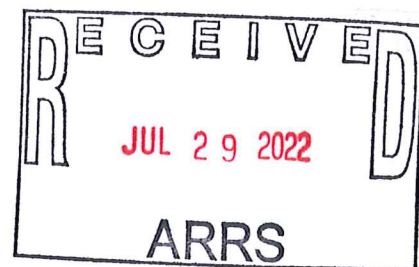


ANDY BESHEAR
GOVERNOR



501 HIGH STREET, 3RD FLOOR
FRANKFORT, KENTUCKY 40601
PHONE: (502) 564-7430
FAX (502) 564-7603
[HTTPS://PERSONNEL.KY.GOV](https://personnel.ky.gov)

GERINA D. WHETHERS
SECRETARY



July 25, 2022

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill, Regulations Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
Room 83, State Capitol Annex
Frankfort, KY 40601

Re: 101 KAR 2:102. Classified leave general requirements.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 101 KAR 2:102, the Personnel Cabinet proposes the attached suggested amendment to 101 KAR 2:102.

Sincerely,

Gerina D. Whethers
Secretary

Staff-suggested Amendment

**Final Version 7/21/2022
PERSONNEL CABINET**

101 KAR 2:102. Classified leave general requirements.

Page 2

Section 1(1)(b)

Lines 2 and 3

After "leave. This", insert "shall".

Delete "does".

Page 6

Section 2(1)(b)

Line 4

After "leave. This", insert "shall".

Delete "does".

Page 12

Section 3(6)

Line 7

After "FMLA leave", insert "shall".

Delete "will".

Page 15

Section 5(2)(d)

Lines 5 and 6

After "pay period.", insert "If".

Delete "In the event".

After "required for payment", insert "shall".

Delete "must".

Page 18

Section 9(3)

Line 6

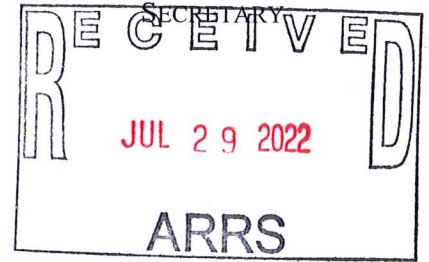
After "incident, or", insert "pending an investigation of".

ANDY BESHEAR
GOVERNOR



501 HIGH STREET, 3RD FLOOR
FRANKFORT, KENTUCKY 40601
PHONE: (502) 564-7430
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GERINA D. WHETHERS



July 25, 2022

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill, Regulations Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
Room 83, State Capitol Annex
Frankfort, KY 40601

Re: 101 KAR 3:015. Leave requirements for unclassified service.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 101 KAR 3:015, the Personnel Cabinet proposes the attached suggested amendment to 101 KAR 3:015.

Sincerely,

Gerina D. Whethers
Secretary

Staff-suggested Amendment

**Final Version 7/21/2022
PERSONNEL CABINET**

101 KAR 3:015. Leave requirements for unclassified service.

Page 2

Section 1(1)(b)

Lines 2 and 3

After "leave. This", insert "shall".

Delete "does".

Page 6

Section 2(1)(b)

Line 5

After "leave. This", insert "shall".

Delete "does".

Page 12

Section 3(6)

Line 13

After "FMLA leave", insert "shall".

Delete "will".

Page 15

Section 5(2)(d)

Lines 11 and 12

After "pay period.", insert "If".

Delete "in the event".

After "for payment", insert "shall".

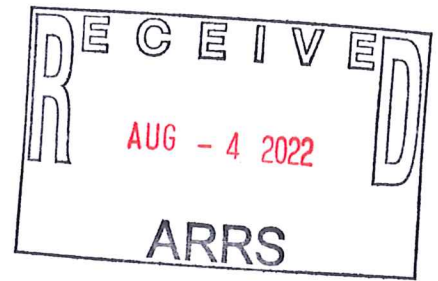
Delete "must".

Page 18

Section 9(3)

Line 14

After "incident, or", insert "pending an investigation of".



KENTUCKY BOARD OF ARCHITECTS

Andy Beshear
Governor

Cordelia Harbut
Executive Director

Board

August 4, 2022

Stephanie R. McCrery
President

Franklin Gray
Secretary

Olivia N Davis
Public Member /
Treasurer

Jeffery Johnson
Ex-Officio

T. Rexford Cecil
Member

Lawrence Brandstetter
Member

Sarah Mascarich
Member

Anne St. Aignan Muller
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Staff

Yolanda Costner
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Rachael McClain
Ex. Administrative
Secretary

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 19:035. Qualifications for examination and licensure.

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 19:035, the Kentucky Board of Architects proposes the attached amendment to 201 KAR 19:035.

Sincerely,

Cordelia Harbut, Executive Director
Kentucky Board of Architects
155 E Main Street, Suite 300
Lexington, KY 40507

Staff-suggested Amendment

**Final Version 7/20/2022
GENERAL CABINET
Boards and Commissions
Kentucky Board of Architects**

201 KAR 19:035. Qualifications for examination and licensure.

Page 1

STATUTORY AUTHORITY paragraph

Line 7

After "KRS", insert "323.050(2)".

After "323.210(1)(b)", delete ", (2)".

Page 1

NECESSITY, FUNCTION, AND CONFORMITY paragraph

Line 10

After "323.210(1)(b)", insert "requires".

Delete "and (2) require".



KENTUCKY BOARD OF ARCHITECTS
LICENSE RENEWAL APPLICATION
FISCAL YEAR _____



MAKE CHECK PAYABLE TO
Kentucky State Treasurer
for other payment options contact
the board office at BOA.IRC@KY.GOV

REMIT PAYMENT AND THIS FORM TO
Kentucky Board of Architects
155 East Main Street, Suite 300
Lexington, KY 40507
BOA.KY.GOV

YOUR KY ARCHITECT LICENSE NO.: _____ LAST FOUR (4) DIGITS OF YOUR SOCIAL SECURITY #: _____

NAME: Last _____ First & Middle _____ Suffix _____

HOME ADDRESS: Street _____
City _____ State _____ ZIP _____
Home Telephone: _____ Cellular: _____

BUSINESS / FIRM NAME: _____

BUSINESS ADDRESS: Street _____
City _____ State _____ ZIP _____
Business Telephone: _____ Fax: _____
Email Address: _____

PREFERRED CONTACT LOCATION: ☐ Home ☐ Business DATE OF BIRTH: ____/____/____

PLEASE READ CAREFULLY AND CHECK ONLY ONE BOX BELOW & INITIAL IN THE SPACE PROVIDED:

☐ **RENEW MY ARCHITECT LICENSE:** I hereby apply to renew my architect's license in the Commonwealth of Kentucky. Further, I hereby certify that for the current year ending, June 30, I have not been in violation of the professional practice standards in 201 KAR 19:260. To renew my Kentucky license I am hereby attaching the annual renewal fee of **\$125.00** with this renewal form. **Initial here:** _____

☐ **VOLUNTARY SURRENDER:** In accordance with the provisions of KRS 323.110 (2) I voluntarily surrender my architect's license by hereby notifying the Board in checking this block and signing in the space provided hereafter. By surrendering my license, I acknowledge and agree that I will no longer be known as an architect, and shall desist from the practice of architecture in Kentucky. I further acknowledge and agree that within five years from July 1st of this year I may restore my license without examination as long as I meet the current requirements of KRS 323 and 201 KAR 19. If five years thereafter have elapsed I will return to the status of a new applicant. **Initial here:** _____
YOU MAY NOW SKIP TO BACK PAGE, ITEM #2, TO CONTINUE COMPLETION.

☐ **REQUEST EMERITUS ARCHITECT STATUS:** I hereby request Emeritus Architect status. To obtain "Emeritus Architects" status, one must be retired from practicing in all jurisdictions, at least sixty-five years of age and agree to pay the applicable annual renewal fee. Emeritus Architects are exempt from continuing education requirements. To obtain Emeritus Architect status I am hereby attaching the annual renewal fee of **\$50.00** with this renewal form. **Initial here:** _____
YOU MAY NOW SKIP TO BACK PAGE, ITEM #2, TO CONTINUE COMPLETION.

COMPLETED RENEWAL FORMS AND ACCOMPANYING FEE ARE DUE IN THE BOARD OFFICE ON OR
BEFORE JUNE 30TH, _____
(For Payment Options please contact the Board Office at BOA.IRC@ky.gov)

APPROPRIATELY AND ACCURATELY, ANSWER EACH OF THE FOLLOWING QUESTIONS:

1. CONTINUING EDUCATION CERTIFICATION: In accordance with the requirements of 201 KAR 19:087. I certify that I completed a minimum of 12 structured activities in health, safety and welfare related professional development unit activities since January 1, _____ through December 31, _____. I understand I am required to keep my continuing education records for five years and that I am subject to an audit during that period by this Board. I further understand that failure to comply may result in a civil penalty, renewal denial, suspension and/or revocation of my license.

☐ Yes ☐ No

or that

☐ Per 201 KAR 19:087 Section 3 (1) (a) I am exempt from the continuing education requirements for this renewal year because I am a first time registrant by this Board in the Commonwealth of Kentucky.

or that

☐ Per 201 KAR 19:087 Section 3 (1) (d) I am exempt as a current resident registrant of another jurisdiction, which has continuing professional development requirements and also accepts registrants meeting Kentucky's continuing professional development requirements. I certify that I have met the current professional development requirements of that jurisdiction, as follows.

Applicable Jurisdiction: _____ Registration # _____
List Applicable State Jurisdiction List the Applicable State Jurisdiction License Number

3. IN THE PAST YEAR HAVE YOU been convicted of or pleaded nolo contendere (no contest) to a felony? If your answer is YES a copy of the final judgment must be provided to the Board office attached to this renewal form.

☐ Yes ☐ No

4. IN THE PAST YEAR HAVE YOU been disciplined by any licensing board or jurisdiction? If your answer is YES provide additional documentation and/or explanation to this Board office attached to this renewal form.

☐ Yes ☐ No

5. APPLICABLE FEES:

If you checked to **RENEW MY ARCHITECT LICENSE** your fee is: \$125.00

If you checked to **VOLUNTARY SURRENDER** my architect license: No Fee

If you checked to **REQUEST EMERITUS ARCHITECT STATUS** your fee is: \$ 50.00

Applicable Late Fee (to be added to the appropriate above fee):

For submittals received in Board office between July 1st and July 31st - \$ 25.00

For submittals received in Board office between Aug. 1st and Aug. 30th - \$ 50.00

Make checks payable to the KENTUCKY STATE TREASURER in the amount as required, for debit and credit card payment options contact the board office at BOA.IRC@KY.GOV

6. CERTIFICATION(REQUIRED)

I certify that the information given by me on this form and any attachments is accurate and correct. Further, I understand what I have been asked and I have answered truthfully. I have read and am familiar with, 323 of the Kentucky Revised Statutes [Statues] (KRS 323) and Chapter 201 of the Kentucky Administrative Regulations Chapter 19 (201 KAR19).

Signature (required) _____ Date _____

Failure to complete the form or illegible entries will deter the renewal of your license

Links to KRS 323 and 201 KAR 19 are available at the Board's website: www.boa.ky.gov or legislature.ky.gov

Telephone: (859) 246-2069

Fax: (859) 246-2431



KENTUCKY BOARD OF ARCHITECTS
LICENSE RENEWAL APPLICATION
FISCAL YEAR _____



MAKE CHECK PAYABLE TO
Kentucky State Treasurer
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Kentucky Board of Architects
155 East Main Street, Suite 300
Lexington, KY 40507
BOA.KY.GOV

YOUR KY ARCHITECT LICENSE NO.: _____ LAST FOUR (4) DIGITS OF YOUR SOCIAL SECURITY #: _____

NAME: Last _____ First & Middle _____ Suffix _____

HOME ADDRESS: Street _____
City _____ State _____ ZIP _____
Home Telephone: _____ Cellular: _____

BUSINESS / FIRM NAME: _____

BUSINESS ADDRESS: Street _____
City _____ State _____ ZIP _____
Business Telephone: _____ Fax: _____
Email Address: _____

PREFERRED CONTACT LOCATION: ☐ Home ☐ Business DATE OF BIRTH: ____/____/____

PLEASE READ CAREFULLY AND CHECK ONLY ONE BOX BELOW & INITIAL IN THE SPACE PROVIDED:

☐ **RENEW MY ARCHITECT LICENSE:** I hereby apply to renew my architect's license in the Commonwealth of Kentucky. Further, I hereby certify that for the current year ending, June 30, I have not been in violation of the professional practice standards in 201 KAR 19:260. To renew my Kentucky license I am hereby attaching the annual renewal fee of **\$125.00** with this renewal form. *Initial here:* _____

☐ **VOLUNTARY SURRENDER:** In accordance with the provisions of KRS 323.110 (2) I voluntarily surrender my architect's license by hereby notifying the Board in checking this block and signing in the space provided hereafter. By surrendering my license, I acknowledge and agree that I will no longer be known as an architect, and shall desist from the practice of architecture in Kentucky. I further acknowledge and agree that within five years from July 1st of this year I may restore my license without examination as long as I meet the current requirements of KRS 323 and 201 KAR 19. If five years thereafter have elapsed I will return to the status of a new applicant. *Initial here:* _____
YOU MAY NOW SKIP TO BACK PAGE, ITEM #2, TO CONTINUE COMPLETION.

☐ **REQUEST EMERITUS ARCHITECT STATUS:** I hereby request Emeritus Architect status. To obtain "Emeritus Architects" status, one must be retired from practicing in all jurisdictions, at least sixty-five years of age and agree to pay the applicable annual renewal fee. Emeritus Architects are exempt from continuing education requirements. To obtain Emeritus Architect status I am hereby attaching the annual renewal fee of **\$50.00** with this renewal form. *Initial here:* _____
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APPROPRIATELY AND ACCURATELY, ANSWER EACH OF THE FOLLOWING QUESTIONS:

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☐ Yes ☐ No

or that

☐ Per 201 KAR 19:087 Section 3 (1) (a) I am exempt from the continuing education requirements for this renewal year because I am a first time registrant by this Board in the Commonwealth of Kentucky.

or that

☐ Per 201 KAR 19:087 Section 3 (1) (d) I am exempt as a current resident registrant of another jurisdiction, which has continuing professional development requirements and also accepts registrants meeting Kentucky's continuing professional development requirements. I certify that I have met the current professional development requirements of that jurisdiction, as follows.

Applicable Jurisdiction: _____ Registration # _____
List Applicable State Jurisdiction List the Applicable State Jurisdiction License Number

3. IN THE PAST YEAR HAVE YOU been convicted of or pleaded nolo contendere (no contest) to a felony? If your answer is YES a copy of the final judgment must be provided to the Board office attached to this renewal form.

☐ Yes ☐ No

4. IN THE PAST YEAR HAVE YOU been disciplined by any licensing board or jurisdiction? If your answer is YES provide additional documentation and/or explanation to this Board office attached to this renewal form.

☐ Yes ☐ No

5. APPLICABLE FEES:

If you checked to **RENEW MY ARCHITECT LICENSE** your fee is: \$125.00

If you checked to **VOLUNTARY SURRENDER** my architect license: No Fee

If you checked to **REQUEST EMERITUS ARCHITECT STATUS** your fee is: \$ 50.00

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I certify that the information given by me on this form and any attachments is accurate and correct. Further, I understand what I have been asked and I have answered truthfully. I have read and am familiar with, 323 of the Kentucky Revised Statutes (KRS 323) and Chapter 201 of the Kentucky Administrative Regulations Chapter 19 (201 KAR19).

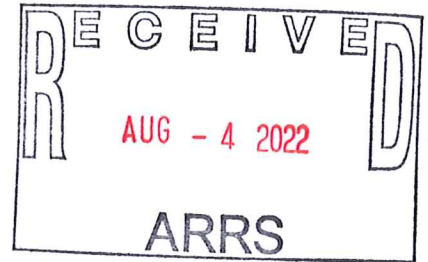
Signature (required) _____ Date _____

Failure to complete the form or illegible entries will deter the renewal of your license

Links to KRS 323 and 201 KAR 19 are available at the Board's website: www.boa.ky.gov or legislature.ky.gov

Telephone: (859) 246-2069

Fax: (859) 246-2431



KENTUCKY BOARD OF ARCHITECTS

Andy Beshear
Governor

Cordelia Harbut
Executive Director

Board

August 4, 2022

Stephanie R. McCrery
President

Franklin Gray
Secretary

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Administrative Assistant

Rachael McClain
Ex. Administrative
Secretary

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 19:087. Continuing Education.

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 19:087, the Kentucky Board of Architects proposes the attached amendment to 201 KAR 19:087.

Sincerely,

Cordelia Harbut, Executive Director
Kentucky Board of Architects
155 E Main Street, Suite 300
Lexington, KY 40507

Staff-Suggested Amendment

**Final Version 7/20/2022
GENERAL GOVERNMENT CABINET
Boards and Commissions
Kentucky Board of Architects**

201 KAR 19:087. Continuing education.

Material Incorporated by Reference

License Renewal Application

Page 2

Certification paragraph

After "Kentucky Revised", insert "Statutes".

Delete "Statues".



KENTUCKY BOARD OF ARCHITECTS
LICENSE RENEWAL APPLICATION
FISCAL YEAR _____



MAKE CHECK PAYABLE TO
Kentucky State Treasurer
for other payment options contact
the board office at BOA.IRC@KY.GOV

REMIT PAYMENT AND THIS FORM TO
Kentucky Board of Architects
155 East Main Street, Suite 300
Lexington, KY 40507
BOA.KY.GOV

YOUR KY ARCHITECT LICENSE NO.: _____ LAST FOUR (4) DIGITS OF YOUR SOCIAL SECURITY #: _____

NAME: Last _____ First & Middle _____ Suffix _____

HOME ADDRESS: Street _____
City _____ State _____ ZIP _____
Home Telephone: _____ Cellular: _____

BUSINESS / FIRM NAME: _____

BUSINESS ADDRESS: Street _____
City _____ State _____ ZIP _____
Business Telephone: _____ Fax: _____
Email Address: _____

PREFERRED CONTACT LOCATION: ☐ Home ☐ Business DATE OF BIRTH: ____/____/____

PLEASE READ CAREFULLY AND CHECK ONLY ONE BOX BELOW & INITIAL IN THE SPACE PROVIDED:

☐ **RENEW MY ARCHITECT LICENSE:** I hereby apply to renew my architect's license in the Commonwealth of Kentucky. Further, I hereby certify that for the current year ending, June 30, I have not been in violation of the professional practice standards in 201 KAR 19:260. To renew my Kentucky license I am hereby attaching the annual renewal fee of **\$125.00** with this renewal form. *Initial here:* _____

☐ **VOLUNTARY SURRENDER:** In accordance with the provisions of KRS 323.110 (2) I voluntarily surrender my architect's license by hereby notifying the Board in checking this block and signing in the space provided hereafter. By surrendering my license, I acknowledge and agree that I will no longer be known as an architect, and shall desist from the practice of architecture in Kentucky. I further acknowledge and agree that within five years from July 1st of this year I may restore my license without examination as long as I meet the current requirements of KRS 323 and 201 KAR 19. If five years thereafter have elapsed I will return to the status of a new applicant. *Initial here:* _____
YOU MAY NOW SKIP TO BACK PAGE, ITEM #2, TO CONTINUE COMPLETION.

☐ **REQUEST EMERITUS ARCHITECT STATUS:** I hereby request Emeritus Architect status. To obtain "Emeritus Architects" status, one must be retired from practicing in all jurisdictions, at least sixty-five years of age and agree to pay the applicable annual renewal fee. Emeritus Architects are exempt from continuing education requirements. To obtain Emeritus Architect status I am hereby attaching the annual renewal fee of **\$50.00** with this renewal form. *Initial here:* _____
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COMPLETED RENEWAL FORMS AND ACCOMPANYING FEE ARE DUE IN THE BOARD OFFICE ON OR
BEFORE JUNE 30TH, _____
(For Payment Options please contact the Board Office at BOA.IRC@ky.gov)

APPROPRIATELY AND ACCURATELY, ANSWER EACH OF THE FOLLOWING QUESTIONS:

1. CONTINUING EDUCATION CERTIFICATION: In accordance with the requirements of 201 KAR 19:087. I certify that I completed a minimum of 12 structured activities in health, safety and welfare related professional development unit activities since January 1, _____ through December 31, _____. I understand I am required to keep my continuing education records for five years and that I am subject to an audit during that period by this Board. I further understand that failure to comply may result in a civil penalty, renewal denial, suspension and/or revocation of my license.

☐ Yes ☐ No

or that

☐ Per 201 KAR 19:087 Section 3 (1) (a) I am exempt from the continuing education requirements for this renewal year because I am a first time registrant by this Board in the Commonwealth of Kentucky.

or that

☐ Per 201 KAR 19:087 Section 3 (1) (d) I am exempt as a current resident registrant of another jurisdiction, which has continuing professional development requirements and also accepts registrants meeting Kentucky's continuing professional development requirements. I certify that I have met the current professional development requirements of that jurisdiction, as follows.

Applicable Jurisdiction: _____ Registration # _____
List Applicable State Jurisdiction List the Applicable State Jurisdiction License Number

3. IN THE PAST YEAR HAVE YOU been convicted of or pleaded nolo contendere (no contest) to a felony? If your answer is YES a copy of the final judgment must be provided to the Board office attached to this renewal form.

☐ Yes ☐ No

4. IN THE PAST YEAR HAVE YOU been disciplined by any licensing board or jurisdiction? If your answer is YES provide additional documentation and/or explanation to this Board office attached to this renewal form.

☐ Yes ☐ No

5. APPLICABLE FEES:

If you checked to **RENEW MY ARCHITECT LICENSE** your fee is: **\$125.00**

If you checked to **VOLUNTARY SURRENDER** my architect license: **No Fee**

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6. CERTIFICATION(REQUIRED)

I certify that the information given by me on this form and any attachments is accurate and correct. Further, I understand what I have been asked and I have answered truthfully. I have read and am familiar with, 323 of the Kentucky Revised Statutes [Statutes] (KRS 323) and Chapter 201 of the Kentucky Administrative Regulations Chapter 19 (201 KAR19).

Signature (required) _____ Date _____

Failure to complete the form or illegible entries will deter the renewal of your license

Links to KRS 323 and 201 KAR 19 are available at the Board's website: www.boa.ky.gov or legislature.ky.gov

Telephone: (859) 246-2069

Fax: (859) 246-2431



KENTUCKY BOARD OF ARCHITECTS
LICENSE RENEWAL APPLICATION
FISCAL YEAR _____



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YOUR KY ARCHITECT LICENSE NO.: _____ LAST FOUR (4) DIGITS OF YOUR SOCIAL SECURITY #: _____

NAME: Last _____ First & Middle _____ Suffix _____

HOME ADDRESS: Street _____
City _____ State _____ ZIP _____
Home Telephone: _____ Cellular: _____

BUSINESS / FIRM NAME: _____

BUSINESS ADDRESS: Street _____
City _____ State _____ ZIP _____
Business Telephone: _____ Fax: _____
Email Address: _____

PREFERRED CONTACT LOCATION: ☐ Home ☐ Business DATE OF BIRTH: ____/____/____

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☐ Yes ☐ No

or that

☐ Per 201 KAR 19:087 Section 3 (1) (a) I am exempt from the continuing education requirements for this renewal year because I am a first time registrant by this Board in the Commonwealth of Kentucky.

or that

☐ Per 201 KAR 19:087 Section 3 (1) (d) I am exempt as a current resident registrant of another jurisdiction, which has continuing professional development requirements and also accepts registrants meeting Kentucky's continuing professional development requirements. I certify that I have met the current professional development requirements of that jurisdiction, as follows.

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☐ Yes ☐ No

4. IN THE PAST YEAR HAVE YOU been disciplined by any licensing board or jurisdiction? If your answer is YES provide additional documentation and/or explanation to this Board office attached to this renewal form.

☐ Yes ☐ No

5. APPLICABLE FEES:

If you checked to **RENEW MY ARCHITECT LICENSE** your fee is: \$125.00

If you checked to **VOLUNTARY SURRENDER** my architect license: No Fee

If you checked to **REQUEST EMERITUS ARCHITECT STATUS** your fee is: \$ 50.00

Applicable Late Fee (to be added to the appropriate above fee):

For submittals received in Board office between July 1st and July 31st - \$ 25.00

For submittals received in Board office between Aug. 1st and Aug. 30th - \$ 50.00

Make checks payable to the KENTUCKY STATE TREASURER in the amount as required, for debit and credit card payment options contact the board office at BOA.IRC@KY.GOV

6. CERTIFICATION(REQUIRED)

I certify that the information given by me on this form and any attachments is accurate and correct. Further, I understand what I have been asked and I have answered truthfully. I have read and am familiar with, 323 of the Kentucky Revised Statutes (KRS 323) and Chapter 201 of the Kentucky Administrative Regulations Chapter 19 (201 KAR19).

Signature (required) _____ Date _____

Failure to complete the form or illegible entries will deter the renewal of your license

Links to KRS 323 and 201 KAR 19 are available at the Board's website: www.boa.ky.gov or legislature.ky.gov

Telephone: (859) 246-2069

Fax: (859) 246-2431

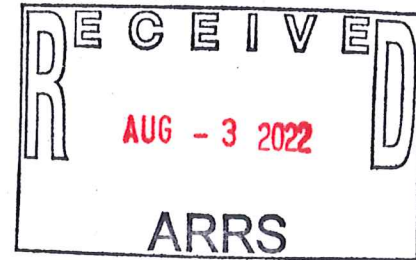
Andy Beshear
Governor



Jamie Link
Secretary, Education and
Labor Cabinet

Jason E. Glass, Ed.D.
Commissioner of Education and Chief Learner

KENTUCKY DEPARTMENT OF EDUCATION
300 Sower Boulevard • Frankfort, Kentucky 40601
Phone: (502) 564-3141 • www.education.ky.gov



July 20, 2022

Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
083, Capitol Annex
Frankfort, KY 40601

Re: **702 KAR 1:140**. Student records; hearing procedures

Dear Ms. Caudill:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 702 KAR 1:140, the Kentucky Board of Education proposes the attached amendment to 702 KAR 1:140.

Sincerely,

Todd G. Allen
General Counsel

attachment

Staff-suggested Amendment

**Final Version 7/20/2022
EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Kentucky Board of Education
Department of Education**

702 KAR 1:140. Student records; hearing procedures.

Page 1

NECESSITY, FUNCTION, AND CONFORMITY paragraph

Lines 11 and 14

After "student. KRS", insert "160.730 requires".

Delete "160.370 also mandates".

After "Privacy Act (FERPA)", insert "requires that".

Delete "mandates".

Page 2

Section 2(1)

Lines 4 and 5

After "hearing and notify the", insert "parent or eligible student".

Page 2

Section 2(6)

Lines 19 and 20

After "(6)", insert "After hearing the evidence,".

After "a determination", delete "after hearing the evidence".

Page 3

Section 3(1)

Line 1

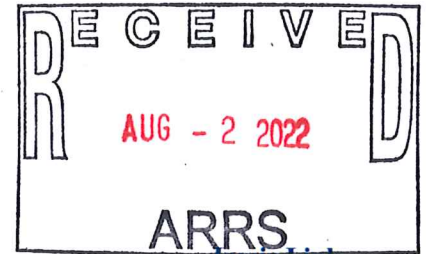
After "(1) If", insert "i".



EDUCATION AND LABOR CABINET

Andy Beshear
Governor

Office of General Counsel
Workforce Development
Legal Division
500 Mero Street, 3rd Floor
Frankfort, Kentucky 40601
(502) 564-3070



Jamie Link
Secretary

August 2, 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 1:360 (Ordinary), the Office of Unemployment Insurance proposes the attached Subcommittee Substitute to 787 KAR 1:360.

Thank you.

Oran S. McFarlan, III

Oran S. McFarlan, III
Deputy General Counsel
Kentucky Education and Labor Cabinet
500 Mero Street, 3rd Floor
Frankfort, KY 40601

TEAM
KENTUCKY

SUGGESTED SUBSTITUTE – ORDINARY ONLY

Final Version: 8/1/2022 4:58 PM

**LABOR CABINET
Office of Unemployment Insurance**

787 KAR 1:360. Overpayment waivers.

RELATES TO: KRS 341.413, 2022 Ky. Acts ch. 199, Part 1D.7.(6)[R.S. HB-1][2021 Ky. Acts ch. 16, sec.2]

STATUTORY AUTHORITY: KRS 341.115(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 341.115(1) authorizes the secretary to promulgate administrative regulations necessary or suitable for the proper administration of KRS Chapter 341. For unemployment insurance claims filed between January 27, 2020 and December 31, 2020, KRS 341.413[2021 Ky. Acts ch. 16, sec.2] authorizes the secretary to waive overpayments of unemployment insurance benefits if the secretary, upon an alleged overpayment recipient's waiver request, finds the overpayment was made without fault on the part of the recipient and [if] recovery [of] would be contrary to equity and good conscience. Notwithstanding KRS 341.413, 2022 Ky. Acts ch. 199, Part 1D.7.(6)[R.S. HB-1] authorizes the secretary to waive an overpayment of benefits for unemployment insurance claims filed between January 27, 2020 and September 6, 2021. This administrative regulation establishes definitions and procedures for waiving overpayments pursuant to KRS Chapter 341, [KRS]341.413, and 2022 Ky. Acts ch. 199, Part 1D.7.(6)[R.S. HB-1][and Ky. Acts ch. 16, sec.2].

Section 1. Definitions.

- (1) "Benefits" means "benefits" as defined by KRS 341.020(4).
- (2) "Financial hardship" means:
 - (a) An individual or that individual's immediate family has experienced at least a fifty (50) percent reduction in gross earned income or loss of employment; or
 - (b) That, as a result of the recovery of the overpayment of the benefit, the individual is unable to meet daily living expenses, including expenses for food, clothing, rent, utilities, insurance, job or job search-related transportation expenses, and medical expenses.
- (3) "Office" means the Office of Unemployment Insurance within the Kentucky Labor Cabinet.
- (4) "Office error" means:
 - (a) Errors in computing the benefit rate;
 - (b) Incorrect weekly payment due to a failure to consider a deductible amount that was properly reported by a claimant;
 - (c) Payment beyond the expiration of the benefit year;
 - (d) Payment in excess of the maximum benefit amount;
 - (e) Payment under an incorrect program;
 - (f) Retroactive notice of nonmonetary determinations, except that a determination that the claimant has committed fraud is not considered "office error";
 - (g) Monetary redeterminations;
 - (h) Payment during a period of disqualification;

- (i) Payment to a wrong claimant; or
- (j) Erroneous payments resulting from human error in the data entry process.
- (5) "Secretary" means the Secretary of the Kentucky Labor Cabinet.

Section 2. Waiver Request. An individual shall make a written request for waiver of a determined overpayment within thirty (30) days of the date of the notification that the individual has been overpaid unemployment insurance benefits.

Section 3. Waivers. Upon receipt of an alleged overpayment recipient's request for an overpayment waiver, the secretary shall issue a waiver of the alleged overpayment if the secretary determines that:

- (1) The overpayment was made pursuant to Section 4 of this administrative regulation without fault on the part of the recipient; and
- (2) Recovery would be contrary to equity and good conscience as established in Section 5 of this administrative regulation.

Section 4. No-fault Determination. For purposes of Section 3(1) of this administrative regulation, the secretary shall make a determination that the alleged overpayment was made without fault on the part of the recipient if the overpayment of benefits resulted from:

- (1) "Office error" as defined by Section 1 of this administrative regulation; or
- (2) Auto-payment of benefits.

Section 5. Equity and Good Conscience Determination. For purposes of Section 3(2) of this administrative regulation, the secretary shall make a finding that a recovery of an alleged overpayment is contrary to equity and good conscience if an individual demonstrates that:

- (1) Recovery would cause financial hardship to the person from whom it is sought;
- (2) The alleged overpayment recipient can show, regardless of the ~~[the]~~ individual's financial circumstances, that due to the notice that the payment would be made or because of the incorrect payment, the individual has relinquished a valuable right or changed positions for the worse. This may be shown if the recipient has made substantial necessary purchases related to daily living expenses, expended substantial necessary funds on daily living expenses, or failed to seek other benefits in reliance upon the receipt of benefits; or
- (3) Recovery could be unconscionable, unjust, or unfair under the circumstances.

CONTACT PERSON: Oran McFarlan, Staff Attorney, 500 Mero Street, 4th Floor, Frankfort, Kentucky 40601, phone 502-564-1490, email oran.mcfarlan@ky.gov.



PUBLIC PROTECTION CABINET

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

Andy Beshear
GOVERNOR

Jacqueline Coleman
LIEUTENANT GOVERNOR



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Jamie Eads
INTERIM EXECUTIVE DIRECTOR

Jonathan Rabinowitz
CHAIRMAN

August 8, 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 8:010:** Medication; testing procedures; prohibited practices.
810 KAR 9:010: Hearings, reviews, and appeals.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 810 KAR 8:010 and 810 KAR 9:010, the Kentucky Horse Racing Commission proposes the attached amendments to 810 KAR 8:010 and 810 KAR 9:010

Sincerely,

Jennifer Wolsing, General Counsel
Kentucky Horse Racing Commission

8/8/22

SUGGESTED SUBSTITUTE

PUBLIC PROTECTION CABINET Kentucky Horse Racing Commission

810 KAR 8:010. Medication; testing procedures; prohibited practices.

RELATES TO: KRS 230.215, 230.225, 230.240, 230.260, 230.265, 230.290, 230.320, 230.370

STATUTORY AUTHORITY: KRS 230.215(2), 230.225, 230.240(2), 230.260(8), 230.320, 230.370

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2), 230.260(8), and 230.320 authorize the Kentucky Horse Racing Commission to promulgate administrative regulations prescribing conditions under which all legitimate horse racing and wagering thereon is conducted in Kentucky. KRS 230.240(2) requires the commission to promulgate administrative regulations restricting or prohibiting the administration of drugs or stimulants or other improper acts to horses prior to the horse participating in a race. This administrative regulation establishes requirements and controls in the administration of drugs, medications, and substances to horses, governs certain prohibited practices, and establishes trainer responsibilities relating to the health and fitness of horses.

Section 1. Definitions.

- (1) "AAS" or "anabolic steroid" means an anabolic androgenic steroid.
- (2) "Administer" means to apply to or cause the introduction of a substance into the body of a horse.
- (3) "Commission laboratory" means a laboratory chosen by the commission to test biologic specimens from horses taken under the supervision of the commission veterinarian.
- (4) "Location under the jurisdiction of the commission" means a licensed race track or a training center as described in KRS 230.260(5).
- (5) "Positive finding" means the commission laboratory has conducted testing and determined that a drug, medication, or substance, the use of which is restricted or prohibited by this administrative regulation, 810 KAR 8:020, 810 KAR 8:025, or 810 KAR 8:040, was present in the sample.
 - (a) For the drugs, medications, or substances listed in this administrative regulation, 810 KAR 8:020, or 810 KAR 8:025, for which an established concentration level is provided, it shall be necessary to have a finding in excess of the established concentration level as provided for the finding to be considered a positive finding.
 - (b) Positive finding also includes:
 1. Substances present in the horse in excess of concentrations at which the substances could occur naturally; and
 2. Substances foreign to a horse that cause interference with testing procedures.
- (6) "Primary sample" means the primary sample portion of the biologic specimen taken under the supervision of the commission veterinarian to be tested by the commission laboratory.
- (7) "Split sample" means the split sample portion of the biologic specimen taken under the supervision of the commission veterinarian to be tested by the split sample laboratory.
- (8) "Split sample laboratory" means the laboratory approved by the commission to test the split sample portion of the biologic specimen from horses taken under the supervision of the commission veterinarian.
- (9) "Test barn" means a fenced enclosure sufficient in size and facilities to accommodate the stabling of horses temporarily detained for obtaining biologic specimens for testing.

Section 2. Use of Medication.

- (1) Therapeutic measures and medication necessary to improve or protect the health of a horse shall be administered to a horse in training under the direction of a licensed veterinarian.

(2) Except as expressly permitted in 810 KAR Chapter 8, while participating in a race (betting or non-betting), qualifying race, or time trial, it shall be a violation for a horse to carry in its body any drug, medication, substance, or metabolic derivative, that:

(a) Is foreign to the horse; or

(b) Might mask the presence of a prohibited drug, or obstruct testing procedures.

(3) It shall be a violation for therapeutic medications to be present in excess of established threshold concentrations established in this administrative regulation, 810 KAR 8:020, or in 810 KAR 8:025. The thresholds for permitted NSAIDs are established in Section 8 of this administrative regulation.

(4) Except as provided by paragraphs (a), (b), and (c) of this subsection, it shall be a violation for a substance to be present in a horse in excess of a concentration at which the substance could occur naturally. It shall be the responsibility of the commission to prove that the substance was in excess of normal concentration levels.

(a) Gamma amino butyric acid shall not be present in a concentration greater than 110 nanograms per milliliter in serum or plasma.

(b) Cobalt shall not be present in a concentration greater than twenty-five (25) parts per billion in serum or plasma.

(c) Free prednisolone shall not be present in a concentration greater than ten (10) nanograms per milliliter in urine.

(5) It shall be prima facie evidence that a horse was administered and carried, while running in a race (betting or non-betting), qualifying race, or time trial, a drug, medication, substance, or metabolic derivative thereof prohibited by this section if:

(a) A biologic specimen from the horse was taken under the supervision of the commission veterinarian promptly after a horse ran in a race (betting or non-betting), qualifying race, or time trial; and

(b) The commission laboratory presents to the commission a report of a positive finding.

(6) The commission shall utilize the Kentucky Horse Racing Commission Uniform Drug, Medication, and Substance Classification Schedule as provided in 810 KAR 8:020, for classification of drugs, medications, and substances violating this administrative regulation. Penalties for violations of this administrative regulation shall be implemented in accordance with 810 KAR 8:030.

Section 3. Treatment Restrictions.

(1) Except as provided in Section 4 of this administrative regulation, only a veterinarian licensed to practice veterinary medicine in Kentucky and licensed by the commission shall administer by injection a prescription or controlled drug, medication, or other substance to a horse at a location under the jurisdiction of the commission.

(2) The only injectable substance allowed within twenty-four (24) hours prior to post time of the race in which the horse is entered shall be furosemide, as established in Section 6 of this administrative regulation.

(3) Except as provided by subsection (5) of this section, only a veterinarian licensed to practice veterinary medicine in Kentucky and licensed by the commission may possess a hypodermic needle, syringe, or injectable of any kind at a location under the jurisdiction of the commission.

(4) A veterinarian licensed to practice veterinary medicine in Kentucky and licensed by the commission shall use only single-use disposable needles and syringes, and shall dispose of them in a container approved by the commission veterinarian.

(5) If a person regulated by the commission has a medical condition that makes it necessary to possess a needle and syringe at a location under the jurisdiction of the commission, the person shall request prior permission from the stewards or judges and furnish a letter from a licensed physician explaining why it is necessary for the person to possess a needle and syringe. The stewards or judges may grant approval for a person to possess and use a needle and syringe at a location under the jurisdiction of the commission, but may also establish necessary restrictions and limitations.

(6) A commission employee may accompany a veterinarian at a location under the jurisdiction of the commission and take possession of a syringe, needle, or other device used to administer a substance to a horse.

(7) Electronic therapeutic treatments, other than nebulization, shall not be administered to a horse within twenty-four (24) hours prior to post time of a race in which the horse is entered.

Section 4. Certain Permitted Substances. Liniments, antiseptics, antibiotics, ointments, leg paints, washes, and other products commonly used in the daily care of horses may be administered by a person, other than a licensed veterinarian if:

- (1) The treatment does not include any drug, medication, or substance otherwise prohibited by this administrative regulation;
- (2) The treatment is not injected; and
- (3) The person is acting under the direction of a licensed trainer or veterinarian licensed to practice veterinary medicine in Kentucky and licensed by the commission.

Section 5. Anti-ulcer Medications. The following anti-ulcer medications may be administered orally, at the dosage stated in this section, up to twenty-four (24) hours prior to post time of the race in which the horse is entered:

- (1) Cimetidine (Tagamet): eight (8) to twenty (20) milligrams per kilogram;
- (2) Omeprazole (Gastrogard): two and two-tenths (2.2) grams;
- (3) Ranitidine (Zantac): eight (8) milligrams per kilogram; and
- (4) Sucralfate: two (2) to four (4) grams.

Section 6. Furosemide Use on Race Day.

- (1) Furosemide may be administered, in accordance with this section, to a horse that is entered to compete in a race, qualifying race, or time trial, except as provided in subsection (6) of this section.
- (2) Furosemide shall only be administered prior to a race, qualifying race, or time trial by:
 - (a) The commission veterinarian; or
 - (b) A licensed veterinarian approved by the commission to perform the administration if the commission veterinarian is unavailable. If the furosemide is administered by an approved licensed veterinarian, the administering veterinarian shall provide a written report to the commission veterinarian no later than two (2) hours prior to post time of the race in which the horse receiving the furosemide is competing.
- (3) Except as provided in subsection (6) of this section, furosemide may be used if administered:
 - (a) At a location under the jurisdiction of the commission where the horse is scheduled to race;
 - (b) By a single intravenous injection, not less than four (4) hours prior to post time for the race, qualifying race, or time trial in which the horse is entered; and
 - (c) In a dosage not less than 150 milligrams and not more than 500 milligrams.
- (4) The specific gravity of a post-race urine sample shall not be below one and one one-hundredths (1.010). If the specific gravity of the post-race urine sample is determined to be below one and one one-hundredths (1.010), a quantification of furosemide in serum or plasma shall be performed by the commission laboratory. If a horse fails to produce a urine specimen, the commission laboratory shall perform a quantification of furosemide in the serum or plasma sample. Concentrations above 100 nanograms of furosemide per milliliter of serum or plasma shall constitute a violation of this section.
- (5) The initial cost of administering the furosemide shall be twenty (20) dollars per administration. The commission shall monitor the costs associated with administering furosemide and consult with industry representatives to determine if the cost should be lowered based on prevailing veterinarian services and supplies. The commission shall maintain records documenting the basis for its determination, and if the cost is determined to be less than twenty (20) dollars per administration, then the commission shall lower the cost accordingly. The cost shall be prominently posted in the racing office.
- (6)
 - (a) A two (2) year old or stakes horse shall not be administered any drug, medication or other substance, including furosemide, within twenty-four (24) hours of the post time of the race in which the horse is entered. Participation by the horse shall not affect the status of the participating horse on the official authorized bleeder medication list.

(b) The implementation and enforcement of the prohibition in paragraph (a) of this subsection shall begin on:

1. January 1, 2020 for all two (2) year olds; and

2. January 1, 2021 for all horses entered to run in a stakes race; including the races comprising the Breeders' Cup World Championships and the races designated as graded stakes by the American Graded Stakes Committee of the Thoroughbred Owners and Breeders Association.

(c) A concentration of furosemide greater than one and zero-tenths (1.0) nanograms per milliliter in serum in a post-race sample shall constitute a violation of this administrative regulation.

Section 7. Furosemide Eligibility.

(1)

(a) Except as provided in Section 6(6) of this administrative regulation, a horse shall be eligible to race with furosemide if the licensed trainer or a licensed veterinarian determines that it would be in the horse's best interests to race with furosemide. Notice that a horse eligible to receive furosemide will race with or without furosemide shall be made at the time of entry to ensure public notification, including publication in the official racing program.

(b) It shall constitute a violation of this administrative regulation if notice is made pursuant to this section that a horse will race with furosemide, and the post-race urine, serum, or plasma does not show a detectable concentration of furosemide in the post-race urine, serum, or plasma.

(2) After a horse has been determined to no longer be required to receive furosemide, the horse shall not be eligible to receive furosemide unless the licensed trainer or a licensed veterinarian determines that it would be in the horse's best interest to race with furosemide and the licensed trainer or a licensed veterinarian complies with the requirements of this section.

Section 8. Permitted Non-steroidal Anti-inflammatory Drugs (NSAIDs).

(1) NSAIDs shall not be administered within forty-eight (48) hours prior to post time for the race in which the horse is entered. The detection in a post-race sample of blood of a detectable concentration of an NSAID, except as allowed by subsection (2) of this section, shall constitute a violation of this administrative regulation. The detection in a post-race sample of blood of more than one (1) of phenylbutazone, flunixin, and ketoprofen in excess of the concentrations permitted by subsection (2) of this section shall constitute a violation of this administrative regulation.

(2)

(a) A finding of phenylbutazone below a concentration of three-tenths (0.3) microgram per milliliter of serum or plasma shall not constitute a violation of this section.

(b) A finding of flunixin below a concentration of five (5) nanograms per milliliter of serum or plasma shall not constitute a violation of this section.

(c) A finding of ketoprofen below a concentration of two (2) nanograms per milliliter of serum or plasma shall not constitute a violation of this section.

Section 9. Anabolic Steroids.

(1) An exogenous AAS shall not be present in a horse that is racing. The detection of an exogenous AAS or metabolic derivative in a post-race sample shall constitute a violation of this administrative regulation.

(2) The detection in a post-race sample of an endogenous AAS or metabolic derivative where the concentration of the AAS or metabolic derivative exceeds naturally occurring physiological levels shall constitute a violation of this administrative regulation. The following shall be deemed to be naturally occurring physiological levels:

(a) Boldenone:

1. In male horses other than geldings, free and conjugated boldenone fifteen (15) nanograms per milliliter in urine or free boldenone twenty-five (25) picograms per milliliter in serum or plasma; and

2. In geldings and female horses, free and conjugated boldenone one (1) nanogram per milliliter in urine or free boldenone twenty-five (25) picograms per milliliter in serum or plasma.

(b) Nandrolone:

1. In geldings, free and conjugated nandrolone one (1) nanogram per milliliter in urine or free nandrolone twenty-five (25) picograms per milliliter in serum or plasma;
2. In fillies and mares, free and conjugated nandrolone one (1) nanogram per milliliter in urine or free nandrolone twenty-five (25) picograms per milliliter in serum or plasma; and
3. In male horses other than geldings, forty-five (45) nanograms per milliliter of metabolite, 5 α -estrane-313, 17 α -diol in urine or a ratio in urine of 5 α -estrane-313, 17 α -diol to 5 α -estrane-313, 17 α -diol of >1:1.

(c) Testosterone:

1. In geldings, free and conjugated testosterone twenty (20) nanograms per milliliter in urine or free testosterone one hundred (100) picograms per milliliter in serum or plasma; and
 2. In fillies and mares (unless in foal), free and conjugated testosterone fifty-five (55) nanograms per milliliter in urine or free testosterone one hundred (100) picograms per milliliter in serum or plasma.
- (3) The gender of the horse from which a post-race biologic specimen is collected shall be identified to the commission veterinarian and the testing laboratory.

Section 10. Clenbuterol.

- (1) Clenbuterol use shall be prohibited in racing and training unless the conditions established by this subsection are met.
- (a) The prescription for clenbuterol shall be made for a specific horse based upon a specific diagnosis.
 - (b) The veterinarian shall provide a copy of the treatment sheet to the Equine Medical Director or his or her designee for review within twenty-four (24) hours of any administration of clenbuterol.
 - (c) A horse administered clenbuterol shall be placed on the veterinarian's list for a minimum of twenty-one (21) days after the date of last administration. The horse shall meet all conditions for removal from the list, including blood and urine sampling taken after the twenty-one (21) day period. Both samples shall have no detectable clenbuterol.
- (2) A horse shall not be eligible to race until it has completed all the requirements in subsection (1)(c) of this section.
- (3) If clenbuterol is detected in a horse's post-race or out of competition sample and appropriate notification as established in subsection (1)(b) of this section was not completed, the horse shall immediately be placed on the veterinarian's list pending the outcome of an investigation. The horse shall be required to meet all conditions for removal from the veterinarian's list as established in subsection (1)(c) of this section.

Section 11. Test Barn.

- (1) A licensed association shall provide and maintain a test barn on association grounds.
- (2) The test barn shall be a fenced enclosure sufficient:
 - (a) In size and facilities to accommodate the stabling of horses temporarily detained for the taking of biologic specimens; and
 - (b) In structural design to prevent entry by unauthorized persons.
- (3) The test barn shall be under the supervision and control of the Chief Racing Veterinarian or his or her designee, and no access to individuals other than commission personnel shall be permitted unless with the permission of the Chief Racing Veterinarian or his or her designee. If association personnel require immediate access to the test barn due to fire or other emergency, the association shall report the access to commission officials as soon as possible after the emergency.

Section 12. Sample Collection, Testing and Reporting.

- (1) Sample collection shall be done in accordance with the procedures provided in this administrative regulation, 810 KAR 8:060, and under the instructions provided by the commission veterinarian.
- (2) The commission veterinarian, in consultation with the commission laboratory shall determine a minimum sample requirement which shall be uniform for each horse and which shall be separated into primary and split samples.
- ~~[(3)] [An owner or trainer may request that a split sample be tested by a split sample laboratory approved by the commission.]~~

~~[(4)] [The cost of testing under subsection (3) of this section, including shipping, shall be borne by the owner or trainer requesting the test.]~~

~~(3) [(5)]~~

(a) Stable equipment other than that necessary for washing and cooling out a horse shall not be permitted in the test barn.

(b) Buckets and water shall be furnished by the commission veterinarian.

(c) If a body brace is to be used on a horse, it shall:

1. Be supplied by the trainer; and

2. Applied only with the permission and in the presence of the commission veterinarian or his designee.

(d) A licensed veterinarian may attend to a horse in the test barn only with the permission of and in the presence of the commission veterinarian or his designee.

~~(4) [(6)]~~ Within five (5) business days of receipt of notification by the commission laboratory of a positive finding, the stewards and judges shall notify the owner and trainer orally or in writing of the positive finding.

~~(5) [(7)]~~ The stewards or judges shall conduct a hearing pursuant to 810 KAR 9:010~~[as soon as possible]~~ after the conclusion of an investigation of a positive finding. A person charged with a violation may request a continuance, which the stewards or the judges may grant as set forth in 810 KAR 9:010~~[for good cause shown]~~.

Section 13. Storage and Shipment of Split Samples.

(1) Split samples shall be secured and made available for further testing in accordance with the procedures established in this subsection.

(a) Split samples shall be secured in the test barn in the same manner as the primary samples for shipment to the commission laboratory, as established in Section 12 of this administrative regulation, until the primary samples are packed and secured for shipment to the commission laboratory. Split samples shall then be transferred to a freezer or refrigerator at a secure location approved and chosen by the commission.

(b) A freezer or refrigerator for storage of split samples shall be equipped with a lock. The lock shall be secured to prevent access to the freezer or refrigerator at all times except as specifically provided by paragraph (c) of this subsection.

(c) A freezer or refrigerator for storage of split samples shall be opened only for depositing or removing split samples, for inventory, or for checking the condition of samples.

(d) A log shall be maintained by the commission veterinarian that shall be used each time a split sample freezer or refrigerator is opened to specify each person in attendance, the purpose for opening the freezer or refrigerator, identification of split samples deposited or removed, the date and time the freezer or refrigerator was opened, the time the freezer or refrigerator was closed, and verification that the lock was secured prior to and after opening of the freezer or refrigerator. A commission veterinarian or his designee shall be present when the freezer or refrigerator is opened.

(e) Evidence of a malfunction of a split sample freezer or refrigerator shall be documented in the log.

(f) The commission shall be considered the owner of a split sample.

(2)

(a) A trainer or owner of a horse receiving notice of a positive finding may request that a split sample corresponding to the portion of the sample tested by the commission laboratory be sent to the split sample laboratory. The party requesting the split sample shall select a laboratory solicited and approved by the commission to perform the analysis.

(b) The request shall be made in writing and delivered to the stewards or judges within three (3) business days after the trainer or owner of the horse receives oral or written notice of the positive finding by the commission laboratory.

(c) The party requesting the split sample shall select a laboratory solicited and approved by the commission to perform the analysis within five (5) days after he or she is notified of the split sample laboratories available to test the split sample. If a trainer or owner does not select a laboratory within

five (5) days after notification of the available split laboratories, then he or she shall be deemed to have waived the right to split sample analysis.

(d) A split sample so requested shall be shipped within seven (7) days of the date that the trainer or owner provides his or her laboratory selection to the stewards[as expeditiously as possible].

(3)

(a) The owner or trainer requesting testing of a split sample shall be responsible for the cost of the testing, including the cost of shipping.

(b) Failure of the owner, trainer, or a designee to appear at the time and place designated by the commission veterinarian in connection with securing, maintaining, or shipping the split sample shall constitute a waiver of any right to be present during the packaging and shipping of the split sample[split sample testing procedures].

(c) Prior to shipment of the split sample, the commission shall confirm:

1. That the split sample laboratory has agreed to provide the testing requested;
2. That the split sample laboratory has agreed to send results to the commission; and
3. That arrangements for payment satisfactory to the split sample laboratory have been made.

Section 14. Split Sample Chain of Custody.

(1) Prior to opening the split sample freezer or refrigerator, the commission shall provide a split sample chain of custody verification form. The form to be used shall be the Split Sample Chain of Custody Form. The form shall be fully completed during the retrieval, packaging, and shipment of the split sample and shall contain the following information:

- (a) The date and time the sample is removed from the split sample freezer or refrigerator;
- (b) The sample number; and
- (c) The address where the split sample is to be sent.

(2) A split sample shall be removed from the split sample freezer or refrigerator by a commission employee after notice to the owner, trainer, or designee thereof and a commission-designated representative shall pack the split sample for shipment in accordance with the packaging procedures directed by the commission. The Split Sample Chain of Custody Form shall be signed by both the owner's representative, if present, and the commission representative to confirm the proper packaging of the split sample for shipment. The exterior of the package shall be secured and sealed to prevent tampering with the package.

(3) The owner, trainer, or designee, if present, may inspect the package containing the split sample immediately prior to transfer to the delivery carrier to verify that the package is intact and has not been tampered with.

(4) The Split Sample Chain of Custody Form shall be completed and signed by the representative of the commission and the owner, trainer, or designee, if present.

(5) The commission representative shall retain the original Split Sample Chain of Custody Form and provide a copy to the owner, trainer, or designee, if requested.

Section 15. Medical Labeling.

(1) A drug or medication that, by federal or state law, requires a prescription shall not be used or kept on association grounds unless validly prescribed by a duly licensed veterinarian.

(2) A drug or medication shall bear a prescription label that is securely attached and clearly ascribed to show the following:

- (a) The name of the product;
- (b) The name, address, and telephone number of the veterinarian prescribing or dispensing the product;
- (c) The name of the horse for which the product is intended or prescribed;
- (d) The dosage, duration of treatment, and expiration date of the prescribed or dispensed product; and
- (e) The name of the trainer to whom the product was dispensed.

Section 16. Trainer Responsibility.

- (1) In the absence of substantial evidence to the contrary, a trainer shall be responsible for the condition of a horse in his or her care.
- (2) In the absence of substantial evidence to the contrary, a trainer shall be responsible for the presence of a prohibited drug, medication, substance, or metabolic derivative, including permitted medication in excess of the maximum allowable concentration, in a horse in his or her care.
- (3) A trainer shall prevent the administration of a drug, medication, substance, or metabolic derivative that may constitute a violation of this administrative regulation.
- (4) A trainer whose horse has been claimed shall remain responsible for a violation of this administrative regulation regarding that horse's participation in the race in which the horse is claimed.
- (5) A trainer shall be responsible for:
 - (a) Maintaining the assigned stable area in a clean, neat, and sanitary condition at all times;
 - (b) Using the services of those veterinarians licensed by the commission to attend to horses that are on association grounds;
 - (c) The proper identity, custody, care, health, condition, and safety of horses in his or her care;
 - (d) Promptly reporting the alteration of the sex of a horse to the horse identifier and the racing secretary;
 - (e) Promptly reporting to the racing secretary and the commission veterinarian if a posterior digital neurectomy (heel nerving) is performed on a horse in his or her care and ensuring this fact is designated on its certificate of registration;
 - (f) Promptly reporting to the racing secretary the name of a mare in his or her care that has been bred and is entered to race;
 - (g) Promptly notifying the commission veterinarian of a reportable disease or communicable illness in a horse in his or her care;
 - (h) Promptly reporting the serious injury or death of a horse in his or her care at a location under the jurisdiction of the commission to the stewards or judges and the commission veterinarian and ensuring compliance with Section 23 of this administrative regulation and 810 KAR 4:010, Section 14, governing postmortem examinations;
 - (i) Complying with the medication and recordkeeping requirements in subsection (6) of this section;
 - (j) Promptly notifying the stewards or judges and the commission veterinarian if the trainer has knowledge or reason to believe that there has been an administration to a horse of a drug, medication, or other substance prohibited by this administrative regulation or has knowledge or reason to believe that a prohibited practice has occurred as established in Section 21 of this administrative regulation;
 - (k) Ensuring the fitness of every horse in his or her care to perform creditably at the distance entered;
 - (l) Ensuring that every horse he or she has entered to race is present at its assigned stall for a pre-race soundness inspection as prescribed by 810 KAR 2:010, Section 4(1)(~~k~~)(~~h~~);
 - (m) Ensuring proper bandages, equipment, and shoes;
 - (n) Ensuring the horse's presence in the paddock at the time prescribed by racing officials before the race in which the horse is entered;
 - (o) Personally attending in the paddock and supervising the saddling or preparation of a horse in his or her care, unless an assistant trainer fulfills these duties or the trainer is excused by the judges or stewards pursuant to 810 KAR 4:100, Section 3(2)(f); and
 - (p) Attending the collection of a biologic specimen taken from a horse in his or her care or delegating a licensed employee or the owner to do so.
- (6)
 - (a) A trainer shall maintain a clear and accurate record of any treatment administered to a horse in his or her care.
 - (b) A trainer shall ensure the transfer of copies of all medical records to the subsequent owner and trainer of a horse.
 - (c) Failure to comply with this subsection may result in the imposition of penalties pursuant to 810 KAR 8:030.
 - (d) The stewards and judges may at any time require presentation of a horse's medical records.

Section 17. Licensed Veterinarians.

- (1) A veterinarian licensed by the commission and practicing at a location under the jurisdiction of the commission shall be considered under the supervision of the commission veterinarian and the stewards or judges.
- (2) A veterinarian shall report to the stewards, judges or the commission veterinarian a violation of this administrative regulation by a licensee.

Section 18. Veterinary Reports.

- (1) A veterinarian who treats a horse at a location under the jurisdiction of the commission shall submit a Veterinary Report of Horses Treated to be Submitted Daily form to the commission veterinarian containing the following information:
 - (a) The name of the horse treated;
 - (b) The type and dosage of drug or medication administered or prescribed;
 - (c) The name of the trainer of the horse;
 - (d) The date and time of treatment; and
 - (e) Other pertinent treatment information requested by the commission veterinarian.
- (2) The Veterinary Report of Horses Treated to be Submitted Daily form shall be signed by the treating practicing veterinarian.
- (3) The Veterinary Report of Horses Treated to be Submitted Daily form shall be on file not later than the time prescribed on the next race day by the commission veterinarian.
- (4) The Veterinary Report of Horses Treated to be Submitted Daily form shall be confidential, and its content shall not be disclosed except in the course of an investigation of a possible violation of this administrative regulation or in a proceeding before the stewards, judges or the commission, or to the trainer or owner of record at the time of treatment.
- (5) A timely and accurate filing of a Veterinary Report of Horses Treated to be Submitted Daily form by the veterinarian or his designee that is consistent with the analytical results of a positive test reported by the commission laboratory may be used as a mitigating factor in determining the appropriate penalties pursuant to 810 KAR 8:030.
- (6) A veterinarian having knowledge or reason to believe that a horse entered in a race has received a drug, medication, or substance prohibited under this administrative regulation or has knowledge or reason to believe that a prohibited practice has occurred as established in Section 21 of this administrative regulation shall report this fact immediately to the commission veterinarian or to the stewards or judges.
- (7) A practicing veterinarian shall maintain records of all horses treated and of all medications sold or dispensed. The records shall include:
 - (a) The name of the horse;
 - (b) The trainer of the horse;
 - (c) The date, time, amount, and type of medication administered;
 - (d) The drug or compound administered;
 - (e) The method of administration; and
 - (f) The diagnosis.
- (8) The records shall be retained for at least sixty (60) days after the horse has raced and shall be available for inspection by the commission.

Section 19. Veterinarian's List.

- (1) The commission veterinarian shall maintain a list of horses determined to be unfit to compete in a race due to illness, physical distress, unsoundness, infirmity, or other medical condition.
- (2) A horse may be removed from the veterinarian's list when, in the opinion of the commission veterinarian, the horse is capable of competing in a race.
- (3) The commission shall maintain a bleeder list of all horses that have demonstrated external evidence of exercise-induced pulmonary hemorrhage during or after a race or workout as observed by the commission veterinarian.

(4) Every horse that is a confirmed bleeder, regardless of age, shall be placed on the bleeder list and be ineligible to participate in a race (betting or non-betting), qualifying race, time trial, or for the following time periods:

- (a) First incident - fourteen (14) days;
- (b) Second incident within a 365-day period - thirty (30) days;
- (c) Third incident within a 365-day period - 180 days; and
- (d) Fourth incident within a 365-day period - barred from racing for life.

(5) For the purpose of counting the number of days a horse is ineligible to run, the day after the horse bled externally shall be the first day of the recovery period.

(6) The voluntary administration of furosemide without an external bleeding incident shall not subject a horse to the initial period of ineligibility as established in this section.

Section 20. Distribution of Purses, Barn Searches, and Retention of Samples.

(1) For all races, purse money in thoroughbred and other flat racing shall be paid or distributed pursuant to the process provided in 810 KAR 2:070, Section 27(3), and in standardbred racing, no later than twenty-four (24) hours after notice from the commission that a final laboratory report has been issued.

(2) The distribution of purse money prior to the issuance of a final laboratory report shall not be considered a finding that no prohibited drug, medication, substance, or metabolic derivative has been administered to a horse.

(3) After the commission laboratory issues a positive finding the executive director of the commission or the stewards or judges may authorize and execute an investigation into the circumstances surrounding the incident that is the subject of the positive finding.

(4) If the purse money has been distributed, the stewards or judges shall order the money returned immediately to the association upon notification from the commission laboratory that a prohibited drug, medication, substance, or metabolic derivative was administered to a horse eligible for purse money.

(5) At the conclusion of testing by the commission laboratory and split sample laboratory, the remaining portion of the samples at the commission laboratory and split samples remaining at the test barn may be retained at a proper temperature at a secure facility approved and chosen by the commission. If a report indicating a positive finding has been issued, the commission shall use its best reasonable efforts to retain any remaining portion of the sample until legal proceedings have concluded. The commission may freeze samples.

Section 21. Other Prohibited Practices Constituting a Violation of this Administrative Regulation.

(1) A drug, medication, substance, or device shall not be possessed or used by a licensee, or his designee or agent, within a nonpublic area at a location under the jurisdiction of the commission:

- (a) The use of which may endanger the health and welfare of the horse; or
- (b) The use of which may endanger the safety of the rider or driver.

(2) Without the prior permission of the commission or its designee, a drug, medication, or substance that has never been approved by the United States Food and Drug Administration (USFDA) for use in humans or animals shall not be possessed or used at a location under the jurisdiction of the commission. The commission shall determine whether to grant prior permission after consultation with the Equine Drug Research Council.

(3) The following blood-doping agents shall not be possessed or used at a location under the jurisdiction of the commission:

- (a) Erythropoietin;
- (b) Darbepoietin;
- (c) Oxyglobin;
- (d) Hemopure; or
- (e) Any substance that abnormally enhances the oxygenation of body tissue.

(4) A treatment, procedure, or therapy shall not be practiced, administered, or applied that may:

- (a) Endanger the health or welfare of a horse; or
- (b) Endanger the safety of a rider or driver.

- (5) Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy shall not be used unless the conditions established in this subsection are met.
- (a) A treated horse shall not race for a minimum of ten (10) days following treatment.
 - (b) A veterinarian licensed to practice by the commission shall administer the treatment.
 - (c) The commission veterinarian shall be notified prior to the delivery of the machine on association grounds.
 - (d) Prior to administering the treatment, a report shall be submitted by the veterinarian administering the treatment to the commission veterinarian on the Veterinary Report of Horses Treated with Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy.
- (6) Other than furosemide, an alkalizing substance that could alter the serum or plasma pH or concentration of bicarbonates or carbon dioxide in a horse shall not be used within twenty-four (24) hours prior to post time of the race in which the horse is entered.
- (7) Without the prior permission of the commission veterinarian or his designee, based on standard veterinary practice for recognized conditions, a nasogastric tube which is longer than six (6) inches shall not be used for the administration of any substance within twenty-four (24) hours prior to post time of the race in which the horse is entered.
- (8) A serum or plasma total carbon dioxide (TCO₂) level shall not exceed thirty-seven (37.0) millimoles per liter; except, a violation shall not exist if the TCO₂ level is found to be normal for the horse following the quarantine procedure established in Section 22 of this administrative regulation.
- (9) A blood gas machine shall not be possessed or used by a person other than an authorized representative of the commission at a location under the jurisdiction of the commission.
- (10) A shock wave therapy machine or radial pulse wave therapy machine shall not be possessed or used by anyone other than a veterinarian licensed by the commission at a location under the jurisdiction of the commission.

Section 22. TCO₂ Testing and Procedures.

- (1)
- (a) The stewards, judges, or commission veterinarian may order the pre-race or post-race collection of blood specimens from a horse to determine the total carbon dioxide concentration in the serum or plasma of the horse. The winning horse and other horses, as selected by the stewards or judges, may be tested in each race to determine if there has been a violation of this administrative regulation.
 - (b) Pre-race sampling shall be done at a reasonable time, place, and manner directed by the chief state steward in consultation with the commission veterinarian.
 - (c) A specimen consisting of at least two (2) blood tubes shall be taken from a horse to determine the TCO₂ concentration in the serum or plasma of the horse. If the commission laboratory determines that the TCO₂ level exceeds thirty-seven (37.0) millimoles per liter plus the laboratory's measurement of uncertainty, the executive director of the commission shall be informed of the positive finding.
 - (d) Split sample testing for TCO₂ may be requested by an owner or trainer in advance of the collection of the specimen by the commission veterinarian; however, the collection and testing of a split sample for TCO₂ testing shall be done at a reasonable time, place, and manner directed by the commission veterinarian.
 - (e) The cost of split sample testing, including the cost of shipping, shall be borne by the owner or the trainer.
- (2)
- (a) If the level of TCO₂ is determined to exceed thirty-seven (37.0) millimoles per liter plus the laboratory's measurement of uncertainty and the licensed owner or trainer of the horse certifies in writing to the stewards or judges within twenty-four (24) hours after the notification of the test result that the level is normal for that horse, the owner or trainer may request that the horse be held in quarantine. If quarantine is requested, the licensed association shall make guarded quarantine available for that horse for a period of time to be determined by the steward or judges, but in no event for more than seventy-two (72) hours.
 - (b) The expense for maintaining the quarantine shall be borne by the owner or trainer.
 - (c) During quarantine, the horse shall be retested periodically by the commission veterinarian.

(d) The horse shall not be permitted to race during a quarantine period, but it may be exercised and trained at times prescribed by the licensed association and in a manner that allows monitoring of the horse by a commission representative.

(e) During quarantine, the horse shall be fed only hay, oats, and water.

(f) If the commission veterinarian is satisfied that the horse's level of TCO₂, as registered in the original test, is physiologically normal for that horse, the stewards or judges:

1. Shall permit the horse to race; and

2. May require repetition of the quarantine procedure established in paragraphs (a) through (f) of this subsection to reestablish that the horse's TCO₂ level is physiologically normal.

Section 23. Postmortem Examination.

(1) A horse that dies or is euthanized on the grounds of a licensed association or training center under the jurisdiction of the commission shall undergo a postmortem examination at the discretion of the commission and at a facility designated by the commission, through its designee, as provided in 810 KAR 4:010, Section 14.

(2) The commission shall bear the cost of an autopsy that is required by the commission.

(3) The presence of a prohibited drug, medication, substance, or metabolic derivative thereof in a specimen collected during the postmortem examination of a horse may constitute a violation of this administrative regulation.

Section 24. Corticosteroids.

(1) A corticosteroid shall not be administered intra-articularly within fourteen (14) days before post time for the race in which the horse is entered.

(2) The presence of a detectable concentration of more than one (1) corticosteroid in a post-race sample of blood, urine, or any combination of blood and urine shall constitute a violation of this section.

Section 25. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Veterinary Report of Horses Treated to be Submitted Daily", KHRC 8-010-1, 11/2018;

(b) "Split Sample Chain of Custody Form", KHRC 8-010-2, **2016[11/2018]**; and

(c) "Veterinary Report of Horses Treated with Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy", KHRC 8-010-3, 11/2018.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, Monday through Friday, 8:00 a.m. to 4:30 p.m. This material is also available on the commission's Web site at https://khrc.ky.gov/new_docs.aspx?cat=32.

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

Kentucky Horse Racing Commission

4063 Iron Works Parkway, Bldg. B

Lexington, KY 40511

859-246-2040

Sample Number: _____

Date Collected: _____

Racetrack Collected: _____

The above sample was maintained in a _____ condition, at

The primary sample was reported to contain the following:

The split sample will be analyzed by: _____

The split sample was shipped in container identified as _____

With security seal number _____

With invoice number _____ on _____ (date)

KHRC Representative: _____ Signature: _____

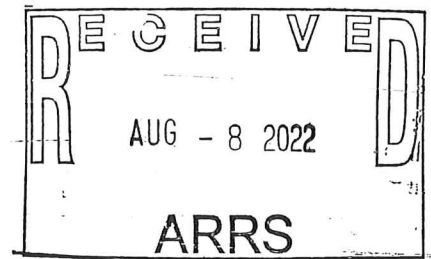
KHRC Title: _____

Date: _____

Trainer or Representative: _____ Signature: _____

Witness, if present: _____
(signature)

Date: _____



Andy Beshear
GOVERNOR

Jacqueline Coleman
LIEUTENANT GOVERNOR

PUBLIC PROTECTION CABINET

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Jonathan Rabinowitz
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August 8, 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 8:010: Medication; testing procedures; prohibited practices.
810 KAR 9:010: Hearings, reviews, and appeals.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 810 KAR 8:010 and 810 KAR 9:010, the Kentucky Horse Racing Commission proposes the attached amendments to 810 KAR 8:010 and 810 KAR 9:010

Sincerely,

Jennifer Wolsing, General Counsel
Kentucky Horse Racing Commission

SUGGESTED SUBSTITUTE

PUBLIC PROTECTION CABINET Kentucky Horse Racing Commission (Amendment)

810 KAR 9:010. Hearings, reviews, and appeals.

RELATES TO: KRS 13B, 230.215(2), 230.310(2), 230.320, 230.330

STATUTORY AUTHORITY: KRS 230.215(2), 230.320, 230.370

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215 vests the Kentucky Horse Racing Commission with plenary power to promulgate administrative regulations prescribing conditions under which all legitimate horse racing and wagering thereon is conducted in the Commonwealth. KRS 230.320(1) authorizes the commission to promulgate administrative regulations under which any license may be denied, suspended, or revoked, and under which any licensee or other person participating in Kentucky horse racing may be assessed an administrative fine or required to forfeit or return a purse. KRS 230.320(3) requires the commission to grant an appeal and administrative hearing in accordance with KRS Chapter 13B to any person whose license is denied, suspended, or revoked or who is assessed an administrative fine or required to return a purse. KRS 230.320(5) authorizes the commission to determine that certain appeals are frivolous and requires prescription of the factors leading to such a determination. KRS 230.370 authorizes the commission to promulgate any reasonable and necessary administrative regulation for the conduct of hearings before it. This administrative regulation establishes the procedures for administrative hearings and appeals held pursuant to KRS Chapter 230 and establishes parameters for frivolous appeals.

Section 1. Public Disclosures.

(1) The commission or its executive director may publicly disclose information regarding an alleged regulatory violation, if **this[such]** information will not unduly impact any investigation, **in accordance with the following provisions:[-]**

(a) After notice to the racing participant, the commission or its executive director may publicly disclose the identity of any racing participant who is accused of an alleged regulatory violation and the identity of the horse at issue;

(b) After both the commission and racing participant receive testing results pursuant to 810 KAR 8:010 and 810 KAR 8:060, the commission or its executive director may publicly disclose the alleged conduct or the alleged amount and type of the medication, drug, or substance that gave rise to the alleged regulatory violation; **[or]**

(c) At any time, the commission or its executive director may publicly disclose the date of an upcoming stewards' hearing; or

(d) At any time, the commission or its executive director may publicly disclose other information in the best interests of racing.

(2) Situations giving rise to the disclosure of information by the commission or its executive director may include the following:

(a) Information pertaining to an alleged regulatory violation has been previously publicly disclosed by the racing participant or any employee or agent of the racing participant;

(b) In the case of an alleged medication violation:

1. ~~if~~ The commission's laboratory has returned a positive finding and the racing participant has been notified of the results of the split sample pursuant to 810 KAR 8:010; or

2. ~~(c) In the case of an alleged medication violation, if~~ The commission's laboratory has returned a positive finding and the racing participant has not exercised his or her right to further laboratory testing; or

(c) ~~(d)~~ For other reasons in the best interests of racing.

Section 2. Stewards' and Judges' Hearings.

(1) A stewards' or judge's hearing, as applicable, shall be conducted by a state steward or a state judge unless waived in writing by the party charged with the violation. A stewards' or judges' hearing shall be conducted no more than sixty (60) days after either:

(a) The racing participant is notified of an alleged violation; ~~or~~ or

(b) If the racing participant requests split laboratory results, the date on which the participant receives those results.

(2) The stewards or judges may extend the sixty (60) day deadline in their sole discretion, upon demonstration of exigent circumstances.

(3) ~~(2)~~ At least two (2) stewards or judges **shall ~~must~~** be present at all times during the hearing. All three (3) stewards or judges shall review the evidence and testimony prior to issuing a ruling. A ruling shall be made by all three (3) stewards or judges sitting in the matter.

(4) ~~(3)~~ A party charged with a violation, other than a routine riding offense occurring in a race, shall be given written notice of the stewards' or judges' hearing, unless waived in writing by the party charged.

(5) ~~(4)~~ Public attendance at stewards' and judges' hearings **shall be ~~is~~** allowed. **~~This~~ ~~Nothing in this~~ section shall not limit ~~limits~~** the authority of the presiding stewards or judges to order closure of a hearing or to make other protective orders to the extent necessary or proper to satisfy the United States Constitution, the Kentucky Constitution, federal or state statute, or other law, such as laws protecting privileged, confidential, or other protected information. ~~[Stewards' and judges' hearings shall be closed, and the stewards and judges shall make no public announcement concerning a matter under investigation until the conclusion of the hearing.]~~

(6) ~~(5)~~ A state steward or a state judge shall conduct the hearing ~~[in such a manner as]~~ to ascertain and determine the substantial rights of the parties involved and shall not be bound by technical rules of procedure and evidence.

(7) ~~(6)~~ Testimony shall be given under oath and a record shall be kept by use of an audio recorder or by court reporter's transcript. The party charged with the violation may ~~[however,]~~ waive the recording and the transcription of the testimony. The stewards or judges shall not be

required to receive testimony ~~if the [in-cases-where-their]~~ ruling is based solely upon a review of the race replay.

~~(8)[(7)]~~ If, after the hearing, the stewards or judges find that a statute or an administrative regulation has been violated, they shall promptly issue a written ruling setting forth the:

- (a) Full name of every person charged with the violation;
- (b) Identification of licensees charged with the violation;
- (c) Statute or administrative regulation number and pertinent parts of the statute or administrative regulation violated;
- (d) Findings; and
- (e) Penalty.

~~(9)[(8)]~~ Copies of the ruling shall be delivered to:

- (a) Each party in interest;
- (b) The commission; and
- (c) The office of the Association of Racing Commissioners International, and in Standardbred racing, to the United States Trotting Association.

~~(10)[(9)]~~ A party who is the subject of an order or ruling of the stewards or judges may apply for a commission hearing pursuant to KRS Chapter 13B, except as to:

- (a) Determinations of whether a horse or horses in a race shall be disqualified for fouls committed during the race; or
- (b) Findings of fact as to matters occurring during and incident to the running of a race.

~~(11)[(10)]~~ An application to the commission for review of a stewards' or judges' order or ruling shall be made within ten (10) days after the order or ruling is issued in writing on the "Notice of Appeal," KHRC 9-010-1.

~~(12)[(11)]~~ An application to the executive director for a stay of a stewards' or judges' order or ruling shall be made in writing within ten (10) days after the order or ruling is issued on the "Request for Stay Pending Appeal", KHRC 9-010-2.

Section 3.~~[Section 2.]~~ Frivolous Appeals. The commission may determine that an appeal of a stewards' or judges' order or ruling, or any other administrative appeal to the racing commission by a licensee or other person participating in Kentucky horse racing, is frivolous. An appeal shall be presumed to be frivolous if:

- (1) The applicant seeks review by the commission but fails, without good cause, to appear for proceedings;
- (2) The applicant attends the commission hearing but fails, without good cause, to offer evidence to support the application for review; or
- (3) The appeal is totally lacking in merit ~~and[such-that-it]~~ appears to have been taken in bad faith.

Section 4.~~[Section 3.]~~ Commission Hearings.

- (1) Except ~~if[where]~~ precluded by another provision of KRS Chapter 230 or this administrative regulation, commission hearings shall be conducted in accordance with KRS Chapter 13B.

(2) Copies of final commission orders or rulings related to licensing of individuals shall be forwarded to the office of the Association of Racing Commissioners International, and, in standardbred racing, to the United States Trotting Association.

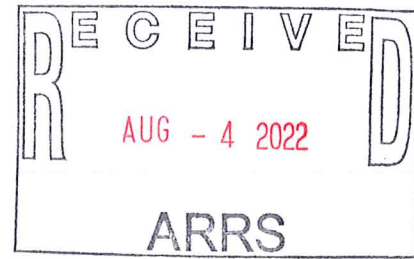
Section 5.~~[Section 4.]~~ Appeal from Commission Order. A person or licensee aggrieved by an order or decision of the commission may appeal to the Franklin Circuit Court in accordance with KRS 230.330.

Section 6.~~[Section 5.]~~ Incorporation by Reference.

(1) The following material is incorporated by reference:

- (a) The "Notice of Appeal", KHRC 9-010-1, 11/2018; and
- (b) The "Request for Stay Pending Appeal", KHRC 9-010-2, 11/2018.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, Monday through Friday, 8:00 a.m. to 4:30 p.m. This material is also available on the KHRC Web site at <http://khrc.ky.gov>.



CABINET FOR HEALTH AND FAMILY SERVICES
Office of the Secretary

Andy Beshear
Governor

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Eric C. Friedlander
Secretary

August 4, 2022

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

Re: **902 KAR 8:060**. Salary adjustment for local health departments.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 902 KAR 8:060, the Department for Public Health proposes the enclosed suggested amendment to 902 KAR 8:060.

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

Sincerely,

Lucie Estill
Staff Assistant
Office of Legislative and Regulatory Affairs

Final, 7-28-2022
SUGGESTED AMENDMENT

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Division of Administration and Financial Management

902 KAR 8:060. Salary adjustments for local health departments.

Page 6
Section 5(3)(a)
Line 1

After "evaluation;" , insert "or".

Page 6
Section 6(1)(a)1.
Line 8

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

Page 6
Section 6(2)
Line 13

After "(2)", insert "(a)".

Page 6
Section 6(2) and 6(3)
Lines 16-17

After "; or", insert "(b)".

Delete "(3)".

Page 6
Section 6(3) and 6(4)
Lines 20-21

After "grade", insert "; and (3)".

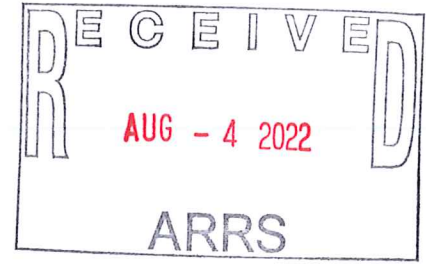
Delete ". (4)".

Page 8
Section 9(5)
Line 12

After "Board of Health", insert "of".

Page 11
Section 12(1)(a)
Line 3

After "adjustment for", insert "a".



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August 3, 2022

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

Re: **902 KAR 8:100**. Disciplinary procedures applicable for local health department employees.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 902 KAR 8:100, the Department for Public Health proposes the enclosed suggested substitute to 902 KAR 8:100.

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

Sincerely,

Krista Quarles
Policy Specialist
Office of Legislative and Regulatory Affairs

TEAM
KENTUCKY

Final, 7-28-2022

SUGGESTED SUBSTITUTE

**CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Division of Administration and Financial Management**

902 KAR 8:100. Disciplinary procedures applicable for local health department employees.

RELATES TO: KRS 211.090(3), 211.170(2)(~~4~~), 211.1751, 212.170(4), 212.870, 237.109, 237.115(2)

STATUTORY AUTHORITY: KRS 194A.050(1), 211.1755(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the Cabinet for Health and Family Services to promulgate administrative regulations necessary to operate programs and fulfill the responsibilities vested in the cabinet. KRS 211.1755(2) requires the cabinet to promulgate administrative regulations establishing the policies and procedures of the personnel program for local health departments. This administrative regulation establishes separations and disciplinary procedures applicable to a local health department.

Section 1. Disciplinary Action.

- (1) An appointing authority may discipline an employee for:
 - (a) Lack of good behavior; or
 - (b) Unsatisfactory performance of a job duty.
- (2) A situation that may warrant disciplinary action shall include:
 - (a) Inefficiency or incompetency in the performance of a duty;
 - (b) Negligence in the performance of a duty;
 - (c) Careless, negligent, or improper use of local health department property or equipment;
 - (d) Excessive absenteeism;
 - (e) Habitual pattern of failure to report for duty at the assigned time and place;
 - (f) Failure to obtain or maintain a current license or certificate or other qualification required by law or rule as a condition of continued employment;
 - (g) Willful abuse or misappropriation of funds, property, or equipment;
 - (h) Falsification of an official document relating to or affecting employment;
 - (i) Disrupting, disturbing, or interfering with management of agency operation;
 - (j) Abusive behavior towards a patient, coworker, or the public in the performance of a duty;
 - (k) Insubordination;
 - (l) Reporting to work under the influence of alcohol or illegal drugs, or partaking of alcohol or illegal drugs on the job;
 - (m) Sleeping or failure to remain alert during working hours;
 - (n) Violation of confidential information policies of the agency or assigned program;
 - (o) Prohibited political activity;
 - (p) Unauthorized or unreported absence [~~or absence~~] for any period of working without notifying supervisor;
 - (q) Breach of state law, an agency rule, policy, or directive; ~~or~~[and]
 - (r) Performing an unauthorized duty, or performing a duty requiring special training, licensure, or certification, that the employee has not attained.

Section 2. Administering Disciplinary Actions.

- (1) A classified employee with regular status shall not be disciplined by the appointing authority except for cause.
- (2) Except as provided by subsection (4) of this section, an appointing authority shall apply discipline in a progressive manner, with each disciplinary action more severe, in an effort to correct an employee's performance or behavior problem.

(3) Progressive discipline shall consist of the ~~[following]~~ actions of:

- (a) Verbal admonishment;
- (b) Written admonishment or warning;
- (c) Demotion or suspension; and
- (d) Dismissal.

(4) One (1) or more of the disciplinary actions stated in subsection (3) of this section may be bypassed by the appointing authority based on the severity of the performance or behavior problem.

Section 3. Predisciplinary Action Meeting.

(1) Except as provided in Section 5(1) of this administrative regulation, prior to a demotion provided by 902 KAR 8:090, Section 3(1)(c), suspension, or dismissal, a classified regular employee with status shall be notified in writing of the intent of the agency to demote, suspend, or dismiss the employee. The notice shall also include~~[the following]~~:

(a) The specific reasons for the demotion, suspension, or dismissal including:

- 1. The statutory, regulatory, or agency policy violation; and
- 2. The specific action or activity that resulted in the intent to demote, suspend, or dismiss;

(b) The date, time, and place of the action or activity, if known;

(c) The name of each party involved; and

(d) That the employee has the right to appear personally, or with counsel if the employee has retained counsel, to reply to the appointing authority regarding the intent to demote, suspend, or dismiss.

(2) A request to appear to reply to the appointing authority shall be:

(a) In writing; and

(b) Made within two (2) working days of receipt of the notice of intent to demote, suspend, or dismiss.

(3) The meeting shall be held within six (6) working days after receipt of the employee's request to appear before the appointing authority, excluding the day the request is received.

(4) No later than five (5) working days after the employee appears to reply to the intent to demote, suspend, or dismiss, the appointing authority shall determine whether to demote, suspend, or dismiss the employee or to alter, modify, or rescind the intent to demote, suspend, or dismiss. The appointing authority shall notify the employee in writing of the decision.

(5) If the appointing authority decides to demote, suspend, or dismiss, the employee shall be notified in writing ~~of [the following, in writing]~~:

(a) The effective date of the demotion, suspension, or dismissal;

(b) The reason for the demotion, suspension, or dismissal, including the:

- 1. Statutory, regulatory, or agency policy violation; and
- 2. Specific action or activity that resulted in the demotion, suspension, or dismissal;

(c) The date, time, and place of the action or activity, if known;

(d) The name of each party or witness involved; and

(e) The right to appeal the demotion, suspension, or dismissal in accordance with 902 KAR 8:110.

(6) The appointing authority shall provide the employee with the Request for Appeal ~~[request]~~ form, as incorporated by reference in 902 KAR 8:110.

Section 4. Conditions for Bypassing Progressive Discipline and the Issuance of a Notice of Intent for the Suspension or Dismissal of an Employee.

(1) An appointing authority may issue a notice of intent for the suspension or dismissal of an employee for a serious misconduct infraction.

(2) An example of a misconduct infraction that may be considered serious enough to merit an immediate intent of suspension or dismissal includes~~[the following]~~:

(a) Threatening, assaulting, fighting with, or harassing a supervisor, another employee, or anyone encountered during the normal course of business;

(b) Stealing or deliberately damaging the property of:

- 1. The agency;
- 2. A client;
- 3. A patient; or
- 4. Another employee;

- (c) Reporting to work under the influence of alcohol, narcotics, or other drugs, unless the drug was prescribed by a physician;
 - (d) Taking unauthorized leave or failing to show up at work without notifying a supervisor for more than three (3) consecutive work days;
 - (e) Engaging in a fraudulent activity;
 - (f) Breach of the employee confidentiality agreement; or
 - (g) Performing a procedure on a patient or client for which the employee has neither been certified nor has the current credentials to perform.
- (3) The employee shall be notified in writing by the appointing authority regarding the intent to suspend or dismiss.
- (4) If an employee wishes to reply to a notice, the employee shall:
- (a) Request to appear personally before the appointing authority. The request shall be:
 - 1. In writing; and
 - 2. Made within two (2) working days of receipt of the notice; and
 - (b) File the request with the appointing authority. If a request is mailed by certified mail, return receipt requested, it shall be considered filed on the date it is postmarked.
- (5) An employee may be represented by counsel at an appearance before the appointing authority.
- (6) The meeting shall be held within six (6) working days after receipt of the employee's request to appear before the appointing authority, excluding the day the request is received.
- (7) Within five (5) working days after the employee appears to reply to the intent to suspend or dismiss, the appointing authority shall determine whether to modify, or rescind the intent to suspend or dismiss. The appointing authority shall notify the employee in writing of the decision.
- (8) If the appointing authority decides to suspend or dismiss immediately following the meeting, the employee shall be notified in writing of ~~the following, in writing~~:
- (a) The effective date of the suspension or dismissal;
 - (b) The reason for the suspension or dismissal, including the:
 - 1. Statutory, regulatory, or agency policy violation; and
 - 2. Specific action or activity on which the suspension or dismissal is based;
 - (c) The date, time, and place of the action or activity, if known;
 - (d) The name of each party or witness involved; and
 - (e) The right to appeal the suspension or dismissal in accordance with 902 KAR 8:110.

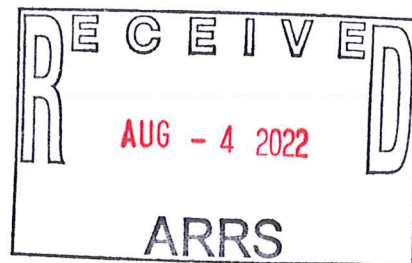
Section 5. Directive to Vacate Premises.

- (1) If an employee has committed a serious misconduct infraction, and there is a need to diffuse a presently dangerous or disruptive situation, or the appointing authority intends to terminate the employee's employment, a director or designee may direct the offending employee to vacate the premises. The appointing authority shall, by the most immediate means, contact the department and relate the action taken.
- (2) A pre-termination hearing shall be provided within three (3) working days after removal.
- (3) The employee may be placed on leave using accumulated leave or on immediate suspension without pay.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746; fax 502-564-7091; email CHFSregs@ky.gov.



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August 3, 2022

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

Re: 902 KAR 10:140. On-site sewage disposal system installer certification program standards.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 902 KAR 10:140, the Department for Public Health proposes the enclosed suggested substitute to 902 KAR 10:140.

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

Sincerely,

Krista Quarles
Policy Specialist
Office of Legislative and Regulatory Affairs



Final, 7-21-2022

SUGGESTED SUBSTITUTE

**CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Division of Public Health Protection and Safety**

902 KAR 10:140. On-site sewage disposal system installer certification program standards.

RELATES TO: KRS 211.015, 211.360, 211.375, 211.970, 211.990(2)

STATUTORY AUTHORITY: KRS Chapter 13B, 211.350, 211.357

NECESSITY, FUNCTION, AND CONFORMITY: KRS 211.350 requires the cabinet to regulate the construction, installation, or alteration of on-site sewage disposal systems except for systems with a surface discharge. KRS 211.357 requires the cabinet to establish a program of certification for installers of on-site sewage disposal systems. This administrative regulation establishes the certification program including competency testing, training, continuing education, and enforcement procedures relative to maintenance of an acceptable standard of competency for installers.

Section 1. Definitions.

- (1) "Approved" is defined by KRS 211.970(1).
- (2) "Cabinet" is defined by KRS 211.015(1)(a).
- (3) "Certification level" means the level of technical skills and knowledge attained by an installer as categorized below:
 - (a) "Provisional" or "Probationary level" means the certification entry level for an installer as specified in KRS 211.357(2) and Section 2(3) of this administrative regulation;
 - (b) "Full level" means the certification level attained by an installer as specified in KRS 211.357(2) and Section 2(4) of this administrative regulation;
 - (c) "Advanced level" means the certification level attained by an installer as specified in Section 2(5) of this administrative regulation; and
 - (d) "Master level" means the certification level attained by an installer as specified in Section 2(6) of this administrative regulation.
- (4) "Certified inspector" means a person employed by the cabinet or by a local health department who has met the requirements for certification contained in KRS 211.360.
- (5) "Certified installer" means a specific individual person who has met the requirements for certification contained in KRS 211.357 and the certification maintenance requirements contained in this administrative regulation.
- (6) "Competency" means an acceptable level of professional conduct, workmanship, and technical knowledge in the design and installation of on-site sewage disposal systems.
- (7) "On-site sewage disposal system", "on-site sewage system", or "on-site system" means a complete system installed on a parcel of land, under the control or ownership of any person, that accepts sewage for treatment and ultimate disposal under the surface of the ground, including:
 - (a) A conventional system consisting of a sewage pretreatment unit or units, distribution devices, and lateral piping within rock-filled trenches or beds;
 - (b) A modified system consisting of a conventional system enhanced by shallower trench or bed placement, artificial drainage systems, dosing, alternating lateral fields, fill soil over the lateral field, or other necessary modifications to the site, system, or wasteload to overcome site limitations;
 - (c) An alternative system consisting of a sewage pretreatment unit or units, necessary site modifications, wasteload modifications, and a subsurface soil treatment and dispersal system using other methods and technologies than a conventional or modified system to overcome site limitations;
 - (d) A cluster system; and

- (e) A holding tank that provides limited pretreatment and storage for off-site disposal where site limitations preclude immediate installation of a subsurface soil treatment and dispersal system, or connection to a municipal sewer.
- (8) "Person" is defined by KRS 211.970(6).

Section 2. Application for Certification.

- (1) A person shall not offer services to construct, install, alter, or repair on-site sewage disposal systems without:
 - (a) Meeting the application requirement of this administrative regulation; and
 - (b) Obtaining a valid certification card from the cabinet.
- (2) Certification shall be:
 - (a) Nontransferable from one (1) person to another; ~~and~~
 - (b) Valid statewide subject to the provisions of KRS 211.357 and this administrative regulation; and
 - (c) Renewed annually by submitting to the Environmental Management Branch a certification fee of forty-five (45) dollars by check or money order made payable to the Kentucky State Treasurer.
- (3)(a) A person seeking provisional or probationary level certification shall:
 - 1. Be of legal age to conduct business in Kentucky;
 - 2. Have sufficient skills and knowledge of administrative regulations and construction techniques to pass a minimum competency examination;
 - 3. Submit a completed DFS-303, Application for Certification or Registration, incorporated by reference in 902 KAR 45:065, to the local health department;
 - 4. Provide proof of liability insurance; and
 - 5. Pay the test registration fee of twenty-five (25) dollars by check or money order made payable to the local health department.
- (b) A passing score of at least seventy (70) percent shall be achieved on the exam.
- (c) An individual failing to achieve a passing score may retake the exam by re-registering and submitting another registration fee.
- (d) An individual who passes the exam shall submit to the Environmental Management Branch ~~cabinet~~ a forty-five (45) dollar certification fee by check or money order made payable to the Kentucky State Treasurer.
- (4) A person seeking full level certification shall:
 - (a) Have continuously maintained provisional or probationary level status in good standing;
 - (b) Meet the requirements as specified in KRS 211.357(2);
 - (c) Submit the documentation required in subsection (3)(a)3₂ and 4.[(4)] of this section; and
 - (d) Maintain requirements for certification as specified in Section 4 of this administrative regulation.
- (5) A person seeking advanced level certification shall:
 - (a) Have continuously maintained full level status in good standing;
 - (b) Submit the documentation required in subsection (3)(a)3₂ and 4.[(4)] of this section;
 - (c) Complete the necessary training workshops with passing scores on workshop tests to obtain advanced level certification as required by the cabinet; and
 - (d) Maintain requirements for certification as specified in Section 4 of this administrative regulation.
- (6) A person seeking master level certification shall:
 - (a) Have continuously maintained advanced level status in good standing;
 - (b) Submit the documentation required in subsection (3)(a)3₂ and 4.[(4)] of this section;
 - (c)1. Installed a minimum of two (2) systems as specified in Section 3(4) of this administrative regulation; and
 - 2. Submit written verification of passed inspection from a certified inspector employed by the local health department having jurisdiction; and
 - (d) Maintain requirements for certification as specified in Section 4 of this administrative regulation.
- (7) A certified installer advancing to the next level certification shall submit the documentation required by subsections (4), (5), and (6) of this section, and to the Environmental Management Branch a certification fee of forty-five (45) dollars by check or money order made payable to the Kentucky State Treasurer ~~[to the Environmental Management Branch]~~.

Section 3. Certification Level Standards. Certification level standards shall be limited to on-site systems that utilize only the following:

- (1) Provisional or probationary certification level is limited to residential, on-site systems utilizing:
 - (a) Gravity distribution;
 - (b) Rock-filled trenches or beds;
 - (c) Leaching chamber trenches or beds; or
 - (d) Evaporation-absorption lagoons.
- (2) Full certification level is able to install residential, commercial, industrial, or public facility systems utilizing:
 - (a) 1. Dosed systems;
 - 2.[(b)] Fill and wait systems;
 - 3.[(c)] Leaching chambers at grade; or
 - 4.[(d)] Constructed wetlands; and
 - (b) [(e)] Provisional or probationary certification level system listings.
- (3) Advanced certification level is able to install residential, commercial, industrial, or public facility systems utilizing:
 - (a) 1. Low pressure pipe systems;
 - 2.[(b)] Mounds;
 - 3.[(c)] Drip irrigation;
 - 4.[(d)] Advanced treatment;
 - 5.[(e)] Experimental technology; or
 - 6.[(f)] Cluster systems; and
 - (b) [(g)] Provisional, probationary, and full certification level system listings.
- (4) Master certification level is able to install residential, commercial, industrial, or public facility systems utilizing provisional, probationary, full, and advanced certification level system listings.

Section 4. Maintenance of Certification.

- (1) Each person holding a valid certification under KRS 211.357 shall be required to:
 - (a) Attend training workshops offered by the cabinet to maintain certification and improve competency based on the level of certification attained;
 - (b) Maintain and submit proof of liability insurance annually to the local health department; and
 - (c) Annually pay the certification fee as required by Section 2(3)(d) of this administrative regulation[~~to the Kentucky Department for Public Health~~].
- (2) An installer whose certification has expired shall:
 - (a) Comply with subsection (1) of this section;
 - (b) Submit proof of completion of continuing education units; and
 - (c) Receive a renewal certification card prior to installing an on-site sewage system.
- (3)(a) For provisional, probationary, full, and advanced[all] certification levels, a minimum of two (2) training workshops for a total of six (6) approved continuing education units per year with passing scores on workshop tests shall meet certification maintenance requirements.
(b) For master certification level, a minimum of two (2) training workshops for a total of six (6) approved continuing education units every two (2) years with passing scores on workshop tests shall meet certification maintenance requirements.
- (4) Attendance at workshops, seminars, or conferences not sponsored by the cabinet may be substituted on a one (1) for one (1) basis to meet certification maintenance requirements at the determination of the cabinet. Requests for consideration of other training for substitution shall be based upon the following:
 - (a) Submission of a copy of the training agenda, speaker or presenter biographies, and course outlines; and
 - (b) Submission of proof of attendance and results of any testing or other performance measurement with verification by the training sponsor.
- (5) Upon receipt of a request for training substitution the cabinet shall compare that training for equivalency with similar training it provides. If equivalency is demonstrated, the cabinet shall accept that training for substitution as specified in subsection (4) of this section.

(6) Any person failing to meet certification maintenance requirements shall be subject to administration action under Section 7 of this administrative regulation and KRS 211.357(4).

Section 5. Training.

(1) The cabinet shall develop and implement a series of training workshops for certified installers in the areas of on-site sewage disposal system design, technology, application, and function.

(2) Training workshops shall be conducted throughout the state at frequencies, times, and locations necessary to provide all certified installers a reasonable opportunity to attend a number of workshops sufficient to maintain certification.

(3) A schedule of training workshops, including dates, times, location, and topics shall be prepared and made available to all certified installers to notify them of training opportunities and allow for scheduling attendance.

(4) A series of training courses shall be developed including instructor and student manuals, and other audiovisual and written materials.

(5) The cabinet may charge a reasonable fee at each training workshop to support program costs.

(6) The cabinet shall establish, through grants or contracts, a training staff composed of local health department fully certified inspectors to conduct training workshops on a regional basis. These local instructors shall serve as supplemental staff to the cabinet and act under the direct supervision of the cabinet.

(7) Training workshops for staff and supplemental staff instructors shall be conducted to assure uniformity of training for certified installers.

(8) The cabinet may contract with other governmental agencies, private consultants, or professional organizations for specialized instructor services.

Section 6. Materials and Equipment.

(1) Each training course shall be developed into a training materials packet consisting of the following:

- (a) Course outline;
- (b) Instructor script;
- (c) Trainee guide;
- (d) Audiovisual materials;
- (e) Trainee worksheets and reference sheets;
- (f) Test;
- (g) Instructor comment sheet; and
- (h) Trainee comment sheet.

(2) A complete training materials packet, in hardcopy or digital format shall be provided to each instructor for each course.

(3) A training material packet, excluding subsection (1)(b), (d), and (g) of this section, shall be provided to each trainee for each course.

(4) Sufficient stocks of instructor and trainee material packets shall be maintained for each course to meet demand.

(5) Audiovisual equipment shall be available to each instructor.

Section 7. Enforcement.

(1) Failure of any certified installer to comply with the requirements of KRS 211.350, 211.357(4) and (5), 902 KAR 10:081, 902 KAR 10:085, or this administrative regulation shall result in administrative action being taken.

(2) A minimum six (6) months probationary period shall be assigned to any certified installer who:

- (a) Fails final inspection on any two (2) consecutive systems that require follow-up inspections before approval is granted;
- (b) Backfills any system before final inspection is conducted and approval to backfill is given;
- (c) Fails final inspection on any system that results in reconstruction of the system before approval can be given;
- (d) Fails to place, cause to be placed, or fails to supervise placement of any required additional fill soil over an installed system;

- (e) Fails to call for final inspection of any system;
 - (f) Fails to be present on the site anytime work is being performed on the system under construction;
 - (g) Fails to provide name, certification number, and notification of intent on application of permit when performing excavation and backfilling work on permitted homeowner installations; or
 - (h) Performs work on any system outside of the designated certification level.
- (3) Probation may be assigned to a certified installer by the cabinet or by the certified inspector having local jurisdiction. Terms of the probationary period shall stipulate any restrictions, requirements, or additional training determined necessary to correct performance.
- (4) For other violations, the provisions of KRS 211.357(4) and (5) relating to suspension or revocation of certification shall apply.
- (5) In all instances of administrative action being taken for probation, suspension, or revocation, a certified installer shall have the right to request an administrative conference. The request shall be submitted in writing on form DFS-212 - Request for Conference, incorporated by reference in 902 KAR 1:400, to the local health department having jurisdiction or to the cabinet. All administrative conferences shall be conducted pursuant to 902 KAR 1:400.
- (6) If immediate legal action is necessary to prevent the creation or continuance of a health hazard, damage to the environment, or compel compliance with KRS 211.350(5), (7), (8), and (9), 211.357(4) and (5), or administrative regulations pursuant to those statutes, the cabinet or local health department concerned may maintain, in its own name, injunctive action against any person engaged in the construction, installation, or alteration of an on-site sewage disposal system.
- (7) The cabinet shall be notified within two (2) business days of any administrative action taken by a local health department against any certified installer, so that other local health departments can be alerted to that installer's status.

CONTACT PERSON: Krista Quarles, Policy Specialist, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746; fax 502-564-7091; email CHFSregs@ky.gov.

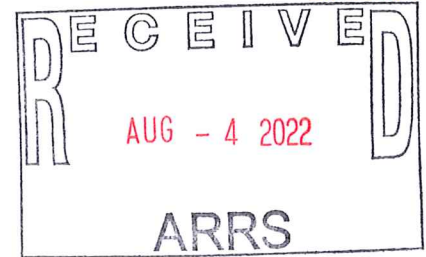


Andy Beshear
GOVERNOR

CABINET FOR HEALTH AND FAMILY SERVICES

Eric Friedlander
SECRETARY

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August 3, 2022

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

Re: **902 KAR 30:120**. Evaluation and eligibility.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 902 KAR 30:120, the Department for Public Health proposes the enclosed suggested amendment to 902 KAR 30:120.

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

Sincerely,

Lucie Estill
Staff Assistant
Office of Legislative and Regulatory Affairs

Final, 7-18-2022
Suggested Amendment

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Division of Maternal and Child Health

902 KAR 30:120. Evaluation and eligibility.

Page 2
Section 1(3)(b)
Line 21

After "The", insert the following:
Kentucky Early Intervention System
Capitalize the first letter of "established" and "risk".
After "Risk", insert "Conditions".
Delete "condition".

Page 4
Section 1(4)(c)1.
Line 4

After "skill areas", insert a comma.

Page 10
Section 5(2)
Line 20

After "4:30 p.m.", insert the following:
(3) This material is available on the agency's Web site at
<https://chfs.ky.gov/agencies/dph/dmch/ecdb/Pages/keis.aspx>

Lines 20-22

Delete the following:
and available by contacting the Kentucky Early Intervention System office at
<http://chfs.ky.gov/agencies/dph/dmch/ecdb/fs/SLAcontacts.pdf>



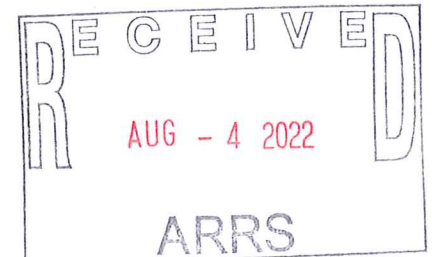
Andy Beshear
GOVERNOR

CABINET FOR HEALTH AND FAMILY SERVICES

Eric Friedlander
SECRETARY

275 East Main Street, 5W-A
Frankfort, Kentucky 40621
Phone: (502) 564-7042
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August 4, 2022



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

Re: **922 KAR 1:310** suggested substitute

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of issues raised by 922 KAR 1:310, the Department for Community Based Services proposes the attached LRC suggested substitute. If you have any questions, please feel free to contact Laura Begin at Laura.Begin@ky.gov.

Sincerely,

Staff Assistant
Office of Legislative and Regulatory Affairs

SUGGESTED SUBSTITUTE – TO AMENDED AFTER COMMENTS VERSION

Final Version: 7/28/2022 9:09 AM

**CABINET FOR HEALTH AND FAMILY SERVICES
Department for Community Based Services
Division of Protection and Permanency**

****Note to Compiler:** Please use this version **before** enrolling changes from the proposed Agency Amendment.*

922 KAR 1:310. Standards for child-placing agencies placing children who are in the custody of a state agency.

RELATES TO: KRS 2.015, 17.165, 17.500(8), 158.135(1)(c), 189.125, 194A.060, 199.011, 199.430(3), ~~[199.470, 199.492, 199.493, 199.510, 199.520,]~~199.570, ~~[199.572, 199.590,]~~199.640, **199.641**, ~~[199.645, 199.650-199.670,]~~258.015, 258.035, 273.161(8), 311.720(12)~~[(9)]~~, 311.840(3), 314.011(5), (7), ~~[503.110(1),]~~527.100, 527.110, 600.020, Chapter 605~~[605.090(1)]~~, 610.110(6), ~~[610.125,]~~615.010-615.990, 620.030, 620.090(2), 620.140(1)(d), 620.230(3), ~~[Chapter 625,]~~ 16 C.F.R. 1219 - 1220, Parts 1632, ~~[and] 1633,~~ 45 C.F.R. Parts 160, 164, ~~[1355.34,]~~ 8 U.S.C. 1151, 42 U.S.C. 671, 42 U.S.C. ~~[672,]~~677(a), 14901 - 14954

STATUTORY AUTHORITY: KRS 194A.050(1), 199.640(5)(a), 605.150(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the ~~Secretary~~[Secretary] of the Cabinet for Health and Family Services to promulgate, administer, and enforce those administrative regulations necessary to implement programs mandated by federal law or to qualify for the receipt of federal funds and necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. KRS 199.640(5)(a) requires the ~~Secretary~~[Secretary] of the Cabinet for Health and Family Services to promulgate administrative regulations establishing basic standards of care and service for child-caring facilities and child-placing agencies. KRS 605.150(1) authorizes the cabinet to promulgate administrative regulations to implement the provisions of KRS Chapter 605. This administrative regulation establishes basic standards for child-placing agencies **placing children who are in the custody of a state agency.**

Section 1. Definitions.

(1) "Adequate supervision" means adult oversight of a child's activities with consideration of the child's past and current:

- (a) Incidents;
- (b) High risk behaviors; and
- (c) Needs.

(2) "Adoption" means the legal process by which a child becomes the child of a person or persons other than biological parents.

(3) "Adoptive home" means a home in which the family has been approved by the child-placing agency to adopt a child.

(4) "Aftercare" means services provided to the child after discharge from a child-placing agency.

(5) "Applicant" means an individual or a family subject to approval by the child-placing agency as a:

- (a) Foster home; or
- (b) Adoptive home.

(6) "Board of directors" is defined by KRS 273.161(8).

(7) "Cabinet" is defined by KRS 199.011(3).

(8) "Case management" means a process whereby a state agency or child-placing agency assesses the individualized needs of a child or family, arranges for the provision of services, and maintains documentation of actions and outcomes.

(9)[(8)] "Child" means:

- (a) **[A]** "Child" as defined by KRS 199.011(4) and 600.020(9);
- (b) A person age eighteen (18) or older whose commitment to the cabinet has been extended or reinstated by a court in accordance with KRS 610.110(6) or 620.140(1)(d); or
- (c) A person under age twenty-one (21) who meets the exceptions to the age of majority in accordance with KRS 2.015.

(10)[(9)] "Child with medical complexity" means a child who is determined to have a medical condition pursuant to 922 KAR 1:350, Section 4(1)(b).

(11)[(10)] "Child-placing agency" is defined by KRS 199.011(6).

(12)[(11)] "College or university" means:

- (a) An institution accredited by one (1) of the eleven (11) regional accrediting organizations recognized by the U.S. Department of Education, Office of Postsecondary Education;
- (b) For a Kentucky institution, one (1) that is licensed by the Kentucky Council on Postsecondary Education or the Kentucky Board for Proprietary Education; and
- (c) For an out-of-state institution, one (1) that is licensed in its home state if licensure is required in that state.

(13) **"Department" is defined by KRS 199.011(7) and 199.641(1)(b).**

(14)[(12)] "Executive director" means the person employed by the board of directors to be responsible for the overall administration and management of a child-placing agency.

(15)[(14)] "Foster home" means:

- (a) A "foster family home" as defined by KRS 199.011(10) and 600.020(30), if referring to a physical structure; or
- (b) Any individual approved as a foster parent by the child-placing agency, if referring to an individual.

(16)[(15)] "Health professional" means a person actively licensed as a:

- (a) "Physician" as defined by KRS 311.720(12);
- (b) "Physician assistant" as defined by KRS 311.840(3);
- (c) "Advanced practice registered nurse" as defined by KRS 314.011(7); or
- (d) "Registered nurse" as defined by KRS 314.011(5) under the supervision of a physician.

(17)[(16)] "Home study" means an assessment done on a prospective foster or adoptive home by a social services worker that meets the requirements **established[specified]** in Section 4(3) of this administrative regulation.

(18)[(17)] "Independent living program" means a planned program that:

- (a) Is licensed by the cabinet and designed to teach a child age eighteen (18)~~sixteen (16)~~ or older life skills that enable a child to become self-sufficient; and

(b) Meets the requirements established~~[specified]~~ in 922 KAR 1:340.

~~(19)~~~~[(18)]~~~~[(17)]~~ "Independent living services" means services provided to an eligible child, as established~~[described]~~ in Section 15~~[(16)]~~ of this administrative regulation, to assist the child in the natural progression from adolescence to adulthood~~[transition from dependency of childhood to living independently]~~.

~~(20)~~~~[(19)]~~~~[(18)]~~ "Individual treatment plan" or "ITP" means a plan of action developed and implemented to address the needs of a child.

~~(21)~~~~[(20)]~~~~[(19)]~~ "Mental health treatment" means services provided to an individual determined to have emotional, mental, or behavioral needs~~[problems]~~.

~~(22)~~~~[(21)]~~~~[(20)]~~ "Placement" means:

(a) The physical relocation of a child removed from the child's home of origin with a provider of out-of-home services; or

(b) A foster or adoptive home that has been approved by completing an application process, home study, and required preparation.

~~(23)~~~~[(22)]~~~~[(21)]~~ "Program director" means the person responsible for supervising the day-to-day operation of the program.

~~(24)~~~~[(23)]~~~~[(22)]~~ "Respite care" means temporary care provided by another individual or family that meets requirements established~~[specified]~~ in Section 13 of this administrative regulation to meet the needs of the child or provide relief to a foster care parent, therapeutic foster care parent, or medically complex foster parent with the expectation that the child shall return to the foster home.

~~(25)~~~~[(24)]~~~~[(23)]~~ "Sex crime" is defined by KRS 17.500(8).

~~(26)~~~~[(25)]~~~~[(24)]~~ ~~"Social services" means a planned program of assistance to help an individual move toward a mutual adjustment of the individual and the individual's environment.]~~

~~[(25)]~~ "Social services worker" means a person retained by a child-placing agency who meets the qualifications established~~[as specified]~~ in Section 2(4)(c) of this administrative regulation.

~~(27)~~~~[(26)]~~ "Supervision plan" means a written supplement to a child's ITP, developed pursuant to Section 6(7)(b)2 of this administrative regulation, that details a child-placing agency's roles and responsibilities to assure adequate supervision of a child in the agency's care, including those roles and responsibilities delegated to a foster home parent.

~~(28)~~~~[(27)]~~ "Therapeutic foster care" is defined by KRS 158.135(1)(c).

~~(29)~~~~[(28)]~~ "Therapeutic services" means clinical or supportive services provided to a child with severe emotional or behavioral needs.

~~(30)~~~~[(29)]~~ "Treatment director" means an individual who meets the qualifications established~~[as specified]~~ in Section 2(4)(d) of this administrative regulation.

Section 2. Administration and Operation.

(1) Licensing procedures.

(a) Licensing procedures for a child-placing agency shall be administered pursuant to 922 KAR 1:305.

(b) An independent living program shall be an optional component of the child-placing agency's license in accordance with 922 KAR 1:340.

(c) A child-placing agency shall obtain accreditation within two (2) years of initial licensure or within two (2) years of acquiring an agreement with the cabinet to provide private child care

services, whichever is later. Accreditation shall be from a nationally-recognized accreditation organization, such as:

1. The Council on Accreditation;
2. The Joint Commission on Accreditation for Healthcare Organizations; or
3. The Commission on Accreditation of Rehabilitation Facilities.

(d) The cabinet shall revoke a license if a child-placing agency fails to:

1. Become accredited in accordance with paragraph (c) of this subsection; or
2. Maintain accreditation.

(e) The child-placing agency shall provide proof of accreditation to the Office of Inspector General, Division of Regulated Child Care:

1. Upon receiving initial accreditation; and
2. At the time of annual inspection for re-licensure.

(2) Board of directors. The child-placing agency shall have a board of directors, or an advisory board if the child-placing agency is a privately-held for-profit organization, **which[that]** shall:

- (a) Consist of a minimum of seven (7) members;
- (b) Meet at least quarterly;
- (c) Cause minutes of the meeting to be taken and kept in written form;
- (d) Be responsible for and have the authority to ensure the continuing compliance with the requirements established by this administrative regulation;
- (e) Approve a mission statement;
- (f) Establish and revise, **if[when]** necessary, the child-placing agency's:
 1. Purpose;
 2. Objective;
 3. Scope of services to be provided; and
 4. Intake policy specifying the type of child to be accepted for care;
- (g) Hire, supervise, and annually evaluate the executive director of the child-placing agency; and
- (h) **Establish[Delineate]** in writing the duties of the executive director.

(3) Executive director.

(a) The executive director shall:

1. Be responsible for the child-placing agency and its affiliates, pursuant to the child-placing agency's written policies and procedures;
2. **Supervise[Oversee]** all aspects of the child-placing agency; and
3. Report to the board, on a quarterly basis, **the following**:
 - a. Evaluation of program services;
 - b. Measurement of attainment of the objective established pursuant to subsection (2)(f)2 of this section;
 - c. Staff training; and
 - d. Incident reports.

(b) The criteria and process of the evaluation required in paragraph (a)3a of this subsection shall be **considered[approved]** by the board annually.

(c) If the executive director is not available on the premises or accessible by telephone, a designated staff person shall be responsible for the day-to-day operation of the child-placing agency.

(4) Staff qualifications.

(a) An executive director shall possess the following qualifications:

1.

a. A master's degree from a college or university in any of the following human services fields:

- (i) Social work;
- (ii) Sociology;
- (iii) Psychology;
- (iv) Guidance and counseling;
- (v) Education;
- (vi) Religious education;
- (vii) Business administration;
- (viii) Criminal justice;
- (ix) Public administration;
- (x) Child-care administration;
- (xi) Nursing;
- (xii) Family studies; or
- (xiii) Another human service field related to working with families and children; and

b. Two (2) years of work experience in a human services program; or

2.

a. A bachelor's degree with a major in a discipline designated in subparagraph 1 of this paragraph; and

b. Four (4) years of work experience in a human services program.

(b) A licensed child-placing agency shall have one (1) member of the social work staff designated as program director who shall hold:

1. A master's degree from a college or university in social work or in a discipline **established[designated]** in paragraph (a)1 of this subsection; or

2.a. A bachelor's degree from a college or university in social work or in a discipline **established[designated]** in paragraph (a)1 of this subsection; and

b. At least two (2) years of professional experience in working with a child or family.

(c) A social services worker shall:

1. Be responsible for planning and coordinating services to a child; and

2. Hold at least a bachelor's degree from a college or university in social work or a human services field.

(d) A treatment director shall:

1. **Supervise[Oversee]** the day-to-day operation of the treatment program, including:

a. Reviewing all client treatment plans;

b. Meeting a minimum of once monthly with each therapist providing treatment to a child placed in the care of the private child-placing agency to discuss the child's progress and individualized treatment plan;

c. Remaining accessible to therapists to provide consultation; and

d. Reviewing any critical incidents, including debriefs with involved staff;

2. Hold at least a master's degree from a college or university in a human services discipline; and

3. Have at least five (5) years of total experience in mental health treatment, with a minimum of three (3) years of experience in mental health treatment of children with emotional or behavioral disabilities and their families.

(e)

1. A child-placing agency contracting for the service of a social services worker not an employee of the child-placing agency shall obtain documentation that the social services worker meets the qualifications in paragraph (c) of this subsection.

2. An agreement for this provision of service shall be on file at the child-placing agency and shall **state/specify** the qualifications of the social services worker.

(f) The program director shall supervise social services workers.

(g) A treatment director shall carry out approval and evaluation of services.

(h)

1. **A social service worker**~~[Social services workers]~~ shall not carry a caseload of more than twenty (20) children.

2. If a social services worker carries a caseload of children in some combination of foster care, therapeutic foster care, medically complex foster care, or an independent living program, the allowable caseload for the social services worker shall be determined by:

a. Dividing the number of children in each placement type on the worker's caseload by the maximum caseload for the placement type to derive a percentage;

b. Adding each percentage calculated in clause a. of this subparagraph to derive a sum; and

c. Maintaining the sum derived in clause b. of this subparagraph at or below 100 percent.

(5) Personnel policy.

(a) A child-placing agency shall have and comply with written personnel policies and procedures.

(b) An employee shall:

1. Be at least eighteen (18) years of age;

2. Submit to a criminal background check in accordance with KRS 17.165 and a central registry check in accordance with 922 KAR 1:470; and

3. Submit to a new criminal background check in accordance with KRS 17.165 and central registry check in accordance with 922 KAR 1:470 once every two (2) years.

(c) 1. An employee shall not be alone with a child if a central registry check has not yet been completed as required by 922 KAR 1:470.

2. If a substantiated finding of abuse, neglect, or exploitation of a child has been made against a person, a child-placing agency shall not employ the person or allow the person to volunteer in a position involving direct contact with a child.

3. The cabinet shall respond to allegations of abuse, neglect, or exploitation of a child in accordance with 922 KAR 1:330 and 922 KAR 1:480.

(d) A current personnel record shall be maintained for an employee that includes the**following**:

1. Name, address, Social Security number, date of employment, and date of birth;

2. Evidence of qualifications, including degree from a college or university, current registration, certification, or licensure;

3. Record of participation in staff development;

4. Record of performance evaluation;

5. Criminal records and central registry checks pursuant to paragraph (b)2 and 3 of this subsection;
 6. Record of a physical exam related to employment, as **established[specified]** in the child-placing agency's policies and procedures;
 7. Personnel action;
 8. Application for employment, resume, or contract; and
 9. Evidence of personnel orientation.
- (e) A child-placing agency shall have an ongoing staff development program under the supervision of a designated staff member.
- (f) An employee under indictment, legally charged with felonious conduct, or subject to a cabinet investigation in accordance with 922 KAR 1:330 shall:
1. Be immediately removed from further contact with the alleged victim~~[a child]~~; and
 2. Not be allowed to work with a child through their employment with the agency until:
 - a. ~~[A prevention plan has been written and approved by a designated regional cabinet staff];~~
 - ~~[b.]~~ The person is cleared of the charge; or
 - b. [c.] A cabinet investigation results in~~[reveals]~~ an unsubstantiated finding, if the charge resulted from an allegation of child:
 - (i) Abuse;
 - (ii) Neglect; or
 - (iii) Exploitation.
- (g) Unless the volunteer is a practicum student, a volunteer who performs a similar function as paid staff **established[described]** in subsection (4) of this section shall meet the same requirements and qualifications.
- (h) Practicum students and volunteers shall submit to a background check and any other mandatory requirements listed in subsection (5)(b) and (c) of this section.
- (i) A current personnel record shall be maintained for a practicum student or volunteer, **which[that]** includes~~[the following]~~:
1. Name, address, Social Security number, starting date, and date of birth;
 2. Evidence of qualifications if the volunteer performs a similar function as paid staff; and
 3. Criminal records and central registry checks pursuant to paragraph (h) of this subsection.
- (6) Physical management. If a child-placing agency uses physical management, the agency shall have established guidelines and policies governing the use of physical management that shall be:
- (a) Consistent with accreditation standards; and
 - (b) In accordance with 922 KAR 1:300.
- (7) Notifications. A licensed child-placing agency shall provide written notification within one (1) week to the Office of Inspector General, Division of Regulated Child Care when there is a change in the following leadership staff:
- (a) Executive director;
 - (b) Program director; or
 - (c) Treatment director.

Section 3. Interstate Placement.

(1) Prior to accepting a child from another state or prior to placing a child outside Kentucky, a child-placing agency shall comply with:

- (a) KRS 615.030 ~~through~~**[to]** 615.040~~[-Interstate Compact on Placement of Children];~~
- (b) KRS 615.010~~[-Interstate Compact for Juveniles];~~ and
- (c) 42 U.S.C. 671(a)(23).

(2) A child-placing agency shall comply with subsection (1) of this section if a child placed with the child-placing agency visits or receives respite care in another state for a period to exceed:

- (a) Thirty (30) days; or
- (b) The child's school vacation period as ascertained from the academic calendar of the school.

(3) If an emergency placement of a child into a licensed child-placing agency is made, the placement source shall be responsible for compliance with KRS 615.030 ~~through~~**[to]** 615.040.

Section 4. Evaluation of an Applicant.

(1) A child-placing agency's staff shall recruit a prospective foster or adoptive home.

(2) A child-placing agency shall:

- (a) Complete a home study; and
- (b) Approve the home prior to the placement of a child.

(3) Documentation of the home study shall include~~[the following]~~:

(a) A minimum of two (2) home visits for the purpose of conducting:

- 1. One (1) interview with each of the household members individually to assess each member's attitude toward the placement or adoption of a child; and
- 2. One (1) family consultation with all household members present to observe the functioning of the applicant's household, including interpersonal relationships and patterns of interaction;

(b) Proof of the applicant's:

- 1. Identity, such as a federally or state-issued photo identification card;
- 2. Age of twenty-one (21) years or older, unless an exception is granted pursuant to subsection (4) of this section; and
- 3. United States citizenship or legal immigrant status as ~~established~~**[described]** in 8 U.S.C. 1151;

(c) A statement for each member of the applicant's household that shall:

- 1. Be signed by a health professional who is not a member of the applicant's household; and
- 2. Verify that the individual has no illness or condition that would present a health or safety risk to a child placed in the applicant's home, which may include a communicable disease;

(d) A signed statement by a health professional who is not a member of the applicant's household regarding the applicant's physical ability to provide necessary care for a child;~~[-]~~

(e) 1. All household members shall disclose mental health and substance abuse issues, including any history of drug or alcohol abuse treatment; and

- 2. The private child-placing agency shall require further documentation or evaluation to determine the suitability of the home if there is an indicator of current or past mental health or substance abuse issues;

(f) All adult household members demonstrate functional literacy;

(g) Verification that the applicant has a source of income separate from:

- 1. Foster care reimbursement; or
- 2. Adoption assistance;

- (h) Documentation of references to include:
 - 1.a. The name of three (3) personal references including:
 - (i) One (1) relative; and
 - (ii) Two (2) non-relatives.
 - b. The references required by clause a. of this subparagraph shall:
 - (i) Be interviewed by the child-placing agency staff in person or by telephone; or
 - (ii) Provide letters of reference for the applicant; and
 - 2. Two (2) credit references or a credit report;
- (i) Verification that the applicant's financial stability has been assessed and approved in accordance with a child-placing agency's written policies and procedures;
- (j) Documentation of an in-person or telephone interview with each adult child of the applicant, who does not live in the applicant's home, regarding the applicant's parenting history unless a documented exception exists and is approved by the program director due to inaccessibility;
- (k) If applicable, verification from the applicant regarding a:
 - 1. Previous divorce;
 - 2. Death of a spouse; or
 - 3. Present marriage;
- (l) If the applicant does not have custody of the applicant's own child:
 - 1. A copy of a visitation order, if applicable;
 - 2. A copy of a child support order, if applicable; and
 - 3. Proof of current payment of child support, if applicable;
- (m) Proof that the child-placing agency performed background checks on the applicant and any member of the applicant's household as required by 922 KAR 1:490;
- (n) Documentation that the applicant has access to:
 - 1. Transportation that meets the child's needs, including restraint requirements pursuant to KRS 189.125;
 - 2. School;
 - 3. Recreation;
 - 4. Medical care; and
 - 5. Community facilities;
- (o) If an applicant or household member shall be transporting a foster child:
 - 1. Proof that the individual possesses a valid driver's license and has automobile or driver's insurance coverage; and
 - 2. Documentation that the applicant or household member shall abide by passenger restraint laws;
- (p) Documentation that the applicant's home:
 - 1. Does not present a hazard to the health and safety of a child;
 - 2. Is well heated and ventilated;
 - 3. Complies with state and local health requirements regarding water and sanitation; and
 - 4. Provides access to indoor and outdoor recreation space appropriate to the developmental needs of a child placed in the applicant's home;
 - 5. Provides functioning kitchen facilities; and
 - 6. Provides a functioning bathroom, including a:
 - a. Toilet;

- b. Sink; and
 - c. Bathtub or shower.
- (q) Verification that the requirements established by this paragraph are being followed.
- 1. More than four (4) children, including the applicant's own children, shall not share a bedroom;
 - 2. Thorough consideration shall be given to age, gender, and background if children share a bedroom;
 - 3. Children of different genders over the age of five (5) shall not share a bedroom unless an exception has been granted to facilitate the placement of a sibling group or children who are related and share a sibling-like relationship, such as cousins, and no high-risk behaviors are present that would require separation;
 - 4. A bedroom used by a child in the custody of a state agency shall be comparable to other bedrooms in the house; and
 - 5. A foster parent shall not share a bedroom with a child in the custody of a state agency, unless prior approval is obtained from the state agency based on the needs of the child;
- (r) Verification that an individual bed:
- 1. Is provided for each child in the home;
 - 2. If the child is under age one (1), is a crib that meets the Consumer Products Safety Commission Standards pursuant to 16 C.F.R. 1219-1220;
 - 3. Is age and size appropriate for the child; and
 - 4. Has a mattress that:
 - a. Meets current Consumer Products Safety Commission Standards in 16 C.F.R. Parts 1632 and 1633;
 - b. Is in good repair; and
 - c. Has a clean, fitted sheet that shall be changed:
 - (i) Weekly; or
 - (ii) Immediately if it is soiled or wet;
- (s) Verification that the following are inaccessible to a child:
- 1. Alcoholic beverages;
 - 2. Poisonous or hazardous materials;
 - 3. Ammunition and firearms in accordance with KRS 527.100 and 527.110;
 - 4. An animal that presents a danger to a child; and
 - 5. Medication unless an exception is granted pursuant to subsection (11)~~[(10)]~~ of this section;
- (t) Proof that the applicant has:
- 1. First aid supplies available and stored in a place easily accessible by the foster parent;
 - 2. An accessible working telephone;
 - 3. A working smoke alarm within ten (10) feet of each bedroom and on each floor of the home;
 - 4. A working carbon monoxide detector in a home with gas heating or appliances; and
 - 5. Any household animal vaccinated in accordance with KRS 258.015 and 258.035;
- (u) If a business open to the public adjoins the applicant's household, consideration of potential negative impacts on the child and family, including:
- 1. Hours of operation;
 - 2. Type of business; and

3. Clientele;

(v) Safety precautions related to an accessible swimming pool or body of water, if applicable; ~~and~~

(w) If an applicant was approved to foster or adopt a child by another child-placing agency or the cabinet and the applicant's home was closed:

1. Verification of the closure; ~~and~~

2. A statement to indicate whether **or not** the closure was at the request of the applicant or the agency; ~~and~~

3. If applicable, verification that the requirement established in subsection (6)(a) of this section has been met; and

(x) If an applicant previously approved to foster or adopt by a child-placing agency or the cabinet was under a corrective action plan issued by another agency or the cabinet prior to closure:

1. The issue or issues that caused the issuance of a corrective action plan;

2. The applicant's response to the corrective action plan;

3. Agency rationale for the recommendation that the cabinet approve the applicant's home study; and

4. The cabinet's written denial or approval of the home study.

(4) Exception to subsection (3)(b)2 of this section shall be granted if the applicant is:

(a) Between eighteen (18) and twenty-one (21) years of age;

(b) A relative of the child to be placed in the applicant's home; and

(c) Able to meet the needs of the child to be placed in the applicant's home.

(5) For each potential applicant evaluated, a child-placing agency shall keep a written record of the findings of the home study and the evidence on which the findings are based.

(6) If an applicant previously approved to foster or adopt by a child-placing agency or the cabinet was:

(a) Closed pursuant to Section 18 of this administrative regulation by another agency or the cabinet, the home shall not be **approved[reopened]** by an agency unless it has been **approved[reopened]** and operated as a cabinet foster home for a period of no less than one (1) year; or

(b) Under a corrective action plan issued by another agency or the cabinet prior to closure, the department shall review and approve the home study prior to the home being **approved[reopened]** by another agency.

(7)(a) A child-placing agency shall request written approval from the state agency with custody of the child, for the foster home to provide services as a:

1. Certified provider of Supports for Community Living in accordance with 907 KAR 12:010;

2. Therapeutic foster care provider for adults in accordance with 907 KAR 12:010;

3. Certified family child-care home in accordance with 922 KAR 2:100; or

4. Licensed child-care center in accordance with 922 KAR 2:090.

(b) An approved foster home shall not simultaneously be used as a licensed or certified health care or social service provider for a child in the foster home's care.

(8)[(7)]

(a) An employee of the department who provides protection and permanency services shall be considered for approval as a foster parent or respite care provider for a child in the custody of

the cabinet if prior approval by the commissioner or designee is granted in writing through the service region administrator in the region of the employment.

(b) If approval is granted, the private child-placing agency shall not place children from within the region of employment unless:

1. The employee is related to the child; or
2. The employee is determined to be fictive kin as the result of a relationship developed outside of employment prior to the child being placed in the custody of the cabinet.

~~(9)~~[(8)] An employee of the department who provides protection and permanency services may apply to adopt a child in the custody of the cabinet if the commissioner approves, in writing, the employee to adopt.

~~(10)~~[(9)]

(a) A child-placing agency shall develop written policies and procedures regarding employees of the child-placing agency serving as:

1. A foster parent;
2. An adoptive parent; or
3. A respite care provider.

(b) Policies and procedures developed in accordance with paragraph (a) of this subsection shall address the prevention or appearance of:

1. A conflict of interest; or
2. Misuse of influence.

~~(11)~~[(10)] A child-placing agency may make an exception to subsection (3)(s)5 of this section if:

(a) The exception is documented in the ITP of a child placed in the foster or prospective adoptive home;

(b)

1. The child is approved by a health professional to self-administer medicine under the supervision of the foster or prospective adoptive parent or other caretaker; or
2. Emergency access to the medication may be necessary to save the child's life, such as in the case of severe allergic reaction or asthma attack; and

(c) Measures are taken to prevent unauthorized access by another child in the same home.

~~(12)~~[(11)] If an applicant is approved as a foster home, adoptive home, or respite care provider by a state agency or another child-placing agency, a child-placing agency shall:

(a) Conduct a home study in accordance with subsections (2), (3), and (5) of this section; and

(b) Document that the applicant meets training requirements in accordance with Section 5, 7, 10, or 13~~, or 18~~ of this administrative regulation. If an applicant lacks training in accordance with this paragraph, the child-placing agency shall, prior to placement of a child in the home:

1. Provide training in accordance with Section 5, 7, 10, or 13~~, or 18~~ of this administrative regulation; or
2.
 - a. Develop an individualized curriculum to fulfill unmet training needs; and
 - b. Document the applicant's compliance with the individualized curriculum.

Section 5. Orientation and Preparation of a Foster Home.

~~(4)~~ With the exception of training requirements established~~[specified]~~ in 922 KAR 1:495 for a foster home that cares for a child in the custody of the cabinet, a child-placing agency shall:

- (1)~~(a)~~ Develop and maintain an orientation and preparation curriculum to be kept on file;
- (2)~~(b)~~ Provide a minimum of twenty-four (24) hours of orientation and preparation to a prospective foster parent, to include ~~the following~~:
- (a)~~(1)~~ Child-placing agency program description with mission statement;
 - (b)~~(2)~~ Information about the rights and responsibilities of the home and the rights of the foster child;
 - (c)~~(3)~~ Background information about the foster child and the child's family, including information in accordance with KRS 605.090(1)(b);
 - (d)~~(4)~~ An example of an actual experience from a foster parent that has fostered a child;
 - (e)~~(5)~~ Information regarding:
 - 1.~~(a)~~ The stages of grief;
 - 2.~~(b)~~ Identification of the behavior linked to each stage;
 - 3.~~(c)~~ The long-term effect of separation and loss on a child;
 - 4.~~(d)~~ Permanency planning for a child, including independent living services;
 - 5.~~(e)~~ The importance of attachment on a child's growth and development and how a child may maintain or develop a healthy attachment;
 - 6.~~(f)~~ Family functioning, values, and expectations of a foster home;
 - 7.~~(g)~~ Cultural competency;
 - 8.~~(h)~~ How a child enters and experiences foster care, and the importance of achieving permanency; and
 - 9.~~(i)~~ The importance of birth family and culture and helping children leave foster care;
 - (f)~~(6)~~ Identification of changes that may occur in the home if a placement occurs, to include:
 - 1.~~(a)~~ Family adjustment and disruption;
 - 2.~~(b)~~ Identity issues; and
 - 3.~~(c)~~ Discipline issues and child behavior management; and
 - (g)~~(7)~~ Specific requirements and responsibilities of a foster parent; and
- (3)~~(e)~~ Maintain an ongoing foster home preparation and training program that:
- (a)~~(1)~~ Provides a minimum of **ten (10)** ~~six (6)~~ hours of foster home training annually; and
 - (b)~~(2)~~ Maintains a record of preparation and training completed.
- ~~[(2)] [Training provided in accordance with 922 KAR 1:495 may be utilized for a foster home that does not care for a child in the custody of the cabinet if the governmental agency or individual with oversight of the child approves the training.]~~

Section 6. Placement, Case Management, and Supervision of a Child in a Foster Home, Medically Complex Foster Home, or Therapeutic Foster Care Home.

- (1) A child-placing agency shall:
- (a) Place a child only in an approved foster home; and
 - (b) Keep a child who has been committed to the Department of Juvenile Justice for the commission of a sex crime in a separate foster home or prospective adoptive home from a child committed to the cabinet in accordance with KRS 605.090(1), 620.090(2), and 620.230(3).
- (2) A child-placing agency shall select a foster home for a child based upon the individual needs of the child, including:
- (a) The child's assessment and ITP, if available;
 - (b) Any information concerning the child's needs in placement; and

(c) Measures to support the safety of the child, such as a placement restriction in accordance with subsection (1)(b) of this section or another child in the foster home.

(3) A child shall participate in the intake process to the extent that the child's age, maturity, adjustment, family relationships, and the circumstance necessitating placement justify the child's participation.

(4) Unless an exception is granted pursuant to subsection (6) of this section, the number of children residing in a foster home shall not exceed six (6), including the foster parent's own children living in the home.

(5) Unless an exception is granted pursuant to subsection (6) of this section, a child-placing agency shall have a maximum of two (2) children under two (2) years of age placed in the same foster home at the same time, including children placed in the custody of the cabinet and the foster parent's own children.

(6)(a) Justification for an exception to subsection (4) or (5) of this section shall be:

1. Documented in the foster parent file; and
2. Authorized by the program director because a plan is in place with the foster parent to ensure that the needs of all children in the home are met.

(b) For a foster home that cares for a child in the custody of the cabinet, the child-placing agency shall submit a DPP-112B, Private Child-Placing Agency Placement Exception Request, for an exception to subsection (4) or (5) of this section to designated cabinet staff prior to the placement documenting:

1. The reason the placement is in the best interest of the child; and
2. Specific support services to be provided.

(c) The number of foster children residing in a foster family home may exceed the limitation established in subsection (4) or (5) of this section with documentation on the DPP-112B in order to allow:

1. A parenting youth in foster care to remain with the child of the parenting youth;
2. Siblings to remain together;
3. A child with an established meaningful relationship with the family to remain with the family;
4. A family with special training or skills to provide care to a child who has a severe disability;
- or
5. Other circumstances noted in the DPP-112B and approved by the service region administrator or designee ***based on maintaining the health and safety of the child.***

(d) If an exception to subsection (4) or (5) of this section is necessary for a placement to occur outside of normal business hours:

1. The child-placing agency shall verbally provide all information contained within the DPP-112B to designated cabinet staff prior to the placement;
2. A verbal approval from designated cabinet staff shall be required prior to the placement occurring; and
3. The completed DPP-112B shall be submitted on the first business day following placement.

(7) A child-placing agency shall:

- (a) Assess a child to be placed in foster care;
- (b) Within thirty (30) days of a child's placement, develop:
 1. An ITP:

- a. Based upon the individual strengths and needs of the child and, if appropriate, the child's family, that[which] addresses the:
 - (i) Visitation, health, and educational needs of the child;
 - (ii) Child's permanency goals and related objectives;
 - (iii) Methods for accomplishing each goal and objective; and
 - (iv) Designation of an individual or individuals responsible for completion of each goal and objective; and
- b. With the child and the child's parent:
 - (i) That includes offering the child the opportunity to sign the ITP signifying the child's understanding; and
 - (ii) Unless a circumstance exists that[which] precludes engagement of the child or the child's parent from occurring and is documented in the child's case record; and
- 2. A supervision plan for the child that[which]:
 - a. Is attached to the child's ITP;
 - b. Identifies the current supervision needs of and expectations for the child based upon the child's recent and past:
 - (i) Incidents;
 - (ii) High-risk behaviors; and
 - (iii) Needs identified in the assessment conducted pursuant to paragraph (a) of this subsection;
 - c. Includes goals and objectives for the child's improvement with tasks assigned to the child-placing agency and foster home parent;
 - d. Is signed and dated by the social services[service] worker and foster home parent; and
 - e. Remains a part of the child's record;
- (c) Review a child's ITP and supervision plan on a quarterly basis or more frequently as the child's needs or circumstances dictate;
- (d) Have a written agreement with the foster home stating the:
 - 1. Responsibilities of the:
 - a. Child-placing agency; and
 - b. Foster home; and
 - 2. Terms of each placement;
- (e) Require a foster home to certify, in writing, that supervision from the child-placing agency or the state agency, which has custody of the child, shall be allowed;
- (f) Document a placement in the foster home file;
- (g) Report immediately to the state agency that[which] has custody of the child if there is:
 - 1. A hospitalization or life-threatening accident or illness;
 - 2. An absence without official leave;
 - 3. A suicide attempt;
 - 4. Criminal activity by the child;
 - 5. Death;
 - 6. Possession of a deadly weapon by a child;
 - 7. Change in address;
 - 8. Change in the number of people living in the home; or

9. Significant change in the foster home, such as changes in health or income status of an individual living in the foster home;
- (h) Establish policies and procedures for supervision of a foster home by a worker other than the social services worker assigned to the foster home, who meets qualifications specified in Section 2(4)(c) of this administrative regulation to:
1. Include:
 - a. Frequency of an in-home visit with the foster parent;
 - b. Means of supervision;
 - c. Methods of supervision; and
 - d. Personnel conducting the supervision;
 2. Ensure a foster child's placement stability and safety; and
 3. Be individualized, as needed, for the:
 - a. Child; or
 - b. Foster home;
- (i) Identify and make available necessary supports to a foster home, including:
1. A plan for respite care in accordance with Section 13 of this administrative regulation;
 2. Twenty-four (24) hour crisis intervention; and
 3. A foster home support group;
- (j) Assure that a child receives care and services, including independent living services:
1. In accordance with Section 15[46] of this administrative regulation; and
 2. As ***established[prescribed]*** by the child's needs as assessed in the child's ITP;
- (k) Provide information to a foster parent regarding the behavior and development of the child placed by the child-placing agency;
- (l) Inform the foster parent, in accordance with KRS 605.090(1)(b), of:
1. Inappropriate sexual acts or sexual behavior of the child as specifically known to the child-placing agency; and
 2. Any behaviors of the child that indicate a safety risk for the placement;
- (m) Document each effort to:
1. Protect the legal rights of the ***child's*** family and the child; and
 2. Maintain the bond between the child and the child's family, in accordance with the child's permanency plan;
- (n) Assure that a child shall have, for the child's exclusive use, clothing comparable in quality and variety to that worn by other children with whom the child may associate;
- (o) Be responsible for monitoring the child's school progress and attendance;
- (p) Secure psychological and psychiatric services, vocational counseling, or other services if indicated by the child's needs;
- (q) Reassess and document quarterly, in the child's ITP, placement and permanency goals, including independent living services, in accordance with Section 15[46] of this administrative regulation;
- (r) Conduct and document a face-to-face visit with the child at least once per month; and
- (s) Maintain foster care records in accordance with Section 16[47] of this administrative regulation.
- (8) Without prior notification to and written authorization from the Kentucky Interstate Compact Administrator, a child shall not be:

- (a) Placed with a family that normally resides in another state; or
 - (b) Permitted to go with a person to take up residence in another state.
- (9)(a) An approved foster home in use shall be evaluated at least every three (3) years for compliance with responsibilities listed in the written agreement **established[described]** in subsection (7)(d) of this section.
- (b) Results shall be recorded in the foster parent file.
- (10) Factors that shall result in a review of a foster home shall include:
- (a) Death or disability of a family member;
 - (b) Sudden onset of a health condition that impairs a foster parent's ability to care for a child placed in the home;
 - (c) Change in marital status or home address;
 - (d) Sudden, substantial decrease in, or loss of, income;
 - (e) Child birth;
 - (f) Use of a form of punishment that includes:
 - 1. Cruel, severe, or humiliating actions;
 - 2. Corporal punishment inflicted in any manner;
 - 3. Denial of food, clothing, or shelter;
 - 4. Withholding implementation of the child's ITP;
 - 5. Denial of visits, telephone, or mail contacts with family members, unless authorized by a court of competent jurisdiction; and
 - 6. Assignment of extremely strenuous exercise or work;
 - (g) A report of abuse, neglect, or dependency that results in a finding that is:
 - 1. Substantiated; or
 - 2. Reveals concern regarding the care of the child;
 - (h) If the foster parent is cited with, charged with, or arrested due to a violation of law other than a minor traffic offense;
 - (i) An incident required to be reported in accordance with subsection (7)(g) of this section and Section 12(6) of this administrative regulation;
 - (j) Other factors identified by a child-placing agency that jeopardize the physical, mental, or emotional well-being of the child; or
 - (k) Failure to meet annual training requirements.
- (11) The documentation of a review, **established[specified]** in subsection (10) of this section, shall contain:
- (a) Identifying information;
 - (b) Current composition of the household;
 - (c) Description of the situation that initiated the review;
 - (d) An assessment of the family functioning to determine if the child's needs are met; and
 - (e) Corrective action that may include a recommendation for closure of the foster home.

Section 7. Orientation and Preparation of a Therapeutic Foster Care Home.

- (1) A child-placing agency shall maintain the orientation and preparation curriculum on file.
- (2) Unless a therapeutic foster care home cares for a child in the custody of the cabinet and is subject to training requirements **established[specified]** in 922 KAR 1:495, a child-placing

agency shall provide a minimum of thirty-six (36) hours of orientation and preparation for a prospective therapeutic foster care parent that shall incorporate the following topic areas:

- (a) Child-placing agency program description with mission statement;
 - (b) Information about the rights and responsibilities of the therapeutic foster care home;
 - (c) Background information about a foster child and the child's family;
 - (d) An example of an actual experience of a therapeutic foster care parent that has fostered a child;
 - (e) Stages of grief;
 - (f) Behaviors linked to each stage of grief;
 - (g) Long-term effects on a child from separation and loss;
 - (h) Permanency planning for a child, including independent living services;
 - (i) Importance of attachment on a child's growth and development and the way a child maintains and develops a healthy attachment, including attachment disorder and associated behaviors;
 - (j) Family functioning, values, and expectations of a therapeutic foster care home;
 - (k) Changes that **could[may]** occur in the home with placement of a child regarding:
 - 1. Family functioning;
 - 2. Family adjustment;
 - 3. Identity issues;
 - 4. Discipline issues and child behavior management; and
 - 5. Family disruption;
 - (l) Specific requirements and responsibilities of a therapeutic foster care home;
 - (m) Behavior management;
 - (n) Communication skills;
 - (o) Skill teaching;
 - (p) Cultural competency;
 - (q) Behavior management de-escalation techniques;
 - (r) The dynamics of a child who has experienced sexual abuse or human trafficking; and
 - (s) The effect of chemical abuse or dependence by the child or the child's biological parent.
- (3) A therapeutic foster care home shall receive:
- (a) A minimum of twenty-two (22)~~twenty-four (24)~~ hours of annual training; or
 - (b) Training in accordance with 922 KAR 1:495 if the home provides care to a child in the custody of the cabinet.
- (4) A child-placing agency that provides therapeutic foster care shall maintain an ongoing therapeutic foster care preparation and training program that:
- (a) Provides training to meet requirements of subsection (2) of this section; and
 - (b) Maintains a record of preparation and training completed.

Section 8. Additional Requirements for Therapeutic Foster Care.

(1) A therapeutic foster care home shall accommodate the needs of a child who is unable to live with the child's own family and who:

- (a) **Could[May]** benefit from care in a family setting; and
- (b)1. Has clinical or behavioral needs that exceed supports available in a foster home; or

2. Is transitioning from group care as part of the process of returning to family and community.

~~(2) [Unless an exception is granted pursuant to subsection (3) of this section, the number of children residing in a therapeutic foster care home that does not care for a child in the custody of the cabinet shall be limited to a total of six (6) children, including no more than two (2) therapeutic foster care children.]~~

~~(3) Justification for an exception to subsection (2) of this section shall be:~~

~~(a) Documented in the therapeutic foster care parent's file; and~~

~~(b) Authorized by the treatment director because a plan is in place with the foster care parent to ensure that the needs of all children in the home are met.~~

~~(4)]~~ Unless an exception is granted pursuant to subsection ~~(3)~~~~[(5)]~~ of this section, the number of children residing in a therapeutic foster care home that cares for a child in the custody of the cabinet shall be limited to a total of four (4) children, including no more than two (2) therapeutic foster care children.

~~(3)~~~~[(5)]~~ To make a request for an exception to subsection (4) of this section, a child-placing agency shall follow the procedure established~~[set forth]~~ in Section 6(6)(b) of this administrative regulation.

~~(4)~~~~[(6)]~~ A treatment director shall supervise a treatment team and shall participate in the development of the ITP and the quarterly case consultation.

~~(5)~~~~[(7)]~~ A child-placing agency shall provide or contract, as established~~[specified]~~ in KRS 199.640(5)(a)2, for therapeutic services individualized for the child, as needed, at least two (2) times per month.

~~(6)~~~~[(8)]~~ A therapeutic foster care parent shall be responsible for:

(a) Participation in the development of an assessment, ITP, and supervision plan as established~~[specified]~~ in Section 6(7) of this administrative regulation;

(b) Facilitation of in-home services provided by a social services worker at least two (2) times per month;

(c) Adequate supervision of the child and implementation of components of the ITP, including daily log documentation as established~~[specified]~~ in the ITP;

(d) Working with the child-placing agency to promote stability and avoid disruption for the child; and

(e) Working with the child-placing agency in the development of a plan for the smooth transition of the child to a new placement, if there is a disruption.

~~(7)~~~~[(9)]~~ ~~Except for a child who is the legal responsibility or in the custody of the cabinet or the Department of Juvenile Justice, a child-placing agency shall be responsible for:~~

~~(a) A preplacement conference, in a nonemergency placement, for the purpose of:~~

~~1. Developing permanency goals and a discharge plan for the child, including independent living services;~~

~~2. Developing a plan for the implementation of services;~~

~~3. Identifying the treatment goals; and~~

~~4. Developing a behavior management plan if applicable; and~~

~~(b) Inviting and encouraging attendance to the preplacement conference by:~~

~~1. The prospective therapeutic foster care home;~~

~~2. A respite care provider approved in accordance with Section 13(4) of this administrative regulation;~~

~~3. The child, if appropriate; and~~

~~4. The child's family.~~

~~(10)]~~ The social services worker shall:

- (a) Have a face-to-face visit with a child and therapeutic foster care parent on the day of the child's placement;
- (b) Have another face-to-face visit with the therapeutic foster care parent or child within ten (10) calendar days of the child's placement;
- (c) Telephone or visit, on a weekly basis, at least one (1) of the therapeutic foster care parents of each child on the therapeutic foster care worker's caseload;
- (d) Visit a therapeutic foster care parent a minimum of two (2) times a month with at least one (1) visit being in the foster home;
- (e) Visit the foster child face-to-face a minimum of two (2) times a month with at least one (1) visit in the therapeutic foster care home and one (1) visit outside the foster home;
- (f) Carry a caseload of not more than twelve (12) therapeutic foster care children, taking into account:

- 1. Required responsibilities other than the case management of a child in foster care;
- 2. Additional support, contact, and preparation needed by a therapeutic foster care home, due to the extent of the needs of the child served;
- 3. The intensity of services provided to the child and the child's family; and
- 4. Caseload expectations established in Section 2(4)(h) of this administrative regulation;

(g) Conduct a quarterly case consultation, including the:

- 1. Foster home;
- 2. Child's public agency worker;
- 3. Child-placing agency treatment director and social services worker; and
- 4. Child and the child's family of origin, to the extent possible;

(h) Identify the support needed by the foster family, including a:

- 1. Plan for respite care as **established[provided]** in Section 13 of this administrative regulation;
- 2. Plan for twenty-four (24) hour on-call crisis intervention; and
- 3. Foster home support group;

(i) Recommend and prepare an aftercare plan for a child, prior to discharge from therapeutic foster care, to ensure a successful transition; and

(j) Document a quarterly case consultation and revision to a child's ITP as determined by the case consultations.

~~(8)[(14)]~~ A child-placing agency shall:

(a) Meet requirements **established[specified]** in Section 6(1) through (3) and (7) through (11) of this administrative regulation; and

(b) **Reevaluate[Annually reevaluate]** a therapeutic foster care home in accordance with Section ~~14~~**[45]** of this administrative regulation.

Section 9. Child With Medical Complexity.

(1) A child with medical complexity shall be:

- (a) A child in the custody of the cabinet; and
 - (b) Determined by the cabinet to meet the child with medical complexity requirements established in~~of~~ 922 KAR 1:350.
- (2) The decision to accept a child with medical complexity shall be optional to a child-placing agency.
- (3) If a child placed with a child-placing agency in a non-medically complex foster home becomes medically complex in accordance with subsection (1) of this section, the Division of Protection and Permanency director or designee and child-placing agency shall reevaluate the placement and ensure the child's needs can be met.

Section 10. Preparation of a Medically Complex Foster Home.

- (1) A child-placing agency shall create a medically complex foster home only if the child-placing agency has:
- (a) Staff meeting qualifications established in Section 2(4) of this administrative regulation supervising the home, who have received medically complex training in accordance with subsection (2)(b) and (c) of this section; and
 - (b) A liaison established with the cabinet.
- (2) A foster home shall be approved to care for a child with medical complexity by a child-placing agency if the foster home:
- (a) Includes a primary caregiver who is not employed outside the home, unless approved in writing by designated cabinet staff;
 - (b) Completes training as established~~specified~~ in 922 KAR 1:495, Section 4;
 - (c) Maintains certification in:
 - 1. Infant, child, and adult CPR; and
 - 2. First aid;
 - (d) Is located within a:
 - 1. One (1) hour drive of a medical hospital with an emergency room; and
 - 2. Thirty (30) minute drive of a local medical facility; and
 - (e) Is evaluated in accordance with Section 4 of this administrative regulation.
- (3) If the cabinet determines that a child currently in the care of a foster parent approved by the child-placing agency is a child with medical complexity in accordance with Section 9(1) of this administrative regulation, then the cabinet shall prioritize the foster home's enrollment in training as established~~specified~~ in subsection (2)(b) and (c) of this section.
- (4) An approved medically complex foster home shall receive reapproval, if the foster home:
- (a) Annually completes ongoing training as established~~specified~~ by subsection (2)(b) and (c) of this section; and
 - (b) Continues to meet the requirements in Section 14~~15~~ of this administrative regulation.
- (5) Except for a sibling group or unless approved by designated cabinet staff in accordance with the DPP-112B, more than four (4) children, including the medically complex foster parent's own children, shall not reside in a medically complex foster home, with no more than two (2) children being medically complex or requiring therapeutic foster care.
- (6) Unless an exception is approved by designated cabinet staff in accordance with the DPP-112B, a:

- (a) One (1) parent medically complex foster home shall not care for more than one (1) child with medical complexity; and
- (b) Two (2) parent medically complex foster home shall not care for more than two (2) children with medical complexity.
- (7) If a placement would exceed a limit established by subsection (5) or (6) of this section, a child-placing agency shall request an exception in accordance with Section 6(6)(b) of this administrative regulation.

Section 11. Placement of a Child With Medical Complexity.

- (1)(a) In addition to training required in Section 10(2)(b) and (c) of this administrative regulation, an approved medically complex foster parent shall receive training on how to care for the specific needs of a child with medical complexity placed in the home.
 - (b) The training shall be conducted by a health professional or a previous caregiver who[that] was trained by a health professional.
- (2) Unless an exception is granted by the director of the Division of Protection and Permanency or designee pursuant to subsection (3)(a) of this section, a child with medical complexity shall be placed in an approved medically complex foster home.
- (3) A child-placing agency shall:
 - (a) Request an exception to subsection (2) of this section in accordance with Section 6(6)(b) of this administrative regulation;
 - (b) Provide case management services:
 - 1. As established[described] in Section 6(1) through (3), and (7) through (11) of this administrative regulation; and
 - 2. In accordance with the child's:
 - a. Health plan developed by designated cabinet staff;
 - b. ITP; and
 - c. Supervision plan;
 - (c) Support the child's health plan developed by designated cabinet staff; and
 - (d) Conduct a face-to-face visit with the child at least two (2) times per month.

Section 12. Expectations for a Foster Home, Therapeutic Foster Care Home, or Medically Complex Foster Home. An approved foster parent, medically complex foster parent, or therapeutic foster care parent shall:

- (1) Provide a child placed by the child-placing agency with a family life, including:
 - (a) Nutritious food;
 - (b) Clothing comparable in quality and variety to that worn by other children with whom the child may associate;
 - (c) Affection;
 - (d) Life skills development;
 - (e) Recreational opportunities;
 - (f) Education opportunities;
 - (g) Nonmedical transportation;
 - (h) Opportunities for development consistent with the child's religious, ethnic, and cultural heritage;

- (i) Adequate supervision;
- (j) Independent living services for a child age fourteen (14)~~[twelve (12) years of age]~~ or older; and
- (k) **A smoke-free environment by** refraining from smoking in the direct presence of a child for whom their physician recommends, in writing, a smoke-free environment~~;~~**;**
- (2) **Allow**~~[Permit]~~ **the approving**~~[a]~~ child-placing agency and staff of a state agency to visit the home;
- (3) Share with the child-placing agency and, if applicable, staff of the state agency that~~[which]~~ has custody of the child, information about the child placed by the child-placing agency;
- (4) Notify the child-placing agency fourteen (14) calendar days prior if the home is approved to provide foster or adoptive services through another private child-placing agency or the cabinet;
- (5) Notify the child-placing agency prior to:
 - (a) Leaving the state with a child placed by the child-placing agency for more than twenty-four (24) hours; or
 - (b) Allowing a child placed by the child-placing agency to be absent from the foster home for more than twenty-four (24) hours;
- (6) Report immediately to the child-placing agency through which the child is placed if there is:
 - (a) A hospitalization or life-threatening accident or illness;
 - (b) An absence without official leave;
 - (c) A suicide attempt;
 - (d) Criminal activity by the child;
 - (e) Death of any member in the household;
 - (f) A child's possession of a deadly weapon;
 - (g) Change in address;
 - (h) Change in the number of people living in the home;
 - (i) Significant change in circumstance in the foster home; or
 - (j) Failure of the foster child or foster parent to comply with the supervision plan;
- (7) Cooperate with the child-placing agency if child-placing agency staff arranges for a child, placed in the foster home by the child-placing agency, and the child's birth family regarding:
 - (a) Visits;
 - (b) Telephone calls; or
 - (c) Mail;
- (8) **Upon request**, surrender a child or children to the authorized representative of the child-placing agency or the state agency that~~[, which]~~ has custody of the child~~[, upon request]~~;
- (9) Keep confidential all personal or protected health information as shared by the cabinet or child-placing agency, in accordance with KRS 194A.060 and 45 C.F.R. Parts 160 and 164, concerning a child placed in a home or the child's birth family;
- (10) Support an assessment of the service needs, including respite care, and the development of an ITP, including the supervision plan, of a child placed by the child-placing agency;
- (11) Participate in a case planning conference concerning a child placed by the child-placing agency;
- (12) Cooperate with the implementation of the permanency goal established for a child placed by the child-placing agency;

- (13) Ensure that a child in the custody of the cabinet receives the child's designated per diem allowance;
- (14) Facilitate the delivery of medical care to a child placed by the child-placing agency as needed, including:
 - (a) Administration of medication to the child and daily documentation of the administration; and
 - (b) Physicals and examinations for the child;
- (15) Treat a child placed by the child-placing agency with dignity;
- (16) Report suspected incidents of child abuse, neglect, and exploitation in accordance with KRS 620.030; and
- (17) Comply with general supervision and direction of the child-placing agency or, if applicable, the state agency that has custody of the child, concerning the care of the child placed by the child-placing agency.

Section 13. Respite for Foster Care, Medically Complex Foster Care, or Therapeutic Foster Care.

- (1) The child-placing agency shall develop written policies and procedures to address the respite care needs of a child or a foster parent.
- (2) Respite care shall not be used as a means of placement for a child.
- (3) Respite care shall be in accordance with Section 3(2) of this administrative regulation.
- (4) The child-placing agency shall not approve a respite care provider unless the provider meets requirements **established[specified]** by Section 4(3)(b), (d), and (m) through (u) of this administrative regulation.
- (5) A respite care provider shall:
 - (a) Receive, from the agency or foster parent, preparation for placement of a child, including:
 - 1. Information in accordance with KRS 605.090(1)(b); and
 - 2. Information regarding the supervision plan of the child;
 - (b) Provide adequate supervision in accordance with the child's supervision plan;
 - (c)
 - 1. Give relief to a foster parent caring for a child; or
 - 2. Provide for an adjustment period for a child;
 - (d) Meet the requirements of Section 6(4) through (6) of this administrative regulation; and
 - (e) Meet the requirements of Section **8(2)[8(4)]** of this administrative regulation if the provider cares for a child requiring therapeutic foster care.
- (6) A respite care provider for a child with medical complexity shall:
 - (a) Meet the requirements of Section 10(4)(b), (5), and (6) of this administrative regulation;
 - (b) Receive training on how to meet the specific needs of the child with medical complexity from:
 - 1. A health professional; or
 - 2. The foster parent trained by a health professional; and
 - (c) Maintain certification in:
 - 1. Infant, child, and adult CPR; and
 - 2. First Aid.

Section 14. ~~[Private Placement Process. Except for a child in the custody of or otherwise made the legal responsibility of the cabinet or the Department of Juvenile Justice, a child-placing agency shall follow the procedures established by this section if a private placement is conducted.]~~

~~[(1)] [For a child being placed with a child-placing agency, the child-placing agency shall obtain an:]~~

~~[(a)] [Agreement for voluntary care signed by the custodian; or]~~

~~[(b)] [Order from a court of competent jurisdiction placing the child into the custody of the child-placing agency.]~~

~~[(2)] [The child-placing agency shall:]~~

~~[(a)] [Complete an intake assessment of the strengths and needs of the child and the child's family of origin; and]~~

~~[(b)] [Ascertain the appropriateness of the referral for the child.]~~

~~[(3)]~~

~~[(a)] [The child-placing agency shall develop an ITP individualized for a child and the child's family based on an individualized assessment of the child's and family's needs:]~~

~~[1.] [Within thirty (30) days of the child's placement with the child-placing agency; or]~~

~~[2.] [Prior to the child being placed out of state.]~~

~~[(b)] [An exception to the requirement specified in paragraph (a) of this subsection may be made for a child:]~~

~~[1.] [Under the age of twelve (12) months; and]~~

~~[2.] [With no extraordinary needs.]~~

~~[(c)] [The assessment shall be revised as needed.]~~

~~[(d)] [The assessment and ITP shall include the type and extent of services to be provided to the child and the child's family.]~~

~~[(e)] [Assessment of the child shall include consideration of the following history:]~~

~~[1.] [Behavioral health treatment;]~~

~~[2.] [Trauma;]~~

~~[3.] [Risk for harm to self or others; and]~~

~~[4.] [Past behaviors or safety issues that could increase the likelihood of placement disruption.]~~

~~[(4)] [Unless not in the best interest of the child, the child, parent, and foster parent shall be included in developing the assessment and ITP.]~~

~~[(5)]~~

~~[(a)] [The foster home selected for placement shall be the most appropriate home based on the child's needs and the strengths of the foster family.]~~

~~[(b)] [The foster home shall be located as close as possible to the home of the family of origin, in order to facilitate visiting and reunification.]~~

~~[(6)]~~

~~[(a)] [The social services worker and the foster parent shall work collaboratively to prepare the child prior to the placement.]~~

~~[(b)] [Unless a circumstance precludes preparation and the circumstance is documented in the case record, a child shall have a period of preparation prior to the placement in the foster home.]~~

~~[(7)] [The child-placing agency shall:]~~

~~[(a)] [Provide or arrange for services to support reunification for a child for whom family reunification is the goal;]~~

~~[(b)] [Assess and document the parent's capacity for reunification quarterly;]~~

~~[(c)] [Provide for review of the child in order to evaluate the progress toward achieving the child's permanency goal every six (6) months; and]~~

~~[(d)] [Assure that foster care continues to be the best placement for the child.]~~

~~[(8)]~~

~~[(a)] [Services to the family of origin and to the child shall be adapted to their individual capacities, needs, and problems.]~~

~~[(b)] [A reasonable effort shall be made to return the child to the family of origin.]~~

~~[(9)] [Planning for the child regarding treatment program matters, including visitation, health, education, and permanency goals, shall be developed in collaboration with the:]~~

~~[(a)] [Family of origin;]~~

~~[(b)] [Treatment director;]~~

~~[(c)] [Social services worker; and]~~

~~[(d)] [Foster home.]~~

~~[(10)]~~

~~[(a)] [The child-placing agency shall work with a foster home to promote stability and avoid disruption for a child, to include:]~~

~~[1.] [Services specified in Section 6(1) through (3), and (7) through (11) of this administrative regulation; and]~~

~~[2.] [Reevaluation of the foster home in accordance with Section 15 of this administrative regulation.]~~

~~[(b)] [A request for the removal of a child from a foster home shall be explored immediately and shall be documented by the social services worker.]~~

~~[(c)] [If disruption is unavoidable, the child-placing agency and foster home shall develop a plan for the smooth transition of the child to a new placement.]~~

~~[(11)]~~

~~[(a)] [Preparation for the return of a child to the family of origin shall be supervised by a social services worker.]~~

~~[(b)] [The family shall participate in planning for the child's return.]~~

~~[(c)] [If regular contact with the child's family does not occur, a plan for the child's return shall include at least one (1):]~~

~~[1.] [Prior visit between the child and the family; and]~~

~~[2.] [Preliminary visit of the child to the child's family home.]~~

~~[(12)] [The child-placing agency shall recommend a plan for aftercare services for a child and the child's family.]~~

~~[Section 15.]~~ Reevaluation of an Approved Adoptive Home Awaiting Placement or an Approved Foster Home.

(1) Every third year during the initial approval month, a child-placing agency shall:

(a) Conduct a personal interview in the home with an approved:

1. Adoptive home awaiting placement; or
2. Foster home; and

(b) Assess:

1. Any change in the home;
2. The ability of the home to meet the needs of a child placed in the home; and
3. The home's continued compliance with the requirements of this administrative regulation in:

a. Section 4(3)(g), (i), and (k) through (u), and Section 4(5) through ~~(12)~~~~(14)~~ of this administrative regulation, with regard to evaluation, if the home is approved as a foster or adoptive home;

b. Sections 6(9)(a) and 12 of this administrative regulation, with regard to case management and expectations, if the home is approved as a foster home; and

c.

(i) Sections 5(1)(c) or 7(3)(a) of this administrative regulation, with regard to annual training, if the home is approved as a foster home; and~~or~~

(ii) 922 KAR 1:495 with regard to annual training if the home is approved to receive a child in the custody of the cabinet; ~~and~~

~~[d.] [Section 18(3) of this administrative regulation, with regard to annual training, if the home is approved as an adoptive home.]~~

(2) After initial approval, a foster parent, an adoptive parent awaiting placement, a respite care provider, or a member of a foster or adoptive parent's household shall comply with a child-placing agency's request for a statement regarding the parent, provider, or household member's general health and medical ability to care for a child.

~~[(3)] [If a prospective adoptive home is awaiting an international adoption, the child-placing agency shall conduct a reevaluation of the home once every eighteen (18) months.]~~

Section 15.~~[Section 16.]~~ Independent Living Services. A child-placing agency shall:

(1) Provide independent living services:

(a) To a child:

1. In the custody of a state agency; and
2. Who is fourteen (14)~~twelve (12)~~ to twenty-one (21) years of age;

(b) Directly or indirectly through a foster parent with whom the child is placed;

(c) As **established**~~[prescribed]~~ in the child's ITP; and

(d) In accordance with 42 U.S.C. 677(a); and

(2) Teach independent living:

(a) To a child:

1. In the custody of a state agency; and
2. Eighteen (18)~~Sixteen (16)~~ years of age and older; and

(b) Developed in accordance with 922 KAR 1:340, Section 3(1)(a).

Section 16.~~[Section 17.]~~ Maintenance of a Foster Care, Medically Complex Foster Care, or Therapeutic Foster Care Record.

(1)(a) The child-placing agency shall maintain a record on each child and foster home, including medically complex foster homes and therapeutic foster care homes, **if applicable**.

(b) The child's record and the foster home record shall show the reason for placement change and steps taken to ensure success.

(c) A case record shall be maintained in conformity with existing laws and administrative regulations pertaining to confidentiality, pursuant to KRS 199.430(3), 199.640, and 45 C.F.R. Parts 160 and 164.

(2) The record of the child, including information of the child's family, shall include:

- (a) Identifying information for child, parent, and foster home;
- (b) Commitment order or custodian's consent for admission;
- (c) Birth and immunization certificate;
- (d) Educational record;
- (e) Medical and dental record since placement;
- (f) Social history and assessment;
- (g) ITP and review;
- (h) Supervision plan and updates to the plan;
- (i) Permanency goals, including independent living services;
- (j) Incident reports, including details of the child's behavior and supervision at the time of the incident;
- (k) Monthly progress notes based on the ITP and supervision plan;
- (l) Quarterly revisions to the child's ITP;
- (m) Correspondence with the:
 - 1. Court;
 - 2. Family;
 - 3. Department for Community Based Services; or
 - 4. Department of Juvenile Justice;
- (n) Discharge report; and
- (o) Aftercare plan.

(3) The foster home's record shall include documentation relating to the:

- (a) Orientation and preparation of the home, including all adult caregivers in the household;
- (b) Required preparation hours and the topics covered;
- (c) Placement of the child;
- (d) Narrative summary of the initial and subsequent foster home's home study evaluation;
- (e) Supervision of the foster home, including critical incidents;
- (f) 1. Annual training requirements that are met in accordance with Section ~~5(3)~~~~[5(1)(e)]~~ of this administrative regulation by the foster parent and all adult caregivers in the household; or
2. If applicable, annual training requirements in accordance with Section 7(3) or 10 of this administrative regulation;
- (g) Background checks in accordance with Sections 4(3)(m) and ~~14(1)(b)3.a~~~~[15(1)(b)3.a]~~ of this administrative regulation;
- (h) Copy of any placement exceptions granted; and
- (i) If applicable, copy of the written statement of the foster home's closure completed pursuant to Section ~~18(5)~~~~[22(5)]~~ of this administrative regulation.

(4) A child-placing agency shall:

- (a) Maintain a child or foster home's record for at least three (3) years;
- (b) After three (3) years of inactivity, ~~it~~~~[1.]~~ archive the record and ~~maintain~~~~[have it transferred to one (1) of the cabinet's designated record centers; or]~~~~[2.]~~~~[Maintain]~~ the record in accordance with 725 KAR 1:061 within the child-placing agency;

- (c) Transfer the record to the cabinet, if:
 - 1. The agency ceases operations; and
 - 2. No other operational governing entity exists; and
- (d) Make available all records maintained by the agency to the cabinet or its designee upon request.

Section 17. ~~[Section 18:] [Orientation and Preparation of an Adoptive Home for a Child Not in the Custody of the Cabinet. For a child not in the custody of the cabinet, a child-placing agency shall:]~~

- ~~[(1)] [Prepare and maintain the orientation and preparation curriculum on file;]~~
- ~~[(2)] [Provide orientation and preparation to a prospective adoptive home in accordance with the child-placing agency's policies and procedures to include the following:]~~
 - ~~[(a)] [An example of an actual experience from a parent who has adopted a child;]~~
 - ~~[(b)] [Challenging behavior characteristics of an adoptive older child;]~~
 - ~~[(c)] [Referral resources for a developmental delay;]~~
 - ~~[(d)] [Transition issues with focus on stages of grief, and a honeymoon period;]~~
 - ~~[(e)] [Loss and the long-term effects on a child;]~~
 - ~~[(f)] [Attachment and identity issues of the child;]~~
 - ~~[(g)] [Cultural competency;]~~
 - ~~[(h)] [Medical issues including referral resources;]~~
 - ~~[(i)] [Family functioning, family values, and expectations of an adoptive home;]~~
 - ~~[(j)] [Identification of changes that may occur in the family unit upon the placement of a child to include:]~~
 - ~~[1.] [Family adjustment and disruption;]~~
 - ~~[2.] [Identity issues; and]~~
 - ~~[3.] [Discipline; and]~~
 - ~~[(k)] [Financial assistance available to an adoptive home; and]~~
- ~~[(3)] [Ensure that an approved adoptive home awaiting the placement of a child receives adoptive home training annually in accordance with the child-placing agency's established policies and procedures.]~~

[Section 19.] [Adoption Placement Process For a Child Not in the Custody of the Cabinet.]

- ~~[(1)] [A child shall not be placed for adoption until the:]~~
 - ~~[(a)] [Adoptive home has been approved;]~~
 - ~~[(b)] [Parental rights of the mother, legal or birth father, and putative father of the child, if not the same person as the legal father, are terminated by a circuit court order entered pursuant to KRS Chapter 625; and]~~
 - ~~[(c)] [Child is placed with the child-placing agency for the purpose of adoption placement.]~~
- ~~[(2)] [A child's parent shall not be induced to terminate parental rights by a promise of financial aid or other consideration.]~~
- ~~[(3)]~~
 - ~~[(a)] [A child-placing agency licensed by the cabinet shall not use the authority authorizing the agency to place a child for adoption to facilitate an adoptive placement planned by a doctor, lawyer, clergyman, or person or entity outside the child-placing agency.]~~
 - ~~[(b)] [The child-placing agency shall comply with provisions of 922 KAR 1:010.]~~

~~[(4)] [The child-placing agency shall obtain the following:]~~

~~[(a)] [A developmental history of the adoptive child to include:]~~

~~[1.] [Birth and health history;]~~

~~[2.] [Early development;]~~

~~[3.] [Characteristic ways the child responds to people and situations;]~~

~~[4.] [Any deviation from the range of normal development;]~~

~~[5.] [The experiences of the child prior to the decision to place the child for adoption;]~~

~~[6.] [Maternal attitude during pregnancy and early infancy;]~~

~~[7.] [Continuity of parental care and affection;]~~

~~[8.] [Out-of-home placement history;]~~

~~[9.] [Separation experiences; and]~~

~~[10.] [Information about the mother, legal father, and putative father, if not the same person as the legal father, and family background:]~~

~~[a.] [That may affect the child's normal development in order to determine the presence of a significant hereditary factor or pathology; and]~~

~~[b.] [Including an illness of the biological mother or father;]~~

~~[(b)] [A social history of the biological or legal parent, to include:]~~

~~[1.] [Name;]~~

~~[2.] [Age;]~~

~~[3.] [Nationality;]~~

~~[4.] [Education;]~~

~~[5.] [Religion or faith; and]~~

~~[6.] [Occupation;]~~

~~[(c)] [Information obtained from direct study and observation of the child by a:]~~

~~[1.] [Social services worker; and]~~

~~[2.] [Physician or other health professional;]~~

~~[(d)] [If indicated, information obtained from direct study and observation of the child by a:]~~

~~[1.] [Foster parent;]~~

~~[2.] [Nurse;]~~

~~[3.] [Psychologist; or]~~

~~[4.] [Other consultants; and]~~

~~[(e)] [Information from the mother, if possible, identifying the biological father, or legal father, if different from the biological father, for the purpose of:]~~

~~[1.] [Determining the father's parental rights; and]~~

~~[2.] [Establishment of possible hereditary endowments.]~~

~~[(5)] [If either biological or legal parent is unavailable, unwilling, or unable to assist with the completion of information necessary to comply with KRS 199.520 and 199.572, the child-placing agency shall document information, to the extent possible, from the existing case record.]~~

~~[(6)] [Prior to finalization of the adoptive placement, a licensed physician or other health professional shall make a medical examination to determine:]~~

~~[(a)] [The state of the child's health;]~~

~~[(b)] [Any significant factor that may interfere with normal development; and]~~

~~[(c)] [The implications of any medical problem.]~~

~~[(7)] [The condition under which an adoptive home agrees to accept the child shall be decided upon, prior to placement of the child. The written agreement between the child-placing agency and the adoptive home shall embody the following provisions:]~~

~~[(a)] [The adoptive home shall agree to:]~~

~~[1.] [Comply with KRS 199.470;]~~

~~[2.] [File an adoptive petition at a time agreeable to the adoptive home and the child-placing agency; and]~~

~~[3.] [Permit supervision by the child-placing agency in accordance with the child-placing agency's policies and procedures:]~~

~~[a.] [After placement; and]~~

~~[b.] [Preceding a final judgment of adoption by the circuit court;]~~

~~[(b)] [The child-placing agency shall be responsible for providing the adoptive home with written information regarding the child's:]~~

~~[1.] [Background;]~~

~~[2.] [Medical history;]~~

~~[3.] [Current behavior; and]~~

~~[4.] [Medical information necessary to comply with KRS 199.520(4)(a); and]~~

~~[(c)] [The adoptive home and the child-placing agency shall agree that the child may be removed from the placement, at the request of either party, before the filing of the adoptive petition.]~~

~~[(8)]~~

~~[(a)] [Preplacement visits shall be arranged for the adoptive home and a child:]~~

~~[(b)] [The pattern and number of visits shall be based on the child's:]~~

~~[1.] [Age;]~~

~~[2.] [Development; and]~~

~~[3.] [Needs:]~~

~~[(9)] [During preparation, the child-placing agency shall discuss the child's readiness to accept the selected placement with the child, in accordance with the child's age and ability to understand:]~~

~~[(10)]~~

~~[(a)] [Unless the child-placing agency and, if applicable, the state agency which has custody of a child belonging to a sibling group, determines that it is more beneficial for siblings to be placed in separate adoptive homes, siblings who have had a relationship with each other shall be placed together:]~~

~~[(b)] [If siblings have been separated in placements:]~~

~~[1.] [The case record shall reflect a valid basis for the separation;]~~

~~[2.] [The decision to separate siblings shall be made by the executive director of the child-placing agency; and]~~

~~[3.] [Continued contact between siblings shall be maintained, if possible:]~~

~~[(11)] [A child-placing agency shall comply with Section 6(1)(b) of this administrative regulation during the process of placing a child in a prospective adoptive home:]~~

~~[Section 20:] [Supervision of an Adoptive Placement of a Child Not in the Custody of the Cabinet:]~~

~~[(1)] [For a child not in the custody of the cabinet, the child-placing agency placing a child shall remain responsible for the child until the adoption has been granted. This responsibility shall involve the following:]~~

~~[(a)] [Two (2) meetings by the social services worker with the child and the adoptive home, including both adoptive parents if not a single parent adoption, one (1) visit of which shall be in the adoptive home before filing of the adoption petition;]~~

~~[(b)] [The continuation of case management, visits, and telephone contacts based upon the needs of the child until the adoption is legally granted; and]~~

~~[(c)] [Awareness of a change in the adoptive home including health, education, or behavior.]~~

~~[(2)] [Upon request of the cabinet, the child-placing agency shall:]~~

~~[(a)] [Provide information pursuant to KRS 199.510, as necessary to report to the court to proceed with adoption;]~~

~~[(b)] [Prepare and provide the original confidential report to the court; and]~~

~~[(c)] [Forward to the cabinet a copy of:]~~

~~[1.] [The confidential report that was provided to the court; and]~~

~~[2.] [Information required by KRS 199.520 and 199.572.]~~

~~[(3)] [If the court finds the adoptive home to be unsuitable and refuses to grant a judgment, the child-placing agency shall remove the child from the home.]~~

~~[Section 21.] Maintenance of Adoptive Case Record.~~

~~(1) The child-placing agency shall maintain a case record from the time of the application for services through the completed legal adoption and termination of child-placing agency services for:~~

~~(a) A child accepted for care and the child's family; and~~

~~(b) An adoptive applicant.~~

~~(2) The case record shall contain material on which the child-placing agency decision may be based and shall include or preserve:~~

~~(a) Information and documents needed by the court;~~

~~(b) Information about the child and the child's family;~~

~~(c) A narrative or summary of the services provided with a copy of legal and other pertinent documents; and~~

~~(d) Information gathered during the intake process including **[the following]:**~~

~~1. A description of the situation that necessitated placement of the child away from the child's family or termination of parental rights;~~

~~2. A certified copy of the order of the circuit court terminating parental rights and committing the child to the child-placing agency for the purpose of adoption;~~

~~3. Verification of the child's birth record and the registration number;~~

~~4. A copy of the child's medical record up to the time of placement;~~

~~5. A copy of the required evaluation of the adoptive placement;~~

~~6. Date of adoptive placement;~~

~~7. A statement of the basis for the selection of this adoptive home for the child;~~

~~8. A record of after-placement services with dates of:~~

~~a. Visits;~~

~~b. Contacts;~~

- c. Observations;
- d. Filing of petition;
- e. Granting of judgments; and
- f. Other significant court proceedings relative to the adoption; and
- 9. Child's adoptive name~~[-and]~~
- ~~[10.] [Verification of preparation and orientation and annual training in accordance with Section 18 of this administrative regulation].~~
- (3) If there is a need to share background information with a party to a completed adoption~~[-]~~ or to have the benefits of information from a closed adoption record to offer services following completion of an adoption, the child-placing agency shall comply with KRS 199.570.
- (4) Records on adoption that contain pertinent information shall be:
 - (a) Maintained indefinitely following final placement of a child; and
 - (b) Sealed and secured from unauthorized scrutiny.
- (5) A child-placing agency shall submit adoptive case records to the cabinet, if:
 - (a) The child-placing agency closes; and
 - (b) No other operational governing entity exists.

Section 18.~~[Section 22.]~~ Closure of an Approved Foster or Adoptive Home.

- (1) A foster or adoptive home shall be closed if:
 - (a) Sexual abuse or exploitation by a resident of the household is substantiated;
 - (b) Child maltreatment by a resident of the household occurs that is serious in nature or warrants the removal of a child;
 - (c) A serious physical or mental illness develops that may impair or preclude adequate care of the child in the home; or
 - (d) The home fails to meet **applicable** requirements of this administrative regulation in:
 - 1. Section 4(3)(g), (i), and (k) through (u), and Section 4(5) through ~~(12)~~~~[(14)]~~ of this administrative regulation, with regard to evaluation, if the home is approved as a foster or adoptive home;
 - 2. Sections 6(9)(a) and 12 of this administrative regulation, with regard to placement and case management, if the home is approved as a foster home; and
 - 3. Sections 5, 7, or 10 of this administrative regulation, with regard to annual training, if the home is approved as a foster home.
- a. An exception to this subparagraph may be granted by the Division of Protection and Permanency director or designee for a foster parent caring for a child in the custody of the cabinet if it is in the best interest of a child placed in the foster home to allow the exception.
- b. If an exception is approved for a foster parent caring for a child in the custody of the cabinet, a new or additional child shall not be placed in the home until the foster parent has met the training requirement~~[-and]~~
- ~~[4.] [Section 18(3) of this administrative regulation, with regard to annual training, if the home is approved as an adoptive home.]~~
- (2) A foster or adoptive home may be closed:
 - (a) In accordance with the terms **established**~~[specified]~~ in the written agreement between the child-placing agency and the foster or adoptive home; or

- (b) In accordance with the terms specified in the written contract between the cabinet and the child-placing agency, if applicable.
- (3) If closure of an approved foster or adoptive home is necessary, a child-placing agency shall:
 - (a) State the reason for the closure in a personal interview with the family unless the family refuses or declines the personal interview; ~~and~~
 - (b) Document the reason in the foster or adoptive home's case record; and
 - (c) Submit closure information, including the cause for closure, in the foster care registry maintained by the department within fourteen (14) days.
- (4) A child-placing agency shall confirm the decision to close a home in a written notice to the foster or adoptive parent. The notice shall be provided within fourteen (14) calendar days of the interview with a foster or adoptive parent. If the foster or adoptive parent refuses to be interviewed, the notice shall be provided within fourteen (14) calendar days of the foster or adoptive parent's refusal.
- (5) The written notice shall include:
 - (a) Date of approval and termination; and
 - (b) Indication of whether the closure was at the request of the foster parents or the agency.

Section 19.~~[Section 23.]~~ Foster Care Registry.

- (1) A child-placing agency shall check the foster care registry for a foster home applicant prior to approval.
 - (2) A child-placing agency shall register a foster home with the cabinet, approved by the child-placing agency, to include medically complex foster homes and therapeutic foster care homes.
 - ~~(3)~~(2) Information shall be provided to the cabinet in a format, including~~[prescribed by the cabinet, to include]~~:
 - (a) The foster parent's:
 - 1. Full name;
 - 2. Social Security number; and
 - 3. Address, including county of residence;
 - (b) The child-placing agency's:
 - 1. Name; and
 - 2. Mailing address;
 - (c)
 - 1. The date the foster home was:
 - a. Approved;
 - b. Denied;
 - c. Withdrawn; or
 - d. Closed; and
 - 2. The reason for the change in the foster home status; and
 - (d) Whether the foster home is currently active or inactive.
- ~~[(3)] [Subsection (2)(c) shall have a delayed implementation due to the integration of technology, but shall be effective no later than October 30, 2019.]~~

Section 20.~~[Section 24.]~~ Emergency Preparedness. Each foster home shall submit an emergency preparedness plan to the private agency that would allow the agency to identify, locate, and

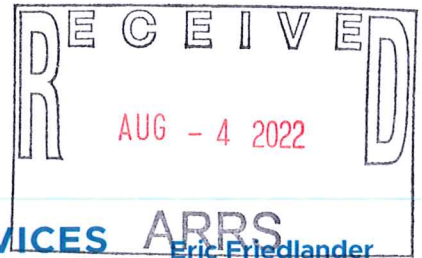
ensure continuity of services to children who are in the custody or control of the **state agency**~~[cabinet]~~ or **private** agency.

Section 21.~~[Section 25.]~~ Incorporation by Reference.

(1) The "DPP-112B, Private Child-Placing Agency Placement Exception Request", **07/22**~~02/22~~~~[4/19]~~, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Community Based Services, 275 East Main, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m. This material may also be viewed on the department's Web site at <https://chfs.ky.gov/agencies/dcbs/Pages/default.aspx>.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746; fax 502-564-7091; email CHFSregs@ky.gov.



Andy Beshear
GOVERNOR

CABINET FOR HEALTH AND FAMILY SERVICES

275 East Main Street, 5W-A
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Eric Friedlander
SECRETARY

August 4, 2022

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

Re: 922 KAR 1:310 agency amendment

Dear Co-Chairs West and Hale:

After discussions with regulated entities and Administrative Regulation Review Subcommittee staff of issues raised by 922 KAR 1:310 and incorporated material, the Department for Community Based Services proposes the attached agency amendment. If you have any questions, please feel free to contact Laura Begin at Laura.Begin@ky.gov.

Sincerely,

Staff Assistant
Office of Legislative and Regulatory Affairs

Agency Amendment

Cabinet for Health and Family Services Department for Community Based Services Division of Protection and Permanency

922 KAR 1:310

Page 13

Section 2(5)(f)2.a.

Line 9

After "a.", insert the following:

Documentation has been signed by the Division of Protection and Permanency director or designee and provided to the agency that states the employee may resume regular duties;

b.

Line 12

Insert "c.", delete "b.".

Page 69

Section 21(1)

Line 2

After "Request", insert "09/22".

Delete "07/22".

Incorporated material

DPP-112B

Page 2

Question 1.

After "supports the", insert "PCP".

Delete "PCC".

Page 3

Question 7.

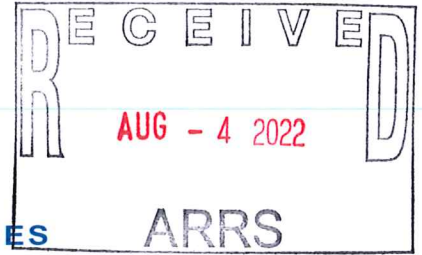
After "7.", insert the following:

If this placement has been an approved medically complex home at any time in the past, please list the date originally approved and the date of the last medically complex training attended. Indicate if the home was closed at any point and if so, include the reason for closure:

Delete the following:

Has this placement been an approved medically complex home at any time in the past and if so, date originally approved and date last medically

complex training was attended. Was the home closed at any point and if so, reason for closure:



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

Kelli Rodman
Executive Director

August 1, 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: 922 KAR 1:315 suggested amendment

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of issues raised by 922 KAR 1:315, the Department for Community Based Services proposes the attached LRC suggested amendment. If you have any questions, please feel free to contact Laura Begin at Laura.Begin@ky.gov.

Sincerely,

Deputy Executive Director
Office of Legislative and Regulatory Affairs



KENTUCKY CABINET FOR
HEALTH AND FAMILY SERVICES

Final, 7-25-2022

Suggested Amendment

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Community Based Services
Division of Protection and Permanency
(Amended After Comments Version)

922 KAR 1:315. Standards for child-placing agencies placing children who are not in the custody of a state agency.

Page 1

RELATES TO

Line 8

After "600.020," insert "Chapter 605."

After "Chapter 625", insert the following:

, 45 C.F.R. Parts 160, 164

Page 1

NECESSITY, FUNCTION, AND CONFORMITY

Lines 18-19

After "custody of", insert "a state agency".

Delete "the cabinet".

Page 3

Section 1(12)

Line 9

After "specified in", insert "922 KAR 1:310".

Lines 9-10

After "Section 4(3)", delete "of this administrative regulation".

Page 4

Section 1(19)

Line 6

After "Section 6(7)(b)2", insert a period.

Page 5

Section 5(1)

Line 15

After "Section 5", delete "(1)(a) through (c)".

Page 5

Section 5(2)

Line 17

After "custody of", insert "a state agency".

Delete "the cabinet".

Page 20

Section 13 and 13(1)

Line 3

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

Page 20

Section 15 and 15(1)

Line 8

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