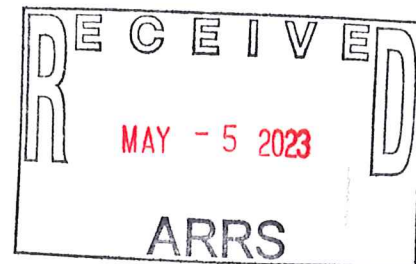




COMMONWEALTH OF KENTUCKY  
OFFICE OF THE ATTORNEY GENERAL

DANIEL CAMERON  
ATTORNEY GENERAL



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May 5, 2023

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

Re: 40 KAR 9:010 and 40 KAR 9:020

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff, the Kentucky Opioid Abatement Advisory Commission submits the suggested substitute for 40 KAR 9:010 and 40 KAR 9:020.

Sincerely,

W. Bryan Hubbard  
Executive Director  
Kentucky Opioid Abatement Advisory Commission

**SUGGESTED SUBSTITUTE – ORDINARY ONLY**

Final Version: 04/20/23 4:03 p.m.

**40 KAR 9:010. General application procedure.**

RELATES TO: KRS 15.291, KRS 15.293

STATUTORY AUTHORITY: KRS 15.291 ~~(6)~~, KRS 15.293

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15.291 ~~(6) requires~~~~[and 15.293 require]~~ the Kentucky Opioid Abatement Advisory Commission (the "commission") to promulgate administrative regulations to administer funds received by the commission. ~~[Therefore,]~~ This administrative regulation establishes the application procedure for funding requests under KRS 15.291 and 15.293, the duties required of the commission, the duties required of those that receive commission funds, and other related issues.

Section 1. Definitions.

- (1) "Entity" ***is defined by***~~[has the same meaning as its definition in]~~ KRS 14A.1-070~~(7)~~.
- (2) "Governmental agency" ***is defined by***~~[has the same meaning as its definition in]~~ KRS 65.940~~(5)~~.
- (3) "***Member***~~[Member(s)]" means a~~~~[refers to any of the]~~ commission ***member as established in***~~[members contemplated by]~~ KRS 15.291(2), whether voting or non-voting.

Section 2. Eligible Applicants. ***An***~~[Any]~~ entity or governmental agency ***shall be eligible for opioid abatement funding if the entity or governmental agency:***

- (1) Submits an application through the OAAC Grant Portal at <https://ag.ky.gov/Priorities/Tackling-the-Drug-Epidemic/Pages/Opioid-Abatement-Advisory-Commission-.aspx>:***
- (2) Complies***~~[that conforms]~~ with the requirements ***established in this administrative regulation***~~[herein]~~;
- (3)***~~[that]~~ Meets the criteria in KRS 15.291(5); and
- (4)***~~[that]~~ Is not debarred or suspended from contracting with the Commonwealth~~[shall be an eligible entity or governmental agency]~~.

Section 3. Application.

- (1) To ~~[apply for funding, the entity or governmental agency shall]~~ submit an application using the ~~[ "JOAAC Grant Portal, " available at <https://ag.ky.gov/Priorities/Tackling-the-Drug-Epidemic/Pages/Opioid-Abatement-Advisory-Commission-.aspx>. To apply,~~] an applicant shall be required to become an approved state vendor.
- (2) Non-conforming or incomplete applications shall not be considered.

Section 4. Review of Applications.

- (1) The commission shall review applications on a continuous basis.
- (2) ***If***~~[Should]~~ the commission ***requests***~~[request]~~ supplementation of an application, or otherwise ***inquires***~~[inquire]~~ about an application, the point of contact shall acknowledge receipt within seven (7) calendar days and subsequently respond to the commission in a timely manner. Failure to do so shall result in the application being deemed withdrawn.
- (3) Contingent upon available funding, the commission shall fund an application in whole or in part, ***if***~~[provided]~~ the funding does not exceed the sum requested in the application.
- (4) In awarding funds, the commission shall consider~~[the following factors]~~:
  - (a) Compliance with applicable law;

- (b) The entity or governmental agency's record and responsibility in utilizing effectively any funds received previously from the commission or from the counties, consolidated local governments, urban county governments, and cities of the Commonwealth, as **established[described]** in KRS 15.293(4);
- (c) The geographic reach of the application;
- (d) Amounts received by an entity or governmental agency from the commission or from the counties, consolidated local governments, urban county governments, and cities of the Commonwealth, as **established[described]** in KRS 15.293(4);
- (e) The utility and effectiveness of any part of the application;
- (f) The extent to which Kentucky residents are served by the application;
- (g) The extent to which prior allocations from the commission have served similar purposes;
- (h) The extent to which the application proposes to serve a portion of the population that otherwise would not receive **similar services[such service]**;
- (i) The extent to which the application proposes to incorporate relevant partnerships that are likely to increase the efficiency and effectiveness of programming;
- (j) The extent to which the application proposes, among other things, to educate the public about opioid misuse and opioid use disorder, reduce the occurrence of opioid misuse and opioid use disorder, promote resistance to opioid misuse and opioid use disorder, promote the effective treatment of opioid use disorder, **or[and/or]** combat the effects of opioid misuse, including co-occurring mental health issues;
- (k) The extent to which the application activities align with accepted evidence-based practices; **or[and/or]**
- (l) The sufficiency of records to validate the requested amounts.

#### Section 5. Recipients' Duties.

- (1) Entities and governmental agencies that receive funding shall submit **notarized** quarterly certifications to the commission due **by[on the following dates of the calendar year]**:
  - (a) March 31;
  - (b) June 30;
  - (c) September 30; and
  - (d) December 31.
- (2) Entities and governmental agencies shall submit certifications using the KYOACC Certification Form.
- (3) Certifications **shall be[are]** required until the recipient exhausts all funds received from the commission and until the recipient has submitted a certification stating that all **[such]** funds have been exhausted.
- (4) Separate certifications **shall be[are]** required for each funding award.

#### Section 6. Noncompliance.

- (1) Noncompliance shall include:
  - (a) Materially falsified information in any certifications filed pursuant to or required by KRS 15.291, KRS 15.293, or **40 KAR Chapter 9[related regulations]**;
  - (b) Failure to meet certification submission deadlines; and
  - (c) Failure to expend funds in conformity with the enumerated purposes **established[set forth]** in KRS 15.291, pursuant to KRS 15.293(5).
- (2) The commission shall require entities or governmental agencies to reimburse the commission for any funds expended in a noncompliant manner.
- (3) The commission shall require noncompliant entities or governmental agencies to forfeit any remaining funds received from the commission.

(4) The commission shall bar noncompliant entities or governmental agencies from receiving funds from the commission.

(5) The commission shall report noncompliance to the Department of Law for appropriation determination as to ***if[whether]*** further action is necessary to ensure compliance with opioid-related agreements.

Section 7. Commission Appointments. The ***term of a member[terms of members]*** appointed pursuant to KRS 15.291(3)(b) shall begin upon the commission's first meeting.

Section 8. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "OAAC Grant Portal," available at <https://ag.ky.gov/Priorities/Tackling-the-Drug-Epidemic/Pages/Opioid-Abatement-Advisory-Commission-.aspx>; and

(b) KYOACC Certification Form, December 2022.

(2) This material shall be inspected, copied, or obtained, subject to copyright law, at the Office of the Attorney General Capital Complex East, 1024 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.



# OPIOID ABATEMENT ADVISORY COMMISSION

## KYOAAC CERTIFICATION FORM

Pursuant to KRS 15.291 and 15.293 and accompanying regulations, this form shall be completed by the entities, governmental agencies, and covered governmental bodies that receive certain opioid-related funds. The entities, governmental agencies, and covered governmental bodies shall submit this form to the Kentucky Opioid Abatement Advisory Commission at [kyoaac@ky.gov](mailto:kyoaac@ky.gov).

Recipient of Funds	
Name of Individual Authorized to Complete Form	
Address 1:	
Address 2 (if applicable):	
City, State, Zip:	
Phone:	
Email:	

The above recipient attests and affirms, under penalty of perjury, that its use of pertinent opioid funds is in compliance with KRS 15.291 and 15.293 and accompanying regulations. The recipient agrees to maintain for five years all necessary records—including, where relevant, itemized receipts, financial statements, accounting data, etc.—to authenticate the recipient's use of its opioid funds. The Kentucky Opioid Abatement Advisory Commission reserves the right to inspect such records.



# OPIOID ABATEMENT ADVISORY COMMISSION

\_\_\_\_\_  
Affiant

Subscribed and sworn to before me this

\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Notary Public

My Commission Expires:

No.

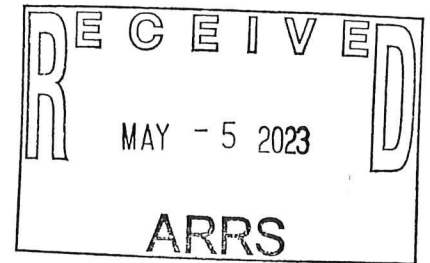
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May 5, 2023

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

Re: 40 KAR 9:010 and 40 KAR 9:020

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff, the Kentucky Opioid Abatement Advisory Commission submits the suggested substitute for 40 KAR 9:010 and 40 KAR 9:020.

Sincerely,

W. Bryan Hubbard  
Executive Director  
Kentucky Opioid Abatement Advisory Commission

**SUGGESTED SUBSTITUTE – ORDINARY ONLY**

Final Version: 04/21/23 9:34 a.m.

**40 KAR 9:020. Local government application procedure.**

RELATES TO: KRS 15.291, KRS 15.293

STATUTORY AUTHORITY: KRS 15.291 ~~(6)~~, KRS 15.293

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15.291 ~~(6)~~ **requires**~~[and 15.293 permit]~~ the Kentucky Opioid Abatement Advisory Commission (the "commission") to promulgate administrative regulations to administer funds received by the commission and to oversee the use of funds received under KRS 15.293(4). KRS 15.293 requires each recipient of funds under KRS 15.293(4) to submit certifications that the use of **opioid abatement[such]** funds is consistent with the criteria in KRS 15.291(5), a description of the use of **the[such]** funds, and other information as the commission requests through the promulgation of administrative regulations. ~~[Therefore,]~~ This administrative regulation establishes the procedure for a county, consolidated local government, urban-county government, or city of the Commonwealth that receives funds under KRS 15.293(4) to certify use consistent with KRS 15.293.

Section 1. Covered Governmental Bodies. Any county, consolidated local government, urban-county government, or city in the Commonwealth that received or will receive opioid funds under KRS 15.293(4) shall be a covered governmental body.

Section 2. Duties of Covered Governmental Bodies.

(1) Consistent with KRS 15.293~~(4)(c)2., a[(4)(e)(2),]~~ covered governmental **body[bodies]** shall submit **notarized** quarterly **KYOAAC Certification forms, incorporated by reference in 40 KAR 9:010, [certifications]** to the commission due **by**~~[on the following dates of the calendar year]:~~

- (a) March 31;
- (b) June 30;
- (c) September 30; and
- (d) December 31.

(2) ~~[Covered governmental bodies shall submit certifications using the KYOAAC Certification Form, which is incorporated by reference in 40 KAR 9:010.~~

~~(3)]~~ Certifications **shall be**~~[are]~~ required until the recipient exhausts all funds received pursuant to KRS 15.291 or 15.293 and until the recipient has submitted a certification stating that all **[such]** funds have been exhausted.

Section 3. Noncompliance.

(1) Noncompliance shall include:

- (a) Materially falsified information in any certifications filed pursuant to or required by KRS 15.291, KRS 15.293, or related regulations;
- (b) Failure to meet certification submission deadlines; or
- (c) Failure to expend funds in conformity with the enumerated purposes set forth in KRS 15.291, pursuant to KRS 15.293(5).

(2) The commission shall require covered governmental bodies to reimburse the commission for any funds expended in a noncompliant manner.

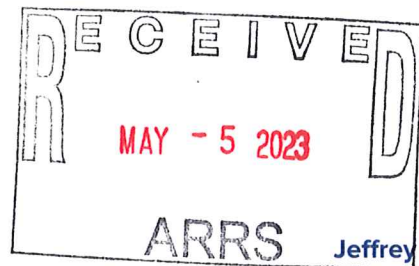
(3) The commission shall report noncompliance to the Department of Law for determination as to **if**~~[whether]~~ further action is necessary to ensure compliance with opioid-related agreements.





## BOARD OF DENTISTRY

312 Whittington Parkway, Suite 101  
Louisville, Kentucky 40222  
Phone: (502) 429-7280  
Fax: (502) 429-7282  
<http://dentistry.ky.gov>



**Andy Beshear**  
GOVERNOR

**Jeffrey Allen**  
EXECUTIVE DIRECTOR

March 5, 2023

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

Re: **201 KAR 8:533**. Licensure of Dentists.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 8:533, the Board of Dentistry proposes the attached amendment to 201 KAR 8:533.

Sincerely,

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

**TEAM**  
**KENTUCKY™**

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Final, 4-28-2023

SUGGESTED SUBSTITUTE

GENERAL GOVERNMENT CABINET  
Board of Dentistry

201 KAR 8:533. Licensure of dentists.

RELATES TO: KRS 39A.350-39A.366, ~~[214.615,]~~218A.205, ~~304.40-075~~~~[304.040-075]~~, 313.010(9), 313.030, 313.254

STATUTORY AUTHORITY: KRS ~~[214.615(2),]~~218A.205, 313.021(1)(a), (b), (c), 313.035(1), (3), 313.254

NECESSITY, FUNCTION, AND CONFORMITY: KRS 313.035 and 218A.205 require the board to promulgate administrative regulations relating to requirements and procedures for the licensure of dentists. This administrative regulation establishes requirements and procedures for licensure of dentists.

Section 1. General Licensure Requirements. An applicant desiring dental licensure in the Commonwealth shall at a minimum:

- (1) Understand, read, speak, and write the English language with a comprehension and performance level equal to at least the ninth grade of education, verified by testing as necessary;
- (2) Submit a completed, signed, and notarized Application for Dental Licensure with an attached applicant photo taken within the past six (6) months;
- (3) Pay the fee required by 201 KAR 8:520;
- (4) Not be currently subject to disciplinary action pursuant to KRS Chapter 313 that would prevent licensure;
- (5) Complete and pass the board's jurisprudence exam;
- (6) Provide proof of having current certification in cardiopulmonary resuscitation (CPR) which meets or exceeds the American Heart Association Guidelines for CPR and ECC;
- (7) Submit to a nationwide state and federal criminal background check by fingerprint through the Department of Kentucky State Police;
- (8) Provide verification within three (3) months of the date the application is received at the office of the board of any license to practice dentistry held previously or currently in any state or jurisdiction;
- (9) Provide proof that the applicant is a graduate of a Commission on Dental Accreditation (CODA) accredited dental school or college or dental department of a university;
- (10) Provide proof that the applicant has successfully completed Part I and Part II of the National Board Dental Examination, which is written and theoretical, conducted by the Joint Commission on National Dental Examinations; and
- (11) Provide a written explanation for any positive returns on a query of the National Practitioner Data Bank.

Section 2. Requirements for Licensure by Examination.

- (1) Each individual desiring initial licensure as a dentist by examination shall complete all of the requirements listed in Section 1 of this administrative regulation.
- (2) Each individual desiring initial licensure as a dentist by examination shall successfully complete a clinical examination within the five (5) years preceding the filing of the application. The board shall accept the following regional clinical examinations:
  - (a) The examination of the Council of Interstate Testing Agencies (CITA);
  - (b) The examination of the Central Regional Dental Testing Service (CRDTS);
  - (c) The examination of the Commission on Dental Competency Assessments (CDCA);
  - (d) The examination of the Southern Regional Testing Agency (SRTA); and
  - (e) The examination of the Western Regional Examining Board (WREB).
- (3) An individual desiring initial licensure as a dentist by examination more than two (2) years after fulfilling all of the requirements of his or her CODA accredited dental education shall:

- (a) Hold a license to practice dentistry in good standing in another state or territory of the United States or the District of Columbia; or
  - (b) If the applicant does not hold a license to practice dentistry in good standing, complete a board approved refresher course prior to receiving a license to practice dentistry in the Commonwealth of Kentucky.
- (4) An applicant who has taken a clinical examination three (3) times and failed to achieve a passing score shall not be allowed to sit for the examination again until the applicant has completed and passed a remediation plan approved by the board.

Section 3. Requirements for Licensure by Credentials. Each individual desiring initial licensure as a dentist by credentials shall:

- (1) Complete all of the requirements listed in Section 1 of this administrative regulation;
- (2) Provide proof of having passed a state, regional, or national clinical examination used to determine clinical competency in a state or territory of the United States or the District of Columbia; and
- (3) Provide proof that, for five (5) of the six (6) years immediately preceding the filing of the application, the applicant has been engaged in the active practice of dentistry when he or she was legally authorized to practice dentistry in a state or territory of the United States or the District of Columbia if the qualifications for the authorization were equal to or higher than those of the Commonwealth of Kentucky.

Section 4. Requirements for Student Limited Licensure.

- (1) Each individual desiring a student limited license shall:
  - (a) Complete all of the requirements listed in Section 1 of this administrative regulation with the exception of subsections (9) and (10);
  - (b) Provide a letter from the dean or program director of a postgraduate, residency, or fellowship program in the Commonwealth of Kentucky stating that the applicant has been accepted into the program and the expected date of completion;
  - (c) Submit a signed Statement Regarding Student Licensure Limitations; and
  - (d) Submit an official final transcript of the applicant's dental coursework with the degree posted.
- (2) An individual licensed under this section shall only practice dentistry in conjunction with programs of the dental school where the individual is a student and shall only provide professional services to patients of these programs.
- (3) Licenses issued under this section shall be renewed with all other dental licenses issued by the board and shall automatically expire upon the termination of the holder's status as a student.
- (4) A program enrolling an individual holding a student limited license shall notify the board in writing of the date the student graduates from or exits the program.
- (5) Nothing in this section shall prohibit:
  - (a) A student from performing a dental operation under the supervision of a competent instructor within the dental school, college, or department of a university or private practice facility approved by the board. The board may authorize a student of any dental college, school, or department of a university to practice dentistry in any state or municipal institution or public school, or under the board of health, or in a public clinic or a charitable institution. A fee shall not be accepted by the student beyond the expenses provided by the stipend;
  - (b) A student limited license holder from working under the general supervision of a licensed dentist within the confines of the postgraduate training program; and
  - (c) A volunteer health practitioner from providing services under KRS 39A.350-39A.366.

Section 5. Requirements for Faculty Limited Licensure.

- (1) Each individual desiring a faculty limited license shall:
  - (a) Complete all of the requirements listed in Section 1 of this administrative regulation with the exception of subsections (9) and (10);
  - (b) Provide a letter from the dean or program director of the dental school showing a faculty appointment with one (1) of the Commonwealth's dental schools;
  - (c) Submit a signed Statement Regarding Faculty Licensure Limitations; and
  - (d) Submit an official final transcript of his or her dental coursework with the degree posted.

(2) An individual licensed under this section shall only practice dentistry in conjunction with programs of the dental school where the individual is a faculty member and shall only provide professional services to patients of these programs.

(3) Licenses issued under this section shall be renewed with all other dental licenses issued by the board and shall automatically expire upon the termination of the holder's status as a faculty member.

(4) A program employing an individual holding a faculty limited license shall notify the board in writing of the date the licensee exits the program.

#### Section 6. Requirements for Licensure of Foreign Trained Dentists.

(1) Each individual desiring licensure as a dentist who is a graduate of a non-CODA accredited dental program shall successfully complete two (2) years of postgraduate training in a CODA accredited general dentistry program and shall:

(a) Provide proof of having passed the Test of English as a Foreign Language (TOEFL) administered by the Educational Testing Service with a score of 650 on the paper-based test (PBT) or a score of 116 on the internet-based test (iBT), if English is not the applicant's native language;

(b) Submit a completed, signed, and notarized Application for Dental Licensure with an attached applicant photo taken within the past six (6) months;

(c) Pay the fee required by 201 KAR 8:520;

(d) Not be currently subject to disciplinary action pursuant to KRS Chapter 313 that would prevent licensure;

(e) Complete and pass the board's jurisprudence exam;

(f) Provide proof of having current certification in cardiopulmonary resuscitation (CPR) that meets or exceeds the American Heart Association Guidelines for CPR and ECC;

(g) Submit to a state and federal criminal background check by fingerprint through the Department of Kentucky State Police;

(h) Provide verification within three (3) months of the date the application is received at the office of the board of any license to practice dentistry held previously or currently in any state or jurisdiction;

(i) Provide proof of having successfully completed two (2) years postgraduate training in a CODA accredited general dentistry program;

(j) Submit one (1) letter of recommendation from the program director of each training site;

(k) Provide proof of successful completion of Part I and Part II of the National Board Dental Examination, which is written and theoretical, conducted by the Joint Commission on National Dental Examinations within the five (5) years preceding application for licensure;

(l) Provide proof of successfully completing within the five (5) years prior to application a clinical examination required by Section 2(2) of this administrative regulation; and

(m) Provide a written explanation for any positive returns on a query of the National Practitioner Data Bank.

(2) An individual desiring initial licensure as a dentist who is a graduate of a non-CODA accredited dental program and applies more than two (2) years after fulfilling all of the requirements of his or her postgraduate training in a CODA accredited general dentistry program shall:

(a) Hold a license to practice dentistry in good standing in another state or territory of the United States or the District of Columbia; or

(b) If the applicant does not hold a license to practice dentistry in good standing, complete a board approved refresher course prior to receiving a license to practice dentistry in the Commonwealth of Kentucky.

#### Section 7. Requirements for Charitable Limited Licensure.

(1) Each individual desiring a charitable limited license shall:

(a) Understand, read, speak, and write the English language with a comprehension and performance level equal to at least the ninth grade of education, verified by testing as necessary;

(b) Submit a completed, signed, and notarized Application for Charitable Dental Limited Licensure with an attached applicant photo taken within the past six (6) months;

(c) Pay the fee required by 201 KAR 8:520;

(d) Not be subject to disciplinary action pursuant to KRS Chapter 313 that would prevent licensure;

- (e) Have a license to practice dentistry in good standing in another state or territory of the United States or the District of Columbia; and
- (f) Provide a written explanation for any positive returns on a query of the National Practitioner Data Bank.

(2) An individual licensed under this section shall:

- (a) Work only with charitable entities registered with the Cabinet for Health and Family Services that have met the requirements of KRS 313.254 and 201 KAR 8:581;
- (b) Only perform procedures allowed by KRS 313.254(4) and (5) which shall be completed within the duration of the charitable event;
- (c) Be eligible for the provisions of medical malpractice insurance procured under KRS 304.40-075;
- (d) Perform these duties without expectation of compensation or charge to the individual, and without payment or reimbursement by any governmental agency or insurer;
- (e) Have a charitable limited license that shall be valid for no more than two (2) years and shall expire during the regular dental renewal cycle; and
- (f) Comply with reciprocity requirements if applicable.

1. A state that extends a reciprocal agreement shall comply with this section.

2. An individual shall notify the sponsor of a charitable clinic and the board of the intent to conduct or participate in the clinic.

3. An individual conducting or participating in a charitable clinic shall have a license to practice dentistry in the state in which the dentist practices.

(3) A dentist licensed under this section shall not be allowed to prescribe any medications while practicing in the Commonwealth.

Section 8. Requirements for Specialty Licensure. Each individual desiring initial licensure as a specialist as defined by KRS 313.010(9) shall:

- (1) Submit a completed, signed, and notarized Application for Specialty Licensure with an attached applicant photo taken within the past six (6) months;
- (2) Pay the fee required by 201 KAR 8:520;
- (3) Hold an active Kentucky license to practice general dentistry prior to being issued a specialty license; and
- (4) Submit satisfactory evidence of completing a CODA accredited graduate or postgraduate specialty program after graduation from a dental school.

Section 9. Minimum Continuing Education Requirements.

- (1) Each individual desiring renewal of an active dental license shall complete thirty (30) hours of continuing education that relates to or advances the practice of dentistry and would be useful to the licensee's practice.
- (2) Acceptable continuing education hours shall include course content designed to increase:
  - (a) Competency in treating patients who are medically compromised or who experience medical emergencies during the course of dental treatment;
  - (b) Knowledge of pharmaceutical products and the protocol of the proper use of medications;
  - (c) Competence to diagnose oral pathology;
  - (d) Awareness of currently accepted methods of infection control;
  - (e) Knowledge of basic medical and scientific subjects including biology, physiology, pathology, biochemistry, pharmacology, epidemiology, and public health;
  - (f) Knowledge of clinical and technological subjects;
  - (g) Knowledge of subjects pertinent to patient management, safety, and oral healthcare;
  - (h) Competency in assisting in mass casualty or mass immunization situations;
  - (i) Clinical skills through the volunteer of clinical charitable dentistry that meets the requirements of KRS 313.254;
  - (j) Knowledge of office business operations and best practices; or
  - (k) Participation in dental association or society business meetings.
- (3) A minimum of ten (10) hours shall be taken in a live interactive presentation format.

(4) A maximum of ten (10) hours total may be taken that meet the requirements of subsection (2)(i) - (k) of this section.

(5) A minimum of three (3) hours of continuing education ~~shall~~**must** be taken in the use of the Kentucky All Schedule Prescription Electronic Reporting System (KASPER), pain management, or addiction disorders.

(6) Dentists who hold a board-issued sedation permit shall also meet the continuing education requirements of 201 KAR 8:550, Section 8.

~~(7)~~ All continuing education hours shall be verified by the receipt of a certificate of completion or certificate of attendance bearing:

(a) The signature of or verification by the provider;

(b) The name of the licensee in attendance;

(c) The title of the course or meeting attended or completed;

(d) The date of attendance or completion;

(e) The number of hours earned; and

(f) Evidence of the method of delivery if the course was taken in a live interactive presentation format.

~~(8)~~~~(7)~~ It shall be the sole responsibility of the individual licensee to obtain documentation from the provider or sponsoring organization verifying participation as established in subsection ~~(7)~~~~(5)~~ of this section and to retain the documentation for a minimum of five (5) years.

~~(9)~~~~(8)~~ At license renewal, each licensee shall attest to the fact that he or she has complied with the requirements of this section.

~~(10)~~~~(9)~~ Each licensee shall be subject to audit of proof of continuing education compliance by the board.

#### Section 10. Requirements for Renewal of a Dental License.

(1) Each individual desiring renewal of an active dental license shall:

(a) Submit a signed, completed Application for Renewal of Dental Licensure;

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

(c) Maintain, with no more than a thirty (30) day lapse, CPR certification that meets or exceeds the American Heart Association Guidelines for CPR and ECC unless a hardship waiver is approved by the board; and

(d) Meet the continuing education requirements as provided for in Section 9 of this administrative regulation except in the following cases:

1. If a hardship waiver has been submitted to and is subsequently approved by the board;

2. If the licensee graduated in the first year of the biennial license period, the licensee shall complete one-half (1/2) of the hours as outlined in Section 9 of this administrative regulation; and

3. If the licensee graduated in the second year of the biennial license period, the licensee shall not be required to complete the continuing education requirements outlined in Section 9 of this administrative regulation.

(2) If a licensee has not actively practiced dentistry in the two (2) consecutive years preceding the filing of the renewal application, he or she shall complete and pass a board approved refresher course prior to resuming the active practice of dentistry.

#### Section 11. Retirement of a License.

(1) Each individual desiring retirement of a dental license shall submit a completed and signed Retirement of License Form.

(2) Upon receipt of this form, the board shall send written confirmation of retirement to the address provided by the licensee on the Retirement of License form.

(3) A licensee shall not retire a license that has a pending disciplinary action against it.

(4) Each retirement shall be effective upon the processing of the completed and signed Retirement of License Form by the board.

#### Section 12. Reinstatement of a License.

(1) Each individual desiring reinstatement of a properly retired dental license shall:

- (a) Submit a completed, signed, and notarized Application to Reinstate a Dental License with an attached applicant photo taken within the past six (6) months;
- (b) Pay the fee required by 201 KAR 8:520;
- (c) Show proof of having current certification in CPR that meets or exceeds the American Heart Association Guidelines for CPR and ECC;
- (d) Provide verification within three (3) months of the date the application is received at the office of the board of any license to practice dentistry held previously or currently in any state or jurisdiction;
- (e) Submit to a nationwide state and federal criminal background check by fingerprint through the Department of Kentucky State Police; and
- (f) Provide a written explanation for any positive returns on a query of the National Practitioner Data Bank.

(2) If an individual applies to reinstate a license within two (2) years of when the license was last active, the individual shall provide proof of having met the continuing education requirements as outlined in Section 9 of this administrative regulation within those two (2) years.

(3) If the applicant has not actively practiced dentistry in the two (2) consecutive years immediately preceding the filing of the reinstatement application, the applicant shall complete and pass a refresher course approved by the board.

(4) If a license is reinstated in the first year of the biennial license period, the licensee shall complete all of the continuing education requirements as outlined in Section 9 of this administrative regulation prior to the renewal of the license.

(5) If a license is reinstated in the second year of the biennial license period, the licensee shall complete one-half (1/2) of the hours as outlined in Section 9 of this administrative regulation prior to the renewal of the license.

Section 13. Requirements for Verification of Licensure. Each individual desiring verification of a dental license shall:

- (1) Submit a signed and completed Verification of Licensure or Registration Form; and
- (2) Pay the fee required by 201 KAR 8:520.

Section 14. Requesting a Duplicate License. Each individual desiring a duplicate dental license shall:

- (1) Submit a signed and completed Duplicate License or Registration Request Form; and
- (2) Pay the fee required by 201 KAR 8:520.

Section 15. Issuance of Initial Licensure. If an applicant has completed all of the requirements for licensure within six (6) months of the date the application was received at the office of the board, the board shall:

- (1) Issue a license in sequential numerical order; or
- (2) Deny licensure due to a violation of KRS Chapter 313 or 201 KAR Chapter 8.

Section 16. Incorporation by Reference.

(1) The following material is incorporated by reference:

- (a) "Application for Charitable Dental Limited Licensure", May[February] 2023;
- (b) "Application for Dental Licensure", May[February] 2023;
- (c) "Application for Renewal of Dental Licensure", May[February] 2023;
- (d) "Application for Specialty Licensure", February 2023;
- (e) "Application to Reinstate a Dental License", May[February] 2023;
- (f) "Duplicate License or Registration Request Form", December 2022[February 2023];
- (g) "Retirement of License Form", February 2023;
- (h) "Statement Regarding Faculty Licensure Limitations", May[February] 2023;
- (i) "Statement Regarding Student Licensure Limitations", May[February] 2023;
- (j) "Verification of Licensure or Registration Form", February 2023; and
- (k) "2020 American Heart Association Guidelines for CPR and ECC", 2020.

(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](mailto:jeffrey.allen@ky.gov).

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

**At the time that it files this staff suggested substitute the agency needs to file one (1) clean copy of each of the following with an updated edition date of May 2023 on each form and including these changes the agency will need to make:**

##### **"Application for Charitable Dental Limited Licensure"**

- Delete Q11 on Page 2 referencing repealed statute KRS 164.772
- Correct cross reference from 201 KAR 8:532 to 201 KAR 8:533
- Change "must" to "shall"

##### **"Application for Dental Licensure"**

- Delete Q15 on Page 2 referencing repealed statute KRS 164.772

##### **"Application for Renewal of Dental Licensure"**

- Section 2 – Correct cross reference from 201 KAR 8:532 to 201 KAR 8:533
- Get rid of place where have to check that not in default of a financial obligation by KHEAA for consistency with the repeal of KRS 164.772

##### **"Application to Reinstate a Dental License"**

- Delete Q10 referencing repealed statute KRS 164.772

##### **"Statement Regarding Faculty Licensure Limitations"**

- Correct cross reference from 201 KAR 8:532 to 201 KAR 8:533

##### **"Statement Regarding Student Licensure Limitations"**

- Correct cross reference from 201 KAR 8:532 to 201 KAR 8:533



NPDB	Fee
Licensed in	
License Number	
Date Issued	

FOR KBD USE ONLY

# Kentucky Board of Dentistry

Rev. May 2023



312 Whittington Parkway, Ste. 101  
 Louisville, KY 40222  
 502-429-7280  
 dentistry.ky.gov

## APPLICATION FOR CHARITABLE DENTAL LIMITED LICENSURE

Please print in ink or type your responses. List your name as you want it to appear on your license. Return this application, any supporting documents, and \$25 application fee (check or money order made out to Kentucky Board of Dentistry) to the address above.

Charitable Event Name \_\_\_\_\_ Event Date(s) \_\_\_\_\_

Sponsor Organization \_\_\_\_\_ Today's Date \_\_\_\_\_ (Shall be at least 30 days prior to event date)

Name \_\_\_\_\_  
Last/Suffix First Middle

Former Name(s) \_\_\_\_\_ SSN \_\_\_\_\_

Place of Birth \_\_\_\_\_ Date of Birth \_\_\_\_\_ Gender (M/F) \_\_\_\_\_  
mm/dd/yyyy

Citizen of \_\_\_\_\_ If naturalized U.S. citizen, give date and place \_\_\_\_\_

Home Address \_\_\_\_\_  
Number & Street (No P.O. Boxes)

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_ Home/Cell Phone # \_\_\_\_\_

Business Address \_\_\_\_\_  
Business Name Number & Street (No P.O. Boxes)

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_ Office Phone # \_\_\_\_\_

Preferred Mailing Address  Home  Business Email Address \_\_\_\_\_

Dental Education	School	Location	Degree	Dates Attended
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Other State Licenses - List all states where you have held or presently hold a dental license. Attach an additional sheet if necessary.

State	License #	State	License #
_____	_____	_____	_____
_____	_____	_____	_____

Practice History - Give all places of practice since graduation, listing most recent first. Attach an additional sheet if necessary.

Business Name	Address	Dates
_____	_____	_____
_____	_____	_____
_____	_____	_____

If you answer NO to question 1, please attach a full written explanation.

- 1. Do you understand, read, speak, and write the English language with a comprehension and performance level equal to at least the ninth grade of education, otherwise known as Level 4? .....  Yes  No

If you answer YES to any of questions 2-9, please attach a full written explanation.

- 2. Has any dental license held by you had any type of disciplinary action taken against it by any state board or government agency? .....  Yes  No
- 3. Are any disciplinary actions pending against your license by any state board or government agency .....  Yes  No
- 4. Has a dental license ever been denied to you by any state? .....  Yes  No
- 5. Have you ever voluntarily surrendered your license while under investigation in any state? .....  Yes  No
- 6. Have you been suspended, sanctioned, or restricted in any way from participating in any insurance program (including Medicare or Medicaid)? .....  Yes  No
- 7. Has your DEA permit ever been limited or relinquished? .....  Yes  No
- 8. Have you ever been convicted of a misdemeanor or felony? .....  Yes  No
- 9. Have you ever been sued for malpractice or professional negligence? .....  Yes  No
- 10. Do you currently have an obligation in a financial aid program administered by the Kentucky Higher Education Assistance Authority (KHEAA)? .....  Yes  No

**Notarized Affidavit - To be completed in the presence of a notary**

I, \_\_\_\_\_, being duly sworn state that I am the person referred to in the foregoing application and that the photograph attached hereto is of myself and that the statements made herein are true, accurate, and complete to the best of my belief. I understand that the submission of any false or fraudulent information in connection with this application is grounds for criminal prosecution and denial of licensure.

By submitting this application to the Kentucky Board of Dentistry, I agree to comply with the standards set in KRS 313.254, 201 KAR 8:532, and 201 KAR 8:581 as they relate to the practice of charitable dentistry. I understand that I may only perform procedures that are typically performed in a single appointment, that the procedures shall be completed within the duration of the charitable event, and that I shall perform them without expectation of compensation. I understand that I shall work only with charitable entities registered with the Kentucky Cabinet for Health and Family Services and that I shall perform dental services for no more than ten days during any given charitable event. I understand that, if issued, my charitable limited license shall be valid for no more than two years, and that upon expiration I shall reapply for charitable limited licensure if I intend to continue charitable dental work in Kentucky.

*Attach a head and shoulders photograph taken within the past six months.*

*No hats, please.*

Applicant's Signature \_\_\_\_\_

\_\_\_\_\_ For Use by Notary Public \_\_\_\_\_

State of \_\_\_\_\_

County of \_\_\_\_\_

Signed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

Notary Signature \_\_\_\_\_

My commission expires \_\_\_\_\_

Fee	Date
Transcript	Jurisprudence
NB	Clinical
Background	NPDB
Verification	CPR
License Number	
Date of Issue	

FOR KBD USE ONLY

# Kentucky Board of Dentistry



312 Whittington Parkway, Suite 101  
 Louisville, KY 40222  
 502-429-7280  
 kbd@ky.gov  
 dentistry.ky.gov

## APPLICATION FOR DENTAL LICENSURE

Please print in ink or type your responses. List your name as you want it to appear on your license.

Name \_\_\_\_\_  
Last/Suffix First Middle

Former Name(s) \_\_\_\_\_ SSN \_\_\_\_\_

Place of Birth \_\_\_\_\_ Date of Birth \_\_\_\_\_ Gender (M/F) \_\_\_\_\_  
mm/dd/yyyy

Citizen of \_\_\_\_\_ If naturalized U.S. citizen, give date and place \_\_\_\_\_

Home address \_\_\_\_\_  
Number & Street PO Boxes Not Acceptable

\_\_\_\_\_  
City State ZIP KY County Phone #

Intended business address \_\_\_\_\_  
Business Name Number & Street PO Boxes Not Acceptable

\_\_\_\_\_  
City State ZIP KY County Phone #

Preferred mailing address  Home  Business  Other \_\_\_\_\_

Email address \_\_\_\_\_ Cell phone number \_\_\_\_\_

Applying for  Full licensure by exam  Full licensure by credentials  Student limited licensure  Faculty limited licensure

Name of clinical exam \_\_\_\_\_ Date of exam \_\_\_\_\_ Location of exam \_\_\_\_\_

DEA Permit Number \_\_\_\_\_

### Dental Education

Name of School	Location	# of Years	Degree	Dates Attended
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

### Other State Licenses

List all states in which you have held or presently hold a dental license. Attach an additional sheet if necessary.

State	License #	State	License #
_____	_____	_____	_____
_____	_____	_____	_____



Fee	Date
Approved by	
License number	
Date Issued	

FOR KBD USE ONLY

# Kentucky Board of Dentistry



312 Whittington Parkway, Ste. 101  
Louisville, KY 40222  
502-429-7280  
kdb@ky.gov  
dentistry.ky.gov

## APPLICATION FOR RENEWAL OF DENTAL LICENSURE

Please print in ink or type your responses, using your name as it appears on your dental license. Return this completed application and renewal fee of \$295 (add \$50 if also renewing a sedation permit) with a check or money order made out to the Kentucky Board of Dentistry to the address above. Once your application is processed, you will be notified of your successful license renewal.

### Section 1. Licensee Information

Name: Last/Suffix \_\_\_\_\_ First \_\_\_\_\_ Middle \_\_\_\_\_

License # \_\_\_\_\_ Phone \_\_\_\_\_ Email \_\_\_\_\_

Mailing Address \_\_\_\_\_ City, State, Zip \_\_\_\_\_

Has the information provided above changed at all since your last renewal? If, so which one(s)? \_\_\_\_\_

### Section 2. Eligibility Criteria

The licensee shall meet the eligibility criteria for license renewal as per 201 KAR 8:533, Section 10\* and attest to the following:

*Initial*

- \_\_\_\_\_ I have actively practiced dentistry in the previous two years.
- \_\_\_\_\_ I have maintained my CPR certification which meets or exceeds the American Heart Association guidelines.
- \_\_\_\_\_ I have completed all CE requirements to renew my license and, if applicable, any sedation permit(s) I may hold.
- \_\_\_\_\_ I have not had a dental license denied, revoked, suspended or disciplined by another state or territory.
- \_\_\_\_\_ I have not been convicted of, pled guilty to, or entered an Alford plea for a felony or misdemeanor since my last renewal.

*\*If you do not meet the above criteria, are unsure of your renewal eligibility, or have other questions, please contact the Board of Dentistry office.*

### Section 3. Affidavit

I hereby attest that the above facts are true and that I meet the minimum qualifications for license renewal. I agree to abide by the rules and regulations set by the Kentucky Board of Dentistry and acknowledge that failure to comply with the requirements for license renewal or the submission of false information subjects my license to disciplinary action pursuant to KRS 313.100.

Applicant's Signature \_\_\_\_\_ Date \_\_\_\_\_



Fee	Date
Background	NPDB
Verification	CPR
License Number	
Date of Issue	

FOR KBD USE ONLY

# Kentucky Board of Dentistry



312 Whittington Parkway, Suite 101  
 Louisville, KY 40222  
 502-429-7280  
 kbd@ky.gov  
 dentistry.ky.gov

## APPLICATION TO REINSTATE A DENTAL LICENSE

Please print in ink or type your responses. List your name as you want it to appear on your license.

Name \_\_\_\_\_  
Last/Suffix First Middle

Former Name(s) \_\_\_\_\_ SSN \_\_\_\_\_

Place of Birth \_\_\_\_\_ Date of Birth \_\_\_\_\_ Gender (M/F) \_\_\_\_\_  
mm/dd/yyyy

Home address \_\_\_\_\_  
Number & Street PO Boxes Not Acceptable

\_\_\_\_\_  
City State ZIP KY County Phone #

Intended business address \_\_\_\_\_  
Business Name Number & Street PO Boxes Not Acceptable

\_\_\_\_\_  
City State ZIP KY County Phone #

Preferred mailing address  Home  Business  Other \_\_\_\_\_

Email address \_\_\_\_\_ Cell phone number \_\_\_\_\_

Applying for  Reinstatement of licensure

Name of clinical exam \_\_\_\_\_ Date of exam \_\_\_\_\_ Location of exam \_\_\_\_\_

DEA Permit Number \_\_\_\_\_ FORMER KY LICENSE NUMBER \_\_\_\_\_

FORMER KY SPECIALTY NUMBER \_\_\_\_\_ FORMER KY ANESTHESIA PERMIT NUMBER \_\_\_\_\_

### Other State Licenses

List all states in which you have held or presently hold a dental license. Attach an additional sheet if necessary.

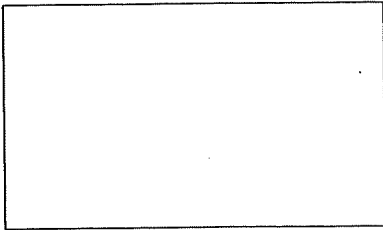
State	License #	State	License #
_____	_____	_____	_____
_____	_____	_____	_____

### Practice History

Give all places of practice since graduation, listing most recent first. Attach an additional sheet if necessary.

Business Name	Address	Dates
_____	_____	_____
_____	_____	_____





FOR KBD USE ONLY

# Kentucky Board of Dentistry



312 Whittington Parkway, Ste. 101  
Louisville, KY 40222  
502-429-7280  
dentistry.ky.gov

## STATEMENT REGARDING FACULTY LICENSURE LIMITATIONS

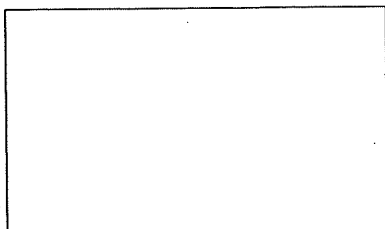
In accordance with KAR 8:533, Section 5, I understand that upon receipt of a Faculty Limited License issued by the Board of Dentistry, I will be authorized to practice dentistry only in conjunction with programs of the dental school where I am a faculty member, and that I may only provide professional services to patients of these programs.

I further acknowledge that I am solely responsible for the requirements of maintaining and renewing my Faculty Limited License as set out in statute and regulation.

Name \_\_\_\_\_ University Name \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_





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# Kentucky Board of Dentistry



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Louisville, KY 40222  
502-429-7280  
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## STATEMENT REGARDING STUDENT LICENSURE LIMITATIONS

In accordance with KAR 8:533, Section 4, I understand that upon receipt of a Student Limited License issued by the Board of Dentistry, I will be authorized to practice dentistry only in conjunction with programs of the dental school where I am a student, and that I may only provide professional services to patients of these programs.

I further acknowledge that I am solely responsible for the requirements of maintaining and renewing my Student Limited License as set out in statute and regulation.

Name \_\_\_\_\_ University Name \_\_\_\_\_

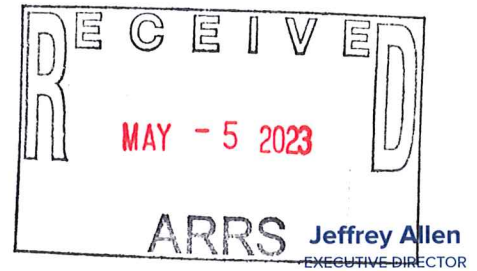
Program Name \_\_\_\_\_ Expected Date of Program Completion \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_



## BOARD OF DENTISTRY

312 Whittington Parkway, Suite 101  
Louisville, Kentucky 40222  
Phone: (502) 429-7280  
Fax: (502) 429-7282  
<http://dentistry.ky.gov>



**Andy Beshear**  
GOVERNOR

March 5, 2023

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

Re: **201 KAR 8:563**. Licensure of Dental Hygienists.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 8:563, the Board of Dentistry proposes the attached amendment to 201 KAR 8:563.

Sincerely,

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

**TEAM**  
**KENTUCKY™**

An Equal Opportunity Employer M/F/D

Final, 4-28-2023

SUGGESTED SUBSTITUTE

GENERAL GOVERNMENT CABINET  
Board of Dentistry

**201 KAR 8:563. Licensure of dental hygienists.**

RELATES TO: KRS ~~[214.615, ]~~304.40 - 075, 313.030, 313.040, 313.060, 313.080, 313.130, 313.254  
STATUTORY AUTHORITY: KRS ~~[214.615(2), ]~~313.021(1)(a), (b), (c), 313.040(1), (2), (7), 313.254  
NECESSITY, FUNCTION, AND CONFORMITY: KRS 313.040 requires the board to promulgate administrative regulations relating to requirements and procedures for the licensure of dental hygienists. This administrative regulation establishes requirements and procedures for the licensure of dental hygienists.

Section 1. General Licensure Requirements. An applicant desiring licensure in the Commonwealth shall at a minimum:

- (1) Understand, read, speak, and write the English language with a comprehension and performance level equal to at least the ninth grade of education, verified by testing as necessary;
- (2) Submit a completed, signed, and notarized Application for Dental Hygiene Licensure with an attached applicant photo taken within the past six (6) months;
- (3) Pay the fee required by 201 KAR 8:520;
- (4) Not be currently subject to disciplinary action pursuant to KRS Chapter 313 that would prevent licensure;
- (5) Complete and pass the board's jurisprudence exam;
- (6) Provide proof of having current certification in cardiopulmonary resuscitation (CPR) that meets or exceeds the American Heart Association Guidelines for CPR and ECC, incorporated by reference in 201 KAR 8:~~533~~532;
- (7) Submit to a nationwide state and federal criminal background check by fingerprint through the Department of Kentucky State Police;
- (8) Provide verification within three (3) months of the date the application is received at the office of the board of any license to practice dental hygiene held previously or currently in any state or jurisdiction;
- (9) Provide proof that the applicant is a graduate of a Commission on Dental Accreditation (CODA) accredited dental hygiene school or college or dental hygiene department of a university;
- (10) Provide proof that the applicant has successfully completed the National Board Dental Hygiene Examination, which is written and theoretical, conducted by the Joint Commission on National Dental Examinations; and
- (11) Provide a written explanation for any positive returns on a query of the National Practitioner Data Bank.

Section 2. Requirements for Licensure by Examination.

- (1) Each individual desiring initial licensure as a dental hygienist by examination shall complete all of the requirements established in Section 1 of this administrative regulation.
- (2) Each individual desiring initial licensure as a dental hygienist by examination shall successfully complete a clinical examination within the five (5) years preceding the filing of his or her Application for Dental Hygiene Licensure. The board shall accept the following regional clinical examinations:
  - (a) The examination of the Council of Interstate Testing Agencies (CITA);
  - (b) The examination of the Central Regional Dental Testing Service (CRDTS);
  - (c) The examination of the Commission on Dental Competency Assessments (CDCA);
  - (d) The examination of the Southern Regional Testing Agency (SRTA); or
  - (e) The examination of the Western Regional Examining Board (WREB).
- (3) An individual desiring initial licensure as a dental hygienist by examination more than two (2) years after fulfilling all of the requirements of his or her CODA accredited dental hygiene education shall:

- (a) Hold a license to practice dental hygiene in good standing in another state or territory of the United States or the District of Columbia; or
  - (b) If the applicant does not hold a license to practice dental hygiene in good standing, complete a board-approved refresher course prior to receiving a license to practice dental hygiene in the Commonwealth of Kentucky.
- (4) An applicant who has taken a clinical examination three (3) times and failed to achieve a passing score shall not be allowed to sit for the examination again until the applicant has completed and passed a remediation plan prescribed by the board based on the applicant's deficiencies.

Section 3. Requirements for Licensure by Credentials. Each individual desiring initial licensure as a dental hygienist by credentials shall:

- (1) Complete all of the requirements established in Section 1 of this administrative regulation;
- (2) Provide proof of having passed a state, regional, or national clinical examination used to determine clinical competency in a state or territory of the United States or the District of Columbia; and
- (3) Provide proof that, for five (5) of the six (6) years immediately preceding the filing of the application, the applicant has been engaged in the active practice of dental hygiene while he or she was legally authorized to practice dental hygiene in a state or territory of the United States or the District of Columbia if the qualifications for the authorization were equal to or higher than those of the Commonwealth of Kentucky.

Section 4. Requirements for Charitable Limited Licensure.

- (1) Each individual desiring a charitable limited license shall:
  - (a) Understand, read, speak, and write the English language with a comprehension and performance level equal to at least the ninth grade of education, verified by testing as necessary;
  - (b) Submit a completed, signed, and notarized Application for Charitable Dental Hygiene Limited Licensure with an attached applicant photo taken within the past six (6) months[month];
  - (c) Pay the fee required by 201 KAR 8:520;
  - (d) Not be subject to disciplinary action pursuant to KRS Chapter 313 that would prevent licensure;
  - (e) Have a license to practice dental hygiene in good standing in another state; and
  - (f) Provide a written explanation for any positive returns on a query of the National Practitioner Data Bank.
- (2) An individual licensed pursuant to this section shall:
  - (a) Work only with charitable entities registered with the Cabinet for Health and Family Services that have met requirements of KRS 313.254 and 201 KAR 8:581;
  - (b) Only perform procedures allowed by KRS 313.254, which shall be completed within the duration of the charitable event;
  - (c) Be eligible for the provisions of medical malpractice insurance procured pursuant to KRS 304.40-075;
  - (d) Perform these duties without expectation of compensation or charge to the individual and without payment or reimbursement by any governmental agency or insurer;
  - (e) Have a charitable limited license that shall be good for two (2) years and expire during the regular dental hygiene renewal cycle; and
  - (f) Comply with reciprocity requirements if applicable.
    - 1. A state that extends a reciprocal agreement shall comply with this section.
    - 2. An individual shall notify the sponsor of a charitable clinic and the board of the intent to conduct or participate in the clinic.
    - 3. An individual conducting or participate in a charitable clinic shall have a license to practice dental hygiene in the state in which the dental hygienist practices.

Section 5. Minimum Continuing Education Requirements.

- (1) Each individual desiring renewal of an active dental hygiene license shall complete thirty (30) hours of continuing education that relates to or advances the practice of dental hygiene and would be useful to the licensee in his or her practice.
- (2) Acceptable continuing education hours shall include course content designed to increase:

- (a) Competency in treating patients who are medically compromised or who experience medical emergencies during the course of dental hygiene treatment;
  - (b) Knowledge of pharmaceutical products and the protocol of the proper use of medications;
  - (c) Awareness of currently accepted methods of infection control;
  - (d) Knowledge of basic medical and scientific subjects including, biology, physiology, pathology, biochemistry, pharmacology, epidemiology, and public health;
  - (e) Knowledge of clinical and technological subjects;
  - (f) Knowledge of subjects pertinent to patient management, safety, and oral healthcare;
  - (g) Competency in assisting in mass casualty or mass immunization situations;
  - (h) Clinical skills through the volunteer of clinical charitable dental hygiene that meets the requirements of KRS 313.254;
  - (i) Knowledge of office business operations and best practices; or
  - (j) Participation in dental or dental hygiene association or society business meetings.
- (3) A minimum of ten (10) hours shall be taken in a live interactive presentation format.
- (4) A maximum of ten (10) hours total may be taken that meet the requirements of subsection (2)(h) - (j) of this section.
- (5) For dental hygienists registered to practice under general supervision, a minimum of three (3) hours **shall[must]** be taken in medical emergencies as described in Section 12(1)(d) of this administrative regulation in order to renew their registration.
- (6) For dental hygienists registered to practice as public health hygienists, a minimum of three (3) hours **shall[must]** be taken in medical emergencies as described in Section 15(1)(d) of this administrative regulation in order to renew their registration.
- (7) All continuing education hours shall be verified by the receipt of a certificate of completion or certificate of attendance bearing:
- (a) The signature of the provider;
  - (b) The name of the licensee in attendance;
  - (c) The title of the course or meeting attended or completed;
  - (d) The date of attendance or completion;
  - (e) The number of hours earned; and
  - (f) Evidence of the method of delivery if the course was taken in a live interactive presentation format.
- (8) It shall be the sole responsibility of the individual dental hygienist to obtain documentation from the provider or sponsoring organization verifying participation as established in subsection **(7)[(5)]** of this section and to retain the documentation for a minimum of five (5) years.
- (9) At license renewal, each licensee shall attest to the fact that he or she has complied with the requirements of this section.
- (10) Each licensee shall be subject to audit of proof of continuing education compliance by the board.

#### Section 6. Requirements for Renewal of a Dental Hygiene License.

- (1) Each individual desiring renewal of an active dental hygiene license shall:
- (a) Submit a completed, signed Application for Renewal of Dental Hygiene Licensure;
  - (b) Pay the fee required by 201 KAR 8:520;
  - (c) Maintain, with no more than a thirty (30) day lapse, CPR certification that meets or exceeds the American Heart Association Guidelines for CPR and ECC, incorporated by reference in 201 KAR 8:**533[530]**, unless a hardship waiver is submitted to and subsequently approved by the board; and
  - (d) Meet the continuing education requirements as established in Section 5 of this administrative regulation except in the following cases:
    - 1. If a hardship waiver has been submitted to and is subsequently approved by the board;
    - 2. If the licensee graduated in the first year of the biennial license period, the licensee shall complete one-half (1/2) of the hours as established in Section 5 of this administrative regulation; and
    - 3. If the licensee graduated in the second year of the biennial license period, the licensee shall not be required to complete the continuing education requirements established in Section 5 of this administrative regulation.

(2) If a licensee has not actively practiced dental hygiene in the two (2) consecutive years preceding the filing of the renewal application, he or she shall complete and pass a board-approved refresher course prior to resuming the active practice of dental hygiene.

#### Section 7. Retirement of a License.

- (1) Each individual desiring retirement of a dental hygiene license shall submit a completed and signed Retirement of License Form, incorporated by reference in 201 KAR 8: ~~533~~**532**.
- (2) Upon receipt of Retirement of License Form, the board shall send written confirmation of retirement to the last known address of the licensee.
- (3) A licensee shall not retire a license that has pending disciplinary action against it.
- (4) Each retirement shall be effective upon the processing of the completed and signed Retirement of License Form by the board.

#### Section 8. Reinstatement of a License.

- (1) Each individual desiring reinstatement of a properly retired dental hygiene license shall:
  - (a) Submit a completed, signed, and notarized Application to Reinstatement of a Dental Hygiene License with an attached applicant photo taken within the past six (6) months;
  - (b) Pay the fee required by 201 KAR 8:520;
  - (c) Show proof of having current certification in CPR that meets or exceeds the American Heart Association Guidelines for CPR and ECC, incorporated by reference in 201 KAR 8: ~~533~~**532**;
  - (d) Provide verification within three (3) months of the date the Application to Reinstatement of a Dental Hygiene License is received at the office of the board of any license to practice dental hygiene held previously or currently in any state or jurisdiction;
  - (e) Submit to a nationwide state and federal criminal background check by fingerprint through the Department of Kentucky State Police; and
  - (f) Provide a written explanation for any positive returns on a query of the National Practitioner Data Bank.
- (2) If an individual applies to reinstate a license within two (2) years of when the license was last active, the individual shall provide proof of having met the continuing education requirements as established in Section 5 of this administrative regulation within those two (2) years.
- (3) If the applicant has not actively practiced dental hygiene in the two (2) consecutive years immediately preceding the filing of the Application to Reinstatement of a Dental Hygiene License, the applicant shall complete and pass a refresher course approved by the board.
- (4) If a license is reinstated in the first year of the biennial license period, the licensee shall complete all of the continuing education requirements as established in Section 5 of this administrative regulation prior to the renewal of his or her license.
- (5) If a license is reinstated in the second year of the biennial license period, the licensee shall complete one-half (1/2) of the hours as established in Section 5 of this administrative regulation prior to the renewal of his or her license.

#### Section 9. Requirements for Verification of Licensure. Each individual desiring verification of a dental hygiene license shall:

- (1) Submit a signed and completed Verification of Licensure or Registration Form, incorporated by reference in 201 KAR 8: ~~533~~**532**; and
- (2) Pay the fee required by 201 KAR 8:520.

#### Section 10. Requesting a Duplicate License. Each individual desiring a duplicate dental hygiene license shall:

- (1) Submit a signed and completed Duplicate License or Registration Request Form, incorporated by reference in 201 KAR 8: ~~533~~**532**; and
- (2) Pay the fee required by 201 KAR 8:520.

#### Section 11. Requirements for Local Anesthesia Registration.

- (1) An individual licensed as a dental hygienist in Kentucky and not subject to disciplinary action who desires to administer local anesthesia shall:
  - (a) Complete the Application for Dental Hygiene Special Registrations;
  - (b) Pay the fee required by 201 KAR 8:520; and
  - (c) Document successful completion of an educational program which meets or exceeds the requirements established in KRS 313.060(10).
- (2) Individuals authorized to practice pursuant to this provision shall receive a license from the board indicating registration to administer local anesthesia.
- (3) A licensed dental hygienist shall not administer local anesthesia if the licensee does not hold a local anesthesia registration issued by the board.
- (4) A licensed dental hygienist holding a local anesthesia registration from the board who has not administered block anesthesia, infiltration anesthesia, or nitrous oxide analgesia for one (1) year shall complete a board-approved refresher course prior to resuming practice of that specific technique.

#### Section 12. Requirements for General Supervision Registration.

- (1) An individual licensed as a dental hygienist in Kentucky and not subject to disciplinary action who desires to practice under general supervision shall:
  - (a) Complete the Application for Dental Hygiene Special Registrations;
  - (b) Meet the requirements of KRS 313.040(7)(a);
  - (c) Document through payroll records, employment records, or other proof that is independently verifiable, the dates and hours of employment by a dentist in the practice of dental hygiene that demonstrate the required two (2) years and 3,000 hours of experience; and
  - (d) During each biennial license period, successfully complete a live three (3) hour course approved by the board in the identification and prevention of potential medical emergencies that shall include, at a minimum, the following topics:
    1. Medical history, including American Society of Anesthesiologists (ASA) classifications of physical status;
    2. Recognition of common medical emergency situations, symptoms, and possible outcomes;
    3. Office emergency protocols; and
    4. Prevention of emergency situations during dental treatments.
- (2) An individual authorized to practice pursuant to these provisions shall receive a license from the board indicating registration to practice under general supervision.
- (3) A dentist who employs a dental hygienist who has met the standards of this administrative regulation and who allows the dental hygienist to provide dental hygiene services pursuant to KRS 313.040(7) shall complete a written order prescribing the dental service or procedure to be done to a specific patient by the dental hygienist and shall retain the original order in the patient's dental record.
- (4) The minimum requirements for the written order shall include:
  - (a) Medical history update;
  - (b) Radiographic records requested;
  - (c) Dental hygiene procedures requested;
  - (d) Name of the patient;
  - (e) Date of last oral examination;
  - (f) Date of the written order; and
  - (g) Signature of the dentist.
- (5) The oral examination of the patient by the supervising dentist shall have been completed within the seven (7) months preceding treatment by the dental hygienist practicing under general supervision.
- (6) The supervising dentist shall evaluate and provide to the board written validation of an employed dental hygienist's skills necessary to perform dental hygiene services established in KRS 313.040(7) as part of the Application for Dental Hygiene Special Registrations.
- (7) The supervising dentist shall provide a written protocol addressing the medically compromised patients who may or may not be treated by the dental hygienist. The dental hygienist shall only treat patients who are in the ASA Patient Physical Status Classification of ASA I or ASA II as established in Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students, as incorporated by reference in 201 KAR 8:550.

(8) A licensed dental hygienist shall not practice under general supervision if the licensee does not hold a general supervision registration issued by the board.

#### Section 13. Requirements for Intravenous Access Line Registration.

(1) An individual licensed as a dental hygienist in Kentucky and not subject to disciplinary action who desires to start intravenous (IV) access lines shall:

- (a) Submit a signed and completed Application for Dental Hygiene Special Registrations;
- (b) Pay the fee required by 201 KAR 8:520; and
- (c) Submit documentation proving successful completion of a board-approved course in starting IV access lines.

(2) An individual authorized to practice pursuant to this provision shall receive a license from the board indicating registration to start IV access lines.

(3) A licensed dental hygienist shall not start an IV access line if the licensee does not:

- (a) Hold a board-issued registration to start IV access lines; or
- (b) Work under the direct supervision of a dentist who holds a sedation or anesthesia permit issued by the board.

#### Section 14. Requirements for Laser Debridement Registration.

(1) An individual licensed as a dental hygienist in Kentucky and not subject to disciplinary action who desires to perform laser debridement shall:

- (a) Submit a signed and completed Application for Dental Hygiene Special Registrations;
- (b) Pay the fee required by 201 KAR 8:520; and
- (c) Submit documentation proving successful completion of a board-approved course in performing laser debridement.

(2) An individual authorized to practice pursuant to this provision shall receive a license from the board indicating registration to perform laser debridement.

(3) A licensed dental hygienist shall not perform laser debridement if the licensee does not:

- (a) Hold a board-issued registration to perform laser debridement; or
- (b) Work under the direct supervision of a dentist.

#### Section 15. Requirements for Public Health Registration.

(1) An individual licensed as a dental hygienist in Kentucky and not subject to disciplinary action who desires to practice as a public health registered dental hygienist shall:

- (a) Submit a completed Application for Dental Hygiene Special Registration;
- (b) Meet the requirements established in KRS 313.040(8);
- (c) Document through payroll records, employment records, or other proof that is independently verifiable, the dates and hours of employment by a dentist in the practice of dental hygiene that demonstrate the required two (2) years and 3,000 hours of experience; **[and]**
- (d) During each biennial license period, successfully complete a live three (3) hour course approved by the board in the identification and prevention of potential medical emergencies that shall include, at a minimum, the following topics:

1. Medical history, including American Society of Anesthesiologists (ASA) classifications of physical status;
2. Recognition of common medical emergency situations, symptoms, and possible outcomes;
3. Office emergency protocols; and
4. Prevention of emergency situations during dental treatments; **[and].]**

(e) During each biennial license period, complete at least three (3) hours of continuing education in public health or public dental health.

(2) An individual authorized to practice pursuant to subsection (1) of this section shall receive a certificate from the board indicating registration to practice as a public health registered dental hygienist.

(3) Pursuant to KRS 313.040(8)(c), a public health registered dental hygienist may practice in a government-created public health program at the following sites:

- (a) Local health departments;



- (b) Public or private educational institutions that provide Head Start, preschool, elementary and secondary instruction to school-aged children under the jurisdiction of the State Board of Education, and that have an affiliation agreement with the health department of jurisdiction;
  - (c) Mobile and portable dental health programs under contract with a governing board of health; and
  - (d) Public or private institutions under the jurisdiction of a federal, state, or local agency.
- (4) A public health registered dental hygienist shall perform dental hygiene services only under the supervision of the governing board of health, as required by KRS 313.040(3)(b), as established in KRS 313.040(8), and as identified by the Department for Public Health Practice Reference.
- (a) These services shall be limited to preventative services.
  - (b) The public health registered dental hygienist shall only treat a patient who is in the ASA Patient Physical Status Classification of ASA I or ASA II as established in the current edition of Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students, as incorporated by reference in 201 KAR 8:550.
  - (c) The informed consent shall be required prior to preventative services and shall include:
    1. The name of the public health entity, including the name of the dentist, that assumes responsibility and control;
    2. An inquiry as to the current dentist; and
    3. A statement that services are provided by a dental hygienist without the direct supervision of a dentist.
  - (d) This administrative regulation shall not preclude a Kentucky-licensed dentist from directly participating in a public health program referenced in subsection ~~(3)~~(4)(a), (b), (c), or (d) of this section.

Section 16. Issuance of Initial Licensure. If an applicant has completed the requirements for licensure the board shall:

- (1) Issue a license in sequential numerical order; or
- (2) Deny licensure due to a violation of KRS Chapter 313 or 201 KAR Chapter 8.

Section 17. Incorporation by Reference.

- (1) The following material is incorporated by reference:
  - (a) "Application for Charitable Dental Hygiene Limited Licensure", ~~May~~**February** 2023;
  - (b) "Application for Dental Hygiene Licensure", ~~May~~**February** 2023;
  - (c) "Application for Dental Hygiene Special Registrations", February 2023;
  - (d) "Application for Renewal of Dental Hygiene Licensure", ~~May~~**February** 2023; and
  - (e) "Application to Reinstate a Dental Hygiene License", ~~May~~**February** 2023.
- (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](mailto:jeffrey.allen@ky.gov).

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

**At the time that it files this staff suggested substitute the agency needs to file one (1) clean copy of each of the following with an updated edition date of May 2023 on each form and including these changes the agency will need to make:**

#### **"Application for Charitable Dental Hygiene Limited Licensure"**

- Delete Q10 on Page 2 referencing repealed statute KRS 164.772
- Correct cross reference from 201 KAR 8:562 to 201 KAR 8:563

- Change “must” to “shall”

**“Application for Dental Hygiene Licensure”**

- Delete Q11 on Page 2 referencing repealed statute KRS 164.772
- Delete language on Page 2 asking if a graduate of a board approved CODA accredited program on or after July 15, 2010 that was in a prior version of this administrative regulation and continue the deletion up until the notary affidavit. This includes the cross reference to 201 KAR 8:560, Section 11 that was in the prior expired version of the regulation.

**“Application for Renewal of Dental Hygiene Licensure”**

- Section 2 – Correct cross reference from 201 KAR 8:562 to 201 KAR 8:563
- Get rid of place where have to check that not in default of a financial obligation by KHEAA for consistency with the repeal of KRS 164.772

**“Application to Reinstate a Dental Hygiene License”**

- Delete Q8 referencing repealed statute KRS 164.772

NPDB	Fee
Licensed in	
License Number	
Date Issued	

FOR KBD USE ONLY

# Kentucky Board of Dentistry

Rev. May 2023



312 Whittington Parkway, Ste. 101  
 Louisville, KY 40222  
 502-429-7280  
 dentistry.ky.gov

## APPLICATION FOR CHARITABLE DENTAL HYGIENE LIMITED LICENSURE

Please print in ink or type your responses. List your name as you want it to appear on your license. Return this application, any supporting documents, and \$25 application fee (check or money order made out to Kentucky Board of Dentistry) to the address above.

Charitable Event Name \_\_\_\_\_ Event Date(s) \_\_\_\_\_

Sponsor Organization \_\_\_\_\_ Today's Date \_\_\_\_\_ (Shall be at least 30 days prior to event date)

Name \_\_\_\_\_  
Last/Suffix First Middle

Former Name(s) \_\_\_\_\_ SSN \_\_\_\_\_

Place of Birth \_\_\_\_\_ Date of Birth \_\_\_\_\_ Gender (M/F) \_\_\_\_\_  
mm/dd/yyyy

Citizen of \_\_\_\_\_ If naturalized U.S. citizen, give date and place \_\_\_\_\_

Home Address \_\_\_\_\_  
Number & Street (No P.O. Boxes)

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_ Home/Cell Phone # \_\_\_\_\_

Business Address \_\_\_\_\_  
Business Name Number & Street (No P.O. Boxes)

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_ Office Phone # \_\_\_\_\_

Preferred Mailing Address  Home  Business Email Address \_\_\_\_\_

Dental Hygiene Education	School	Location	Degree	Dates Attended
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Other State Licenses - List all states where you have held or presently hold a hygiene license. Attach an additional sheet if necessary.

State	License #	State	License #
_____	_____	_____	_____
_____	_____	_____	_____

Practice History - Give all places of practice since graduation, listing most recent first. Attach an additional sheet if necessary.

Business Name	Address	Dates
_____	_____	_____
_____	_____	_____
_____	_____	_____

If you answer NO to question 1, please attach a full written explanation.

- 1. Do you understand, read, speak, and write the English language with a comprehension and performance level equal to at least the ninth grade of education, otherwise known as Level 4? .....  Yes  No

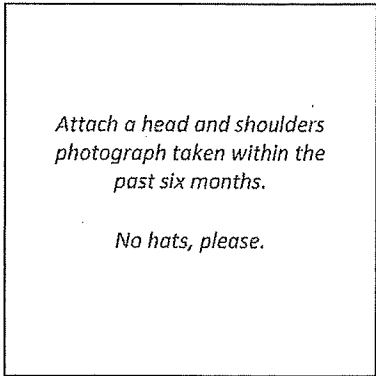
If you answer YES to any of questions 2-8, please attach a full written explanation.

- 2. Has any dental hygiene license held by you had any type of disciplinary action taken against it by any state board or government agency? .....  Yes  No
- 3. Are any disciplinary actions pending against your license by any state board or government agency .....  Yes  No
- 4. Has a license ever been denied to you by any state? .....  Yes  No
- 5. Have you ever voluntarily surrendered your license while under investigation in any state? .....  Yes  No
- 6. Have you been suspended, sanctioned, or restricted in any way from participating in any insurance program (including Medicare or Medicaid)? .....  Yes  No
- 7. Have you ever been convicted of a misdemeanor or felony? .....  Yes  No
- 8. Have you ever been sued for malpractice or professional negligence? .....  Yes  No
- 9. Do you currently have an obligation in a financial aid program administered by the Kentucky Higher Education Assistance Authority (KHEAA)? .....  Yes  No

Notarized Affidavit - To be completed in the presence of a notary.

I, \_\_\_\_\_, being duly sworn state that I am the person referred to in the foregoing application and that the photograph attached hereto is of myself and that the statements made herein are true, accurate, and complete to the best of my belief. I understand that the submission of any false or fraudulent information in connection with this application is grounds for criminal prosecution and denial of licensure.

By submitting this application to the Kentucky Board of Dentistry, I agree to comply with the standards set in KRS 313.254, 201 KAR 8:563, and 201 KAR 8:581 as they relate to the practice of charitable dental hygiene. I understand that I may only perform procedures that are typically performed in a single appointment, that the procedures shall be completed within the duration of the charitable event, and that I shall perform them without expectation of compensation. I understand that I shall work only with charitable entities registered with the Kentucky Cabinet for Health and Family Services and that I shall perform dental services for no more than ten days during any given charitable event. I understand that, if issued, my charitable limited license shall be valid for no more than two years, and that upon expiration I shall reapply for charitable limited licensure if I intend to continue charitable dental work in Kentucky.



Applicant's Signature \_\_\_\_\_

\_\_\_\_\_ For Use by Notary Public \_\_\_\_\_

State of \_\_\_\_\_

County of \_\_\_\_\_

Signed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

Notary Signature \_\_\_\_\_

My commission expires \_\_\_\_\_





Fee	Date
Approved by	
License number	
Date Issued	

FOR KBD USE ONLY

# Kentucky Board of Dentistry



312 Whittington Parkway, Ste. 101  
 Louisville, KY 40222  
 502-429-7280  
 kbd@ky.gov  
 dentistry.ky.gov

## APPLICATION FOR RENEWAL OF DENTAL HYGIENE LICENSURE

Please print in ink or type your responses, using your name as it appears on your dental hygiene license. Return this completed application and renewal fee of \$110 (check or money order made out to the Kentucky Board of Dentistry) to the address above. Once your application is processed, you will be notified of your successful license renewal.

### Section 1. Licensee Information

Name: Last/Suffix \_\_\_\_\_ First \_\_\_\_\_ Middle \_\_\_\_\_

License # \_\_\_\_\_ Phone \_\_\_\_\_ Email \_\_\_\_\_

Mailing Address \_\_\_\_\_ City, State, Zip \_\_\_\_\_

Has the information provided above changed at all since your last renewal? If, so which one(s)? \_\_\_\_\_

### Section 2. Eligibility Criteria

The licensee shall meet the eligibility criteria for license renewal as per 201 KAR 8:563, Section 6\* and attest to the following:

*Initial*

- \_\_\_\_\_ I have actively practiced dental hygiene in the previous two years.
- \_\_\_\_\_ I have maintained my CPR certification which meets or exceeds the American Heart Association guidelines.
- \_\_\_\_\_ I have completed all CE requirements to renew my license as well as that of any special registrations I may hold.
- \_\_\_\_\_ I have not had a dental hygienist license denied, revoked, suspended or disciplined by another state or territory.
- \_\_\_\_\_ I have not been convicted of, pled guilty to, or entered an Alford plea for a felony or misdemeanor since my last renewal.

*\*If you do not meet the above criteria, are unsure of your renewal eligibility, or have other questions, please contact the Board of Dentistry office.*

### Section 3. Affidavit

I hereby attest that the above facts are true and that I meet the minimum qualifications for license renewal. I agree to abide by the rules and regulations set by the Kentucky Board of Dentistry and acknowledge that failure to comply with the requirements for license renewal or the submission of false information subjects my license to disciplinary action pursuant to KRS 313.100.

Applicant's Signature \_\_\_\_\_ Date \_\_\_\_\_



Fee	Date
Background	NPDB
Verification	CPR
License Number	
Date of Issue	

FOR KBD USE ONLY

# Kentucky Board of Dentistry



312 Whittington Parkway, Suite 101  
 Louisville, KY 40222  
 502-429-7280  
 kbd@ky.gov  
 dentistry.ky.gov

## APPLICATION TO REINSTATE A DENTAL HYGIENE LICENSE

Please print in ink or type your responses. List your name as you want it to appear on your license.

Name \_\_\_\_\_  
Last/Suffix First Middle

Former Name(s) \_\_\_\_\_ SSN \_\_\_\_\_

Place of Birth \_\_\_\_\_ Date of Birth \_\_\_\_\_ Gender \_\_\_\_\_  
mm/dd/yyyy

Home address \_\_\_\_\_  
Number & Street PO Boxes Not Acceptable

\_\_\_\_\_  
City State ZIP KY County Phone #

Intended business address \_\_\_\_\_  
Business Name Number & Street PO Boxes Not Acceptable

\_\_\_\_\_  
City State ZIP KY County Phone #

Preferred mailing address  Home  Business  Other \_\_\_\_\_

Email address \_\_\_\_\_ Cell phone number \_\_\_\_\_

Applying for  Reinstatement of licensure

Name of clinical exam \_\_\_\_\_ Date of exam \_\_\_\_\_ Location of exam \_\_\_\_\_

FORMER KY LICENSE NUMBER \_\_\_\_\_

### Other State Licenses

List all states in which you have held or presently hold a dental license. Attach an additional sheet if necessary.

State	License #	State	License #
_____	_____	_____	_____
_____	_____	_____	_____

### Practice History

Give all places of practice since graduation, listing most recent first. Attach an additional sheet if necessary.

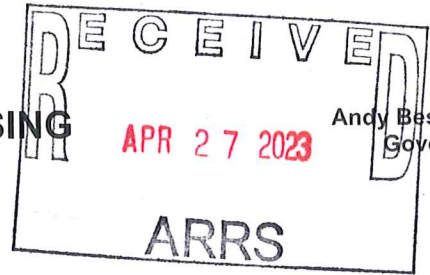
Business Name	Address	Dates
_____	_____	_____
_____	_____	_____
_____	_____	_____





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

April 27, 2023

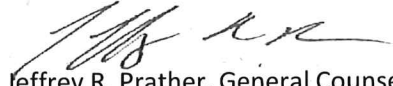
Senator Stephen West, Co-Chair  
Representative Derek Lewis, Co-Chair  
c/o Emily Caudill, Regulation Complier  
Adminstrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Captiol Annex  
Frankfort, KY 40601

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

Dear Co-Chairs West and Lewis:

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

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](mailto:Jeffrey.prather@ky.gov)

Final, 4-26-2023

Suggested Amendment

BOARDS AND COMMISSIONS  
Board of Nursing

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

Page 1

NECESSITY, FUNCTION, AND CONFORMITY,

Line 12

After "licensure eligibility", insert "as registered".

Page 1

Section 1(1)(a)1.

Line 17

After "201 KAR 20:260 through", insert "201 KAR 20:".

Page 6

Section 5(2)(f)4.

Line 22

After "decisions to change", insert "majors".

Delete "major".

Page 7

Section 5(4)(a)

Line 10

After "Web site", insert "at www.kbn.gov".

Page 10

Section 10(1)

Lines 21-22

After "Program of Nursing", insert "5/23".

Delete "10/22".

**MATERIAL INCORPORATED BY REFERENCE**

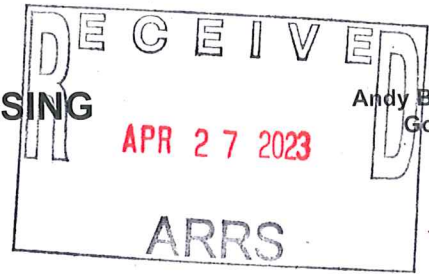
At the time that it files this staff-suggested amendment, the agency needs to file one (1) clean updated copy of the "Annual Report of the Program of Nursing" that:

- Includes an updated edition date of 5/2023
- Updates the form for consistency with the changes made in this regulation as amended on Page 6 in Section 5(2)(f)4., and specifically on page 21 of the form makes the needed updates relating to benchmarks not being met

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

April 27, 2023

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

Re: 201 KAR 20:390. Nursing Incentive Scholarship Fund.

Dear Co-Chairs West and Lewis:

After discussions with Adminstrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 20:390, the Kentucky Board of Nursing proposes the attached suggested substitute to 201 KAR 20:390.

Sincerely,

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

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

## SUGGESTED SUBSTITUTE

Final Version: 04/24/23 at 8:50 a.m.

### BOARDS AND COMMISSIONS

#### Board of Nursing

#### **201 KAR 20:390. Nursing Incentive Scholarship Fund.**

RELATES TO: KRS 314.011, 314.025, 314.026, 314.027

STATUTORY AUTHORITY: KRS 314.026(1), 314.131(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.025 through 314.027 authorize the Kentucky Nursing Incentive Scholarship Fund for Kentucky residents. KRS 314.026(1) requires the Board of Nursing to promulgate administrative regulations to implement and administer the scholarship fund. This administrative regulation implements the Kentucky Nursing Incentive Scholarship Fund Program and establishes the requirements relating to the program.

#### Section 1. Definitions.

(1) "Academic year" means:

(a) For a registered nursing or graduate nursing program, a twelve (12) month period beginning with a fall session; and

(b) For a practical nursing program, the completion of the required program.

(2) "Board" is defined by KRS 314.011(1).

(3) "Graduate nursing education" means the pursuit of a master's degree, post-master's certificate, or doctoral degree.

(4) "Kentucky resident" is defined by 13 KAR 2:045, Section 1(10).

(5) "Program of nursing" means a prelicensure, BSN completion, graduate nursing program.

(6) "Successful academic progression" means, except during the last academic year preceding graduation:

(a) For a prelicensure or BSN completion nursing program, the completion of a minimum of twelve (12) credit hours per academic year of published requirements for the program of nursing and maintenance of a minimum grade point average, which would allow continuation in a program of nursing; or

(b) For a graduate nursing program, the completion of a minimum of nine (9) credit hours per academic year of published requirements for the program of nursing and maintenance of a minimum grade point average, which would allow continuation in the graduate program.

#### Section 2. Application.

(1) To be eligible for a nursing incentive scholarship, an applicant shall:

(a) Be a Kentucky resident; and

(b) Have been accepted for admission to a program of nursing.

(2) An applicant shall submit:

(a) A completed Nursing Incentive Scholarship Fund Application [~~form for agency receipt~~] on or before June 8;

(b) A copy of the Student Aid Report from the Free Application for Federal Student Aid (FAFSA) for the current year, if requesting preference for financial need;

(c) A copy of the program of nursing acceptance letter verifying initial enrollment;

- (d) For newly enrolled nursing applicants, an official transcript from the last academic institution in which the applicant was enrolled for verification of GPA or copy of a GED; and
- (e) For applicants enrolled in a program of nursing, a copy of an official transcript to verify continued enrollment.

Section 3. Criteria for Awards. The board shall consider the following criteria in evaluating an application and shall award points as follows:

(1) Preference categories as ***established[specified]*** in KRS 314.025(2):

- (a) Licensed practical nurses, ~~fifteen (15)~~~~[twenty (20)]~~ points;
- (b) Registered nurses pursuing a bachelor's degree or graduate nursing education, ~~fifteen (15)~~~~[twenty (20)]~~ points; ~~and~~
- (c) Prelicensure nursing students, ***[will be awarded]*** ten (10) points; ***and***
- (d) ***Financially needy[Financially-needy]*** Kentucky residents, up to thirty-five (35) points. Financial need shall be determined by the estimated Federal Expected Family Contribution (EFC) as calculated by the annual FAFSA and points ***shall[will]*** be awarded based on need-based aid eligibility as follows:
  - 1. EFC of \$0 to \$5000, thirty-five (35) points;
  - 2. EFC of \$5001 to \$10,000, thirty (30) points; and
  - 3. EFC of \$10,001 to \$20,000, twenty-five (25) points; ~~and~~

(2) Potential for academic success, as follows: high school, vocational school, college, or university grade point average for whichever institution the applicant most recently attended:

- (a) Three and five-tenths (3.5) to four (4.0), twenty-five (25) points;
- (b) Three (3) to three and four-tenths (3.4), twenty (20) points; and
- (c) Two and five-tenths (2.5) to two and nine-tenths (2.9), fifteen (15) points; ***and***

(3) Potential for academic success when GED is earned in place of a high school diploma:

- (a) A GED score of 601 to 800, twenty-five (25) points;
- (b) A GED score of 501 to 600, twenty (20) points; and
- (c) A GED score of 401 to 500, fifteen (15) points.

Section 4. Amount of Award.

(1) The board shall be notified by the board's fiscal officer as to the current fund balance prior to making an award.

(2)

- (a) The board shall first make awards to those recipients who:
  - 1. Received an award in the previous year; and
  - 2. Remain eligible to receive an award pursuant to Section 6 of this administrative regulation in the current year.
- (b) If funds remain available after the awards are made pursuant to paragraph (a) of this subsection, the board shall make an award to other eligible applicants.

Section 5. Procedure for Disbursement of Awards.

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

(2) Disbursement shall be made annually.

(3) Each educational institution in which a student receiving a nursing incentive scholarship award is enrolled shall certify to the board no later than thirty (30) days from the beginning of each semester, that the recipient:

- (a) Has enrolled; and
- (b) Is in good standing in the nursing program.

Section 6. Continuing Eligibility Criteria.

- (1) **Except as established in subsection (3) of this section**, a recipient of a nursing incentive scholarship shall be eligible to continue to receive an award if the recipient:
  - (a) Maintains successful academic progression through the program; and
  - (b) Submits to the board a completed Nursing Incentive Scholarship Fund Application [~~form for agency receipt~~] on or before June 8.
- (2) The educational institution shall immediately notify the board of a change in a recipient's enrollment status.
- (3) An award recipient in a practical nursing program shall not be eligible for further awards from the Nursing Incentive Scholarship Fund while enrolled in that program.

Section 7. Disbursement Contract.

- (1) Prior to disbursement of initial funds, the recipient shall sign a Nursing Incentive Scholarship Fund Contract.
- (2) The recipient shall sign a Nursing Incentive Scholarship Fund Promissory Note for each year in which funds are disbursed.

Section 8. Repayment and Deferral.

- (1) A recipient shall immediately become liable to the board to pay the sum of all scholarships received and the accrued interest on the scholarships if the recipient fails to complete the:
  - (a) Nursing program in which he or she is enrolled within the time **established[specified]** by the program of nursing; or
  - (b) Required employment as **established[specified]** in the contract.
- (2) Written notification of demand for repayment shall be sent by the board to the scholarship recipient's last known address and shall be effective upon mailing.
  - (a) The board may agree to accept repayment in installments in accordance with a schedule established by the board.
  - (b) Payments shall first be applied to interest and then to principal on the earliest unpaid contracts.
- (3) Repayment may be deferred in the case of disability, major illness, or accident that prevents a recipient from completing a program of nursing or being employed as a nurse in Kentucky.
- (4) A student enrolled in a program of nursing may defer repayment if the student fails to achieve successful academic progression.
  - (a) This deferment shall apply for one (1) academic year.
  - (b) If the student fails to achieve successful academic progression after that time, repayment shall be due.
  - (c) If the student achieves successful academic progression within the allotted time, he or she may apply for a continuation award pursuant to Section 6 of this administrative regulation.
- (5)
  - (a) If a deferment is requested, the recipient shall submit the request to the board on a Nursing Incentive Scholarship Fund Request for Deferral form.
  - (b) If the request for deferment is submitted pursuant to subsection (3) of this section, the Nursing Incentive Scholarship Fund Request for Deferral form shall be accompanied by a statement by a physician, advanced practice registered nurse, or physician's assistant.
- (6) If a recipient fails to pass the licensure examination within two (2) years of graduation, the sum of all nursing incentive scholarships received by the recipient, and the accrued interest, shall become due and payable.

(7) If a court of competent jurisdiction determines that the recipient has defaulted and the funds are due and owing to the board, then the provisions of 201 KAR 20:370, Section 1(5), shall apply.

(8) An individual who has defaulted on a scholarship shall not be eligible to receive another scholarship until the defaulted scholarship has been repaid.

(9) The board may utilize the services of a third party for collection of sums owed pursuant to a Nursing Incentive Scholarship Fund Contract and Nursing Incentive Scholarship Fund Promissory Note, including reasonable attorney fees.

(10) After the board refers a debt to a third party for collection, a recipient shall not be eligible for deferment or to otherwise cure the recipient's breach, other than through payment of all sums owed to the board.

#### Section 9. Verification.

(1) Verification of employment as a nurse in Kentucky pursuant to the contract shall be submitted to the board when the recipient's employment commitment begins and when it is completed. A termination of employment prior to completion shall be reported to the board within thirty (30) days by the employer and the recipient.

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

#### Section 10. Incorporation by Reference.

(1) The following [~~forms~~] are incorporated by reference:

(a) "Nursing Incentive Scholarship Fund Application", ~~05/23/12/22~~[12/04];

(b) "Nursing Incentive Scholarship Fund Request for Deferral", 10/96;

(c) "Nursing Incentive Scholarship Fund Contract", 10/13; and

(d) "Nursing Incentive Scholarship Fund Promissory Note", 10/13.

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

CONTACT PERSON: Jeffrey R. Prather, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, (502) 338-2851, email [Jeffrey.Prather@ky.gov](mailto:Jeffrey.Prather@ky.gov) or submit a comment at: <https://secure.kentucky.gov/formservices/Nursing/PendReg>.



# APPLICATION FOR NURSING INCENTIVE SCHOLARSHIP FUND

## Kentucky Board of Nursing

312 Whittington Parkway, Suite 300 Louisville, KY 40222-5172

### Application Type

Application Type:

1. Do you hold a current, valid nursing license? (LPN, RN, APRN)?
2. Have you been accepted for admission to a program of nursing?
3. Have you ever previously received a Nursing Incentive Scholarship Fund award of \$1,500.00 or \$3,000.00 from the Kentucky Board of Nursing?

### General Information - Demographic Information

Full Legal Name Required:

Maiden Name:

#### Contact Information

Physical / Residential address

Mailing address

Phone number

#### Kentucky Proof of Residency

You must provide proof of Kentucky residency to be proceed. Residency is not related to property ownership in a given state. Residency can be verified by submission of one of the following documents:

Driver's license with a home address

Voter registration card displaying a home address

Federal income tax return declaring the primary state of residence

Military Form No. 2058 - state of legal residence certificate

W2 from US Government or any bureau, division or agency thereof indicating the declared state of residence

Other official document (such as - utility bill, mortgage statement, government issued ID) that shows your home address.

### Program of Nursing – Name of Education Program

1. Program of Nursing/School Name
2. Program of Program of Nursing Type
3. Program of Nursing Address
4. What is the month and year that you are scheduled to begin the nursing program?
5. What is the expected month and year that you will graduate the nursing program?
6. What is the institution (high school, vocational school, college, or university) that you most recently attended?  
You must provide an official transcript from the above institution showing the reported GPA (or GED score if that is what is selected). Please note that only official transcripts can be accepted. Grade reports, letters of good standing, or unofficial transcripts cannot be accepted.
- 6.1. Please provide the most recent post-secondary GPA. If you do not yet have a GPA from college coursework, provide either your final high school GPA or your GED transcript score.
7. You must provide a copy of the program of nursing acceptance letter verifying your enrollment in the above program of nursing. If the acceptance letter was emailed to you, you must "print" or save the original email to pdf to retain its integrity and upload the email pdf.

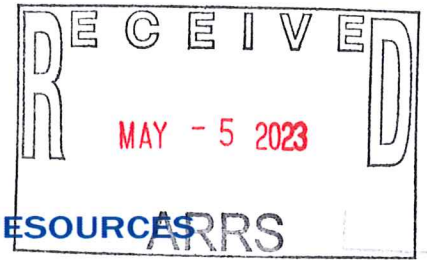
### Supporting Information

Pursuant to 201 KAR 20:390, Section 3(1)(d), preferential scoring is given to applicants that demonstrate financial need. Financial need can be demonstrated by submitted a Student Aid Report (SAR) for the upcoming academic year. Please be aware that submission of an SAR is not required; however, it is strongly recommended, as your application may qualify for preferential scoring based on financial need. If you do not submit an SAR at the time that you submit your application, you will have until June 8th to do so. To obtain an SAR, you must complete the Free Application for Federal Student Aid (FAFSA). Once your FAFSA is processed, your SAR will be provided by email, mail, and/or online portal, depending on your submission method. Please refer to the Student Aid website at studentaid.gov for more information. Please note that you must submit a copy of your Student Aid Report (SAR), not a copy of your Free Application for Federal Student Aid (FAFSA). The SAR will contain your Expected Family Contribution (EFC) and statement of Pell eligibility.

### Attestation Statement

Applications must be received on or before June 8th. Any application that is started before the receipt deadline that is not received by the Board by June 8th will not be eligible for an award. Not all scholarship applicants are eligible for or receive an award. Applicants for the Nursing Incentive Scholarship Fund awards are considered based on the criteria as defined in 201 KAR 20:390 Section 3.

I affirm that all of the information reported herein is complete, accurate, and true to the best of my knowledge. I understand that if I am selected to receive an award, I will be required to sign a promissory note and contract to receive NISF funds. If I receive NISF funds and I do not meet the obligation of this program as defined in the contract and promissory note, I will be required to repay the scholarship funds received plus accrued interest. I authorize school officials to release information requested to the Kentucky Board of Nursing for the purpose of determining scholarship eligibility and compliance.



**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

May 5, 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 2:015**. Feeding of wildlife, 301 KAR 4:110. Administration of drugs to wildlife.

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 301 KAR 2:015, and 301 KAR 4:110, Kentucky Department of Fish and Wildlife Resources proposes the attached amendment to 301 KAR 2:015 and 301 KAR 4:110.

Sincerely,

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

## SUGGESTED SUBSTITUTE

Final Version: 05/1/23 at 11:31 a.m.

### TOURISM, ARTS AND HERITAGE CABINET Department of Fish and Wildlife Resources

#### 301 KAR 2:015. Feeding of wildlife.

RELATES TO: KRS 150.015

STATUTORY AUTHORITY: 150.025

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.015 requires the department to protect and conserve the wildlife of this Commonwealth. KRS 150.025(1)(h) authorizes the department to promulgate administrative regulations to carry out the provisions of KRS Chapter 150. This administrative regulation establishes restrictions on the feeding of wildlife that will serve to protect wildlife from disease and toxic substances that could~~may~~ cause harm to the wildlife population if left unregulated.

#### Section 1. Definitions.

(1) "Captivity" means confinement by fence or other structure, or restraint intended to prevent escape.

(2) "Curtilage of the home" means the area encompassing the grounds immediately surrounding any home or group of homes used in the daily activities of domestic life, and:

**(a) ~~Might or might~~~~may or may~~** not be enclosed by a fence or other barrier;~~;~~ and

**(b)** Includes areas occupied by captive cervids as established in 301 KAR 2:083 and wildlife held in captivity for rehabilitation purposes as established in 301 KAR 2:075 or held in captivity as established in 301 KAR 2:081 and 2:082.

(3) "Feeding":

**(a)** Means willingly, wantonly, or knowingly depositing, distributing, or scattering of shelled, shucked, or unshucked corn, millet, milo, safflower seed, sunflower seed, ~~[salt, mineral, or other attractants,~~ ]thistle, wheat, or other grain~~;~~ or any manufactured feed or food product to be consumed by wildlife;  
**and**

**(b) ~~Does not mean~~~~, but shall not include~~** the establishment and maintenance of plantings for wildlife, foods found scattered solely as the result of normal agricultural planting practices or harvesting practices, foods available to wildlife through normal agricultural practices of livestock feeding if the areas are occupied by livestock actively consuming the feed on a daily basis, or standing farm crops under normal agricultural practices.

#### Section 2. Recreational Feeding of Wildlife.

(1) Wildlife shall not be fed from March 1 through July 31, except as **established**~~provided~~ in subsections (2) and (3) of this section.

(2) Wildlife may only be fed year-round:

(a) In public areas **that is**not open to legal hunting or trapping, unless otherwise prohibited by statute, administrative regulation, or municipal ordinance;

(b) Within the curtilage of the home; and

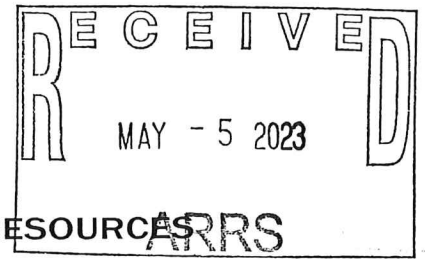
(c) In a zoo or other facility that lawfully keeps or exhibits wildlife for rehabilitation, rescue, or public viewing.

(3) Fish may be fed year-round.

Section 3. Chronic Wasting Disease. In a department-designated Chronic Wasting Disease Surveillance Zone or Management Zone county, ***established[specified]*** on the department's Web site at fw.ky.gov, persons shall not bait or feed using grain, salt, mineral, or other ingested attractants, except~~***that the following shall be exempted***~~:

- (1) Normal agricultural practices;
- (2) Wildlife food plots or plantings;
- (3) Bird feeders within the curtilage of the home; and
- (4) Furbearer trapping, except that trappers shall not use grain, salt, or mineral.

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.



**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

May 5, 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 2:015. Feeding of wildlife, 301 KAR 4:110. Administration of drugs to wildlife.

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 301 KAR 2:015, and 301 KAR 4:110, Kentucky Department of Fish and Wildlife Resources proposes the attached amendment to 301 KAR 2:015 and 301 KAR 4:110.

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

## SUGGESTED SUBSTITUTE

Final Version: 04/24/23 at 12:48 p.m.

### TOURISM, ARTS AND HERITAGE CABINET Department of Fish and Wildlife Resources

#### 301 KAR 4:110. Administration of drugs to wildlife.

RELATES TO: KRS 150.015, 150.025, 150.061, 150.105, 150.275, 150.280

STATUTORY AUTHORITY: KRS[2008 Ky. Acts ch.133, sec.5,] 150.025(1)(h), 150.061(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department to promulgate administrative regulations to regulate any method of taking wildlife and any other **administrative** regulation reasonably necessary to implement or carry out the purposes of KRS Chapter 150.~~[2008 Ky. Acts ch.133, sec.5 requires the department to promulgate administrative regulations that restrict a person from administering drugs to noncaptive wildlife.]~~ This administrative regulation prohibits the administration of drugs to wildlife and creates the necessary exceptions.

#### Section 1. Definitions.

(1) "Captive wildlife":

(a) Means wildlife ~~[legally]~~ kept in confinement, ~~for any time period, by cage, enclosure, fence,~~ or other structure or restraint intended to prevent escape; and

(b) Does not mean fish.

(2) "Drug" means any chemical substance, other than food or mineral supplements, that affects the health, structure, or normal biological functions~~[function]~~ of any wildlife.

(3) "Noncaptive wildlife":

(a) Means wildlife living unrestrained in the wild and not ~~[legally]~~ kept in confinement, ~~for any time period, by cage, enclosure, fence,~~ or other structure or restraint intended to prevent escape; and

(b) Does not mean fish.

#### Section 2. Commissioner Authorization for Administration of Drugs to Noncaptive Wildlife.~~[Except as established in Section 4 of this administrative regulation,]~~

(1) ~~A~~[a] person shall not administer drugs to noncaptive wildlife without written authorization from the commissioner pursuant to this section~~[Section 3]~~ of this administrative regulation.

#### ~~[Section 3.]~~ [Petitions.]

~~(2)~~(4) A party shall petition the commissioner in writing for authorization to administer drugs to noncaptive wildlife. Written petitions shall include:

(a) A biological or sociological justification for the need to administer a drug to noncaptive wildlife;

(b) A literature review of the known and potential effects of the drug on individual animals, the wildlife population, and potential consumers of wildlife; and

(c) A detailed plan and timeline for administration of the drugs, including anesthetic monitoring plans and withdrawal time data for species and potential human consumption risk.

~~(3)~~(2) The commissioner may issue a waiver for the petition requirement for authorization to administer drugs to noncaptive wildlife for specific situations involving:

(a) Public safety; or

(b) Wildlife disease outbreaks~~[z]~~ or biological or chemical emergencies or events.

(4) This section shall not apply to state or federal wildlife agencies' personnel in the performance of their official duties.

Section 3.~~[Section 4.]~~ Administration of Drugs to Captive Wildlife.~~[Exemptions.]~~ This administrative regulation ***shall allow***~~[allows]~~ the administration of drugs for:~~[shall not apply to:]~~

(1) ~~[The administration of drugs to]~~Legally possessed captive wildlife ~~[including captive cervids]~~under the direction of a licensed Kentucky veterinarian in which a veterinarian-client-patient relationship is established pursuant to KRS 321.185; or

(2) The treatment of sick or injured captive wildlife by either:

(a) A licensed veterinarian treating:

**1. Non-commercial captive cervids as identified in 301 KAR 2:083;**~~[;]~~ or

**2. Critically ill or injured wildlife pursuant to 301 KAR 2:075;** **or**

(b) A holder of a valid wildlife rehabilitation permit in a wildlife rehabilitation facility under the direction of a licensed Kentucky veterinarian in which a veterinarian-client-patient relationship is established pursuant to KRS 321.185 and 301 KAR 2:075;~~[or]~~

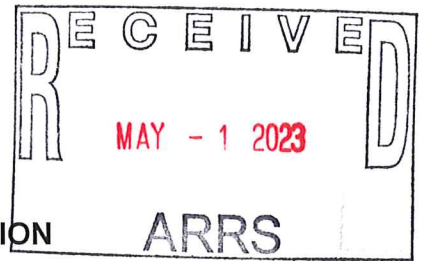
~~[(c)]~~ ~~[A holder of a valid scientific collection permit;]~~

(3) ~~[The administration of drugs by]~~A holder of a valid commercial nuisance wildlife control operator~~[operators]~~permit ~~[licensed]~~using dispatch methods~~[by the department as]~~ established in 301 KAR 3:120; or

(4) Employees of federal or state government in the performance of their official duties related to public health, wildlife management, or wildlife removal.

Section 4.~~[Section 5.]~~ Disposition of Wildlife. An officer of the department may take possession or dispose of any noncaptive wildlife if the officer has probable cause to believe the noncaptive wildlife have been administered drugs in violation of this administrative regulation.

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](mailto:fwpubliccomments@ky.gov).



**WORKERS' COMPENSATION FUNDING COMMISSION**

42 Mill Creek Park  
Frankfort, Kentucky 40601  
Phone: (502) 573-3505  
Fax: (502) 573-4923  
[www.kwfcf.ky.gov](http://www.kwfcf.ky.gov)

**Lisa Gilreath-King**  
Executive Director

**Andy Beshear**  
Governor

April 27, 2023

Senator Stephen West, Co-Chair  
Representative Derek Lewis, Co-Chair  
c/o Ms. Emily Caudill, Regulations Compiler  
Legislative Research Commission  
029, Capitol Annex  
702 Capitol Avenue  
Frankfort, Kentucky 40601

RE: **803 KAR 30:010**. Special Fund Assessments

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 803 KAR 30:010, the Kentucky Workers' Compensation Funding Commission proposes the attached amendment to 803 KAR 30:010.

Sincerely,

A handwritten signature in black ink, appearing to read "Marcus A. Roland".

Marcus A. Roland, General Counsel  
Kentucky Workers' Compensation Funding Commission  
42 Mill Creek Park  
Frankfort, KY 40601



## Subcommittee Substitute

### EDUCATION AND LABOR CABINET Kentucky Workers' Compensation Funding Commission (Amendment)

#### 803 KAR 30:010. Special fund assessments.

RELATES TO: KRS 49.220, 342.0011, 342.122, 342.1221, 342.1222, 342.1223, 342.1231, 342.340, 342.650, 30 U.S.C. 901-945, 33 U.S.C. 901-950

STATUTORY AUTHORITY: KRS 342.1223(3)(f)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 342.1223(3)(f) authorizes the Kentucky Workers' Compensation Funding Commission (KWCF) to promulgate administrative regulations. KRS 342.1223(2)(g) requires the KWCF to conduct periodic audits of all entities subject to the special fund assessments imposed by KRS 342.122. This administrative regulation establishes the proper calculation of assessment, establishes the procedures and forms to be used to report and remit special fund assessments, identifies audit expenses, establishes procedures for collection of assessments and expenses, and defines penalty and interest procedures.

#### Section 1. Definitions.

(1) "Actual physical receipt by the KWCF" means:

(a) Physical delivery to the Funding Commission office prior to January 1, 2020; or

(b) Electronic filing of the Quarterly Premiums Report, accompanied by:

1. Electronic fund transfer of an assessment due to the KWCF account; or

2. Prior to January 1, 2020, physical delivery of payment to the office of the Funding Commission.

(2) "Assessment Payer" is defined by KRS 342.1231(10).

(3) "Board" means, unless otherwise specified, the Board of Directors of the Kentucky Workers' Compensation Funding Commission.

(4) "Consideration" means premium, premium charges, or premium modifications set forth on the face of a workers' compensation insurance policy, all of which are subject to the Special Fund assessment calculation.

~~(5)~~(4) "Engaged in severance or processing of coal" is defined by KRS 342.0011(23)(b).~~(4)~~

~~(6)~~(5) "Insurance carrier" is defined by KRS 342.0011(22).

~~(7)~~(6) "Insurance company" means a company authorized to do business in the Commonwealth writing workers' compensation insurance coverage and includes the Employers Mutual Insurance Authority.

~~(8)~~(7) "Insurance policy", for an insurance company or group self-insurer, is defined by KRS 342.0011(26).

~~(9)~~(8) "KWCF" or "Funding Commission" means the Kentucky Workers' Compensation Funding Commission.

~~(10)~~(9) "Premium", for each employer carrying one's own risk pursuant to KRS 342.340(1), is defined by KRS 342.0011(28).

~~(11)~~(10) "Premium", for every group of self-insurers, is defined by KRS 342.0011(24).

~~(12)~~~~(14)~~ "Premium", for insurance companies, is defined by KRS 342.0011(25)(c).

~~(13)~~~~(12)~~ "Premiums received":

(a) For group self-insurers, including group self-insurers electing to report premiums and have special fund assessments computed in the same manner as insurance companies, means all assessments levied on its members by a group or contributed to it by the members, including premiums charged off or deferred; **and**

(b) For insurance companies, is defined by KRS 342.0011(25)(a).

~~(14)~~~~(13)~~ "Return premiums", for insurance companies, is defined by KRS 342.0011(25)(d).

~~(15)~~~~(14)~~ "Self-insurance year", for a group self-insurer, is defined by KRS 342.0011(27).

~~(16)~~~~(15)~~ "Severance or processing of coal" is defined by KRS 342.0011(23)(a).

~~(17)~~~~(16)~~ "SIC code" is defined by KRS 342.0011(29) and is now known as the NAICS code.

~~(18)~~~~(17)~~ "Special fund assessment" means the assessment established in KRS 342.122.

## Section 2. Special Fund Assessment.

(1) Special fund assessment shall be imposed upon all premiums, including any premiums for coverage under the Black Lung Compensation Insurance Fund, 30 U.S.C. 901-945, for an insurance policy providing Kentucky workers' compensation coverage, except special fund assessments shall not be imposed upon premiums for the following:

(a) Excess, reinsurance, or coverage under the Black Lung Compensation Insurance Fund, 30 U.S.C. 901-945, for group or individual self-insurers;

(b) Contracts between insurance carriers and reinsurers;

(c) Longshore and Harbor Workers' Compensation Act, 33 U.S.C. 901-950 coverage defined as USL&H Manual Premium +/- the premium applicable of all ***rates, factors, [rates/factors/]*** and fixed expenses; and

(d) Coverage solely for persons for whom a rule of liability for injury or death is provided by the laws of the United States.

(2) For an insurance policy with provisions for deductibles effective on or after January 1, 1995, the premium upon which a special fund assessment is imposed for insurance companies shall not include schedule rating modifications, debits, or credits.

(3) Insurance companies shall report and pay assessments every calendar quarter on premiums received for the quarter reported at the rate in effect on the effective date of the policy.

(4)(a) Insurance companies shall remit special fund assessments or take credit for returned special fund assessments on premiums received or return premiums at the rate in effect on the effective date of the policy, regardless of the date the premium is actually received or returned.

(b) Additional premiums received for policies with effective dates prior to November 1, 1987 shall be assessed at the rates of 23.30 percent for all employers and 40.00 percent additional for employers engaged in severance or processing of coal.

(5)(a) Group self-insurers shall report and pay special fund assessments every calendar quarter on premiums received or return premiums at the rate in effect on the effective date of the group self-insurance year for which the premium was received or returned, regardless of the date the premium is actually levied, received, or returned.

(b) A premium shall include any member assessments or contributions used to purchase excess insurance, reinsurance, or Black Lung coverage.

(6) Special fund assessment shall be imposed upon additional premiums received by group self-insurers for self-insurance years effective prior to October 26, 1987 at the rates of 23.30 percent for all employers and 40.00 percent additional for employers engaged in severance or processing of coal.

(7) Group self-insurers shall take credit for the return of special fund assessments at the rate in effect on the effective date of the group self-insurance year for which premiums are returned.

(8) Group self-insurers may elect to report their premiums and have their special fund assessments computed in the same manner as insurance companies, in accordance with KRS 342.122(4).

(a) Election by an existing group self-insurer to report in the same manner as an insurance company shall be made in writing to the Kentucky Workers' Compensation Funding Commission.

(b) Election by newly formed group self-insurers to report in the same manner as an insurance company shall be made in writing to the Kentucky Workers' Compensation Funding Commission within sixty (60) days following the effective date of the group's initial self-insurance year.

(c) Failure of a group self-insurer to elect in writing to report in the same manner as an insurance company in accordance with paragraphs (a) and (b) of this subsection shall constitute an election to report and pay special fund assessments as a group self-insurer in accordance with subsections (5), (6), and (7) of this section.

(d) The election made in accordance with paragraph (a), (b), or (c) of this subsection may not be rescinded for at least ten (10) years, in accordance with the provisions of KRS 342.122(4).

(e) Group self-insurers electing to report premiums and have special fund assessments computed in the same manner as insurance companies shall report and pay assessments every calendar quarter on premiums received for the quarter reported at the rate in effect on the annual effective date of the individual member's policy year.

(f)1. Group self-insurers electing to report premiums and have special fund assessments computed in the same manner as insurance companies shall remit special fund assessments or take credit for returned special fund assessments on premiums received or return premiums at the rate in effect on the effective date of the individual member's policy year, regardless of the date the premium is actually received or returned.

2. Additional premiums received for policy years with effective dates prior to November 1, 1987 shall be assessed at the rates of 23.30 percent for all employers and 40.00 percent additional for employers engaged in severance or processing of coal.

(9) (a) Employers self-insuring Kentucky workers' compensation liability under the provisions of KRS 342.340 shall pay special fund assessments on the premium calculated by the Commissioner of the Department of Workers' Claims in accordance with KRS 342.0011(28).

(b) One-fourth (1/4) of the total annual calculated premium shall be reported and the special fund assessments shall be paid to the KWCFE each calendar quarter.

(10) The premium calculated by the Commissioner of the Department of Workers' Claims for individual self-insurers shall be assessed at the rates in effect on January 1 of the calendar year for which the premium is calculated.

(11) (a) Special fund assessments shall be paid quarterly, in accordance with KRS 342.122(2).

(b) Prior to January 1, 2020, if the assessment due date falls on a weekend (Saturday or Sunday), assessments due and payable, if not postmarked in accordance with KRS 342.122(2), shall be sent to the KWCFE in advance so as to be received by the KWCFE no later than close of business, on

the first business day immediately following the weekend due date. After January 1, 2020, the assessment shall be due and payable electronically in accordance with KRS 342.122 (2)(b).

(12)(a) If an insurance carrier collects from an insured a special fund assessment at a rate in excess of that established by KRS 342.122 and this administrative regulation, or collects for any reason from an insured an amount in excess of that established by KRS 342.122 and this administrative regulation, the insurance carrier shall refund the excess to the insured in accordance with KRS 342.1231(9) and (10).

(b) If, after good faith efforts, the excess cannot be returned to the insured in accordance with KRS 342.1231(9) and (10), the excess shall be remitted to the KWCF.

(c) An insurance carrier shall not retain special fund assessments in excess of those established by KRS 342.122 and this administrative regulation.

(13) The assessment payer shall be notified if proof of refund to insured has not been timely provided or escheated to the KWCF per KRS 342.1231.

(14) When proof of refund to insured is received late or refund to insured is not escheated to the KWCF timely~~[When documentation is received by the KWCF providing refund to insured information]:~~

(a) Penalty and interest shall be calculated; and

(b) The assessment payer shall be notified of the additional amount due.

### Section 3. Special Fund Assessment Base.

(1) The Special Fund assessment shall be calculated in accordance with KRS 342.0011(25)(a) - (e).

(2) All consideration shall be included in the Special Fund assessment base as outlined on the face of the insurance policy or other evidence of coverage.

(3) The assessment may be collected by the insurance carrier from the insured. The carrier is responsible for proper assessment calculation and remittance.

(4) Each statement from an insurance carrier presented to an insured reflecting all premium elements and assessment amounts shall clearly identify and distinguish the amount to be paid for premium and the amount to be paid for assessments.

### Section 4. Deductible Program Adjustment.

(1) The Special Fund assessment calculation shall be conducted in accordance with the deductible program adjustment **established by [.]** KRS 32.0011(25)(e).

(2) All consideration of the calculated cost of coverage shall be included in the Special Fund assessment base, on a gross basis.

(3) All consideration includes **[but is not limited to]** the following elements:

(a) Expense Constant;

(b) Terrorism;

(c) Catastrophe (other than Certified Acts of Terrorism);

(d) Audit Non-compliance Charge; **and**

(e) All other premium elements or other company-specific modifications as identified on the face of the policy.

(4) The Special Fund assessment shall be determined independent of the regulations of any other agency or agencies, unless otherwise indicated.

(5) A visual guide on the calculation for assessment purposes is included in the Assessment Calculation Guide, or Form KWCFE-08. This form is not exhaustive but is intended to provide calculation guidance.

(a) This guidance mirrors the Kentucky Workers Compensation Premium Algorithm framework for premium charges and credits.

(b) Standard Premium is the premium before premium discount is applied, as identified by the National Council on Compensation Insurance, Inc. (NCCI) Basic Manual for Kentucky, effective date November 1, 2021.

(c) Premium Discount is any discount clearly identified on the face of the policy to reduce the premium. The premium discount **may [can]** also be used to reduce the Special Fund assessment but shall not be modified for assessment calculation purposes.

Section 5. [~~Section 3.~~] Penalty and Interest; Late filing of Quarterly Premium Reports.

(1) The KWCFE Board [~~or its designee.~~] may waive part or all of the penalty, but not the interest, in accordance with KRS 342.1221.

(a) A [~~The~~] designee of the KWCFE Board may waive part or all of the penalty, if under \$5,000, in the absence of the KWCFE Board of Directors.

(b) Reasonable cause guidelines for the designee's consideration of waiver of audit penalty **may [can]** include [~~, but are not limited to~~]:

1. Whether the audit is the first such audit for the payer and covered an extended period of time;

2. Whether the penalty is reasonable in comparison to assessment owed;

3. Whether the payer provided timely and accurate information when requested;

4. Whether the payer impeded the audit process or delayed access to records that resulted in an unnecessary delay for completion of the audit;

5. Whether there have been prior waivers within the previous five (5) year period;

6. Whether payer's grounds for waiver are identical or similar to prior waiver requests;

7. Whether payer knowingly engaged in erroneous reporting;

8. Whether the payer should have known its reporting was in error; or

9. Whether there is any other unique issue or circumstance that reasonably warrants a waiver.

(c) Reasonable cause for designee's waiver of penalties on late filing of Quarterly Premium Reports **may** include [~~, but are not limited to the following~~]:

1. Whether payer incurred an extraordinary event;

2. Whether KWCFE incurred an extraordinary event;

3. Whether good faith efforts were made to file in a timely fashion;

4. Whether there is a history of timely filing;

5. Whether the penalty is reasonable in comparison to assessment owed;

6. Whether there have been prior waivers within the previous five (5) year period; or

7. Whether there are any other reasonable causes to justify waiver.

(d) [(b)] If an assessment payer is not satisfied with the decision made by the designee, an appeal may be submitted within thirty (30) days from the date of mailing of the decision to the Board of Directors of the KWCFE for final ruling.

(e) [(c)] If an assessment payer is not satisfied with the decision made by the KWCFE Board of Directors, an appeal may be submitted to the Office of Claims and Appeals/Board of Tax

Appeals~~[Kentucky Claims Commission]~~ within thirty (30) days from the date of mailing of the final ruling.

(2) The assessment payer shall receive notification of past due additional assessment, penalty and interest, and expenses. When payment is received by the KWCF:

(a) Penalty and interest shall be calculated; and

(b) Notification shall be sent to the assessment payer of the additional amount due.

(3) At the time of the audit, the Funding Commission shall include a review of any penalties and interest submitted by the payer and refund amounts paid if there was an overpayment of assessment during any quarter of the audit review period.

#### Section 6.~~[Section 4.]~~ Refunds.

(1) Insurance carriers may take credit for the return of special fund assessments on their quarterly premiums reports, if:

(a) The credit is taken by the insurance carrier within four (4) years of the date the insurance carrier returns the assessment to the employer; and

(b) The assessment is returned to the employer in addition to the returned premium.

(2)(a) Assessment payers may submit a claim in writing for a refund of special fund assessments not taken as a credit on the quarterly premiums report.

(b) The assessment payer shall submit with the claim all documents required to support the claim.

(3) All refunds, including those made in accordance with subsection (2) of this section, shall be subject to audit by the Funding Commission.

#### Section 7.~~[Section 5.]~~ Audits; General Reimbursement of Expenses.

(1) In accordance with KRS 342.1223(2)(g), the Kentucky Workers' Compensation Funding Commission shall conduct audits independently or in cooperation with the Labor Cabinet or the Department of Revenue of all entities subject to the special fund assessments established by KRS 342.122.

(2) Until the initial audit has been completed, all records supporting reported premiums and special fund assessments, including refunds and credits, shall be maintained by the assessment payer per KRS 342.1231(8).

(3) All necessary and reasonable expenses incurred by the KWCF in conducting an audit shall be reimbursed to the KWCF by the assessment payer audited.

(4) Expenses to be reimbursed shall include:

(a) Travel Expenses:

1. Meals;

2. Lodging;

3. Transportation;

4. Parking; and

5. Incidentals; and

(b) Labor expenses:

1. Preparation for the audit;

2. Travel;

3. Finalizing of the audit; and

4. Preparation of written reports and correspondence.

(5) KWCFE employees shall be reimbursed for all out-of-pocket expenses they incurred while conducting audits.

(6) Except for air transportation, meals, and mileage, expenses shall be reimbursed at actual cost to employees.

(7) Air fare shall be reimbursed at a rate not to exceed the cost of coach class.

(8) Meals shall be reimbursed at actual cost not to exceed fifty-five (55) dollars per day.

(9) Mileage for the use of privately owned auto shall be reimbursed at the rate established in 200 KAR 2:006, Section 7(4)(a).

(10) KWCFE employees conducting KWCFE official business unrelated to audits shall follow the same reimbursement guidelines as set forth in this section.

Section 8.~~[Section 6.]~~ Audits; Insurance Companies.

(1) Upon request, insurance companies shall provide the Funding Commission with data files containing complete policy level detail information for every policy containing workers' compensation coverage in Kentucky with transactions during the audit period, on Form KWCFE-05, Annual Audit and Collections Report, Data Reporting Instructions Insurance Companies.

(2) Insurance companies shall make available to the Funding Commission's auditors the following items:

(a) Copies of quarterly premiums reports for audit period with backup documentation;

(b) All documentation required to reconcile the sum of each four (4) calendar quarters to the respective Page 14 totals on the Annual Reports to the Kentucky Department of Insurance, incorporated by reference in 806 KAR 52:010;

(c) A complete listing of:

1. Current filings with the Kentucky Department of Insurance;

2. Kentucky policies containing written premium written off as a bad debt;

3. Policies written by an association for which the insurance company is providing Kentucky workers' compensation coverage;

4. Sample policies requested by the Funding Commission;

5. Deductible policies written nationwide. This list shall contain at a minimum the policy number, insured's name, and policy effective date;

6. Deductible policies written with Kentucky coverage whose policy effective date is equal to or later than 5/6/93 but not later than 12/31/93. This list shall contain either Kentucky calculated premium, deductible credit, and net deductible premium, or a list of Kentucky claims reimbursed under the deductible plan along with the associated administrative costs; and

7. Deductible policies written with Kentucky coverage with policy effective dates on or after 1/1/94. This list shall contain Kentucky's standard premium, deductible credit, net deductible premium, any schedule rating credit, as well as all other identifying information allowing a quarterly recalculation and reconciliation; and

(d) All other information necessary to support reported premiums and special fund assessments.

(3) For insurance policies effective prior to October 26, 1987, the Funding Commission shall be furnished with:

(a) A schedule identifying the assessment rates applied to these policies;

(b) The dates upon which these rates were first entered into the policy or premium management system;

(c) The dates upon which these rates became active in the policy or premium management system; and

(d) A copy of the Kentucky Workers' Compensation Tax and Assessment Excess Collections information.

(4) The Funding Commission shall utilize one (1) or more of the following procedures in the completion of audits:

(a) Detailed examination of records by policy;

(b) Use of audit sampling techniques;

(c) Verification and reconciliation to NAIC reports; and

(d) Other procedures necessary because of the unique nature of the entity being audited.

(5) Upon the completion of an audit the Funding Commission shall not reaudit a period unless:

(a) The Funding Commission receives information giving rise to an adjustment of the written premium previously reported to NAIC upon which the Funding Commission had relied; or

(b) The Funding Commission receives information indicating the presence of fraud or other similar circumstance.

Section 9. [~~Section 7.~~] Audits; Group Self-insurers.

(1) Upon request, group self-insurers shall provide the Funding Commission with data files containing complete policy or member level detail information for all transactions during the audit period on Form KWCF-06, Annual Audit and Collections Report, Data Reporting Instructions Group Self Insurer.

(2) Group self-insurers shall make available to the Funding Commission's auditors the following items:

(a) Copies of quarterly premiums reports for each audit period with backup documentation;

(b) All documentation required to reconcile the sum of each four (4) calendar quarters to reports filed with the Department of Workers' Claims;

(c) A listing of members to whom coverage was extended for which premium has been written off as a bad debt, along with an explanation of how these bad debts were handled in the reports to the Department of Workers' Claims;

(d) A complete list of sample policies or agreements requested by the Funding Commission; and

(e) All other documents necessary to support reported premiums and assessments.

(3) For insurance years effective prior to October 26, 1987, the Funding Commission shall be furnished:

(a) A schedule identifying the assessment rates applied to these self-insurance years;

(b) The dates upon which these rates were first entered into the policy or premium management system; and

(c) The dates upon which these rates became active in the policy or premium management system.

(4) The Funding Commission shall utilize one (1) or more of the following procedures in the completion of audits:

(a) Detailed examination of records by policy or members' account;



- (b) Detailed examination of members' agreements;
  - (c) Use of audit sampling techniques;
  - (d) Verification and reconciliation to Department of Workers' Claims' reports; and
  - (e) Other procedures necessary because of the unique nature of the entity being audited.
- (5) Upon the completion of an audit the Funding Commission shall not reaudit a period unless:
- (a) The Funding Commission receives information giving rise to an adjustment of the written premium previously reported to the Department of Workers' Claims upon which the Funding Commission had relied; or
  - (b) The Funding Commission receives information indicating the presence of fraud or other similar circumstance.

Section 10.~~[Section 8.]~~ Audits; Individual Self-insurers.

- (1) Upon request, self-insurers shall provide the Funding Commission with the following:
- (a) Loss experience reports;
  - (b) Payroll records;
  - (c) All back up documentation request for each audit period; and
  - (d) Other information necessary because of the unique nature of the entity being audited.
- (2) The Funding Commission shall utilize one (1) or more of the following procedures in completion of audits:
- (a) Detailed examination of all required records;
  - (b) Use of audit sampling techniques; and
  - (c) Other procedures necessary because of the unique nature of the entity being audited.
- (3) Upon completion of an audit the Funding Commission shall not re-audit a period unless:
- (a) The Funding Commission receives information giving rise to an adjustment of the information previously reported to the Department of Workers' Claims upon which the Funding Commission had relied; or
  - (b) The Funding Commission receives information indicating the presence of fraud or other similar circumstance.

Section 11.~~[Section 9.]~~ Audits; Invoice, Protest and Resolution.

- (1) The Funding Commission shall send to the assessment payer a notice of any assessment assessed by the Funding Commission.
- (2) A summarized invoice consisting of totals for ~~["]labor["], ["]travel["]~~ and ~~["]all other["]~~ expenses shall be submitted to the assessment payer as soon as practicable after completion of the audit. An itemized invoice shall be available upon request.
- (3)(a) The assessment shall be final if not protested in writing to the Funding Commission within thirty (30) days from the date of notice.
- (b) The protest shall be accompanied by a supporting statement setting forth the grounds upon which the protest is made.
- (c)1. Upon written request, the Funding Commission shall extend the time for filing the supporting statement if it is determined that the delay is necessary and unavoidable.
2. The refusal of an extension may be reviewed in the same manner as a protested assessment.
- (4) After a timely protest has been filed, the assessment payer may request a conference with the Funding Commission staff.

(a) The request shall be granted in writing stating the date and time set for the conference.

(b) The assessment payer may appear in person or by representative.

(c) Further conferences may be held by mutual agreement.

(5) For those issues not resolved during the conferences described in subsection (4) of this section, the assessment payer may request a conference with the Funding Commission's Board of Directors.

(a) The request shall be granted in writing stating the date and time set for the conference.

(b) The assessment payer may appear in person or by representative.

(6) After considering the assessment payer's protest, including any matters presented at the final conference, the Funding Commission shall issue a final ruling on any matter still in controversy, which shall be mailed to the assessment payer. The ruling shall state:

(a) That it is the final ruling of the Funding Commission and shall generally state the issues in controversy;

(b) The Funding Commission's position; and

(c) The procedure for appeal to the Kentucky Claims Commission in accordance with KRS 49.220 and 802 KAR 1:010.

(7)(a) The assessment payer may request in writing a final ruling any time after filing a timely protest and supporting statement.

(b) If a final ruling is requested, the Funding Commission shall issue the ruling within sixty (60) days or at the next Board of Directors meeting whichever is later, from the date the request is received by the Funding Commission.

(8) After a final ruling has been issued, the assessment payer may appeal to the Kentucky Claims Commission pursuant to the provisions of KRS 49.220.

#### Section 12. ~~[Section 10.]~~ Reports.

(1) Insurance companies, group self-insurers, and individual self-insurers shall file an electronic ~~[a]~~ Quarterly Premiums Report accompanied by the assessment due and payable for each calendar quarter.

(a) The quarterly premiums report and assessment due and payable shall be received by the KWCFE no later than thirty (30) days following the end of the calendar quarter.

(b) Receipt of the Quarterly Premiums Report and assessment due and payable shall be considered timely through electronic filing and payment; and prior to January 1, 2020 actual physical receipt by the KWCFE or by postmark of the U.S. Postal Service.

(2) Insurance companies shall file Form KWCFE-01, Quarterly Premiums Report.

(3) Employers carrying their own risk shall file Form KWCFE-02, Quarterly Premiums Report.

(4) Group self-insurers shall file Form KWCFE-03, Quarterly Premiums Report.

~~[(5) Employers engaged in severance or processing of coal shall file KWCFE-08, Severed Coal Quarterly Assessment Report.]~~

~~(5)~~ ~~[(6)]~~ (a) Every insurance company, group self-insurer, and individual self-insurer providing workers' compensation insurance in Kentucky shall submit to the KWCFE an Annual Audit and Collections Report for each calendar year no later than June ~~[April]~~ 30th following the end of the calendar year.

(b) These reports shall be submitted to the KWCFE electronically and shall contain the information in the file content format in accordance with the Annual Audit and Collections Report

instructions incorporated by reference in Form KWCF-05, Annual Audit and Collections Report, Data Reporting Instructions Insurance Companies; Form KWCF-06, Annual Audit and Collections Report, Data Reporting Instructions Group Self Insurer; or Form KWCF-07, Annual Audit and Collections Report, Individual Self Insurer, as applicable.

~~(6)~~~~(7)~~ An insurance company or group self-insurer that does not write, receive, or return any Kentucky workers' compensation insurance premium during the calendar year shall complete and return Form KWCF-04 (Non-writer Statement) to the Kentucky Workers' Compensation Funding Commission, electronically or by mail, 42 Mill Creek Park, Frankfort, Kentucky 40601 no later than ~~June~~~~April~~ 30th following the end of the calendar year.

Section 13.~~Section 11.~~ Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "KWCF-01, Quarterly Premiums Report", 02/2023~~[08/2018]~~;

(b) "KWCF-02, Quarterly Premiums Report", 02/2023~~[08/2018]~~;

(c) "KWCF-03, Quarterly Premiums Report", 02/2023~~[08/2018]~~;

(d) "KWCF-04, Nonwriter Statement", 02/2023~~[08/2018]~~;

(e) "KWCF-05, Annual Audit and Collections Report, Data Reporting Instructions Insurance Companies", 02/2023~~[08/2018]~~;

(f) "KWCF-06, Annual Audit and Collections Report, Data Reporting Instructions Group Self Insurer", 02/2023~~[08/2018]~~;

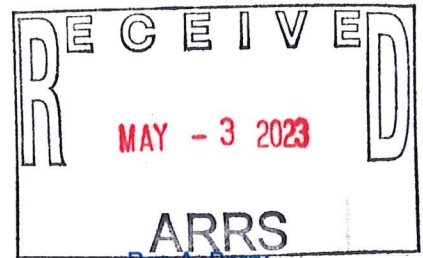
(g) "KWCF-07, Annual Audit and Collections Report, Individual Self-Insurer", 02/2023~~[08/2018]~~; **and**

(h) "KWCF-08, Assessment Calculation Guide~~[Severed Coal Quarterly Assessment Report]~~", 02/2023~~[08/2018]~~.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Workers' Compensation Funding Commission, 42 Mill Creek Park, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available at the Kentucky Workers' Compensation Funding Commission Web site <http://www.kwcf.ky.gov>~~[/]~~.

This is to certify the Executive Director has reviewed and recommended this administrative regulation prior to its adoption, as required by KRS 342.260, 342.270 and 342.285.

CONTACT PERSON: Marcus A. Roland, General Counsel, Kentucky Workers' Compensation Funding Commission, 421 Mill Creek Park, Frankfort, Kentucky 40601, phone (502) 782-1721, fax (502) 573-4923, email [marcus.roland@ky.gov](mailto:marcus.roland@ky.gov).



**Andy Beshear**  
GOVERNOR

**Jacqueline Coleman**  
LIEUTENANT GOVERNOR

**PUBLIC PROTECTION CABINET**  
Kentucky Department of Financial  
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**Ray A. Perry**  
SECRETARY

**Justin M. Burse**  
ACTING COMMISSIONER

May 3, 2023

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

Re: **808 Kentucky Administrative Regulation 1:170**, Licensing and Registration

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by **808 KAR 1:170**, the Department of Financial Institutions proposes the attached suggested amendment to 808 KAR 1:170.

Sincerely,

Justin M. Burse, Acting Commissioner  
Department of Financial Institutions  
500 Mero St.  
Frankfort, KY 40601

**SUGGESTED SUBSTITUTE**

Final Version: 04/13/23 at 2:11 p.m.

**PUBLIC PROTECTION CABINET  
Department of Financial Institutions**

**808 KAR 1:170. Licensing and registration.**

RELATES TO: KRS **12.357, Subchapter[Chapter]** 286.4, 286.8-010, 286.8-020, 286.8-030(1), 286.8-032, 286.8-034, 286.8-036, 286.8-060, 286.8-070, 286.8-080, 286.8-090(1), 286.8-140(2)(b), 286.8-255, 286.8-260, 286.8-290, 286.9-010, 286.9-020, 286.9-030, 286.9-040, 286.9-050, 286.9-060, 286.9-071, 286.9-073, 286.9-080

STATUTORY AUTHORITY: KRS 286.4-420, 286.4-425, 286.4-430, 286.4-440, 286.4-450(1)(b), 286.4-480, 286.4-610(1), 286.8-032, 286.8-034, 286.8-100, 286.8-140(1), (4), 286.8-255, 286.8-285, 286.9-050, 286.9-060, 286.9-070, 286.9-090(1), 286.9-107

NECESSITY, FUNCTION, AND CONFORMITY: KRS 286.4-610(1) authorizes the commissioner to promulgate administrative regulations for the proper conduct of the consumer loan businesses licensed under KRS Chapter 286.4. KRS 286.4-430(1) authorizes the commissioner to ***establish[prescribe]*** the form of the application for a license under KRS Chapter 286.4. KRS 286.8-140(1) authorizes the commissioner to promulgate administrative regulations necessary to accomplish the basic purposes of KRS Chapter 286.8. KRS 286.9-090(1) authorizes the commissioner to ***promulgate[adopt]*** reasonable administrative regulations for the enforcement of KRS Chapter 286.9. KRS 286.9-050 and 286.9-060 authorize the commissioner to ***establish[prescribe]*** the form and materials required to apply for a license under KRS Chapter 286.9. This administrative regulation establishes licensing and registration requirements for consumer loan companies, check cashing and deferred deposit service businesses, mortgage loan companies, mortgage loan brokers, mortgage loan branches, and mortgage loan originators, and procedures for using the Nationwide Multistate[mortgage] Licensing System (NMLS) ***and Registry***.

Section 1. Definitions.

- (1) "Audited financial statement" means a financial statement prepared by a certified public accountant in accordance with generally accepted accounting principles.
- (2) "Nationwide Multistate Licensing System and Registry" is defined by KRS 286.8-010(20).
- (3) "Surety bond" means a bond ***provided[furnished]*** by a surety company authorized to conduct business in Kentucky.

Section 2. Consumer Loan Company Licensure. A person applying for licensure as a consumer loan company shall submit:

- (1) A completed NMLS Company Form available online at <http://mortgage.nationwidelicensingsystem.org>;
- (2) A completed NMLS Individual Form available online at <http://mortgage.nationwidelicensingsystem.org>;
- (3) A Form CL-4, State License Confirmation Form completed by each state or jurisdiction in which the person is licensed or registered if the person applying for licensure as a consumer loan company is licensed or registered in any other state or jurisdiction to operate a business making loans of \$15,000 or less at the time of application;
- (4) The nonrefundable application investigation fee established in KRS 286.4-440(1); and

(5) The annual license fee established in KRS ~~286.4-440(2)~~**[286.4-440(1)]**.

Section 3. Check Cashing and Deferred Deposit Service Business Licensure.

(1) Initial Application. A person applying for an initial check cashing license shall submit:

- (a) A completed NMLS Company Form available online at <http://mortgage.nationwidelicensingsystem.org>;
- (b) A completed NMLS Individual Form available online at <http://mortgage.nationwidelicensingsystem.org> for each control person designated on the "direct owners and executive officers" section of the NMLS Company Form;
- (c) The nonrefundable investigation fee established in KRS 286.9-060(1);
- (d) Form COMB-1, State License Confirmation Form for Check Cashing License or Deferred Deposit Service Business License, incorporated by reference in 808 KAR 9:050, if the applicant has a license, registration, or claim of exemption related to the financial services industry in any other state;
- (e) An audited financial statement, which **shall include[includes]** a balance sheet, income statement, statement of cash flows, and all relevant notes, dated as of the previous year end. If the applicant is a startup company, an initial statement of condition and a proforma income statement shall be submitted instead of the income statement and statement of cash flows;
- (f) Evidence that the applicant has complied or will comply with all workers' compensation and unemployment compensation laws of Kentucky; and
- (g) One (1) of the following, which shall be deposited with and made payable to the commissioner:
  1. An irrevocable letter of credit in an amount required by KRS 286.9-040(1)(a);
  2. An Electronic Surety Bond, available online at <http://mortgage.nationwidelicensingsystem.org>, in an amount required by KRS 286.9-040(1)(b). The name of the principal insured on the bond shall match exactly the full legal name of the applicant; or
  3. Form COMB-3, Escrow Agreement for Check Cashing License or Deferred Deposit Service Business License, incorporated by reference in 808 KAR 9:050, accompanied by:
    - a. Evidence that the applicant has established an account in a federally insured financial institution in Kentucky and has deposited money of the United States in an amount required by KRS 286.9-040(1)(c); or
    - b. A savings certificate of a federally insured financial institution in Kentucky established by the applicant that is not available for withdrawal except by direct order of the commissioner in an amount required by KRS 286.9-040(1)(d).

(2) Renewal Application. A licensee applying for renewal of a check cashing license or deferred deposit service business license pursuant to KRS 286.9-080(1) shall complete and submit the following on or before December 31 of each year:

- (a) The required updates and attestation ensuring the accuracy of all information in the person's record maintained by the <http://mortgage.nationwidelicensingsystem.org>; and
- (b) The nonrefundable license fee established in KRS 286.9-080(1).

(3) Reinstatement Application. A licensee applying for reinstatement of a check cashing license or deferred deposit service business license pursuant to KRS 286.9-080(2) shall complete and submit the following prior to January 31 of the year that the renewal application was due:

- (a) The required updates and attestation ensuring the accuracy of all information in the person's record maintained by the <http://mortgage.nationwidelicensingsystem.org>;
- (b) The nonrefundable license fee established in KRS 286.9-080(1); and
- (c) The nonrefundable late fee and reinstatement fee established in KRS 286.9-080(2).

Section 4. Licensure as a Mortgage Loan Company or Mortgage Loan Broker.

(1) Initial Application. A person applying for licensure as a mortgage loan company or mortgage loan broker shall submit:

- (a) A completed NMLS Company Form as available online at <http://mortgage.nationwidelicensingsystem.org>;
- (b) A completed NMLS Individual Form as available online at <http://mortgage.nationwidelicensingsystem.org> for each control person designated on the "direct owners and executive officers" section of the NMLS Company Form;
- (c) An audited financial statement, which includes a balance sheet, income statement, statement of cash flows, and all relevant notes, dated the previous year end to the date of submission of the NMLS Company Form. If **the** applicant is a startup company, an initial statement of condition and a proforma income statement shall be submitted instead of the income statement and statement of cash flows;
- (d) An Electronic Surety Bond available online at <http://mortgage.nationwidelicensingsystem.org> in an amount not less than the amount required by KRS 286.8-060(1). The name of the principal insured on the bond shall match exactly the full legal name of **the** applicant;[-]
- (e) A certified copy of **[the following]**:
  1. If a corporation, the Corporate Charter or Articles of Incorporation and Bylaws;
  2. If a limited liability company, the Articles of Organization and Operating Agreement; or
  3. If a partnership of any form, the Partnership Agreement;
- (f) A Certificate of Authority or a Certificate of Good Standing issued by the Kentucky Secretary of State dated not more than sixty (60) days prior to the submission of the NMLS Company Form;
- (g) If applicant will be operating in Kentucky under a name other than its legal name, a file-stamped copy of the Certificate of Assumed Business Name issued by the Kentucky Secretary of State;
- (h) If required to do so by KRS 286.8-032(6), documentation that a managing principal designated by applicant has successfully completed the educational training **established[set forth]** in KRS **286.8-260(1)[286.8-032(6)]**;
- (i) If the principal office will be located in a residence, a completed Form ML-6, Disclosure of Location at a Residence Form; and
- (j) The fees **established[set forth]** in KRS 286.8-034(1).

(2) Renewal Application.

- (a) A person applying for renewal of a mortgage loan company or mortgage loan broker license prior to December 1 shall submit:
  1. The required updates and attestation ensuring that all information in the person's record maintained by the ~~NMLS[nationwide mortgage licensing system]~~ operated by the State Regulatory Registry, LLC is correct as available online at <http://mortgage.nationwidelicensingsystem.org>; and
  2. The fee **established[set forth]** in KRS 286.8-034(3).
- (b) A person applying for renewal of a mortgage loan company or mortgage loan broker license through reinstatement shall submit all materials required by paragraph (a) of this subsection and the reinstatement fee required by KRS 286.8-034[(4)](6).
- (c) The fee **established[set forth]** in KRS 286.8-034(3) shall be calculated based on data filed by the licensee on the Mortgage Call **Reports (MCRs)[Report (MCR)]**, which shall be submitted through the NMLS, for the twelve (12) month period ending September 30. The licensee shall submit the MCR no later than November 1st of each year. The department shall apply the **[following]criteria established in subparagraphs 1. through 3. of this paragraph** if the licensee has not submitted four (4) quarters of data. [;]

1. If a licensee has not held a license with the department for twelve (12) months, the fee shall be based on the volume of loans originated and closed in Kentucky during the time frame the licensee has held a license in Kentucky. [;]

2. If a licensee does not file the third quarter MCR, which contains data as of September 30, on or before November 1, the department shall:

a. Estimate the twelve (12) month loan volume based on previously filed MCR reports by annualizing the loan volume contained in the prior three (3) quarterly MCR report;

b. Recalculate the actual renewal fee owed once the third quarter MCR is filed; and

c. Send a subsequent fee bill to the licensee for any renewal fee owed based on the actual loan volume reported on the MCR data versus the amount estimated by the department using the annualized loan volume in **established in clause a. of this subparagraph[2(a)].**

3. Pursuant to KRS 286.8-044, the **commissioner[department]** may pursue an administrative action against any licensee that:

a. Fails to file a timely and accurate MCR; or

b. **Submits[The department may pursue administrative action against any licensee for] inaccurate filings of MCR reports resulting in insufficient renewal fee payments.**

(3) Change of address, name, control, or agent for service.

(a) A licensee changing its address, name, or agent for service of process shall notify the commissioner **at least:**

1. **[At least]**Ten (10) days prior to the change of address or name; and

2. Five (5) days prior to the change of agent for service of process.

(b) A licensee that wants to engage in a transaction resulting in a change of control shall notify the commissioner at least thirty (30) days in advance with the information necessary for the commissioner to determine **if[whether]** the requirements of KRS Chapter 286.8 will be satisfied upon the change of control. The commissioner shall notify the licensee **if[whether]** the request is approved or denied within thirty (30) days of a completed submission of the notice of change of control.

(c) A licensee changing its address, name, control, or agent for service of process shall update this information in NMLS[Nationwide Mortgage Licensing System (NMLS)] within the same time periods **established[set forth]** in this section.

#### Section 5. Registration of a Mortgage Loan Company Branch.

(1) A mortgage loan company branch shall not be approved unless it is controlled, managed, and supervised by the applicant's principal office.

(2)

(a) A person applying for registration of a branch shall submit **[the following]:**

1. **[a)]** A completed NMLS Branch Form as available online at <http://mortgage.nationwidelicencingsystem.org>;

2. **[b)]** A copy of the lease or deed for the branch;

3. **[c)]** A completed Form ML-7, Branch Authorization Form; and

4. **[d)]** If the branch will be located in a residence, a Form ML-6, Disclosure of Location at a Residence Form ~~[-and]~~

**[e)]** ~~The fee set forth in KRS 286.8-034(1)(b)].~~

(b) An additional fee for branch registration shall not be required by the department.

(3) **[A person applying for renewal of a branch registration prior to December 1 shall submit all materials required by Section 4(2)(a) of this administrative regulation.**



~~(4)~~ A person applying for renewal of a branch registration through reinstatement shall submit all materials required by Section ~~4(2)(a)1.~~~~4(2)(a)~~ of this administrative regulation ~~[and the reinstatement fee required by KRS 286.8-034(6)]~~ ~~(4)~~.

#### Section 6. Registration of a Mortgage Loan Originator.

(1) Initial registration. A person applying for registration as a mortgage loan originator pursuant to KRS 286.8-255(2) shall submit:

- (a) A completed NMLS Individual Form as available online at <http://mortgage.nationwidelicensingsystem.org>;
- (b) A request to submit a Federal Bureau of Investigation background records check and a credit report to the department;
- (c) Certification that applicant has successfully completed all education and testing required by KRS 286.8-255; and
- (d) The fee **established[set forth]** in KRS 286.8-255(2)(b).

(2) Renewal registration.

(a) A person applying for renewal of a mortgage loan originator registration pursuant to KRS 286.8-255(4) shall submit:

1. The required updates and attestation ensuring that all information in the person's record maintained by the ~~NMLS[nationwide mortgage licensing system]~~ operated by the State Regulatory Registry, LLC is correct as available online at <http://mortgage.nationwidelicensingsystem.org>;
2. A request to submit a Federal Bureau of Investigation background records check and a credit report to the department;
3. Certification that applicant has successfully completed all education and testing required by KRS 286.8-255 and 286.8-260; and
4. The fee **established[set forth]** in KRS 286.8-255(4).

(b) A person applying for renewal of a mortgage loan originator registration through reinstatement shall submit all materials required by paragraph (a) of this subsection and the reinstatement fee required by KRS 286.8-255(5)(c).

(3) The cost of any Federal Bureau of Investigation background records check or credit report required by this section shall be borne by the applicant.

Section 7. Mortgage Loan Originator Bond Requirements. In addition to the requirements **established[set forth]** in this administrative regulation, an applicant applying for registration, renewal, or renewal through reinstatement as a mortgage loan originator shall provide proof that the mortgage loan originator holds or is covered by a bond. If the mortgage loan originator is procuring his or her own bond, the applicant shall submit an Electronic Surety Bond available online at <http://mortgage.nationwidelicensingsystem.org> in an amount determined by annual loan origination as follows:

- (1) If the annual loan volume of the applicant is less than \$10,000,000, the surety bond shall be in an amount not less than \$15,000; or
- (2) If the annual loan volume of the applicant is \$10,000,000 or more, the surety bond shall be in an amount not less than \$20,000.

#### Section 8. Factors Used to Determine Approval or Disapproval of an Application.

(1) A mortgage loan originator applicant seeking registration, renewal, or renewal through reinstatement under KRS 286.8-255 shall demonstrate the financial responsibility, character, and general fitness **[such as]** to command the confidence of the community and to warrant a determination that the

applicant will operate honestly, fairly, lawfully, and efficiently within the purposes of **KRS Subchapters 286.8 and 286.9**~~[the subtitle]~~.

(2) An applicant shall authorize the commissioner to obtain a credit report containing a credit score to aid in making this determination.

(3) The applicant shall have met the requirement of financial responsibility if he or she possessed a credit score of 600 or higher at the time of application. If the applicant possesses a credit score of less than 600, the commissioner **shall**~~[may]~~ review the applicant's credit report for the following information to make this determination:

(a) Any outstanding judgments, excluding judgments arising solely from medical expenses for the applicant or an immediate family member;

(b) **[Any]** Outstanding tax liens or other governmental liens, **if any**;

(c) **[Any]** Foreclosures occurring within five (5) years of the date of application or renewal, **if any**;

(d) **[Any]** Bankruptcies occurring within five (5) years of the date of application or renewal, **if any**; and

(e) **[Any]** Delinquent accounts occurring within five (5) years of the date of application or renewal, **if any**.

(4) The factors of character and general fitness shall be determined by the commissioner after review of all relevant information, including information shown on the applicant's credit report, the applicant's criminal history, and any administrative or civil actions taken against the applicant.

Section 9. Electronic Submission of Filings and Fees through the NMLS~~[Nationwide Mortgage Licensing System]~~ Operated by the State Regulatory Registry, LLC.

(1) A person applying for licensure, registration, renewal, or renewal through reinstatement pursuant to Sections 2 **through**~~[, 3, 4, 5, 6, and]~~ 7 of this administrative regulation shall electronically submit the following with the State Regulatory Registry, LLC, at <http://www.stateregulatoryregistry.org/NMLS>, as part of the NMLS~~[nationwide mortgage licensing system]~~:

(a) All forms, updates, attestations, and requests required by Sections 2 **through**~~[, 3, 4, 5, 6, and]~~ 7 of this administrative regulation, as applicable;

(b) Fingerprints and any other information or authorizations necessary to obtain the background records checks and credit reports **established**~~[referenced]~~ in Section 6 of this administrative regulation; and

(c) All fees **established**~~[referenced]~~ in this administrative regulation, **as applicable**.

(2) All forms, documentation, fees, or information that are not available for electronic submission directly through the nationwide Multistate~~[mortgage]~~ Licensing System **and Registry** operated by the State Regulatory Registry, LLC shall be submitted directly to the department.

(3) **[Any]** Fees assessed by the State Regulatory Registry, LLC, to process the electronic submissions **established**~~[referenced]~~ in subsection (1) of this section shall be borne by the applicant.

Section 10. Abandoned Applications. If an applicant fails to provide or respond to a request for additional information from the department within ninety (90) days~~[of submission]~~~~[to the department]~~, the application shall be **deemed incomplete and** abandoned. An applicant seeking licensing or registration after its application has been abandoned shall reapply and resubmit all required information.

Section 11. Inactive Status for Members of the Armed Forces.

(1) **In addition to the provisions of KRS 12.357**, a member of the Armed Forces who holds a license or registration in good standing under this administrative regulation may request that the commissioner place the license or registration in inactive status during the period of time that the member is mobilized or deployed, and for a period of six (6) months following termination of the mobilization or deployment.

- (2) To request inactive status for a license or registration, a person shall complete Form ML-8, Request for Inactive Status Due to Military Service, and submit it along with proof of mobilization or deployment to the commissioner for approval.
- (3) A person whose license or registration has been placed in inactive status shall not engage in the activity requiring the license or registration under KRS **Subchapter[Chapter]** 286.8.
- (4) The fee **established[set forth]** in KRS 286.8-255(4) shall not accrue against a person whose license or registration is in inactive status.
- (5) A person may reactivate an inactive license or registration by submitting a written request to the commissioner and attaching proof of compliance with KRS 286.8-255(10) and 286.8-260, if applicable. Upon receipt of a written request and confirmation of compliance with KRS 286.8-255(10) and 286.8-260, the commissioner shall issue an approval for reactivation.

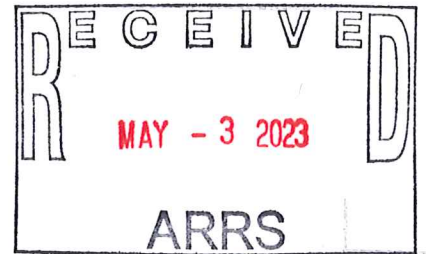
#### Section 12. Incorporation by Reference.

(1) The following material is incorporated by reference:

- (a) Form CL-4, "State License Confirmation Form", updated December[?] 2019;
- (b) Form ML-6, "Disclosure of Location at a Residence Form", updated December[?] 2019;
- (c) Form ML-7, "Branch Authorization Form", updated December[?] 2019; and
- (d) Form ML-8, "Request for Inactive Status Due to Military Service", updated December[?] 2019.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Financial Institutions, 500 Mero St 2SW19, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 5 p.m. This material may also be obtained from the department's Web site at <http://www.kfi.ky.gov>.

CONTACT PERSON: Gary Stephens, Asst. General Counsel, 500 Mero Street, 2 SW 19, Frankfort, Kentucky 40601, 502-782-9046, fax 502-573-8787; Gary.Stephens@ky.gov.



Andy Beshear  
GOVERNOR

Jacqueline Coleman  
LIEUTENANT GOVERNOR

**PUBLIC PROTECTION CABINET**  
Kentucky Department of Financial  
Institutions

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Ray A. Perry  
SECRETARY

Justin M. Burse  
ACTING COMMISSIONER

May 3, 2023

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

Re: **808 Kentucky Administrative Regulation 1:170**, Licensing and Registration

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by **808 KAR 1:170**, the Department of Financial Institutions proposes the attached agency amendment to 808 KAR 1:170.

Sincerely,

Justin M. Burse, Acting Commissioner  
Department of Financial Institutions  
500 Mero St.  
Frankfort, KY 40601

**Agency Amendment**

**PUBLIC PROTECTION CABINET  
Department of Financial Institutions**

**808 KAR 1:170. Licensing and registration.**

**Page 6**

**Section 4(2)(c)**

**Lines 13 and 14**

After "ending September 30.", delete the following

The licensee shall submit the MCR no later than November 1<sup>st</sup> of each year.

**Line 15**

After "quarters of data", insert "ending September 30".

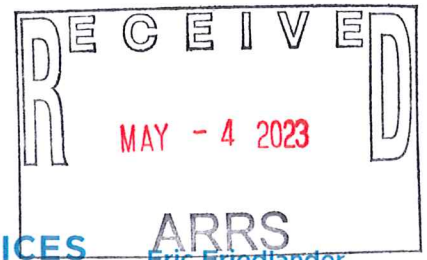
**Page 6**

**Section 4(2)(c)2.**

**Line 20**

After "or before November", insert "14".

Delete "1".



**Andy Beshear**  
GOVERNOR

**CABINET FOR HEALTH AND FAMILY SERVICES**

275 East Main Street, 5W-A  
Frankfort, Kentucky 40621  
Phone: (502) 564-7042  
Fax: (502) 564-7091

**ARRS**  
Eric Friedlander  
SECRETARY

May 3, 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: **902 KAR 20:480**. Assisted living communities.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 902 KAR 20:480, the Cabinet for Health and Family Services proposes the attached amendments to 902 KAR 20:480.

Sincerely,

Stacy Carey  
Executive Staff Advisor  
Office of Legislative and Regulatory Affairs

Attachments



**SUGGESTED SUBSTITUTE – To Amended After Comments Version**

Final Version: 4/28/23 3:36 p.m.

**CABINET FOR HEALTH AND FAMILY SERVICES**

**Office of the Inspector General**

**Division of Health Care**

**902 KAR 20:480. Assisted living communities.**

RELATES TO: KRS 194A.700 — 194A.729, ~~209.030(2) – (4)~~, 209.032, 216.515, 216.530, 216.532, 216.595, 216.718, 216.765, 216.789, 216B.015(13), 216B.020(1), 216B.105, 216B.160, 216B.165, 218A.200(6), ~~314.011(3)~~, 21 C.F.R. Part 1317, 45 C.F.R. Parts 160, 164, 42 U.S.C. 1320d-2 – 1320d-8

STATUTORY AUTHORITY: KRS 194A.707(1), (9), 216B.042(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.707(1) requires the Cabinet for Health and Family Services to promulgate administrative regulations under KRS Chapter 13A for an initial and re-licensure review process for assisted living communities, including licensure procedure for application, approval or denial, revocation, and appeals. KRS 194A.707(9) authorizes[permits] the cabinet to promulgate administrative regulations to establish an assisted living community and assisted living community with dementia care licensure fee that shall not exceed costs of the program to the cabinet. KRS 216B.042(1) requires the cabinet to promulgate administrative regulations necessary for the proper administration of the licensure function, which includes establishing licensure standards and procedures to ensure safe, adequate, and efficient health facilities and health services. This administrative regulation establishes the minimum licensure requirements for the operation of social model assisted living communities **(ALC)**, assisted living communities that provide basic health and health-related services **(ALC-BH)**, and assisted living communities with a secured dementia care unit **(ALC-DC)**.

Section 1. Definitions. (1) "Activities of daily living" is defined by KRS 194A.700(1).

(2) "Ambulatory" is defined by KRS 194A.700(2).

(3) "Assistance with activities of daily living and instrumental activities of daily living" is defined by KRS 194A.700(3).

(4) "Assistance with self-administration of medication" is defined by KRS 194A.700(4).

(5) "Assisted living community" is defined by KRS 194A.700(5).

(6) "Assisted living community with dementia care" is defined by KRS 194A.700(6).

(7) "Assisted living services" is defined by KRS 194A.700(7).

(8) "Basic health and health-related services" is defined by KRS 194A.700(8).

(9) "Dementia" is defined by KRS 194A.700(10).

(10) "Dementia care services" is defined by KRS 194A.700(11).

(11) "Dementia-trained staff" is defined by KRS 194A.700(12).

(12) "Direct care service" is defined by KRS 216.718(4).

(13) ~~["Immediate family member" means a:~~

~~(a) Spouse;~~

~~(b) Child;~~

~~(c) Stepchild;~~

~~(d) Son-in-law;~~

~~(e) Daughter-in-law; or~~

~~(f) Grandchild.~~

~~(14)]~~ "Hands-on assistance" is defined by KRS 194A.700(13).

~~(14)~~~~(15)~~~~(14)~~ "Health facility" is defined by KRS 216B.015(13) to include assisted living communities.

**(15) "Immediate family member" means a:**

**(a) Spouse;**

**(b) Child;**

**(c) Stepchild;**

**(d) Son-in-law;**

**(e) Daughter-in-law; or**

**(f) Grandchild.**

~~(16)~~~~(15)~~ "Instrumental activities of daily living" is defined by KRS 194A.700(15).

~~(17)~~~~(16)~~ "Legal representative" means a person legally responsible for representing or standing in the place of the resident **to conduct**~~[for the conduct of]~~ the resident's affairs.

**(18) "Licensed health professional" means a person who:**

**(a) Possesses a current Kentucky license or multistate licensure privilege to practice in Kentucky; and**

**(b) Provides services to ALC-BH or ALC-DC residents, including the delegation of tasks pursuant to KRS 194A.700(7)(h) as authorized under the professional's scope of practice.**

~~(19)~~~~(17)~~ "Living unit" is defined by KRS 194A.700(16).

~~(20)~~~~(18)~~ "Managing agent" means an individual or legal entity designated by the licensee through a management agreement to act on behalf of the licensee in the on-site management of the assisted living community.

~~(21)~~~~(19)~~ "Medication administration" is defined by KRS 194A.700(17).

~~(22)~~~~(20)~~ "Medication management" is defined by KRS 194A.700(18).

~~(23)~~~~(21)~~ "Medication reconciliation" means the process of identifying the most accurate list of all medications the resident is taking, including the name, dosage, frequency, and route, by comparing the resident record to an external list of medications obtained from the resident, hospital, prescriber, or other provider.

~~(24)~~~~(22)~~ "Medication setup" is defined by KRS 194A.700(19).

**(25) "Nurse" is defined by KRS 314.011(3).**

**(26) "Nursing task" is defined by 201 KAR 20:400, Section 1(11).**

~~(27)~~~~(23)~~ "Person-centered care" is defined by KRS 194A.700(21).

**(28) "Quality management activity" means evaluating the quality of care by:**

**(a) Reviewing resident services, complaints made, and other issues that have occurred; and**

**(b) Determining if changes in services, staffing, or other procedures need to be made to ensure safe and competent services to residents.**

~~(29)~~~~(24)~~ "Resident" is defined by KRS 194A.700(22).

~~(30)~~~~(29)~~~~(25)~~ "Secured dementia care unit" is defined by KRS 194A.700(23).

~~(31)~~~~(30)~~~~(26)~~ "Service plan" is defined by KRS 194A.700(24).

~~(32)~~~~(31)~~~~(27)~~ "Significant financial interest" **means**~~[is defined as]~~ the lawful ownership of an out-of-state or a Kentucky-licensed health facility or health service, or other entity regulated by the cabinet, whether by share, contribution, or otherwise, in an amount equal to or greater than twenty-five (25) percent of total ownership of the out-of-state or Kentucky-licensed health facility or health service, or other cabinet-regulated entity.

~~(33)~~~~(32)~~~~(28)~~ "Temporary condition" is defined by KRS 194A.700(26).

~~(34)~~~~(33)~~~~(29)~~ "Unlicensed personnel" is defined by KRS 194A.700(27).

~~(35)~~~~(34)~~ **"Volunteer":**



(a) Means a person who has duties that are equivalent to the duties of an employee providing direct care services and the duties involve, or *might/may* involve, one-on-one contact with a resident; and

(b) Does not mean [~~A volunteer does not include~~] a member of a community-based or faith-based organization or group that provides volunteer services that do not involve unsupervised interaction with a resident.

Section 2. Licensure Categories. (1) The licensure categories established by this administrative regulation **shall** include **[the following]**:

- (a) A social model assisted living community (ALC) license for any facility that provides assisted living services, excluding basic health and health-related services;
- (b) An assisted living community with basic health care (ALC-BH) license for any facility that:
  - 1. Provides assisted living services, including basic health and health-related services directly to its residents; and
  - 2. Does not have a secured dementia care unit; and
- (c) An ALC with dementia care (ALC-DC) license for any facility that provides assisted living services and dementia care services in a secured dementia unit.

(2) In accordance with KRS 194A.710(3), a license issued under this administrative regulation shall not be assignable or transferable.

(3) In accordance with KRS 194A.704, a personal care home that is in substantial compliance with KRS 194A.703 shall convert its license to an ALC-BH or ALC-DC license, if applicable, by submitting the application, accompanying documentation, and fee required by Section 3(2) of this administrative regulation at least sixty (60) days prior to the date of annual renewal of the facility's personal care home license.

Section 3. Licensure Application and Fees. (1) In accordance with KRS 216B.020(1), an ALC, ALC-BH, or ALC-DC shall be exempt from certificate of need.

(2) An applicant for a provisional, initial license or annual renewal as an ALC, ALC-BH, or ALC-DC shall submit to the Office of Inspector General:

- (a) A completed Application for License to Operate an Assisted Living Community at least sixty (60) days prior to the:
  - 1. Planned opening; or
  - 2. Annual renewal date;
- (b) Proof of approval by the State Fire Marshal's office;
- (c) A copy of a blank lease agreement that includes the elements required by KRS 194A.713 and any documentation incorporated in the agreement;
- (d) An organizational chart that identifies all entities and individuals with a significant financial interest in the prospective or existing licensee, including the relationship with the licensee and with each other;
- (e) A description of any special programming that may be provided in accordance with KRS 194A.713(11);
- (f) If applying for a provisional, initial license, or if changes have been made since the date of the previous renewal, a copy of the facility's floor plan that shall identify the:
  - 1. Living units, including features that meet the requirements of KRS 194A.703(1);
  - 2. Central dining area;
  - 3. Laundry facility; and
  - 4. Central living room;

(g) ***If [Whether]*** in the preceding seven (7) years any individual with a significant financial interest in the entity seeking initial licensure or renewal as an ALC, ALC-BH, or ALC-DC had a significant financial

interest in an out-of-state or a Kentucky-licensed health facility or health service, or other entity regulated by the cabinet, that had its license or certificate to operate denied, suspended, revoked, or voluntarily relinquished as the result of an investigation or adverse action that placed patients, residents, or clients at risk of death or serious harm;

(h)1. A copy of the applicant's compliance history for any other care facility the applicant operates if applying for a provisional, initial license as an:

- a. ALC or ALC-BH; or
- b. ALC-DC that did not have a dementia unit in operation prior to July 14, 2022.

2. Documentation of the applicant's compliance history, ~~including~~ **[shall include]** a copy of all enforcement action issued by the regulatory agency against the care facility including violations, fines, or negative action against the facility's license during the seven (7) year period prior to application for a provisional, initial license; and

(i) A nonrefundable fee made payable to the Kentucky State Treasurer in accordance with the ~~following~~ fee schedule **established in this paragraph.[:]**

Number of Units	Initial and Annual Fee
<25	\$500 + \$40 per unit
25-49	\$1,000 + \$40 per unit
50-74	\$1,500 + \$40 per unit
75-99	\$1,750 + \$40 per unit
100 or more	\$2,000 + \$40 per unit

(3)(a) Name change. An ALC, ALC-BH, or ALC-DC shall:

- 1. Notify the Office of Inspector General in writing within ten (10) calendar days of the effective date of a change in the facility's name; and
- 2. Submit a processing fee of twenty-five (25) dollars.

(b) Change of location. An ALC, ALC-BH, or ALC-DC shall not change the location of the facility until an Application for License to Operate an Assisted Living Community accompanied by the documentation and fees required by subsection (2)(i) of this section have been submitted to the Office of Inspector General.

(c) Change in number of living units.

- 1. An ALC, ALC-BH, or ALC-DC shall submit an Application for **Licensure[License]** to Operate an Assisted Living Community to the Office of Inspector General:
  - a. At least sixty (60) days prior to an increase in the number of living units; and
  - b. Accompanied by a fee of sixty (60) dollars per each additional unit.
- 2. If there is a decrease in the number of living units, an ALC, ALC-BH, or ALC-DC shall notify the Office of Inspector General within sixty (60) days of the decrease.

(d) Change of ownership.

- 1. The new owner of an ALC, ALC-BH, or ALC-DC shall submit an Application for **Licensure[License]** to Operate an Assisted Living Community accompanied by a fee of \$500 within ten (10) calendar days of the effective date of the ownership change.
- 2. A change of ownership for a license shall be deemed to occur if more than twenty-five (25) percent of an existing facility or capital stock or voting rights of a corporation is purchased, leased, or otherwise acquired by one (1) person from another.

(e) Change of managing agent. An ALC, ALC-BH, or ALC-DC shall submit an updated Application for **Licensure[License]** to Operate an Assisted Living Community accompanied by a fee of twenty-five (25) dollars within ten (10) calendar days of the effective date of a change of managing agents.

(f) Information shared with lending institutions relative to financing for ALC projects. The cabinet's fee for providing information in accordance with KRS 194A.729 shall be \$250.

(g) Voluntary termination of operations.

1. An ALC or ALC-BH shall **notify**:

a. **[Notify]**The Office of Inspector General at least sixty (60) days prior to voluntarily relinquishing its license; and

b. **[Notify]**Residents at least sixty (60) days prior to closure unless there is a sudden termination due to:

(i) Fire;

(ii) Natural disaster; or

(iii) Closure by a governmental agency.

2. An ALC-DC that elects to voluntarily terminate operations shall:

a. Relinquish its license; and

b. Comply with notification requirements and other the steps for voluntary relinquishment established by KRS 194A.7063.

(4) Upon receipt of an application accompanied by the documentation and fees required by subsection (2) or subsection (3)(b), (c), or (d) of this section, the Office of Inspector General shall:

(a) Review the application for completeness; and

(b) Return the application and accompanying licensure fee if:

1. An individual having a significant financial interest in the facility, within the seven (7) year period prior to the application date, had a significant financial interest in an out-of-state or a Kentucky-licensed health facility or health service, or other entity regulated by the cabinet, that had its license or certificate to operate denied, suspended, revoked, or voluntarily relinquished as the result of an investigation or adverse action that placed patients, residents, or clients at risk of death or serious harm; or

2. The cabinet finds that the applicant misrepresented or submitted false information on the application.

Section 4. Regulatory Functions and Authority to Enter Upon the Premises. (1) In accordance with KRS 216.530, inspection of an ALC, ALC-BH, or ALC-DC shall be unannounced.

(2) Licensure review inspections shall be conducted in accordance with the survey intervals established by KRS 194A.707(2).

(3) Nothing in this administrative regulation shall prevent the cabinet from:

(a) Conducting an investigation related to a complaint; or

(b) Making an on-site survey of an ALC, ALC-BH, or ALC-DC more often if ~~[the cabinet deems]~~necessary.

(4) An ALC, ALC-BH, or ALC-DC shall **comply with**~~[be subject to]~~ the:

(a) Inspection requirements of 902 KAR 20:008, Section 2(12)**(b) and (c)**;

(b) Procedures for correcting violations established by 902 KAR 20:008, Section 2(13); and

(c) Civil monetary penalties **as established**~~[imposed]~~ under KRS 194A.722(5) for any violation that poses imminent danger to a resident in which substantial risk of death or serious mental or physical harm is present.

Section 5. License Requirements. (1) In accordance with KRS 194A.707(3) **and 194A.710(1)**, an entity shall not operate as ALC, ALC-BH, or ALC-DC unless it is licensed.

(2) The licensee shall be legally responsible for:

- (a) The management, control, and operation of the facility in accordance with KRS 194A.710(1), regardless of the existence of a management agreement or subcontract; and
- (b) Compliance with federal, state, and local laws and administrative regulations pertaining to the operation of the ALC, ALC-BH, or ALC-DC.

(3) An ALC, ALC-BH, or ALC-DC shall not represent that the facility provides any service other than a service it is licensed to provide.

(4)(a) Upon approving an application, the cabinet shall issue a single license for each building that is operated by the licensee as an ALC, ALC-BH, or ALC-DC, except as **established[provided]** under paragraph (b) of this subsection.

(b)1. Upon approving an application for an ALC, ALC-BH, or ALC-DC, the cabinet shall issue a single license for two (2) or more buildings on a campus if operated by the same licensee.

2. A license for two (2) or more buildings on a campus shall identify the:

- a. Address;
- b. Licensed resident capacity of each building;
- c. **If[Whether]** any building has residents that receive basic health and health-related services from the licensee; and
- d. **If[Whether]** any building has a dementia care unit.

Section 6. Physical Plant Requirements. (1) An ALC, ALC-BH, and ALC-DC shall comply with the requirements for living units as established by KRS 194A.703, including compliance with applicable building and safety codes as determined by the enforcement authority with jurisdiction.

(2) Pursuant to KRS 216.595(3), an ALC-DC may request a waiver from the cabinet regarding building requirements to address the specialized needs of individuals with Alzheimer's disease or other brain disorders.

(3) The request for a waiver shall follow the same process as a facility's request for a variance pursuant to 902 KAR 20:008, Sections 5 and 6.

Section 7. Operations and Services. (1) Resident criteria.

(a) In accordance with KRS 194A.711, a resident of an ALC, ALC-BH, or ALC-DC shall be ambulatory unless due to a temporary condition.

(b) An ALC, ALC-BH, or ALC-DC shall require a medical examination in accordance with KRS 216.765(1) prior to admission of a resident.

(c)1. An ALC, ALC-BH, or ALC-DC shall complete a functional needs assessment **for each resident** in accordance with KRS 194A.705(6) and provide a copy to the resident:

- a. Upon move-in; and
- b. As needed with updated information if there is a change in the resident's condition, but no later than once every twelve (12) months.

2. The functional needs assessment shall be administered by a staff person with at least:

- a. A bachelor's degree in health or human services or a related field;
- b. An associate's degree in health or human services or a related field and at least one (1) year of experience working with the elderly or conducting assessments; or
- c. A high school diploma or its equivalency and two (2) years of experience working with the elderly or conducting assessments.

3. The functional needs assessment shall be used to ensure that the prospective or current resident:

- a. Meets the eligibility criteria pursuant to KRS 194A.711;
- b. Has at least minimal ability to verbally direct or physically participate in activities of daily living (ADL) or instrumental activities of daily living (IADL) during the time in which assistance is provided;

- c. Is free from signs and symptoms of any communicable disease that is likely to be transmitted to other residents or staff;
- d. Does not have any special dietary needs that the facility is unable to meet; and
- e. Does not require twenty-four (24) hour nursing supervision.

(2) Minimum requirements. Each ALC, ALC-BH, and ALC-DC shall:

- (a) Provide each resident with a copy of the resident's rights established by KRS 216.515;
- (b) Provide each resident with access to the services required by KRS 194A.705(1) according to the lease agreement;
- (c) Except for a social model ALC, provide each resident with access to basic health and health-related services;
- (d) Permit a resident to arrange for additional services under direct contract or arrangement with an outside party pursuant to KRS 194A.705(3) if permitted by the policies of the ALC, ALC-BH, or ALC-DC;
- (e) Utilize a person-centered **care** planning and service delivery process;
- (f) Provide an emergency response system or personal medical alert device for residents to request assistance twenty-four (24) hours per day, seven (7) days per week;
- (g) Allow residents the ability to furnish and decorate the resident's unit within the terms of the lease agreement;
- (h) Allow the resident the right to choose a roommate if sharing a unit;
- (i) Except for a resident of a secured dementia unit in an ALC-DC, notify the resident that the living unit shall have a lockable entry door in accordance with KRS 194A.703(1)(b). The licensee shall:
  - 1. Provide the locks on the unit;
  - 2. Ensure that only a staff member with a specific need to enter the unit shall have access to the unit and provide advance notice to the resident before entrance, if possible; and
  - 3. Not lock a resident in the resident's unit;
- (j) Develop and implement a staffing plan for determining staffing levels that:
  - 1. Includes an evaluation conducted at least twice a year of the appropriateness of staffing levels in the facility;
  - 2. Ensures sufficient staffing at all times to meet the scheduled and reasonably foreseeable unscheduled needs of each resident as required by the residents' functional needs assessments and service plans on a twenty-four (24) hour per day basis; and
  - 3. Ensures that the facility can respond promptly and effectively to:
    - a. Individual resident emergencies; and
    - b. Emergency, safety, and disaster situations affecting staff or residents in the facility;
- (k) Ensure that one (1) or more staff **shall be:**
  - 1. [are]** Available twenty-four (24) hours per day, seven (7) days per week; **and**
  - 2. [, who are]** Responsible for responding to the requests of residents for assistance with health or safety needs;
- (l) Upon the request of the resident, provide directly or assist with arranging for transportation to:
  - 1. Medical and social services appointments;
  - 2. Shopping; and
  - 3. Recreation;
- (m) Upon the request of the resident, provide assistance with accessing available community resources and social services;
- (n) Provide culturally appropriate programs that help:
  - 1. Residents remain connected to their traditional lifeways; and
  - 2. Promote culturally sensitive interactions between staff and residents; and

(o) Allow residents to voluntarily engage in one (1) or more IADLs without assistance or with minimal assistance as documented in the resident's service plan, but shall not force a resident to perform IADLs such as housekeeping, shopping, or laundry.

(3) Lease agreements.

(a) Upon entering into a lease agreement, each ALC, ALC-BH, and ALC-DC shall inform the resident in writing according to KRS 194A.705(4) about policies relating to the provision of services and contracting or arranging for additional services.

(b) A lease agreement entered into between a resident and an ALC, ALC-BH, or ALC-DC shall meet the minimum content requirements of KRS 194A.713.

(4) Policies and procedures. Each ALC, ALC-BH, and ALC-DC shall maintain written policies and procedures that are up-to-date and **include[address the following]:**

(a) Reporting and recordkeeping of alleged or actual cases of abuse, neglect, or exploitation of an adult in accordance with KRS 194A.709 **and KRS 209.030(2) through[-] (4) to the:**

**1. Office of Inspector General, Division of Health Care; and**

**2. Department for Community Based Services;**

(b) A description of dementia or other brain disorder-specific staff training as required by KRS 216.595(2)(i) if the facility provides special care for persons with a medical diagnosis of Alzheimer's disease or other brain disorders;

(c) How priority will be given to assist a resident during an emergency if evacuation of the facility is necessary and the resident requires hands-on assistance from another person to walk, transfer, or move from place to place with or without an assistive device pursuant to KRS 194A.717(5);

(d) Grievance policies required by KRS 194A.713(14);

(e) Except for a social model ALC, a method that incorporates at least four (4) components in an ongoing resident assessment done by a registered nurse or manager's (director) designee in accordance with KRS 216B.160(7);

(f) Conducting a functional needs assessment pursuant to KRS 194A.705(6);

(g) Infection control practices that address:

1. The prevention of disease transmission; and

2. Cleaning, disinfection, and sterilization methods used for equipment and the environment;

(h) Reminders for medications, treatments, or exercises, if applicable;

(i) Except for a social model ALC, ensuring that all nurses and **[licensed]** health professionals have current and valid licenses to practice;

(j) Medication and treatment management, if the facility provides these services;

(k) Except for a social model ALC, delegation of:

**1.[a-] Nursing tasks in accordance with 201 KAR 20:400;[by registered nurses] or**

**2.[b-] Therapeutic or other tasks assigned by other licensed health professionals;**

(l) Except for a social model ALC, supervision of **[registered]** nurses and licensed health professionals;

(m) Except for a social model ALC, supervision of unlicensed personnel performing delegated tasks, **which shall include how the facility ensures compliance with the supervision requirements of 201 KAR 20:400, Section 4, if nursing tasks are delegated;**

(n) Cardiopulmonary resuscitation unless the policies of the facility state that this procedure is not initiated by its staff, and each resident or prospective resident is informed of the facility's policy pursuant to KRS 194A.719(1)(d); and

(o) Compliance with the requirements of KRS 216B.165, including assurance that retaliatory action shall not be taken against a staff member who in good faith reports a resident care or safety problem.

(5) Resident grievances. **[(a)]** Each ALC, ALC-BH, and ALC-DC shall post in a conspicuous place:

~~(a)[1.]~~ Information about the facility's grievance procedures;~~[and]~~

~~(b)[2.]~~ The name, telephone number, and e-mail contact information for the individuals who are responsible for handling resident grievances;

~~(c)[-(b)]~~ **The notice shall also have:**

~~1.]~~ Contact information for the state long-term care ombudsman; and

~~(d)[2.]~~ Information for reporting suspected abuse, neglect, or exploitation of an adult.

Section 8. Business Operations. (1) Display of license. The original current license shall be displayed at the main entrance of each ALC, ALC-BH, and ALC-DC.

(2) Quality management activity.

~~(a)~~ ~~[For purposes of this section, "quality management activity" shall mean evaluating the quality of care by:~~

~~1. Periodically reviewing resident services, complaints made, and other issues that have occurred; and~~

~~2. Determining whether changes in services, staffing, or other procedures need to be made to ensure safe and competent services to residents.~~

~~(b)]~~ Each ALC, ALC-BH, or ALC-DC shall engage in quality management activity appropriate to the size of the facility and relevant to the type of services provided.

~~(b)[(e)]~~ Documentation about the facility's quality management activity shall be:

1. Maintained for at least two (2) years; and

2. Available to the Office of Inspector General at the time of the survey, investigation, or renewal.

(3) Restrictions.

(a) An ALC, ALC-BH, ALC-DC, or staff person shall not:

1. Accept a power-of-attorney from a resident for any purpose or accept appointment as a guardian or conservator; or

2. Borrow a resident's funds or personal or real property or convert a resident's property to the possession of the facility or staff person.

(b) An ALC, ALC-BH, ALC-DC, or staff person shall not serve as a resident's designated contact person or legal representative unless the staff person is an immediate family member of the resident.

(4) Resident finances and property.

(a) An ALC, ALC-BH, or ALC-DC may assist a resident with household budgeting, including paying bills and purchasing household goods, but shall not otherwise manage a resident's property except as established in paragraphs (b) and (c) of [described in] this subsection.

(b) If an ALC, ALC-BH, or ALC-DC accepts responsibility for managing a resident's personal funds as evidenced by the facility's written acknowledgment, the facility shall comply with KRS 216.515(8).

(c) Within thirty (30) days of the effective date of a facility-initiated or resident-initiated termination of housing or services or the death of the resident, the ALC, ALC-BH, or ALC-DC shall:

1. Provide to the resident, resident's legal representative, or resident's designated contact person a final statement of account;

2. Provide any refunds due; and

3. Return any money, property, or valuables held in trust or custody by the facility.

Section 9. Dietary Services. (1)~~(a)~~ Dining area. Access to central dining shall be provided [A dining area shall be available] for residents of an ALC, ALC-BH, or ALC-DC in accordance with KRS 194A.703(2), including three (3) meals and snacks made available each day in accordance with KRS 194A.705(1)(b) with flexibility for residents in a secure dementia care unit.

**(b) In addition to subsection (1) of this section, subsections (2) through (5) of this section of this administrative regulation shall apply to facilities licensed to operate as an ALC-BH or ALC-DC.**

(2) Therapeutic diets. If the facility provides therapeutic diets and the staff member responsible for food services is not a licensed dietician or certified nutritionist, the responsible staff person shall consult with a licensed dietician or certified nutritionist.

(3) Menu planning.

(a) Menu shall be planned in writing and rotated to avoid repetition.

(b) An ~~ALC,~~ ALC-BH~~,~~ or ALC-DC shall meet the nutritional needs of residents.

(c) Meals shall correspond with the posted menu.

(d) Menus shall be planned and posted **at least** one (1) week in advance.

(e) If changes in the menu are necessary:

1. Substitutions shall provide equal nutritive value;

2. The changes shall be recorded on the menu; and

3. Menus shall be kept on file for **at least** thirty (30) days.

(4) Food preparation and storage.

(a) There shall be at least a three (3) day supply of food to prepare well-balanced, palatable meals.

(b) Food shall be prepared with consideration for any individual dietary requirement.

(c) Modified diets, nutrient concentrates, and supplements shall be given only on the written order of a **licensed health professional**~~[physician]~~.

(d) At least three (3) meals per day shall be served with not more than a fifteen (15) hour span between the evening meal and breakfast.

(e) At least two (2) hot meals daily shall be offered.

(f) Between-meal snacks, including an evening snack before bedtime shall be offered to all residents.

(g) Adjustments shall be made if medically contraindicated.

(h) Food shall be:

1. Prepared by methods that conserve nutritive value, flavor, and appearance; and

2. Served at the proper temperature and in a form to meet individual needs.

(i) A file of tested recipes, adjusted to appropriate yield, shall be maintained.

(j) Food shall be cut, chopped, or ground to meet individual needs.

(k) If a resident refuses food served, substitutes of equal nutritional value and complementary to the remainder of the meal shall be offered and recorded.

(l) All opened containers or leftover food items shall be covered and dated when refrigerated.

(m) Drinking water shall be readily available to the residents at all times.

(n) Food services shall be provided in accordance with 902 KAR 45:005.

(5)(a) Nothing in this administrative regulation shall be construed as taking precedence over the resident's right to make decisions regarding his or her eating and dining.

(b) Information about the resident's eating and dining preferences shall be included in the resident's service plan based on the resident's preferences.

(c) If the resident's eating and dining preferences have a potential health risk, staff shall inform the resident and the resident's designated contact person or legal representative.

Section 10. Employee Records and Requirements. ~~[Employee records.]~~ (1) Each ALC, ALC-BH, or ALC-DC shall maintain a current record of each:

(a) Staff person employed by the facility directly or by contract; and

(b) Regularly scheduled volunteer providing **direct care** services.

(2) The record **for each staff person** shall include ~~[the following]~~:

(a) Evidence of current professional licensure, registration, or certification, if applicable;



- (b) Documentation of orientation completed within thirty (30) days from the date of hire and annual training;
- (c) Documentation of annual performance evaluations;
- (d) Current job description, including qualifications, responsibilities, and identification of each staff person who provides supervision;
- (e) Documentation of background checks in accordance with Section 14(1) of this administrative regulation; and
- (f) Record of any health exams related to employment, including compliance with the tuberculosis testing requirements of 902 KAR 20:205.

(3) **The record for each regularly scheduled volunteer shall include documentation of background checks in accordance with Section 14(1) of this administrative regulation.**

**(4)[(a)]** Each **[employee]** record shall be retained for at least three (3) years after an employee or volunteer ceases to be employed by or provides services at the facility.

**(5)[(b)]** If a facility ceases operation, **[employee]** records shall be maintained for **at least** three (3) years after facility operations cease.

Section 11. Prevention and Control of Tuberculosis and Other Communicable Diseases. (1) Each ALC, ALC-BH, and ALC-DC shall maintain written evidence of compliance with the screening and testing requirements of:

- (a) 902 KAR 20:200, Tuberculosis (TB) testing for residents in long-term care settings; and
- (b) 902 KAR 20:205, Tuberculosis (TB) testing for health care workers.

(2) An ALC, ALC-BH, and ALC-DC shall follow current requirements related to communicable diseases pursuant to KRS 194A.717(4).

(3) In accordance with KRS 194A.707(6), each ALC, ALC-BH, and ALC-DC may provide residents or their designated representatives with educational information or educational opportunities on influenza disease by September 1 of each year.

Section 12. Disaster planning and emergency preparedness plan. (1) Each ALC, ALC-BH, and ALC-DC shall:

- (a) Have a written emergency disaster plan that:
  - 1. Contains a plan for evacuation, including the written policy required by Section 7(4)(c) of this administrative regulation and KRS 194A.717(5);
  - 2. Addresses elements of sheltering in place or provides instructions for finding a safe location indoors and staying there until given an all clear or told to evacuate;
  - 3. Identifies temporary relocation sites; and
  - 4. Details staff assignments in the event of a disaster or an emergency;
- (b) Post an emergency disaster plan prominently;
- (c) Provide building emergency exit diagrams to all residents;
- (d) Post emergency exit diagrams on each floor; and
- (e) Have a written policy and procedure regarding missing tenant residents.

(2)(a) Each ALC, ALC-BH, and ALC-DC shall:

- 1. Provide emergency and disaster training to all staff during the initial staff orientation and annually; and
- 2. Make emergency and disaster training available to residents annually.

(b) Staff who have not received emergency and disaster training shall **[be allowed to]** work only if **[trained]** staff **trained for emergencies and disaster** are also working on site.

Section 13. Resident Records. (1) Each ALC, ALC-BH, and ALC-DC shall maintain a record for each resident.

(2) Entries in the resident record shall be current, legible, permanently recorded, dated, and authenticated with the name and title of the staff person making the entry.

(3) Resident records, whether written or electronic, shall be protected against loss, tampering, or unauthorized disclosure.

(4) Each resident record shall include the **[following]**:

(a) Resident's name, date of birth, address, and telephone number;

(b) Name, address, and telephone number of the resident's legal representative or designated contact person;

(c) Names, addresses, and telephone numbers of the resident's health and medical service providers, if known;

(d) Health information, including medical history, allergies, tuberculosis test results, vaccination information, and if the provider is managing medications, treatments, or therapies, documentation of the administration of all medications or delivery of treatments or therapy services;

(e) The resident's advance directives, if any;

(f) Copies of any health care directives, guardianships, powers of attorney, or conservatorships;

(g) The resident's current and previous functional needs assessments and service plans;

(h) All records of communications pertinent to the resident's services;

(i) Documentation of significant changes in the resident's status and actions taken in response to the needs of the resident, including reporting to the appropriate supervisor or **licensed** health **[care]** professional;

(j) Documentation of any incident or accident involving the resident and actions taken in response to the needs of the resident, including reporting to the appropriate supervisor or **licensed** health **[care]** professional;

(k) Documentation that services have been provided as identified in the service plan and according to any required orders received from the resident's health care practitioner;

(l) Documentation of administration of medications and delivery of therapeutic services;

(m) Documentation of all verbal prescription orders received by phone and signed by the authorized health **professional**~~**[care practitioner]**~~ within thirty (30) days;

(n) Documentation that the resident has received and reviewed the resident's rights;

(o) Documentation of complaints received and any resolution;

(p) Documentation of move-out or transfer to another setting, if applicable; and

(q) Other documentation relevant to the resident's services or status.

(5) With the resident's knowledge and consent, if a resident is relocated to another facility or if care is transferred to another service provider, the ALC, ALC-BH, or ALC-DC shall convey to the new facility or provider the:

(a) Resident's full name, date of birth, and insurance information;

(b) Name, telephone number, and address of the resident's designated contacts or legal representatives, if any;

(c) Resident's current documented diagnoses that are relevant to the services being provided;

(d) Resident's known allergies that are relevant to the services being provided;

(e) Name and telephone number of the resident's physician, if known, and the current physician orders that are relevant to the services being provided;

(f) All medication administration records and treatment sheets that are relevant to the services being provided;

(g) Most recent functional needs assessment; and

(h) ***If applicable***, copies of health care directives, "do not resuscitate" orders, and ***[any]*** guardianship orders or powers of attorney.

(6)(a) Following a resident's move-out or termination of services, an ALC, ALC-BH, or ALC-DC shall retain a resident's record for at least six (6) years.

(b) Arrangements shall be made for secure storage and retrieval of resident records if the facility ceases to operate.

(7) Ownership.

(a) Any medical records shall be the property of the ALC, ALC-BH, or ALC-DC.

(b) The original medical record shall not be removed except by court order.

(c) Copies of medical records or portions thereof may be used and disclosed in accordance with the requirements established in this administrative regulation.

(8) Confidentiality and Security: Use and Disclosure.

(a) The ALC, ALC-BH, or ALC-DC shall maintain the confidentiality and security of resident records in compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C. 1320d-2 ***through[te]*** 1320d-8, and 45 C.F.R. Parts 160 and 164, as amended, including the security requirements mandated by subparts A and C of 45 C.F.R. Part 164, ***and[or]*** as provided by applicable federal or state law.

(b) The ALC, ALC-BH, or ALC-DC may use and disclose resident records. Use and disclosure shall be as established or required by HIPAA, 42 U.S.C. 1320d-2 ***through[te]*** 1320d-8, and 45 C.F.R. Parts 160 and 164, or as established in this administrative regulation.

(c) An ALC, ALC-BH, or ALC-DC may establish higher levels of confidentiality and security than those required by HIPAA, 42 U.S.C. 1320d-2 to 1320d-8, and 45 C.F.R. Parts 160 and 164.

Section 14. Staff Requirements. (1) Background checks.

(a) All owners, ***[and]*** staff, ***and regularly scheduled volunteers*** in a position that involves providing direct care services to residents, ***which may include access to the belongings, funds, or personal information of residents***, shall:

1. Have a criminal record check performed pursuant to KRS 216.789(3);

2. In accordance with KRS 216.789(1), not have a criminal conviction or plea of guilty to a felony offense related to:

a. Theft;

b. Abuse or sale of illegal drugs;

c. Abuse, neglect, or exploitation of an adult; or

d. A sexual crime;

3. In accordance with KRS 216.789(2), not have a criminal conviction or plea of guilty to a misdemeanor offense related to abuse, neglect, or exploitation of an adult;

4. Not have a criminal conviction or plea of guilty to a felony or misdemeanor offense related to abuse, neglect, or exploitation of a child;

5. In accordance with KRS 209.032, not be listed on the caregiver misconduct registry established by 922 KAR 5:120; and

6. In accordance with KRS 216.532, not be listed on the nurse aide abuse registry established by 906 KAR 1:100.

(b) Staff in a position that involves providing direct care services to residents shall submit to a:

1. Criminal background check upon initial hire and no less than every two (2) years thereafter; and

2. Check of the following registries upon initial hire and annually thereafter:

a. Caregiver misconduct registry;

b. Nurse aide abuse registry; and

c. Central registry established by 922 KAR 1:470.

(c) An ALC, ALC-BH, or ALC-DC may use Kentucky's national background check program established by 906 KAR 1:190 to satisfy the background check requirements of paragraphs (a) and (b) of this subsection.

(d) In accordance with KRS 216.789(4), an ALC, ALC-BH, or ALC-DC may temporarily employ an applicant pending receipt of the results of a criminal record check performed upon initial hire.

(2) Licensed health professionals and nurses. ~~[Except for a social model ALC,]~~ A licensed health professional or nurse who provides services to residents of an ALC-BH or ALC-DC shall possess a current Kentucky license or multistate licensure privilege to practice in Kentucky.

(3) Staffing.

(a) In accordance with KRS 194A.717(1), staffing in an ALC, ALC-BH, or ALC-DC shall be sufficient in number and qualifications to meet the twenty-four (24) hour scheduled needs of each resident pursuant to the lease agreement, functional needs assessment, and service plan.

(b) In accordance with KRS 194A.717(2), at least one (1) staff person shall be awake and on-site at all times at each:

1. Licensed entity; or

2. Building on the same campus for two (2) or more buildings operated by the same licensee.

(c) The designated manager (director) of the facility shall meet the requirements of KRS 194A.717(3).

(4) Availability of nurse. ~~[(a)]~~ An ALC-BH and ALC-DC shall have a ~~[registered]~~ nurse readily available ~~[for consultation by staff performing delegated nursing tasks. (b) The registered nurse shall be readily available]~~ in person, by telephone, or by other means of live, two-way communication to ~~unlicensed[the]~~ staff at times the staff is providing delegated nursing tasks~~[services]~~.

(5) Delegation of assisted living services.

(a) ~~1. [Except for a social model ALC,] A nurse in an ALC-BH or ALC-DC [registered nurse or licensed health professional]~~ may delegate tasks in accordance with 201 KAR 20:400.

2. A licensed health professional in an ALC-BH or ALC-DC may delegate tasks in accordance with the professional's [practitioner's] scope of practice standards only to those staff who possess the knowledge and skills consistent with the complexity of the tasks delegated.

(b) The ALC-BH or ALC-DC shall establish and implement a system to communicate up-to-date information to the ~~[registered]~~ nurse or appropriate licensed health professional regarding current available staff so the ~~[registered]~~ nurse or licensed health professional has sufficient information to determine the appropriateness of delegating tasks to meet individual resident needs and preferences.

(c) If the ~~[registered]~~ nurse or licensed health professional delegates tasks to unlicensed personnel, the ~~[registered]~~ nurse or health professional shall ensure that prior to the delegation the unlicensed staff person shall:

1. Be [is] trained in the proper methods to perform the tasks; and

2. Demonstrate [demonstrates] competence in performing the tasks.

(d) If an unlicensed staff person has not regularly performed the delegated assisted living task during the previous twenty-four (24) month period, the unlicensed staff person shall demonstrate competency in the task to the ~~[registered]~~ nurse or appropriate licensed health professional.

(e) The ~~[registered]~~ nurse or licensed health professional shall document delegated nursing or other assigned [instructions for the delegated] tasks in the resident's record.

(6) Supervision of staff providing non-health related services.

(a) Staff who provide only those assisted living services established [identified] in KRS 194A.700(7)(a) through ~~[-]~~(f), (i), or (n) shall be supervised periodically to:

1. Verify that the work is being performed competently; and

2. Identify problems and solutions to address issues relating to the staff's ability to provide the services.

(b) The supervision of unlicensed personnel shall be done by staff who:

1. Have the authority, skills, and ability to provide the supervision of unlicensed personnel;
2. Can implement changes as needed; and
3. Can train staff.

(c) Supervision **may include**~~[includes]~~:

1. Direct observation of an unlicensed staff person while the unlicensed staff person is providing the services; and
2. Indirect methods of gaining input, such as gathering feedback from the resident.

(d) Supervisory review of unlicensed staff shall be provided at a frequency based on the unlicensed staff person's knowledge, skills, and performance.

(7) Supervision of staff providing delegated nursing or therapy tasks.

(a) An unlicensed staff person who performs:

**1. Delegated nursing tasks shall be supervised by a nurse pursuant to the requirements of 201 KAR 20:400, Section 4; or**

**2. Therapy tasks shall be supervised by ~~[a registered nurse or]~~ an appropriate licensed health professional according to the facility's policy to:**

**a. ~~[4.]~~ Verify that the work is being performed competently; and**

**b. ~~[2.]~~ Identify problems and solutions related to the staff person's ability to perform the tasks.**

(b) Supervision of an unlicensed staff person performing medication or treatment administration~~[shall]~~:

1. **Shall** be provided by a **[registered]** nurse or appropriately licensed health professional; and

2. **May** include observation of the staff person administering the medication or treatment and the interaction with the resident.

(c) The direct supervision of an unlicensed staff person performing a delegated task shall be provided the first time the staff person performs the delegated task and on an as needed basis thereafter based on performance.

(8) Orientation and annual training.

(a) Prior to working independently with residents and within thirty (30) days from the date of hire, all staff and management shall receive orientation education that addresses the topics required by KRS 194A.719(1)~~(a) through (k)~~ with emphasis on those most applicable to the employee's assigned duties.

(b) All staff and management shall receive annual training in accordance with KRS 194A.719(2), which shall include in-service education regarding Alzheimer's disease and other types of dementia.

Section 15. Medication Management. (1) Medication management services.

(a) This section of this administrative regulation **shall apply**~~[applies]~~ to facilities licensed to operate as an ALC-BH or ALC-DC.

(b) Medications or therapeutic services shall not be administered or provided to any resident except on the order of a licensed health care practitioner as authorized under the practitioner's scope of practice.

(c) Each facility **under**~~[subject to]~~ this section shall develop, implement, and maintain written medication management policies and procedures developed under the supervision and direction of a **[registered]** nurse, **appropriate** licensed health professional, or pharmacist consistent with scope of practice standards~~[and guidelines]~~.

(d) The policies and procedures shall address:

1. Requesting and receiving prescriptions for medications;
2. Preparing and giving medications;
3. Verifying that prescription drugs are administered as prescribed;
4. Documenting medication management activities;
5. Storage of medications, which shall include compliance with the **[following]** requirements ***established in clauses a. through c. of this subparagraph. [;]***
  - a. All medications shall be kept in a locked place. **[;]**
  - b. All medications requiring refrigeration shall be kept in a separate locked box in the refrigerator in the medication area. **[; and]**
  - c. Drugs for external use shall be stored separately from those administered by mouth or injection;
6. Monitoring and evaluating medication use;
7. Resolving medication errors;
8. Communicating with the prescriber, pharmacist, resident, and if applicable, designated contact person or legal representative;
9. Disposing of unused medications; and
10. Educating residents and designated contacts or legal representatives about medications.

(e) If controlled substances are being managed, the policies and procedures shall identify how the facility ***shall ensure [ensures]*** security and accountability for the overall management, control, and disposition of those substances in accordance with subsection (21) of this section.

(f) All resident medications shall be plainly labeled with the:

1. Resident's name;
2. Name of the drug;
3. Strength;
4. Name of the pharmacy;
5. Prescription number;
6. Date;
7. Prescriber's name; and
8. Caution statements and directions for use, unless a modified unit dose drug distribution system is used.

(2) Provision of medication management services. Prior to providing medication management services to a resident pursuant to orders from the resident's health care practitioner in accordance with KRS 194A.708(1)(d), ***the facility shall have a [registered] nurse or other licensed health professional [prescribing practitioner shall]*** conduct an assessment that shall:

- (a) Be face-to-face with the resident;
- (b) Determine what medication management services will be provided and how the services will be provided;
- (c) Include an identification and review of all medications the resident is known to be taking. The review and identification shall include:
  1. Indications for medications;
  2. Side effects;
  3. Contraindications; and
  4. Possible allergic or adverse reactions, and actions to address these issues;
- (d) Identify interventions needed in the management of medications to prevent diversion of medication by the resident or others who may have access to the medications; and
- (e) Provide instructions to the resident and designated contacts or legal representatives on interventions to prevent diversion of medications, such as misuse, theft, or illegal or improper disposition of medications.

(3) Individualized medication monitoring and reassessment. The ALC-BH or ALC-DC shall reassess the resident's medication management services in accordance with subsection (2) of this section:

- (a) If the resident presents with symptoms or other issues that may be medication-related; and
- (b) No later than every twelve (12) months.

(4) Resident refusal. The ALC-BH or ALC-DC shall:

- (a) Document in the resident's record any refusal for an assessment for medication management; ~~and~~
- (b) Discuss ~~[with the resident]~~ the possible consequences of the resident's refusal with the:

1. Resident;

2. Resident's designated contact person or legal representative; or

3. Both individuals established [identified] by subparagraphs 1. and 2. [subparagraph 2. and 3.] of this paragraph; and

(c) Document the discussion in the resident's record.

(5) Individualized medication management plan.

(a) For each resident receiving medication management services, the ALC-BH or ALC-DC shall develop and maintain a current individualized medication management record for each resident based on the resident's assessment.

(b) The medication management record shall be updated if there is a change and contain:

- 1. A statement describing the medication management services that will be provided to the resident;
- 2. A description of storage of medications that:
  - a. Is based on the resident's needs and preferences;
  - b. Reduces risk of diversion; and
  - c. Is consistent with the manufacturer's directions;
- 3. Documentation of specific instructions relating to the administration of medications to the resident;
- 4. Identification of persons responsible for monitoring medication supplies and ensuring that medication refills are ordered on a timely basis;
- 5. Identification of medication management tasks that may be delegated to unlicensed personnel;
- 6. Procedures for staff to notify a ~~[registered]~~ nurse or appropriate licensed health professional if a problem arises with medication management services; and
- 7. Any resident-specific requirements related to:
  - a. Documenting medication administration;
  - b. Verification that all medications are administered as prescribed; and
  - c. Monitoring of medication use to prevent possible complications or adverse reactions.

(c) Medication reconciliation shall be completed by a ~~[registered]~~ nurse, licensed health ~~professional [care practitioner]~~ acting within the ~~professional's [practitioner's]~~ scope of practice, or authorized prescriber for each resident receiving medication management services.

(6) Administration of medication. A licensed health ~~[care]~~ professional may:

- (a) Administer medications, Medications shall be administered as authorized under the professional's scope of practice; or
- (b) Delegate medication administration tasks in accordance with subsection (7) of this section.

(7) Delegation of medication administration.

(a) In accordance with the credentialing requirements of KRS 194A.705(2)(c), a nurse or other appropriate licensed health professional may delegate medication administration to an unlicensed staff person in an ALC-BH or ALC-DC as follows:

1. If administration of oral or topical medication is delegated, the unlicensed staff person shall have a:

a. Certified medication aide I credential from a training and skills competency evaluation program approved by the Kentucky Board of Nursing (KBN); or

b. Kentucky medication aide credential from the Kentucky Community and Technical College System (KCTCS); and

2. If administration of a preloaded insulin injection is delegated in addition to oral or topical medication, the unlicensed staff person shall have a certified medication aide II credential from a training and skills competency evaluation program approved by the Kentucky Board of Nursing (KBN).

(b) An ALC-BH or ALC-DC shall ensure that each nurse or licensed health professional who delegates the administration of oral or topical medication, or preloaded injectable insulin has:

1. ~~Unlicensed personnel who meet the requirements of subparagraph 1. of this paragraph may only administer oral or topical medication, or preloaded injectable insulin if delegated to them by a nurse or appropriate licensed health~~ ~~care~~ ~~professional. If medication administration is delegated to unlicensed personnel, the ALC-BH or ALC-DC shall ensure that the~~ ~~registered~~ ~~nurse or licensed health~~ ~~care~~ ~~professional has:~~

1. ~~(a)~~ ~~Delegated medication administration to a staff person who:~~

~~a. Is a certified medication aide; or~~

~~b. Has~~ ~~1.~~ ~~successfully completed a:~~

~~i.~~ ~~the Kentucky~~ ~~Medication aide training program accepted by the Kentucky Board of Nursing (KBN);~~

~~ii. Skills competency evaluation; and~~

2. ~~Demonstrated the ability to competently follow the procedures;~~

~~(b) Instructed the unlicensed personnel in the proper methods to administer oral or topical medications;~~

~~(c)~~ Specified, in writing, specific instructions for each resident and documented those instructions in the resident's records; and

2. ~~3.~~ ~~(d)~~ Communicated with the unlicensed personnel about the individual needs of the resident.

(b) In accordance with KRS 194A.705(2)(d), unlicensed personnel who administer medications to residents of an apartment-style personal care home required by KRS 194A.704 to convert to a licensed assisted living community shall comply with the medication aide credentialing requirements established in paragraph (a) of this subsection no later than December 29, 2023.

(c) The ALC-BH or ALC-DC shall ensure that a nurse or licensed health professional is readily available during times the unlicensed staff administers medications in accordance with Section 14(4) of this administrative regulation.

(8) Documentation of administration of medications.

(a) Each medication administered shall be documented in the resident's record.

(b) The documentation shall include the:

1. Signature and title of the staff person who administered the medication;
2. ~~The~~ Medication name, dosage, date, and time administered; and
3. Method and route of administration.

(c) The staff person shall document the:

1. Reason why medication administration was not completed as prescribed, if applicable; and
2. Any follow-up procedures that were provided to meet the resident's needs if medication was not administered as prescribed and in compliance with the resident's medication management plan.

(9) Documentation of medication setup. At the time of medication setup, the authorized health ~~professional~~ ~~care practitioner~~ shall document the following in the resident's record:



- (a) Date of medication setup;
  - (b) Name of medication;
  - (c) Quantity of dose;
  - (d) Times to be administered;
  - (e) Route of administration; and
  - (f) Name of the staff person completing the medication setup.
- (10) Medication management for residents who will be away from the facility.
- (a) An ALC-BH or ALC-DC shall develop and implement policies and procedures for giving accurate and current medications to the resident for planned or unplanned times away from the facility according to the resident's individualized medication management plan.
  - (b) The policies and procedures shall state that:
    - 1. For planned time away, the medications shall be obtained from the pharmacy or set up by the **[registered]**nurse or authorized health **professional[care-practitioner]; or**
    - 2. For unplanned time away, if the pharmacy is not able to provide the medications, a **[registered]**nurse or authorized health **professional[care-practitioner]** shall provide medications in the amounts and dosages needed for the length of the anticipated absence, not to exceed seven (7) calendar days.
  - (c) The ALC-BH or ALC-DC shall:
    - 1. Provide the resident with written information on medications, including any special instructions for administering or handling the medications;
    - 2. Place the medications in a medication container or containers appropriate to the provider's medication system; and
    - 3. Label the container or containers with the:
      - a. Resident's name; and
      - b. The dates and times that the medications are scheduled.
- (11) Over-the-counter drugs and dietary supplements not prescribed.
- (a) An ALC-BH or ALC-DC providing medication management services for over-the-counter drugs or dietary supplements shall retain those items in the original labeled container with directions for use prior to setting up for immediate or later administration.
  - (b) The ALC-BH or ALC-DC shall verify that the medications are up to date and stored as appropriate.
- (12) Prescriptions. There shall be a current written or electronically recorded prescription for all prescribed medications that the ALC-BH or ALC-DC is managing for the resident.
- (13) Renewal of prescriptions. Prescriptions shall be renewed at least every twelve (12) months or more frequently as indicated by the assessment in subsection (2) of this section.
- (14) Verbal prescription orders. If an order is received by telephone, the order shall be:
- (a) Recorded in the resident's medication management record; and
  - (b) Signed by the physician or health care practitioner as authorized under the practitioner's scope of practice within thirty (30) days.
- (15) Written or electronic prescription. At the time a written or electronic prescription is received, it shall be:
- (a) Communicated to the **[registered]**nurse in charge; and
  - (b) Recorded or placed in the resident's record.
- (16) Medications provided by resident or family members. If a staff person becomes aware of any medications or dietary supplements that are being used by the resident **that[and]** are not included in the assessment for medication management services, the staff person shall advise the **[registered]**nurse and document that in the resident record.

(17) Storage of medications. Except for the storage of controlled substances that shall be kept under a double lock in accordance with subsection (21)(b) of this section, an ALC-BH or ALC-DC shall store all prescription medications in securely locked and substantially constructed compartments according to the manufacturer's directions and permit only authorized personnel to have access.

(18) Prescription drugs. A prescription drug, prior to being set up for immediate or later administration, shall be kept in the original container in which it was dispensed by the pharmacy bearing the original prescription label with legible information, including the expiration or beyond-use date of a time-dated drug.

(19) Prohibitions. ~~A/No~~ prescription drug supply for one (1) resident ***shall not[may]*** be used or saved for use by anyone other than the resident.

(20) Disposition of medications.

(a) Any current medications being managed by the ALC-BH or ALC-DC shall be provided to the resident if:

1. The resident's service plan ends; or
2. Medication management services are no longer part of the service plan.

(b) The ALC-BH or ALC-DC shall dispose of any medications remaining with the facility:

1. That are discontinued or expired; or
2. Upon termination of the service plan or the resident's death.

(c) Upon disposition, the facility shall document in the resident's record the disposition of the medication, including:

1. The medication's name, strength, prescription number as applicable, and quantity;
2. How the medication was disposed of or to whom the medications were given;
3. Date of disposition; and
4. Names of staff and other individuals involved in the disposition.

(21) Controlled substances.

(a) ~~[Controlled substances.]~~ An ALC-BH or ALC-DC shall not keep any controlled substances or other habit forming drugs, hypodermic needles, or syringes except under the specific direction of a prescribing practitioner.

(b) Controlled substances shall be kept under double lock, for example, stored in a locked box in a locked cabinet, and keys or access codes to the locked box and locked cabinet shall be accessible to designated staff only.

(c) There shall be a controlled substances bound record book with numbered pages that includes:

1. Name of the resident;
2. Date, time, kind, dosage, and method of administration of each controlled substance;
3. Name of the practitioner who prescribed the medications; and
4. Name of the nurse who:
  - a. Administered the controlled substance; or
  - b. Supervised ***or provided assistance with*** self-administration ***of medication*** by a resident whose medical record includes a written determination from ***an appropriately authorized[a]*** health ***professional[care practitioner]*** that the resident is able to safely self-administer a controlled substance under supervision.

(d) ***An appropriately authorized[A]*** licensed ***health professional[practitioner]*** with access to controlled substances shall be responsible for maintaining a recorded and signed:

1. Schedule II controlled substances count daily; and
2. Schedule III, IV, and V controlled substances count at least one (1) time per week.

(e) All expired or unused controlled substances shall be disposed of, or destroyed in accordance with 21 C.F.R. Part 1317 no later than thirty (30) days:

1. After expiration of the medication; or
2. From the date the medication was discontinued.

(f) If controlled substances are destroyed on-site:

1. The method of destruction shall render the drug unavailable and unusable;
2. The administrator or staff person designated by the administrator shall be responsible for destroying the controlled substances with at least one (1) witness present; and
3. A readily retrievable record of the destroyed controlled substances shall be maintained for a minimum of eighteen (18) months from the date of destruction and contain the:
  - a. Date of destruction;
  - b. Resident name;
  - c. Drug name;
  - d. Drug strength;
  - e. Quantity;
  - f. Method of destruction;
  - g. Name and signature of the person responsible for the destruction; and
  - h. Name of the witness.

(g) For purposes of this paragraph, an ALC-BH or ALC-DC shall be treated the same as a licensed personal care home that stores and administers controlled substances in an emergency medication kit (EMK) in which case the facility shall comply with the same:

1. Requirement for licensed personnel established by 201 KAR 2:370, Section 2(4)(i);
2. Requirements for storage and administration established by 902 KAR 55:070, Section 2(2), (5), ***and*** (7) ***through[, (8), and]*** (9); and
3. Limitation on the number and quantity of medications established by 902 KAR 55:070, Section 2(6).

(22) Emergency drugs for non-controlled substances in an EMK.

(a) For purposes of this paragraph, an ALC-BH or ALC-DC shall be treated the same as a licensed personal care home that stores and administers non-controlled substances in an EMK in which case the facility shall comply with the same:

1. Requirement for licensed personnel established by 201 KAR 2:370, Section 2(4)(i); and
2. Limitation on the number and quantity of medications established by 201 KAR 2:370, Section 2(4)(b).

(b) An ALC-BH or ALC-DC that stores and administers non-controlled substances from a long-term care facility (LTCF) drug stock shall comply with the limitation on the number and quantity of medications established by 201 KAR 2:370, Section 2(5)(b).

(23) Loss or spillage.

(a) An ALC-BH or ALC-DC shall develop and implement procedures to address loss or spillage of all controlled substances.

(b) The procedures shall require that if spillage of a controlled substance occurs, a notation shall be made in the resident's record explaining the spillage and the actions taken.

(c) The notation shall be signed by the person responsible for the spillage and include verification that any contaminated substance was disposed of.

(d) The procedures shall require that the ALC-BH or ALC-DC:

1. Investigate any known loss or unaccounted for prescription drugs;
2. Document the investigation in required records; and
3. Provide a copy of the detailed list of controlled substances lost, destroyed, or stolen to the Office of Inspector General:
  - a. Division of Audits and Investigations as soon as practical pursuant to KRS 218A.200(6); and

b. Division of Health Care.

Section 16. Assisted Living Communities with Dementia Care. (1) ***Except as established in KRS 194A.7061(4), a provisional or initial license holder[An applicant for licensure]*** as an ALC-DC shall provide services in a manner that is consistent with the requirements of KRS 194.7061(1) ***through[—]*** (3).

(2) An ALC-DC shall comply with KRS 194A.7065 and KRS 216.595.

(3) The manager (director) of an ALC-DC shall complete ***at least*** ten (10) hours of annual dementia-specific training in the topics established by KRS 194A.7201(2).

(4) An ALC-DC shall:

(a) Develop policies and procedures in accordance with KRS 194A.708(1); and

(b) Provide a copy of the policies and procedures to the resident and the resident's designated contact person or legal representative at the time of move-in.

(5) An ALC-DC shall ensure that the facility complies with the staffing standards established by KRS 194A.7203, including the requirement for only dementia-trained staff to care for residents on its secured dementia unit unless a temporary emergency situation exists.

(6) An ALC-DC shall:

(a) Provide all of the services listed in KRS 194A.7052(1);

(b) Evaluate each resident on its secured dementia unit for engagement in activities and develop an individualized activity plan pursuant to KRS 194A.7052(2) and (3);

(c) Provide a selection of daily structured and non-structured activities for residents on its secured dementia unit in accordance with KRS 194A.7052(4);

(d) Evaluate behavioral symptoms that negatively impact residents on its secured dementia unit and others in the facility and comply with the requirements of KRS 194A.7052(5);

(e) Offer support services to the families of residents on its secured dementia unit and others with significant relationships at least every six (6) months in accordance with KRS 194A.7052(6); and

(f) For dementia care units constructed after July 14, 2022, offer access to secured outdoor space in accordance with KRS 194A.7052(7).

(7) In addition to the training requirements of Section 14(8) of this administrative regulation, an ALC-DC shall meet the training requirements of KRS 194A.7205 for direct care staff who work in the facility's secured dementia care unit.

Section 17. Violation of Standards. An ALC, ALC-BH, or ALC-DC shall ***comply with[be subject to]*** any applicable enforcement actions authorized by KRS 194A.722 and 902 KAR 20:008, Sections 7 and 8 for violations of the standards established by this administrative regulation, KRS 194A.700 ***through[—]*** 194A.729, 216.532, or 216.789.

Section 18. Denial and Revocation.

(1) In addition to the reasons for denial or revocation of a license in accordance with 902 KAR 20:008, Section 8, the cabinet shall deny or revoke an ALC, ALC-BH, or ALC-DC license if ***[it finds that]:***

(a) There has been a substantial failure by the facility to comply with the provisions of:

1. KRS 194A.700 ***through[—]*** 194A.729, 216.532, or 216.789; or

2. This administrative regulation;

(b) The facility ***allows[permits]***, aids, or abets the commission of any illegal act in the provision of assisted living services;

(c) The facility performs any act detrimental to the health, safety, or welfare of a resident;

(d) The facility obtains licensure by fraud or misrepresentation, including a false statement of a material in fact in:

1. The Application for License to Operate an Assisted Living Community; or
  2. Any records required by this administrative regulation;
- (e) The facility denies a representative of the cabinet access to any part of the facility's books, records, files, employees, or residents;
- (f) The facility interferes with or impedes the performance of the duties and responsibilities of the long-term care ombudsman;
- (g) The facility interferes with or impedes a representative of the cabinet in the enforcement of this administrative regulation or fails to fully cooperate with a survey or investigation by the cabinet;
- (h) The facility destroys or makes unavailable any records or other evidence relating to the facility's compliance with this administrative regulation;
- (i) The facility refuses to initiate a background check or otherwise fails to comply with the requirements of KRS 216.789;
- (j) The facility fails to timely pay any fines assessed by the cabinet;
- (k) The facility violates any applicable building or safety codes as determined by the building code or safety code enforcement authority with jurisdiction;
- (l) There have been repeated incidents in the facility of personnel performing services beyond their competency level;
- (m) The facility continues to operate beyond the scope of the facility's license after the timeframe ***established[specified]*** for correction of the violation; or
- (n) An individual with a significant financial interest in the facility:
1. Is convicted of a felony or gross misdemeanor that relates to the operation of the facility or directly affects resident safety or care; or
  2. Had the application returned in accordance with Section 3(4)(b) of this administrative regulation.
- (2) The cabinet shall follow the notification requirements of 902 KAR 20:008, Section 8(2) and (3) for denial or revocation.
- (3) In accordance with KRS 216B.105(2), the denial or revocation shall become final and conclusive thirty (30) days after notice is given, unless the applicant or licensee files a request in writing for a hearing with the cabinet within thirty (30) days after the date of the notice.

#### Section 19. Incorporation by Reference.

- (1) The following material is incorporated by reference:
- (a) Form OIG – 20:480, "Application for Licensure to Operate an Assisted Living Community", November 2022 edition; and
  - (b) Form OIG – 20:480-A, "Functional Needs Assessment", **March 2023**~~November 2022~~ edition.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of Inspector General, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m. This material may also be viewed on the Office of Inspector General's Web site at: <https://chfs.ky.gov/agencies/os/oig/dhc/Pages/lcapplications.aspx>.

**\*Reviewer's Note:** Please file one (1) dirty and one (1) clean copy of the Functional Needs Assessment in conjunction with filing this suggested amendment.



### Functional Needs Assessment (FNA)

Resident Name: \_\_\_\_\_ Living Unit #: \_\_\_\_\_ Date: \_\_\_\_\_

Reason for FNA:

- Initial/Move-in: Individual is seeking admission to a social model (ALC), basic health model (ALC-BH), or a facility with a secured dementia unit (ALC-DC).
- Change in resident’s condition and/or hospitalization.
- Annual update.

Staff Person Completing FNA: \_\_\_\_\_ Title: \_\_\_\_\_

Facility Name: \_\_\_\_\_

#### RESIDENT CRITERIA:

1. Is the individual/resident ambulatory?  Yes  No

KRS 194A.700(2) defines “ambulatory” as “able to walk, transfer, or move from place to place with or without hands-on assistance of another person, and with or without an assistive device, including but not limited to a walker or wheelchair”.

2. If applicable, what supportive devices are required for the individual/resident to transfer or move from place to place? \_\_\_\_\_

3. If the individual/resident is nonambulatory, is it due to a temporary condition?  Yes\*  No (Disqualify)

**“Temporary condition” is defined by KRS 194A.700(26) as a condition that affects a resident as follows:**

- The resident is not ambulatory before or after entering a lease agreement with the ALC but is expected to regain ambulatory ability within six (6) months of loss of ambulation, as documented by a licensed health care professional, and the ALC has a written plan in place to mitigate risk; *or*
- The resident is not ambulatory after entering a lease agreement with the ALC but is not expected to regain ambulatory ability, hospice services are provided by a hospice program licensed under KRS Chapter 216B or other end-of-life services are provided by a licensed health care provider in accordance with KRS 194A.705, as documented by a licensed hospice program or other licensed health care professional, and the ALC has a written plan in place to mitigate risk.

**\*If yes, attach a copy of:**

- **Documentation from a licensed health care professional that the resident is expected to regain ambulatory ability within six (6) months of loss of ambulation; or**
- **Verification that the resident is receiving hospice or other end-of-life services from a licensed hospice provider or other licensed health care professional respectively.**

**\*If yes, attach the facility’s plan to mitigate risk to a nonambulatory resident who has a temporary condition.**

4. Is the individual/resident able to self-evacuate without hands-on assistance?  Yes  No\*

**KRS 194A.717(5) states the following:**

When a resident requires hands-on assistance of another person to walk, transfer, or move from place to place with or without an assistive device, the assisted living community shall have a policy that describes how priority will be given by staff sufficient to assist that resident during times of emergency when evacuation may be necessary.

**\*If no, attach a copy of the facility's policy that describes how priority will be given by staff sufficient to assist the resident during an evacuation.**

---

**EXCLUSIONS:**

1. Are there open wounds that are not maintained independently by the individual/resident, a home health agency, or the facility?  Yes  No
2. Does the individual/resident have a communicable disease that could be transmitted to other residents or staff?  Yes  No
3. Does the individual/resident require 24-hour nursing or psychiatric care?  Yes  No
4. Does the individual/resident pose a danger to self or others? (Consider any significant history of physically or sexually aggressive behavior.)  Yes  No
5. Has the individual/resident ever left their residence and become lost or disoriented?  Yes  No
6. If the individual/resident requires cueing, are they easily agitated and unwilling to take instructions?  Yes  No
7. Does the individual/resident have a recent history of frequent falls **with major injuries** that would put them in *constant* danger?  Yes  No
8. Does the individual/resident have special dietary needs that the facility is unable to meet?  Yes  No
9. If incontinent (bowel or bladder), is the **facility unable [able] to provide assistance to the individual/resident to manage incontinence [incapable of self-managing with minimal assistance]**?  Yes  No

If "yes" to any questions above, do not consider for admission. (If "yes" to question #5, the individual may be considered for admission to an **ALC-BH or ALC-DC** if the individual meets other criteria for admission.)

---

**MEDICAL EXAMINATION REQUIRED PRIOR TO ADMISSION**

In accordance with KRS 216.765(1), a prospective resident must have a medical examination prior to admission to an ALC, ALC-BH, or ALC-DC. The medical examination is separate from this FNA and must include a:

- Medical history;
- Physical examination; and
- Diagnosis.

If completed within fourteen (14) days prior to admission, the medical evaluation may include a copy of the

individual's discharge summary or health and physical report from a physician, hospital, or other health care facility.

<b>ACTIVITIES OF DAILY LIVING (ADL)</b>	<b>Performs Independently</b>	<b>Needs assistance, but has minimal ability to verbally direct or physically participate in the activity</b>	<b>Comments/Instructions Related to Reminders, Hands-on Assistance, or Standby Assistance</b>
<b>PERSONAL CARE</b>			
Bathing			
Dental/Mouth Care			
Hair Care			
Shaving			
Toe/Fingernail Care			
Dressing			
<b>MOBILITY</b>			
Ambulatory - Able to get around			
Transfer To/From Bed			
Transfer To/From Chair			
Transfer To/From Wheelchair			
Safely evacuates the facility with minimal assistance			Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:
<b>TOILETING</b>			
Bladder/Bowel Control			
<b>DIETARY</b>			
Eats Meals Daily			
Recent Weight Gain/Loss			Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:
Special Diet Followed			Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:
<u>Food Allergies</u>			<u>Yes <input type="checkbox"/> No <input type="checkbox"/></u> <u>Comments:</u>

<b>INSTRUMENTAL ACTIVITIES OF DAILY LIVING (IADL) – The following services shall be included in the monthly rate at no additional charge to the resident. The facility may complete any or all of the IADLs, even if the resident is capable of performing an activity independently.</b>	<b>Performs Independently</b>	<b>Needs assistance, but has minimal ability to verbally direct or physically participate in the activity</b>	<b>Comments</b>
Housekeeping/Chores			
Shopping			
Laundry			
Clerical Assistance			
Ability to Use Phone			



Handles Finances/Household Budgeting

<b>TRANSPORTATION</b>	Can drive self:	Can leave facility with assistance:	Comments:
	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	

<b>MEDICATION</b>	Self-administer:	Needs assistance with self-administration:	Needs medication <u>administration</u> [management]:
	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Comments:		Comments:	

**TO BE COMPLETED BY STAFF PERSON COMPLETING THE FNA:**

In your [professional] opinion, can this individual's needs be met in the ALC, ALC-BH, or ALC-DC, which is not a nursing facility or psychiatric facility?  Yes  No

\_\_\_\_\_  
Signature of Staff Person Completing the FNA

\_\_\_\_\_  
Date

The FNA shall be completed by a staff person who meets the qualifications of 902 KAR 20:480, Section 7(1)(c)2.

**ACKNOWLEDGEMENT**

I acknowledge that I have received a copy of this form and that it is an accurate account of my need for assisted living services.

\_\_\_\_\_  
Resident Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Designated Contact Person or Legal Representative

\_\_\_\_\_  
Date



### Functional Needs Assessment (FNA)

Resident Name: \_\_\_\_\_ Living Unit #: \_\_\_\_\_ Date: \_\_\_\_\_

Reason for FNA:

- Initial/Move-in: Individual is seeking admission to a social model (ALC), basic health model (ALC-BH), or a facility with a secured dementia unit (ALC-DC).
- Change in resident’s condition and/or hospitalization.
- Annual update.

Staff Person Completing FNA: \_\_\_\_\_ Title: \_\_\_\_\_

Facility Name: \_\_\_\_\_

#### RESIDENT CRITERIA:

1. Is the individual/resident ambulatory?  Yes  No

KRS 194A.700(2) defines “ambulatory” as “able to walk, transfer, or move from place to place with or without hands-on assistance of another person, and with or without an assistive device, including but not limited to a walker or wheelchair”.

2. If applicable, what supportive devices are required for the individual/resident to transfer or move from place to place? \_\_\_\_\_

3. If the individual/resident is nonambulatory, is it due to a temporary condition?  Yes\*  No (Disqualify)

“Temporary condition” is defined by KRS 194A.700(26) as a condition that affects a resident as follows:

- The resident is not ambulatory before or after entering a lease agreement with the ALC but is expected to regain ambulatory ability within six (6) months of loss of ambulation, as documented by a licensed health care professional, and the ALC has a written plan in place to mitigate risk; *or*
- The resident is not ambulatory after entering a lease agreement with the ALC but is not expected to regain ambulatory ability, hospice services are provided by a hospice program licensed under KRS Chapter 216B or other end-of-life services are provided by a licensed health care provider in accordance with KRS 194A.705, as documented by a licensed hospice program or other licensed health care professional, and the ALC has a written plan in place to mitigate risk.

\*If yes, attach a copy of:

- Documentation from a licensed health care professional that the resident is expected to regain ambulatory ability within six (6) months of loss of ambulation; or
- Verification that the resident is receiving hospice or other end-of-life services from a licensed hospice provider or other licensed health care professional respectively.

\*If yes, attach the facility’s plan to mitigate risk to a nonambulatory resident who has a temporary condition.

4. Is the individual/resident able to self-evacuate without hands-on assistance?  Yes  No\*

**KRS 194A.717(5) states the following:**

When a resident requires hands-on assistance of another person to walk, transfer, or move from place to place with or without an assistive device, the assisted living community shall have a policy that describes how priority will be given by staff sufficient to assist that resident during times of emergency when evacuation may be necessary.

**\*If no, attach a copy of the facility's policy that describes how priority will be given by staff sufficient to assist the resident during an evacuation.**

---

**EXCLUSIONS:**

1. Are there open wounds that are not maintained independently by the individual/resident, a home health agency, or the facility?  Yes  No
2. Does the individual/resident have a communicable disease that could be transmitted to other residents or staff?  Yes  No
3. Does the individual/resident require 24-hour nursing or psychiatric care?  Yes  No
4. Does the individual/resident pose a danger to self or others? (Consider any significant history of physically or sexually aggressive behavior.)  Yes  No
5. Has the individual/resident ever left their residence and become lost or disoriented?  Yes  No
6. If the individual/resident requires cueing, are they easily agitated and unwilling to take instructions?  Yes  No
7. Does the individual/resident have a recent history of frequent falls with major injuries that would put them in *constant* danger?  Yes  No
8. Does the individual/resident have special dietary needs that the facility is unable to meet?  Yes  No
9. If incontinent (bowel or bladder), is the facility unable to provide assistance to the individual/resident to manage incontinence?  Yes  No

If "yes" to any questions above, do not consider for admission. (*If "yes" to question #5, the individual may be considered for admission to an ALC-BH or ALC-DC if the individual meets other criteria for admission.*)

---

**MEDICAL EXAMINATION REQUIRED PRIOR TO ADMISSION**

In accordance with KRS 216.765(1), a prospective resident must have a medical examination prior to admission to an ALC, ALC-BH, or ALC-DC. The medical examination is separate from this FNA and must include a:

- Medical history;
- Physical examination; and
- Diagnosis.

If completed within fourteen (14) days prior to admission, the medical evaluation may include a copy of the individual's discharge summary or health and physical report from a physician, hospital, or other health care

facility.

<b>ACTIVITIES OF DAILY LIVING (ADL)</b>	<b>Performs Independently</b>	<b>Needs assistance, but has minimal ability to verbally direct or physically participate in the activity</b>	<b>Comments/Instructions Related to Reminders, Hands-on Assistance, or Standby Assistance</b>
<b>PERSONAL CARE</b>			
Bathing			
Dental/Mouth Care			
Hair Care			
Shaving			
Toe/Fingernail Care			
Dressing			
<b>MOBILITY</b>			
Ambulatory - Able to get around			
Transfer To/From Bed			
Transfer To/From Chair			
Transfer To/From Wheelchair			
Safely evacuates the facility with minimal assistance			Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:
<b>TOILETING</b>			
Bladder/Bowel Control			
<b>DIETARY</b>			
Eats Meals Daily			
Recent Weight Gain/Loss			Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:
Special Diet Followed			Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:
Food Allergies			Yes <input type="checkbox"/> No <input type="checkbox"/> Comments:

<b>INSTRUMENTAL ACTIVITIES OF DAILY LIVING (IADL) – The following services shall be included in the monthly rate at no additional charge to the resident. The facility may complete any or all of the IADLs, even if the resident is capable of performing an activity independently.</b>	<b>Performs Independently</b>	<b>Needs assistance, but has minimal ability to verbally direct or physically participate in the activity</b>	<b>Comments</b>
Housekeeping/Chores			
Shopping			
Laundry			
Clerical Assistance			
Ability to Use Phone			
Handles Finances/Household Budgeting			

<b>TRANSPORTATION</b>	Can drive self:	Can leave facility with assistance:	Comments:
	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	

<b>MEDICATION</b>	Self-administer:	Needs assistance with self-administration:	Needs medication administration:
	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
		Comments:	Comments:

**TO BE COMPLETED BY STAFF PERSON COMPLETING THE FNA:**

**In your opinion, can this individual's needs be met in the ALC, ALC-BH, or ALC-DC, which is not a nursing facility or psychiatric facility?**     Yes     No

\_\_\_\_\_  
Signature of Staff Person Completing the FNA

\_\_\_\_\_  
Date

The FNA shall be completed by a staff person who meets the qualifications of 902 KAR 20:480, Section 7(1)(c)2.

**ACKNOWLEDGEMENT**

I acknowledge that I have received a copy of this form and that it is an accurate account of my need for assisted living services.

\_\_\_\_\_  
Resident Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Designated Contact Person or Legal Representative

\_\_\_\_\_  
Date



Andy Beshear  
GOVERNOR

## CABINET FOR HEALTH AND FAMILY SERVICES

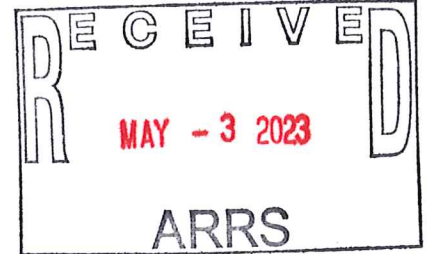
Eric Friedlander  
SECRETARY

275 East Main Street, 5W-A  
Frankfort, Kentucky 40621

Phone: (502) 564-7042

Fax: (502) 564-7091

May 3, 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: 902 KAR 20:490. Rural emergency hospitals.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 902 KAR 20:490, the Cabinet for Health and Family Services proposes the attached amendments to 902 KAR 20:490.

Sincerely,

Lucie Estill  
Staff Assistant  
Office of Legislative and Regulatory Affairs

Attachments

**SUGGESTED SUBSTITUTE – ORDINARY ONLY – To Amended After Comments Version**

Final Version: 04/26/23 2:21 p.m.

**CABINET FOR HEALTH AND FAMILY SERVICES  
Office of the Inspector General  
Division of Health Care**

**902 KAR 20:490. Rural emergency hospitals.**

RELATES TO: KRS 2.015, 42 C.F.R. 485.500 — 485.546, 42 C.F.R. 485.618, 45 C.F.R. Part 160, Part 164, 42 U.S.C. 1320d-2 – 1320d-8

STATUTORY AUTHORITY: KRS 216B.042(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.042(1) requires the Cabinet for Health and Family Services to promulgate administrative regulations necessary for the proper administration of the licensure function, which includes establishing licensure standards and procedures to ensure safe, adequate, and efficient health facilities and health services. This administrative regulation establishes the minimum requirements for licensure as a rural emergency hospital.

Section 1. **Definition**[**Definitions**]. "Rural emergency hospital (REH)" is defined by 42 C.F.R. 485.502 ~~[as an entity that:~~

- ~~(1) Operates for the purpose of providing emergency department services, observation care, and other outpatient medical and health services specified by the secretary of the U.S. Department of Health and Human Services in which the annual per patient average length of stay does not exceed twenty-four (24) hours; and~~
- ~~(2) Shall not provide inpatient services, except those furnished in a unit that is a distinct part licensed as a skilled nursing facility to furnish post-REH or post-hospital extended care services].~~

Section 2. Licensure.

(1) A facility shall be eligible to apply for a license as an REH if the facility ~~[is certified as an REH by the Centers for Medicare and Medicaid Services and]~~ was, as of December 27, 2020:

- (a) Licensed as a critical access hospital pursuant to 906 KAR 1:110; or
- (b)1. Licensed as a general acute care hospital pursuant to 902 KAR 20:016;
2. Had fifty (50) or fewer beds; and
3. Was considered rural or treated as being located in a rural area in accordance with 42 C.F.R. 485.506(b) or (c).

(2) Except for beds the REH maintains in a distinct part unit licensed as a skilled nursing facility, the facility's inpatient beds shall be delicensed.

~~[(3) A facility that converts to an REH shall not be relicensed to operate as a critical access hospital or acute care hospital without first obtaining certificate of need.]~~

Section 3. Application and Fees.

(1) A facility that applies for initial licensure or annual renewal as an REH shall submit to the Office of Inspector General:

- (a) A completed Application for Licensure to Operate a Rural Emergency Hospital; and

(b) An accompanying fee in the amount of \$1,000, made payable to the Kentucky State Treasurer.

(2) As a condition of annual renewal, the application required by subsection (1) of this section shall be submitted to the cabinet at least sixty (60) days prior to the date of expiration of the REH's licensure.

#### Section 4. Change of Status.

(1) An REH shall report a change of:

- (a) Name or location in accordance with the requirements of 902 KAR 20:008, Section 3(3); or
- (b) Ownership in accordance with the requirements of 902 KAR 20:008, Section 2(16).

(2) Failure to renew a license by the annual renewal date shall result in a late penalty pursuant to 902 KAR 20:008, Section 3(4).

#### Section 5. Services and Basic Requirements.

(1) An REH shall comply with applicable federal, state, and local laws and regulations pertaining to the operation of the facility, including compliance with 42 C.F.R. 485.506 – 485.546.

(2) An REH shall:

(a) Provide emergency department services and observation care, including compliance with the requirements of:

- 1. 42 C.F.R. 485.516; and
- 2. 42 C.F.R. 485.618 with respect to:
  - a. Twenty-four (24) hour availability of emergency services;
  - b. Equipment, supplies, and medication;
  - c. Blood and blood products;
  - d. Personnel; and
  - e. Coordination with emergency response systems;

(b) Provide basic laboratory services in accordance with 42 C.F.R. 485.518;

(c) Maintain, or have available, diagnostic radiologic services in accordance with 42 C.F.R. 485.520;

(d) Have pharmaceutical services that meet the needs of its patients in accordance with 42 C.F.R. 485.522; and

(e) In accordance with 42 C.F.R. 485.538, have in effect a transfer agreement with at least one (1) hospital that is a level I or level II trauma center for the referral and transfer of patients requiring emergency medical care beyond the capabilities of the REH.

(3) In accordance with 42 C.F.R. 485.524(a), an REH may provide outpatient and medical health diagnostic and therapeutic items and services that are commonly ***provided[furnished]*** in a physician's office or at another entry point into the health care delivery system, including:

- (a) Therapeutic radiologic services;
- (b) Laboratory services;
- (c) Outpatient rehabilitation;
- (d) Surgical services;
- (e) Maternal health services; or
- (f) Behavioral health services.



(4) An REH may provide skilled nursing facility services in a distinct part unit in accordance with 42 C.F.R. 485.546.

Section 6. Personnel. An REH shall assure that licensed personnel meet the applicable standards required by the appropriate professional licensing board and provide services within the applicable scope of practice.

#### Section 7. Patient Records.

##### (1) Ownership.

(a) Medical records shall be the property of the REH.

(b) The original medical record shall not be removed except by court order.

(c) Copies of medical records or portions thereof may be used and disclosed in accordance with the requirements established in this administrative regulation.

##### (2) Confidentiality and Security: Use and disclosure.

(a) The REH shall maintain the confidentiality and security of patient records in compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C. 1320d-2 to 1320d-8, and 45 C.F.R. Parts 160 and 164, as amended, including the security requirements mandated by subparts A and C of 45 C.F.R. Part 164, or as provided by applicable federal or state law.

(b) The REH may use and disclose patient records. Use and disclosure shall be as established or required by HIPAA, 42 U.S.C. 1320d-2 to 1320d-8; ~~and~~ 45 C.F.R. Parts 160 and 164; ~~and~~ ~~or~~ as established in this administrative regulation.

(c) An REH may establish higher levels of confidentiality and security than those required by HIPAA, 42 U.S.C. 1320d-2 to 1320d-8, and 45 C.F.R. Parts 160 and 164.

(d) Retention of records. After a patient's death or discharge, the completed medical record shall be placed in an inactive file and retained for at least:

1. Six (6) years; or

2. Three (3) years after the patient reaches the age of majority in accordance with KRS 2.015, whichever is longer.

##### (3) The REH shall:

(a) Designate a specific location for the maintenance and storage of the agency's medical records;

(b) Have provisions for storage of medical records in the event the agency ceases to operate; and

(c) Safeguard the record and its content against loss, defacement, or tampering.

#### Section 8. Incorporation by Reference.

(1) ~~[The form, OIG-20:490,]~~ "Application for Licensure to Operate a Rural Emergency Hospital", **form OIG-20:490**, December 2022 edition, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of Inspector General, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m. This material may also be viewed on the Office of Inspector General's Web site at: <https://chfs.ky.gov/agencies/os/oig/dhc/Pages/ltcapplications.aspx>.



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



May 3, 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: **910 KAR 1:180**. Homecare for the elderly.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 910 KAR 1:180, the Cabinet for Health and Family Services proposes the attached amendments to 910 KAR 1:180.

Sincerely,

Lucie Estill  
Staff Assistant  
Office of Legislative and Regulatory Affairs

Attachments

**SUGGESTED SUBSTITUTE**

Final Version: 05/02/2023 at 11:50 a.m.

**CABINET FOR HEALTH AND FAMILY SERVICES  
Department for Aging and Independent Living  
Division of Quality Living**

**910 KAR 1:180. Homecare program for the elderly.**

RELATES TO: KRS 13B.010-13B.170, 194A.700(1), (7), 205.010(6), 205.201, 205.203, 205.455-465, 209.030(2), (3), 42 U.S.C. Chapter 35

STATUTORY AUTHORITY: KRS 194A.050(1), 205.204(2)

NECESSITY, FUNCTION, AND CONFORMITY: 42 U.S.C. Chapter 35 authorizes grants to states to provide assistance in the development of new or improved programs for older persons. KRS 194A.050(1) authorizes the secretary to promulgate administrative regulations necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds. KRS 205.204 designates the cabinet as the state agency to administer 42 U.S.C. Chapter 35 in Kentucky and promulgate administrative regulations for this purpose. This administrative regulation establishes the standards of operation for a homecare program for elderly persons in Kentucky.

Section 1. Definitions.

- (1) "Activities of daily living" is defined by KRS 194A.700(1).
- (2) "Area plan" means the plan that:
  - (a) Is submitted by a district for the approval of the department; and
  - (b) Releases funds under contract for the delivery of services within the planning and service area.
- (3) "Assessment" means the collection and evaluation of information about a person's situation and functioning to determine the applicant's or recipient's service level and development of a plan of care utilizing a holistic, person-centered approach by a qualified case manager~~[independent care coordinator (ICC)]~~.
- (4) "Case management" means a process, coordinated by a case manager, for linking a client to appropriate, comprehensive, and timely home or community based services as identified in the plan of care by:
  - (a) Planning;
  - (b) Referring;
  - (c) Monitoring;
  - (d) Advocating; and
  - (e) Following the timeline of the assessment agency to obtain:
    1. Service level; and
    2. Development of the plan of care.
- (5) "Case management supervisor" means an individual:
  - (a)** Meeting the requirements of Section 5(1)(a)~~[-and (b)]~~ of this administrative regulation; and
  - (b)** Who has~~[shall have]~~ four (4) years or more experience as a case manager.
- (6) "Case manager" means the individual employee responsible for:
  - (a) Coordinating services and supports from all agencies involved in providing services required by the plan of care;
  - (b) Completing the initial assessment, plan of care, and annual reassessment;
  - (c) Ensuring all service providers have a working knowledge of the plan of care; and

(d)(e) Ensuring services are delivered as required.

(7) "Case record" means the collection of information, documents, demographics, and required information maintained in the Aging Services tracking data system.

(8) "Department" means the Department for Aging and Independent Living.

(9)(8) "District" is defined by KRS 205.455(4).

(10)(9) ["~~Educational or experiential equivalent~~"] means:

~~(a) Two (2) semesters totaling at least twenty-four (24) hours of course work; and~~

~~(b) At least 400 documented hours of experience assisting aging or disabled individuals through:~~

~~1. Practicum placement;~~

~~2. Clinicals; or~~

~~3. Volunteerism.~~

(11)(10) "Extraordinary ~~out-of-pocket~~~~out of pocket~~ expenses" means medical expenses not covered by insurance including:

(a) Copays;

(b) Deductibles;

(c) Prescriptions;

(d) Premiums for medical insurance; or

(e) Other medical, dental, or vision cost incurred as a result of medically necessary treatments or procedures.

(11)(12)(11) "Homecare services" means services that:

(a) Are:

1. Provided to an eligible individual who is a "functionally impaired elderly person" as defined by KRS 205.455(7); and

2. Directed to the individual ~~established~~~~specified~~ in subparagraph 1 of this paragraph toward:

a. Prevention of unnecessary institutionalization; and

b. Maintenance in the least restrictive environment, excluding residential facilities; and

(b) Include:

1. "Chore services" as defined by KRS 205.455(1);

2. "Core services" as defined by KRS 205.455(2);

3. "Escort services" as defined by KRS 205.455(5);

4. "Home-delivered meals" as defined by KRS 205.455(8);

5. "Home-health aide services" as defined by KRS 205.455(9);

6. "Homemaker services" as defined by KRS 205.455(10);

7. "Home repair services" as defined by KRS 205.455(11);

8. "Personal care services" as ~~defined by~~~~established in~~ subsection (16) of this section; and

9. "Respite services" as defined by KRS 205.455(12)(j)

(12) ["~~Independent care coordinator~~" or "~~ICC~~"] means the individual that completes the initial assessment, plan of care, and annual reassessment].

(12)(13) "Informal ~~supports~~~~support system~~" means any care provided to an individual ~~that~~~~which~~ is not provided as part of a public or private formal service program.~~;~~

(13)(14) "Instrumental activities of daily living" is defined by KRS 194A.700(7).

(14)(15) "Natural Supports" means a non-paid person or community resource who can provide, or has historically provided, assistance to the consumer or, due to the familial relationship, would be expected to provide assistance ~~if~~~~when~~ capable.

(15)(16) "Personal care services" means assistance with activities of daily living.

(16)(17) "~~Person-centered~~~~Person centered~~ planning" means a process:

(a) For selecting and organizing the services and supports that an older adult or person with a disability might[may] need to live in the community and is directed by the person who receives the support; and

(b)[~~Most important, it is a process~~] That is directed by the person who receives the support.

(17)[~~(18)~~] "Reassessment" means reevaluation of the situation and functioning of a client.

(18)[~~(19)~~][(18)] "Service level" means the minimum contact required through face-to-face visits and telephone calls by the case manager or social service assistant.

(19)[~~(20)~~][(19)] "Social service assistant" means an individual who:

- (a) Has at least a high school diploma or equivalent;
- (b) Works under the direction of the case manager supervisor;
- (c) Assists the case manager with record keeping, filing, data entry, and phone calls;
- (d) Helps determine what type of assistance their clients need;
- (e) Assists the client in getting services to carry out the plan of care;
- (f) Coordinates services provided to the client;
- (g) Assists clients in applying for other services or benefits for which they may qualify; and
- (h) Monitors clients to ensure services are provided appropriately.

Section 2. Service Provider Responsibilities. A service provider contracting with a district to provide homecare services supported in whole or in part from funds received from the cabinet shall:

- (1) Assure the provision of homecare services throughout the geographic area covered under its plan or proposal;
- (2) Review the provision of homecare services to assure safety and consistency;
- (3) Treat the client in a respectful and dignified manner and involve the client and caregiver in the delivery of homecare services;
- (4) Allow[Permit] staff of the cabinet and the district to monitor and evaluate homecare services provided;
- (5) Assure that each paid or voluntary staff member meets qualification and training standards established for each specific service by the department;
- (6) Maintain a written job description for each paid staff and volunteer position involved in direct service delivery;
- (7) Develop and maintain written personnel policies and a wage scale for each job classification; and
- (8) Designate a supervisor to assure that staff providing homecare services are provided supervision.

Section 3. Homecare Plan. For program approval, a district shall submit to the cabinet a proposal within its area plan to include at least [the following]:

- (1) An assurance of access for the department to records of the district pertaining to its contract for delivery of homecare services; and
- (2) A plan for the delivery of homecare services in the area to be served by the district containing:
  - (a) Identification of services currently provided in the district; and
  - (b) The following assurances:
    1. A justification of a decision not to fund a homecare service, including an assurance of adequate availability from another funding source;
    2. A policy and procedure for assuring a client's:
      - a. Eligibility in accordance with Section 4 of this administrative regulation; and
      - b. Implementation of case management;
    3. A policy and procedure for a client's referral for service to other appropriate programs and services as established[specified] in paragraph (a) of this subsection;

4. A policy and procedure for volunteer programs to be utilized;
5. Identification of a service provider for each specific service;
6. A policy and procedure for the periodic monitoring of a client for the appropriateness of homecare services and to assure safety and consistency by:
  - a. In home visits; and
  - b. Review of records on site and electronically;
7. A number of proposed clients for homecare services to be provided directly or by contract;
8. A unit cost per service to be used as a basis for determining an applicable percentage for the fee schedule as established in Section 9(2) [~~8(2)~~] of this administrative regulation;
9. A policy and procedure for the acceptance of a voluntary contribution and assurance the contribution shall be used to maintain or increase the level of service;
10. A policy and procedure for the reporting of abuse, neglect, and exploitation consistent with KRS 209.030(2) and (3);
11. A policy and procedure for the manner in which delivery of homecare services shall be provided to an eligible individual;
12. A policy and procedure for monitoring a subcontract for delivery of direct homecare services; and]
13. A policy and procedure assuring that assessments [~~an assessment~~] and client information, as **established/specified** in Section 5(4) [~~5(3)~~] of this administrative regulation, shall include the following information submitted electronically to the department in the formats prescribed by the Aging Services Tracking System:
  - a. Demographic information, including family income;
  - b. Physical health;
  - c. Activities of daily living and instrumental activities of daily living;
  - d. Physical environment;
  - e. Mental and emotional status;
  - f. Assistive devices, sensory impairment, and communication abilities;
  - g. Formal and informal resources; and
  - h. Summary and judgment; [-]
14. A policy and procedure assuring that training **shall be/is** provided or requested for issues found during sub-provider monitoring;
15. A policy and procedure for placing clients on hold including **[but not limited to]:**
  - a. Reasons **the individual is** a client;
  - b. How contact will be made while client is on hold;
  - c. Any exceptions to the hold policy; and
  - d. Length of time a client may be on hold; and
16. A policy and procedure for termination or reduction of services.

#### Section 4. Eligibility.

- (1) A prospective client for homecare services shall:
  - (a) Verify [~~Demonstrate~~] that the prospective client is a person sixty (60) years of age or older;
  - (b) Not be eligible for the same or similar services through Medicaid unless the individual is:
    1. Considered inappropriate for person directed services due to:
      - a. An inability to manage **the individual's/his** own services; and
      - b. A lack of availability of a person to act as **the individual's/his** representative; or
    2. Unable to access the Home and Community Based Waiver through a traditional provider; and

(c) Meet one (1) of the following criteria:

1. Be functionally impaired in the performance of:

a. Two (2) activities of daily living;

b. Three (3) instrumental activities of daily living; or

c. A combination of one (1) activity of daily living and two (2) instrumental activities of daily living;

2. Have a stable medical condition requiring skilled health services; or

3. Be:

a. Currently residing in:

(i) A skilled nursing facility;

(ii) An intermediate care facility; or

(iii) A personal care facility; and

b. Able to be maintained at home if appropriate living arrangements and support systems are established.

(2) Eligibility shall be determined by a case manager **who shall be**~~[that is]~~ qualified in accordance with Section 5(2) of this administrative regulation.~~[an ICC;]~~

~~[(a)] [Qualified in accordance with Section 5(1) and (2) of this administrative regulation; and]~~

~~[(b)] [In accordance with Section 5(3) of this administrative regulation.]~~

(3) If a client meets eligibility requirements of subsection (1) of this section for homecare services, the client or caregiver shall be informed that the client shall be eligible for services~~[as long as he or she meets eligibility requirements].~~

(4) The case manager~~[An ICC]~~ shall determine a prospective client's eligibility for:

(a)

1. ~~[Adult day health services;]~~

~~[2.] [Alzheimer's respite care services;]~~

~~[3.] In-home services; or~~

2.~~[4.]~~ Respite for the unpaid primary caregiver; and

(b) Service level of case management as determined on the DAIL-HC-01, Scoring Service Level.

(5)

(a) The homecare program shall not supplant or replace services provided by the client's natural support system.

(b) ***Except as established in paragraph (c) of this subsection,*** if needs are being met by the natural support system, the client shall be deemed ineligible.

(c) An applicant who needs respite services shall not be deemed ineligible as a result of this subsection.

(6) ***An applicant who is***~~[Applicants who are]~~ eligible for services and ***for whom*** funding is not available shall be placed on a waiting list for services.

#### Section 5. Case Management Requirements.

(1) A district shall employ a case manager to assess the eligibility and needs for each client and provide case management.

(2) A case manager ~~[and an ICC]~~ shall:

(a) Meet one (1) of the following qualifications:

1. Possess a minimum of a bachelor's degree in ***at least*** one (1) of the following:

a. Social work;

b. Gerontology;

c. Psychology;

d. Sociology; or

e. A field related to geriatrics;

2. Possess a bachelor's degree in nursing with a current Kentucky nursing license;

3. **Possess:**

a. A bachelor's degree in a field not related to geriatrics with two (2) years of experience working with the elderly; or

b. A master's degree in a human services field, **which shall[will]** substitute for the required experience;

4. **Possess[Having]** an associate's degree in a health or family services field and two (2) years of experience working with the elderly, **which shall[may]** substitute for a bachelor's degree;

5. **Be a Kentucky-registered[Kentucky-registered]** nurse with a current Kentucky license and two (2) years of experience working with the elderly; or

6. **Be a licensed practical nurse with a current Kentucky license and three (3) years of experience working with the elderly.**[Possess a Bachelor's degree in a health or human services profession from an accredited college or university with:]

[a.] [One (1) year experience in health or human services; or]

[b.] [The educational or experiential equivalent in the field of aging or physical disabilities;]

[2.] [Be a currently licensed RN as defined in KRS 314.011(5) who has at least two (2) years of experience as a professional nurse in the field of aging or physical disabilities;]

[3.] [Be a currently licensed LPN as defined in KRS 314.011(9) who has:]

[a.] [At least three (3) years of experience in the field of aging or physical disabilities; and]

[b.] [An RN to consult and collaborate with regarding changes to the Plan of Care; or]

[4.] [Have a Master's degree from an accredited college or university which serves as a substitute for the experience required by subparagraphs 1. through 3. of this paragraph;]

[(b)] [Be a department certified case manager beginning July 1, 2015;] and

[(b)][(c)] Be supervised by a case management supervisor.

(3)[(2)] Each client shall be assigned a case manager.[:]

[(a)] [Case manager; or]

[(b)] [Social service assistant.]

(4)[(3)]

[(a)] The case manager shall assess the eligibility and needs of individuals:

(a) Initially; and[A client shall be assessed initially and reassessed]

(b) At[at] least annually thereafter[-by an ICC].

[(b)] [After each assessment or reassessment, the ICC shall determine eligibility and service level of each assessed individual.]

(c) If the client is ineligible, the case manager shall close the case, document the reason in the case record, provide a list of potential resources, and notify the client or caregiver by mail[be closed with the reason documented in the case record and notification shall be mailed to the client or caregiver].

(5) Case management services shall not be provided to individuals on a waiting list for homecare.

(6)[(4)] The case manager shall:

(a) Be responsible for coordinating, arranging, and documenting those services provided by:

1. Any funding source;[-o#]

2. A volunteer; or

3. Formal or informal supports;[:]

(b)

1. Make a reasonable effort to secure and utilize informal supports for each client; and

2. Document the reasonable effort in the client's case record;



(c) Monitor each client by conducting a home visit according to the assessed service level and through a telephone contact between home visits. Clients shall be contacted at a minimum as follows:

1. Level 1, a home visit shall be conducted every other month;
2. Level 2, a home visit shall be conducted every four (4) months; and
3. Level 3, a home visit shall be conducted every six (6) months;**[and]**

(d) Document in the case record each contact made with a client, as **established[specified]** in paragraph (c) of this subsection, or on behalf of the client.

**(e) Practice cultural humility with awareness and respect for diversity and inclusion; and**

**(f) Provide a copy of the Rights and Responsibilities form to the client, in his or her preferred language; and**

1. Explain the rights and responsibilities to the client; and
2. Document receipt of form in the client record.

~~[(5)]~~

~~[(a)] [A district shall employ an ICC to assess the eligibility and needs for each client.]~~

~~[(b)] [Clients assessed at a Level 1 or a Level 2 shall be assigned a case manager.]~~

~~[(c)] [Clients assessed at a Level 3 shall have a case manager or a social service assistant assigned to assist with meeting their needs.]~~

~~[(6)] [A client shall receive homecare services in accordance with an individualized Plan of Care developed through person-centered planning. The plan shall:]~~

~~[(a)] [Relate to an assessed problem;]~~

~~[(b)] [Identify a goal to be achieved;]~~

~~[(c)] [Identify a scope, duration and unit of service required;]~~

~~[(d)] [Identify a source of service;]~~

~~[(e)] [Include a plan for reassessment; and]~~

~~[(f)] [Be signed by the client or client's representative and case manager, with a copy provided to the client.]~~

(7) A social service assistant may be assigned to Level 3 clients to assist with meeting the assessed needs.[Case management services shall not be provided to individuals on a waiting list.]

## Section 6. Service Planning.

(1) The client shall participate in the assessment and development of a person-centered plan of care with the case manager, natural supports, and other formal or informal service providers **as available.**

(2) Upon the receipt of a referral the case manager shall:

(a) Contact the client or client's representative and schedule the initial assessment;

(b) Perform the assessment through:

1. Interviews with the client, existing care givers, and natural supports;
2. Direct observation of the client's abilities and deficits; and
3. Discovery of the client's cultural preferences, practices, and beliefs;

(c) Determine the client's eligibility;

(d) Document all activities and determinations in the case record;

(e) Meet with the person-centered planning team and identify:

1. The assessed needs of the client;
2. The services that will address the identified needs; and
3. Goals that support the client's needs and preferences; and

(f) Compose the plan of care.

(3) The plan of care shall:

- (a) Relate to an assessed problem;
  - (b) Identify a goal to be achieved;
  - (c) Identify a scope, duration, and unit of service required;
  - (d) Identify a source of service;
  - (e) Include a plan for reassessment; and
  - (f) Be signed by the client or client's representative and case manager, with a copy provided to the client.
- (4) The client shall be reassessed at least annually, and more frequently **if[when]** there is a documented change in status that indicates a need for adjustment to the service level or plan of care.

Section 7. Quality Service. If a client is determined eligible for homecare services, the case manager shall:

- (1) Read, or have read and explained to the client, the purpose of the DAIL-HC- 02, Quality Service Agreement;
- (2) Document the client's acknowledgement of receipt in the case record;
- (3) Maintain the original document in the client's case record;
- (4) Provide a copy of the completed agreement to the client. **The copy[which]** shall contain the name, address, and telephone number of:
  - (a) The current case manager[~~or social service assistant~~];
  - (b) A designated representative of the district; and
  - (c) A representative of the department;
- (5) Inform the client of his or her right to file a complaint regarding services and provide assistance as requested;
- (6)[(3)] Ensure that a copy of a DAIL – HC- 03, Report of Complaint or Concern containing written complaints and detailed reports of telephoned or verbal complaints, concerns or homecare service suggestions is maintained in the client's case record[~~permanent file~~] and documented in a centralized log;[~~and~~]
- (7) Keep the identity of a complainant confidential; and
- (8) Document investigation and efforts at resolution or service improvement that shall be available for monitoring by the district and department staff.

Section 8.[Section 7.] Appeals.[Request for a Hearing.] A client may request an informal dispute resolution or an appeal[~~a hearing~~].[~~:]~~

- (1) An informal dispute resolution shall be limited to the denial, reduction, or termination of services.[As provided by KRS 13B.010-170; and]
- (2) An informal dispute resolution shall not be accepted **if[when]** services are unavailable due to[Within thirty (30) days of any decision by the]:
  - (a) The program not having funding to provide the services; or[Cabinet];
  - (b) The individual **[does]not meeting[meet]** the eligibility requirements pursuant to Section 4 of this administrative regulation[District; or]
  - [(c)] [Service provider].
- (3) A request for an informal dispute resolution shall:
  - (a) Be submitted to the department's homecare program coordinator within thirty (30) days following the notification of an adverse decision; and
  - (b) Contain the**[following information]:**
    - 1. Name, address, and telephone number of the client;
    - 2. Decision being disputed;
    - 3. Justification for the dispute;

4. Documentation supporting the dispute; and

5. Signature of person requesting the dispute resolution.

(4) The dispute resolution shall be heard by three (3) employees of the departments Division of Quality Living. One **(1) of whom[~~of which~~]** shall be the division director or **the division director's[~~his/her~~]** designee.

(5) The complainant shall be provided an opportunity to appear before the dispute resolution team to present facts or concerns about the denial, reduction, or termination of services.

(6) The dispute resolution team shall inform the complainant, in writing, of the decision resulting from the dispute resolution within ten (10) business days of the review.

(7) A complainant may request an appeal for an administrative hearing conducted in accordance with KRS Chapter 13B:

(a) Within thirty (30) calendar days of the notice regarding the results of the dispute resolution;~~[or]~~

(b) Within thirty (30) calendar days of the notice regarding the adverse action by the cabinet; ~~or[:]~~

(c) By submitting a written request for appeal to the Office of the Ombudsman and Administrative Review, Quality Advancement Branch, 275 E. Main St, 2 E-O, Frankfort, Kentucky 40621.

Section 9,~~[Section 8.]~~ Fees and Contributions.

(1) The case manager[~~ICC~~] shall be responsible for determining fee paying status, using the criteria established in this subsection.

(a) A fee shall not be assessed for the provision of assessment, case management services, or home-delivered meals.

(b) The case manager[~~ICC~~] shall:

1. Consider extraordinary out-of-pocket expenses to determine a client's ability to pay; and
2. Document in a case record a waiver or reduction of fee due to the extraordinary out-of-pocket expenses.

(c) A fee shall not be assessed to an eligible individual who meets the definition of "needy aged" as **defined[~~governed~~]** by KRS 205.010(6).

(d)

1. SSI income or a food stamp allotment shall not be deemed available to other family members.
2. The applicant receiving SSI benefits or a food stamp allotment shall be considered a family of one (1) for the purpose of fee determination.

(2) An eligible person shall be charged a fee determined by the cost of the service unit multiplied by the applicable percentage rate based upon income and size of family using 130 percent the official poverty income guidelines published annually in the Federal Register by the United States Department of Health and Human Services. Service unit cost shall be determined by the state agency or contracting entity in accordance with its contract. The copayment amount shall be based on the household's percentage of poverty, as follows:

Percentage of Poverty	1 Person	2 Person	3 Person or More
0 - 129%	0%	0%	0%
130% - 149%	20%	0%	0%
150% - 169%	40%	20%	0%
170%-189%	60%	40%	20%
190%-209%	80%	60%	40%

210%-229%	100%	80%	60%
230%-249%	100%	100%	80%
250% and above	100%	100%	100%

(3)(a) A contribution from an individual or family with a zero percent copay shall be encouraged.

(b) Suggested contribution or donation rates may be established ~~[-however]~~, without pressure shall not be placed upon the client to donate or contribute.

(c) Homecare services shall not be withheld from an otherwise eligible individual based upon the individual's failure to voluntarily contribute to support services.

(4) The district shall review and approve or deny, based on the contracted agency's district policies, the procedure implemented by a service provider for the collecting, accounting, spending, and auditing of fees and donations.

Section 10.~~[Section 9.]~~ Allocation Formula. The homecare program funding formula shall consist of a \$40,000 base for each district, with the remaining amount of funds distributed in proportion to the district's elderly (sixty (60) plus) population in the state.

Section 11.~~[Section 10.]~~ Termination or Reduction of Homecare Services.

(1)

(a) A case manager or client may terminate or reduce homecare services.

(b) Homecare services shall be terminated if:

1. The program can no longer safely meet the client's needs;
2. The client does not pay the copay for services as established in Section 9[8](2) of this administrative regulation;
3. The client refuses to follow the plan of care; or
4. a. The client or family member has exhibited abusive, intimidating, or threatening behavior; and b. The client or representative is unable or unwilling to comply with the corrective action plan.

(2) Homecare services may be reduced if:

- (a) The client's condition or support system improves;
- (b) Program funding has been reduced; or
- (c) The client refuses to follow the plan of care for a particular service.

(3) If homecare services are terminated or reduced, the case manager shall:

- (a) Inform the client of the right to file a complaint;
- (b) Notify the client or caregiver of the action taken; and
- (c) Assist the client and family in making referrals to another agency if applicable.

(4) If homecare services are terminated or reduced due to reasons unrelated to the client's needs or condition, the designated district representative in conjunction with the case manager shall determine reduction or termination on a case-by-case basis based on the requirements established in this administrative regulation.

Section 12.~~[Section 11.]~~ Incorporation by Reference.

(1) The following material is incorporated by reference:

- (a) "DAIL-HC 01, Scoring Service Level", 4/2014;
- (b) "DAIL -HC- 02, Quality Service Agreement", 4/2014;~~[-and]~~
- (c) "DAIL -HC- 03, Report of Complaint or Concern", 4/2014; and
- (d) "Rights and Responsibilities", 1/2023.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at Cabinet for Health and Family Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8:00 a.m. to 4:30 p.m. This material may also be viewed on the department's Web site at <https://chfs.ky.gov/agencies/dail/Pages/default.aspx>.

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