

FINANCE AND ADMINISTRATION CABINET
KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

Andy Beshear
Governor

P.O. Box 798
Frankfort, Kentucky 40602-0798
Phone: 1.800.693.8211
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Holly M. Johnson
Secretary

Diana L. Barber
Interim Executive Director

February 9, 2023

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

Re: 11 KAR 4:080. Student aid applications.
11 KAR 5:001. Definitions pertaining to 11 KAR Chapter 5.
11 KAR 5:037. CAP Grant student eligibility.
11 KAR 5:145. CAP Grant award determination procedure.

Dear Co-Chair West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 11 KAR 4:080, 11 KAR 5:001, 11 KAR 5:037, and 11 KAR 5:145, the Kentucky Higher Education Assistance Authority proposes the attached staff-suggested amendments to 11 KAR 4:080 and 11 KAR 5:145, and the attached suggested substitutes for 11 KAR 5:001 and 11 KAR 5:037.

Sincerely,

Miles F. Justice
General Counsel
KHEAA
100 Airport Road
Frankfort, Kentucky 40601

Staff-suggested Amendment

Final Version 2/2/2023

**Kentucky Higher Education Assistance Authority
Division of Student and Administrative Services**

11 KAR 4:080. Student aid applications.

Page 1

NECESSITY, FUNCTION, AND CONFORMITY paragraph

Line 11

After "KRS 164.748(4)", insert "requires".

Delete "authorizes".

Page 3

Section 2(1)(a)

Line 12

After "June", insert "30".

Delete "20".

Page 6

Contact person paragraph

First sentence

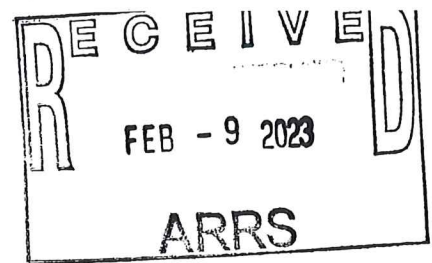
After "Hon.", insert "Miles F. Justice".

Delete "Diana L. Barber".

Third sentence

After "696-", insert "7309, Email mjustice@kheaa.com".

Delete "7298, Email dbarber@kheaa.com".



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Sincerely,

Miles F. Justice
General Counsel
KHEAA
100 Airport Road
Frankfort, Kentucky 40601

Subcommittee Substitute

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY Division of Student and Administrative Services (As Amended at ARRS)

11 KAR 5:001. Definitions pertaining to 11 KAR Chapter 5.

RELATES TO: KRS 164.740-164.785

STATUTORY AUTHORITY: KRS 164.748(4), 164.753(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.748(4) requires the authority to promulgate administrative regulations pertaining to the awarding of grants, scholarships, and honorary scholarships as provided in KRS 164.740 to 164.7891. KRS 164.753(4) requires the authority to promulgate administrative regulations pertaining to grants. This administrative regulation defines terms used in 11 KAR Chapter 5 pertaining to the Kentucky Tuition Grant Program and the College Access Program.

Section 1. Definitions.

(1) "Academic term" means the fall or spring semester or their equivalence under a trimester or quarter system at a postsecondary education institution.

(2) "Academic year" means a period of time, usually eight (8) or nine (9) months, during which a full-time student would normally be expected to complete the equivalent of two (2) semesters, two (2) trimesters, three (3) quarters, 900 clock hours, twenty-four (24) semester hours, or thirty-six (36) quarter hours of instruction.

(3) "Authority" is defined by KRS 164.740(1).

(4) "College Access Program" or "CAP" means the program of student financial assistance grants authorized under KRS 164.7535 to assist financially needy part-time and full-time undergraduate students attending an educational institution.

(5) "Correspondence course" means a home study course that:

(a) Is provided by an educational institution under which the institution provides instructional materials, including examinations on the materials, to students who are not physically attending classes at the institution; and

(b) Meets the following requirements:

1. When a student completes a portion of the instructional materials, the student takes the examinations that relate to that portion of the materials, and returns the examinations to the institution for grading;

2. The institution provides instruction through the use of video cassettes or video discs in an academic year, unless the institution also delivers the instruction on the cassette or disc to students physically attending classes at an institution during the same academic year; and

3. If a course is part correspondence and part residential training, the course shall be considered to be a correspondence course.

(6) "Educational expenses" means tuition and fees, books and supplies, room and board or reasonable living expenses, reasonable miscellaneous personal expenses, and reasonable transportation costs for the academic period of the grant application.

(7) "Educational institution" means a participating institution located in Kentucky which:

(a) Offers an eligible program of study;

(b) As a condition of enrollment as a regular student, requires that the person:

1. Have a certificate of graduation from a school providing secondary education, or the equivalent of a certificate; or

2. a. Be beyond the age of compulsory attendance in Kentucky; and

b. Have the ability to benefit from the training offered by the institution;

(c) Either:

1. Has its headquarters or main campus in Kentucky; or

2. If based outside of Kentucky, offers no more than forty-nine (49) percent of the courses offered in Kentucky as online courses; and

(d) 1. For purposes of the College Access Program, is a public or private participating institution; or

2. For purposes of the Kentucky Tuition Grant Program, is a private independent college or university, accredited by a regional accrediting association recognized by the United States Department of Education, that is a participating institution whose institutional programs are not comprised solely of sectarian instruction.

(8) "Eligible institution" is defined by KRS 164.740(4).

(9) "Eligible noncitizen" means an individual who is:

(a) Either:

1. A U.S. national;

2. A U.S. permanent resident with an Alien Registration Receipt Card (I-151 or I-551); or

3. A person with a Departure Record (I-94) from the U.S. Immigration and Naturalization Service showing any one (1) of the following designations:

a. ~~[""]~~Refugee~~[""]~~;

b. ~~[""]~~Asylum granted~~[""]~~;

c. ~~[""]~~Indefinite parole~~[""]~~ or ~~[""]~~humanitarian parole~~[""]~~; or

d. ~~[""]~~Cuban-Haitian entrant~~[""]~~; ~~or~~~~and~~

4. A citizen of:

a. The Freely Associated States;

b. The Federated States of Micronesia;

c. The Republic of Palau; or

d. The Republic of the Marshall Islands; and

(b) Not in the United States on a:

1. F1 or F2 student visa;

2. J1 or J2 exchange visa; ~~or~~

3. G series visa; ~~or~~[-]

4. Deferred Action for Childhood Arrivals (DACA) status.

(10) "Eligible program of study" means an undergraduate program, of a least two (2) academic years' duration, offered by an educational institution which:

(a) For purposes of the KTG or CAP Grant Programs, leads to a degree; or

(b) For purposes of only the CAP Grant Program:

1. Leads to a certificate or diploma while attending a publicly operated vocational-technical institution; or

2. Is designated as an equivalent undergraduate program of study by the Council on Postsecondary Education.

(11) "Expected family contribution" means the amount that a student and his family are expected to contribute toward the cost of the student's education determined by applying the federal methodology established in 20 U.S.C. 1087kk through 1087vv to the information that the student and his family provided on the application.

(12) "Federal act" is defined by KRS 164.740(8) and means 20 U.S.C. 1001 through 1146a.

(13) "Full-time student" means an enrolled student who is carrying a full-time academic workload:

(a) That may include any combination of courses, work, research, or special studies that the institution considers sufficient to classify the student as a full-time student, except that correspondence courses shall not be counted in determining the student's full-time status; and

(b) As determined by the institution under a standard applicable to all students enrolled in a particular educational program, except that for an undergraduate student, an institution's minimum standard shall equal or exceed one (1) of the following minimum requirements:

1. Twelve (12) semester hours or eighteen (18) quarter hours per academic term in an educational program using a semester, trimester, or quarter system;

2. Twenty-four (24) semester hours or thirty-six (36) quarter hours per academic year for an educational program using credit hours, but not using a semester, trimester, or quarter system, or the prorated equivalent for a program of less than one (1) academic year;

3. Twenty-four (24) clock hours per week for an educational program using clock hours;

4. In an educational program using both credit and clock hours, any combination of credit and clock hours if the sum of the following fractions is equal to or greater than one (1):

a. For a program using a semester, trimester, or quarter system, the number of credit hours per term divided by twelve (12) and the number of clock hours per week divided by twenty-four (24); or

b. For a program not using a semester, trimester, or quarter system, the number of semester or trimester hours per academic year divided by twenty-four (24), the number of quarter hours per academic year divided by thirty-six (36), and the number of clock hours per week divided by twenty-four (24);

5. A series of courses or seminars that equals twelve (12) semester hours or twenty-four (24) quarter hours in a maximum of eighteen (18) weeks; or

6. The work portion of a cooperative education program in which the amount of work performed is equivalent to the academic workload of a full-time student.

(14) "Grant" is defined by KRS 164.740(9).

(15) "Kentucky Tuition Grant" or "KTG" means the program of student financial assistance grants authorized by KRS 164.780 and 164.785 for residents of Kentucky who bear the major costs of attending an educational institution and who demonstrate financial need.

(16) "KHEAA grant" means an award of a student financial assistance grant under the College Access Program or the Kentucky Tuition Grant Program or a combination of the two (2).

(17) "KHEAA grant limit" means an aggregate limitation on KHEAA grant awards:

(a) That are made to an individual for all academic years of the eligible program of study in which the student receives a KHEAA grant (including any KHEAA grant limit previously used in a different eligible program of study or at a different educational institution); and

(b) That shall be:

1. Measured in terms of the applicable percentage of the maximum KHEAA grant that would have been disbursed for the academic year to a full-time student and not fully refunded;

2. Depleted each academic term by subtracting, from the applicable percentage, the percentage used for the academic term, derived by dividing the net amount of KHEAA grant disbursed for the academic term by the maximum KHEAA grant award for the academic year that would have been disbursed to a full-time student, using the then current maximum KHEAA grant; and

3. Based upon the following applicable percentages representing the aggregate limitation of KHEAA grant awards:

a. 200 percent for a student enrolled in a two (2) year eligible program of study; or

b. 400 percent for a student enrolled in a four (4) year eligible program of study.

(18) "KHEAA grant program officer" or "KGPO" means the official designated on the administrative agreement, pursuant to KRS 164.748(6), to serve as the educational institution's on-campus agent to certify all institutional transactions and activities with respect to the authority's grant programs.

(19) "On-ground course" means a course that meets the following criteria:

(a) Instruction is delivered face-to-face, typically in a lecture-style format, in a setting in which the student and the instructor are in the same physical location on the educational institution's campus; and

(b) Is not an online course.

(20) "Online course" means a course for which any portion of the instruction is transmitted electronically over telecommunication lines or the Internet.

(21) "Overaward" means receipt of financial assistance from all sources in excess of a student's need determined in accordance with 11 KAR 5:130 through 5:145.

(22) "Participating institution" is defined in KRS 164.740(14).

(23) "Part-time student" means an enrolled student who is carrying an academic workload:

(a) That may include any combination of courses, work, research, or special studies that the institution considers sufficient to classify the student as at least a half-time student, except that correspondence courses shall not be counted in determining the student's part-time status; and

(b) As determined by the institution under a standard applicable to all students enrolled in a particular educational program, except that for an undergraduate student, an institution's minimum standard shall equal or exceed one (1) of the following minimum requirements:

1. At least six (6) semester hours per semester;

2. Six (6) quarter hours per quarter; or

3. Half of the academic workload of a full-time student as determined by the educational institution.

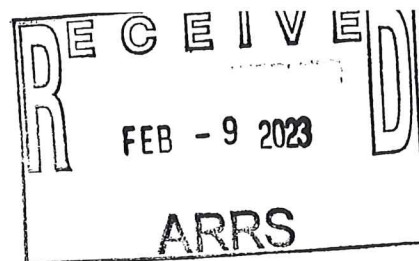
(24) "Pell Grant" means an award under the federal Pell Grant Program operated by the secretary under the provisions of 20 U.S.C. 1070a.

(25) "Resident of Kentucky" or "resident" means a person who is determined by the participating institution to be a resident of Kentucky in accordance with the criteria established in 13 KAR 2:045.

(26) "Total cost of education" means an amount determined for an academic year for each applicant by the following formula: normal tuition and fees charged by the institution chosen by

the applicant, plus maximum board contract amount, plus minimum room contract amount.

Contact person: **Hon. Miles F. Justice** [~~**Ms. Diana L. Barber**~~], General Counsel, Kentucky Higher Education Assistance Authority, P.O. Box 798, Frankfort, Kentucky 40602-0798, phone (502) 696-**7309**, **Email mjustice@kheaa.com** [**7298**], fax (502) 696-7293.



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Re: 11 KAR 4:080. Student aid applications.
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11 KAR 5:037. CAP Grant student eligibility.
11 KAR 5:145. CAP Grant award determination procedure.

Dear Co-Chair West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 11 KAR 4:080, 11 KAR 5:001, 11 KAR 5:037, and 11 KAR 5:145, the Kentucky Higher Education Assistance Authority proposes the attached staff-suggested amendments to 11 KAR 4:080 and 11 KAR 5:145, and the attached suggested substitutes for 11 KAR 5:001 and 11 KAR 5:037.

Sincerely,

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General Counsel
KHEAA
100 Airport Road
Frankfort, Kentucky 40601

Subcommittee Substitute

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY Division of Student and Administrative Services (As Amended at ARRS)

11 KAR 5:037. CAP Grant student eligibility.

RELATES TO: KRS 164.744(2), 164.753(4) ~~164.7535~~

STATUTORY AUTHORITY: KRS 164.748(4), 164.753(4), **164.7535**

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.748(4) requires the Authority to promulgate administrative regulations pertaining to the awarding of grants, scholarships, and honorary scholarships as provided in KRS 164.740 to 164.7891. KRS 164.753(4) **requires** ~~the Authority to promulgate administrative regulations pertaining to grants.~~ KRS 164.7535 **authorizes** ~~authorizes~~ the Authority to provide grants to assist financially needy part-time and full-time undergraduate students to attend educational institutions in Kentucky. This administrative regulation establishes student eligibility criteria for the college access program.

Section 1. **In order** To qualify for disbursement of a college access program grant, a student shall:

- (1) Be a resident of Kentucky;
 - (2) Be enrolled at an educational institution as at least a part-time student, as determined by the educational institution, in an eligible program of study and not have previously earned a first baccalaureate or professional degree;
 - (3) Demonstrate financial need in accordance with 11 KAR 5:130 and 11 KAR 5:145 for CAP grant assistance;
 - (4) Have remaining KHEAA grant limit;
 - (5) Not receive financial assistance in excess of the need to meet educational expenses;
 - (6) Maintain satisfactory progress in an eligible program of study according to the published standards and practices of the educational institution in which the student is enrolled;
 - (7) Satisfy all financial obligations to the Authority under any program administered pursuant to KRS 164.740 to 164.7891 and to any educational institution, except that ineligibility for this reason may be waived by the executive director of the Authority, at the recommendation of a designated staff review committee, for cause;
 - (8) Be a citizen of the United States or an eligible noncitizen;
 - (9) Be receiving at least part-time credit at an educational institution in an eligible program of **study** ~~studying~~ and paying at least part-time tuition and fees to that institution, if the student is studying abroad or off-campus.
 - (10) Have been eligible to receive a CAP Grant in the preceding year, if the student is enrolled in an equivalent undergraduate program of study, established by the Authority in 11 KAR 15:090, Section 5;
 - (11) Be:
 - (a) Attending an eligible institution with the main campus or headquarters located in Kentucky;
- or

(b) Attending at least fifty (50) percent of courses on-ground in Kentucky if enrolled at an eligible institution with the main campus or headquarters not located in Kentucky; and

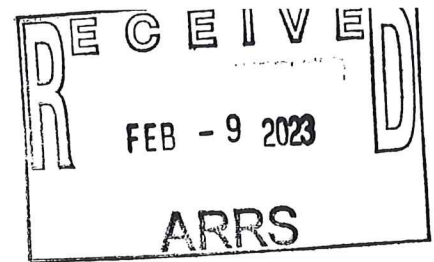
(12) Not be:

(a) In default on any loan under Title IV of the federal act, codified at 20 U.S.C. 1070 to 1099, unless eligibility has been reinstated;

(b) Liable for any amounts that exceed annual or aggregate limits on any loan under Title IV of the federal act, codified at 20 U.S.C. 1070 to 1099; and

(c) Liable for overpayment of any grant or loan under Title IV of the federal act, codified at 20 U.S.C. 1070 to 1099.

CONTACT PERSON: Hon. **Miles F. Justice** [~~**Diana L. Barber**], General Counsel, Kentucky Higher Education Assistance Authority, P.O. Box 798, Frankfort, Kentucky 40602-0798, phone (502) 696-**7309**[~~**7298**], fax (502) 696-7293, **Email mjustice@kheaa.com** [~~**email dbarber@kheaa.com**].~~~~~~



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Sincerely,

Myles F. Justice
General Counsel
KHEAA
100 Airport Road
Frankfort, Kentucky 40601

Staff-suggested Amendment

Final Version 2/2/2023

Kentucky Higher Education Assistance Authority Division of Student and Administrative Services

11 KAR 5:145. CAP grant award determination procedure.

Page 1

NECESSITY, FUNCTION, AND CONFORMITY paragraph

Line 7

After "KRS 164.748(4)", insert "requires".

Delete "authorizes".

Page 6

Contact person paragraph

First sentence

After "Hon.", insert "Miles F. Justice".

Delete "Diana L. Barber".

Third sentence

After "696-", insert "7309".

Delete "7298".

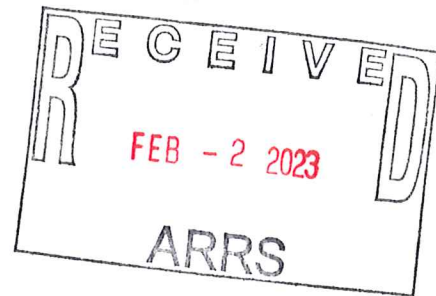
After "7293,", insert "Email mjustice@kheaa.com".

Delete "dbarber@kheaa.com".



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

DANIEL CAMERON
ATTORNEY GENERAL



1024 CAPITAL CENTER DRIVE
SUITE 200
FRANKFORT, KY 40601

February 2, 2023

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

RE: 40 KAR 2:150. Cremation forms and inspections

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by the proposed amendments to 40 KAR 2:150, the Office of Attorney General, Office of Consumer Protection proposes the attached amendment to 40 KAR 2:150.

Sincerely,

DANIEL CAMERON
ATTORNEY GENERAL

By: _____


Stephen B. Humphress
Assistant Attorney General
Kentucky Office of the Attorney General
1024 Capital Center Drive, Suite 200
Frankfort, KY 40601
502-696-5481
Email: steve.humphress@ky.gov

Final, 1-27-2023

SUGGESTED SUBSTITUTE

OFFICE OF ATTORNEY GENERAL
Office of Consumer Protection

40 KAR 2:150. Cremation forms and inspections.

RELATES TO: KRS 213.081, 213.098, 367.93103, 367.93105, 367.93115, 367.93117, 367.97501, 367.97504, 367.97507, 367.97511, 367.97514, 367.97517, 367.97521, 367.97524, 367.97527, 391.010

STATUTORY AUTHORITY: KRS 15.180, 367.150(4), 367.97501, 367.97504, 367.97534

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15.180 authorizes the Attorney General to promulgate administrative regulations that will facilitate performing the duties and exercising the authority vested in the Attorney General and the Department of Law. KRS 367.150(4) requires the Department of Law to recommend administrative regulations in the consumers' interest. KRS 367.97501 and 367.97504 require the Attorney General to promulgate an administrative regulation to establish an application for a crematory authority license and report forms. KRS 367.97524 requires crematory authorities to obtain signed cremation authorization forms before conducting any cremations. KRS 367.97534(5) authorizes the Attorney General to promulgate administrative regulations necessary to carry out the provisions of KRS 367.97501 to 367.97537, pertaining to crematory authorities. This administrative regulation prescribes the license application form, and other forms, to be used by crematory authorities[establishes forms related to cremation as required by KRS 367.97501, 367.97504, and 367.97514]. This administrative regulation establishes the records and information that shall be retained by [the] crematory authorities[operator as identified in KRS 367.97504(5),] and permits crematory inspections by the Attorney General[establishes guidelines for crematory inspections regarding KRS 367.97504(1) and (5), 367.97511(4), 367.97514(5), and 367.97534].

Section 1. Crematory Authority License Application Form.

(1) An applicant for a crematory authority license shall complete and submit a Crematory Authority License Application, Form CR-5, to the Office of Attorney General before commencing business.

(2) An applicant for a crematory authority license shall submit with each Crematory Authority License Application, Form CR-5:

(a) Payment of the \$100 registration fee;

(b) The applicant's certificate of existence, authorization certificate from the Kentucky Secretary of State's office, or other evidence of the applicant's authority to transact business in Kentucky; and

(c) A completed Preneed Merchandise Sellers Application, CPN-6 Form, as incorporated by reference in 40 KAR 2:155, if the applicant intends to sell preneed burial contracts.

Section 2.[Section 4.] Cremation Authorization Form.

(1) A licensed crematory authority[authorities] shall complete and keep a Cremation Authorization, Form CR-1, for every cremation of human remains it has performed[by them].

(2) A licensed crematory authority shall attach to the Cremation Authorization, Form CR-1, for authorizing agents for cremation, if applicable:

(a) An original Funeral Planning Declaration, Form FPD-1, as incorporated by reference in 40 KAR 2:145;

(b) An original discontinued Preneed Cremation Authorization, Form CR-3, executed prior to July 15, 2016; and

(c) An original U.S. Department of Defense form, Record of Emergency Data, DD Form 93, or a successor form adopted by the United States Department of Defense.

[The Cremation Authorization, Form CR-1, required by KRS 367.97524, shall contain:

- (1) The name of the crematory authority;
- (2) The address of the crematory authority, including the city, state, and zip code;
- (3) The telephone number of the crematory authority;
- (4) A statement informing the authorizing agent that it is the policy of the crematory authority that it will accept a declarant or decedent for cremation only after all necessary authorizations have been obtained, and all prerequisites to be performed by the state regarding the death have taken place and any required forms or permits are attached;
- (5) The name, address (including the city, state, and zip code), age, date of birth, and gender of the declarant or decedent, and the place and date of death;
- (6) Whether or not the declarant's or decedent's death was due to an infectious disease and, if so, an explanation;
- (7) A statement that pacemakers, radioactive, silicon or other implants, mechanical devices or prosthesis may create a hazardous condition if placed in cremation chamber and subjected to heat, and that the authorizing agent instructs the crematory authority or funeral home to remove all devices that may become hazardous during the cremation process;
- (8) Whether the declarant's or decedent's remains contain any devices, including mechanical, prosthetic, implants or materials, which may have been implanted in or attached to the declarant or decedent, or any other device that may become hazardous during the cremation process;
- (9) A description of any devices, including mechanical, prosthetic, implants, or materials, which may have been implanted in or attached to the declarant or decedent, or any other device that may become hazardous during the cremation process;
- (10) A statement informing the authorizing agent of the following concerning identification of the declarant or decedent:
 - (a) Kentucky law requires the individual's remains to be identified before cremation can take place; and
 - (b) The individual making the identification may be the authorizing agent, a family member, friend, coroner, or any other person who has personal knowledge of the decedent or the ability to make positive identification and who accepts any liability arising from the identification;
- (11) The name of the individual identifying the decedent's remains prior to cremation, the relationship of that individual to the decedent, and the signature of the individual identifying the body for cremation;
- (12) Statements informing the authorizing agent of the following regarding cremation authorization:
 - (a) The person legally entitled to order the cremation of a declarant or decedent is the authorizing agent; and
 - (b) The right to control the disposition of the remains of a declarant or decedent devolves according to the order of authority of classes of authorizing agents listed in subsection (13) of this section;
- (13) The selection of the class of authorizing agents having the right to authorize the cremation of the declarant's or decedent's body, in the following order of authority:
 - (a) The individual executing a Funeral Planning Declaration, Form FPD-1 as incorporated by reference in 40 KAR 2:145, and that the original Funeral Planning Declaration shall be attached;
 - (b) The person named as the designee or alternate designee in a Funeral Planning Declaration, Form FPD-1 as incorporated by reference in 40 KAR 2:145, and that the original Funeral Planning Declaration shall be attached;

~~(c) The person named in a United States Department of Defense form Record of Emergency Data (DD Form 93) or a successor form adopted by the United States Department of Defense, if the decedent died while serving in any branch of the United States Armed Forces, and the original form shall be attached;~~

~~(d) The decedent through a Preneed Cremation Authorization, Form CR-3 completed and executed before July 15, 2016, which was the effective date of the amendments to KRS 367.97504 and 367.97527, which phased out the Preneed Cremation Authorization, Form CR-3, and that the original Preneed Cremation Authorization, Form CR-3 shall be attached;~~

~~(e) The surviving spouse of the declarant or decedent;~~

~~(f) The surviving adult child of the declarant or decedent, or a majority of the adult children if more than one (1) adult child is surviving, or less than a majority of the surviving adult children by attesting in writing showing the reasonable efforts to notify the other adult surviving children of their intentions and that they are not aware of any opposition to the final disposition instructions by more than half of the surviving adult children. The number of surviving adult children shall be written in the completed Cremation Authorization, Form CR-1;~~

~~(g) The surviving parent or parents of the declarant or decedent, or if one (1) parent is absent, the parent who is present has the right to control the disposition by attesting in writing showing the reasonable efforts to notify the absent parent. The number of surviving parents shall be written in the completed Cremation Authorization, Form CR-1;~~

~~(h) The surviving adult grandchild of the declarant or decedent, or a majority of the adult grandchildren if more than one (1) adult grandchild is surviving, or less than a majority of the surviving adult grandchildren by attesting in writing showing the reasonable efforts to notify the other adult surviving grandchildren of their intentions and that they are not aware of any opposition to the final disposition instructions by more than half of the surviving adult grandchildren. The number of surviving adult grandchildren shall be written in the completed Cremation Authorization, Form CR-1;~~

~~(i) The surviving adult sibling of the declarant or decedent, or a majority of the adult siblings if more than one (1) adult sibling is surviving, or less than a majority of the surviving adult siblings by attesting in writing showing the reasonable efforts to notify the other adult surviving siblings of their intentions and that they are not aware of any opposition to the final disposition instructions by more than half of the surviving adult siblings. The number of surviving adult siblings shall be written in the completed Cremation Authorization, Form CR-1;~~

~~(j) The surviving individual or individuals of the next degree of kinship under KRS 391.010 to inherit the estate of the declarant or decedent, or a majority of those in the same degree of kinship if more than one (1) individual of the same degree is surviving, or less than a majority of the surviving individuals of the same degree of kinship by attesting in writing showing the reasonable efforts to notify the other individuals of the same degree of kinship of their intentions and that they are not aware of any opposition to the final disposition instructions by more than half of the individuals of the same degree of kinship. The number of surviving individuals of the same degree of kinship, and a description of the relationship to the declarant or decedent, shall be written in the completed Cremation Authorization, Form CR-1;~~

~~(k) If none of the persons listed in paragraphs (a) through (j) of this subsection are available, one (1) of the following who attests in writing showing the good faith effort made to contact any living individuals in an order of authority class described in paragraphs (a) to (j) of this subsection:~~

~~1. A person willing to act and arrange for the final disposition of the decedent; or~~

~~2. A funeral home that has a valid prepaid funeral plan that makes arrangements for the disposition of the decedent's remains, if the funeral director makes the written attestation described in this subsection; and~~

~~(l) The district court in the county of the decedent's residence or the county in which the funeral home or the crematory is located;~~

~~(14) Statements informing the authorizing agent of the following regarding other rights and responsibilities concerning cremations:~~

~~(a) The declarant or authorizing agent shall carefully read and understand the statements described in this subsection before signing the authorization;~~

~~(b) The declarant or authorizing agent shall direct the crematory authority on the final disposition of the cremated remains;~~

~~(c) The crematory authority shall not conduct any cremation nor accept a body for cremation unless it has a Cremation Authorization, Form CR-1 signed by the authorizing agent clearly stating the final disposition;~~

~~(d) The original form shall be attached to the Cremation Authorization, Form CR-1 if:~~

~~1. The cremation is being performed pursuant to a Funeral Planning Declaration, Form FPD-1 as incorporated by reference in 40 KAR 2:145; or~~

~~2. A Preneed Cremation Authorization, Form CR-3 that was completed and executed before July 15, 2016, which was the effective date of the amendments to KRS 367.97501 and 367.97527, which phased out the Preneed Cremation Authorization, Form CR-3;~~

~~(e) All cremations are performed individually and it is unlawful to cremate the remains of more than one (1) individual within the same cremation chamber at the same time;~~

~~(f) The consumer may choose cremation without choosing embalming services;~~

~~(g) If the crematory authority does not have a refrigerated holding facility, it shall not accept human remains for anything other than immediate cremation;~~

~~(h) The consumer is not required to purchase a casket for the purpose of cremation;~~

~~(i) The crematory authority requires that the body of the declarant or decedent shall be delivered for cremation in a suitable, closed container that shall be either a casket or an alternative cremation container for cremation, but the crematory authority shall not require that the body be placed in a casket before cremation or that the body be cremated in a casket, nor shall a crematory authority refuse to accept human remains for cremation because the remains are not in a casket;~~

~~(j) The container in which the body is delivered to the crematory for cremation shall be:~~

~~1. Composed of readily combustible materials suitable for cremation;~~

~~2. Able to be closed to provide a complete covering for the human remains;~~

~~3. Resistant to leakage or spillage; and~~

~~4. Rigid enough to support the weight of the declarant or decedent;~~

~~(k) The crematory authority may inspect the casket or alternative container, including opening it if necessary, and the crematory authority shall not accept for holding a cremation container from which there is any evidence of leakage of the body fluids from the human remains in the container;~~

~~(l) The type of casket or cremation container selected for cremation;~~

~~(m) Due to the nature of the cremation process any personal possessions or valuable materials, such as dental gold or jewelry, as well as any body prostheses or dental bridgework, that are left with the declarant or decedent and not removed from the casket or alternative cremation container prior to cremation shall be destroyed or shall otherwise not be recoverable, unless authority to do so otherwise is specifically granted in writing;~~

~~(n) As the casket or alternative container will usually not be opened by the crematory authority to remove valuables, to allow for final viewing or for any other reason unless there is leakage or damage, the authorizing agent understands that arrangements shall be made to remove any possessions or valuables prior to the time the declarant or decedent is transported to the crematory authority;~~

~~(o) Cremated remains, to the extent possible, shall not be contaminated with foreign material;~~

~~(p) All noncombustible materials, such as dental bridgework, and materials from the casket or alternative cremation container, such as hinges, latches, and nails, shall be separated and removed, to the extent possible, by visible or magnetic selection and shall be disposed of by the crematory authority with similar materials from other cremations in a nonrecoverable manner, so~~

that only human bone fragments and organic ash, including both human remains and container remains, remain, unless those objects are used for identification or as may be requested by the authorizing agent;

(q) ~~As the cremated remains often contain recognizable bone fragments, unless otherwise specified, after bone fragments have been separated from the other material, they shall be mechanically processed or pulverized, which includes crushing or grinding into granulated particles of unidentifiable dimensions, virtually unrecognizable as human remains, prior to placement into the designated container; and~~

(r) ~~While every effort shall be made to avoid commingling of cremated remains, inadvertent or incidental commingling of minute particles of cremated remains from the residue of previous cremations is a possibility, and the authorizing agent understands and accepts this fact;~~

(15) ~~Instructions on disposition of the cremated remains, indicating whether the cremated remains will be:~~

(a) ~~Interred and, if so, where;~~

(b) ~~Scattered in a scattering area or garden and, if so, where;~~

(c) ~~In any manner on private property with the permission of the owner and, if so, where;~~

(d) ~~Delivered either in person or by a method that has an internal tracking system that provides a receipt signed by the person accepting delivery and, if so, to whom; or~~

(e) ~~Picked up at the crematory office and, if so, by whom;~~

(16) ~~The date the remains were received by the crematory authority, the cremation number, the date of cremation, and the name of the person performing the cremation;~~

(17) ~~A statement informing the declarant or authorizing agent of the following regarding execution of the Cremation Authorization, Form CR-1:~~

(a) ~~Executing the Cremation Authorization, Form CR-1 as authorizing agent, or as declarant, designee, or alternate designee if using a Funeral Planning Declaration, Form FPD-1, grants consent to the cremation of the decedent;~~

(b) ~~Executing the Cremation Authorization, Form CR-1 as authorizing agent, or as declarant, designee, or alternate designee if using a Funeral Planning Declaration, Form FPD-1, warrants:~~

1. ~~That all representations and statements contained on the Cremation Authorization, Form CR-1 are true and correct;~~

2. ~~That the statements contained on the Cremation Authorization, Form CR-1 were made to induce the crematory authority to cremate the human remains of the declarant or decedent; and~~

3. ~~That the person executing the Cremation Authorization, Form CR-1 has read and understands the provisions contained on the Cremation Authorization, Form CR-1; and~~

(c) ~~If a written attestation is required, the authorizing agent shall select and complete an attestation:~~

1. ~~For authorizing agent or agents listed in subsection (13)(f), (h), (i), or (j) of this section, an attestation that reasonable efforts have been made to notify the other members of the authorizing class and the authorizing agent or agents are not aware of any opposition to the final instructions, and stating the number of individuals in the authorizing class, the number of authorizing agents authorizing the cremation, the name of the decedent, a description of the reasonable efforts, and the number of other members of the authorizing class;~~

2. ~~For an authorizing agent listed in subsection (13)(g) of this section, an attestation that reasonable efforts have been made to notify the other parent, and a description of the reasonable efforts; or~~

3. ~~For authorizing agent or agents listed in subsection (13)(k) of this section, an attestation that a good-faith effort has been made to contact any living individual described in subsection (13)(a) through (j) of this section, and a description of the good-faith effort;~~

(18) ~~Signature of each authorizing agent granting consent to the cremation of the decedent;~~

(19) ~~The name of each authorizing agent and the relationship of the authorizing agent to the declarant or decedent;~~

- (20) The address of the authorizing agent, including the city, state, and zip code;
- (21) The telephone number of the authorizing agent;
- (22) The name, address, city, state, zip code, telephone number, and signature of the funeral director or other individual as witness for the authorizing agent; and
- (23) The date and location where the authorizing agent signed the Cremation Authorization, Form CR-1.]

Section 3. ~~Section 2.~~ Crematory Annual Report Form.

(1) A licensed crematory ~~authority~~**authorities** shall complete and submit a Crematory ~~Authority~~ Annual Report, Form **CR-2**, for each calendar year beginning January 1 and ending December 31.

(2) The completed Crematory **Authority** Annual Report, Form **CR-2**, shall be filed with the Attorney General's Office by March 31 of the year following the calendar year reported.

(3) A licensed crematory authority shall submit with the Crematory Authority Annual Report, Form CR-2, a ten (10) dollar annual registration fee.

Section 4. Statement of Supervision Form. A licensed crematory ~~authority~~**authorities** shall complete and submit a Statement of Supervision for Registered Crematory Retort Operators, Form **CR-4**, for each trained retort operator before permitting the trained operator to operate a retort. [The Crematory Annual Report, Form CR-2, required by KRS 367.97504(6), shall contain:

- (1) The name of the crematory authority;
- (2) The address of the crematory authority, including the city, state, and zip code;
- (3) The number of retorts operated by the crematory authority;
- (4) The number of cremations performed by the crematory authority in each retort during the preceding calendar year;
- (5) The total number of cremations performed by the crematory authority during the preceding calendar year;
- (6) A numerical breakdown of the disposition of cremated remains in the preceding year, indicating the number:
 - (a) Scattered;
 - (b) Interred, either in a niche or in-ground burial;
 - (c) Returned to the family or funeral home; or
 - (d) With other means of disposition. The other means of disposition used shall be briefly described;
- (7) A list of the names and registration numbers of all crematory operators who worked for the crematory authority during the preceding year;
- (8) The signature of the individual completing the form and the date on which the form was completed; and
- (9) A statement requiring the remittance of a ten (10) dollar check or money order for the annual registration fee.

Section 3. Preneed Cremation Authorization Form.

(1) The Preneed Cremation Authorization, Form CR-3, shall not be completed or executed on or after July 15, 2016, which was the effective date of the amendments to KRS 367.97501 and 367.97527, which phased out the Preneed Cremation Authorization, Form CR-3.

(2) A Preneed Cremation Authorization, Form CR-3, completed and executed prior to July 15, 2016, which was the effective date of the amendments to KRS 367.97501 and 367.97527, which phased out the Preneed Cremation Authorization, Form CR-3, shall contain:

- (a) The name of the crematory authority;
- (b) The address, including the city, state, and zip code;
- (c) The telephone number of the crematory authority;

- (d) The name of the authorizing agent;
- (e) The address of the authorizing agent, including the city, state, and zip code;
- (f) The home telephone number of the authorizing agent;
- (g) The age and gender of the authorizing agent;
- (h) Whether the decedent authorizing agent has any infectious or contagious disease and, if so, an explanation;
- (i) Whether the decedent authorizing agent's body contains a pacemaker, prosthesis, radioactive implant, or any other device that could be explosive;
- (j) Whether the decedent authorizing agent has been treated with therapeutic radionuclides such as Strontium 89 or any other treatment that would result in residual radioactive material remaining as part of the decedent authorizing agent's remains and, if so, what the treatment was and the last date it was administered;
- (k) A statement specifying that all cremations are performed individually and that it is unlawful to cremate the remains of more than one (1) individual within the same cremation chamber at the same time;
- (l) A statement informing the authorizing agent that the agent may choose cremation without choosing embalming services and that if the crematory chosen does not have a refrigerated holding facility it shall not accept human remains for anything other than immediate cremation;
- (m) A statement informing the authorizing agent that:
 - 1. The agent is not required to purchase a casket for the purpose of cremation;
 - 2. The crematory authority shall require the decedent authorizing agent to be delivered for cremation in a suitable container, which shall be either a casket or an alternative cremation container; and
 - 3. An alternative cremation container shall be:
 - a. Composed of readily combustible materials suitable for cremation;
 - b. Able to be closed to provide a complete covering for the human remains;
 - c. Resistant to leakage or spillage; and
 - d. Rigid enough to support the weight of the decedent;
- (n) A statement informing the authorizing agent that the crematory may inspect the casket or alternative container, including opening if necessary, and if there is leakage or damage, the crematory shall refuse to accept the decedent authorizing agent's remains for the purpose of cremation or refrigeration;
- (o) The type of casket or alternative container selected for cremation;
- (p) A statement informing the authorizing agent that:
 - 1. Due to the nature of the cremation process any personal possessions or valuable materials, such as dental gold or jewelry, as well as any body prostheses or dental bridgework, that are left with the decedent authorizing agent and not removed from the casket or alternative container prior to cremation shall be destroyed or shall otherwise not be recoverable; and
 - 2. The casket or alternative container will usually not be opened by the crematory authority to permit the removal of valuables, to allow for final viewing or for any other reason unless there is leakage or damage, so the authorizing agent shall make arrangements to have any possessions or valuables removed prior to the time the remains are transported to the crematory authority;
- (q) A statement informing the authorizing agent that:
 - 1. To the extent possible, cremated remains shall not be contaminated with foreign material;
 - 2. All noncombustible materials such as dental bridgework, and materials from the casket or alternative container, such as hinges, latches, and nails, shall be separated and removed, to the extent possible, by visible or magnetic selection and shall be disposed of by the crematory authority with similar materials from other cremations in a nonrecoverable manner, so that only human bone fragments and organic ash, including both human remains and container remains, remain;

3. As the cremated remains often contain recognizable bone fragments, unless otherwise specified, after the bone fragments have been separated from the other material, they shall be mechanically processed or pulverized, which includes crushing or grinding into granulated particles of unidentifiable dimensions, virtually unrecognizable as human remains, prior to placement into the designated container; and

4. While every effort shall be made to avoid commingling of cremated remains, inadvertent or incidental commingling of minute particles of cremated remains from the residue of previous cremations is a possibility, and the authorizing agent understands and accepts this fact;

(r) A statement informing the authorizing agent that:

1. The original copy of the Preneed Cremation Authorization, Form CR-3 shall be retained by the firm or person with which the arrangements are being made and a copy shall be provided to the authorizing agent; and

2. A person arranging his or her own cremation shall have the right to transfer or cancel this authorization at any time prior to death by notifying by certified mail, the firm or person with which the preneed authorization form is filed;

(s) A statement informing the authorizing agent that if there are not different or inconsistent instructions provided to the crematory authority at the time of death, the crematory authority shall release or dispose of the cremated remains as indicated on this Preneed Cremation Authorization, Form CR-3;

(t) A statement informing the authorizing agent that:

1. If there is a conflict between the authorizing agent's preneed authorization and the demands of the next class of authorizing agent, the crematory authority shall not accept for cremation the authorizing agent's remains without an order deciding the issues entered by the district court of the county of the decedent authorizing agent's residence or the county where the funeral home or the crematory authority is located;

2. The order may be issued by the court after a petition for a resolution has been initiated by any natural person in the next class of authorizing agent or the crematory authority; and

3. Unless extraordinary circumstances exist, the court shall give due deference to the desires of the decedent authorizing agent as expressed in the Preneed Cremation Authorization, Form CR-3;

(u) Instructions on the disposition of the cremated remains, indicating whether the cremated remains will be:

1. Interred and, if so, where;

2. Scattered in a scattering area or garden and, if so, where;

3. Scattered on private property with the permission of the owner and, if so, where;

4. Delivered either in person or by registered mail and, if so, to whom; or

5. Picked up at the crematory office and, if so, by whom;

(v) The printed name, signature, address (including city, state, and zip code) and home telephone of the authorizing agent, explicitly authorizing the crematory authority to cremate the human remains of the authorizing agent;

(w) The date and location where the authorizing agent signed the Preneed Cremation Authorization, Form CR-3;

(x) The signature of the funeral director or other individual as witness for the authorizing agent;

(y) The name of the funeral director or other individual acting as witness for the authorizing agent;

(z) The address of the funeral director or other individual acting as witness for the authorizing agent, including the city, state, and zip code; and

(aa) The telephone number of the funeral director or other individual acting as witness for the authorizing agent.

~~Section 4. Statement of Supervision Form. The Statement of Supervision for Registered Crematory Retort Operators, Form CR-4, required by KRS 367.97514(6), shall contain the:~~

- ~~(1) Name of the crematory retort operator who was supervised;~~
- ~~(2) Name of the employer crematory authority;~~
- ~~(3) Name of the supervising crematory operator, verifying that the crematory retort operator completed forty-eight (48) hours of on the job training supervised by the crematory operator;~~
- ~~(4) Date on which the form was signed;~~
- ~~(5) Signature of the crematory retort operator;~~
- ~~(6) Signature of the crematory operator who supervised the crematory retort operator; and~~
- ~~(7) Registration number of the crematory operator.~~

~~Section 5. Crematory Authority License Application Form. The Crematory Authority License Application, Form CR-5 required by KRS 367.97504(1), shall contain:~~

~~(1) A statement informing the applicant that a crematory authority license shall be obtained from the Attorney General at least thirty (30) days prior to the opening of the crematory authority to conduct cremations;~~

~~(2) A statement informing the applicant that a \$100 registration fee shall accompany the application, and that the application shall be signed by a person, officer, or agent with authority to do so, under oath, and the signature shall be notarized;~~

~~(3) The date of the application;~~

~~(4) The full legal name of the applicant;~~

~~(5) The crematory name, if different from the applicant;~~

~~(6) The business telephone number;~~

~~(7) The physical address of the crematory, including the city, county, state, and zip code;~~

~~(8) Mailing address, including city, state, and zip code, of the crematory authority, if different from the physical address;~~

~~(9) The form of organization of the crematory, indicating whether it is a:~~

~~(a) Corporation, and if so indicate the state of incorporation;~~

~~(b) Limited liability company, and if so indicate the state of organization;~~

~~(c) Partnership, and if so indicate the state of formation;~~

~~(d) Individual; or~~

~~(e) Other, and if so, please explain and indicate the state of formation;~~

~~(10) Evidence of authority to transact business in the Commonwealth of Kentucky, including a copy of the applicant's certificate of authority to transact business in the Commonwealth of Kentucky issued by the Kentucky Secretary of State, or other evidence of authority to transact business in the Commonwealth of Kentucky and describing the other evidence;~~

~~(11) The name, position, home address, including the city, state, and zip code, driver's license number and state of issuance, and date of birth, of every owner of the applicant, or if the applicant is a business entity, every member, officer, and director of the applicant;~~

~~(12) The name, address, including city, state, and zip code, and account number, if applicable, of one (1) financial reference. Suitable financial references shall include financial institutions and industry suppliers. Personal references shall not be acceptable;~~

~~(13) The name and address, including city, state, and zip code, of the financial institution at which the applicant has its business bank account;~~

~~(14) The account number of the business bank account;~~

~~(15) Whether the applicant intends to solicit preneed funeral contracts. If yes, a completed application for a Preneed Merchandise Sellers Application, Form CPN-6, incorporated by reference in 40 KAR 2:155, shall be attached;~~

~~(16) A statement from the applicant's retort manufacturer, which shall include:~~

~~(a) The date on which the manufacturer delivered the retort to the applicant;~~

~~(b) Whether the manufacturer installed the retort and, if so, when the installation occurred; and~~

- (c) Whether the retort was tested upon installation and, if so, the results of those tests;
- (17) A statement informing the applicant that by submitting the application, the applicant represents, agrees to, and states under penalty of law, that:
 - (a) The information provided is true and accurate to the best of the applicant's knowledge;
 - (b) The applicant is required to notify the Attorney General immediately of any change in the information required by this section and that KRS 367.97504(2) governs when a new license application form is required to be filed;
 - (c) The applicant is not insolvent, has not conducted business in a fraudulent manner, and is duly authorized to do business in the state;
 - (d) The applicant is in a position to commence operating a crematory and that all relevant state and local permits required have been issued;
 - (e) Final judgment or conviction for any crime involving moral turpitude has not been entered against the applicant;
 - (f) The license may be denied pursuant to KRS 367.97504, and may be denied, suspended, or revoked pursuant to KRS 367.97534;
 - (g) The applicant understands that, pursuant to KRS 367.97504(2), changes in the persons, firm, partnership, ownership, association, or corporate structure as originally named in the application render the license, if granted, void, and that the crematory authority shall file a new application before the changes shall be official; and
 - (h) The applicant is authorized to complete the application on behalf of the applicant crematory; and
- (18) A dated and notarized signature of the person making the application on behalf of the crematory, and that person's title or position held].

Section 5.[Section 6.] Required Records of the Crematory Authority. To comply with KRS 367.97504(5), a crematory authority shall keep and maintain the following records for all cremations occurring within the prior ten (10) years.[The records maintained by the crematory authority required by KRS 367.97504(5) shall include:]

- (1) The original or a[For all cremations occurring within the last ten (10) years:
 - (a) A copy of the completed Cremation Authorization, Form CR-1;[and, if applicable, the]
 - (2) Any discontinued Preneed Cremation Authorization, Form CR-3 completed and executed prior to July 15, 2016[, which was the effective date of the amendments to KRS 367.97501 and 367.97527, which phased out the Preneed Cremation Authorization, Form CR-3; or]; and
 - (3)[(b)] Any[The] Funeral Planning Declaration, Form FPD-1 as incorporated by reference in 40 KAR 2:145.[:]
- [(2) A copy of the identification required to be attached to the outside of the cremation container by KRS 367.97507(2) and 367.97514(2); and
- (3) A copy of any stainless steel identification tag that is placed with the human remains prior to cremation, is subjected to the cremation process with the human remains, survives the cremation process, and is left with the cremated remains after the cremation process is complete.]

Section 6.[Section 7.] Inspection of Crematory Authorities. The Attorney General may conduct announced and unannounced inspections of **the applicant's[applicants']** and **a licensed crematory authority's[authorities']** premises during normal business hours to review records and ensure compliance with KRS 367.97501 to 367.97537 and related **administrative** regulations. **An applicant[Applicants]** and **a licensed crematory authority[authorities]** shall permit **these[such]** inspections and make all requested records readily available to the Attorney General upon request.[An inspection of the crematory authority and its records, as required by KRS 367.97504(5), shall include annual, unannounced inspections of all crematory authority facilities and records and may include:

- (1) An inspection of the crematory authority to determine if it is in active operation or is in a position to commence operation;
- (2) An inspection of the retort for proper operation;
- (3) An inspection of the crematory authority facility to determine if it is secure from unauthorized access;
- (4) An inspection of the crematory authority facility to determine if the crematory authority license is displayed in a conspicuous place;
- (5) An inspection of the refrigerated holding facility used for holding human remains to determine if it is secure from unauthorized access and functioning properly; and
- (6) An inspection of crematory records for all cremations occurring within ten (10) years of the date of the inspection, including all information required to be kept by KRS 367.97504(5) and this administrative regulation.]

Section 7. Material Changes in Application and Reports. A licensed crematory authority shall notify the Attorney General within fourteen (14) days of any material change in the information provided in its applications or reports.

Section 8. Human Remains of Deceased Pregnant Mother. A licensed crematory may cremate the remains of a deceased pregnant woman together with the fetal remains of her unborn **child or children[child(ren)]** within the same cremation chamber. Completion of a Cremation Authorization, Form **CR-1** authorizing cremation of the deceased pregnant woman shall also authorize cremation of her unborn **child or children[child(ren)]**.

~~[Section 8. Inspection Completion Certificate. Each crematory authority that successfully passes an annual inspection shall receive an Inspection Completion Certificate, which shall contain:~~

- ~~(1) The name of the crematory authority;~~
- ~~(2) The address of the crematory authority, including city, state, and zip code;~~
- ~~(3) A certified statement that an inspection has been performed by the Kentucky Attorney General's Office;~~
- ~~(4) The date on which the inspection was performed; and~~
- ~~(5) The signature of an authorized representative of the Attorney General's Office.]~~

Section 9. Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) "Cremation Authorization", Form CR-1, Oct. 2022[04-17];
- (b) "Crematory Authority Annual Report", Form CR-2, Oct. 2022[11-02];
- (c) ["Preneed Cremation Authorization", Form CR-3, 11-02];
- ~~[(d)]~~ "Statement of Supervision for Registered Crematory Retort Operators", Form CR-4, Oct. 2022[11-02]; and
- ~~[(d)][(e)]~~ "Crematory Authority License Application", Form CR-5, Oct. 2022[07-16].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of the Attorney General, Office of Consumer Protection, 1024 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m. This material is also available on the Office's Web site, <https://ag.ky.gov/Pages/default.aspx>.

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KENTUCKY PUBLIC PENSIONS AUTHORITY

David L. Eager, Executive Director

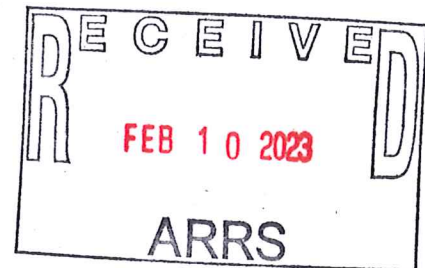
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Kentucky Public
Pensions Authority

February 10, 2023

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



Re: Amendment to 105 KAR 1:411. Hospital and medical insurance for retired members and Kentucky Retirement Systems Insurance Fund Trust.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 105 KAR 1:411, the Kentucky Public Pensions Authority proposes the attached amendment to 105 KAR 1:411.

Sincerely,

Jessica Beaubien

Jessica Beaubien, Policy Specialist
Kentucky Public Pensions Authority
1270 Louisville Road
Frankfort, KY 40601

SUGGESTED SUBSTITUTE

**FINANCE AND ADMINISTRATION CABINET
Kentucky Retirement Systems**

105 KAR 1:411. Hospital and medical insurance for retired members and Kentucky Retirement Systems Insurance Fund Trust.

RELATES TO: KRS 16.505, 16.576(4), 61.505(1)(g), 61.510, 61.701, 61.702, 78.510, 78.5536, 26 U.S.C. 105(b), 106, 115, 213(d), 42 U.S.C. 300bb-8(3), 1395y(b), Pub.L. 111-148

STATUTORY AUTHORITY: KRS 61.505(1)(g), 61.702, 78.5536

NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.505(1)(g) authorizes the Kentucky Public Pensions Authority to promulgate administrative regulations on behalf of the Kentucky Retirement Systems and the County Employees Retirement System that are consistent with KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852. KRS 61.702 and 78.5536 provide for the systems operated by the Kentucky Public Pensions Authority to offer hospital and medical insurance coverage to recipients (including retired members and some beneficiaries of deceased members), their spouses, and their disabled or dependent children, and require the promulgation of administrative regulations concerning requirements for medical insurance reimbursement programs. This administrative regulation establishes procedures for the administration of the hospital and medical insurance benefits provided by the Kentucky Retirement Systems and the County Employees Retirement System, as well as establishes eligibility requirements, necessary documentation for proof of insurance, deadlines for filing for reimbursement, and forms.

Section 1. Definitions.

(1) "Agency" means:

(a) Prior to April 1, 2021, the Kentucky Retirement Systems, which administered the State Police Retirement System, the Kentucky Employees Retirement System, and the County Employees Retirement System; and

(b) Beginning April 1, 2021, the Kentucky Public Pensions Authority, which is authorized to carry out the day-to-day administrative needs of the Kentucky Retirement Systems (comprised of the State Police Retirement System and the Kentucky Employees Retirement System) and the County Employees Retirement System.

(2) "Boards" means the Board of Trustees of the Kentucky Retirement Systems and the Board of Trustees of the County Employees Retirement System.

(3) "Complete" means all required sections of a form are filled out, the form has been fully executed by the recipient or the recipient's legal representative, and all supporting documentation required by the form is included with the form.

(4) "Dependent child" is defined by[in] KRS 16.505(17) and 78.510(49).

(5) "Eligible spouse and dependent children" means spouses and dependent children who are eligible to receive all or a portion of their premiums paid for by the boards in accordance with KRS 61.702 and 78.5536.

(6) "File" means a form or document has been received at the retirement office by mail, fax, secure email, in-person delivery, or via Self Service on the Web site maintained by the agency (if available).

(7) "MEM" means:

(a) A Medicare eligible member who is retired and reemployed;

1. With a participating employer that[which] offers the member a hospital and medical insurance benefit;[,] or

2. By a participating employer that[which] is prevented from offering a hospital and medical benefit to the member as a condition of reemployment under KRS 70.293, 95.022, or 164.952; and

(b) A Medicare eligible member who is retired and whose spouse meets the following criteria:

1. The spouse is also a ~~[retired-]~~member;
 2. The spouse is reemployed with a participating employer ~~that[which]~~ offers the spouse a hospital and medical insurance benefit, or by a participating employer ~~that[which]~~ is prevented from offering a hospital and medical benefit to the spouse as a condition of reemployment under KRS 70.293, 95.022, or 164.952; and
 3. The ~~spouse's~~~~[premium required to provide the spouse with]~~ hospital and medical insurance plan coverage is ~~provided by the~~~~[f]ully or partially paid based on the Medicare eligible~~ retired member's benefits ~~pursuant to~~~~[as provided in]~~ KRS 61.702(2)(4) and 78.5536(2)(4).
- (8) "Member" is defined ~~by~~~~[in]~~ KRS 16.505(21), 61.510(8), and 78.510(8).
- (9) "Monthly contribution rate" means:
- (a) The amount determined by the boards as the maximum contribution the systems will pay toward the premium of a retired member who began participating in the systems on or before June 30, 2003; or
 - (b) For a retired member who began participating in the system on or after July 1, 2003, the amount per month earned by the retired member based on years of service as provided in KRS 61.702(4)(e) and 78.5536(4)(e).
- (10) "Premium" means the monthly dollar cost required to provide hospital and medical insurance plan coverage for a recipient, a recipient's spouse, or a disabled or dependent child.
- (11) "Provide", ~~iff~~~~when]~~ used in reference to a form or other document, means the agency makes a form or document available on its Web site (if appropriate) or, upon request by a recipient or other person, by mail, fax, secure email, or via Self Service on the Web site maintained by the agency (if available).
- (12) "Qualifying event" means a change in life circumstances that:
- ~~(a) Meets~~~~[meet]~~ the agency's requirement for a member to alter an existing hospital and medical insurance plan, or sign up for a new one outside of new or open enrollment ~~iff~~~~when]~~ the alteration is consistent with the change; ~~and~~
- ~~(b) Is included on the~~~~[the agency shall provide a]~~ list of qualifying events ~~provided~~ annually to the members ~~by the agency~~.
- (13) "Recipient" is defined ~~by~~~~[in]~~ KRS 16.505(26), 61.510(27), and 78.510(26).
- (14) "Retired member" is defined ~~by~~~~[in]~~ KRS 16.505(11), 61.510(24), and 78.510(23).
- (15) "Retirement allowance" is defined ~~by~~~~[in]~~ KRS 16.505(12), 61.510(16), and 78.510(16).
- (16) "Retirement office" is defined ~~by~~~~[in]~~ KRS 16.505(28), 61.510(31), and 78.510(29).
- (17) "Systems" means the State Police Retirement System, the Kentucky Employees Retirement System, and the County Employees Retirement System.
- (18) "Wellness" or "wellbeing promise" means an annual health assessment or screening that, if completed timely, provides a discounted insurance rate for the following fiscal year's health insurance plan premium.**

Section 2. Trust Fund.

- (1) Pursuant to KRS 61.701, fund assets shall be dedicated for use toward health benefits, as provided in KRS 61.702 and 78.5536, and as permitted under 26 U.S.C. 105 and 106 of the United States Internal Revenue Code, to retired recipients and employees of employers participating in the systems. Certain dependents or beneficiaries shall be included, such as qualified beneficiaries as described in 42 U.S.C. 300bb-8(3) of the United States Public Health Service Act.
- (2) The boards may adopt a trust agreement and take all action authorized by KRS 61.701(6).

Section 3. Contribution Rates.

- (1)
 - (a) The boards shall adopt monthly contribution rates as follows:
 1. Medicare eligible coverage;
 2. Non-Medicare eligible coverage; and
 3. MEM coverage.

(b) The boards may choose to adopt a monthly contribution rate for MEM coverage that is separate from the monthly contribution rate the boards adopt/adopts for Medicare and non-Medicare eligible coverage, or may choose to adopt a monthly contribution rate that is the same for Non-Medicare eligible coverage and MEM coverage.

(2) The boards shall adopt a contribution plan for each monthly contribution rate in subsection (1) of this section.

(3) The boards may adopt separate contribution rates for:

(a) Tobacco and non-tobacco users; and

(b) Wellness or wellbeing promise completion and incompleteness.

Section 4. Payments by the Boards.

(1) The monthly contribution rate paid by the boards towards premiums for a recipient or eligible spouse or dependent child shall not exceed the monthly contribution rate to which the recipient is entitled under KRS 61.702 and 78.5536.

(2) For a retired member who retired based on reciprocity with any other state-administered retirement system, the boards shall not pay more than a portion of the single monthly contribution rate for the hospital and medical insurance plan chosen by the retired member based on the retired member's service credit with the systems.

(3)

(a) A retired member who is not Medicare eligible or is a MEM may cross-reference health insurance coverage with a spouse enrolled in the same hospital and medical insurance plan.

(b) A retired member identified in paragraph (a) of this subsection who has hazardous service and a membership date prior to July 1, 2003 may be able to use any unused portion of the monthly contribution rate the retired member is entitled to receive toward the premium cost attributable to the spouse, if the spouse's portion of the premium is not fully paid by the boards pursuant to KRS 61.702 and 78.5536.

(4) Pursuant to KRS 61.702(4)(d), 61.702(4)(e)5., 78.5536(4)(d), and 78.5536(4)(e)5., funds from the insurance trust fund or the 401(h) accounts provided for in KRS 61.702(3)(b) and 78.5536(3)(b) shall be used to pay a percentage of the monthly contribution rate for family coverage for eligible spouses and dependent children as defined in KRS 16.505(17) and 78.510(49).

(5)

(a) Members not eligible for Medicare who began participation in the system on or after July 1, 2003 and have accrued an additional full year of service as a participating employee beyond his or her career threshold may receive an additional five (5) dollar ~~[(55)]~~ contribution toward monthly hospital and medical insurance premiums in accordance with KRS 61.702(4)(e)6.b. and 78.5536(4)(e)6.b.

(b)

1. If a member who is eligible for an additional five (5) dollar ~~[(55)]~~ contribution pursuant to paragraph (a) of this subsection has service in multiple systems operated by the agency, each system in which the member participates that meets the requirements of KRS 61.702(4)(e)6.b.iii. and 78.5536(4)(e)6.b.iii shall pay a portion of the additional five (5) dollar contribution based on the percentage of the member's service in each system.

2. If a member who is eligible for an additional five (5) dollar contribution pursuant to paragraph (a) of this subsection has service in multiple systems operated by the agency, and not all of the systems in which the member participates meet the requirements of KRS 61.702(4)(e)6.b.iii. and 78.5536(4)(e)6.b.iii, only those systems that meet the requirements of KRS 61.702(4)(e)6.b.iii. and 78.5536(4)(e)6.b.iii shall pay a portion of the additional five (5) dollar contribution based on the percentage of the member's service in each system.

Section 5. Premiums Paid by Recipient.

(1) Any premium amount that is not paid or payable by the insurance trust fund established under KRS 61.701 or a 401(h) account in accordance KRS 61.702 and 78.5536 shall be deducted from the monthly retirement allowance of the recipient.

(2)

(a) If the amount of a premium is not fully paid by the insurance trust fund established under KRS 61.701, a 401(h) account, and the recipient's monthly retirement allowance, then the recipient shall pay the balance of the premium monthly by electronic transfer of funds by filing a complete Form 6131, Bank Draft Authorization for Direct Pay Accounts, at the retirement office.

(b) If a complete Form 6131, Bank Draft Authorization for Direct Pay Accounts, is required and is not filed at the retirement office, then the recipient, the recipient's[their] spouse, and any disabled or dependent children shall not be enrolled in a hospital and medical insurance plan established pursuant to KRS 61.702 and 78.5536.

(c)

1. If the electronic transfer of funds based on a complete Form 6131, Bank Draft Authorization for Direct Pay Accounts, on file at the retirement office fails, then the agency shall provide an invoice to the recipient.

2. If a recipient fails to remit the balance of the premium by the date provided on the invoice, then the enrollment of the recipient, the recipient's[their] spouse, and any disabled or dependent children in the hospital and medical insurance plan shall be cancelled the month after the last month the recipient paid the premium.

(d) If the hospital and medical insurance plan coverage of a recipient, the recipient's[their] spouse, or any disabled or dependent children is cancelled pursuant to this subsection, the recipient shall not be eligible to enroll in a hospital and medical insurance plan established pursuant to KRS 61.702 and 78.5536 until the next open enrollment period for hospital and medical insurance plan coverage.

Section 6. Eligibility to Participate in Hospital and Medical Insurance Plans.

(1) A person shall not be eligible to participate in the hospital and medical insurance plans established pursuant to KRS 61.702 and 78.5536 until the person is a recipient of a monthly retirement allowance, except as provided in KRS 16.576(4).

(2) A person who retires under disability retirement shall not be eligible to participate in the hospital and medical insurance plans established pursuant to KRS 61.702 and 78.5536 until the month the person receives his or her first monthly retirement allowance payment.

(3) A recipient's spouse, disabled child, or dependent child shall not be eligible to participate in the hospital and medical insurance plans established pursuant to KRS 61.702 and 78.5536 unless the recipient is participating in the hospital and medical insurance plans established pursuant to KRS 61.702 and 78.5536.

(4) An alternate payee shall not be eligible for participation in the hospital and medical insurance plans established pursuant to KRS 61.702 and 78.5536.

Section 7. Participation in a Hospital and Medical Insurance Plan.

(1) A recipient, spouse, or disabled or dependent child who is Medicare eligible, except individuals identified in subsection (2) of this section, shall participate in the hospital and medical insurance plan established for Medicare eligible recipients pursuant to KRS 61.702 and 78.5536.

(2) MEMs, and spouses of MEMs and disabled or dependent children of MEMs who are Medicare eligible, shall participate in the group hospital and medical insurance plan established for MEMs pursuant to KRS 61.702(2)(b)3.b. and 78.5536(2)(b)3.b..

(3) A recipient, spouse, or disabled or dependent child who is not Medicare eligible shall participate in a non-Medicare eligible group hospital and medical insurance plan established pursuant to KRS 61.702 and 78.5536.

(4) If a recipient, spouse, or disabled or dependent child is eligible for Medicare but the other persons enrolled in a group hospital and medical insurance plan are not, then the recipient, spouse, or disabled or dependent child who is not eligible for Medicare may continue to participate in the non-Medicare eligible group hospital and medical insurance plan established pursuant to KRS 61.702 and 78.5536.

(5) Members identified in subsections (1) through (4) of this section may waive enrollment in the hospital and medical insurance plan by filing:

(a) A completed ~~[form 6200,]~~ KPPA Health Plans for Medicare Eligible Persons form, for Medicare eligible recipients, or

- (b) A completed ~~[Form 6200,]~~ Retiree Health Insurance Enrollment/Change Form, for MEMs and non-Medicare eligible recipients.
- (6) Members identified in subsections (1) through (4) of this section who do not enroll in or waive the hospital and medical insurance plan shall be automatically enrolled in an appropriate default plan in accordance with Section 9 of this administrative regulation.

Section 8. Required Forms.

- (1) If the boards use the group hospital and medical insurance provided by the Kentucky Department of Employee Insurance to provide health insurance coverage for its non-Medicare eligible recipients, spouses, disabled or dependent children, and MEMs, then the agency shall provide these recipients and MEMs with the ~~[Form 6200,]~~ Retiree Health Insurance Enrollment/Change Form, required for enrollment, waiver, or changes to the group hospital and medical insurance plan.
- (2) On behalf of the boards, the agency shall arrange hospital and medical insurance coverage for Medicare eligible recipients, spouses, and disabled or dependent children, except MEMs. The agency shall provide these recipients with the ~~[Form 6200,]~~ KPPA Health Plans for Medicare Eligible Persons form, required for enrollment, waiver, or changes to the hospital and medical insurance plans.
- (3) The agency shall provide the Form 6256, Designation of Spouse and/or Dependent Child for Health Insurance Contributions, for recipients to complete to receive health insurance contributions toward an eligible spouse and dependent children who are between the ages of eighteen (18) and twenty-two (22).

Section 9. Default Plans.

- (1) The boards shall adopt a default plan for new retired members upon initial enrollment, and for recipients who do not file a complete insurance enrollment form during annual open enrollment, iff/when required.
- (2) The boards shall adopt a default plan for retired members and recipients who are Medicare eligible, and a default plan for retired members and recipients who are non-Medicare eligible and recipients who are subject to 42 U.S.C. 1395y.

Section 10. Initial and Annual Enrollment and Qualifying Events.

- (1)
- (a) The recipient shall file complete insurance enrollment forms as described in Section 8 of this administrative regulation at the retirement office by the last day of the month the initial retirement allowance is paid.
- (b) If the recipient fails to file the complete insurance enrollment forms as required by paragraph (a) of this subsection~~[described in Section 8 of this administrative regulation at the retirement office by the last day of the month prior to the month the initial retirement allowance is paid]~~, the retired member shall be automatically enrolled in the appropriate default plan adopted by the boards as described in Section 9 of this administrative regulation.
- (c) If the recipient identified in paragraph (a) of this subsection files the completed insurance enrollment forms as described in Section 8 of this administrative regulation by the last day of the month in which he or she receives his or her initial retirement allowance payment, the retired member shall/will be enrolled in the selection indicated on the form effective the first day of the following month.
- (2) If a recipient has a qualifying event, the recipient shall file the complete insurance enrollment forms as described in ~~[subsections (1) or (2) of]~~ Section 8~~(1) or (2)~~ of this administrative regulation at the retirement office within the time period prescribed by state and federal law and the health insurance plan documents.
- (3)(a) If enrollment is mandatory:
1. (a) The recipient shall file the complete insurance enrollment forms as described in Section 8 of this administrative regulation at the retirement office by the last day of the month of the annual open enrollment period~~[when enrollment is mandatory]~~.
2. (b) If the recipient fails to file the complete insurance enrollment forms as required by subparagraph 1. of this paragraph~~[described in Section 8 of this administrative regulation at~~

~~the retirement office by the last day of the month of the annual open enrollment period when enrollment is mandatory],~~ the recipient shall be automatically enrolled in the default plan adopted by the boards as described in Section 9 of this administrative regulation.[-]

~~(b)(c)] If/When~~ enrollment is not mandatory:

1. The recipient may file the complete insurance enrollment forms as described in Section 8 of this administrative regulation at the retirement office by the last day of the month of the annual open enrollment period.

2. If the recipient does not file the complete insurance enrollment forms as required by subparagraph 1. of this paragraph, the recipient, and the recipient's spouse and disabled or dependent children as applicable, ~~shall/will~~ remain ~~on/in~~ the same plan with the same level of coverage as the previous plan year.

(4)

(a)

1. In order to receive health insurance contributions toward an eligible spouse or a dependent child who is between the ages of eighteen (18) and twenty-two (22), the recipient shall file a complete Form 6256, Designation of Spouse and/or Dependent Child for Health Insurance Contributions, by November 30th of the calendar year prior to the calendar year in which coverage is effective, regardless of whether enrollment is mandatory or not mandatory.

2. If a qualifying event results in a new eligible spouse or dependent child, in order to receive health insurance contributions toward the eligible spouse or a dependent child who is between the ages of eighteen (18) and twenty-two (22), the recipient shall file a complete Form 6256, Designation of Spouse and/or Dependent Child for Health Insurance Contributions.

(b)

1. If the recipient does not file a complete Form 6256, Designation of Spouse and/or Dependent Child for Health Insurance Contributions, in accordance with paragraph (a) of this subsection, health insurance contributions shall not be paid toward the premiums for an eligible spouse or dependent children unless a complete Form 6256 is filed at the retirement office in the calendar year in which coverage is in effect.

2. If the recipient files a complete Form 6256, Designation of Spouse and/or Dependent Child for Health Insurance Contributions, between December 1 and December 31 of the calendar year prior to the calendar year in which coverage is effective, then health insurance contributions may be paid for an eligible spouse or a dependent child who is between the ages of eighteen (18) and twenty-two (22) as of January of the calendar year in which coverage is effective. If the health insurance contributions are not paid for an eligible spouse or a dependent child as of January of the calendar year in which coverage is effective, then health insurance contributions shall be paid starting in February of the calendar year in which coverage is effective and the recipient shall also be reimbursed for the January health insurance contributions for the eligible spouse or dependent child.

3. If the recipient files a complete Form 6256, Designation of Spouse and/or Dependent Child for Health Insurance Contributions, prior to December 31 of the calendar year in which coverage is in effect, health insurance contributions shall be paid toward premiums for an eligible spouse or a dependent child who is between the ages of eighteen (18) and twenty-two (22) in any month in the calendar year in which coverage is effective after the Form 6256 is filed at the retirement office. If a complete Form 6256 is filed at the retirement office prior to December 31 of the calendar year in which coverage is in effect, the recipient shall also be reimbursed for up to three (3) months of health insurance contributions for the eligible spouse and dependent children.

Section 11. Changes in Spouse and Disabled or Dependent Child Eligibility.

(1) Recipients, spouses, and disabled or dependent children shall notify the agency of any change that may affect the eligibility of the spouse, disabled child, or dependent child to enroll in a hospital and medical insurance plan offered by the agency or the eligibility of the spouse or dependent child to have all or a portion of their premiums paid for by the boards in accordance with KRS 61.702 and 78.5536.

(2)

- (a) The recipient shall ~~[be required to]~~ repay any premiums that were paid by the boards after the spouse or dependent child ceased to be eligible to have all or portion of their premiums paid in accordance with KRS 61.702 and 78.5536.
- (b) If the agency is unable to recover from the recipient the full amount of premiums paid in accordance with paragraph (a) of this subsection, the agency may withhold any remaining amount from the recipient's monthly retirement allowance payment.
- (c) If the agency is not able to recover the full amount of the premiums paid in accordance with paragraphs (a) and (b) of this subsection, the agency may recover any remaining amount from the spouse or dependent child.

Section 12. Medical Insurance Reimbursement Plan for Recipients Living Outside of Kentucky.

- (1) A recipient may participate in the medical insurance reimbursement plan pursuant to KRS 61.702(6) and 78.5536(6) if the recipient lives in an area outside of the coverage of the group hospital and medical insurance plans offered by the agency.
- (2) The medical insurance reimbursement plan shall be available in any month the recipient:
 - (a) Resides outside of Kentucky;~~;~~
 - (b) Is not eligible for the same level of hospital and medical benefits as recipients who resided inside of Kentucky with the same Medicare status;~~;~~ and
 - (c) Has paid hospital and medical insurance plan premiums capable of being reimbursed.
- (3) Recipients eligible to participate in the medical insurance reimbursement plan shall be reimbursed up to the applicable monthly contribution rate for premiums paid for hospital and medical coverage less any premiums paid by the recipient's employer.
- (4)
 - (a) In order to receive the applicable reimbursement, an eligible recipient shall file a Form 6240, Application for Out of State Reimbursement for Medical Insurance, and as applicable Form 6256, Designation of Spouse and/or Dependent Child for Health Insurance Contributions, at the retirement office with one (1) or more of the following as proof of coverage and payment of premiums for hospital and medical insurance that covers the entire time period for the requested reimbursement:
 - 1. Form 6241, Employer Certification of Health Insurance for Health Insurance Reimbursement Plan, completed by the employer;
 - 2. Form 6242, Insurance Agency/Company Certification of Health Insurance for Health Insurance Reimbursement Plan, completed by the insurance agency or company;
 - 3. A signed statement from the employer listing individuals[individual(s)] covered, dates of hospital and medical insurance coverage, amount of premiums deducted from wages, and the cost of the single coverage; or
 - 4. A signed statement or invoice from the insurance company listing individuals[individual(s)] covered, the dates and cost of single hospital and medical insurance coverage, along with proof of payment such as a receipt or bank statement clearly indicating payment for the statement or invoice provided.
 - (b)
 - 1. If any provided documentation is deemed insufficient by the agency, the agency may request additional proof of medical and hospital insurance coverage or payment.
 - 2. The agency may verify the recipient's eligibility for reimbursement for hospital and medical insurance by requesting verification of coverage and payments directly from the insurance company indicated on the Form 6240, Application for Out of State Reimbursement for Medical Insurance.
- (5) An eligible recipient may file for reimbursement quarterly each calendar year in accordance with subsection (4) of this section.
- (6) If the eligible recipient files for reimbursement in accordance with subsection (4) of this section, the eligible recipient shall be reimbursed on the following schedule:
 - (a) In February, if[when] all documentation is filed at the retirement office by January 20;
 - (b) In May, if[when] all documentation is filed at the retirement office by April 20;
 - (c) In August, if[when] all documentation is filed at the retirement office by July 20; or
 - (d) In November, if[when] all documentation is filed at the retirement office by October 20.

(7) The agency shall not reimburse an eligible recipient for premiums for a calendar year in which the eligible recipient failed to file a request for reimbursement in accordance with subsection (4) of this section by March 20 of the following calendar year.

(8)

(a) If a recipient receives a payment from the agency that does not qualify as a premium reimbursement, the recipient shall return the payment to the agency at the retirement office.

(b) If the recipient fails to return the payment, the agency may withhold the payment from the recipient's monthly retirement allowance payment.

Section 13. Dollar Contribution Medical Insurance Reimbursement Plan for Recipients Hired on or after July 1, 2003.

(1) Beginning January 1, 2023, a recipient with a hire date on or after July 1, 2003 may participate in the hospital and medical insurance dollar contribution reimbursement plan pursuant to KRS 61.702(6) and 78.5536(6), if the recipient chooses to purchase a hospital and medical insurance plan not provided by the systems.

(2) Recipients eligible to participate in the dollar contribution medical insurance reimbursement plan shall be reimbursed up to the applicable monthly contribution rate for premiums paid for hospital and medical coverage less any premiums paid by the recipient's employer.

(3)

(a) In order to receive the applicable reimbursement, an eligible recipient shall file a Form 6280, Application for Dollar Contribution Reimbursement for Medical Insurance, at the retirement office with one (1) or more of the following as proof of payment of premiums for hospital and medical insurance coverage that covers the entire time period for the requested reimbursement:

1. Form 6281, Employer Certification of Health Insurance for Dollar Contribution Reimbursement Plan, completed by the employer;

2. Form 6282, Insurance Agency/Company Certification of Health Insurance for Dollar Contribution Reimbursement Plan, completed by the insurance agency or company;

3. A signed statement from the employer listing individuals[individual(s)] covered, dates of hospital and medical insurance coverage, amount of premiums deducted from wages, and the cost of the single coverage; or

4. A signed statement or invoice from the insurance company listing the individuals[individual(s)] covered, dates, and cost of single hospital and medical insurance coverage; along with proof of payment such as a receipt or bank statement clearly indicating payment for the statement or invoice provided.

(b)

1. If any provided documentation is deemed insufficient by the agency, the agency may request additional proof of medical and hospital insurance coverage or payment.

2. The agency may verify the recipient's eligibility for reimbursement for hospital and medical insurance by requesting verification of coverage and payments directly from the insurance company indicated on the Form 6280, Application for Dollar Contribution Reimbursement for Medical Insurance.

(4) An eligible recipient may file for reimbursement in accordance with subsection (3) of this section, quarterly each calendar year.

(5) If the eligible recipient files a request for reimbursement in accordance with subsection (3) of this section, the eligible recipient shall be reimbursed on the following schedule:

(a) In February, if[when] all documentation is filed at the retirement office by January 20;

(b) In May, if[when] all documentation is filed at the retirement office by April 20;

(c) In August, if[when] all documentation is filed at the retirement office by July 20; or

(d) In November, if[when] all documentation is filed at the retirement office by October 20.

(6) The agency shall not reimburse an eligible recipient for premiums for a calendar year in which the eligible recipient failed to file a request for reimbursement in accordance with subsection (3) of this section by March 20 of the following calendar year.

(7)

- (a) If a recipient receives a payment from the agency that does not qualify as a premium reimbursement, the recipient shall return the payment to the agency at the retirement office.
- (b) If the recipient fails to return the payment, the agency may withhold the payment from the recipient's monthly retirement allowance payment.

Section 14. Incorporation by Reference.

(1) The following material is incorporated by reference:

- (a) Form 6131, "Bank Draft Authorization for Direct Pay Accounts", April 2021;
 - (b) ~~[Form 6200,]~~ "KPPA Health Plans for Medicare Eligible Persons", September 2022;
 - (c) ~~[Form 6200,]~~ "Retiree Health Insurance Enrollment/Change Form", September 2022;
 - (d) ~~[Form 6256, "]]]]Designation of Spouse and/or Dependent Child for Health Insurance Contributions", September 2022;~~
 - ~~(e)]~~ Form 6240, "Application for Out of State Reimbursement for Medical Insurance," September 2022;
 - ~~(e)](f)]~~ Form 6241, "Employer Certification of Health Insurance for Health Insurance Reimbursement Plan", September 2022;
 - ~~(f)](g)]~~ Form 6242, "Insurance Agency/Company Certification of Health Insurance for Health Insurance Reimbursement Plan", September 2022;
 - (g) Form 6256, "Designation of Spouse and/or Dependent Child for Health Insurance Contributions", September 2022;**
 - (h) Form 6280, "Application for Dollar Contribution Reimbursement for Medical Insurance", September 2022;
 - (i) Form 6281, "Employer Certification of Health Insurance for Dollar Contribution Reimbursement Plan", September 2022; **and**
 - (j) Form 6282, "Insurance Agency/Company Certification of Health Insurance for Dollar Contribution Reimbursement Plan", September 2022.**]];**
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Public Pensions Authority, 1260 Louisville Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m., or on the agency's Web site at kyret.ky.gov.

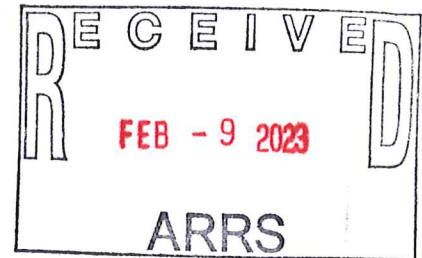
CONTACT PERSON: Jessica Beaubien, Policy Specialist, Kentucky Public Pensions Authority, 1260 Louisville Road, Frankfort, Kentucky 40601, phone (502) 696-8570, fax (502) 696-8801, email Legal.Non-Advocacy@kyret.ky.gov.



KENTUCKY BOARD OF PHARMACY

Andy Beshear
Governor

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Jonathan Van Lahr, R.Ph.

Executive Director
Christopher P. Harlow, Pharm. D.

February 9, 2023

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

Re: 201 KAR 2:360

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 2:360, the Board of Pharmacy proposes the attached amendment to 201 KAR 2:360.

Sincerely,

Christopher Harlow, Pharm.D.
Executive Director
Kentucky Board of Pharmacy

Final, 12-19-2022

SUGGESTED SUBSTITUTE

BOARDS AND COMMISSIONS

Board of Pharmacy

201 KAR 2:360. Opioid antagonist[Naloxone] dispensing.

RELATES TO: KRS 217.186

STATUTORY AUTHORITY: KRS 217.186, KRS 315.191(1)(a)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 217.186(6) requires the Board of Pharmacy to promulgate administrative regulations governing dispensing of an opioid antagonist[naloxone] by a pharmacist pursuant to a physician-approved protocol. This administrative regulation establishes the minimum requirements for the pharmacist to be able to dispense an opioid antagonist[naloxone] pursuant to a physician-approved[approval] protocol; ~~and/~~ This administrative regulation also provides the requirements for a pharmacy to stock an opioid antagonist[naloxone] to an emergency department.

Section 1. Certification.

(1) A pharmacist desiring to achieve certification to initiate the dispensing of an opioid antagonist[naloxone] shall complete and submit an Application for Pharmacist Certification for Opioid Antagonist[Naloxone] Dispensing, Form 1, with the board and provide the following:

- (a) Name;
- (b) Address;
- (c) Phone number; and
- (d) Pharmacist license number.

(2) The board shall issue the certification to a pharmacist within thirty (30) days of the receipt of the application.

Section 2. Procedures for Dispensing of an Opioid Antagonist[Naloxone]. A pharmacist may initiate the dispensing of an opioid antagonist[naloxone] under the following conditions:

- (1) The pharmacist has met the requirements of Section 1 of this administrative regulation;
- (2) The pharmacist has received his or her certification;
- (3) The pharmacist has a physician-approved protocol that meets the minimum requirements of Section 3 of this administrative regulation; and
- (4) The pharmacist documents the dispensing event in the pharmacy management system including:

(a) Documentation as required in 201 KAR 2:171 for the dispensing of prescription medication; and

(b) Documentation that the individual receiving an opioid antagonist[naloxone] was provided with the required training and education pursuant to Section 4 of this administrative regulation, unless the recipient of the opioid antagonist[Naloxone] is a person or agency operating a harm reduction program.

(5) A pharmacist may dispense an opioid antagonist[naloxone] to any person or agency who provides training on the mechanism and circumstances for the administration of an opioid antagonist[naloxone] to the public as part of a harm reduction program, regardless of whom the ultimate user of the opioid antagonist[naloxone] may be. The documentation of the dispensing of an opioid antagonist[naloxone] to any person or agency operating a harm reduction program shall satisfy any general documentation or recording requirements.

Section 3. Protocol Minimum Requirements. A physician-approved protocol authorizing a pharmacist to initiate the dispensing of an opioid antagonist[naloxone] shall contain:

- (1) Criteria for identifying persons or agencies eligible to receive an opioid antagonist[naloxone] under the protocol;
- (2) Opioid antagonist[Naloxone] products authorized to be dispensed, including:
 - (a) Name of product;
 - (b) Dose; and
 - (c) Route of administration;
- (3) Specific education to be provided to the person whom the opioid antagonist[naloxone] is dispensed;
- (4) Procedures for documentation of opioid antagonist[naloxone] dispensation, including procedures for notification of the physician authorizing the protocol, if desired by the physician in accordance with KRS 217.186(6)(b) ~~3. / (3) /~~ KRS 217.186(5)(b)3;
- (5) The length of time the protocol is in effect;
- (6) The date and signature of the physician approving the protocol; ~~and~~
- (7) The names and work addresses of pharmacists authorized to initiate dispensing of an opioid antagonist[naloxone] under the protocol; ~~and~~;
- (8) Authorization for an opioid antagonist[naloxone] to be supplied to an emergency department for dispensing under the protocol.

Section 4. Education to be Provided to Person Receiving an Opioid Antagonist[Naloxone] Prescription Under Protocol. Except as described in Section ~~2(5) of this administrative regulation[5(e)]~~, a pharmacist dispensing an opioid antagonist[naloxone] to a person or agency not operating a harm reduction program shall provide verbal counseling and written educational materials appropriate to the dosage form of an opioid antagonist[naloxone] dispensed.

Section 5.

- (1) ~~[Nothing shall prohibit]~~ A pharmacist may supply an opioid antagonist[from supplying naloxone] to an emergency department to be dispensed per the physician approved protocol ~~if provided that~~:
 - (a) ~~if~~ The pharmacist is providing the opioid antagonist[naloxone] from a pharmacy other than the institutional pharmacy, the pharmacy is under common ownership, or has a written service agreement with the hospital;
 - (b) The opioid antagonist[naloxone] is stored in a locked drug storage area or automated pharmacy system;
 - (c) Access to the opioid antagonist[naloxone] storage area is monitored and approved per a service agreement or hospital policy;
 - (d) There is a monthly documented check of the opioid antagonist[naloxone] storage area for proper storage, labeling, educational[education] material, and expiration dating;
 - (e) With the exception of patient name, the pharmacist labels the opioid antagonist[naloxone] in accordance with KRS 217.065 prior to supplying to the emergency department;
 - (f) An opioid antagonist[Naloxone] from this supply is provided to the patient by a licensed health care provider as described in KRS 217.186(2);
 - (g) The patient is provided written educational[education] materials appropriate to the dosage form of the opioid antagonist[naloxone] which includes the telephone number of the supplying pharmacy;
 - (h) A record of each provision to a patient is communicated to the providing pharmacy and documented in the pharmacy management system; and
 - (i) The dispensing record is reviewed by a pharmacist at the supplying pharmacy within one (1) pharmacy business day.
- (2) Dispensing from an emergency drug stock shall not require a prospective drug use review.

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

(1) "Application for Pharmacist Certification for **Opioid Antagonist**~~[Naloxone]~~ Dispensing", Form 1, **12/2022**~~[6/2021]~~, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Pharmacy, 125 Holmes Street, Suite 300, State Office Building Annex, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. or on the Web site at: **<https://pharmacy.ky.gov/Forms/Documents/Application%20for%20Pharmacist%20Certification%20for%20OPIOID%20ANTAGONIST%20Dispensing%20%2812-2022%29.pdf>**
[<https://pharmacy.ky.gov/Documents/APPLICATION%20FOR%20PHARMACIST%20CERTIFICATION%20FOR%20NALOXONE%20DISPENSING.pdf>].

CONTACT PERSON: Christopher Harlow, Executive Director, Kentucky Board of Pharmacy, 125 Holmes Street, Suite 300, State Office Building Annex, Frankfort, Kentucky 40601, phone (502) 564-7910, fax (502) 696-3806, email Christopher.harlow@ky.gov.

MATERIAL INCORPORATED BY REFERENCE

At the time that the agency files this staff suggested amendment, it needs to file **one (1) clean copy** of the "Application for Pharmacist Certification for Opioid Antagonist Dispensing" that:

- Includes the terminology consistent with Senate Bill 56 from the 2022 Regular Session and KRS 217.186 by changing the reference to Naloxone in the form's title to Opioid Antagonist.
- Updates the Edition date to **12/2022**.
- Changes at the bottom of page 1, "must" to "shall" to comply with KRS Chapter 13A.

FOR OFFICE USE ONLY

Approved by _____

Date _____

Kentucky Board of Pharmacy
State Office Building Annex, Suite 300
125 Holmes Street
Frankfort, KY 40601
Email: pharmacy.board@ky.gov

Phone: 502-564-7910

Fax: 502-696-3806



APPLICATION FOR PHARMACIST CERTIFICATION FOR OPIOID ANTAGONIST DISPENSING

Incomplete or illegible applications will be returned to applicant for correction.

Name _____ RPh License No _____

Street _____

City _____ County _____ State _____ Zip _____

E-mail Address _____ Home Phone _____

Birthdate _____

Social Security Number XXX-XX- _____

THE APPLICATION SHALL BE DATED AND SIGNED.

DATE

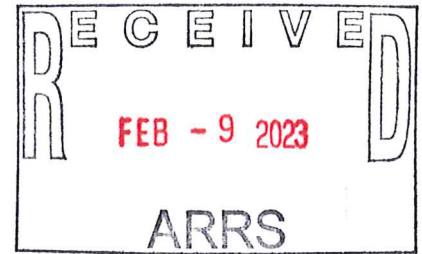
SIGNATURE



KENTUCKY BOARD OF PHARMACY

Andy Beshear
Governor

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February 9, 2023

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

Re: 201 KAR 2:380

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 2:380, the Board of Pharmacy proposes the attached amendment to 201 KAR 2:380.

Sincerely,

Christopher Harlow, Pharm.D.
Executive Director
Kentucky Board of Pharmacy

Final, 2-02-2023

SUGGESTED SUBSTITUTE
To Amended After Comments Version – Ordinary Only

BOARDS AND COMMISSIONS
Board of Pharmacy

201 KAR 2:380. Board authorized protocols.

RELATES TO: KRS 315.010(25), 315.191(1)(a), (f)

STATUTORY AUTHORITY: KRS 315.010(25), 315.191(1)(a), (f)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 315.010(25) defines a prescription drug order, which includes orders issued through protocols authorized by the board. KRS 315.191(1)(a) authorizes the board to promulgate administrative regulations necessary to regulate and control all matters pertaining to pharmacists, pharmacist interns, pharmacy technicians, and pharmacies. KRS 315.191(1)(f) authorizes the board to promulgate administrative regulations that are necessary to control the dispensing of prescription drug orders. This administrative regulation establishes procedures for board authorized protocols by which pharmacists may initiate the dispensing of noncontrolled medications or other professional services.

Section 1. **Definitions**~~[Definition]~~.

(1) **"Fully executed" means a protocol has been signed and dated by the prescriber and the pharmacist or pharmacists who are the**~~[pharmacist(s)] party or parties to the protocol agreement as required by Section 3 of this administrative regulation~~~~[document]~~.

(2) **"Prescriber" means any Kentucky licensed physician or advanced practice registered nurse practitioner**~~[individual authorized to prescribe a legend drug]~~.

(3) **"Protocol" means a written agreement between a pharmacist or pharmacists and a prescriber that outlines the plan to initiate the dispensing of noncontrolled medications, over-the-counter medications, or other professional services within the prescriber's statutory scope of practice.**

(4) **"Protocol registry" means the records maintained by the board**~~[of pharmacy]~~ **of any fully executed protocol that is being utilized to initiate the dispensing of noncontrolled medications, over-the-counter medications, or other professional services.**

Section 2. Procedures. A pharmacist or pharmacists utilizing a protocol may initiate the dispensing of noncontrolled medications, over-the-counter medications, or other professional services under the following conditions:

(1) ~~[A prescriber-approved protocol that meets the minimum requirements in Section 3 of this administrative regulation is in place, and is dated and signed by the prescriber and pharmacist authorized to initiate the dispensing of noncontrolled medications, over-the-counter medications, or other professional services. A pharmacist not party to the executed protocol has no authority to utilize the protocol for medication dispensing or other professional service provision;]~~**The protocol:**

(a) Meets the minimum requirements in Section 3 of this administrative regulation;

(b) Directs the care, based on current clinical guidelines, for acute self-limiting conditions and other minor ailments, preventative health services, and disease state monitoring and management as determined~~[deemed]~~ **appropriate by the board;**

(c) States~~[Must state]~~ **the permit number of the Kentucky permitted pharmacy where the protocol will be utilized;**

(d) Has been reviewed and authorized by the board prior to its execution; and

(e) Has been fully executed and submitted to the board for inclusion in the protocol registry, which shall be made available to the prescriber's licensing board upon request.

(2) [The protocol directs the care, based on current clinical guidelines, for acute self-limiting conditions and other minor ailments, preventative health services, and disease state monitoring and management as deemed appropriate by the board]^(conditions listed in Section 5 of this administrative regulation.)

[(3) The protocol has been approved by the board, who provides notice to the prescriber's licensure board within ten (10) business days of approval by the board;]

[(4)] The pharmacist or pharmacists documents the dispensing event in the pharmacy management system, including:

(a) Documentation as required by 201 KAR 2:171^[470] for the dispensing of prescription medication; and

(b) Documentation that the individual receiving the medication or other professional service was provided with education pursuant to Section 3(4)^[4] of this administrative regulation; **and**

(3) [(5)] A pharmacist shall request the individual's primary care provider's information, provided one exists, and shall provide notification to the primary care provider within two (2) business days^[-]

(4) Any pharmacist not party to the fully executed protocol shall not utilize the protocol;

(5) A pharmacist utilizing the protocol shall be employed by or contracted with the permit holder;

(6) A/No fully executed protocol shall not be used to initiate the dispensing of medications or to provide other professional services until it has been submitted to the board for inclusion in the protocol registry; and

(7) The pharmacist-in-charge shall be responsible for:

(a) Submitting the fully executed protocol to the board for inclusion into the registry; and

(b) Submitting a written notification to the board to remove a protocol from the registry no later than thirty (30) days after discontinuing a protocol.

Section 3. Minimum Requirements of Protocol. Protocols shall contain the following elements:

(1) Criteria for identifying persons eligible to receive medication therapies or other professional services under the protocol, and referral to an appropriate prescriber if the patient is high-risk or treatment is contraindicated;

(2) A list of the medications, including name, dose, route, frequency of administration, and refills authorized to be dispensed under the protocol;

(3) Procedures for how the medications are to be initiated and monitored, including a care plan implemented in accordance with clinical guidelines;

(4) Education to be provided to the person receiving the dispensed medications, including aftercare instructions, if appropriate;

(5) Procedures for documenting in the pharmacy management system all medications dispensed, including notification of the prescriber signing the protocol, if requested;

(6) Length of time protocol is in effect;

(7) Date and signature of prescriber approving the protocol; **and**

(8) Dates and signatures of the pharmacists^[pharmacist(s)] authorized to initiate dispensing of medications or other professional services under the protocol^[-]; **and**

~~(9) The date, and education or training of the pharmacist as referenced in Section 4 of this administrative regulation.~~

~~Section 4. Pharmacist Education and Training Required. A pharmacist who dispenses medication pursuant to a prescriber-approved protocol shall first receive education and training in the subject matter of the protocol from a provider accredited by the Accreditation Council for~~

~~Pharmacy Education or by a comparable provider approved by the board. Documentation of education shall be provided to the board upon request. Education shall be obtained prior to initiating care under the protocol.~~

~~Section 5. Authorized Conditions. Board-authorized protocols may be established for the following conditions:~~

- ~~(1) Acute influenza infection pursuant to recommendations by the Centers for Disease Control and Prevention (CDC);~~
- ~~(2) Acute streptococcal pharyngitis infection;~~
- ~~(3) Acute, uncomplicated urinary tract infection;~~
- ~~(4) Acute cutaneous or mucocutaneous fungal infection;~~
- ~~(5) Alcohol use disorder utilizing naltrexone-based therapy pursuant to recommendations from the American Psychiatric Association;~~
- ~~(6) Allergic rhinitis;~~
- ~~(7) Anaphylaxis;~~
- ~~(8) Colorectal cancer prevention and screening;~~
- ~~(9) HCV infection screening;~~
- ~~(10) HIV infection prophylaxis, pre-exposure and post-exposure pursuant to recommendations by the CDC;~~
- ~~(11) HIV infection screening pursuant to recommendations by the CDC;~~
- ~~(12) Nutritional supplementation with vitamins and minerals;~~
- ~~(13) Opioid use disorder pursuant to recommendations by the American Society of Addiction Medicine;~~
- ~~(14) Tobacco use disorder;~~
- ~~(15) Traveler's health pursuant to recommendations by the CDC;~~
- ~~(16) Tuberculosis prevention and control through skin testing, and referral as necessary, pursuant to recommendations by the CDC; and~~
- ~~(17) Self-care conditions appropriately treated with over-the-counter medications and products.]~~

Section 4. Protocol Review Committee.

(1) The board shall form a committee comprised of four (4) pharmacists and one (1) physician. This committee shall meet no less than quarterly to:

(a) Evaluate new protocols proposed for board approval to ensure compliance with Section 2(1)(b) and Section 3 of this administrative regulation; and

(b) Review previously authorized protocols no later than three (3) years from the authorization date to ensure alignment with current practice guidelines.

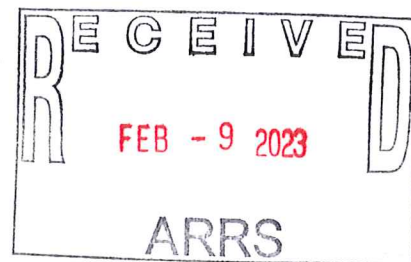
(2) The protocol review committee may consult with an expert with relevant practice experience.

(3) The pharmacists shall be appointed by the Board of Pharmacy and the physician by the Kentucky Board of Medical Licensure.

(4) Terms for the pharmacist and physician members on the committee shall be for a term of four (4) years.

(5) The chair of the committee shall be a pharmacist member.

CONTACT PERSON: Christopher Harlow, Executive Director, Kentucky Board of Pharmacy, 125 Holmes Street, Suite 300, State Office Building Annex, Frankfort, Kentucky 40601, phone (502) 564-7910, fax (502) 696-3806, email christopher.harlow@ky.gov.



Andy Beshear
Governor

KENTUCKY BOARD OF PHARMACY

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Executive Director
Christopher P. Harlow, Pharm. D.

February 9, 2023

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

Re: 201 KAR 2:450

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 2:450, the Board of Pharmacy proposes the attached amendment to 201 KAR 2:450.

Sincerely,

Christopher Harlow, Pharm.D.
Executive Director
Kentucky Board of Pharmacy

Final, 1-26-2023

SUGGESTED SUBSTITUTE
Amended After Comments Version

BOARDS AND COMMISSIONS
Board of Pharmacy

201 KAR 2:450. Unprofessional Conduct of a Pharmacy Permit Holder.

RELATES TO: KRS 315.030, 315.035[315.025], 315.0351, 315.121, 315.131, 337.355, 337.365

STATUTORY AUTHORITY: KRS 315.191(1)(a)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 315.191(1)(a) authorizes the board to promulgate administrative regulations necessary to regulate and control all matters set forth in KRS Chapter 315 relating to pharmacists and pharmacies. This administrative regulation establishes the actions that constitute unprofessional conduct of a pharmacy permit holder[is necessary to ensure that permit holders are provided notice of what may be considered unprofessional conduct. This administrative regulation is required to ensure that the public is protected from pharmacy practices that lead to errors and patient harm, including practices that stem from demands a permit holder places on pharmacists that prevents them from responsibly practicing pharmacy].

Section 1. Definitions.

(1) "Pharmacy permit holder" means any permit maintained by a resident or non-resident pharmacy.

(2) "Provision of pharmacy services" means the services provided to a patient from a licensee, permit holder, or registrant.

(3)[(2)] "Safe practices" means[mean] practices that aim to prevent and reduce risks, errors, and harm, or threat of harm to the public.

Section 2. Unprofessional Conduct.[It shall be] Unprofessional conduct for a pharmacy permit holder includes conduct such as[, but is not limited to]:

(1) Introducing or enforcing[Introduce or enforce] policies and procedures related to the provision of pharmacy services in a manner that results in deviation from safe practices;

(2) Unreasonably preventing or restricting[prevent or restrict] a patient's timely access to patient records or [essential]pharmacy services;

(3) Failing[Fail] to identify and resolve conditions that interfere with a pharmacist's ability to practice competently[with competency] and safely[safety] or creating[create] an environment that jeopardizes patient care, including by failing to provide appropriate staffing, training, and appropriately requested rest and meal periods as permitted by KRS 337.355 and KRS 337.365;[and]

(4) Repeatedly[, habitually,] or knowingly failing[fail] to provide resources appropriate for a pharmacist of reasonable diligence to safely complete professional duties and responsibilities under state and federal laws and regulations; [and][, including, but not limited to]:

a. drug utilization review;

b. immunization;

c. counseling;

d. verification of the accuracy of a prescription; and

e. all other duties and responsibilities of a pharmacist under state and federal laws and regulations.]

(5) Requiring a pharmacist to operate a pharmacy with policies and procedures that deviate from safe practices; and

(6) Taking disciplinary action or otherwise retaliating against a licensee or registrant that reports or refuses to operate a pharmacy that deviates from safe practices or a pharmacy that deviates from state and federal laws and regulations.

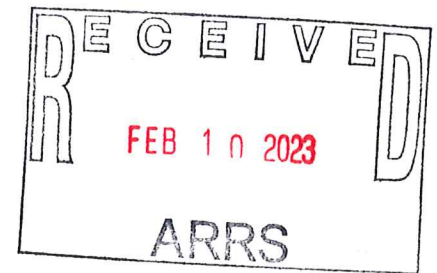
CONTACT PERSON: Christopher Harlow, Executive Director, Kentucky Board of Pharmacy, 125 Holmes Street, Suite 300, State Office Building Annex, Frankfort, Kentucky 40601, phone (502) 564-7910, fax (502) 696-3806, email christopher.harlow@ky.gov.



BOARD OF DENTISTRY

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Louisville, Kentucky 40222
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<http://dentistry.ky.gov>

Andy Beshear
Governor



Jeffrey Allen
Executive Director

Feb. 1, 2023

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

Re: **201 KAR 8:016**. Registration of dental laboratories.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 8:016, the Board of Dentistry proposes the attached amendment to 201 KAR 8:016.

Sincerely,

Jeffrey Allen
Executive Director
Kentucky Board of Dentistry
312 Whittington Pkwy, Ste. 101
Louisville, KY 40222



An Equal Opportunity Employer M/F/D

Final, 1-20-2023

SUGGESTED SUBSTITUTE

BOARDS AND COMMISSIONS

Board of Dentistry

201 KAR 8:016. Registration of dental laboratories.

RELATES TO: KRS 313.021, 313.022, 313.550

STATUTORY AUTHORITY: KRS 313.021(1)(a), (c), 313.022(1)~~[(c)]~~, 313.080, 313.090, 313.100

NECESSITY, FUNCTION, AND CONFORMITY: KRS 313.021(1)(a) requires the board to govern dental laboratories. KRS 313.021(1)(c) requires the board to promulgate administrative regulations for any license or registration created by the board. KRS 313.022(1) requires the board to promulgate administrative regulations to prescribe a reasonable schedule of fees, charges, and fines. This administrative regulation establishes requirements for the issuance and renewal of dental laboratory registration ~~and the [with the board. This administrative regulation establishes]~~ fees for the issuance, renewal, and reinstatement of registrations of dental laboratories with the board.

Section 1.

(1) Each commercial dental laboratory operating, doing business, or intending to operate or do business in ~~Kentucky [the state]~~ shall register with the board ~~[and pay the fee established in Sections 4 and 8 of this administrative regulation].~~

(2) A dental laboratory shall be considered operating or doing business in ~~Kentucky [within this state]~~ if its work product is prepared pursuant to a written authorization originating within this state.

Section 2. The board shall not issue a registration to a commercial dental laboratory unless the applying dental laboratory is operated under the supervision of at least one (1) certified dental technician (CDT) or dentist licensed in this state in accordance with KRS 313.550.

Section 3. If the dental laboratory has violated any provision of KRS Chapter 313 or 201 KAR Chapter 8, the dental laboratory shall be subject to disciplinary action pursuant to KRS 313.080 and 313.100.

Section 4. ~~[Each commercial dental laboratory shall pay a fee of \$150 to the board before a registration shall be issued to the applicant.]~~

~~[Section 5.]~~ Upon the granting of a registration, the board shall assign to that laboratory a dental registration number. The laboratory registration number shall appear on all invoices or other correspondence of the laboratory.

Section 5. ~~[Section 6.]~~ A dentist shall use only those services of a commercial dental laboratory that is duly registered with the board as required by this administrative regulation. A dentist shall include the registration number of the dental laboratory on the dentist's work order.

Section 6. ~~[Section 7.]~~ Initial Registration.

(1) The owner or operator of a commercial dental laboratory desiring to obtain a registration shall:

(a) Submit an Application for Registration of Dental Laboratories; and

(b) Pay the fee required by 201 KAR 8:520.

~~(2) [Each commercial dental laboratory operating, doing business, or intending to operate or do business within the state shall submit an Application for Registration of Dental Laboratory or Renewal of Registration of Dental Laboratory to the board on a form provided by the board accompanied with the registration or renewal fee required.]~~ The application shall include:

(a) [(4)] The name, mailing address, phone number, and e-mail address of the laboratory;

(b) [(2)] The physical address of the laboratory if different from the mailing address;

~~(c)[(3)]~~ The name and CDT number of the supervising CDT or the name and license number of the supervising dentist who is licensed in this state; and

(d) An acknowledgement by the supervising CDT or dentist who is licensed in this state that the laboratory:

1.~~[(4)]~~ ~~[A statement that the laboratory]~~ Meets the infectious disease control requirements under Occupational Safety and Health Administration (OSHA) and the Centers for Disease Control and Prevention (CDC) of the United States Public Health Service;

2.~~[(5)]~~ ~~[An acknowledgement by the supervising CDT or dentist who is licensed in this state that the laboratory]~~ Will provide material disclosure to the prescribing dentist that contains the U.S. Food and Drug Administration registration number of all patient contact materials contained in the prescribed restoration in order that the dentist may include those numbers in the patient's record; and

3.~~[(6)]~~ ~~[An acknowledgement by the supervising CDT or dentist who is licensed in this state that he or she]~~ Will disclose to the prescribing dentist the point of origin of the manufacture of the prescribed restoration. If the restoration was partially or entirely manufactured by a third-party provider, the point of origin disclosure shall identify the portion manufactured by a third-party provider and the city, state, and country of the provider.

Section 7. Registration Renewal.

(1) Commercial dental **laboratory/lab** registrations shall expire on July 31 of each year and **shall/must** be renewed to continue operating or doing business in Kentucky.

(2) To renew a registration, the owner or operator shall:

(a) Submit a Renewal Application for Registration of Dental Laboratories on or before July 31; and

(b) Pay the fee required by 201 KAR 8:520.

(3) The renewal application shall include the information required in Section 6(2)(a)-(d)~~[(a-d)]~~ of this administrative regulation.

~~[Section 8.] [Each commercial dental laboratory registered with the board shall be required to renew its registration before July 31 each year by completing and submitting a Renewal of Registration of Dental Laboratory form and paying a fee of \$150.]~~

Section 8.~~[Section 9.]~~ Incorporation by Reference.

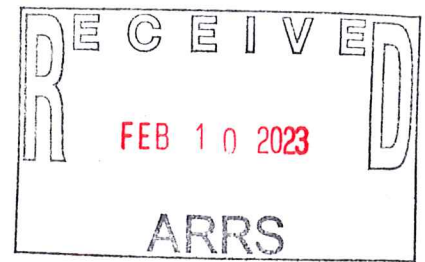
(1) The following material is incorporated by reference:

(a) "Application for Registration of Dental Laboratories", November 2022~~[June 2014]~~; and

(b) "Renewal Application for Registration of Dental Laboratories", November 2022~~[March 2014]~~.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Dentistry, 312 Whittington Parkway, Suite 101, Louisville, Kentucky 40222, Monday through Friday, 8 a.m. through 4:30 p.m. This material is also available on the board's Web site at <http://dentistry.ky.gov>.

Contact person: Jeff Allen, Executive Director, Kentucky Board of Dentistry, 312 Whittington Parkway, Suite 101, Louisville, Kentucky 40222, phone (502) 429-7280, fax (502) 429-7282, email jeffrey.allen@ky.gov.



BOARD OF DENTISTRY

Andy Beshear
Governor

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Louisville, Kentucky 40222
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<http://dentistry.ky.gov>

Jeffrey Allen
Executive Director

Feb. 1, 2023

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

Re: **201 KAR 8:520**. Fees and fines.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 8:520, the Board of Dentistry proposes the attached amendment to 201 KAR 8:520.

Sincerely,

Jeffrey Allen
Executive Director
Kentucky Board of Dentistry
312 Whittington Pkwy, Ste. 101
Louisville, KY 40222



An Equal Opportunity Employer M/F/D

Final, 11-23-2022

Staff-suggested Amendment

GENERAL GOVERNMENT CABINET
Kentucky Board of Dentistry

201 KAR 8:520. Fees and fines.

Page 1

RELATES TO

Line 5

After "KRS 218A.205(3)", insert "(f)".

Delete "(e)".

Page 1

STATUTORY AUTHORITY

Line 6

After "KRS 218A.205(3)", insert "(f)".

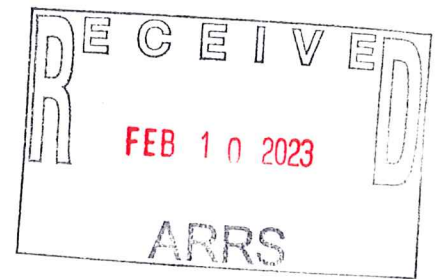
Delete "(e)".



BOARD OF DENTISTRY

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Andy Beshear
Governor



Jeffrey Allen
Executive Director

Feb. 1, 2023

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

Re: **201 KAR 8:571**. Registration of dental assistants.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 8:571, the Board of Dentistry proposes the attached amendment to 201 KAR 8:571.

Sincerely,

Jeffrey Allen
Executive Director
Kentucky Board of Dentistry
312 Whittington Pkwy, Ste. 101
Louisville, KY 40222



An Equal Opportunity Employer M/F/D

Final, 1-20-2023

SUGGESTED SUBSTITUTE

BOARDS AND COMMISSIONS
Board of Dentistry

201 KAR 8:571. Registration of dental assistants.

RELATES TO: KRS ~~[214.615,]~~313.030, 313.045, 313.050, 313.080, 313.130

STATUTORY AUTHORITY: KRS ~~[214.615(2),]~~313.021(1)(a), (b), (c), 313.030(3), 313.045

NECESSITY, FUNCTION, AND CONFORMITY: KRS 313.045(1) requires the board to promulgate administrative regulations relating to requirements and procedures for registration, duties, training, and standards of practice for dental assistants. This administrative regulation establishes the requirements and procedures for registration, duties, training, and standards of practice for dental assistants.

Section 1. Definitions.

- (1) "Coronal polishing" means a procedure that is the final stage of a dental prophylaxis on the clinical crown of the tooth after a dentist or a hygienist has verified there is no calcareous material.
- (2) "Dental assistant" ~~means~~~~[mean]~~ a person who is directly involved with the care and treatment of a patient under the direct supervision of a dentist and performs reversible procedures delegated by a dentist licensed in the Commonwealth.

Section 2. Supervision Requirements. A dental assistant operating under this administrative regulation shall be under the direct supervision of a Kentucky licensed dentist at all times while in the performance of patient care and treatment. The supervising dentist shall accept sole responsibility for the actions of the dental assistant.

Section 3. General Registration ~~[Requirements]~~ and Documentation ~~[General Training]~~ Requirements.

- (1) A dentist licensed in the Commonwealth shall register all dental assistants in ~~the dentist's~~~~[their]~~~~[his or her]~~ practice on the Application for Renewal of Dental Licensure incorporated by reference in 201 KAR 8:532~~[201 KAR 8:530]~~.
- (2) A dental assistant shall maintain certification in cardiopulmonary resuscitation (CPR) that meets or exceeds the ~~[guidelines set forth by the]~~American Heart Association **CPR Guidelines**, as incorporated by reference in 201 KAR 8:532. The supervising dentist shall retain the current CPR certification of each dental assistant in ~~the dental assistant's~~~~[their]~~~~[the]~~ personnel file.
- (3) The supervising dentist shall maintain a [for the registered dental assistant the following:]
 - ~~[(a)] [A copy of the certificate of completion issued for the completion of the Coronal Polishing Course if the course has been taken by the dental assistant;]~~
 - ~~[(b)] [A copy of the certificate of completion issued for the completion of the Radiation Safety Course if the course has been taken by the dental assistant;]~~
 - ~~[(c)] [A copy of the certificate of completion issued for the completion of the Radiation Techniques Course if the course has been taken by the dental assistant;]~~
 - ~~[(d)] [A copy of the certificate of completion issued for the completion of the Starting Intravenous Access Lines if the course has been taken by the dental assistant;]~~
 - ~~[(e)] [A copy of proof of having current certification in cardiopulmonary resuscitation (CPR) that meets or exceeds the guidelines set forth by the American Heart Association, as incorporated by reference in 201 KAR 8:531; and]~~
 - ~~[(f)] [A statement of the competency of procedures delegated to the dental assistant from the Delegated Duties List that includes the name of the:~~
 - ~~(a)[1.] Individual trained; and~~
 - ~~(b)[2.] Licensee attesting to the competency of the dental assistant.~~

Section 4.~~[Section 3.]~~ Coronal Polishing Requirements.

(1) A registered dental assistant may perform coronal polishing only if the assistant has~~[-If coronal polishing is performed by a registered dental assistant, the assistant shall have]:~~

- (a) Completed the training described in subsection (2) of this section; and
- (b) Obtained a certificate from the authorized institution.

(2) The required training shall consist of an eight (8) hour course taught at an institution of dental education accredited by the Council on Dental Accreditation to include the following:

- (a) Overview of the dental team;
- (b) Dental ethics, jurisprudence, and legal understanding of procedures allowed by each dental team member;
- (c) Management of patient records, maintenance of patient privacy, and completion of proper charting;
- (d) Infection control, universal precaution, and transfer of disease;
- (e) Personal protective equipment and overview of Occupational Safety and Health Administration requirements;
- (f) Definition of plaque, types of stain, calculus, and related terminology and topics;
- (g) Dental tissues surrounding the teeth and dental anatomy and nomenclature;
- (h) Ergonomics of proper positioning of patient and dental assistant;
- (i) General principles of dental instrumentation;
- (j) Rationale for performing coronal polishing;
- (k) Abrasive agents;
- (l) Coronal polishing armamentarium;
- (m) Warnings of trauma that can be caused by improper techniques in polishing;
- (n) Clinical coronal polishing technique and demonstration;
- (o) Reading component consisting of the topics established in ~~paragraphs~~**subsection (2)**(a) to (n) of this **subsection**~~[section]~~;
- (p) Passing score of seventy-five (75) percent or higher on a written comprehensive examination covering the material listed in this **subsection**~~[section]~~, which shall be passed by a score of seventy-five (75) percent or higher; and
- (q) Passing score on a clinical competency examination performed on a live patient and supervised by a licensed dentist.

(3) The supervising dentist shall retain in the personnel file for the registered dental assistant a copy of the certificate issued for completion of the Coronal Polishing Course.

~~[(p)] [Completion of the reading component as required by subsection (3) of this section; and]~~

~~[(q)] [Clinical competency examination supervised by a dentist licensed in Kentucky, which shall be performed on a live patient.]~~

~~[(3)] [A required reading component for each course shall be prepared by each institution offering coronal polishing education that shall:]~~

~~[(a)] [Consist of the topics established in subsection (2)(a) to (n) of this section;]~~

~~[(b)] [Be provided to the applicant prior to the course described in subsection (2) of this section; and]~~

~~[(c)] [Be reviewed and approved by the board based on the requirements of subsection (2)(a) to (n) of this section.]~~

~~[(4)] [The institutions of dental education approved to offer the coronal polishing course in Kentucky shall be:]~~

~~[(a)] [University of Louisville School of Dentistry;]~~

~~[(b)] [University of Kentucky College of Dentistry;]~~

~~[(c)] [Western Kentucky University Dental Hygiene Program; and]~~

~~[(d)] [Kentucky Community Technical College System Dental Hygiene or Dental Assisting Programs.]~~

~~[(5)] [An institution of dental education from a state outside of Kentucky meeting the standards of the institutions listed in subsection (4) of this section shall be approved upon request to the Kentucky Board of Dentistry.]~~

Section 5.~~[Section 4.]~~ X-rays by Registered Dental Assistants.

(1) A registered dental assistant may take x-rays only if the assistant has~~under the direct supervision of a dentist licensed in Kentucky. If a registered dental assistant takes x-rays under the direct~~

supervision of a dentist licensed in Kentucky, the dental assistant shall have] completed ten (10) hours of training **that includes/as follows**:

(a) ~~1. [(1)]~~ A six (6) hour course in dental radiography safety; and

~~2. [(b)]~~ [(2)] A four (4) **hour** course in dental radiography technique; or

~~(b) [(c)]~~ Four (4) hours of instruction in dental radiography technique [while] under the employment and supervision of the dentist in the office [or a four (4) hour course in radiography technique].

(2) The supervising dentist shall retain in the personnel file for the registered dental assistant a copy of the certificates issued for completion of courses in dental radiography safety and technique.

Section 6. ~~[Section 5.]~~ Requirements for Starting Intravenous Access Lines.

(1) A registered dental assistant in Kentucky may only start intravenous (IV) access lines if the assistant:

(a) ~~Does so~~ [An individual registered as a dental assistant in Kentucky and not subject to disciplinary action under KRS Chapter 313 who desires to start intravenous (IV) access lines while] under the direct supervision of a dentist who holds a sedation or anesthesia permit issued by the board; and

(b) ~~Completes~~ **[Complete]** [shall submit documentation to the licensed dentist for whom the registered dental assistant will be providing services proving successful completion of] a board-approved course in starting IV access lines that includes [based on]:

1. ~~[(a)]~~ Patient Safety Techniques;

2. ~~[(b)]~~ Anatomy and physiology of the patient;

3. ~~[(c)]~~ Techniques in starting and maintaining an IV access line; and

4. ~~[(d)]~~ Appropriate methods of discontinuing an IV access line.

(2) The supervising dentist shall retain in the personnel file for the registered dental assistant a copy of the certificate issued for completion of the Starting Intravenous Access Lines Course. ~~[A registered dental assistant shall not start an IV access line if the individual has not completed a Board approved course in IV access lines.]~~

~~[Section 6.] [A dental assistant operating under this administrative regulation shall be under the direct supervision of the dentist licensed in the Commonwealth. The dentist licensed in the Commonwealth shall accept sole responsibility for the actions of the dental assistant or dental auxiliary personnel while in the performance of duties in the dental office.]~~

Section 7. Incorporation by Reference.

(1) "Delegated ~~Duties~~ [Duty] List", **January 2023/October 2022** ~~[May 2014]~~, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Dentistry, 312 Whittington Parkway, Suite 101, Louisville, Kentucky 40222, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available on the board's Web site at <http://dentistry.ky.gov>.

CONTACT PERSON: Jeff Allen, Executive Director, Kentucky Board of Dentistry, 312 Whittington Parkway, Suite 101, Louisville, Kentucky 40222, phone (502) 429-7280, fax (502) 429-7282, email jeffrey.allen@ky.gov.

MATERIAL INCORPORATED BY REFERENCE

At the time that the agency files this staff suggested amendment the agency needs to file one (1) clean copy of the "Delegated Duties List" that:

- **Updates the edition date to January 2023**
- **Corrects the cross reference to 201 KAR 8:571, Section 6 that covers starting intravenous lines toward the bottom of Page 1 under the Dental Assistants Section**

Kentucky Board of Dentistry



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dentistry.ky.gov

DELEGATED DUTIES LIST

NOTE: Pursuant to KRS Chapter 313 only licensed dentists are permitted to make final impressions by any method including analog and digital methods, to construct dental restorations.

Dental Hygienists

Dental Hygienists are permitted to perform all duties within the following definition of dental hygiene:

KRS 313.010(5): "Dental hygiene" means the treatment of the oral cavity, including but not limited to dental hygiene assessment or screening, scaling and root planing, nonsurgical therapy, removing calcareous deposits, removing accumulated accretion from beneath the free gingival margin, cavity preventive procedures, periodontal procedures that require administering antimicrobial agents along with other general dentistry activities outlined in the treatment care plan and not prohibited by this chapter or by administrative regulation promulgated by the board.

Dental Hygienists are permitted to perform the following expanded duties with the requisite training, and experience:

- Local Anesthesia: See requirements listed at 201 KAR 8:562, Section 11
- General Supervision: See requirements listed at 201 KAR 8:562, Section 12
- Starting Intravenous Access Lines: See requirements listed at 201 KAR 8:562, Section 13
- Laser Debridement: See requirements listed at 201 KAR 8:562, Section 14
- Public Health Dental Hygiene: See the requirements listed at 201 KAR 8:562, Section 15

Dental Assistants

Pursuant to KRS 313.045(5), dental assistants are permitted to perform only those procedures that do not require the professional competence of a licensed dentist or a licensed dental hygienist.

Pursuant to KRS 313.045(8), dental assistants are permitted to take radiographs with the requisite education, training, and experience.

Pursuant to KRS 313.045(6), dental assistants are only permitted to perform coronal polishing with the requisite education, training, and experience.

Pursuant to 201 KAR 8:571, Section 6, dental assistants only are permitted to start intravenous access lines with the requisite education, training, and experience.

Pursuant to KRS 313.045(7), registered dental assistant and dental auxiliary services shall not include:

- The practice of dental hygiene or the performance of dental hygiene duties that require the use of instrumentation which may elicit the removal of calcareous deposits or accretions on the crowns and roots of teeth;
- Diagnosis;
- Treatment planning, prescribing, or authorization for restorative, prosthodontic, or orthodontic appliances;
- Surgical procedures on tissues of the oral cavity or any other intraoral procedure that contributes to or results in an irreversible alteration of the oral anatomy; and
- Making final impressions from which casts are made to construct any dental restoration.

Kentucky Board of Dentistry



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DELEGATED DUTIES LIST (CONT.)

Dental Auxiliaries

Pursuant to KRS 313.050(1), dental auxiliaries are permitted to perform only those procedures that do not require the professional competence of a licensed dentist or a licensed dental hygienist.

Pursuant to KRS 313.050(2), dental auxiliaries are permitted to take radiographs only with the requisite education, training, and experience.

Pursuant to KRS 313.050(1), a licensed dentist may delegate to dental auxiliary personnel those procedures for which the dentist exercises direct supervision and full responsibility as long as the delegated powers do not include:

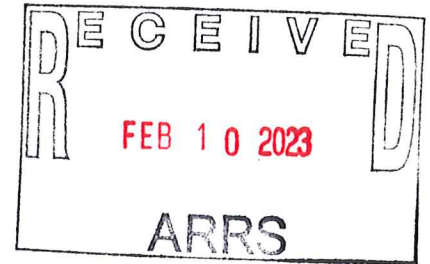
- Procedures which require professional judgment and skill, such as diagnosis and treatment planning and the cutting of hard or soft tissues or any intraoral procedure which will be used directly in the fabrication of an appliance which, when worn by the patient, would come in direct contact with hard or soft tissue;
- Procedures allocated by this chapter to licensed dental hygienists or registered dental assistants; and
- No injectable medication or anesthesia shall be administered by auxiliary personnel unless otherwise authorized by law.



BOARD OF DENTISTRY

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Andy Beshear
Governor



Jeffrey Allen
Executive Director

Feb. 1, 2023

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

Re: **201 KAR 8:601**. Mobile Dental Facilities and Portable Dental Units.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 8:601, the Board of Dentistry proposes the attached amendment to 201 KAR 8:601.

Sincerely,

Jeffrey Allen
Executive Director
Kentucky Board of Dentistry
312 Whittington Pkwy, Ste. 101
Louisville, KY 40222



An Equal Opportunity Employer M/F/D

Staff-suggested Amendment

1/19/2023

KENTUCKY BOARD OF DENTISTRY

201 KAR 8:601. Mobile Dental Facilities and Portable Dental Units.

Page 1

RELATES TO paragraph

Line 4

After "313.022", delete ".".

Page 1

STATUTORY AUTHORITY paragraph

Line 5

After "313.060(1)", delete ".".

Page 2

Section 2(4)

Line 12

After "KRS 313", insert ".".

Delete ":",

After "and 313", insert ".".

Delete ":",

Pages 2 and 3

Section 3(2)(a)

Lines 20, 21, 22, and 1

Before "a." insert "1.".

Delete "a.",

Before "b." insert "2.".

Delete "b.",

Before "c." insert "3.".

Delete "c.",

Before "d." insert "4.".

Delete "d.",

Page 3

Section 4(3)

Line 19

After "treatment when", insert "the".
Delete "such".

Page 4

Section 6(1)

Line 23

After "patient care", insert "i".
Delete ".".

Page 5

Section 7(4)

Line 23

After "for more than", insert "ninety (90)".
Delete "90".

Page 6

Section 7(4)(b)

Line 3

After "KRS 313", insert "i".
Delete ".".

After "and 313", insert "i".
Delete ".".

Page 6

Section 9(1)

Line 13

After "material", insert "is".
Delete "shall be".

Page 6

Section 9(1)(a) and (b)

Lines 16 and 18

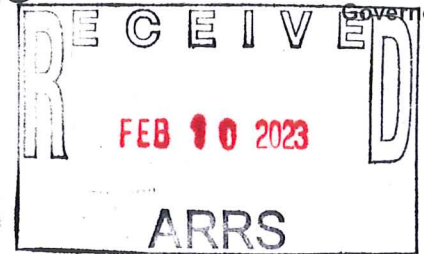
Before "2021", insert "2022".
Delete "2021".

502-429-3300
800-305-2042
Fax: 502-429-1245

KENTUCKY BOARD OF NURSING

312 Whittington Parkway, Suite 300
Louisville, Kentucky 40222-5172
kbn.ky.gov

Andy Beshear
Governor



February 10, 2023

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

Re: 201 KAR 20:370. Applications for licensure.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 20:370, the Kentucky Board of Nursing proposes the attached suggested substitute to 201 KAR 20:370.

Sincerely,

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

Final 1-19-2023

SUGGESTED SUBSTITUTE

BOARDS AND COMMISSIONS

Board of Nursing

201 KAR 20:370. Applications for licensure.

RELATES TO: KRS 314.041, 314.042, 314.051, 314.071, 314.091, 314.103, 314.475

STATUTORY AUTHORITY: KRS 314.041, 314.042, 314.051, 314.071, 314.131(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.131(1) authorizes the Board of Nursing to promulgate administrative regulations as may be necessary to enable it to carry into effect the provisions of KRS Chapter 314. KRS 314.041, 314.042, 314.051, and 314.071 require the board to review an application for licensure and a licensee for conformity with KRS Chapter 314. This administrative regulation establishes requirements and procedures for licensure.

Section 1. To be eligible for licensure by examination, endorsement, renewal, reinstatement, retired licensure status, or for advanced practice registered nurse licensure, renewal, or reinstatement, an applicant shall:

- (1) Submit the completed application ~~[form-]~~ to the board office, for:
 - (a) RN or LPN licensure by examination, endorsement, or reinstatement, Application for Licensure;
 - (b) RN or LPN Renewal, Annual Licensure Renewal Application: RN or LPN;
 - (c) Licensure or reinstatement as an Advanced Practice Registered Nurse, Application for Licensure as an Advanced Practice Registered Nurse;
 - (d) Renewal as an RN and an APRN, Annual Licensure Renewal Application: RN and APRN;
 - (e) ~~[Licensure as an RN and as an APRN, Application for RN and APRN Licensure;~~
 - ~~(f)~~ Retired licensure status, Application for Retired Status;
 - ~~(f)~~~~(g)~~ APRN renewal with an RN Compact license, Annual Licensure Renewal Application: APRN with RN Compact License (not Kentucky);
 - ~~(g)~~~~(h)~~ APRN renewal with a Kentucky RN License, Annual Licensure Renewal Application, APRN with Kentucky RN License; or
 - ~~(h)~~~~(i)~~ In addition to any other renewal form, for APRN renewal, APRN Practice Data;
- (2) Submit the current application fee, as required by 201 KAR 20:240;
- (3) Submit a certified or attested copy of the court record of each misdemeanor or felony conviction in this or any other jurisdiction and a letter of explanation that addresses each conviction, except for traffic-related misdemeanors (other than DUI) or misdemeanors older than five (5) years;
- (4) Submit a certified copy of a disciplinary action taken in another jurisdiction with a letter of explanation or report a disciplinary action pending on a nurse licensure application or license in another jurisdiction;
- (5) Have paid all monies due to the board;
- (6) Submit a copy of an official name change document (court order, marriage certificate, divorce decree, Social Security card), if applicable;
- (7) Submit additional information as required by the board in 201 KAR Chapter 20;
- (8) Meet the additional requirements for:
 - (a) Licensure by examination established by 201 KAR 20:070;
 - (b) Licensure by endorsement established by 201 KAR 20:110;
 - (c) Licensure by reinstatement established by 201 KAR 20:225;
 - (d) Licensure by renewal established by 201 KAR 20:230;
 - (e) Retired nurse or inactive licensure status established by 201 KAR 20:095; or
 - (f) Advanced practice registered nurse licensure, renewal, or reinstatement established by 201 KAR 20:056;
- (9) If not a citizen of the United States, maintain proof of legal permanent or temporary residency under the laws and regulations of the United States; and
- (10) Notify the board upon establishment of a new mailing address.

Section 2. An application shall lapse and the fee shall be forfeited if the application is not completed:

- (1) For an application for licensure by endorsement, within one (1) year~~[six (6) months]~~~~[one (1) year]~~ from the date the application form is filed with the board office;
- (2) For an application for licensure by examination, within one (1) year from the date the application form is filed with the board office or the date the applicant fails the examination, whichever comes first;
- or
- (3) For all other applications except renewal of license applications, within one (1) year from the date the application form is filed with the board office.

Section 3. Incorporation by Reference.

(1) The following material is incorporated by reference:

- (a) "Application for Licensure", 10/2022~~[4/2016]~~, Kentucky Board of Nursing;
- (b) "Annual Licensure Renewal Application: RN or LPN", 02/2022, Kentucky Board of Nursing;
- (c) "Application for Licensure as an Advanced Practice Registered Nurse", 10/2022~~[4/2016]~~, Kentucky Board of Nursing;
- (d) "Annual Licensure Renewal Application: RN and APRN", 02/2022, Kentucky Board of Nursing;
- ~~[(e)] ["Application for RN and APRN Licensure", 1/2016, Kentucky Board of Nursing;]~~
- ~~(e)~~~~[(f)]~~ "Application for Retired Status", 8/2004, Kentucky Board of Nursing;
- ~~(f)~~~~[(g)]~~ "Annual Licensure Renewal Application: APRN with RN Compact License (not Kentucky)", 02/2022, Kentucky Board of Nursing;
- ~~(g)~~~~[(h)]~~ "Annual Licensure Renewal Application, APRN with Kentucky RN License", 02/2022, Kentucky Board of Nursing; and
- ~~(h)~~~~[(i)]~~ "APRN Practice Data", 6/2012, Kentucky Board of Nursing.

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

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

MATERIAL INCORPORATED BY REFERENCE

The agency needs to file one (1) clean copy of the "Application for Licensure as an Advanced Practice Registered Nurse" that:

- Corrects the edition date from 10/2002 to 10/2022 at the bottom of each page



KENTUCKY DEPARTMENT OF FISH & WILDLIFE RESOURCES

Rich Storm
Commissioner

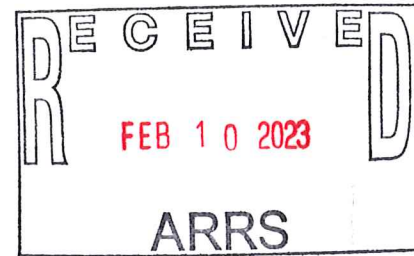
#1 Sportsman's Lane
Frankfort, Kentucky 40601
Phone (502) 564-3400
Fax (502) 564-0506

Brian Clark
Deputy Commissioner

Gabe Jenkins
Deputy Commissioner

February 10, 2023

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



Re: 301 KAR 2:221. Waterfowl seasons and limits, 301 KAR 2:228. Sandhill crane hunting requirements.

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 301 KAR 2:221, and 301 KAR 2:228, Kentucky Department of Fish and Wildlife Resources proposes the attached amendment to 301 KAR 2:221, 301 KAR 2:228.

Sincerely,

A handwritten signature in black ink that reads "Jenny Gilbert". The signature is written in a cursive style with a large, stylized "J" and "G".

Jenny Gilbert
Legislative Liaison
Commissioner's Office
Kentucky Department of Fish and Wildlife Resources
1 Sportsmen's Lane
Frankfort, KY 40601

Staff-suggested Amendment

**Final Version 1/26/2023
TOURISM, ARTS AND HERITAGE CABINET
Department of Fish and Wildlife Resources**

301 KAR 2:221. Waterfowl seasons and limits.

Page 3

Section 4(1)(d)

Line 8

After "city limits", insert "of".

Page 6

Section 9(2) and (3)

Lines 7 and 10

Line 7: After "an adult", insert " 1".

Delete " ;".

Line 10: After "regulation", insert " 1".

Delete " ;".

Page 6

Section 9(4)(b)

Line 13

After "mergansers," insert "or".

Delete "and".



KENTUCKY DEPARTMENT OF FISH & WILDLIFE RESOURCES

Rich Storm
Commissioner

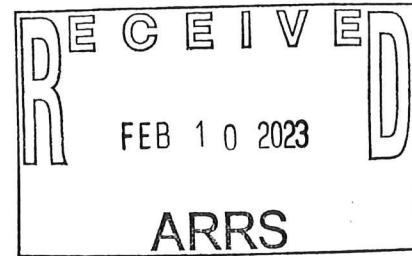
#1 Sportsman's Lane
Frankfort, Kentucky 40601
Phone (502) 564-3400
Fax (502) 564-0506

Brian Clark
Deputy Commissioner

Gabe Jenkins
Deputy Commissioner

February 10, 2023

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



Re: 301 KAR 2:221. Waterfowl seasons and limits, 301 KAR 2:228. Sandhill crane hunting requirements.

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 301 KAR 2:221, and 301 KAR 2:228, Kentucky Department of Fish and Wildlife Resources proposes the attached amendment to 301 KAR 2:221, 301 KAR 2:228.

Sincerely,

A handwritten signature in cursive script that reads "Jenny Gilbert".

Jenny Gilbert
Legislative Liaison
Commissioner's Office
Kentucky Department of Fish and Wildlife Resources
1 Sportsmen's Lane
Frankfort, KY 40601

Subcommittee Substitute

TOURISM, ARTS AND HERITAGE CABINET Department of Fish and Wildlife Resources (As Amended at ARRS)

301 KAR 2:228. Sandhill crane hunting requirements.

RELATES TO: KRS 150.010, 150.305, 150.340, 150.990

STATUTORY AUTHORITY: KRS 150.025(1), 150.170(3), (4), 150.330, 150.603(2), 50 C.F.R. 20, 21

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife and to regulate bag limits. KRS 150.170(3), (4) authorizes license exemptions for people under twelve (12) and resident owners of farmlands, including their spouses and dependent children who hunt on those farmlands. KRS 150.330 authorizes take and possession of migratory birds when in compliance with the provisions of the Federal Migratory Bird Treaty Act and authorizes hunting of migratory birds with the appropriate permits. KRS 150.603(2) requires a person sixteen (16) years or older to possess a hunting license and a Kentucky migratory game bird and waterfowl permit in order to hunt migratory birds. This administrative regulation establishes the requirements for taking sandhill cranes within reasonable limits and within the frameworks established by 50 C.F.R. Parts 20 and 21.

Section 1. Definitions.

- (1) "Crane" means a sandhill crane.
- (2) "Wildlife Management Area" or "WMA" means a tract of land that:
 - (a) Is controlled by the department through ownership, lease, license, or cooperative agreement; and
 - (b) Has "Wildlife Management Area" or "WMA" as part of its official name.

Section 2. Applications and Permits.

- (1) To apply for a crane hunting permit a person shall:
 - (a) Complete the online application process, not more than once per calendar year, on the department's Web site at fw.ky.gov between September 1 and September 30;
 - (b) Possess a valid hunting license by September 30, unless the applicant is license exempt as established in KRS 150.170; and
 - (c) Pay a three (3) dollar application fee.
- (2) The department shall:
 - (a) Rank each applicant with a random electronic draw from all qualified applicants;
 - (b) Issue a crane hunting permit and one (1) printable crane tag to all ranked applicants up to the maximum number of crane tags allowed by the United States Fish and Wildlife Service for that season, as established in 50 C.F.R. 20, except that if the number of applicants:
 - 1. Exceeds the maximum number of tags, then those applicants ranking higher than the maximum **shall [will]** not receive a permit; **or [and]**
 - 2. Is less than the maximum number of tags available, then the additional tags **shall [will]** be

assigned to applicants in the order of ranking until all tags are assigned;

~~(c) [Issue each permit via the department's Web site at fw.ky.gov;~~

~~(d) Issue the appropriate number of metal leg tags to each permit recipient prior to the crane hunting season; and~~

~~(e)] Disqualify an applicant who does not possess a hunting license prior to September 30, unless the applicant is license exempt as established in KRS 150.170.~~

(3) A person who does not have access to the internet may call the department's toll-free number at 1-800-858-1549 for assistance in applying.

(4) A crane hunting permit shall not be transferable.

(5) A person selected to receive a permit shall pass a bird identification test provided by the department prior to receiving a permit.

(6) A permit recipient shall complete and submit a post-season crane hunting survey on the department's website no later than fourteen (14) days after the close of the season.

(7) A person who fails to complete the post-season survey by the date specified in subsection (6) of this section shall be ineligible to be drawn the following year.

Section 3. Season, Bag Limits, and Hunting Requirements.

(1) Unless license exempt as established in KRS 150.170, a person shall not hunt a crane without a:

(a) Valid Kentucky hunting license;

(b) Valid Kentucky crane hunting permit; and

(c) Kentucky migratory game bird and waterfowl permit.

(2) A permit recipient shall possess a printed or electronic copy of a valid crane hunting permit, available via the customer's profile on the department's Web site at <https://app.fw.ky.gov/Myprofile/default.aspx> or mobile application:

(a) While crane hunting; and

(b) When in possession of a harvested crane.

(3) The season shall be from December 7 through January 31.

(4) The bag limit shall be:

(a) Two (2) cranes daily for permit holders with two (2) or more crane tags; or

(b) One (1) crane for permit holders with one (1) tag.

(5) A person shall only hunt cranes from sunrise to sunset.

(6) A person who has harvested a crane shall attach a department-issued printable~~[metal]~~ tag to the leg of the crane prior to moving the carcass. The department-issued tags shall be available for print via the customer's profile on the department's Web site at <https://app.fw.ky.gov/Myprofile/default.aspx> or mobile application.

(7) A person shall check a harvested crane on the day the crane is harvested by:

(a) Calling 800-245-4263 and providing the information requested by the automated check-in system; or

(b) Completing the check-in process on the department's Web site at fw.ky.gov; and

(c) Recording and retaining the check-in confirmation number for the rest of the current season.

(8) A hunter who has harvested a crane shall possess the check-in confirmation number when in the field during the current season.

(9) A person shall not knowingly falsify the harvest of a crane on the automated check-in system.

(10) A person hunting cranes shall not use or possess a shotgun shell containing:

(a) Lead shot; or

(b) Shot not approved by the U.S. Fish and Wildlife Service for waterfowl hunting.

(11) A person shall not use the following to take cranes:

(a) A shotgun larger than ten (10) gauge;

(b) A shotgun shell larger than three and one-half (3 1/2) inches; or

(c) A shotgun shell with shot larger than size "T".

(12) A person hunting a crane on a Wildlife Management Area shall comply with the applicable WMA waterfowl hunting requirements, as established in 301 KAR 2:222, except that on:

(a) Barren River WMA crane hunting shall be prohibited within 100 yards of the normal summer pool level of 552 feet in the embayments established in subparagraphs 1. through 3. of this paragraph:

1. Beaver Creek;

2. Peters Creek; and

3. Skaggs Creek; and

(b) Green River Lake, crane hunting shall be prohibited within 100 yards of the normal summer pool level of 675 feet, east of the Hwy 551 bridge in the embayments established in subparagraphs 1. and 2. of this paragraph:

1. Green River to the Snake Creek Boat Ramp; and

2. Casey Creek to the Hwy 76 bridge.

CONTACT PERSON: ~~[CONTACT PERSON:]~~ Jenny Gilbert, Legislative Liaison, Kentucky Department of Fish and Wildlife Resources, 1 Sportsman's Lane, phone (502) 564-3400, fax (502) 564-0506, email fwpubliccomments@ky.gov.



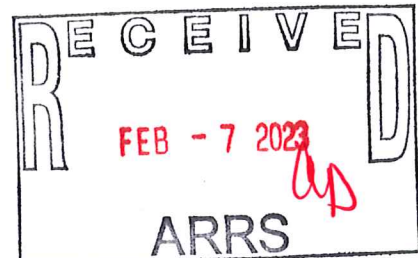
Andy Beshear
GOVERNOR

JUSTICE AND PUBLIC SAFETY CABINET

125 Holmes Street
Frankfort, Kentucky 40601
Phone: (502) 564-7554
Fax: (502) 564-4840

Kerry Harvey
SECRETARY

February 7, 2023



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

Re: **500 KAR 16:010**. Funds disbursement from the elder and vulnerable victims trust fund.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 500 KAR 16:010, the Justice and Public Safety Cabinet, Office of the Secretary proposes the attached amendment to 500 KAR 16:010.

Sincerely,

Deanna Smith
Paralegal Consultant

enclosure

2/3/23

SUGGESTED SUBSTITUTE

JUSTICE AND PUBLIC SAFETY CABINET Office of the Secretary

500 KAR 16:010. Funds disbursement from the elder and vulnerable victims trust fund.

RELATES TO: KRS 15A.011, 41.305, 209.005, 381.280(3)

STATUTORY AUTHORITY: KRS 15A.160, 41.305, 196.035

NECESSITY, FUNCTION, AND CONFORMITY: KRS 41.305 requires the Justice and Public Safety Cabinet to administer the elder and vulnerable victims trust fund and to promulgate administrative regulations to implement operation of the fund. KRS 15A.160, ~~and~~ 41.305, and 196.035 authorize the secretary of the Justice and Public Safety Cabinet to promulgate administrative regulations necessary or suitable for the proper administration of the functions vested in the cabinet or any division in the cabinet. This administrative regulation defines the terms, standards, and criteria governing the disbursement of money from the fund.

Section 1. Definitions.

- (1) "Cabinet" means the Justice and Public Safety Cabinet as defined by KRS 15A.011(1).
- (2) "Elder Abuse Committee" is defined by KRS 209.005(1).
- (3) "Elder and vulnerable victim" means:
 - (a) A natural person sixty-five (65) years of age or older; or
 - (b) A natural person eighteen (18) years of age or older who, because of mental or physical dysfunction, is unable to manage his or her own resources, carry out the activities of daily living, or protect himself or herself from neglect, exploitation, or a hazardous or abusive situation without assistance from others, and who may be in need of protective services.
- (4) "Funded program" means any program, campaign, project, or combination thereof, proposed by an applicant for which the trust fund review panel grants an award of funds from the elder and vulnerable victims trust fund.
- (5) "Trust fund review panel" means the Elder Abuse Committee, with a representative from the cabinet and a representative from the Administrative Office of the Courts.

Section 2. Funding Criteria.

- (1) The trust fund review panel may disburse funds from the elder and vulnerable victims trust fund.
- (2) If funds are disbursed from the elder and vulnerable victims trust fund, the trust fund review panel shall disburse said money in accordance with KRS 41.305.
- (3) In accordance with KRS 41.305(6), the trust fund review panel may only disburse available money from the elder and vulnerable victims trust fund to applicants that are qualified under KRS 41.305(6) as public or private nonprofit organizations, including government organizations, that[which] have completed the Application for Grant Funding incorporated by reference in Section 5[6] of this administrative regulation.
- (4) The applicant shall:
 - (a) Complete and submit the Application for Grant Funding online at <https://justice.ky.gov/Pages/index.aspx> in the Grants Management Division section no later than August 1 of the state fiscal year prior to the state fiscal year in which the award funds would be disbursed. The trust fund review panel may grant an extension of time up to and including September 1 of the state fiscal year prior to the state fiscal year in which the award funds would be disbursed; and
 - (b) Seek funding to:
 1. Develop or operate the programming outlined in KRS 41.305(6)(c); and

2. Demonstrate the ability to comply with KRS 41.305(6)(a), (b), (c)1., 2., 3., and 4.
- (5) The trust fund review panel shall make its decision as to disbursement of available money based on:
- (a) The requirements in KRS 41.305;
 - (b) An assessment of the applicant's ability to meet the purposes of KRS 41.305;
 - (c) The strength of the applicant's plan, including project overview and proposed budget;
 - (d) If applicable, consideration of whether grant requirements were met for a previous grant, including consideration of whether the applicant properly submitted required reports as well as the content of the reports;
 - (e) An area of specific grant focus determined by the Elder Abuse Committee, if any; and
 - (f) Other factors of similar importance in assessing the strength of an application.

Section 3. Awards.

- (1) The trust fund review panel shall provide written notice of its decision regarding a grant application to a grant applicant no later than January 1 of state fiscal year prior to the state fiscal year in which the award funds would be disbursed.
- (2) If an award is granted to an applicant, the applicant shall execute a memorandum of agreement with the cabinet memorializing the proposed program prior to the disbursement of any funds.
- (3) Disbursement of money from the elder and vulnerable victims trust fund shall occur during the state fiscal year following the approval of funding by the trust fund review panel.
- (4) Denial of an award to an applicant by the trust fund review panel shall not be subject to an appeal.

Section 4. Reporting. (1) If an application for funding is approved by the trust fund review panel and funds are disbursed to the applicant, the organization or entity who is granted the funds shall:

- (a)/(4) Submit a quarterly report on the status of the funded program to the Grants Management Division (GMD) with the cabinet;
 - (b)/(2) Submit a follow-up report within five (5) calendar days of conclusion of the funded program to the GMD; and
 - (c)/(3) Submit a final report monitoring the success of the funded program within six (6) months of the conclusion of the funded project to the GMD.
- (2)/(4) Any report required by this section shall be in writing and delivered to JUSIGX@ky.gov. An email shall constitute a writing for purposes of this section.

Section 5. Incorporation by Reference.

- (1) "Elder and Vulnerable Victims Trust Fund, Application for Grant Funding[Application]", 2022, is incorporated by reference.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, Monday through Friday, 8 a.m. to 4:30 p.m. This material may be viewed on the Justice and Public Safety Cabinet Web site at <https://justice.ky.gov/about/pages/lrcfilings.aspx>.



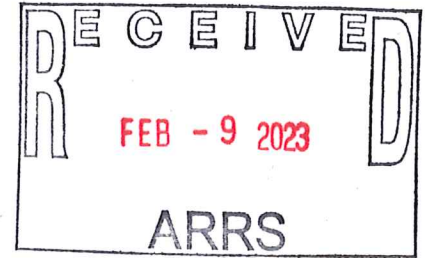
PUBLIC PROTECTION CABINET

Andy Beshear
GOVERNOR

Jacqueline Coleman
LIEUTENANT GOVERNOR

Kentucky Department of
Insurance

500 Mero Street, 2SE11
Frankfort, KY 40601
Phone: (502) 564-3630
Toll Free: (800) 595-6053



Ray A. Perry
SECRETARY

Sharon P. Clark
COMMISSIONER

February 9, 2023

Ms. Emily Caudill, Regulations Compiler
Legislative Research Commission
029, Capitol Annex
702 Capitol Avenue
Frankfort, KY 40601

Dear Ms. Caudill:

After internal discussions of the Department of Insurance concerning issues raised in 806 KAR 17:280, the Department of Insurance proposes the attached agency amendment to 806 KAR 17:280.

Sincerely,

Abigail Gall

Executive Advisor, DOI

Agency Amendment

**Public Protection Cabinet
Department of Insurance
Health Life and Managed Care Division**

806 KAR 17:280. Registration, utilization review, and internal appeal.

Page 4

Section 4(1)(d)

Lines 4 and 5

After "service benefit plan," delete "or".

After "review agent," insert the following:

or other registered UR entity

Page 4

Section 4(1)(f)1.b.

Lines 18 and 19

After "decision;" delete "and".

After "c.", insert the following:

Date and time the step therapy exception request was received;

d. Date and time the step therapy exception request was completed; and

e.

Page 4

Section 4(1)(f)2.b.

Lines 23 and 24

After "c.", insert the following:

Date and time the step therapy exception request was received;

d. Date and time the step therapy exception request was completed; and

e.

Page 11

Section 9(1)(c)5.

Line 15

After "time the", insert "step therapy exception".

Page 11

Section 9(1)(c)6.

Line 16

After "time of the", insert "step therapy exception".

Page 11

Section 9(1)(c)7.

Line 17

After "records of", insert "a step therapy exception".

Delete "an".

Page 11

Section 9(1)(c)7.a. and b.

Lines 18 and 19

After "Reason for the", insert "step therapy exception".

After "Date that the", insert "step therapy exception".

Page 11

Section 9(1)(c)7.c.

Line 21

After "c.", delete "The".

Page 11

Section 9(1)(c)7.d. and e.

Lines 22 and 23

After "Date", insert "and time".

After "of the", insert "step therapy exception".

After "e.", insert "Step therapy exception".

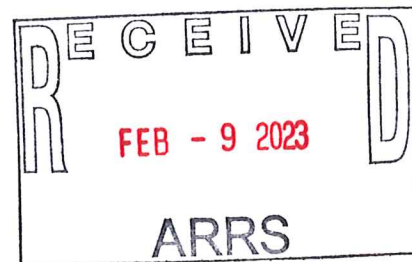
Page 12

Section 9(1)(d)

Line 1

After "a record of", insert "a step therapy exception".

Delete "an".



Andy Beshear
Governor

PUBLIC PROTECTION CABINET
Department of Insurance
P.O. Box 517
Frankfort, Kentucky 40602-0517
1-800-595-6053
<http://insurance.ky.gov>

Ray A. Perry
Secretary

Sharon P. Clark
Commissioner

February 13, 2023

Ms. Emily Caudill, Regulations Compiler
Legislative Research Commission
029, Capitol Annex
702 Capitol Avenue
Frankfort, KY 40601

Dear Ms. Caudill:

After internal discussions with the Administrative Regulation Review Subcommittee staff of the issues raised in **806 KAR 17:280**, the Department of Insurance proposes the attached subcommittee substitute to 806 KAR 17:280.

Sincerely,

Abigail Gall

Abigail Gall
Regulations Coordinator
Department of Insurance
500 Mero Street
Frankfort, KY 40601

Subcommittee Substitute

**PUBLIC PROTECTION CABINET
Department of Insurance
Health Life and Managed Care Division
(As Amended at ARRS)**

806 KAR 17:280. Registration, utilization review, and internal appeal.

RELATES TO: KRS 217.211, 304.2-140, 304.2-310, 304.17-412, 304.17A-005, 304.17A-163, 304.17A-1631, 304.17A.167, 304.17A-168, 304.17A-535, 304.17A-600, 304.17A-607, 304.17A-619, 304.17A-623, 304.17C-010, 304.17C-030, 304.18-045, 304.32-147, 304.32-330, 304.38-225, 304.47-050

STATUTORY AUTHORITY: KRS 304.2-110(1), 304.17A-609, 304.17A-613, 304.17A-1631

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110(1) authorizes the Commissioner to promulgate reasonable administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code as defined in KRS 304.1-010. KRS 304.17A-609 requires the department to promulgate administrative regulations regarding utilization review and internal appeal and KRS 304.17A-1631 requires the commissioner to promulgate administrative regulations regarding step therapy protocols and exceptions. KRS 304.17A-613 requires the department to promulgate administrative regulations to develop a process for the registration of insurers or private review agents. This administrative regulation establishes requirements for the registration of insurers or private review agents, and the utilization review process, including internal appeal of decisions and step therapy exception request denials.

Section 1. Definitions.

- (1) "Adverse determination" is defined by KRS 304.17A-600(1).
- (2) "Authorized person" is defined by KRS 304.17A-600(2).
- (3) "Board" means one (1) of the following governing bodies:
 - (a) The American Board of Medical Specialties;
 - (b) The American Osteopathic Association; or
 - (c) The American Board of Podiatric Surgery.
- (4) "Coverage denial" is defined by KRS 304.17A-617(1).
- (5) "Department" means Department of Insurance.
- (6) "Enrollee" is defined by KRS 304.17C-010(2).
- (7) "Health benefit plan" is defined by KRS 304.17A-005(22).
- (8) "Health Care Provider" or "provider" is defined in KRS 304.17A-005(23) and includes pharmacy as required under 806 KAR 17:580.
- (9) "Insurer" is defined by KRS 304.17A-005(29).
- (10) "Internal appeals process" is defined by KRS 304.17A-600(9).
- (11) "Limited health service benefit plan" is defined by KRS 304.17C-010(5).
- (12) [(14)] "Nationally recognized accreditation organization" is defined by KRS 304.17A-600(10).
- (13) [(12)] "Notice of coverage denial" means a letter, a notice, or an explanation of benefits

statement advising of a coverage denial.

~~(14)~~~~[(13)]~~ "Policies and procedures" means the documentation which outlines and governs the steps and standards used to carry out functions of a utilization review program.

~~(15)~~~~[(14)]~~ "Private review agent" is defined by KRS 304.17A-600(11).

~~(16)~~~~[(15)]~~ "Registration" is defined by KRS 304.17A-600(14).

~~(17)~~ "Step therapy exception" is defined in KRS 304.17A-163(1)(f).

~~(18)~~ "Step therapy protocol" is defined in KRS 304.17A-163(1)(g).

~~(19)~~~~[(16)]~~ "Utilization review" is defined by KRS 304.17A-600(17)~~[(17)]~~.

~~(20)~~~~[(17)]~~ "Utilization review plan" is defined by KRS 304.17A-600(18).

Section 2. Registration Required for Utilization Review.

(1) The department shall issue a registration to an applicant **who** ~~**that**~~ has met the requirements of KRS 304.17A-600 through 304.17A-619 and KRS 304.17A-623, if applicable, and Sections 2 through 11 of this administrative regulation.

(2) An applicant seeking registration to provide or perform utilization review shall:

(a) Submit an application to the department as required by Section 4 of this administrative regulation; and

(b) Pay an application fee as required by Section 3 of this administrative regulation.

(3) If an insurer, ~~**or**~~ private review agent, **or other registered UR entity** desires a renewal of registration to perform utilization review, an application for renewal of registration shall be submitted to the department at least ninety (90) days prior to expiration of the current registration.

Section 3. Fees.

(1) An application for registration shall be accompanied by a fee of \$1,000.

(2) A submission of changes to utilization review policies or procedures to the department shall be accompanied by a fee of fifty (50) dollars.

(3) A fee as established in subsection (1) or (2) of this section shall be made payable to the Kentucky State Treasurer.

Section 4. Application Process for Utilization Review.

(1) An applicant for registration shall complete and submit to the department an application, HIPMC-UR-1 and HIPMC-MD-1, and except as provided in subsection (3) of this section, documentation to support compliance with KRS 304.17A-600 through 304.17A-623, as applicable, including:

(a) A utilization review plan;

(b) The identification of criteria used for all services requiring utilization review;

(c) Types and qualifications of personnel, employed directly or under contract, performing utilization review in compliance with KRS 304.17A-607, including names, addresses, and telephone numbers of the medical director and contact persons for questions regarding the filing of the application;

(d) A toll-free telephone number to contact the insurer, limited health service benefit plan, or private review agent, as required by KRS 304.17A-607(1)(e) and 304.17A-609(3);

(e) A copy of the policies and procedures required by:

1. KRS 304.17A-163;
 2. KRS 304.17A-1631;
 3. [By-]KRS 304.17A-167;
 4. [2.] [By-]KRS 304.17A-603;
 5. [3.] [By-]KRS 304.17A-607, and including the policies and procedures required by KRS 304.17A-607(1)(f) and (i); and
 6. [4.] [By-]KRS 304.17A-609(4);
- (f) A copy of the policies and procedures by which:
1. A limited health service benefit plan provides a notice of review decision which complies with KRS 304.17A-607(1)(h) to (j) and includes:
 - a. Date of service or preservice request date;
 - b. Date of the review decision; and
 - c. Instructions for filing an internal appeal; or
 2. An insurer, ~~or~~ private review agent, **or other registered UR entity** provides a notice of review decision, which complies with KRS 304.17A-607(1)(h) to (j) and 806 KAR 17:230, and includes:
 - a. Date of service or preservice request date;
 - b. Date of the review decision;
 - c. Instructions for filing an internal appeal, including information concerning:
 - (i) The availability of an expedited internal appeal and a concurrent expedited external review;
 - (ii) For an adverse determination, the right to request that the appeal be conducted by a board eligible or certified physician pursuant to KRS 304.17A-617(2)(c); and
 - (iii) The insurer's contact information for conducting appeals, which shall include an address and direct ten (10) digit[including a] telephone number, and which shall be bolded and more prominently displayed than the contact information of the department[and address]; and
 - d. Information relating to the availability of:
 - (i) A review of a coverage denial by the department following completion of the internal appeal process; or
 - (ii) A review of an adverse determination by an independent review entity following completion of the internal appeal process, in accordance with KRS 304.17A-623;
 - (g) If a part of the utilization review process is delegated, a description of the:
 1. Delegated function;
 2. Entity to whom the function was delegated, including name, address, and telephone number;
- and
3. Monitoring mechanism used by the insurer, ~~or~~ private review agent, **or other registered UR entity** to assure compliance of the delegated entity with paragraph (f) of this subsection;
- (h) A sample copy of an electronic or written notice of review decision, which complies with paragraph (f) of this subsection;
- (i) A copy of the policies and procedures by which a covered person, authorized person, or provider may request an appeal of an adverse determination, or coverage denial in accordance with KRS 304.17A-617, including:
1. The method by which an appeal may be initiated, including:
 - a. An oral request followed by a brief written request, or a written request for an expedited internal appeal;

b. A written request for a nonexpedited internal appeal; and
c. If applicable, the completion of a specific form, including a medical records release consent form with instructions for obtaining the required release form;

2. Time frames for:

a. Conducting a review of an initial decision; and

b. Issuing an internal appeal decision;

3. Procedures for coordination of expedited and nonexpedited appeals;

4. Qualifications of the person conducting internal appeal of the initial decision in accordance with KRS 304.17A-617(2)(c);

5. Information to be included in the internal appeal determination in accordance with KRS 304.17A-617(2)(e), including the:

a. Title and, if applicable, the license number, state of licensure, and certification of specialty or subspecialty of the person making the internal appeal determination;

b. Clear, detailed decision; and

c. Availability of an expedited external review of an adverse determination; and

6. A sample copy of the internal appeal determination in compliance with paragraph (i)5 of this subsection; and

(j) A copy of the policies and procedures, which:

1. Address and ensure the confidentiality of medical information in accordance with KRS 304.17A-609(5), 806 KAR 3:210, and 806 KAR 3:230;

2. Comply with **the** requirements of KRS 304.17A-615 if the insurer, **[or]** private review agent, **or other registered UR entity** fails to:

a. Provide a timely utilization review decision; or

b. Be accessible, as determined by verifiable documentation of a provider's attempts to contact the insurer, **[or]** private review agent, **or other registered UR entity**, including verification by:

(i) Electronic transmission records; or

(ii) Telephone company logs;

3. Comply with **the** requirements of KRS 304.17A-619, regarding the submission of new clinical information prior to the initiation of the external review process;

4. Address and ensure consistent application of review criteria for all services requiring utilization review; and

5. Comply with **the** requirements of KRS 304.17A-607(1)(k), as applicable.

(2) Upon review of an application for registration, **[or]** submitted changes to utilization review policies and procedures in accordance with KRS 304.17A-607(3), **or submitted changes to internal appeals policies and procedures in accordance with KRS 304.17A-617(3)**, the department shall:

(a) Inform the applicant if supplemental information is needed;

(b) Identify and request that supplemental information be submitted to the department within thirty (30) days;

(c) If requested information is not provided to the department within the timeline established in paragraph (b) of this subsection:

1. Deny the application for registration or proposed changes to utilization review **or internal review** policies and procedures; and

2. Not refund the application or filing fee; and

(d) Approve or deny registration or proposed changes to utilization review **or internal review**

policies and procedures.

(3) ~~[In order]~~ To be registered to perform utilization review in Kentucky, an applicant ~~who~~[which] holds accreditation or certification in utilization review by a nationally recognized accreditation organization in accordance with KRS 304.17A-613(10) shall be required to submit with its completed application to the department:

(a)

1. Evidence of current accreditation or certification in utilization review, including an expiration date; and

2. Documentation to demonstrate compliance with the requirements of KRS 304.17A-613(10) and that the standards of the accreditation organization sufficiently meet the minimum requirements in subsection (1) of this section.

(b) If the national accreditation standard does not meet all the requirements as established in subsection (1) of this Section, then the applicant shall submit the additional information required under subsection (1) of this section.

Section 5. Denial or Revocation Hearing Procedure. Upon denial of an application for registration, or suspension or revocation of an existing registration, the department shall:

(1) Give written notice of its action; and

(2) Advise the applicant or registration holder that if dissatisfied, a hearing may be requested and filed in accordance with KRS 304.2-310.

Section 6. Complaints Relating to Utilization Review.

(1) A written complaint regarding utilization review shall be reviewed by the department in accordance with KRS 304.17A-613(8).

(2) Upon receiving a copy of the complaint, an insurer, ~~[or]~~ private review agent, or other registered UR entity shall provide a response in accordance with KRS 304.17A-613(8)(a), including:

(a) Any information relating to the complaint;

(b) All correspondence or communication related to the denial between any of the parties, including the insurer, the member, provider, and private review agent; and

(c) Corrective actions to address the complaint, if applicable, including a timeframe for each action.

(3) Within thirty (30) days of implementation of a corrective action, as identified in subsection (2) of this section, an insurer, ~~[or]~~ private review agent, or other registered UR entity shall notify the department in writing of the implementation of the corrective action.

(4) If an insurer, ~~[or]~~ private review agent, or other registered UR entity fails to comply with this section, the department may impose a penalty in accordance with KRS 304.2-140.

(5) The number, recurrence, and type of complaints, as identified in subsection (1) of this section, shall be considered by the department in reviewing an application for registration pursuant to KRS 304.17A-613(9).

Section 7. Internal Appeals for a Health Benefit Plan. In addition to the requirements of KRS 304.17A-617, and as part of an internal appeals process, an insurer, ~~[or]~~ private review agent, or other registered UR entity shall:

(1) Allow a covered person, authorized person, or provider acting on behalf of a covered person to request an internal appeal at least sixty (60) days following receipt of a denial letter;

(2) Provide written notification of an internal appeal determination decision as required by KRS 304.17A-617(2)(a), (b), and (e), which shall include the:

(a) Title and, if applicable, the license number, state of licensure and specialty or subspecialty certifications of the person performing the review;

(b) Elements required in a letter of denial in accordance with 806 KAR 17:230, Sections 4 and 5, if applicable;

(c) Position and telephone number of a contact person who may provide information relating to the internal appeal;

(d) Date of service or preservice request date; and

(e) Date of the internal appeal decision;

(3) Maintain written records of an internal appeal, including the:

(a) Reason for the internal appeal;

(b) Date that the internal appeal was received by the insurer, ~~or~~ private review agent, or other registered UR entity, including the date any necessary or required authorizations were received;

(c) Date of the internal appeal decision;

(d) Internal appeal decision; and

(e) Information required by Section 4(1)(i)5 of this administrative regulation; and

(4) Retain a record of an internal appeal decision for five (5) subsequent years in accordance with 806 KAR 2:070.

Section 8. Internal Appeals for a Limited Health Service Benefit Plan.

(1) An insurer offering a limited health service benefit plan shall have an internal appeals process which shall:

(a) Be disclosed to an enrollee in accordance with KRS 304.17C-030(2)(g); and

(b) Include provisions, which:

1. Allow an enrollee, authorized person, or provider acting on behalf of the enrollee to request an internal appeal within at least sixty (60) days of receipt of a notice of adverse determination or coverage denial or if applicable, a step therapy exception denial; and

2. Require the limited health service benefit plan to provide a written internal appeal determination within thirty (30) days following receipt of a request for an internal appeal.

(2) A notice of adverse determination or coverage denial or if applicable, a step therapy exception denial shall include a disclosure of the availability of the internal appeals process.

Section 9. Internal Appeals for a Step Therapy Exception Denial. In addition to the requirements of KRS 304.17A-617, and as part of the internal appeals process for a step therapy exception denial, an insurer, private review agent, or pharmacy benefit manager shall:

(1) Allow a covered person or provider acting on behalf of a covered person to request an internal appeal of a step therapy exception denial;

(2) Require the insurer, private review agent, or pharmacy benefit manager to provide a written internal appeal determination within forty-eight (48) hours following receipt of a request for an internal appeal of a step therapy exception denial;

(3) Provide written notification of an internal appeal determination decision as required by KRS

304.17A-617(2)(a), (b), and (e) and KRS 304.17A-163(4)(a), which shall include the:

(a) Title and, if applicable, the license number, state of licensure and specialty or subspecialty certifications of the person performing the review;

(b) Elements required in a letter of denial in accordance with 806 KAR 17:230, Sections 4 and 5, if applicable;

(c) Position and telephone number of a contact person who may provide information relating to the internal appeal;

(d) Date of service or preservice request date; ***[and]***

(e) Date and time the internal appeal was received;

(f) Date and time of the internal appeal decision;

(g) Maintain written records of an internal appeal, including the:

1. Reason for the internal appeal;

2. Date that the internal appeal was received by the insurer, ***[or]*** private review agent, ***or other registered UR entity***, including the date any necessary or required authorizations were received;

3. The clinical review criteria used to make the step therapy exception appeal determination;

4. Date of the internal appeal decision;

5. Internal appeal decision; and

6. Information required by Section 4(1)(i)5. of this administrative regulation; and

(4) Retain a record of an internal appeal decision for five (5) years from the date of decision in accordance with 806 KAR 2:070.

Section 10.~~[Section 9.]~~ Reporting Requirements. By March 31 of each calendar year, an insurer, ***[or]*** private review agent, ***or other registered UR entity*** shall complete and submit to the department a HIPMC-UR-2, ~~and a HIPMC-STE-1[.]~~ for the previous calendar year.

Section 11.~~[Section 10.]~~ Maintenance of Records. An insurer, ***[or]*** private review agent, ***or other registered UR entity*** shall maintain documentation to assure compliance with KRS 304.17A-163, 304.17A-1631, 304.17A-600 through 304.17A-619, 304.18-045, 304.32-147, 304.32-330, 304.38-225, and 304.47-050, including:

(1) Proof of the volume of reviews conducted per the number of review staff broken down by staff answering the phone;

(2) Information relating to the availability of physician consultation;

(3) Information which supports that based on call volume, the insurer, ***[or]*** private review agent, ***or other registered UR entity*** has sufficient staff to return calls in a timely manner;

(4) Proof of the volume of phone calls received on the toll-free phone number per the number of phone lines;

(5) Telephone call abandonment rate; and

(6) Proof of the response time of insurer, ***[or]*** private review agent, ***or other registered UR entity*** for returned phone calls to a provider if a message is taken.

Section 12.~~[Section 11.]~~ Cessation of Operations to Perform Utilization Review.

(1) Upon a decision to cease utilization review operations in Kentucky, an insurer, ***[or]*** private review agent, ***or other registered UR entity*** shall submit the following to the department thirty (30) days or as soon as practicable prior to ceasing operations:

(a) Written notification of the cessation of operations, including the proposed date of cessation and the number of pending utilization review decisions with projected completion dates; and

(b) A written action plan for cessation of operations, which shall be subject to approval by the department prior to implementation.

(2) Annual reports required pursuant to Section 9 of this administrative regulation shall be submitted to the department within thirty (30) calendar days of ceasing operations.

Section 13.~~[Section 12.]~~ Incorporated by Reference.

(1) The following material is incorporated by reference:

(a) Form HIPMC-UR-1, "Utilization Review Registration Application", **01/2023**
[10/2022]~~[09/2020]~~ edition;

(b) Form HIPMC-UR-2, "Annual Utilization Review (UR) Report Form", 09/2020 edition;~~[-and]~~

(c) Form HIPMC-MD-1, "Medical Director Report Form", 09/2020 edition; and

(d) Form HIPMC-STE-1, "Step Therapy Annual Report", **01/2023** **[10/2022]** edition.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Insurance, The Mayo-Underwood Building, 500 Mero Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 pm. This material is also available on the department's Web site at <https://insurance.ky.gov/ppc/CHAPTER.aspx>.

CONTACT PERSON: Abigail Gall, Title: Executive Advisor, Address: 500 Mero Street, Frankfort, Kentucky 40601, Phone: +1 (502) 564-6026, Fax: +1 (502) 564-1453, Email: abigail.gall@ky.gov

DIRTY

Commonwealth of Kentucky
Department of Insurance – Division of Health, Life Insurance and Managed Care
Utilization Review Registration Application Instruction

Instructions for submitting new or renewal applications. The following pages are the application for initial or renewal of registration to conduct utilization review in Kentucky. Applicants are required to complete all sections and provide all necessary documentation as evidence of compliance with KRS 304.17A-600 through 304.17A-615, and, as applicable, 806 KAR 17:280 and 806 KAR 17:290. The completed application and supporting documentation must be submitted in a single Portable Document Format "PDF" document bookmarked to correspond to the sections of the application. If multiple areas are satisfied by one policy or procedure bookmark the section of the policy or procedure for each requirement. The electronic document shall be sent via email to the Department at DOI.UtilizationReview@ky.gov. Contact the department to request alternative methods for submission of large documents.

The completed application and supporting documentation, accompanied by a filing fee of one thousand dollars (\$1,000.00) made payable to the Kentucky State Treasurer, shall be sent to the following:

Kentucky Department of Insurance
500 Mero Street
Mail Drop: 2 SE 11
PO Box 517
Frankfort, KY 40602

Instructions for submitting changes to utilization review policies and procedures. Any proposed changes to utilization review policies and procedures previously filed with the Department of Insurance that occur outside of the normal new or renewal application process must be submitted for review and approval prior to implementation, in accordance with KRS 307.17A-607(3). A filing fee of fifty dollars (\$50), made payable to the Kentucky State Treasurer, must accompany any revisions.

Please submit the changes in the following manner:

1. Complete the face sheet (Page 2 of this document) in its entirety;
 - a. Identify and report the specific policy and/or procedure that is being revised;
 - b. Report the existing language in the policy and/or procedure information and proposed change (e.g., Current language: "8:00 a.m. to 4:30 p.m. EST"; Proposed language: "7:30 a.m. to 5:00 p.m. EST")AND submit both a redlined and a final copy;
- c. Report the rationale for the change (e.g., hours of operation changed to promote efficiency in operations); and
2. Include an attestation on company letterhead that is signed and dated by the appropriate officer(s) of the organization and/or legal counsel. The attestation shall include that the information and material submitted is "true and accurate to the best of my knowledge and the applicable Kentucky statutory and regulatory requirements were considered prior to proposing the change."
3. All documents shall be submitted in a bookmarked electronic version via email DOI.UtilizationReview@ky.gov.

Commonwealth of Kentucky
Department of Insurance
Division of Health Insurance Policy and Managed Care

Utilization Review Registration Application Face Sheet

Company Name

Phone No.

DBA Name

Primary Contact Person

Fed. Tax ID. No.

Business Address

Business Address

Fax Number

Check Appropriate Box

☐ Application for Initial or Renewal of Registration to conduct Utilization Review – Filing Fee \$1,000.00

☐ Changes to previously approved Utilization Review Application – Filing Fee \$50.00

A FILING WILL NOT BE ACCEPTED UNLESS ACCOMPANIED BY THE APPROPRIATE FEE

and

Make Check Payable to Kentucky State Treasurer

Certificate of Person Responsible for filing

I certify that I have been authorized by the board of directors or management committee of the company or organization listed above to make this filing.

Name (Manual or Electronic Signature Required)

Position

Date

Name (Print or Type)

For Department Of Insurance Administrative Services Staff Only

Date: _____ Amount: _____ Check No.: _____ Initials: _____

UTILIZATION REVIEW REGISTRATION APPLICATION

(Indicate non-applicable (N/A) where appropriate)

1. Primary Contact Person for questions relating to this Application

Name/Title _____

Mailing Address _____

Phone Number _____

Fax Number _____

E-mail Address _____

2. Type of Utilization Review Entity (check all that apply for Kentucky business)

- ☐ Insurer
- ☐ Private Review Agent for Self-Insured ERISA Plans
- ☐ Private Review Agent for an Insurer
- ☐ Limited Health Service Organization (LHSO) or private review agent for an LHSO
- ☐ Private Review Agent for Self-Insured Non-ERISA Plans
- ☐ Private Review Agent for MEDICAID

SECTION A: CORPORATE PROFILE

1. Please list name, title, phone number, and email address for the following positions:

Chief Executive Officer _____

Name

Title

Corporate Medical/Clinical Director: _____

Name

Kentucky License #/Other State License #

Telephone

SECTION A: CORPORATE PROFILE (continued)

Please complete or answer as follows (additional pages may be added for responses).

1. Type of Entity (check all that apply)

☐ Corporation ☐ Partner ☐ Association ☐ Limited Liability Co.

☐ Not-For-profit ☐ For-profit ☐ Public ☐ Private

☐ Mutual ☐ Stock ☐ Other (specify) _____

2. Date of Incorporation or formation as legal entity (mm/dd/yyyy) _____

3. State of Incorporation _____

4. Describe the Applicant's governing structure, including Board of Directors and standing committees, and administration and operation of the organization. Please include an organizational chart.

5. Lines of Business (check all that apply) ☐ Medicare ☐ Medicaid ☐ Indemnity

☐ Workers' Compensation ☐ Clinical specialty (specific) _____

☐ Utilization Management ☐ CMO ☐ External Review Organization

☐ Network ☐ HMO ☐ PPO ☐ IPA ☐ PHO/PSO

☐ Benefits Administration ☐ Home Health Care ☐ Other: _____

6. Provide the name and type of business of each corporation or other organization that the Applicant controls or with which it is affiliated, and the nature and extent of the affiliation or control.

7. If the Applicant has delegated certain functions, please list the contracted companies, indicate which services they perform, and provide the information requested below. If no functions have been delegated, check "not applicable" as follows. ☐ Not Applicable

For each company, identify the following information:

- Name and title of contact person for the site
- Delegated site full address
- Phone and fax numbers of the contact person
- List of services provided
- A description of the oversight activities and how frequently the activities are monitored, both on and off site (~~attached~~ **attach** a copy of the subcontract agreement)

8. a. Has the Applicant ever been refused registration or certification to conduct utilization review?

☐ YES ☐ NO

b. If yes, please explain: _____

SECTION A: CORPORATE PROFILE (continued)

9. a. Is the Applicant certified to perform utilization review in other states?

☐ YES ☐ NO

b. If yes, provide a listing of the states _____

10. a. Is the Applicant currently accredited or certified by NCQA?

☐ YES ☐ NO (provide current copy of certificate)

b. Check type(s) of accreditation/certification:

☐ MCO ☐ MBHO ☐ COV ☐ POC ☐ Other-Identify _____

11. a. Is the Applicant currently accredited in Health UM by URAC?

☐ YES ☐ NO (If yes, please provide a copy of the current accreditation certificate.)

b. If yes, specify type of accreditation(s): ☐ Full ☐ Conditional

12. Is the Applicant accredited in any other national accreditation organization?

☐ YES ☐ NO (If yes, please provide a copy of the current accreditation certificate.)

13. Please provide the website address where the policies and procedures, **and** any prior authorization lists, **and the step therapy protocol** can be viewed pursuant to KRS 304.17A-603(3) and (4) **and KRS 304.17A-163(3)(b)2.**

14. Days/Hours of Operation for Kentucky business: _____

SECTION B: ADMINISTRATION & OPERATION

Bookmark all items requested under this section with a bookmark of section B, Administration and Operation and sub-bookmarks as identified below.

1. Agency employees. Please specify the number of employees by full-time staff, part-time staff, and consultants. Attach curriculum vitae and job description for the Medical/Clinical Director.

	Number of Full-time Staff	Number of Part-time Staff	Number of Consultants
Administrative	_____	_____	_____
Physicians	_____	_____	_____
Chiropractors	_____	_____	_____
Kentucky-licensed	_____	_____	_____
Optometrists	_____	_____	_____
Kentucky-licensed	_____	_____	_____
Registered Nurses	_____	_____	_____
Clerical	_____	_____	_____
Other (Specify)	_____	_____	_____

SECTION B: ADMINISTRATION AND OPERATION (continued)

2. Attach the name of the company the Applicant utilizes for access to specialists and subspecialists for reviews, or a listing of consulting physicians who are available to conduct specialty reviews. The list shall ~~[should]~~ include name, state of licensure, license number, medical specialty or subspecialty, and board certification status.

3. Applicants not accredited by URAC or NCQA, or other nationally recognized accreditation organization shall provide documentation of qualifications of personnel who developed the specific UTILIZATION REVIEW criteria/procedures relating to specialty and subspecialty areas of review (e.g. mental health, OB/GYN, surgery, internal medicine, etc.)

4. **Accessibility** – Provide the policies/procedures demonstrating compliance with the following Kentucky requirements for accessibility:

- a. Hours of Operations/Contact Information pursuant to KRS 304.17A-607(1)(e) and (f)
- b. Access attempts by a provider pursuant to KRS 304.17A-615
- c. Utilization Review volume data pursuant to 806 KAR 17:280 Section 10

5. **Personnel** – Provide the policies/procedures demonstrating compliance with the Kentucky requirements for personnel pursuant to KRS 304.17A-607(1) and KRS 304.17A-545(1), as applicable. Ensure that policies/procedures provide documentation that only the appropriate specialty or subspecialty provider is making the review decisions as required by KRS 304.17A-607(1)(b). Include a listing of the consulting physicians with their state of licensure, license number, medical specialty or subspecialty and board certification status.

6. **Review Timeframes** – Provide the following documentation and bookmark the items as identified in the electronic Application document pursuant to **KRS 304.17A-163**, KRS 304.17A-600(17), KRS 304.17A-607, KRS 304.17A-619 and 29 CFR 2560.503-1. Provide UR policies and procedures for evaluation and decision making for the following:

- i. Pre-Authorization
- ii. Pre-Admission Authorization
- iii. Concurrent Review (continued stay) Authorization
- iv. Retrospective Reviews
- v. **Step Therapy Exceptions**

Provide the following for each of the above items:

- a) A written summary or flow chart summarizing each review process, with review timeframes and references to any required forms or letters.
- b) A description and name of review criteria upon which Utilization Review decisions are based and policies and procedures to support the consistent application of such criteria.
- c) Any additional standards for the consideration of special circumstances, if applicable.
- d) The names of the Applicant's clients for which Utilization Review services are provided in Kentucky (**required of Private Review Agents & Insurers providing services to other companies/plan sponsors**).
- e) A certification signed by an authorized representative that utilization screening criteria and review procedures applied in Utilization Review determinations are established with input from appropriate health care providers and approved by physicians.

7. **Determination Notices/Appeals** – Provide a copy of each policy, procedure, and any related forms bookmarked as identified below that demonstrate compliance with each requirement applicable to the insurer or Private Review Agent in **KRS 304.17A-163**, KRS 304.17A-603, KRS 304.17A-607, KRS 304.17A-611, KRS 304.17A-615, KRS 304.17A-617, KRS 304.17A-619, KRS 304.17A-623, 806 KAR 17:280 and 806 KAR 17:290.

- i. Adverse Determinations Policy/Procedure – **KRS 304.17A-163**, KRS 304.17A-607, KRS 304.17A-617, KRS 304.17A-545, & 806 KAR 17:280.

(a) Adverse Determination Letter Templates – KRS 304.17A-163, KRS 304.17A-607, KRS 304.17A-617, KRS 304. 17A-545, & 806 KAR 17:280

ii. Coverage Denials Policy/Procedure – KRS 304.17A-607, KRS 304.17A-617, KRS 304. 17A-545, & 806 KAR 17:280

SECTION B: ADMINISTRATION AND OPERATION (continued)

(a) Coverage Denial Letter Templates - KRS 304.17A-607, KRS 304.17A-617, KRS 304.17A-545, & 806 KAR 17:280

iii. Appeals Policy/Procedures – KRS 304.17A-617, KDOI Bulletin 2011-08, & KRS 304.17A-619.

(a) Appeal Letter Templates - KRS 304.17A-617, KDOI Bulletin 2011-08, & KRS 304.17A-619.

8. **External Review** – Provide a copy of each policy, procedure, and any related forms that demonstrate compliance with KRS 304.17A-623, KRS 304.17A-625, KRS 304.17A-627, KDOI Bulletin 2011-04, & 806 KAR 17:290 as applicable.

9. Step Therapy Exception Requests and Step Therapy Appeals– KRS 304.17A-163, KRS 304.17A-NEW SECTION, KRS 304.17A-168, KRS 304.17A-545, KRS 304.17A-607, KRS 304.17A-617, KRS 304.17A-623

(a) Step Therapy Exception Letter Templates – KRS 304.17A-163, KRS 304.17A-607, & KRS 304.17A-617.

10. **Department Requirements** – Provide a copy of each policy, procedure, and any related forms that demonstrate compliance with KRS 304.17A-163, KRS 304.17A-1631, KRS 304.17A-607, 806 KAR 17:280, KDOI Bulletin 2011-08, and KY DOI Advisory Opinion 2021-005

SECTION C: CORPORATE ATTESTATION OF APPLICANT

On company letterhead, formally attest to the items listed below and submit with the application. Similar language may be used. The attestation must be signed and dated by the appropriate officer(s) of the organization and/or legal counsel. The Applicant is attesting that the following are true:

1. The information and material contained in this application is true and accurate to the best of my knowledge.
2. The documentation submitted as evidenced for meeting the Kentucky statutory and regulatory requirements has been reviewed by the appropriate personnel and reflects the Applicant's current structure and processes.
3. The Applicant organization, to the best of its knowledge, is in compliance with applicable state and federal laws governing confidentiality of Protected Health Information and state laws as they pertain to the Applicant's business.
4. The Applicant understands the Department of Insurance will rely on this information and material in making its decision regarding the registration and any distorted facts or misrepresentations may disqualify the Applicant from registration or result in revocation of the registration at any time.

Commonwealth of Kentucky
Department of Insurance – Division of Health, Life Insurance and Managed Care
Utilization Review Registration Application Instruction

Instructions for submitting new or renewal applications. The following pages are the application for initial or renewal of registration to conduct utilization review in Kentucky. Applicants are required to complete all sections and provide all necessary documentation as evidence of compliance with KRS 304.17A-600 through 304.17A-615, and, as applicable, 806 KAR 17:280 and 806 KAR 17:290. The completed application and supporting documentation must be submitted in a single Portable Document Format "PDF" document bookmarked to correspond to the sections of the application. If multiple areas are satisfied by one policy or procedure bookmark the section of the policy or procedure for each requirement. The electronic document shall be sent via email to the Department at DOI.UtilizationReview@ky.gov. Contact the department to request alternative methods for submission of large documents.

The completed application and supporting documentation, accompanied by a filing fee of one thousand dollars (\$1,000.00) made payable to the Kentucky State Treasurer, shall be sent to the following:

Kentucky Department of Insurance
500 Mero Street
Mail Drop: 2 SE 11
PO Box 517
Frankfort, KY 40602

Instructions for submitting changes to utilization review policies and procedures. Any proposed changes to utilization review policies and procedures previously filed with the Department of Insurance that occur outside of the normal new or renewal application process must be submitted for review and approval prior to implementation, in accordance with KRS 307.17A-607(3). A filing fee of fifty dollars (\$50), made payable to the Kentucky State Treasurer, must accompany any revisions.

Please submit the changes in the following manner:

1. Complete the face sheet (Page 2 of this document) in its entirety;
 - a. Identify and report the specific policy and/or procedure that is being revised;
 - b. Report the existing language in the policy and/or procedure information and proposed change (e.g., Current language: "8:00 a.m. to 4:30 p.m. EST"; Proposed language: "7:30 a.m. to 5:00 p.m. EST")AND submit both a redlined and a final copy;
- c. Report the rationale for the change (e.g., hours of operation changed to promote efficiency in operations); and
2. Include an attestation on company letterhead that is signed and dated by the appropriate officer(s) of the organization and/or legal counsel. The attestation shall include that the information and material submitted is "true and accurate to the best of my knowledge and the applicable Kentucky statutory and regulatory requirements were considered prior to proposing the change."
3. All documents shall be submitted in a bookmarked electronic version via email DOI.UtilizationReview@ky.gov.

Commonwealth of Kentucky
Department of Insurance
Division of Health Insurance Policy and Managed Care

Utilization Review Registration Application Face Sheet

Company Name

Phone No.

DBA Name

Primary Contact Person

Fed. Tax ID. No.

Business Address

Business Address

Fax Number

Check Appropriate Box

- ☐ Application for Initial or Renewal of Registration to conduct Utilization Review – Filing Fee \$1,000.00
- ☐ Changes to previously approved Utilization Review Application – Filing Fee \$50.00

A FILING WILL NOT BE ACCEPTED UNLESS ACCOMPANIED BY THE APPROPRIATE FEE

and

Make Check Payable to Kentucky State Treasurer

Certificate of Person Responsible for filing

I certify that I have been authorized by the board of directors or management committee of the company or organization listed above to make this filing.

Name (Manual or Electronic Signature Required)

Position

Date

Name (Print or Type)

For Department Of Insurance Administrative Services Staff Only

Date: _____ Amount: _____ Check No.: _____ Initials: _____

UTILIZATION REVIEW REGISTRATION APPLICATION

(Indicate non-applicable (N/A) where appropriate)

1. Primary Contact Person for questions relating to this Application

Name/Title _____

Mailing Address _____

Phone Number _____

Fax Number _____

E-mail Address _____

2. Type of Utilization Review Entity (check all that apply for Kentucky business)

- ☐ Insurer
- ☐ Private Review Agent for Self-Insured ERISA Plans
- ☐ Private Review Agent for an Insurer
- ☐ Limited Health Service Organization (LHSO) or private review agent for an LHSO
- ☐ Private Review Agent for Self-Insured Non-ERISA Plans
- ☐ Private Review Agent for MEDICAID

SECTION A: CORPORATE PROFILE

1. Please list name, title, phone number, and email address for the following positions:

Chief Executive Officer _____

Name

Title

Corporate Medical/Clinical Director: _____

Name

Kentucky License #/Other State License #

Telephone

SECTION A: CORPORATE PROFILE (continued)

Please complete or answer as follows (additional pages may be added for responses).

1. Type of Entity (check all that apply)

☐ Corporation ☐ Partner ☐ Association ☐ Limited Liability Co.

☐ Not-For-profit ☐ For-profit ☐ Public ☐ Private

☐ Mutual ☐ Stock ☐ Other (specify) _____

2. Date of Incorporation or formation as legal entity (mm/dd/yyyy) _____

3. State of Incorporation _____

4. Describe the Applicant's governing structure, including Board of Directors and standing committees, and administration and operation of the organization. Please include an organizational chart.

5. Lines of Business (check all that apply) ☐ Medicare ☐ Medicaid ☐ Indemnity

☐ Workers' Compensation ☐ Clinical specialty (specific) _____

☐ Utilization Management ☐ CMO ☐ External Review Organization

☐ Network ☐ HMO ☐ PPO ☐ IPA ☐ PHO/PSO

☐ Benefits Administration ☐ Home Health Care ☐ Other: _____

6. Provide the name and type of business of each corporation or other organization that the Applicant controls or with which it is affiliated, and the nature and extent of the affiliation or control.

7. If the Applicant has delegated certain functions, please list the contracted companies, indicate which services they perform, and provide the information requested below. If no functions have been delegated, check "not applicable" as follows. ☐ Not Applicable

For each company, identify the following information:

- Name and title of contact person for the site
- Delegated site full address
- Phone and fax numbers of the contact person
- List of services provided
- A description of the oversight activities and how frequently the activities are monitored, both on and off site (attach a copy of the subcontract agreement)

8. a. Has the Applicant ever been refused registration or certification to conduct utilization review?

☐ YES ☐ NO

b. If yes, please explain: _____

SECTION A: CORPORATE PROFILE (continued)

9. a. Is the Applicant certified to perform utilization review in other states?
☐ YES ☐ NO
b. If yes, provide a listing of the states _____
10. a. Is the Applicant currently accredited or certified by NCQA?
☐ YES ☐ NO (provide current copy of certificate)
b. Check type(s) of accreditation/certification:
☐ MCO ☐ MBHO ☐ COV ☐ POC ☐ Other-Identify _____
11. a. Is the Applicant currently accredited in Health UM by URAC?
☐ YES ☐ NO (If yes, please provide a copy of the current accreditation certificate.)
b. If yes, specify type of accreditation(s): ☐ Full ☐ Conditional
12. Is the Applicant accredited in any other national accreditation organization?
☐ YES ☐ NO (If yes, please provide a copy of the current accreditation certificate.)
13. Please provide the website address where the policies and procedures, any prior authorization lists, and the step therapy protocol can be viewed pursuant to KRS 304.17A-603(3) and (4) and KRS 304.17A-163(3)(b)2.

14. Days/Hours of Operation for Kentucky business: _____

SECTION B: ADMINISTRATION & OPERATION

Bookmark all items requested under this section with a bookmark of section B, Administration and Operation and sub-bookmarks as identified below.

1. Agency employees. Please specify the number of employees by full-time staff, part-time staff, and consultants. Attach curriculum vitae and job description for the Medical/Clinical Director.

	Number of Full-time Staff	Number of Part-time Staff	Number of Consultants
Administrative	_____	_____	_____
Physicians	_____	_____	_____
Chiropractors	_____	_____	_____
Kentucky-licensed	_____	_____	_____
Optometrists	_____	_____	_____
Kentucky-licensed	_____	_____	_____
Registered Nurses	_____	_____	_____
Clerical	_____	_____	_____
Other (Specify)	_____	_____	_____

SECTION B: ADMINISTRATION AND OPERATION (continued)

2. Attach the name of the company the Applicant utilizes for access to specialists and subspecialists for reviews, or a listing of consulting physicians who are available to conduct specialty reviews. The list shall [should] include name, state of licensure, license number, medical specialty or subspecialty, and board certification status.

3. Applicants not accredited by URAC or NCQA, or other nationally recognized accreditation organization shall provide documentation of qualifications of personnel who developed the specific UTILIZATION REVIEW criteria/procedures relating to specialty and subspecialty areas of review (e.g. mental health, OB/GYN, surgery, internal medicine, etc.)

4. **Accessibility** – Provide the policies/procedures demonstrating compliance with the following Kentucky requirements for accessibility:

- a. Hours of Operations/Contact Information pursuant to KRS 304.17A-607(1)(e) and (f)
- b. Access attempts by a provider pursuant to KRS 304.17A-615
- c. Utilization Review volume data pursuant to 806 KAR 17:280 Section 10

5. **Personnel** – Provide the policies/procedures demonstrating compliance with the Kentucky requirements for personnel pursuant to KRS 304.17A-607(1) and KRS 304.17A-545(1), as applicable. Ensure that policies/procedures provide documentation that only the appropriate specialty or subspecialty provider is making the review decisions as required by KRS 304.17A-607(1)(b). Include a listing of the consulting physicians with their state of licensure, license number, medical specialty or subspecialty and board certification status.

6. **Review Timeframes** – Provide the following documentation and bookmark the items as identified in the electronic Application document pursuant to KRS 304.17A-163, KRS 304.17A-600(17), KRS 304.17A-607, KRS 304.17A-619 and 29 CFR 2560.503-1. Provide UR policies and procedures for evaluation and decision making for the following:

- i. Pre-Authorization
- ii. Pre-Admission Authorization
- iii. Concurrent Review (continued stay) Authorization
- iv. Retrospective Reviews
- v. Step Therapy Exceptions

Provide the following for each of the above items:

- a) A written summary or flow chart summarizing each review process, with review timeframes and references to any required forms or letters.
- b) A description and name of review criteria upon which Utilization Review decisions are based and policies and procedures to support the consistent application of such criteria.
- c) Any additional standards for the consideration of special circumstances, if applicable.
- d) The names of the Applicant's clients for which Utilization Review services are provided in Kentucky (**required of Private Review Agents & Insurers providing services to other companies/plan sponsors**).
- e) A certification signed by an authorized representative that utilization screening criteria and review procedures applied in Utilization Review determinations are established with input from appropriate health care providers and approved by physicians.

7. **Determination Notices/Appeals** – Provide a copy of each policy, procedure, and any related forms bookmarked as identified below that demonstrate compliance with each requirement applicable to the insurer or Private Review Agent in KRS 304.17A-163, KRS 304.17A-603, KRS 304.17A-607, KRS 304.17A-611, KRS 304.17A-615, KRS 304.17A-617, KRS 304.17A-619, KRS 304.17A-623, 806 KAR 17:280 and 806 KAR 17:290.

- i. Adverse Determinations Policy/Procedure – KRS 304.17A-163, KRS 304.17A-607, KRS 304.17A-617, KRS 304.17A-545, & 806 KAR 17:280.

(a) Adverse Determination Letter Templates – KRS 304.17A-163, KRS 304.17A-607, KRS 304.17A-617, KRS 304. 17A-545, & 806 KAR 17:280

ii. Coverage Denials Policy/Procedure – KRS 304.17A-607, KRS 304.17A-617, KRS 304. 17A-545, & 806 KAR 17:280

SECTION B: ADMINISTRATION AND OPERATION (continued)

(a) Coverage Denial Letter Templates - KRS 304.17A-607, KRS 304.17A-617, KRS 304.17A-545, & 806 KAR 17:280

iii. Appeals Policy/Procedures – KRS 304.17A-617, KDOI Bulletin 2011-08, & KRS 304.17A-619.

(a) Appeal Letter Templates - KRS 304.17A-617, KDOI Bulletin 2011-08, & KRS 304.17A-619.

8. **External Review** – Provide a copy of each policy, procedure, and any related forms that demonstrate compliance with KRS 304.17A-623, KRS 304.17A-625, KRS 304.17A-627, KDOI Bulletin 2011-04, & 806 KAR 17:290 as applicable.

9. **Step Therapy Exception Requests and Step Therapy Appeals**– KRS 304.17A-163, KRS 304.17A-NEW SECTION, KRS 304.17A-168, KRS 304.17A-545, KRS 304.17A-607, KRS 304.17A-617, KRS 304.17A-623

(a) Step Therapy Exception Letter Templates – KRS 304.17A-163, KRS 304.17A-607, & KRS 304.17A-617.

10. **Department Requirements** – Provide a copy of each policy, procedure, and any related forms that demonstrate compliance with KRS 304.17A-163, KRS 304.17A-1631, KRS 304.17A-607, 806 KAR 17:280, KDOI Bulletin 2011-08, KDOI Bulletin 2021-05

SECTION C: CORPORATE ATTESTATION OF APPLICANT

On company letterhead, formally attest to the items listed below and submit with the application. Similar language may be used. The attestation must be signed and dated by the appropriate officer(s) of the organization and/or legal counsel. The Applicant is attesting that the following are true:

1. The information and material contained in this application is true and accurate to the best of my knowledge.
2. The documentation submitted as evidenced for meeting the Kentucky statutory and regulatory requirements has been reviewed by the appropriate personnel and reflects the Applicant's current structure and processes.
3. The Applicant organization, to the best of its knowledge, is in compliance with applicable state and federal laws governing confidentiality of Protected Health Information and state laws as they pertain to the Applicant's business.
4. The Applicant understands the Department of Insurance will rely on this information and material in making its decision regarding the registration and any distorted facts or misrepresentations may disqualify the Applicant from registration or result in revocation of the registration at any time.

Company: _____ Report Period: _____

Kentucky Department of Insurance

Division of Health and Life Insurance and Managed Care

Utilization Review Branch

Step Therapy Annual Report Form

	Total Exception Requests Received	Total Exception Requests Denied	Total Exception Requests Approved	Total Denied Exception Requests Appealed	Total Exception Request Appeals Overturned	Total Exception Request Denied Appeals	Total Denied Exceptions Granted an Independent External Review	Total Exception Requests Independent External Reviews Overturned
1. Required Prescription drug is contraindicated or will likely cause an adverse reaction by physical or mental harm to the insured								
2. Required Prescription drug is expected to be ineffective based on the known clinical characteristics of the insured & the prescription drug regimen								
3. Based on clinical appropriateness, the required prescription drug is not in the best interest of the insured because the insured's use of the requirement prescription drug is expected to:								
a) Cause a significant barrier to the insured's adherence to or compliance with the insured's plan of care; or								
b) Worsen a comorbid condition of the insured; or								
c) Decrease the insured's ability to achieve or maintain reasonable functional ability in performing daily activities.								
4. The insured has tried the required prescription drug while under the insured's current or a previous health plan, or another prescription drug in the same pharmacologic class or with the same mechanism of action, and the prescription drug was discontinued due to lack of efficacy or effectiveness, diminished effect, or an adverse event								
5. The insured is stable on the prescription drug selected by the insured's health care provider for the medical condition under consideration while under a current or previous health plan								

Please provide a listing of the following items in a summary format for the reporting period on pages 2 and 3:

Medical Conditions Granted Step Therapy Exceptions based on switching the prescription drug would cause adverse reaction by physical or mental harm (See Sheet 2)

The type of health care providers, or the medical specialties of the health care providers, that submitted step therapy exception requests (See Sheet 3)

Identify the denial reason of any Step Therapy Exception denials (See Sheet 4)

Medical Provider/Speciality

(i.e. MD/oncology)

(i.e. OBGYN)

Total Exceptions Requests

(i.e. 14)

(i.e.10)

Medical Condition	Total # of <u>Granted</u> Step Therapy Exceptions based on switching the prescription drug would cause adverse reaction by physical or mental harm
(i.e. diabetes)	(i.e. 57)
(i.e. arthritis)	(i.e. 32)

Denial Reason	Total # of <u>Denied</u> Step Therapy Exceptions
(i.e. not medically necessary (i.e. 57)	
(i.e. experimental & investig (i.e. 32)	
(i.e. inadequate justification (i.e. 10)	

Kentucky Department of Insurance

Division of Health and Life Insurance and Managed Care

Utilization Review Branch

Step Therapy Annual Report Form

	Total Exception Requests Received	Total Exception Requests Denied	Total Exception Requests Approved	Total Denied Exception Requests Appealed	Total Exception Request Appeals Overturned	Total Exception Request Appeals Denied	Total Denied Grants Independent External Review	Total Exception Requests Independent External Reviews Overturned
Step Therapy Exceptions Requests								
1. Required Prescription drug is contraindicated or will likely cause an adverse reaction by physical or mental harm to the insured								
2. Required Prescription drug is expected to be ineffective based on the known clinical characteristics of the insured & the prescription drug regimen								
3. Based on clinical appropriateness, the required prescription drug is not in the best interest of the insured because the insured's use of the requirement prescription drug is expected to:								
a) Cause a significant barrier to the insured's adherence to or compliance with the insured's plan of care; or								
b) Worsen a comorbid condition of the insured; or								
c) Decrease the insured's ability to achieve or maintain reasonable functional ability in performing daily activities.								
4. The insured has tried the required prescription drug while under the insured's current or a previous health plan, or another prescription drug in the same pharmacologic class or with the same mechanism of action, and the prescription drug was discontinued due to lack of efficacy or effectiveness, diminished effect, or an adverse event								
5. The insured is stable on the prescription drug selected by the insured's health care provider for the medical condition under consideration while under a current or previous health plan								
Please provide a listing of the following items in a summary format for the reporting period on pages 2 and 3:								
Medical Conditions Granted Step Therapy Exceptions based on switching the prescription drug would cause adverse reaction by physical or mental harm (See Sheet 2)								
The type of health care providers, or the medical specialties of the health care providers, that submitted step therapy exception requests (See Sheet 3)								
Identify the denial reason of any Step Therapy Exception denials (See Sheet 4)								

Medical Provider/Speciality

(i.e. MD/oncology)

(i.e. OBGYN)

Total Exceptions Requests

(i.e. 14)

(i.e.10)

Medical Condition

(i.e. diabetes)

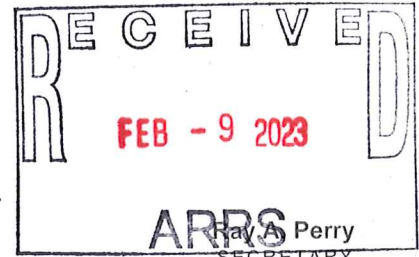
(i.e. arthritis)

**Total # of Granted Step Therapy Exceptions based
on switching the prescription drug would cause
adverse reaction by physical or mental harm**

(i.e. 57)

(i.e. 32)

Denial Reason	Total # of Denied Step Therapy Exceptions
(i.e. not medically necessary)	(e.g. 57)
(i.e. experimental & investigtional)	(e.g. 32)
(i.e. inadequate justification of clincial inappropriateness)	(e.g. 10)



Andy Beshear
GOVERNOR

Jacqueline Coleman
LIEUTENANT GOVERNOR

PUBLIC PROTECTION CABINET

Kentucky Department of
Insurance

500 Mero Street, 2SE11
Frankfort, KY 40601
Phone: (502) 564-3630
Toll Free: (800) 595-6053

Sharon P. Clark
COMMISSIONER

February 9, 2023

Ms. Emily Caudill, Regulations Compiler
Legislative Research Commission
029, Capitol Annex
702 Capitol Avenue
Frankfort, KY 40601

Dear Ms. Caudill:

After internal discussions with the Administrative Regulation Review Subcommittee staff of the issues raised in **806 KAR 17:290**, the Department of Insurance proposes the attached suggested amendment to 806 KAR 17:290.

Sincerely,

Abigail Gall

Executive Advisor, DOI

Staff-suggested Amendment

**Final version 1/19/2023
Public Protection Cabinet
Department of Insurance
Health and Life and Managed Care Division**

806 KAR 17:290. Independent External Review Program.

Page 16

Section 12(1)(a)

Line 19

After "Review Entity", insert "01/2023".

Delete "10/2022".

Kentucky Department of Insurance

Application for Certification of an Independent Review Entity

Instructions for submitting application. Following is an application form that shall be used to make application for certification as an Independent Review Entity (IRE) to conduct external reviews of disputes between covered persons and health benefit plans in Kentucky. An Applicant shall complete all applicable sections of the application and provide all necessary documentation as evidence of compliance with KRS 304.17A-621 through 304.17A-631, and 806 KAR 17: 290, as applicable. In submitting the documentation, it is requested that the Applicant label any formal Policy and Procedure, as such, ensuring that it indicates the name of the Applicant's organization and most recent revision date. The completed application and supporting documentation should be submitted in a Portable Document Format (PDF) document bookmarked to correspond to each of the requirements outlined in this application and should be forwarded via email to DOI.UtilizationReview@ky.gov. The appropriate filing fee indicated on page 2 made payable to the Kentucky State Treasurer must be submitted along with a copy of page 2 of this application to: Kentucky Department of Insurance, Division of Health, Life Insurance and Managed Care, Utilization Review Registration and Appeals Branch, 500 Mero Street, 2 SE 11, P.O. Box 517, Frankfort, KY 40602

Instructions for submitting changes to an approved Independent Review Entity application. The application of an independent review entity certified in Kentucky and any supporting documentation shall be maintained on file in the Department of Insurance. If at any time there is a change in the information included in the application information, including, but not limited to ownership or control of the independent review entity, the Department of Insurance shall be notified in accordance with KRS 304.17A-627(2) and 806 KAR 17:290. A filing fee of fifty dollars (\$50) made payable to the Kentucky State Treasurer shall be submitted with a change of application information to the address indicated above.

In order for the Department to review and approve or deny any changes to an application, it is requested that the changes be reported in the following manner.

1. Complete the face sheet, which is Page 2 of the Independent Review Entity Application for Certification in its entirety.
2. Report the changes by following these steps:
 - a. Identify and report the specific section and item of the application that is being changed (e.g., Section A: Corporate Profile, Item 14);
 - b. Report the most current language in the application information and proposed change (e.g., Current language: "8:00 a.m. to 4:30 p.m. EST", Proposed language: "7:30 a.m. to 5:00 p.m. EST")
 - c. Report the rationale for the change (e.g., Hours of operation changed to promote efficiency in operations);
 - d. Or, provide a redlined version of the policy and procedure showing all revisions, deletions, additional language, etc.; and
 - e. Provide a final version of the policy and procedure incorporating the changes.
3. Identify the proposed date of implementation of the change, if applicable.
4. Include an attestation on company letterhead that is signed and dated by the appropriate officer(s) of the organization and/or legal counsel. The attestation should include that the information and material submitted is true and accurate and the applicable statutory and regulatory requirements were considered prior to proposing the change.

Any questions relating to this information, the application or process for certification of an independent review entity may be directed to staff of the Utilization Review Registration and Appeals Branch at 502-564-6088.

Kentucky Department of Insurance
Division of Health, Life Insurance and Managed Care
Independent Review Entity Application for Certification Face Sheet

Company Name Phone No. (800# if available)

DBA Name Primary Contact Person Fed. Tax ID. No.

Business Address Business Address

Fax Number E-Mail Address

Check Appropriate Box and **Make Check Payable to Kentucky State Treasurer**

- ☐ Application for Certification of an Independent Review Entity - Filing fee of \$500.00
☐ Application for Renewal of Certification of an Independent Review Entity - Filing fee of \$500.00
☐ Changes to previously approved Independent Review Entity Application - Filing fee of \$50.00

A FILING CANNOT BE ACCEPTED UNLESS ACCOMPANIED BY THE APPROPRIATE FEE

Certificate of Person Responsible for filing

I certify that I have been authorized by the board of directors or management committee of the company or organization listed above to make this filing.

Name (Signature Required) Position Date

Name (Print or type)

**For Department of Insurance Administrative Services Staff Only
(External Appeals)**

Date: _____ Amount: _____ Check No.: _____ Initials: _____

CERTIFICATION or RENEWAL OF CERTIFICATION

(Must be completed by all Applicants. Indicate not applicable (N/A) and explain why not applicable, where appropriate)

Primary Contact Person for this Application

Primary Contact Person & Title _____

Mailing Address _____
Street

City/State/Zip Code

Phone Number _____

Fax Number _____

E-Mail Address _____

SECTION A: CORPORATE PROFILE

(Must be completed by all Applicants. Indicate not applicable (N/A) and explain why not applicable, where appropriate)

1. Please list name, title, phone number, and e-mail address for the following positions:

Chief Executive Officer _____

Name

Title

Telephone

Electronic Mail Address

Address

Corporate Medical/Clinical Director _____

Name

Title/State of Licensure/License #

Telephone

Electronic Mail Address

Address

SECTION A: CORPORATE PROFILE (continued)

Please complete or respond as follows (additional pages may be added for responses).
Bookmark each of the items below according to the item number, if providing a document, policy, or procedure as documentation of compliance.

1. Type of Entity (check all that apply)

- ☐ Corporation ☐ Partner ☐ Association ☐ Limited Liability Co.
☐ For-profit ☐ Not-for-Profit ☐ Public ☐ Private
☐ Mutual ☐ Stock _____ ☐ Other (Please specify) _____

2. Date of Incorporation or formation as legal entity _____

3. State of Incorporation _____

4. Attach a copy of the Applicant's Articles of Incorporation or documentation of organization as a legal entity. For parts of the business that were purchased after formation of the founding organization, please describe the type of business relationship that exists between the corporate and the added business entity (e.g., amended articles of incorporation, signed meeting minutes describing relationship with new entity, letter signed by both entities stating relationship).

5. Are any of the following changes anticipated in any of the following during the next year? (check all that apply)

- | | | |
|-------------------------------------|------------------------------|-----------------------------|
| Merger or consolidation: | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| Change in control and or ownership: | <input type="checkbox"/> YES | <input type="checkbox"/> NO |

Material changes* in:

- | | | |
|------------------|------------------------------|-----------------------------|
| Organization | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| Facilities | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| Capacity | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| Services Offered | <input type="checkbox"/> YES | <input type="checkbox"/> NO |

**Material changes may include such changes as corporate name, location, addition or deletion of sites that conduct external reviews or addition of major review services.*

6. Describe the Applicant's governing structure, including Board of Directors and standing committees, and the administration and operation of its organization. Indicate the location of the corporate or top-level organization chart in the application.

7. Provide the name of each stockholder or owner of more than five percent (5%) of any stock or options.

SECTION A: CORPORATE PROFILE (continued)

8. Provide the name of any holder of bonds or notes of the Applicant in excess of one hundred thousand dollars (\$100,000).

9. Lines of business (check all that apply). ☐ Medicare ☐ Medicaid ☐ Indemnity

☐ Workers' Compensation ☐ Clinical specialty carve out (specify) _____

☐ Utilization Management ☐ CMO ☐ External Review Organization

☐ Network ☐ HMO ☐ PPO ☐ IPA E PHO/PSO

☐ Benefits Administration ☐ Home Health Care ☐ Other _____

10. Provide the name and type of business of each corporation or other organization that the Applicant controls or with which it is affiliated and the nature and extent of the affiliation or control.

11. Provide the name and a biographical sketch of each director, officer, and executive of the Applicant, any entity identified under previous Item 10 of this section, and each reviewer, and a description of any relationship a named individual or the Applicant has with a trade or professional association of providers, trade or association of payers, insurer as defined in KRS 304.17A-600(8), or a provider of health care services in the state of Kentucky.

12. Indicate a percentage of the Applicant's revenues that are anticipated to be derived from independent reviews _____.

13. If the Applicant has delegated certain functions, please list the contracted companies; indicate which services they perform; and provide the information requested below. If no functions have been delegated, check "not applicable" as follows. ☐ Not applicable

For each company, identify the following information:

- Name and title of contact person for the site
- Delegated site street address
- Phone and fax numbers of contact person
- List of services provided
- A copy of the agreement whereby the external review function is delegated or subcontracted

14. a. Has the Applicant ever been refused accreditation or certification to perform external reviews?

☐ YES ☐ NO

b. If yes, please explain

SECTION A: CORPORATE PROFILE (continued)

15. a. Is the Applicant certified to perform external reviews in other states?

☐ YES ☐ NO

b. If yes, list the states _____

16. a. Is the Applicant currently accredited by the National Committee for Quality Assurance?

☐ YES (provide current certificate) ☐ NO

b. If yes, accreditation outcome:

☐ Excellent ☐ Commendable ☐ Accredited ☐ Provisional

- Identify any sanctions imposed or revocations of accreditation to perform external reviews and please explain _____

17. a. Is the Applicant currently accredited by the American Accreditation HealthCare Commission (URAC)? ☐ YES (provide current certificate) ☐ NO

b. If yes, type of accreditation: ☐ Full ☐ Conditional

- Identify any sanctions imposed or revocations of accreditation to perform external reviews and please explain _____

18. Is the Applicant currently accredited by any other national accreditation organization?

☐ YES (provide current certificate) ☐ NO

19. Indicate below any limitations in the type of external reviews performed.

☐ Coverage denial with a medical issue

☐ Experimental/investigational treatments

☐ Medical appropriateness/medical necessity

☐ Experimental/investigational treatments and medical appropriateness/medical necessity

☐ Step therapy exception or step therapy appeal denials

☐ Other

20. Indicate the hours of operation and time zone the Applicant is located in

SECTION B. ADMINISTRATION AND OPERATION

(Must be completed by all Applicants. Indicate not applicable (N/A), where appropriate) Bookmark each of the items below according to the heading of each item below with the appropriate bookmarks for policies and procedures included in the PDF document.

1. **Organization** - Provide a chart of the Applicant's organization which shows the lines of authority and, for key project staff members, their position and level of responsibility within the organization.

2. **Personnel Requirements** - Provide an estimate of the number, types and functions of the personnel considered necessary to the administration and operation of the organization on a statewide basis with a separate job description detailing the roles of key persons, such as a Medical or Clinical Director. Include an explanation of the contractual and financial relationships between the Applicant and the physician and non-physician reviewers who will actually be responsible for individual external reviews. Provide the policy or procedure that demonstrates compliance with KRS 304.17A-627(5) and (6) in regards to the health care professionals utilized to perform reviews and 806 KAR 17:290 Section 3(6).

3. **Credentialing Criteria** - Provide a policy or procedure describing the system used to: identify and recruit expert reviewers; initially credential and, every three (3) years, recredential reviewers, and match expert reviewers to specific cases pursuant to 806 KAR 17:290, Section 3(6). Minimum qualifications/criteria employed by the Applicant to select both physician and non-physician reviewers should be included, as well as a mechanism to ensure that reviewers, particularly physician reviewers, hold in good standing a nonrestricted license in a state of the United States pursuant to KRS 304.17A-627(5) and (6). Provide a copy of each Policy and Procedure relating to credentialing. Also, please list the personnel (reviewers) who may be assigned to external reviews pursuant to KRS 304.17A-627(5) through (7) and 806 KAR 17:290, Section 3(5), including the following information for each reviewer:

- Name;
- Title;
- Professional license (s);
- State (s) of licensure;
- Any restrictions on licensure in the state (s) of licensure;
- Certification by a recognized American specialty board, including type of certification, name of specialty board issuing certification, date of initial certification and subsequent re-certifications, if any, and sanctions imposed, if any;
- Area (s) of expertise;
- Most recent clinical experience and duration of experience;
- Type of cases the reviewer is credentialed to perform; and
- Date of most recent credentialing of the reviewer by Applicant.

SECTION B: ADMINISTRATION AND OPERATION (continued)

4. **Conflict of Interest** – Provide policy or procedure describing how the Applicant will ensure compliance with the conflict of interest rules, including a process that will be used to ensure the independence of the independent review entity, physician and non-physician reviewers in accordance with KRS 304.17A-627 and 806 KAR 17:290, Section 3. Additionally, provide a copy of an attestation form that will be used by the independent review entity to support for each external review that the independent review entity: is not a subsidiary of, or in any **way** affiliated with, or owned, or controlled by an insurer or a trade or professional association of payors; is not a subsidiary of, or in any way affiliated with, or owned, or controlled by a trade or professional association of providers; does not have any material, professional, familial, or financial conflict of interest with the insurer involved in the external review; any officer, director, or management employee of the insurer involved in the external review; the provider proposing the service or treatment which is being disputed or any associated independent practice association, the institution at which the service or treatment would be provided, the development or manufacture of the principal drug, device, procedure or other therapy proposed for the covered person whose treatment is under review, or the covered person and a copy of a "no conflict of interest" statement that each reviewer will sign prior to conducting an external review to support that the reviewer has no material, professional, familial, or financial conflict of interest with any of the following:

- The insurer involved in the review;
- Any officer, director, or management employee of the insurer;
- The provider proposing the service or treatment or any associated independent practice association;
- The institution at which the service or treatment would be provided;
- The development or manufacture of the principal drug, device, procedure, or other therapy proposed for the covered person whose treatment is under review; or
- The covered person.

5. **External Review for Adverse Determinations, External Reviews of a Coverage Denial, Step Therapy Exception, or Step Therapy Appeal Denials** - Provide a policy or procedure describing all aspects of the external review process, including a schematic chart which shows the process by which an expedited and non-expedited external review will proceed from the time of preliminary review to the final decision, including maximum time required to complete each phase. Include copies of policies and procedures implemented to ensure an independent external review of a coverage denial, which requires the resolution of a medical issue and an adverse determination. The policies and procedures shall address at a minimum the following to demonstrate compliance with KRS 304.17A-163, KRS 304.17A-623, KRS 304.17A-625, KRS 304.17A-627, and 806 KAR 17:290, Section 3:

- **Handling Assignment Requests** – Provide the policy or procedure demonstrating compliance with 806 KAR 17:290, Section 3(1) through (4);
- **Decision Criteria** – Provide the policy or procedure on the information used and the criteria developed to render a decision on an external review pursuant to KRS 304.17A-625 and information from the insurer as outlined in 806 KAR 17:290, Section 2;

- **Decision Timeframes/Extensions** – Provide the policy or procedure for external review decision timeframes pursuant to KRS 304.17A-623(12) and (13) and 806 KAR 17:290, Section 3;
- **Decision Notification/Letter Contents** – Provide the policy or procedure for external review notifications and a copy of each model letter or template used to communicate or request information relating to an external review in accordance with KRS 304.17A-623 and 806 KAR 17:290, Section 3;
- **Fee Charged to Covered Persons** – Provide the policy or procedure demonstrating the process for charging and the process to waive the covered person's fee for the external review pursuant to KRS 304.17A-623(5) and 806 KAR 17:290, Section 5; and
- **Fee Structure for External Reviews** – Provide the policy and procedure used to develop the fee structure and provide a fee schedule for external reviews. Include in the policy or procedure the process for requesting an excess fee to the Department in accordance with the HIPMC-IRE-5 Approval of an External Review Fee in Excess of \$800 document. The fee schedule should include the following, 1) Fee to conduct external review of a coverage denial with a medical issues; 2) Fee to conduct a complete (full) external review; and 3) Fee to conduct an incomplete external review where full review is not necessary owing to reversal by the insurer of its adverse determination.

6. **Quality Assurance Program** - Provide a policy or procedure describing the quality assurance program, pursuant to 806 KAR 17:290, Section 3(15).

7. **Records Retention** - Provide a copy of the policies and procedures implemented for the five (5) year maintenance and confidential treatment of external review materials in accordance with Section 3(11) of 806 KAR 17: 290.

8. **Annual Reporting** - Provide a policy or procedure describing the system that will be used to collect, maintain and report data relating to external reviews and a copy of the plan to submit an annual report to the Kentucky Department of Insurance on March 31 of each year, pursuant to 806 KAR 17:290, Section 10.

9. **Accessibility** - Provide a policy or procedure describing the toll-free telephone access system and how requests for external review are coordinated after business hours, weekends, and holidays.

10. **Delegated Functions** - If an external review function or any portion thereof is delegated or subcontracted to another person or organization, provide a description of the oversight activities and how frequently the activities are monitored both on- and off-site (attach a copy of subcontract agreement).

11. **Changes to Policies or Procedures** - Provide a copy of a policy and procedure relating to the written notification of the Department of Insurance of any change to this Application of Certification within thirty (30) days prior to implementation pursuant to 806 KAR 17:290, Section 3(16).

12. **Cessation of Operations** - Provide a policy or procedure demonstrating compliance with 806 KAR 17:290, Section 11.

13. **Complaints** - A copy of policies and procedures relating to the resolution of complaints of covered persons and providers as well as complaints that may be filed with the Kentucky Department of Insurance pursuant to 806 KAR 17:290, Section 8.

SECTION C. CORPORATE ATTESTATION OF APPLICANT

(Must be completed by all Applicants)

On company letterhead, formally attest to the items listed below. The Applicant may use similar language. Have the attestation signed and dated by the appropriate officer(s) of the Applicant's organization and/or legal counsel. This Attestation should be included with the application forms. The Applicant is attesting that the following are true.

1. The information and material contained in this application is true and accurate to the best of my knowledge.
2. The documentation submitted as evidence for meeting Kentucky statutory and regulatory requirements has been reviewed by the appropriate personnel and reflects the Applicant's current structure and processes.
3. The Applicant organization, to the best of its knowledge, is in compliance with applicable state and federal laws governing confidentiality of health care information and state laws as they pertain to the Applicant's business.
4. The Applicant understands that the Department of Insurance will rely on this information and material in making its decision regarding certification and that any distorted facts or misrepresentations may disqualify the Applicant from certification or result in revocation of the certification at any time.

Kentucky Department of Insurance

Application for Certification of an Independent Review Entity

Instructions for submitting application. Following is an application form that shall be used to make application for certification as an Independent Review Entity (IRE) to conduct external reviews of disputes between covered persons and health benefit plans in Kentucky. An Applicant shall complete all applicable sections of the application and provide all necessary documentation as evidence of compliance with KRS 304.17A-621 through 304.17A-631, and 806 KAR 17: 290, as applicable. In submitting the documentation, it is requested that the Applicant label any formal Policy and Procedure, as such, ensuring that it indicates the name of the Applicant's organization and most recent revision date. The completed application and supporting documentation should be submitted in a Portable Document Format (PDF) document bookmarked to correspond to each of the requirements outlined in this application and should be forwarded via email to DOI.UtilizationReview@ky.gov. The appropriate filing fee indicated on page 2 made payable to the Kentucky State Treasurer must be submitted along with a copy of page 2 of this application to: Kentucky Department of Insurance, Division of Health, Life Insurance and Managed Care, Utilization Review Registration and Appeals Branch, 500 Mero Street, 2 SE 11, P.O. Box 517, Frankfort, KY 40602

Instructions for submitting changes to an approved Independent Review Entity application. The application of an independent review entity certified in Kentucky and any supporting documentation shall be maintained on file in the Department of Insurance. If at any time there is a change in the information included in the application information, including, but not limited to ownership or control of the independent review entity, the Department of Insurance shall be notified in accordance with KRS 304.17A-627(2) and 806 KAR 17:290. A filing fee of fifty dollars (\$50) made payable to the Kentucky State Treasurer shall be submitted with a change of application information to the address indicated above.

In order for the Department to review and approve or deny any changes to an application, it is requested that the changes be reported in the following manner.

1. Complete the face sheet, which is Page 2 of the Independent Review Entity Application for Certification in its entirety.
2. Report the changes by following these steps:
 - a. Identify and report the specific section and item of the application that is being changed (e.g., Section A: Corporate Profile, Item 14);
 - b. Report the most current language in the application information and proposed change (e.g., Current language: "8:00 a.m. to 4:30 p.m. EST", Proposed language: "7:30 a.m. to 5:00 p.m. EST")
 - c. Report the rationale for the change (e.g., Hours of operation changed to promote efficiency in operations);
 - d. Or, provide a redlined version of the policy and procedure showing all revisions, deletions, additional language, etc.; and
 - e. Provide a final version of the policy and procedure incorporating the changes.
3. Identify the proposed date of implementation of the change, if applicable.
4. Include an attestation on company letterhead that is signed and dated by the appropriate officer(s) of the organization and/or legal counsel. The attestation should include that the information and material submitted is true and accurate and the applicable statutory and regulatory requirements were considered prior to proposing the change.

Any questions relating to this information, the application or process for certification of an independent review entity may be directed to staff of the Utilization Review Registration and Appeals Branch at 502-564-6088.

Kentucky Department of Insurance
Division of Health, Life Insurance and Managed Care
Independent Review Entity Application for Certification Face Sheet

Company Name Phone No. (800# if available)

DBA Name Primary Contact Person Fed. Tax ID. No.

Business Address Business Address

Fax Number E-Mail Address

Check Appropriate Box and **Make Check Payable to Kentucky State Treasurer**

- ☐ Application for Certification of an Independent Review Entity - Filing fee of \$500.00
☐ Application for Renewal of Certification of an Independent Review Entity - Filing fee of \$500.00
☐ Changes to previously approved Independent Review Entity Application - Filing fee of \$50.00

A FILING CANNOT BE ACCEPTED UNLESS ACCOMPANIED BY THE APPROPRIATE FEE

Certificate of Person Responsible for filing

I certify that I have been authorized by the board of directors or management committee of the company or organization listed above to make this filing.

Name (Signature Required) Position Date

Name (Print or type)

**For Department of Insurance Administrative Services Staff Only
(External Appeals)**

Date: _____ Amount: _____ Check No.: _____ Initials: _____

CERTIFICATION or RENEWAL OF CERTIFICATION

(Must be completed by all Applicants. Indicate not applicable (N/A) and explain why not applicable, where appropriate)

Primary Contact Person for this Application

Primary Contact Person & Title _____

Mailing Address _____
Street

City/State/Zip Code

Phone Number _____

Fax Number _____

E-Mail Address _____

SECTION A: CORPORATE PROFILE

(Must be completed by all Applicants. Indicate not applicable (N/A) and explain why not applicable, where appropriate)

1. Please list name, title, phone number, and e-mail address for the following positions:

Chief Executive Officer _____
Name

Title

Telephone

Electronic Mail Address

Address

Corporate Medical/Clinical Director _____
Name

Title/State of Licensure/License #

Telephone

Electronic Mail Address

Address

SECTION A: CORPORATE PROFILE (continued)

Please complete or respond as follows (additional pages may be added for responses).
Bookmark each of the items below according to the item number, if providing a document, policy, or procedure as documentation of compliance.

1. Type of Entity (check all that apply)

- ☐ Corporation ☐ Partner ☐ Association ☐ Limited Liability Co.
☐ For-profit ☐ Not-for-Profit ☐ Public ☐ Private
☐ Mutual ☐ Stock _____ ☐ Other (Please specify) _____

2. Date of Incorporation or formation as legal entity _____

3. State of Incorporation _____

4. Attach a copy of the Applicant's Articles of Incorporation or documentation of organization as a legal entity. For parts of the business that were purchased after formation of the founding organization, please describe the type of business relationship that exists between the corporate and the added business entity (e.g., amended articles of incorporation, signed meeting minutes describing relationship with new entity, letter signed by both entities stating relationship).

5. Are any of the following changes anticipated in any of the following during the next year?
(check all that apply)

- | | | |
|-------------------------------------|------------------------------|-----------------------------|
| Merger or consolidation: | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| Change in control and or ownership: | <input type="checkbox"/> YES | <input type="checkbox"/> NO |

Material changes* in:

- | | | |
|------------------|------------------------------|-----------------------------|
| Organization | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| Facilities | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| Capacity | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| Services Offered | <input type="checkbox"/> YES | <input type="checkbox"/> NO |

**Material changes may include such changes as corporate name, location, addition or deletion of sites that conduct external reviews or addition of major review services.*

6. Describe the Applicant's governing structure, including Board of Directors and standing committees, and the administration and operation of its organization. Indicate the location of the corporate or top-level organization chart in the application.

7. Provide the name of each stockholder or owner of more than five percent (5%) of any stock or options.

SECTION A: CORPORATE PROFILE (continued)

8. Provide the name of any holder of bonds or notes of the Applicant in excess of one hundred thousand dollars (\$100,000).

9. Lines of business (check all that apply). ☐ Medicare ☐ Medicaid ☐ Indemnity

☐ Workers' Compensation ☐ Clinical specialty carve out (specify) _____

☐ Utilization Management ☐ CMO ☐ External Review Organization

☐ Network ☐ HMO ☐ PPO ☐ IPA E PHO/PSO

☐ Benefits Administration ☐ Home Health Care ☐ Other _____

10. Provide the name and type of business of each corporation or other organization that the Applicant controls or with which it is affiliated and the nature and extent of the affiliation or control.

11. Provide the name and a biographical sketch of each director, officer, and executive of the Applicant, any entity identified under previous Item 10 of this section, and each reviewer, and a description of any relationship a named individual or the Applicant has with a trade or professional association of providers, trade or association of payers, insurer as defined in KRS 304.17A-600(8), or a provider of health care services in the state of Kentucky.

12. Indicate a percentage of the Applicant's revenues that are anticipated to be derived from independent reviews _____.

13. If the Applicant has delegated certain functions, please list the contracted companies; indicate which services they perform; and provide the information requested below. If no functions have been delegated, check "not applicable" as follows. ☐ Not applicable

For each company, identify the following information:

- Name and title of contact person for the site
- Delegated site street address
- Phone and fax numbers of contact person
- List of services provided
- A copy of the agreement whereby the external review function is delegated or subcontracted

14. a. Has the Applicant ever been refused accreditation or certification to perform external reviews?

☐ YES ☐ NO

b. If yes, please explain

SECTION A: CORPORATE PROFILE (continued)

15. a. Is the Applicant certified to perform external reviews in other states?

☐ YES ☐ NO

b. If yes, list the states _____

16. a. Is the Applicant currently accredited by the National Committee for Quality Assurance?

☐ YES (provide current certificate) ☐ NO

b. If yes, accreditation outcome:

☐ Excellent ☐ Commendable ☐ Accredited ☐ Provisional

- Identify any sanctions imposed or revocations of accreditation to perform external reviews and please explain _____

17. a. Is the Applicant currently accredited by the American Accreditation HealthCare Commission (URAC)? ☐ YES (provide current certificate) ☐ NO

b. If yes, type of accreditation: ☐ Full ☐ Conditional

- Identify any sanctions imposed or revocations of accreditation to perform external reviews and please explain _____

18. Is the Applicant currently accredited by any other national accreditation organization?

☐ YES (provide current certificate) ☐ NO

19. Indicate below any limitations in the type of external reviews performed.

☐ Coverage denial with a medical issue

☐ Experimental/investigational treatments

☐ Medical appropriateness/medical necessity

☐ Experimental/investigational treatments and medical appropriateness/medical necessity

☐ Step therapy exception or step therapy appeal denials

☐ Other

20. Indicate the hours of operation and time zone the Applicant is located in

SECTION B. ADMINISTRATION AND OPERATION

(Must be completed by all Applicants. Indicate not applicable (N/A), where appropriate)
Bookmark each of the items below according to the heading of each item below with the appropriate bookmarks for policies and procedures included in the PDF document.

1. **Organization** - Provide a chart of the Applicant's organization which shows the lines of authority and, for key project staff members, their position and level of responsibility within the organization.

2. **Personnel Requirements** - Provide an estimate of the number, types and functions of the personnel considered necessary to the administration and operation of the organization on a statewide basis with a separate job description detailing the roles of key persons, such as a Medical or Clinical Director. Include an explanation of the contractual and financial relationships between the Applicant and the physician and non-physician reviewers who will actually be responsible for individual external reviews. Provide the policy or procedure that demonstrates compliance with KRS 304.17A-627(5) and (6) in regards to the health care professionals utilized to perform reviews and 806 KAR 17:290 Section 3(6).

3. **Credentialing Criteria** - Provide a policy or procedure describing the system used to: identify and recruit expert reviewers; initially credential and, every three (3) years, recredential reviewers, and match expert reviewers to specific cases pursuant to 806 KAR 17:290, Section 3(6). Minimum qualifications/criteria employed by the Applicant to select both physician and non-physician reviewers should be included, as well as a mechanism to ensure that reviewers, particularly physician reviewers, hold in good standing a nonrestricted license in a state of the United States pursuant to KRS 304.17A-627(5) and (6). Provide a copy of each Policy and Procedure relating to credentialing. Also, please list the personnel (reviewers) who may be assigned to external reviews pursuant to KRS 304.17A-627(5) through (7) and 806 KAR 17:290, Section 3(5), including the following information for each reviewer:

- Name;
- Title;
- Professional license (s);
- State (s) of licensure;
- Any restrictions on licensure in the state (s) of licensure;
- Certification by a recognized American specialty board, including type of certification, name of specialty board issuing certification, date of initial certification and subsequent re-certifications, if any, and sanctions imposed, if any;
- Area (s) of expertise;
- Most recent clinical experience and duration of experience;
- Type of cases the reviewer is credentialed to perform; and
- Date of most recent credentialing of the reviewer by Applicant.

SECTION B: ADMINISTRATION AND OPERATION (continued)

4. **Conflict of Interest** – Provide policy or procedure describing how the Applicant will ensure compliance with the conflict of interest rules, including a process that will be used to ensure the independence of the independent review entity, physician and non-physician reviewers in accordance with KRS 304.17A-627 and 806 KAR 17:290, Section 3. Additionally, provide a copy of an attestation form that will be used by the independent review entity to support for each external review that the independent review entity: is not a subsidiary of, or in any way affiliated with, or owned, or controlled by an insurer or a trade or professional association of payors; is not a subsidiary of, or in any way affiliated with, or owned, or controlled by a trade or professional association of providers; does not have any material, professional, familial, or financial conflict of interest with the insurer involved in the external review; any officer, director, or management employee of the insurer involved in the external review; the provider proposing the service or treatment which is being disputed or any associated independent practice association, the institution at which the service or treatment would be provided, the development or manufacture of the principal drug, device, procedure or other therapy proposed for the covered person whose treatment is under review, or the covered person and a copy of a "no conflict of interest" statement that each reviewer will sign prior to conducting an external review to support that the reviewer has no material, professional, familial, or financial conflict of interest with any of the following:

- The insurer involved in the review;
- Any officer, director, or management employee of the insurer;
- The provider proposing the service or treatment or any associated independent practice association;
- The institution at which the service or treatment would be provided;
- The development or manufacture of the principal drug, device, procedure, or other therapy proposed for the covered person whose treatment is under review; or
- The covered person.

5. **External Review for Adverse Determinations, External Reviews of a Coverage Denial, Step Therapy Exception, or Step Therapy Appeal Denials** - Provide a policy or procedure describing all aspects of the external review process, including a schematic chart which shows the process by which an expedited and non-expedited external review will proceed from the time of preliminary review to the final decision, including maximum time required to complete each phase. Include copies of policies and procedures implemented to ensure an independent external review of a coverage denial, which requires the resolution of a medical issue and an adverse determination. The policies and procedures shall address at a minimum the following to demonstrate compliance with KRS 304.17A-163, KRS 304.17A-623, KRS 304.17A-625, KRS 304.17A-627, and 806 KAR 17:290, Section 3:

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(Must be completed by all Applicants)

On company letterhead, formally attest to the items listed below. The Applicant may use similar language. Have the attestation signed and dated by the appropriate officer(s) of the Applicant's organization and/or legal counsel. This Attestation should be included with the application forms. The Applicant is attesting that the following are true.

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2. The documentation submitted as evidence for meeting Kentucky statutory and regulatory requirements has been reviewed by the appropriate personnel and reflects the Applicant's current structure and processes.
3. The Applicant organization, to the best of its knowledge, is in compliance with applicable state and federal laws governing confidentiality of health care information and state laws as they pertain to the Applicant's business.
4. The Applicant understands that the Department of Insurance will rely on this information and material in making its decision regarding certification and that any distorted facts or misrepresentations may disqualify the Applicant from certification or result in revocation of the certification at any time.



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

Fax: (502) 564-7091

February 9, 2023



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

Re: 907 KAR 1:680 LRC suggested amendment

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of issues raised by 907 KAR 1:680, the Department for Medicaid Services proposes the attached LRC suggested amendment. If you have any questions, please feel free to contact Jonathan Scott, Regulatory and Legislative Advisor with the Department for Medicaid Services at (502) 564-4321 ext. 2015.

Sincerely,

Policy Specialist
Office of Legislative and Regulatory Affairs

Final, 02-07-2023

Suggested Amendment

CABINET FOR HEALTH AND FAMILY SERVICES

Department for Medicaid Services

Division of Policy and Operations

907 KAR 1:680. Vaccines for Children Program.

Page 1

STATUTORY AUTHORITY

Line 8

After "s", delete ", 2006-726".

Page 2

Section 1(3)

Line 2

After "under the", insert the following:

Medicaid program or Kentucky Children's Health Insurance Program (KCHIP)

Delete the following:

state's Title XIX or Title XXI program

FISCAL NOTE

At the time that the agency files this staff suggested amendment, it needs to file one (1) corrected copy of the Fiscal Note that:

- **Paginated as Pages 7-8**
- **Includes the correct regulation number at the top**
- **Makes sure the statutory citations mentioned are correct and answers are for the correct administrative regulation.**

FEDERAL MANDATE

At the time that the agency files this staff suggested amendment, it needs to file one (1) corrected copy of the Federal Mandate that:

- **Paginated as Page 9**
- **Includes the correct regulation number at the top**
- **Makes sure the statutory citations mentioned are correct and answers are for the correct regulation.**

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Administrative Regulation Number: 907 KAR 1:680

Agency Contact Persons: Jonathan Scott, (502) 564-4321, ext. 2015, jonathant.scott@ky.gov;
and Krista Quarles, (502) 564-6746, CHFSRegs@ky.gov

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? DMS will be affected by this administrative regulation.

2. Identify each state or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.030(2), 194A.050(1), 205.520(3), 42 U.S.C. 1396a(a)(10)(B),

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation is not expected to generate revenue for state or local government.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation is not expected to generate revenue for state or local government.

(c) How much will it cost to administer this program for the first year? This administrative regulation is not expected to generate costs for DMS in the first year.

(d) How much will it cost to administer this program for subsequent years? This administrative regulation is not expected to generate costs for DMS in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): _____

Expenditures (+/-): _____

Other Explanation: _____

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year? DMS does not anticipate that cost savings will be generated for regulated entities as a result of the amendments to this administrative regulation in the first year.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years? DMS does not anticipate that cost savings will be generated for regulated entities as a result of the amendments to this administrative regulation in subsequent years.

(c) How much will it cost the regulated entities for the first year? DMS does not anticipate that regulated entities will incur costs as a result of this amendment in the first year.

(d) How much will it cost the regulated entities for subsequent years? DMS does not anticipate that regulated entities will incur costs as a result of this amendment in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Cost Savings(+/-):

Expenditures (+/-):

Other Explanation:

(5) Explain whether this administrative regulation will have a major economic impact, as defined below. *"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)]*

The administrative regulation will not have a major economic impact – as defined by KRS 13A.010 – on regulated entities.

FEDERAL MANDATE ANALYSIS COMPARISON

Administrative Regulation Number: 907 KAR 1:680

Agency Contact Persons: Jonathan Scott, (502) 564-4321, ext. 2015, jonathant.scott@ky.gov;
and Krista Quarles, (502) 564-6746, CHFSRegs@ky.gov

1. Federal statute or regulation constituting the federal mandate. 42 U.S.C. 1396a(a)(10)(B)
2. State compliance standards. KRS 205.520(3) states: "Further, it is the policy of the Commonwealth to take advantage of all federal funds that may be available for medical assistance. To qualify for federal funds the secretary for health and family services may by regulation comply with any requirement that may be imposed or opportunity that may be presented by federal law. Nothing in KRS 205.510 to 205.630 is intended to limit the secretary's power in this respect."
3. Minimum or uniform standards contained in the federal mandate. Under the VFC program, vaccines are administered by program-registered providers. 42 U.S.C. 1396a(a)(10)(B) requires the Medicaid Program to ensure that services are available to Medicaid recipients in the same amount, duration, and scope as available to other individuals (non-Medicaid).
4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The administrative regulation does not impose stricter or different responsibilities than the federal requirements.
5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The administrative regulation does not impose stricter or different responsibilities than the federal requirements.



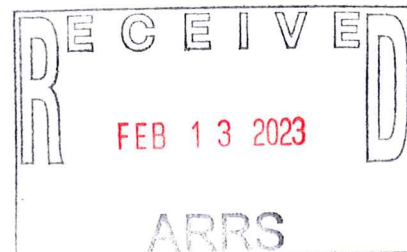
Andy Beshear
GOVERNOR

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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February 9, 2023



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

Re: 907 KAR 20:050 LRC suggested amendment

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of issues raised by 907 KAR 20:050, the Department for Medicaid Services proposes the attached LRC suggested amendment. If you have any questions, please feel free to contact Jonathan Scott, Regulatory and Legislative Advisor with the Department for Medicaid Services at (502) 564-4321 ext. 2015.

Sincerely,

Policy Specialist
Office of Legislative and Regulatory Affairs

REVISED:
2/10/2023 8:26 AM

**Suggested Amendment
Cabinet for Health and Family Services
Department for Medicaid Services
Division of Health Care Policy**

907 KAR 20:050. Presumptive eligibility.

**Page 1
RELATES TO
Line 6**

After "205.520(3)," insert "205.5375".
Delete "205.5375(7)".

After "205.592," insert "45 C.F.R. 164,".
After " , r-1", insert "42 U.S.C. 9902".

**Page 1
STATUTORY AUTHORITY
Line 7**

After "205.520(3)", insert ", 205.5375(7)".

**Page 1
NECESSITY, FUNCTION, & CONFORMITY
Line 8**

After "CONFORMITY:", insert the following:
The Cabinet for Health and Family Services, Department for Medicaid Services, has responsibility to administer the Medicaid Program. KRS 205.520(3) authorizes the secretary to promulgate administrative regulations necessary to qualify for federal funds by compliance with any requirement that may be imposed or opportunity that may be presented by federal law. KRS 205.5375(7) requires the department to promulgate administrative regulations in accordance with KRS Chapter 13A that are necessary to administer this statute, including a thorough presumptive eligibility application form to be used by qualified hospitals when making presumptive eligibility determinations using information provided and attested to by an individual. This administrative regulation establishes requirements for the determination of presumptive eligibility and the provision of services to individuals deemed presumptively eligible for Medicaid-covered services.

Delete the remainder of the NECESSITY, FUNCTION, & CONFORMITY paragraph in its entirety.

Page 4

Section 4(1)

Line 21

After “provider”, delete “: (a)”.
Lowercase “Determines”.

Page 9

Section 8(1)(c)3.

Line 20

After “Web site at:” insert “a.”
After “training.aspx” insert the following

; or
b.

<http://www.kymmis.com/kymmis/provider%20relations/PresumptiveEligibility.aspx>

Page 10

Section 8(2)(a)3.

Line 8

After “Web site at:” insert “a.”
After “hospital.aspx” insert the following

; or
b.

<http://www.kymmis.com/kymmis/provider%20relations/PresumptiveEligibility.aspx>

Page 11

Section 8(4)(c)

Line 3

After “federal law.”, insert the following:

Section 9. Incorporation by Reference.

(1) “Presumptive Eligibility Hospital Patient Information Form”, February 2023,
is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable
copyright law, at the Department for Medicaid Services, 275 East Main Street,
Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m. or at
www.chfs.ky.gov/agencies/dms/Pages/default.aspx.

PRESUMPTIVE ELIGIBILITY HOSPITAL **Patient information form**

Social Security Number _____ ☐ This person does not have a social security number

Name: _____ Last Name _____ First Name _____ Middle Initial _____

Date of Birth: _____ Age _____ ☐ Male ☐ Female

White

Marital Status (check one): ☐ Single-Never Married ☐ Divorced ☐ Separated ☐ Legally Separated
☐ Widowed ☐ Living Together Partner ☐ Married Living Together ☐ Married Living Apart

- Has this person received Presumptive Eligibility benefits this calendar year? ☐ Yes ☐ No
- Is this person a resident of Kentucky? ☐ Yes ☐ No
- Is this person a US Citizen? ☐ Yes ☐ No
- Race: _____ Nationality: _____
- Is this person of Hispanic, Latino, or Spanish origin? ☐ Yes ☐ No
- Ethnicity: _____
- Preferred Written Language ☐ English ☐ Spanish
- Is this person currently pregnant? ☐ Yes ☐ No
- If yes, how many children is this person expecting from this pregnancy? _____
- What is the due date? (mm/dd/yyyy) _____
- Has this person received Presumptive Eligibility for this pregnancy? ☐ Yes ☐ No
- Would this person like to be referred for WIC? ☐ Yes ☐ No
- Is this person currently incarcerated? ☐ Yes ☐ No
- If yes, when did this person enter prison? (mm/dd/yyyy) _____
- Is this person a parent caretaker for any child in the household? ☐ Yes ☐ No
- Has this person ever been in foster care? ☐ Yes ☐ No If yes, what state? _____
- Did this person get healthcare through this state's Medicaid program? ☐ Yes ☐ No
- How old was this person when he/she left the foster care system? _____
- What date should benefits begin? _____

Address:

Street Address _____ Apt/Building Number _____

City _____ State _____ Zip Code _____

County _____

Telephone Number(s): _____

Home/Cell Telephone Number _____ Work Telephone Number _____ other _____

How many family members does this person have? _____
When calculating family size, include the patient, any unborn child/children, dependent children and spouse. If patient is living with parents and under age 19, count parents, step-parent and siblings under 19 in the household size.

FAMILY INCOME

	Family Member's Name	Income Type*	How Much? **	How Often
1				
2				
3				
4				
	TOTAL MONTHLY INCOME:			

Count income of the patient, spouse and parents' income (if the patient is living with parents and claimed as a tax dependent). Include gross wages (before taxes) and other sources of income such as social security, pensions, alimony, cash gifts, and annuities.
Do not count child support or SSI (Supplemental Security Income).
Do not count income of dependent children (whether or not they live in the home).

OTHER INSURANCE

Does this person currently have insurance that covers doctors, office visits, and hospitalization?
☐ Yes ☐ No

If "Yes" What is the name of this plan _____

Name of Insurance Co. _____ Policy No. _____ Group No. _____

Preferred MCO:

☐ Anthem Blue Cross/Blue Shield ☐ Aetna ☐ Humana CareSource
☐ Passport Health Plan ☐ WellCare ☐ United Healthcare
Primary Care Physician _____

I certify, under penalty of perjury, the information provided by me in this statement is correct and true to the best of my knowledge. I understand that anyone who gives false information in order to receive benefits, or lets someone else use their PE card or abuses PE benefits is subject to criminal action under federal law, state law or both or may be liable for repaying in cash the value of the benefits received.

Patient Signature _____ Date Signed _____



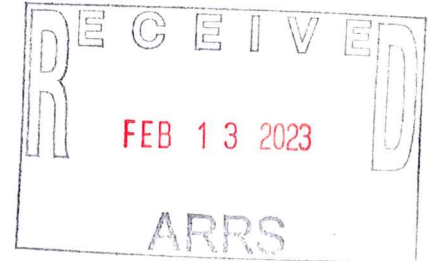
Andy Beshear
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Representative Derek Lewis, Co-Chair
c/o Emily Caudill
Administrative Regulation Review Subcommittee
Legislative Research Commission
083, Capitol Annex
Frankfort KY 40601

Re: 911 KAR 1:060 LRC suggested amendment

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of issues raised by 911 KAR 1:060, the Office for Children with Special Health Care Needs proposes the attached LRC suggested amendment. If you have any questions, please feel free to contact Emily Allen at Emily.Allen@ky.gov.

Sincerely,

Policy Specialist
Office of Legislative and Regulatory Affairs

Suggested Amendment

CABINET FOR HEALTH AND FAMILY SERVICES Office for Children with Special Health Care Needs Children with Special Health Care Needs Services

911 KAR 1:060. Medical Staff.

Page 1

RELATES TO

Line 6

After "KRS", insert "45A".

Page 1

NECESSITY, FUNCTION, & CONFORMITY

Line 10

After "responsibilities", insert the following:
under KRS 200.460 to 200.490

Line 11

After "Health Care Needs", lowercase "Medical Staff".

Page 4

Section 4(1)(a)4.

Line 18

After "4.", insert "Two (2)".

After "60g", delete "Two".

After "Reference", insert "Letter".

Delete "Letters".

Page 16

Section 12(4)

Line 12

After "additional", insert "pertinent".

After "information", insert comma.

After "needed", insert comma.

Page 17

Section 13(2)

Line 18

After "agencies/ccshcn", insert "/Pages/Incorporated.aspx".



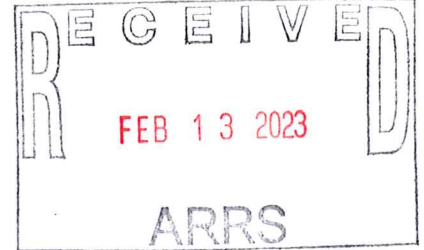
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Administrative Regulation Review Subcommittee
Legislative Research Commission
083, Capitol Annex
Frankfort KY 40601

Re: 911 KAR 1:085 LRC suggested amendment

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of issues raised by 911 KAR 1:085, the Office for Children with Special Health Care Needs proposes the attached LRC suggested amendment. If you have any questions, please feel free to contact Emily Allen at Emily.Allen@ky.gov.

Sincerely,

Policy Specialist
Office of Legislative and Regulatory Affairs

Suggested Amendment

CABINET FOR HEALTH AND FAMILY SERVICES Office for Children with Special Health Care Needs Children with Special Health Care Needs Services

911 KAR 1:085. Early Hearing Detection and Intervention Program.

Page 1

NECESSITY, FUNCTION, & CONFORMITY

Line 12

After "federal funds.", insert the following:

KRS 194A.030 authorizes the Office for Children with Special Health Care Needs (OCSHCN) to promulgate administrative regulations as may be necessary to implement and administer its responsibilities under KRS 200.460 to 200.490.

After "211.647(3)", insert the following:

authorizes OCSHCN to promulgate administrative regulations establishing

Delete the following:

requires the Office for Children with Special Health Care Needs to identify and refer for treatment infants at risk for hearing loss and establish

Page 2

Section 1(8)

Line 18

After " (8) "Office ", delete the following:

for Children with Special Health Care Needs

Page 3

Section 2(1)(b)

Line 7

After "(b)", insert "Possesses".

Delete "Possess".

Page 7

Section 6(2)

Lines 17-18

After "evaluation", insert the following:

in accordance with KRS 211.647,



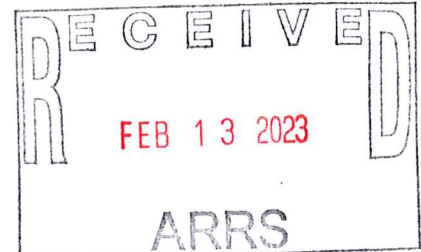
Andy Beshear
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Representative Derek Lewis, Co-Chair
c/o Emily Caudill
Administrative Regulation Review Subcommittee
Legislative Research Commission
083, Capitol Annex
Frankfort KY 40601

Re: 911 KAR 1:090 LRC suggested substitute

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of issues raised by 911 KAR 1:090, the Office for Children with Special Health Care Needs proposes the attached LRC suggested substitute. If you have any questions, please feel free to contact Emily Allen at Emily.Allen@ky.gov.

Sincerely,

Policy Specialist
Office of Legislative and Regulatory Affairs

SUGGESTED SUBSTITUTE

CABINET FOR HEALTH AND FAMILY SERVICES Office for Children with Special Health Care Needs (New Administrative Regulation)

911 KAR 1:090. Appeals.

RELATES TO: KRS [~~Chapter~~]13B, 194A.030, 200.460 - 200.499, 200.654(13), 205.520(3), 205.5606(1), 205.6317, 211.645, 211.647, 213.046(16), 216.2970, [Chapters]311, 319, 334A, 42 C.F.R. 435.603, 42 U.S.C. 9902[, ~~42 C.F.R. 435.603, KRS 194A.030, 200.460 - 200.499, 205.520(3), 205.5606(1), 200.654(13), 205.6317, 211.645, 211.647, 213.046(16), 216.2970, 334A.020(5)~~]

STATUTORY AUTHORITY: ~~KRS[Chapter 13B, and]~~ 194A.050(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations necessary to operate the programs and fulfill the responsibilities vested in the cabinet, to implement programs mandated by federal law, or to qualify for federal funds. **KRS 194A.030 authorizes the Office for Children with Special Health Care Needs (OCSHCN) to promulgate administrative regulations as may be necessary to implement and administer its responsibilities under KRS 200.460 to 200.490.** This administrative regulation establishes appeal rights for eligibility, procedures for application, assignment of pay category, minimum monthly payments, fees, and reporting requirements for OCSHCN patients and diagnostic centers.

Section 1. Appeal Rights. An individual, provider, or entity who is affected by an adverse action in KAR ~~Title~~**[Chapter]** 911, except those actions heard according to 911 KAR 1:060, may request an administrative hearing with the Cabinet for Health and Family Services Office of the Ombudsman and Administrative Review. A request for an administrative hearing shall be:

(1)(a) Mailed to the Office of the Ombudsman and Administrative Review, Quality Advancement Branch, 275 E. Main Street, 2 E-O, Frankfort, Kentucky 40621;~~;~~

(b)Emailed to CHFS Listens Inbox at CHFS.Listens@ky.gov;~~;~~ or

(c) FAXED to (502) 564-9523;~~;~~ and

(2) Received within thirty (30) calendar days from the date of the written notice of the adverse action.

(3) The administrative hearing shall~~will~~ be conducted in accordance with KRS Chapter 13B.