationally related to healthcare or public health, the department may waive or direct the waiving of all required cost-sharing for all Medicaid beneficiaries or any subpopulation of Medicaid beneficiaries not already exempted from this administrative regulation, including a geographic or age-related subpopulation.

Section 4. Premiums for Medicaid Works Individuals. (1)(a) A Medicaid Works individual shall pay a monthly premium that is:

1. Based on income used to determine eligibility for the program; and

2. Established in paragraph (b) of this subsection.

(b) The monthly premium shall be:

1. Thirty-five (35) dollars for an individual whose income is greater than 100 percent but no more than 150 percent of the FPL;

2. Forty-five (45) dollars for an individual whose income is greater than 150 percent but no more than 200 percent of the FPL; and

3. Fifty-five (55) dollars for an individual whose income is greater than 200 percent but no more than 250 percent of the FPL.

(2) An individual whose family income is equal to or below 100 percent of the FPL shall not be required to pay a monthly premium.



(3) A Medicaid Works individual shall begin paying a premium with the first full month of benefits after the month of application.

(4) Benefits shall be effective with the date of application if the premium specified in subsection (1) of this section has been paid.

(5) Retroactive eligibility pursuant to 907 KAR 20:010, Section 1(3), shall not apply to a Medicaid Works individual.

(6) If a recipient fails to make two (2) consecutive premium payments, benefits shall be discontinued at the end of the first benefit month for which the premium has not been paid.

(7) A Medicaid Works individual shall be eligible for reenrollment upon payment of the missed premium providing all other technical eligibility, income, and resource standards continue to be met.

(8) If twelve (12) months have elapsed since a missed premium, a Medicaid Works individual shall not be required to pay the missed premium before reenrolling.

Section 5. Provisions for Enrollees. A managed care organization:

(1) Shall not impose a copayment on an enrollee that exceeds a copayment established in this administrative regulation; and

(2) May impose on an enrollee:

(a) A lower copayment than established in this administrative regulation, if possible; or

(b) No copayment.

Section 6. Freedom of Choice. (1) In accordance with 42 C.F.R. 431.51, a recipient who is not an enrollee may obtain services from any qualified provider who is willing to provide services to that particular recipient.

(2) A managed care organization may restrict an enrollee's choice of providers to the providers in the provider network of the managed care organization in which the enrollee is enrolled except as established in:

(a) 42 C.F.R. 438.52; or

(b) 42 C.F.R. 438.114(c).

Section 7. Appeal Rights. An appeal of a department decision regarding the Medicaid eligibility of an individual shall be in accordance with 907 KAR 1:560.

Section 8. Federal Approval and Federal Financial Participation. The department's copayment provisions and any coverage of services established in this administrative regulation shall be contingent upon:

(1) Receipt of federal financial participation; and

(2) Centers for Medicare and Medicaid Services' approval.

Section 9. This administrative regulation was found deficient by the Administrative Regulation Review Subcommittee on May 13, 2014.

Delete the remainder of the administrative regulation.