

KENTUCKY BOARD OF LICENSURE FOR LONG-TERM CARE ADMINISTRATORS

Andy Beshear
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April 4, 2022

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 6:040**, Renewal, reinstatement, and reactivation of license
Kentucky Board of Licensure for Long-Term Care Administrators

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 6:040, the Kentucky Board of Licensure for Long-Term Care Administrators proposes the attached amendment to 201 KAR 6:040.

Sincerely,

Kevin R. Winstead, Commissioner
Department of Professional Licensing
(Contact person for these regulations)
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Office: 502-782-8805

cc: Emily Harkenrider

SUGGESTED SUBSTITUTE

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BOARDS AND COMMISSIONS

Board of Licensure for Long-Term Care Administrators

201 KAR 6:040. Renewal, reinstatement, and reactivation of license.

RELATES TO: KRS 36.450, **216A.070(1)(f)**, 216A.080, 216A.090, 42 U.S.C. 1396g[(g)]

STATUTORY AUTHORITY: KRS 216A.070(3), 216A.090

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216A.070(3) authorizes the Board of Licensure for Long-term Care Administrators to promulgate administrative regulations necessary for the proper performance of its duties. KRS 216A.090 requires the holder of a license to renew that license biennially and authorizes the board to refuse renewal for failure to comply with KRS Chapter 216A or **201 KAR Chapter 6**~~[the administrative regulations promulgated thereunder]~~. This administrative regulation establishes the requirements and procedures for renewal, late renewal, inactive licensure, and reinstatement.

Section 1. License Renewal. (1) A license shall be renewed every two (2) years from date of issue or from date of last renewal. To apply for renewal, a licensee shall:

- (a) Submit a completed Renewal Form;
- (b) Pay the appropriate renewal fee established in 201 KAR 6:060; and
- (c) Provide proof he or she has completed the continuing education requirements established in 201 KAR 6:070, Section 10.

(2) A licensee may renew the license within sixty (60) days of the renewal date by submitting a completed Renewal Form to the board and payment of the late renewal fee established in 201 KAR 6:060. During this sixty (60) day grace period, a licensee may continue to practice as a long-term care administrator.

(3) Except as provided by KRS 36.450, a license not renewed by the end of the sixty (60) day grace period shall expire and the licensee shall not practice in the Commonwealth.

Section 2. Voluntary Inactivation of License. (1) To voluntarily request a license in good standing be placed in inactive status, a licensee shall:

- (a) Request inactive status, in writing or through the e-services licensee portal; and
- (b) Pay the inactive licensee fee established in 201 KAR 6:060.

(2) A license in inactive status shall expire two (2) years following the date it became inactive unless the licensee renews his or her inactive license biennially by submitting the Renewal Form and submitting payment of the appropriate fee established in 201 KAR 6:060.

Section 3. Expiration Pending Disciplinary Action. (1) A licensee that allows his or her license to expire pursuant to Section 1(3) of this administrative regulation while the licensee is the subject of a "complaint", as defined in 201 KAR 6:090 shall result in the license expiring in bad standing.

(2) A license that has expired in bad standing shall not be reinstated unless the licensee agrees to submit to the complaints procedure established in 201 KAR 6:090 and responds to the complainant's allegations of misconduct that occurred prior to the license expiring in bad standing. Following the complaints procedure established in 201 KAR 6:090, the board may deny reinstatement of the license on the basis that the complainant's allegations have been sustained, the acts constitute a violation of KRS Chapter 216A or **201 KAR Chapter 6**~~[the administrative regulations promulgated thereunder]~~, and that refusal to reinstate the license is an appropriate penalty.

(3)(a) Any person whose license has expired in bad standing may submit a written and signed petition to the board requesting that ~~the~~**[their]** licensing file be amended to reflect the person's license expired in good standing and voluntarily submit to the complaint procedure established in 201 KAR 6:090.

(b) Upon receiving a written petition from a person whose license expired in bad standing, and following the complaints procedure established in 201 KAR 6:090, the board shall issue a final order that:

1. Dismisses the underlying complaint and amends the person's licensing file to reflect the license expired in good standing; or

2. Makes findings that the underlying complaint has been substantiated by a preponderance of the evidence and imposes discipline as authorized by KRS 216A.070(1)(f).

(4) The board may, upon the request from a professional licensing board of another state pursuant to the requesting state's laws permitting the transfer or endorsement of a Kentucky long-term care administrator's license, provide the requesting professional licensing board a copy of the full investigative file of the complaint and a statement that the licensee allowed his or her license to expire in bad standing prior to the board fully adjudicating the complaint. The board shall not provide its opinion regarding the merits of the complaint unless the person has voluntarily submitted to the complaints process established in 201 KAR 6:090.

Section 4. Reinstatement of License. (1) To apply for reinstatement of a license expired in good standing, a licensee shall, within two (2) years from the date of expiration:

(a) Submit a completed Application for Licensure, incorporated by reference in 201 KAR 6:020;

(b) Pay the reinstatement fee established in 201 KAR 6:060; and

(c) Provide proof he or she has completed the continuing education requirements established in 201 KAR 6:070, Section 10.

(2) A license shall not be reinstated if the board does not receive the application for reinstatement within two (2) years of the date the license expired. A licensee whose license has been expired for more than two (2) years may apply for a new license pursuant to 201 KAR 6:020.

Section 5. Reactivation of License. (1) To apply for reactivation of a license voluntarily placed in inactive status pursuant to Section 2 of this administrative regulation, a licensee shall, within two (2) years from the date of inactive status:

(a) Submit a completed Application for Licensure, incorporated by reference in 201 KAR 6:020;

(b) Pay the reactivation fee established in 201 KAR 6:060; and

(c) Provide proof he or she has met the continuing education requirements pursuant to 201 KAR 6:070, Section 10.

(2) A license shall not be reactivated if the board does not receive the Application for Licensure within two (2) years of the date the license was either placed in inactive status or renewed in inactive status pursuant to Section ~~2(2)~~~~[2-subsection (2)]~~ of this administrative regulation.

Section 6. Renewal of a Suspended License. (1) To apply for renewal of a license suspended following the complaints procedure established in 201 KAR 6:090, a licensee shall renew his or her license in accordance with Section 1 of this administrative regulation, even if~~[notwithstanding the fact that]~~ the suspension period has not been fully served at the time of renewal.

(2) Renewal shall not entitle the licensee to engage in the practice until the suspension has ended, or is otherwise removed by the board or a court of competent jurisdiction and the right to practice is restored by the board.

Section 7. Renewal or Reinstatement of a Revoked License Prohibited. (1) A license that has been revoked by the board following the complaints procedure established in 201 KAR 6:090 shall not be renewed or reinstated.

(2) Two (2) years after the date a person's license has been revoked by the board, the person may apply for licensure as a new applicant pursuant to 201 KAR 6:020.

(3) The board may deny a new application by a person whose license has been revoked pursuant to KRS 216A.080(1)(c).

(4) If the board denies an application by a person whose license has been revoked pursuant to this section~~[of this administrative regulation]~~, the applicant may appeal the board's decision and request a hearing pursuant to KRS Chapter 13B to provide proof that he or she is of good moral character and is otherwise suitable to practice as a long-term care administrator~~[notwithstanding his or her previously revoked license]~~.

Section 8. Incorporation by Reference. (1) The "Renewal Form", November 2021~~[following material]~~ is incorporated by reference[:

(a) "Renewal Form", March 2014; and

(b) "Application for Licensure", May 2019].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Licensure for Long-Term Care Administrators, Department of Professional Licensing, 500 Mero Street, 2SC32, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. The material may also be found on the board's Web site at <https://ltca.ky.gov/>.

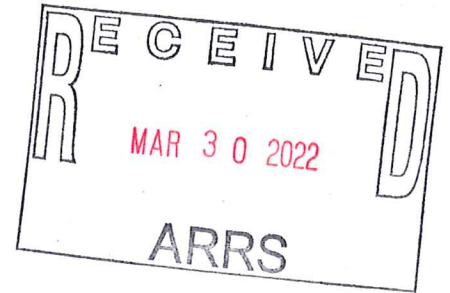
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KENTUCKY BOARD OF NURSING

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Andy Beshear
Governor



March 30, 2022

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

Re: **201 KAR 20:220**. Nursing continuing education provider approval.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 20:220, the Kentucky Board of Nursing proposes the attached suggested substitute to 201 KAR 20:220.

Sincerely,

Jeffrey R. Prather, General Counsel
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Final, 3-15-2022

SUGGESTED SUBSTITUTE

**BOARDS AND COMMISSIONS
Board of Nursing**

201 KAR 20:220. Nursing continuing education provider approval.

RELATES TO: KRS 314.011(12), 314.073, 314.131(1), (2)

STATUTORY AUTHORITY: KRS 314.073(3), 314.131(1), (2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.131(2) and 314.073(3) require the Board of Nursing to promulgate administrative regulations establishing requirements for continuing competency and approval of providers of continuing education. This administrative regulation establishes requirements for providers of continuing education.

Section 1. Definition. "Continuing education activity" means an offering given by a provider of continuing education who has been approved or accepted by the board and that relates to the practice of nursing or contributes to the competency of a nurse extending knowledge beyond that obtained in initial nursing preparation or pertinent to specific work requirements.

Section 2. (1) A provider of continuing education applicant who wants approval by the board to offer a continuing education activity shall submit an:

- (a) Application for Continuing Education Provider Approval ~~[, in electronic format]~~; and
- (b) Application fee as established in 201 KAR 20:240.

(2) If an application is approved, the board shall issue a provider number to the applicant.

(3) On or before September 30 of the year in which an approval period expires, an approved provider shall submit the:

- (a) Application for Continuing Education Provider Renewal ~~[, in electronic format]~~; and
- (b) Fee as established in 201 KAR 20:240.
- (4) Renewal shall be for two (2) years.

(5) (a) A continuing education activity that is given by a continuing education provider that has received approval by one (1) of the following organizations shall be accepted by the board:

1. American Association of Nurse Practitioners;
2. American Association of Critical Care Nurses;
3. American Association of Nurse Anesthetists;
4. American College of Nurse Midwives;
5. American Nurses Credentialing Center;
6. Association of Women's Health, Obstetric and Neonatal Nurses;
7. Nurse Practitioners in Women's Health;
8. National Association of Pediatric Nurse Practitioners;
9. National Association for Practical Nurses Education and Service;
10. National Association of Licensed Practical Nurses;
11. National League for Nursing; or
12. State Boards of Nursing.

(b) Paragraph (a) of this subsection shall include a provider that offers a continuing education activity related to the pharmacology requirement ~~[established]~~ in 201 KAR 20:215~~[, Section 5(1)(a)]~~.

(6)(a) An organization that approves nursing continuing education may request that it be added to this administrative regulation.

(b) An organization shall be included in this administrative regulation if its standards are comparable to the standards established by the provisions of this administrative regulation.

Section 3. (1) The board may review a provider's continuing education activities or approval status at any time.

(2) Except as provided in subsection (3) of this section, if after a review of a provider it is determined that the provider does not comply with this administrative regulation, the board shall send the provider notice of its intent to deny or limit the provider's approval status.

(3) If after a review of a continuing education activity it is determined that the activity does not comply with this administrative regulation, the board shall send the provider notice of its intent to deny approval status for subsequent offerings of that specific continuing education activity.

(4) (a) A request for a hearing before the board shall be filed within ten (10) days of receipt of the board's notice.

(b) If a provider fails to submit a request for a hearing within the time established in paragraph (a) of this subsection, the board shall implement the action proposed in its notice.

Section 4. Providers shall comply with the standards in this section. (1) (a) A registered nurse who meets the qualifications established in paragraph (b) of this subsection shall be administratively responsible for continuing education activities, including:

1. Planning;
2. Development;
3. Implementation; and
4. Evaluation.

(b) A nurse administrator shall:

1. Hold a current license or privilege to practice;
2. Have experience in adult education; and
3. Hold a baccalaureate or higher degree, in nursing.

(c) The provider may designate an alternate nurse administrator who shall meet the requirements established in paragraph (b) of this subsection.

(2) Organized learning activities shall be based upon a reasonable justification supporting the need for the continuing education that:

- (a) Enhances the quality, safety, and effectiveness of care provided by nurses; and
- (b) Contributes directly to the competence of a nurse.

(3) The content of nursing continuing education shall be designed to:

- (a) Present current theoretical knowledge to enhance and expand nursing skills; and
- (b) Promote competence in decision making.

(4) Outcomes for continuing education activities shall be:

- (a) Related to nursing practice and interventions;
- (b) Stated in clearly defined expected learner outcomes; and
- (c) Consistent with evidence of a need for the continuing education activity.

(5) The continuing education activity shall reflect planning among the nurse administrator, faculty, and content experts.

(6)(a) The content for each educational activity shall be documented in provider files and shall include the following:

1. The presentation schedule;
2. The name and credentials of the presenter and the topic to be covered;
3. Times for meals and breaks, if applicable;
4. Teaching methods, with corresponding time frames, for each content area; and
5. Learner outcomes.

(b) 1. The content shall be relevant to and consistent with the learner outcomes.

2. The learner outcomes shall provide statements of observable behaviors that present a clear description of the competencies to be achieved by the learner.

(7) Teaching methods shall be consistent with the content and learning outcomes and objectives, and shall reflect the use of adult learning principles. Activities of both the teacher and the learner shall be specified.

(8) Faculty for continuing education activities shall have:

- (a) Documented expertise in the subject matter; and
- (b) Experience in presenting to adult learners~~[-and facilitating adult learning]~~.

(9) The name, title and credentials identifying the educational and professional qualifications for each faculty member shall be retained in the provider offering files.

(10) Resources allocated for the continuing education activity shall be adequate in terms of education unit organization, with fiscal support for adequate staff, facilities, equipment, and supplies to ensure quality teaching and learning in a comfortable environment that is accessible to the target audience.

(11) Participants shall be provided with essential information for review prior to registration. This information shall include:

- (a) Learner outcomes;
- (b) Content overview;
- (c) Date, time, and presentation schedule;
- (d) Presenter;
- (e) Number of contact hours;
- (f) Fee and refund policy;
- (g) Target audience and any prerequisites; and
- (h) Requirements for successful completion that shall be clearly specified and shall include a statement of policy regarding candidates who fail to successfully complete the continuing education activity.

(12) Published information about continuing education activities offered by providers approved by the board shall include the provider number.

(13)(a) A provider shall notify the board in writing within thirty (30) days of any changes in its administration, such as nurse administrator, mailing address, or telephone number.

(b) Information relevant to the qualifications of the new nurse administrator as established in subsection (1)(b) of this section shall be sent to the board.

(c) If a qualified nurse is not available to serve in the capacity of the administrator, the provider shall not offer any continuing education activity until a qualified nurse administrator is appointed.

(14) A provider shall designate and publish the number of hours of any portion of an offering dedicated to the pharmacology requirement of 201 KAR 20:215~~[-Section 5(4)(a)]~~.

(15) Records of continuing education activities shall be maintained for a period of five (5) years, including the following:

- (a) Title, date, and ~~format~~[site] of the activity;
- (b) Name of the person responsible for coordinating and implementing the activity;
- (c) Purpose, documentation of planning, learner outcomes, faculty, teaching, and evaluation methods;

(d) Method of verification of participant attendance;~~[Participant roster, with a minimum of:~~

~~1. Name and signature; and~~

~~2. License number;]~~

(e) Participant roster including the participant's name, license number, and signature or similar electronic verification;

(f) Summary of participant evaluations; [and]

(g) [(#)] Number of continuing education contact hours awarded:

1. Contact hours shall be calculated by taking the total number of minutes that the participants will be engaged in the learning activities, excluding breaks, and divide by fifty (50); and

2. Partial hours shall be permissible;

~~(h)~~~~[after one (1) contact hour is earned]~~

~~(g)~~ Master copy of certificate of completion awarded; and

~~(i)~~~~[(h)]~~ Identification of required instructional materials and references.

(16) Participants shall receive a certificate of completion that documents participation with the following information:

(a) Name of participant;

(b) Offering title, date, and the format of presentation~~[location]~~;

(c) The provider's name, address, telephone number, approval number, and expiration date of the providership;

(d) Name and signature of authorized provider representative; and

(e) Number of continuing education contact hours awarded.

(17) There shall be a clearly defined method for evaluating the continuing education activity, which shall include:

(a) An evaluation tool that includes participant appraisal of achievement of each outcome, teaching effectiveness of each presenter, relevance of content to expected outcomes, effectiveness of teaching methods, and appropriateness of the format of presentation~~[physical facilities]~~; and

(b) A mechanism for periodic, systematic evaluation of the provider's total program of educational activities.

(18) There shall be a summary of the participants' evaluations for each continuing education activity with an action plan with time lines for resolution of identified deficiencies.

(19) The provider shall have current policies and procedures for the management of the providership that demonstrate compliance with the required standards.

(20) For an offering that includes clinical practice, the instructor-student ratio for the clinical experience shall not exceed one (1) to ten (10).

(21) The following constitute in-service education and shall not be considered as a continuing education activity for purposes of this administrative regulation:

(a) An activity that is part of an employing agency's staff development program designed to provide information related to the work setting;

(b) On the job training;

(c) Orientation;

(d) Basic cardiopulmonary resuscitation; and

(e) Equipment demonstration.

Section 5. (1) The following material is~~[forms are]~~ incorporated by reference:

(a) "Application for Continuing Education Provider Approval", ~~[4/2017]~~10/2021, Kentucky Board of Nursing; and

(b) "Application for Continuing Education Provider Renewal", ~~[4/2017]~~8/2021~~[10/2021]~~, Kentucky Board of Nursing.

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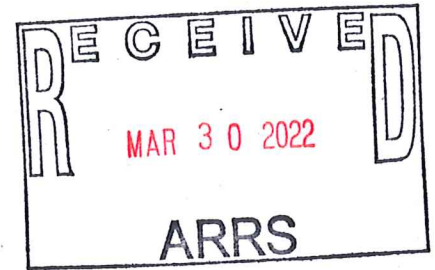
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Governor



March 30, 2022

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

Re: **201 KAR 20:280**. Standards for developmental status, initial status, and approval of prelicensure registered nurse and practical nurse programs.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 20:280, the Kentucky Board of Nursing proposes the attached suggested substitute to 201 KAR 20:280.

Sincerely,

Jeffrey R. Prather, General Counsel
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Final, 3-11-2022

SUGGESTED SUBSTITUTE

**BOARDS AND COMMISSIONS
Board of Nursing**

201 KAR 20:280. Standards for developmental status, initial status, and approval of prelicensure registered nurse and practical nurse programs.

RELATES TO: KRS 314.011(5), (9), 314.111(1), (2), (3), 314.131(2)

STATUTORY AUTHORITY: KRS 314.111, 314.131(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.111 requires the board to review schools, approve qualified schools, and, if appropriate, withdraw approval for schools of nursing. KRS 314.131(1) authorizes the board to promulgate administrative regulations necessary to implement KRS Chapter 314. This administrative regulation establishes the standards for the development and approval of programs that prepare graduates for admission to the licensure examination and to facilitate endorsement of licensure status to other states.

Section 1. Definition. "Program of nursing" means the educational unit that prepares a person for licensure as a registered or licensed practical nurse.

Section 2. Establishment of a Program of Nursing. (1) The governing institution may receive consultation from the board prior to establishing a program of nursing.

(2) The governing institution that desires to establish and conduct the program of nursing shall be accredited as established in 201 KAR 20:260, Section 2.

(3) The governing institution shall consider each campus as a separate program of nursing.

Section 3. Letter of Intent. (1) The governing institution shall submit to the board a letter of intent to establish a prelicensure program of nursing and the fee required by 201 KAR 20:240.

(2) The letter of intent shall be completed under the direction or consultation of a registered nurse who meets the qualifications of a program administrator as established in 201 KAR 20:310.

(3) The letter of intent shall include:

(a) Approval from the governing body of the institution proposing the program of nursing or other empowered approval bodies as applicable;

(b) The results of a feasibility study that includes the following information related to the need for the program of nursing:

1. Nursing workforce supply and demand data from the past year for the area within a fifty (50) mile radius and projected supply and demand; and

2. A description of the applicant pool that is being targeted and how this population will be reached;

(c) Evidence that an introductory letter has been sent to all program of nursing administrators within a fifty (50) mile radius;

(d) Documentation from cooperating healthcare agencies within a fifty (50) mile radius that they will provide support for the creation of the program of nursing. This documentation shall include evidence of the agencies' intention to contribute to the achievement of the clinical objectives of the program;

(e) General information about the governing institution including the mission, ownership, method of financing, accreditation, enrollment, area served, and institutional faculty qualifications and resources;

(f) A timeline for the hiring of a full time program administrator, admission of students, and projected graduation of the first class;

(g) Evidence of a sound financial base and demonstrated financial stability available for planning, implementing, and maintaining the proposed program of nursing;

(h) A copy of the curriculum vitae of the registered nurse involved in the planning; and

(i) Description and rationale for the proposed type of program of nursing, including the establishment of an enrollment baseline as required by 201 KAR 20:260, Section 3(1).

(4)(a) If concerns are raised about the need for the program or about the ability of the program to obtain appropriate clinical sites, a hearing shall be held before the board's education committee to act upon the letter of intent.

(b) At the conclusion of the hearing, the committee shall recommend to the board whether or not to approve the letter of intent.

(c) If the letter of intent is approved by the board, the governing institution shall be notified in writing that it may move to the proposal phase. The governing institution shall appoint a qualified program administrator and provide appropriate resources, consultants, and faculty to develop the proposed program plan. The proposal shall be submitted within one (1) year of the date of the approval of the letter of intent or the letter of intent shall expire.

Section 4. Proposal Phase. (1) A completed program proposal shall be submitted to the board by the governing institution for approval.

(2) The program shall not be announced, advertised, or students admitted to the program of nursing until the proposal has been approved and developmental status has been granted by the board.

(3) The program proposal shall include:

(a) Philosophy, mission, and learning outcomes of the governing institution;

(b) An organizational chart of the governing institution and written plan, which describes the organization of the program of nursing and its relationship to the institution;

(c) Proposed philosophy, mission, and learning outcomes for the proposed program;

(d) Curriculum design including proposed courses, description, sequence and credit hours delineating those credits assigned to theory and clinical;

(e) Student recruitment plan and the enrollment baseline as set out in 201 KAR 20:260, Section 3(1);

(f) A five (5) year plan for recruiting and retaining qualified nurse faculty;

(g) A proposed job description for the program administrator reflecting authority and responsibility;

(h) A description of faculty offices, classrooms, clinical skills laboratory, library facilities, conference rooms, and learning resources;

(i) A description of support services for students, to include provision of health services or evidence of an emergency plan for care, academic advisement, student services, mechanism for obtaining learning resources, and financial aid;

(j) Availability and willingness of accredited agencies to provide clinical experiences across the curriculum. This information shall include the:

1. A list of clinical agencies and hours available for clinical experience;

2. Number of students each agency can accept;

3. Clinical experience that will be available from each agency;

4. Other nursing programs that utilize this agency; and

5. Plan to avoid displacement of students from existing programs;

(k) Policies and procedures for student admission to the program of nursing and progression, including the plan to retain students so as to maintain a low attrition rate;

(l) Availability of clerical assistance and support staff as set out in 201 KAR 20:260, Section 2(6);

(m) A general plan for an on-going, research based planning and evaluation process that incorporates a systematic review of the program that results in continuing improvement; and

(n) A description of financial resources to support the program including a budget for the first three (3) years with projected revenues and expenditures and the amount of resources going to institutions or organizations for contractual or support services.

(4) The program of nursing may meet with the board staff to clarify, verify, and amplify materials included in the program proposal.

(5) The governing institution shall be notified in writing of action taken by the board on the proposal.

(a) If the board determines that all requirements have been met, the program shall be granted developmental status.

(b) The board, in collaboration with the program, shall determine an opening date.

Section 5. Developmental Status. (1) Students may be admitted after developmental status is granted.

(2) Employment of program administrator and faculty.

(a) The program administrator shall be the first faculty member employed, and shall have assumed full time responsibilities for the program prior to opening.

(b) The faculty as established in 201 KAR 20:310 shall be employed in sufficient numbers to prepare for the development of the curriculum component of the program.

(3) Any deviation from the initial curriculum plan approved within the proposal shall be approved by the board before the first class begins course requirements.

(4) Written contracts for use of clinical facilities shall be executed prior to admission to the first nursing course.

(5) The program of nursing shall submit semi-annual progress and evaluation reports or other reports as requested by the board to demonstrate implementation of the approved proposal until the first class graduates.

(6) Site visits shall be conducted by the board as necessary.

(7) Developmental status may be withdrawn if:

(a) A proposed program does not comply with 201 KAR 20:260 through 360;

(b) A class is not enrolled within eighteen (18) months of the date the board granted developmental status; or

(c) The governing institution fails to submit board required reports within the designated time period.

(8) The governing institution shall be notified in writing of the intent to withdraw developmental status. The governing institution may request reconsideration by the board. The request shall be in writing and sent no more than thirty (30) days from the date of the notification.

Section 6. Initial Status and Program Approval. (1) The status of the program shall move automatically from developmental status to initial status upon admission of the first class.

(2) It shall be the responsibility of the program of nursing to notify the board of the admission of the first class.

(3) The program shall notify the board in writing thirty (30) days prior to the graduation of the first class.

(4) Eligibility for program approval occurs after the graduation of the first class. Within sixty (60) days after graduation of the first class, the faculty shall submit a written report that:

- (a) Evaluates the implementation of the program of nursing compared to the approved proposal; and
- (b) Addresses compliance with the standards set by 201 KAR 20:260 through 360.
- (5) The decision to grant or deny program approval shall be based on review of the report submitted by the program of nursing and a site visit report by a representative of the board.
- (6) If program approval is denied, the applicant may request a hearing pursuant to KRS Chapter 13B.

Section 7. Initial Status and National Nursing Accrediting Body. (1) A program of nursing shall obtain and maintain accreditation by a national nursing accrediting body **that includes:**

- (a) **The Accreditation Commission for Education in Nursing (ACEN);**
- (b) **The Commission for Nursing Education Accreditation (CNEA);**
- (c) **The Commission on Collegiate Nursing Education (CCNE); or**
- (d) **Any other national nursing accrediting body** recognized by the United States Department of Education.

(2) The program of nursing that has been approved for initial status by the board shall submit evidence **to the board** that it has applied for accreditation. Evidence shall be submitted within ninety (90) days of achieving initial status.

(3) The program of nursing shall submit a copy of all correspondence to and from the national nursing accrediting body to the board within thirty (30) days **of submission or receipt of the correspondence.**

(4) The program of nursing shall obtain candidacy status from a national nursing accrediting body within three (3) years of achieving initial status. The program of nursing shall obtain full accreditation from a national nursing accrediting body within four (4) years of achieving initial status.

(5) A program of nursing that fails to obtain or maintain accreditation from a national nursing accrediting body may have its approval withdrawn by the board pursuant to 201 KAR 20:360, Section 7.

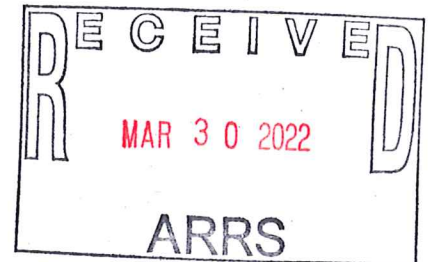
CONTACT PERSON: Jeffrey R. Prather, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, cell (502) 338-2851, email Jeffrey.Prather@ky.gov.

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KENTUCKY BOARD OF NURSING

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Andy Beshear
Governor



March 30, 2022

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

Re: **201 KAR 20:360**, Continuing approval and periodic evaluation of prelicensure registered nursing and licensed practical nursing programs.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 20:360, the Kentucky Board of Nursing proposes the attached suggested substitute to 201 KAR 20:360.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jeffrey R. Prather".

Jeffrey R. Prather, General Counsel
Kentucky Board of Nursing
312 Whittington Parkway, Suite 300
Louisville, KY 40222
Phone: (502) 338-2851
Email: Jeffrey.prather@ky.gov

Final, 3-15-2022

SUGGESTED SUBSTITUTE

BOARDS AND COMMISSIONS

Board of Nursing

201 KAR 20:360. Continuing approval and periodic evaluation of prelicensure registered nursing and licensed practical nursing programs.

RELATES TO: KRS 314.111

STATUTORY AUTHORITY: KRS 314.131(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.131(1) authorizes the Board of Nursing to promulgate administrative regulations to implement KRS Chapter 314. KRS 314.111 requires nursing programs to be approved by the board. This administrative regulation establishes evaluative standards to assure that the programs of nursing provide the necessary instruction and services to prepare graduates for licensure eligibility as registered~~[as registered]~~ nurses or as practical nurses.

Section 1. Program of Nursing Accredited by a National Nursing Accrediting Body. (1)(a)~~1.~~ A prelicensure registered nursing or licensed practical nursing program that is accredited by a national nursing accrediting body recognized by the United States Department of Education shall be deemed to be in compliance with the standards of 201 KAR 20:260 through 201 KAR 20:360~~[and shall not have to demonstrate compliance every eight (8) years as required by Section 2 of this administrative regulation].~~

2. A national nursing accrediting body shall include:

a. The Accreditation Commission for Education in Nursing (ACEN);

b. The Commission for Nursing Education Accreditation (CNEA);

c. The Commission on Collegiate Nursing Education (CCNE); or

d. Any other national nursing accrediting body recognized by the United States Department of Education.

3. The accredited program shall comply with Sections 3 through 10 of this administrative regulation.

(b) The board shall retain jurisdiction over accredited programs and may conduct site visits or other investigations into any allegation that may constitute a violation of 201 KAR 20:260 through 201 KAR 20:360. The board may also conduct site visits in accordance with Section 5 of this administrative regulation or when a national nursing accreditation board visits the program.

(2) A prelicensure program of nursing that is accredited by a national nursing accrediting body recognized by the United States Department of Education shall submit all correspondence and reports to and from the accrediting body to the board within thirty (30) days of submission or receipt.

Section 2. Programs of Nursing Not Accredited by a National Nursing Accrediting Body. (1) A program of nursing that is not accredited by a national nursing accrediting body on the effective date of this administrative regulation shall:

(a) Obtain candidacy status with a national nursing accrediting body within three (3) years; and

(b) ~~[shall]~~ Obtain full accreditation within four (4) years of the effective date of this administrative regulation.

(2) A program of nursing that is not accredited by a national nursing accrediting body on the effective date of this administrative regulation shall submit a copy of all correspondence and reports to and from the national nursing accrediting body within thirty (30) days of submission or receipt.

(3) A program of nursing that does not obtain or maintain accreditation from a national nursing accrediting body may have its approval withdrawn by the board pursuant to Section 7 of this administrative regulation.~~[A prelicensure registered nursing or licensed practical nursing program that is not accredited by a national nursing accrediting body recognized by the United States Department of Education shall be required to demonstrate compliance with 201 KAR 20:260 through 201 KAR 20:360 at least every eight (8) years for continued approval.~~

~~(2)(a) A site visit shall be conducted at least every eight (8) years.~~

~~(b) A specific list of information required for review shall be sent by the board to the program of nursing prior to the site visit.~~

~~(3) Prior to the site visit, the program of nursing shall submit:~~

~~(a) A self-evaluation report that provides evidence of compliance with 201 KAR 20:260 through 201 KAR 20:360; and~~

~~(b) Other related information as requested by the board.]~~

Section 3. Reports and Evaluation. (1) A program of nursing shall submit the Annual Report of the Program of Nursing to the board regarding its compliance with 201 KAR 20:260 through 201 KAR 20:360. It shall also submit the benchmarks set out in Section 5(2)(f) of this administrative regulation.

(2) To verify continued compliance with 201 KAR 20:260 through 201 KAR 20:360, the program of nursing shall submit progress reports or periodic supplemental reports, completed questionnaires, surveys, and other related documents as requested by the board.

(3) Pursuant to 201 KAR 20:260, Section 2(7)(a), the faculty shall engage in an evidence based planning and evaluation process that incorporates a systematic review of the program of nursing that results in continuing improvement. This process shall result in an evaluation report that is submitted to the board.

(4) Data collection for the evaluation report shall be on-going and shall reflect aggregate analysis and trending.

(5) The evaluation report shall include specific responsibilities for data collection methods, individuals or groups responsible, frequency of data collection, indicators of achievement, findings, and outcomes for evaluating the following aspects of the program:

(a) Organization and administration of the program of nursing;

(b) Curriculum;

(c) Resources, facilities, and services;

(d) Teaching and learning methods including distance education;

(e) Faculty evaluation;

(f) Student achievement of program outcomes;

(g) Graduation rates;

(h) Licensure examination pass rates;

(i) Employment rates of graduates; and

(j) Clinical resources, including laboratory and simulation.

(6) If a program of nursing utilizes distance education for didactic instruction, it shall evaluate and assess the educational effectiveness of its distance education program to ensure that the distance education program is substantially comparable to a campus based program.

(7) The evaluation report shall provide evidence that the outcomes of the evaluation process are used to improve the quality and strength of the program.

Section 4. Benchmarks. The board shall utilize the following benchmarks to evaluate a program of nursing. Except for the pass rate, the benchmarks shall be calculated annually from July 1 to June 30. The board shall calculate the pass rate for a program of nursing on an annual basis from January 1 to December 31 for all first time takers of the NCLEX.

(1) The pass rate for first time takers of the NCLEX who tested within twelve (12) months of the program completion date as reported on the Certified List of Kentucky Program of Nursing Graduates or the Certified List of Out-of-state Program of Nursing Graduates incorporated by reference in 201 KAR 20:070;

(2) The faculty turnover rate. A faculty member whose employment ends on or before June 30 of any year shall be counted in that year's calculation;

(3) The program administrator turnover rate;

(4) The graduation rate;

(5) The faculty grievance rate; and

(6) The student grievance rate.

Section 5. Site Visits. (1) The board may conduct site visits at any time.

(2) The following situations may be cause for a site visit to determine if the standards of 201 KAR 20:260 through 201 KAR 20:360 are being met:

(a) Denial, withdrawal, or change of status by a national nursing accrediting agency;

(b) Providing false or misleading information to students or the public concerning the program;

(c) A written complaint received from faculty, students, or the general public relating to a violation of 201 KAR 20:260 through 201 KAR 20:360;

(d) A change in physical facilities;

(e) Information received by the board that may indicate a violation of 201 KAR 20:260 through 201 KAR 20:360;

(f) A change in any of the benchmarks listed in Section 4 of this administrative regulation as follows:

1. A pass rate as calculated by Section 4 of this administrative regulation that:

a. Is less than an average of eighty (80) percent for three (3) consecutive years; or

b. Varies above and below eighty (80) percent from year to year over the previous five (5) years;

2. A faculty turnover rate greater than thirty (30) percent for two (2) consecutive years;

3. A program administrator turnover rate of more than three (3) individuals in five (5) years;

4. A graduation rate of less than sixty (60) percent of the original admitted cohort of newly-enrolled students within the maximum time frame allowed for completion. The maximum time frame shall be determined by multiplying the standard program length for normally progressing students by one and five-tenths (1.5). Calculation of the graduation rate shall include students who are enrolled for the first time in the first nursing course of the nursing program curriculum. All students admitted within the original cohort shall be included in the calculation regardless of whether a student may be excluded from the calculation utilized by a national nursing accrediting body;

5. Twenty-five (25) percent or more of the total number of nursing faculty who file grievances or appeals that are substantiated; or

6. Substantiated student grievances and appeals of more than ten (10) percent of the student population enrolled in the nursing program each year; or

(g) Failure to submit reports as required by 201 KAR 20:260 through 201 KAR 20:360.

(3) A program of nursing that fails to meet one (1) or more benchmarks for a year shall submit a report that examines the factors that contributed to the failure to meet and shall provide a description of the corrective measures to be implemented.

(4)(a) The board shall annually compile information on how the programs of nursing met the benchmarks. This information shall be published on the board's Web site at www.kbn.gov.

(b) A program of nursing shall post a link to the information compiled pursuant to paragraph (a) of this subsection on the program of nursing's Web site. The link shall be easy to locate on the program's home page.

Section 6. Action Following Site Visit. (1)(a) Following a site visit and prior to board consideration, a draft of the site visit report shall be made available to the program administrator for review and correction of factual data.

(b) The program administrator shall be available during the discussion of the report at the board committee to provide clarification.

(c) If the site visit results in a finding of non-compliance with 201 KAR 20:260 through 201 KAR 20:360 by the program of nursing, a letter shall be sent to the program administrator regarding any requirements to be met.

(d) The board shall notify the program of nursing of the time frame within which it shall meet the requirements. The board shall verify that the requirements have been met.

(2)(a) If the program of nursing is unable to meet the requirements in the time set by the board, it may request additional time. The board, in its discretion, may grant or deny this request based on the rationale for the request.

(b) If the board denies the request for additional time, it shall begin the process established in Section 7 of this administrative regulation.

Section 7. Withdrawal of Approval. (1) If, in the opinion of the board, the standards established by 201 KAR 20:260 through 201 KAR 20:360 are not being met, the board shall send notice to the program administrator of the affected program of nursing of its intent to withdraw approval. The notice shall be sent return receipt requested.

(2) When making this determination, the board shall consider the following factors:

- (a) The number and severity of the deficiencies;
- (b) The length of time in which the deficiencies have existed; and
- (c) Any exigent circumstances.

(3) Within thirty (30) days of receipt of the notice, the program administrator of the affected program may request an administrative hearing pursuant to KRS Chapter 13B. If an administrative hearing is not requested, program approval shall be withdrawn and the program shall be closed. A closed program shall comply with subsection (5) of this section.

(4)(a) If a program of nursing requests an administrative hearing, that hearing shall be held within sixty (60) days of the request.

(b) The hearing shall be held before a hearing officer or before the full board.

(5)(a) A program of nursing whose approval has been withdrawn by the board shall be removed from the official approved status listing upon the effective date of the decision. Students currently enrolled in the last semester or quarter of the program may complete the program. If the student graduates, he or she may apply for licensure and make take the licensure examination. Any other student shall not be allowed to apply for licensure or take the licensure examination, unless the student graduates from another approved program of nursing.

(b) The program of nursing that has been closed shall assist a currently enrolled student to transfer to an approved program of nursing.

Section 8. Voluntary Closure of a Program.

(1) A governing institution seeking to close a program of nursing shall submit written notification to the board at least six (6) months prior to the planned closing date.

(2) A governing institution may choose one (1) of the following procedures for closing a program of nursing as established in paragraph (a) or (b) of this subsection.

(a) The governing institution shall continue the program of nursing until the last class enrolled has graduated.

1. The program shall continue to meet the standards until all students enrolled in nursing courses have graduated or transferred.

2. The official closing of the program shall be the date on the degree, certificate, or diploma of the last graduate.

3. The governing institution shall notify the board in writing of the official closing date.

(b) The governing institution shall close the program following the transfer of students to other approved programs.

1. The program shall continue to meet the standards until all students have transferred.

2. The names of students who have transferred to approved programs and the date of the last student transfer shall be submitted to the board by the governing institution.

3. The date of the last student transfer shall be the official closing date of the program.

(3) Custody of records.

(a) The governing institution that continues to operate shall retain responsibility for the records of the students and graduates. The board shall be advised of the arrangement made to safeguard the records.

(b) The governing institution that ceases to exist shall transfer the academic transcript of each student and graduate to a third party vendor approved by the Council for Postsecondary Education for safekeeping.

Section 9. Change in Ownership or Organization of the Governing institution. (1) The governing institution shall notify the board in writing of any intent to transfer administrative authority or ownership. The new administrative authority or owner shall inform the board of its plans for immediate and future operation.

(2) The board shall conduct a site visit to ensure adherence by the program of nursing to 201 KAR 20:260 through 201 KAR 20:360.

(3) Following this site visit, approval of the program of nursing shall continue under the new ownership or administrative authority if the approval standards continue to be met.

Section 10. Incorporation by Reference. (1) "Annual Report of the Program of Nursing", 10/18, Kentucky Board of Nursing, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available on the board's Web site at <https://kbn.ky.gov/General/Pages/Document-Library.aspx>.

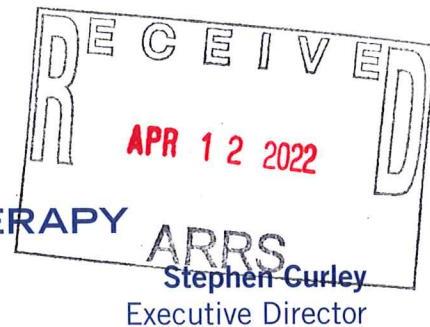
CONTACT PERSON: Jeffrey R. Prather, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, cell (502) 338-2851, email Jeffrey.Prather@ky.gov.



KENTUCKY BOARD OF PHYSICAL THERAPY

Andy Beshear
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April 11, 2022

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

RE: **201 KAR 22:001**. Definitions for 201 KAR Chapter 22.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 22:001, the Kentucky Board of Physical Therapy proposes the attached amendment to 201 KAR 22:001.

Sincerely,

Stephen Curley, Executive Director
Kentucky Board of Physical Therapy



An Equal Opportunity Employer M/F/D

Staff-suggested Amendment

**Final Version 4/11/2022
GENERAL GOVERNMENT
Board of Physical Therapy**

201 KAR 22:001. Definitions for 201 KAR Chapter 22.

Page 1

NECESSITY, FUNCTION, AND CONFORMITY paragraph

Line 11

After "regulation", insert "establishes".

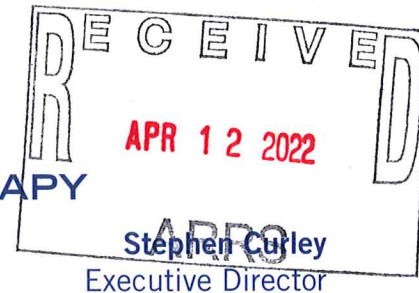
Delete "requires".



KENTUCKY BOARD OF PHYSICAL THERAPY

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April 11, 2022

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

RE: **201 KAR 22:053**. Code of ethical standards and standards of practice for physical therapists and physical therapist assistants.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 22:053, the Kentucky Board of Physical Therapy proposes the attached amendment to 201 KAR 22:053.

Sincerely,

Stephen Curley, Executive Director
Kentucky Board of Physical Therapy



An Equal Opportunity Employer M/F/D

Subcommittee Substitute

BOARDS AND COMMISSIONS

Board of Physical Therapy (As Amended at ARRS)

201 KAR 22:053. Code of ethical standards and standards of practice for physical therapists and physical therapist assistants.

RELATES TO: KRS 327.040, 327.070

STATUTORY AUTHORITY: KRS 327.040(11), (12), (13), 367.4082

NECESSITY, FUNCTION, AND CONFORMITY: KRS 327.040(12) requires the Board of Physical Therapy to ***promulgate [establish]*** by administrative regulation a code of ethical standards and standards of practice for physical therapists and physical therapist assistants. This administrative regulation establishes those standards which, if violated, are a basis for disciplinary action under KRS 327.070.

Section 1. Code of Ethical Standards.

(1) A physical therapist and a physical therapist assistant shall:

- (a) Respect the rights and dignity of all patients;
- (b) Practice within the scope of the credential holder's training, expertise, and experience;
- (c) Ensure that all personnel involved in the delivery of physical therapy services are identified to the patient by name and title;
- (d) Report to the board any reasonably suspected violation of KRS Chapter 327, KRS 367.4082, or 201 KAR Chapter 22 by a credential holder or applicant within thirty (30) days;
- (e) Report to the board any civil judgment, settlement, or civil claim involving the credential holder's practice of physical therapy made against the credential holder relating to the credential holder's own physical therapy practice within thirty (30) days; and

(f) Comply with the provisions of KRS 367.4082.

(2) A physical therapist and a physical therapist assistant shall not:

- (a) Verbally or physically abuse a client; ~~[or]~~
- (b) Continue physical therapy services beyond the point of reasonable benefit to the patient, unless the patient consents in writing[:]; or

(c) Engage in sexual misconduct or sexual harassment with a patient:

- 1. While that person is a patient or client of the physical therapist or physical therapist assistant;
- or

2. While that person is a patient of a health care facility defined by KRS 216B.015 where the physical therapist or physical therapist assistant provides physical therapy services.[: and]

(3) A physical therapist or physical therapist assistant shall be solely responsible in regard to a relationship with a patient. A patient's initiation of a personal or sexual relationship shall not justify, excuse, or provide a defense for a violation of this section.[: and]

(4) Consensual sexual relationships established prior to the initial evaluation will not be subject to portions of this regulation.

Section 2. Standards of Practice for the Physical Therapist. While engaged in the practice of physical therapy, a physical therapist shall:

(1) Perform screenings in order to:

(a) Provide information on a person's health status relating to physical therapy;

(b) Determine the need for physical therapy evaluation and treatment;

(c) Make a recommendation regarding a person's ability to return to work or physical activity; and

(d) Provide physical therapy services;

(2) Evaluate each patient prior to initiation of treatment;

(3) Upon receipt of a patient under an active plan of care from another physical therapist:

(a) Complete an evaluation in compliance with subsection (2) of this section and Section 5(2)(a)-(d) of this administrative regulation;

(b) Ensure the evaluation and plan of care from the other physical therapist is current and appropriate;

(c) Retain the evaluation and plan of care from the other physical therapist in the medical record; and

(d) Comply with reassessment requirements based on the date of the most recent evaluation; ~~and~~

(4) Reassess each patient in accordance with the following:

(a) Reassessing inpatients in either a hospital or comprehensive rehabilitation facility every fourteen (14) days;

(b) Reassessing every ninety (90) days, with the physical therapist assistant present, patients in:

1. A facility defined in 902 KAR 20:086 as an intermediate care facility (ICF) for the mentally retarded (MR) and developmentally disabled (DD); or

2. A school system.

a. A forty-five (45) day grace period shall be allowed upon transfer from another school district or from the start of the school year;

b. During this grace period treatment may continue based upon the previous reassessment or evaluation;

(c) Reassessing each patient not otherwise noted every thirty (30) days following the last evaluation or subsequent reassessment; **and**

(d) Reassessing a patient whose medical condition has changed;

(5) Refer the patient to other professionals or services if the treatment or service is beyond the physical therapist's scope of practice;

(6) Be responsible for the physical therapy record of each patient;

(7) Be responsible for the plan of care until the patient is received by another physical therapist pursuant to subsection (3) of this section;

(8) Provide services that meet or exceed the generally accepted practice of the profession;

(9) Explain the plan of care to the patient and to others designated by the patient;

(10) Make it clear to the patient that the patient has the right to choose any qualified professional or equipment supplier if the physical therapist makes recommendations for those; and

(11) Disclose in writing to each patient any financial interest, compensation, or other value to be received by the referral source:

(a) For services provided by the physical therapist;

- (b) For equipment rental or purchase; or
- (c) For other services the physical therapist may recommend for the patient.

Section 3. Standards of Practice for the Physical Therapist Assistant. While engaged in the practice of physical therapy, the physical therapist assistant shall:

- (1) Provide services only under the supervision and direction of a physical therapist;
- (2) Refuse to carry out procedures that the assistant believes are not in the best interest of the patient or that the assistant is not competent to provide by training or skill level;
- (3) Initiate treatment only after evaluation by the physical therapist;
- (4) Upon direction from the physical therapist, gather data relating to the patient's disability, but not determine the significance of the data as it pertains to the development of the plan of care;
- (5) Refer to the physical therapist inquiries that require an interpretation of patient information related to rehabilitation potential;
- (6) Comply with the plan of care established by the physical therapist;
- (7) Communicate with the physical therapist any change or lack of change that occurs in the patient's condition that may indicate the need for reassessment; and
- (8) Discontinue physical therapy services if reassessments are not done in compliance with Section 2(4) of this administrative regulation, and inform the supervising physical therapist.

Section 4. Standards for Supervision. While supervising the physical therapist assistant and supportive personnel, the physical therapist shall:

- (1) (a) At all times, including all work locations in all jurisdictions, be limited to supervising not more than four (4) physical therapist assistants or supportive personnel; and
- (b) Abide by the maximum staffing ratio of physical therapists to physical therapist assistants or supportive personnel required in this section except that a maximum of seven (7) work days in a sixty (60) consecutive day period shall not constitute a violation of this standard;
- (2) Provide direct supervision when supervising supportive personnel as defined by 201 KAR 22:001, Section 1(23), effective September 1, 2013;
- (3) Not delegate procedures or techniques to the physical therapist assistant that are outside his or her scope of training, education, or expertise;
- (4) Not delegate procedures or techniques to supportive personnel that are outside his or her scope of training, education, or expertise.
- (a) Scope of training and competency for supportive personnel shall be documented and verified at least annually.
- (b) Documentation of training and competency shall be immediately available for review; and
- (5) Be responsible for:
 - (a) Interpreting any referral;
 - (b) Conducting the physical therapy evaluation;
 - (c) Establishing reporting procedures to be followed by the physical therapist assistant and supportive personnel;
 - (d) Evaluating the competency of the physical therapist assistant and supportive personnel;
 - (e) Supervising the physical therapist assistant by being available and accessible by telecommunications during the working hours of the physical therapist assistant;

(f) Ensuring that if supportive personnel provide direct patient care that there is direct supervision as defined by 201 KAR 22:001, Section 1(6), effective September 1, 2013 by a physical therapist or physical therapist assistant;

(g) Ensuring that a physical therapy student fulfilling clinical education requirements shall receive on-site supervision by a physical therapist;

(h) Ensuring that a physical therapist assistant student fulfilling clinical education requirements shall receive on-site supervision of which eighty (80) percent may be by a credentialed physical therapist assistant;

(i) Establishing discharge planning for patients who require continued physical therapy; and

(j) Directing and being accountable for services rendered by physical therapist students or physical therapist assistant students, including documentation requirements in Section 5 of this administrative regulation.

Section 5. Standards for Documentation.

(1) The physical therapist shall be responsible for the physical therapy record of a patient. The physical therapy record shall include an evaluation and, as required, ongoing documentation and reassessment.

(2) An evaluation in the physical therapy record consists of a written or typed report signed and dated by the physical therapist who is performing the evaluation or who is supervising the physical therapist student performing the evaluation. The evaluation shall include:

(a) Pertinent medical and social history;

(b) Appropriate subjective and objective information;

(c) An assessment, which may indicate problems, interpretations, and a diagnosis identifying the nature and extent of the patient's impairment; and

(d) The plan of care, which includes the:

1. Treatment; and

2. Measurable goals, including anticipated time frame of achievement.

(3) Ongoing documentation in the physical therapy record shall:

(a) Be completed at least weekly or, if treatment is less than weekly, at each patient visit;

(b) Be written or typed, signed, and dated:

1. By the physical therapist or physical therapist assistant rendering treatment;

2. By the supervising physical therapist or physical therapist assistant if treatment was rendered by a physical therapist student or physical therapist assistant student; or

3. By the physical therapist student or physical therapist assistant student rendering treatment if countersigned and dated by the supervising physical therapist;

(c) Include:

1. The treatment rendered since the last evaluation, ongoing documentation, or reassessment;

2. The patient's response to treatment; and

3. Appropriate subjective and objective information. ~~and~~ **The reassessment shall:**

(4) The reassessment included in the physical therapy record for the revision or reaffirmation of the existing plan of care, or the establishment of a new plan of care shall be written or typed, signed, and dated by a physical therapist. **The reassessment shall:**

(a) ~~[The reassessment shall]~~ Be in compliance with Section 2(4) of this administrative regulation; ~~and~~ **and**

(b) ~~[A reassessment shall]~~ Include:

1. Subjective, objective, and medical information acquired by the physical therapist, physical therapist student, physical therapist assistant, or physical therapist assistant student;
2. An assessment in compliance with subsection (2)(c) of this section completed by the physical therapist or physical therapist student; and
3. A plan of care in compliance with subsection (2)(d) of this section completed by the physical therapist or physical therapist student.

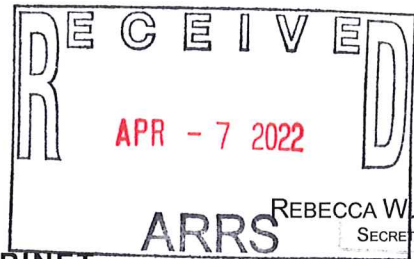
(5) The correct designation following the signature of the person who has entered a statement into the patient record shall be as follows:

- (a) If written by a physical therapist: "PT". Appropriate designations for advanced physical therapy degrees may follow "PT";
- (b) If written by a physical therapist assistant: "PTA";
- (c) If written by supportive personnel: "PT Aide", ~~[or]~~ "Physical Therapy Aide", or "PT Tech"; and
- (d) If written by a student: "Physical Therapist Student", ~~[or]~~ "PT Student", ~~[:]~~ "Physical Therapist Assistant Student", or "PTA Student".

Section 6. Appointment~~[Apportionment]~~ of Fees. Unless prohibited by law, all members of a business entity shall be allowed to pool or apportion fees received in accordance with a business agreement.

CONTACT PERSON: Stephen Curley, Executive Director, Board of Physical Therapy, 312 Whittington Parkway, Suite 102, Louisville, Kentucky 40222, (502) 429-7140 and Fax (502) 429-7142, Stephen.Curley@ky.gov.

ANDY BESHEAR
GOVERNOR



**ENERGY AND ENVIRONMENT CABINET
DEPARTMENT FOR ENVIRONMENTAL PROTECTION**

ANTHONY R. HATTON
COMMISSIONER

300 SOWER BOULEVARD
FRANKFORT, KENTUCKY 40601
TELEPHONE: 502-564-2150
TELEFAX: 502-564-4245

March 29, 2022

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Sarah Amburgey, Committee Staff Administrator
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

Re: **401 KAR 51:010** Attainment Status Designations.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 401 KAR 51:010, the Energy and Environment Cabinet, Division for Air Quality, proposes the attached amendment to 401 KAR 51:010.

Sincerely,

A handwritten signature in cursive script, appearing to read "Anthony R. Hatton", written over a horizontal line.

**For Anthony R. Hatton
Acting Director
Division for Air Quality**

SUGGESTED SUBSTITUTE

Final Version: 3/28/2022 3:46 PM

ENERGY AND ENVIRONMENT CABINET Department for Environmental Protection Division for Air Quality

401 KAR 51:010. Attainment status designations.

RELATES TO: KRS 224.20-100, 224.20-110, 224.20-120, 40 C.F.R. 50, 51, 52, 53, 58, 75, 81.318, 42 U.S.C. 7401-7671q

STATUTORY AUTHORITY: KRS 224.10-100(5), 224.20-110, 42 U.S.C. 7407

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100(5) authorizes the cabinet to promulgate administrative regulations for the prevention, abatement, and control of air pollution. This administrative regulation ***establishes the designation[designates the]*** status of all areas of the Commonwealth of Kentucky with regard to attainment of the ambient air quality standards.

Section 1. Definitions. (1) "Rest of state" means the remainder of the state has been designated and identified on a county by county basis.

(2) "Road" means a Kentucky route, a county road, a lane, or a U.S. route, highway, or interstate.

(3) "Statewide" means the entire state has been designated on a county by county basis.

Section 2. Attainment Status Designations. (1) The attainment status of areas of the Commonwealth of Kentucky with respect to the ambient air quality standards for carbon monoxide, lead, nitrogen oxides, ozone, particulate matter, and sulfur dioxide ***shall be as[is]*** listed in Sections 4 through 10 of this administrative regulation.

(2) Within sixty (60) days of revision by the U.S. Environmental Protection Agency (U.S. EPA) of a national ambient air quality standard, the cabinet shall review applicable data and submit to the U.S. EPA a revision to the attainment - nonattainment list pursuant to 42 U.S.C. 7407(d)(1).

(3) A road, junction, or intersection of two (2) or more roads~~***as used in Section 7 of this administrative regulation***~~ that ***delineates[defines]*** a nonattainment boundary for an area that is a portion of a county designated as nonattainment for ozone for any classification except marginal, shall include as nonattainment an area extending 750 feet from the center of the road, junction, or intersection.

Section 3. Attainment Timetable. Primary and secondary ambient air quality standards shall be attained as expeditiously as practicable.

Section 4. Attainment Status Designations for Carbon Monoxide (CO). 1971 Standard:

Designated Area	Designation Type
Statewide	Unclassifiable/Attainment

Section 5. Attainment Status Designations for Lead (Pb). 2008 Standard:

Designated Area	Designation Type
Statewide	Unclassifiable/Attainment

Section 6. Attainment Status Designations for Nitrogen Oxides (NO₂). (1) 1971 Annual Standard:

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than Standards
Statewide		X

(2) 2010 One (1) Hour Standard:

Designated Area	Designation Type
Statewide	Unclassifiable/Attainment

Section 7. Attainment Status Designations for Ozone (O₃). (1) The 1971 One (1) Hour Standard was revoked effective June 15, 2005, for all areas in the Commonwealth of Kentucky. The Cincinnati-Hamilton, Edmonson County, Huntington-Ashland, Lexington-Fayette, Louisville, Owensboro, and Paducah areas shall be considered maintenance areas for the one (1) hour national ambient air quality standards for the purposes of 40 C.F.R. Part 51, Subpart X.

(2) 1997 Eight (8) Hour Primary and Secondary Standard:

Designated Area	Designation Type
Boone County	Attainment ⁽¹⁾
Boyd County	Attainment ⁽¹⁾
Bullitt County	Attainment ⁽¹⁾
Campbell County	Attainment ⁽¹⁾
Christian County	Attainment ⁽¹⁾
Jefferson County	Attainment ⁽¹⁾
Kenton County	Attainment ⁽¹⁾
Oldham County	Attainment ⁽¹⁾
Rest of state	Unclassifiable/Attainment

Footnote: ⁽¹⁾ Existing sources located in areas previously designated as nonattainment shall continue to comply with all applicable conditions pursuant to 401 KAR Chapters 59 and 61.

(3) 2008 Eight (8) Hour Primary and Secondary Standard:

Designated Area	Designation Type
Boone County (part) 2000 Census tracts: 701, 702, 703.01, 703.04, 703.05, 703.06, 703.07, 703.08, 703.09, 704.01, 704.02, 705.01, 705.02, 706.03	Attainment ⁽¹⁾
Campbell County (part) 2000 Census tracts: 501, 502, 503, 504, 505, 506, 511.01, 511.02, 512,	Attainment ⁽¹⁾

513, 519.01, 519.03, 519.04, 521, 522, 523.01, 523.02, 524, 525, 526, 528, 529, 530, 531	
Kenton County (part) 2000 Census tracts: 603, 607, 609, 610, 611, 612, 613, 614, 616, 636.03, 636.04, 636.05, 636.06, 638, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655.01, 655.02, 656, 657, 658, 659, 668, 669, 670, 671	Attainment ⁽¹⁾
Rest of state	Unclassifiable/ Attainment

Footnote: ⁽¹⁾ Existing sources located in areas previously designated as nonattainment shall continue to comply with all applicable conditions pursuant to 401 KAR Chapters 59 and 61.

(4) 2015 Eight (8) Hour Primary and Secondary Standard:

Designated Area	Designation Type	Classification
Boone County (part) The entire county except for 2010 U.S. Census Tracts 706.01 and 706.04	Nonattainment	Marginal
Bullitt County	Nonattainment	Marginal
Campbell County (part) The entire county except for 2010 U.S. Census Tracts 520.01 and 520.02	Nonattainment	Marginal
Jefferson County	Nonattainment	Marginal
Kenton County (part) The entire county except for 2010 U.S.	Nonattainment	Marginal

Census Tracts 637.01 and 637.02		
Oldham County	Nonattainment	Marginal
Rest of state	Attain- ment/Unclassi- fiable	

Section 8. Attainment Status Designations for PM_{2.5}. (1) 1997 Annual Primary and Secondary Standard:

Designated Area	Designation Type
Boone County	Attainment ⁽¹⁾
Boyd County	Attainment ⁽¹⁾
Bullitt County	Attainment ⁽¹⁾
Campbell County	Attainment ⁽¹⁾
Jefferson County	Attainment ⁽¹⁾
Kenton County	Attainment ⁽¹⁾
Lawrence County (part) The area described by U.S. Census 2000 block group identifier 21- 127-9901-6	Attainment ⁽¹⁾
Rest of state	Unclassifiable/ Attainment

Footnote: ⁽¹⁾ Existing sources located in areas previously designated as nonattainment shall continue to comply with all applicable conditions pursuant to 401 KAR Chapters 59 and 61.

(2) 2012 Annual Primary Standard:

Designated Area	Designation Type
Statewide	Unclassifiable/Attain- ment

(3) 1997 Twenty-four (24) Hour Primary and Secondary Standard:

Designated Area	Designation Type
Statewide	Unclassifiable/Attainment

(4) 2006 Twenty-four (24) Hour Primary and Secondary Standard:

Designated Area	Designation Type
Statewide	Unclassifiable/Attainment

Section 9. Attainment Status Designations for Sulfur Dioxide (SO₂). (1) 1971 Primary and Secondary Standard:

Designated Area	Does Not Meet Primary Stand- ards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Statewide				X

(2) 2010 Primary Standard:

Designated Area	Designated Type
<p>Campbell County (part) That portion of Campbell County, which lies south and west of the Ohio River and is described as follows: Beginning at geographic coordinates 38.9735 North Latitude, 84.3017 West Longitude on the edge of the Ohio River running southwesterly to Kentucky Highway 1566; thence continuing running southwesterly along Kentucky Highway 1566 to Kentucky Highway 9 (AA Highway); thence running northwesterly along Kentucky Highway 9 (AA Highway) from Hwy 1566 to Interstate 275; thence running northeasterly along Interstate 275 to Highway 2345 (John's Hill Road), Hwy 2345 to US-27, US-27 to I-275, I-275 to the Ohio River; thence running southeasterly along the Ohio River from I-275 to geographic coordinates 38.9735 North Latitude, 84.3017 West Longitude</p>	Attainment ⁽¹⁾
<p><u>Henderson-Webster Counties, KY</u> <u>Henderson County (part).</u> <u>Webster County (part).</u> <u>That portion of Henderson and Webster Counties encompassed by the polygon with the 48 vertices using Universal Traverse Mercator (UTM) coordinates of North American Datum 1983 (NAD83) as follows: (1) Kentucky 520, Upper Delaware Rd to the Green River boundary at 463979.00 Easting (E), 4171000.03 Northing (N); (2) The Green River boundary to JZ Shelton Rd 459058.03 E, 4160832.96 N; (3) JZ Shelton Rd to Kentucky 370 457811.00 E, 4159192.96, N; (4) Kentucky 370 to</u></p>	Nonattainment

Pennyrile Parkway I-69 457089.96 E, 4159452.95 N; (5) Pennyrile Parkway I-69 to Sassafras Grove Rd 457675.35 E, 4156244.55 N; (6) Sassafras Grove Rd to US 41 456236.68 E, 4156125.75 N; (7) US 41 to Slaughters Elmwood Rd 457442.82 E, 4153425.68 N; (8) Slaughters Elmwood Rd to Railroad Track (NW) 456589.41 E, 4153424.43 N; (9) Railroad Track (NW) to Breton Rd 453677.09 E, 4155992.29 N; (10) Breton Rd to Kentucky 1835 453079.74 E, 4154924.00 N; (11) Kentucky 1835 to Kentucky 138 450702.89 E, 4153141.51 N; (12) Kentucky 138 to Crowder Rd 452587.06 E, 4152032.38 N; (13) Crowder Rd to Kentucky 120 453030.14 E, 4149175.08 N; (14) Kentucky 120 to Gooch Jones Rd 447528.25 E, 4147663.88 N; (15) Gooch Jones Rd to John Roach Rd 446551.75 E, 4150042.51 N; (16) John Roach Rd to Old Dixon Slaughters Rd 447462.17 E, 4151329.04 N; (17) Old Dixon Slaughters Rd to Old Dixon Rd 446532.28 E, 4152143.23 N; (18) Old Dixon Rd to Kentucky 138 446849.49 E, 4152437.09 N; (19) Kentucky 138 to Cernel Brooks Rd 450196.38 E, 4153305.18 N; (20) Cernel Brooks Rd to Rakestraw Bottoms Rd 450079.34 E, 4154326.39 N; (21) Rakestraw Bottoms Rd to Kentucky 132 447141.40 E, 4157145.04 N; (22) Kentucky 132 to Kentucky 283 444025.55 E, 4156172.90 N; (23) Kentucky 283 to Beckley Osbourne Rd 444300.82 E, 4158111.35 N; (24) Beckley Osbourne Rd to Dixon Wanamaker Rd 442067.07 E, 4158641.90 N; (25) Dixon Wanamaker Rd to Kentucky 191 441887.88 E, 4161614.33 N; (26) Kentucky 191 to D Melton Rd

[Attainment/
Unclassifiable]

442743.25 E, 4161250.11 N; (27) D
Melton Rd to Knoblick Creek Rd
443688.82 E, 4162093.08 N; (28)
Knoblick Creek Rd to US 41A
442319.35 E, 4163220.45 N; (29) US
41A to Dixon 1 Rd 443500.62 E,
4170518.52 N; (30) Dixon 1 Rd to GF
Sights Rd 443094.58 E, 4170166.59 N;
(31) GF Sights Rd to Cairo Dixie Rd
441341.46 E, 4170978.60 N; (32)
Cairo Dixie Rd to Liles Cairo Rd
442919.00 E, 4173140.24 N; (33) Liles
Cairo Rd to US 41A 443124.23 E,
4173204.51 N; (34) US 41A to Cairo
Hickory Grove Rd 442860.28 E,
4174017.18 N; (35) Cairo Hickory
Grove Rd to Pruitt Agnew Rd
446056.06 E, 4175740.98 N; (36)
Pruitt Agnew Rd to Kentucky 1299
447662.11 E, 4180049.93 N; (37) Ken-
tucky 1299 to Anthoston Frog Island
Rd 448905.37 E, 4176327.31 N; (38)
Anthoston Frog Island Rd to Ken-
tucky 136 452613.63 E, 4179047.02 N;
(39) Kentucky 136 to Upper Delaware
Rd 454451.59 E, 4177687.26 N; (40)
Upper Delaware Rd to Barren Church
Rd S 456153.23 E, 4177723.20 N; (41)
Barren Church Rd S to Barren Church
Rd N 457912.85 E, 4180247.83 N; (42)
Barren Church Rd N to Kentucky 1078
458542.52 E, 4181615.55 N; (43) Ken-
tucky 1078 to Jones Brothers Rd
461322.00 E, 4179952.85 N; (44)
Jones Brothers Rd to Kentucky 416
461209.84 E, 4177755.55 N; (45) Ken-
tucky 416 to Kentucky 1078
463492.08 E, 4178026.50 N; (46) Ken-
tucky 1078 to Onionville Rd
464177.31 E, 4177054.13 N; (47) On-
ionville Rd to Work Road 465476.34
E, 4176076.78 N; (48) Work Road to
Upper Delaware Rd 462529.15 E,
4173036.52 N.

[Henderson County (part) Census Block Groups 211010207013, 211010207014, 211010207024, and 211010208004]	
Jefferson County (part) That portion of Jefferson County compassed by the polygon with the vertices using Universal Traverse Mercator (UTM) coordinates in UTM zone 16 with datum NAD83: Ethan Allen Way extended to the Ohio River at UTM Easting (m) 595738, UTM Northing 4214086 and Dixie Highway (US60 and US31W) at UTM Easting (m) 597515, UTM Northing 4212946; Along Dixie High- way from UTM Easting (m) 597515, UTM Northing 4212946 to UTM East- ing (m) 595859, UTM Northing 4210678; Near the adjacent property lines of Louisville Gas and Electric- Mill Creek Electric Generating Station and Kosmos Cement where they join Dixie Highway at UTM Easting (m) 595859, UTM Northing 4210678 and the Ohio River at UTM Easting (m) 595326, UTM Northing 4211014; Along the Ohio River from UTM East- ing (m) 595326, UTM Northing 4211014 to UTM Easting (m) 595738, UTM Northing 4214086	Attain- ment ⁽¹⁾
Ohio County	Unclassifi- able
Pulaski County	Unclassifi- able
Rest of state ⁽²⁾	Attain- ment/ Unclassifi- able

Footnote: ⁽¹⁾ Existing sources located in areas previously designated as nonattainment shall continue to comply with all applicable conditions pursuant to 401 KAR Chapters 59 and 61.

[⁽²⁾ Excluding Webster and the remainder of Henderson County.]

Section 10. Attainment Status Designations for Total Suspended Particulates (TSP). 1971 Standard:

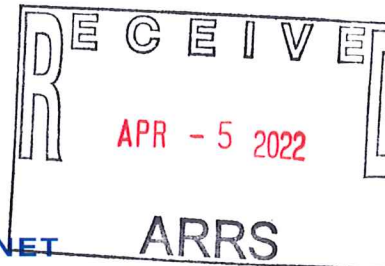
Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Can-not Be Classified	Better Than National Standards
Bell County				X
Boyd County			X	
That portion of Bullitt County in Shepherdsville				X
That portion of Campbell County in Newport				X
That portion of Daviess County in Owensboro bordered by the Ohio River on the north, by Frederica Street projected to the river on the west, by Fourth Street and U.S. 60 on the south, and by the Beltline (KY 212) projected to the river on the east			X	
That portion of Henderson County in Henderson			X	
Jefferson County			X	
That portion of Lawrence			X	

County in Louisa				
McCracken County				X
That portion of Madison County in Rich- mond			X	
Marshall County				X
Muhlenberg County				X
That portion of Perry County in Hazard			X	
That portion of Pike County in Pikeville			X	
That portion of Whitley County in Corbin				X
Rest of state				X

CONTACT PERSON: Lisa Jones, Environmental Scientist III, Division for Air Quality, 300 Sower Boulevard, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 782-1288, fax (502) 564-4245, email Lisa.C.Jones@ky.gov.



EDUCATION and WORKFORCE DEVELOPMENT CABINET
Department of Workforce Investment



Andy Beshear

Governor

Department of Workforce Investment

500 Mero Street, 4th Floor

Frankfort, KY 40601

Mary Pat Regan

Deputy Secretary

Jacqueline Coleman

Lieutenant Governor

Kish Cumi Price

Commissioner

April 5, 2022

Senator Stephen West and Representative David Hale
c/o Emily Caudill, Regulations Compiler
Legislative Research Commission
029, Capitol Annex
702 Capitol Avenue
Frankfort, Kentucky 40601

Dear Ms. Caudill:

After discussions with Administrative Regulation Review Subcommittee staff involving 787 KAR 3:020, the Office of Employer and Administrative Services proposes the attached Subcommittee Substitute to 787 KAR 3:020.

Thank you.

Michelle DeJohn
Executive Director
Office of Employer and Apprenticeship Services
500 Mero Street, 4th Floor
Frankfort, KY 40601

Subcommittee Substitute

EDUCATION AND WORKFORCE DEVELOPMENT CABINET

Department of Workforce Investment

Office of Employer and Apprenticeship Services

(As Amended at ARRS)

787 KAR 3:020. Confidentiality of records of the Office of Employer and Apprenticeship Services.

RELATES TO: KRS 151B.280

STATUTORY AUTHORITY: KRS 151B.280(5)(a)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 151B.280(5)(a) requires the secretary of the Education and Workforce Development Cabinet to promulgate administrative regulations to protect the confidential nature of all records and reports which directly or indirectly identify a client or former client of programs administered by the cabinet's Office of Employer and Apprenticeship Services. This administrative regulation establishes which records of the Office of Employer and Apprenticeship Services shall be considered confidential in order to encourage full disclosure of information on the part of job applicants and employers and to provide guidelines to employment service personnel in responding to requests for information.

Section 1. **Definition. (1) "Personal information" is defined by KRS 61.931(6).**

Section 2. The employment and service records identified in this section shall be confidential and shall not be subject to disclosure, except as provided in KRS 151B.280(5)(a) and (b) **or (and) other applicable law.(:)**

(1) Work Opportunity Tax Credit Program:

(a) Form 8850, Pre-Screening Notice and Certification Request for the Work Opportunity Credit;

(b) ETA Form 9061, Individual Characteristics Form Work Opportunity Tax Credit;

(c) ETA Form 9063, Employer Certification Work Opportunity Tax Credit;

(d) ETA Form 9175, Long Term Unemployment Recipient Self-Attestation Form, Work Opportunity Tax Credit Program;

(e) Form 2828, Power of Attorney and Declaration of Representative; and

(f) Documents provided by employers in support of their applications for the Work Opportunity Tax Credit that contain ~~["personal information"]~~ **as that term is defined in KRS 61.931(6)]** to include Form W-4 and DD Form 214.

(2) Registered Apprenticeship:

(a) Kentucky Registered Apprenticeship Registration, Standards, and Agreement (ETA Form 671, Section 1);

(b) Program Registration and Apprenticeship Agreement, Office of Apprenticeship, Apprentice Registration (ETA Form 671, Section 2);

(c) ETA Form 671, Voluntary Disability Disclosure;

(d) Registered Apprenticeship Standards Occupation Page;

(e) RAPIDS Program Registration Form;

(f) Apprentice ~~["personal information[" as that term is defined in KRS 61.931(6)]~~ contained in the Commonwealth's Citizen Connect online portal;

(g) Employer Acceptance Agreement (Registered Apprenticeship Appendix D); and

(h) Additional documents provided by employers relevant to apprenticeship program approval that contain private business information to include Approved Job Description and Related Technical Instruction outlines, Vendor Verifications, Citation Requests, and Occupation Support Letters.

(3) Federal Bonding Program:

(a) Kentucky Federal Bonding Program Requests from employers; and

(b) Kentucky Federal Bonding Program Conditional Pre-Approval Letter.

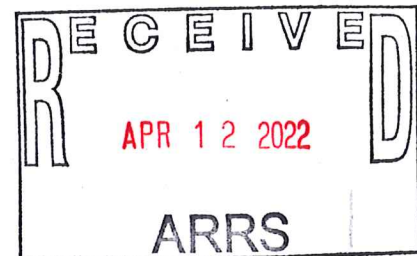
Section 3(2). Publicly Available Information. Notwithstanding the provisions of Section 2(4)(2), the following information in possession of the Office of Employer and Apprenticeship Services for Registered Apprenticeship Programs shall be (is) available to the general public: sponsor program number, sponsor program name, sponsor program address (street, city, state, zip code, county), sponsor contact information, occupation title, program standards type, term length minimum, term length maximum, related technical instruction length, hours when related technical instruction is provided, journeyman employee count, female employee count, minority employee count, youth employee count, and active apprentice count.

CONTACT PERSON: Michelle DeJohn, Executive Director, 500 Mero Street, 4th Floor, Frankfort, Kentucky 40601, phone 502-782-3252, email michelle.dejohn@ky.gov.



Andy Beshear
Governor

Public Protection Cabinet
Kentucky Horse Racing Commission
4063 Iron Works Parkway, Building B
Lexington, KY 40511
Telephone: (859) 246-2040
Fax: (859) 246-2039



Ray A. Perry
Secretary

Marc Guilfoil
Executive Director

Jonathan Rabinowitz
Chairman

April 12, 2022

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: 810 KAR 7:050 Kentucky Horse Breeders' Incentive Fund.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 810 KAR 7:050, the Kentucky Horse Racing Commission proposes the attached amendment to 810 KAR 7:050.

Sincerely,

Jennifer Wolsing, General Counsel
Kentucky Horse Racing Commission
4063 Iron Works Parkway, Building B
Lexington, KY 45011

3/29/22

SUGGESTED SUBSTITUTE

**PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission**

810 KAR 7:050. Kentucky Horse Breeders' Incentive Fund.

RELATES TO: KRS 230.225(5)(c), 230.330, 230.804, 15 U.S.C. 1821-1831

STATUTORY AUTHORITY: KRS 230.804(2)(b)

NECESSITY, FUNCTION AND CONFORMITY: KRS. 230.804 establishes the Kentucky Horse Breeders' Incentive Fund. KRS 230.804(2)(b) requires the Kentucky Horse Racing Commission to promulgate administrative regulations establishing the conditions and criteria for the distribution of moneys from the fund. This administrative regulation establishes eligibility standards, administrative practices to enforce the standards, and the procedures for paying incentive awards from the fund.

Section 1. Definitions.

(1) "Applicant" means a Kentucky affiliate representing a breed of horses that[which] is eligible to register with the commission to participate in the Kentucky Horse Breeders' Incentive Fund.

(2) "Award distribution plan" means a plan submitted by a Kentucky affiliate to the commission outlining the procedures by which the Kentucky affiliate will award funds from the Kentucky Horse Breeders' Incentive Fund to incentive winners who are members of the Kentucky affiliate.

(3) "Breed" means a subspecies of horse with particular physical characteristics common to the subspecies that[which] are used in establishing the identity of a horse by a registry recognized by the commission.

(4) "Breeder" means:

(a) A person or persons engaged in the breeding of horses eligible for the Kentucky Horse Breeders' Incentive Fund, as defined by the national association of the Kentucky affiliate recognized by the commission as a participant in the Kentucky Horse Breeders' Incentive Fund program; or

(b) If the national association does not define "breeder", the owner of the dam of a horse when the horse was foaled.

(5) "Closed breed registry" means the restrictions of the official national breed registry recognized by the Kentucky Horse Breeders' Incentive Fund.

(6) "Contest" means a competitive event with an outcome that[which] qualifies the owner of a horse as an incentive winner under a Kentucky affiliate's award distribution plan.

(7) "Incentive winner" means a person whose horse's performance in a contest entitles that person to an award from the Kentucky Horse Breeders' Incentive Fund.

(8) "Kentucky affiliate" means the Kentucky organization that is recognized by a national breed organization representing that particular breed of horse in Kentucky.

(9) "Kentucky Horse Breeders' Incentive Fund" means the trust and revolving fund established by KRS 230.804.

(10) "KHBIF" means the Kentucky Horse Breeders' Incentive Fund.

(11) "Show horse" means a horse that participates in judged exhibition competitions.

Section 2. Registration of Kentucky Affiliate.

(1) Only a Kentucky affiliate may register to participate in the KHBIF.

(2) Kentucky affiliates shall have an Internal Revenue Service 501(c) designation.

(3) To become eligible to receive funds from the KHBIF, a Kentucky affiliate shall register with

the commission by:

(a) Filing an "Application for Registration of Kentucky Affiliate with the Kentucky Horse Breeders' Incentive Fund", KHRC Form 7-050-1[HB-1], (10/2021)[(12/08)]; and

(b) Filing with the application an award distribution plan to be reviewed and approved by the commission.

(4) A thoroughbred breed shall not be eligible for registration with the KHBIF, unless the thoroughbred breed consists exclusively of show horses.

(5) A standardbred breed shall not be eligible for registration with the KHBIF, unless the standardbred breed consists exclusively of show horses.

(6) The color of a breed of horses shall not be the sole criterion used to define that breed for purposes of registration with the KHBIF.

(7) The commission may establish, under its general jurisdiction, the KHBIF Advisory Committee (the "advisory committee"). If established, the advisory committee shall consist of three (3) members appointed by the chairman of the commission by July 1 of each year. One (1) member shall be recommended to the chairman for appointment by the Kentucky Equine Education Project (KEEP). If KEEP has not recommended a member for appointment by July 1 of a given year, the Chairman of the commission shall make the appointment without the recommendation. At least one (1) member of the advisory committee shall have established knowledge of gaited horses. Each member of the advisory committee shall serve from July 1 through June 30 of the following year. Each member of the advisory committee shall be a resident of Kentucky. Each member of the advisory committee shall serve without compensation, but shall be entitled to reimbursement for all reasonable expenses incurred in the discharge of official business. The advisory committee shall select a chairman from its membership annually.

(8)(a) The advisory committee shall advise and assist the commission in the registration process described in this section. The advisory committee shall make a recommendation of approval or denial to the commission for each applicant based upon the application and compliance with the requirements established in subsection (13) of this section.

(b) The commission shall employ qualified personnel necessary to assist the commission and the advisory committee in carrying out the provisions of this administrative regulation. These personnel shall serve at the pleasure of the commission, and compensation for these personnel shall be fixed by the commission.

(9) After the advisory committee recommends to the commission the approval or denial of an application, the commission shall consider the recommendation and whether or not the requirements of this administrative regulation have been met, and shall:

(a) Approve the application;

(b) Deny the application; or

(c) Defer consideration of the application for a reasonable time for the purpose of conducting further investigation of the application.

(10) Registration shall be effective for three (3) years. The first three (3) year registration period shall consist of the period beginning January 1, 2022, and ending December 31, 2024.

(11) For the first registration period, a Kentucky affiliate shall register with the commission on or prior to November 1, 2021. Any Kentucky affiliate that registered with the commission under any previously effective version of this administrative regulation shall reregister.

(12) For each three (3) year period beginning on or after January 1, 2022, a Kentucky affiliate shall register with the commission on or prior to November 1 of the calendar year immediately preceding January 1 of the first year of the three (3) year registration period.

(13) A Kentucky affiliate shall have until December 31 following the November 1 deadline established in subsections (11) and (12) of this section to revise and update any information previously provided to the commission on or before the November 1 deadline.

(14) The application and the accompanying award distribution plan provided to the commission shall include the following information:

(a) The name of the breed of horse covered by the plan;
(b) The name of the Kentucky affiliate;
(c) A letter from the national breed organization representing the breed certifying that the Kentucky affiliate is the recognized representative in Kentucky of that breed, and certifying the number of horses twenty-five (25) years of age and younger in the breed residing in Kentucky. If the Kentucky affiliate is the national breed organization, then an independent third party approved by the commission shall certify the number of horses. Optionally, if the Kentucky affiliate demonstrates to the commission that it is unable to obtain an independent third party to certify horse numbers as required in this subsection, the commission may certify horse numbers at a fee of \$120 per hour.

1. For a horse to be included in the certification, the horse shall be the result of parentage verified by DNA verification of either the horse's sire or dam. A three (3) generation pedigree on one (1) side shall be displayed on the certificate of registration, so that the horse, at least one (1) of the horse's parents, and at least (1) set of the horse's grandparents are displayed on the certificate.

2. Each horse shall receive claim money from ~~[be registered with]~~ only one (1) Kentucky affiliate per year.

3. The affiliate shall provide the data electronically to the commission and in a format agreeable to the commission;

(d) A letter from the national breed organization representing the breed certifying that the breed has a closed breed registry; and

(e) The award distribution plan pursuant to which awards will be distributed to KHBIF incentive winners who are breeders or owners of horses bred and foaled in Kentucky. The award distribution plan shall specify:

1. The scoring method or point system to be utilized in contests to determine the incentive winner of each contest as certified by the national breed organization;

2. The identity of the scoring person or body that will judge each contest as certified by the national breed organization;

3. The rules of the contests in which the horses of the breed will participate as certified by the national breed organization; and

4. The percentage distribution formula by which the Kentucky affiliate shall grant awards to incentive winners.

(15)(a) The commission shall be recognized and designated as the sole official registrar of the KHBIF for the purposes of registering the application and award distribution plan for each breed in accordance with the terms of this administrative regulation.

(b) The records of each national breed organization shall be used as the official records of the commission for determining the following information:

1. The identity of the Kentucky affiliate representing the breed in Kentucky; and

2. The number of horses of the breed twenty-five (25) years of age and younger registered with the national breed organization and currently residing in Kentucky.

(16) If the information on an application form required under this section is found to be inaccurate, or becomes inaccurate, or changes, the organization identified as the Kentucky affiliate shall promptly notify the commission of the correct information within thirty (30) days of discovering the inaccuracy or the circumstances causing the information to become inaccurate or to change.

Section 3. Timing and Distribution of Awards.

(1) The events eligible for awards from the KHBIF, as set forth in each award distribution plan, shall be those occurring on or after January 1, 2006.

(2) Awards to incentive winners shall be calculated and distributed each year.

(3) The commission, with the cooperation of each Kentucky affiliate shall, after the end of

each calendar year, calculate the funds due to each Kentucky affiliate for that year.

(4) The amount allocated to a Kentucky affiliate participating in the KHBIF shall be calculated by:

(a) Dividing the number of horses of the breed twenty-five (25) years of age and younger and currently residing in Kentucky as certified by the national breed organization pursuant to Section 2(14)(c) of this administrative regulation, by the total number of horses from all Kentucky affiliates certified pursuant to Section 2(14)(c) of this administrative regulation. The number of horses in each case shall be the number of horses recorded on each Kentucky affiliate's application form on the December 31 deadline established in Section 2(13) of this administrative regulation; and

(b) Multiplying the fraction obtained in paragraph (a) by the total amount of money allocated to all Kentucky affiliates during the year.

(5) An award to an incentive winner from the KHBIF shall be determined based on the award distribution plan submitted by the Kentucky affiliate representing the breed to the commission pursuant to Section 2(3)(2)(b) of this administrative regulation.

(6) The commission shall, by March 1 of each year, notify the Kentucky affiliate of the total dollars allocated to that affiliate.

(7) Kentucky affiliate shall, by October 1 of each year, notify the commission of the names of the incentive winners who are entitled to awards for contests held during the previous year. The Kentucky affiliate shall also, by October 1 of each year, notify the commission of the names of the horses registered to that affiliate, and the date of each horse's registration. If a horse is registered with more than one (1) affiliate, the commission shall not count that horse's award, and the funds for that award shall revert back to the KHBIF to be distributed in future awards.

(a) Within thirty (30) calendar days of receiving the names of the incentive winners from the Kentucky affiliate, the commission shall generate claim forms for the appropriate Kentucky affiliate.

(b) The Kentucky affiliate shall provide the claim forms received from the commission to its incentive winners from the previous year.

(c) The Kentucky affiliate shall provide a letter to the commission, which certifies that it has notified all incentive winners of their awards from the previous year. The commission shall not issue an award check for any of that Kentucky affiliate's incentive winners prior to receiving this letter.

(8) After receiving notification of an award, each incentive winner shall return an enclosed claim form for the award that certifies that the incentive winner is entitled to the award and that certifies the incentive winner's taxpayer ID number or Social Security number. The claim form shall be delivered to the commission no later than December 31 of the same year in which the commission notified the incentive winner of the award pursuant to subsection (7) of this section.

(9) The claim form shall be the form "Claim Form of Incentive Winner for Award from the Kentucky Horse Breeders' Incentive Fund", KHRC Form 7-050-2[HB-2], (10/2021)[(12/06)].

(10) Failure to return the claim form required by subsection (8) of this section by December 31 of the year in which the incentive winner was notified of the award pursuant to subsection (7) of this section shall result in forfeiture of the award, and the award money shall lapse to the KHBIF.

(11) An award from the KHBIF shall not be granted to any incentive winner who is not in good standing with the national breed organization or Kentucky affiliate.

Section 4. Semiannual Reports.

(1) A semiannual status report describing a Kentucky affiliate's progress and participation in the award distribution plan shall be filed with the advisory committee by each Kentucky affiliate on or before July 31 and January 31. If that date is on a Saturday, Sunday, or legal holiday, the report shall be due on the first business day thereafter.

(2) The semiannual report shall also include:

(a) A list of all stallions presently breeding horses eligible to participate in the fund, and the

farm locations on which the stallions stand;

(b) A schedule of all state and national contests for that year in which horses eligible to participate in the KHBIF are scheduled to participate;

(c) A list of all horses registered with the Kentucky affiliate and the horse's date of registration with that affiliate;

(d) A current list of the Kentucky affiliate's board members; and

(e) The current contact information of the Kentucky affiliate's preferred contacts.

Section 5. Disputes.

(1) Any dispute between the commission and a Kentucky affiliate or national breed organization arising under this administrative regulation shall be raised by the aggrieved party filing a petition seeking relief with the executive director of the commission, within thirty (30) days of the action or the inaction leading to the dispute, as established in 810 KAR 7:070.

(2) If the executive director and the aggrieved party do not agree on a resolution of the dispute, the executive director shall assign the case to a hearing officer who shall conduct a hearing pursuant to KRS Chapter 13B.

Section 6. Disciplinary Procedures.

(1) Violations, discipline, disputes, and investigation shall take place according to 810 KAR 7:070.

(2) In addition to the procedures established in 810 KAR 7:070, and notwithstanding any contrary provisions of 810 KAR 7:070, the commission may take the following actions, which would be subject to appeal as established in 810 KAR 7:070:

(a) For a violation of 810 KAR 7:070, the commission may bar a Kentucky affiliate or national breed organization from registering for a period of from one (1) to ten (10) years, based on the seriousness of the violation.

(b) For a second or subsequent violation of 810 KAR 7:070, the commission may bar the Kentucky affiliate or national breed organization from eligibility to receive an incentive from the KHBIF for a period of from one (1) to twenty (20) years.

(c) If the evidence available to the commission indicates that an individual who is a member of, or acting on behalf of, a Kentucky affiliate or national breed organization has, without the knowledge or consent of the Kentucky affiliate or national breed organization, violated 810 KAR 7:070, then the commission may condition the continuing registration of the Kentucky affiliate in the KHBIF upon the exclusion of that individual from any further participation in work related to the KHBIF.

Section 7. Incorporation by Reference.

(1) The following material is incorporated by reference:

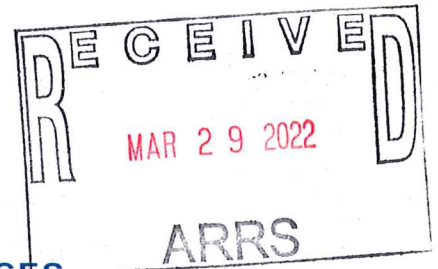
(a) "Application for Registration of Kentucky Affiliate with the Kentucky Horse Breeders' Incentive Fund", KHRC 7-050-1, (10/2021)[~~KHRC Form HB-1, (12/08)~~]; and

(b) "Claim Form of Incentive Winner for Award from the Kentucky Horse Breeders' Incentive Fund", KHRC 7-050-02, (10/2021)[~~KHRC Form HB-2, (12/08)~~].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Horse Racing Commission, 4063 Iron Works Pike, Building B, Lexington, Kentucky 40511, Monday through Friday, 8 a.m. to 4:30 p.m.

(3) This material may also be obtained from the KHRC Web site at www.khrc.ky.gov.

CONTACT PERSON: Jennifer Wolsing, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone +1 (859) 246-2040, fax +1 (859) 246-2039, email jennifer.wolsing@ky.gov.



CABINET FOR HEALTH AND FAMILY SERVICES
Office of the Secretary

Andy Beshear
Governor

275 East Main Street, 4W-C
Frankfort, KY 40621
www.chfs.ky.gov

Eric C. Friedlander
Secretary

March 29, 2022

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: 902 KAR 10:120. Kentucky public swimming and bathing facilities.

Dear Co-Chairs West and Hale:

After discussions with stakeholders of the issues raised by 902 KAR 10:120, the Department for Public Health proposes the enclosed suggested amendment to 902 KAR 10:120.

If you have any questions regarding this matter, please contact Julie Brooks, Department for Public Health, at 564-3970, extension 4069.

Sincerely,

Lucie Estill
Executive Staff Advisor
Office of Legislative and Regulatory Affairs



KENTUCKY CABINET FOR
HEALTH AND FAMILY SERVICES

Agency Amendment

Cabinet for Health and Family Services Department for Public Health Division of Public Health Protection and Safety

902 KAR 10:120. Kentucky public swimming and bathing facilities.

Page 37

Section 12(2)(d)

Lines 6 through 10

After "(d)", delete the following:

All beaches shall provide lifeguards at a rate of one (1) per 100 linear feet of beach front or fraction thereof, and a minimum of one (1) attraction, with additional lifeguards provided to ensure all areas surrounding the attraction are clearly visible at all times.

(e) This is the minimum lifeguard coverage acceptable under this administrative regulation.

Section 12(2)

Line 14

Insert the following:

(e) A facility may submit an alternative lifeguard staffing plan that:

1. Has been certified by an independent third-party compliance specialist;

2. Designates the number of lifeguards necessary to ensure each lifeguard is capable of viewing the entire area of the assigned zone of patron surveillance; and

3. Ensures the lifeguard is able to reach the furthest extent of the assigned zone of patron surveillance within twenty (20) seconds.

(f) The alternative lifeguard staffing plan shall be:

1. On file with the Public Safety Branch within the Department for Public Health;

2. Submitted to the local health department of jurisdiction; and

3. Resubmitted if there is a change in:

a. The shape or size of the swimming pool;

b. The surrounding areas that would obstruct the lifeguard's view of the bottom of the pool; or

c. Ownership of the facility.

(g) Lifeguards shall be provided at all bathing beaches that allow bathers seventeen (17) years of age or younger without a responsible adult at a rate of one (1) per 100 linear feet of beach front or a fraction thereof. Bathing beaches that do not provide lifeguards shall post the following warnings: "No lifeguard on duty. Swim at your own risk. No person seventeen (17) years of age or younger may swim without a responsible adult present."

(h) A bathing beach that has an inflatable water attraction shall have a minimum of one (1) lifeguard per attraction, with additional lifeguards provided to ensure all areas surrounding the attraction are clearly visible at all times.

Section 12(2)(f)1., 2., and 3.

Lines 14, 15, 18, 19

Renumber paragraph (f) by inserting "(3)", respectively, and by deleting "(f)", respectively.

Renumber subparagraphs "1.", "2.", and "3." by inserting "(a)", "(b)", and "(c)", respectively, and by deleting "1.", "2.", and "3." respectively.

Page 38

Section 13(2)

Line 4

After "(2) Beaches", insert "requiring lifeguards".

After "shall", insert "provide", delete "be provided with".

Page 39

Section 13(7)

Lines 11 and 12

After "beaches shall be", insert the following:

centrally located in a conspicuous place that is readily accessible

Delete "located at each lifeguard chair".

Section 13(7)

Lines 12 and 13

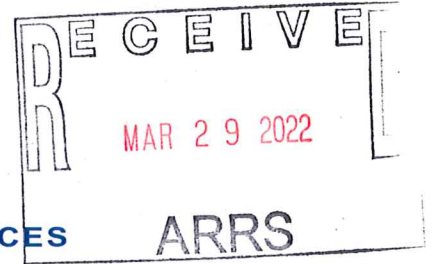
After "this section being located", insert the following:

in the most central location

Delete "at the most centrally stationed lifeguard chair".



CABINET FOR HEALTH AND FAMILY SERVICES
Office of the Secretary



Andy Beshear
Governor

275 East Main Street, 4W-C
Frankfort, KY 40621
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Eric C. Friedlander
Secretary

March 29, 2022

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: 902 KAR 10:121. Plan review, annual permitting, and inspection fees for public swimming and bathing facilities, including splash pads operated by local governments.

Dear Co-Chairs West and Hale:

After discussions with stakeholders of the issues raised by 902 KAR 10:121, the Department for Public Health proposes the enclosed agency amendment to 902 KAR 10:121.

If you have any questions regarding this matter, please contact Julie Brooks, Department for Public Health, at 564-3970, extension 4069.

Sincerely,

Lucie Estill
Executive Staff Advisor
Office of Legislative and Regulatory Affairs



KENTUCKY CABINET FOR
HEALTH AND FAMILY SERVICES

Agency Amendment

Cabinet for Health and Family Services Department for Public Health Division of Public Health Protection and Safety

902 KAR 10:121. Plan review, annual permitting, and inspection fee for public swimming and bathing facilities, including splash pads operated by local governments.

Page 2

Section 1(3)(a)

Line 14

After "to the linear", delete "square".

Page 2

Section 1(3)(b)1.

Line 16

After "less linear", delete "square".

Page 2

Section 1(3)(b)2.

Line 17

After "200 linear", delete "square".

Page 2

Section 1(3)(b)3.

Line 19

After "(50) linear", delete "square".