

KENTUCKY REGISTRY OF ELECTION FINANCE

Thomas P. O'Brien, III, Chairman
Adrian M. Mendiondo, Vice-Chair
Richard Clayton Larkin, Member
H. David Wallace, Member
J. Bissell Roberts, Member
Laura Marie Bennett, Member
Jessica Burke, Member

140 Walnut Street
Frankfort, Kentucky 40601-3240
Phone: (502) 573-2226
Fax: (502) 573-5622
www.kref.ky.gov

John R. Steffen
Executive Director
Leslie M. Saunders
General Counsel

September 1, 2023

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

Re: **32 KAR 1:20**⁰. Statement of spending intent and appointment of campaign treasurer.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 32 KAR 1:020, the Kentucky Registry of Election Finance proposes the attached amendment to 32 KAR 1:020.

Sincerely,

Leslie M. Saunders, General Counsel
Kentucky Registry of Election Finance
140 Walnut Street, Frankfort, KY 40601

Final, 8-29-2023

SUGGESTED SUBSTITUTE

GENERAL GOVERNMENT CABINET
Kentucky Registry of Election Finance

32 KAR 1:020. Statement of spending intent and appointment of campaign treasurer.

RELATES TO: KRS 121.015, 121.160(1), 121.180(1)

STATUTORY AUTHORITY: KRS 121.120(1)(g), (4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 121.120(1)(g) ~~authorizes~~grants the Registry/~~the power~~ to promulgate administrative regulations necessary to carry out the provisions of KRS Chapter 121. KRS 121.120(4) requires the Registry to promulgate administrative regulations and prescribe forms for the making of reports under KRS Chapter 121. KRS 121.015(18) defines "form" to mean ~~an~~ an online Web page ~~or~~ an electronic document designed to capture, validate, and submit data for processing to the registry. KRS 121.160(1) requires candidates ~~as part of their filing papers~~ to designate a campaign treasurer. KRS 121.180(1) ~~requires~~permits certain candidates to use an electronic form if requesting~~to request~~ an exemption from reporting to the Registry when they file for office. This administrative regulation establishes the Web page from which candidates designate their treasurers and state their spending intents.~~[a single form for the appointment of a campaign treasurer and the optional request for exemption from reporting.]~~

Section 1. Appointment of Campaign Treasurer. Candidates shall designate campaign treasurers, as required by KRS 121.160(1), or state whether they will act as their own campaign treasurers prior to beginning to campaign for each primary, regular, or special election by using the Kentucky Election Finance Management System found on the Registry's Web site at <https://kref.ky.gov>.~~[The Statement of Spending Intent and Appointment of Campaign Treasurer Form shall be the official form to be used by candidates for the appointment of a campaign treasurer under KRS 121.160(1).]~~

Section 2. Optional Request for Reporting Exemption. Candidates shall state whether they are exempt from filing campaign finance reports, as required by KRS 121.180(1)(a), by stating their spending intents for each primary, regular, or special election by using the Kentucky Election Finance Management System found on the Registry's Web site at <https://kref.ky.gov>.

~~[(1)] [The Statement of Spending Intent and Appointment of Campaign Treasurer Form shall be the official form to be used by candidates seeking an exemption from election finance reporting under KRS 121.180(1)(a).]~~

~~[(2)] [The Statement of Spending Intent and Appointment of Campaign Treasurer Form shall be the official form to be used by candidates seeking to rescind a request for exemption from election finance reporting under KRS 121.180(1)(b).]~~

~~[Section 3.] [Incorporation by Reference.]~~

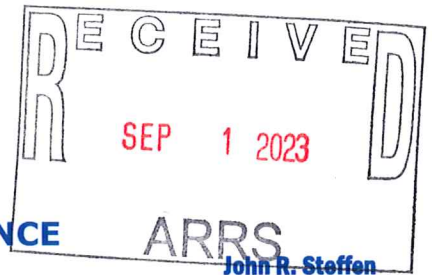
~~[(1)] [The "Statement of Spending Intent and Appointment of Campaign Treasurer Form" reference KREF 001, revised 11/2017 is incorporated by reference.]~~

~~[(2)] [This material may be inspected, copied, or obtained, subject to applicable copyright law, at the office of the Kentucky Registry of Election Finance, 140 Walnut Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.]~~

CONTACT PERSON: Leslie Saunders, General Counsel, Kentucky Registry of Election Finance, 140 Walnut Street, Frankfort, Kentucky 40601, phone (502) 573-2226, fax (502) 573-5622, email LeslieM.Saunders@ky.gov.



KENTUCKY REGISTRY OF ELECTION FINANCE



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September 1, 2023

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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: **32 KAR 1:30**. Campaign finance statements.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 32 KAR 1:030, the Kentucky Registry of Election Finance proposes the attached amendment to 32 KAR 1:030.

Sincerely,

Leslie M. Saunders, General Counsel
Kentucky Registry of Election Finance
140 Walnut Street, Frankfort, KY 40601

Final, 8-29-2023

SUGGESTED SUBSTITUTE

GENERAL GOVERNMENT CABINET
Kentucky Registry of Election Finance

32 KAR 1:030. Campaign finance statements.~~[Election finance statement forms; campaign contributions or expenditures in excess of \$3,000.]~~

RELATES TO: KRS 121.015, 121.180, 141.071

STATUTORY AUTHORITY: KRS 121.120(1)(g), (4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 121.120(1)(g) authorizes the Registry to promulgate administrative regulations necessary to carry out the provisions of KRS Chapter 121. KRS 121.120(4) requires the Registry to promulgate administrative regulations and prescribe forms for the making of reports under KRS Chapter 121. KRS 121.015(18) defines "form" to mean ~~[an "~~an online Web page ~~or of]~~ an electronic document designed to capture, validate, and submit data for processing to the registry.~~["]~~ This administrative regulation ~~establishes~~specifies the Web page from which~~[forms to be used by]~~ candidates, slates of candidates, contributing organizations, and committees shall file campaign finance reports electronically as required by KRS 121.180. It ~~establishes~~also specifies how an executive committee of a political party determines whether it files annually or semiannually under KRS 121.180(2)(c)~~[committees, and incorporates these forms by reference].~~

Section 1. ~~All~~The following candidates, slates of candidates, contributing organizations, and committees shall file the reports required by KRS 121.180 using the Kentucky Election Finance Management System found on the Registry's Web site at <https://kref.ky.gov>.~~[on the forms incorporated by reference in this administrative regulation:]~~

~~[(1)] [Candidate campaign funds, gubernatorial slate campaign funds, political issues committees, and candidate authorized campaign committees who register an intent to raise or spend more than \$3,000 or actually receive contributions or make expenditures in excess of \$3,000; and]~~

~~[(2)] [All permanent committees, caucus campaign committees, inaugural committees, contributing organizations, unauthorized campaign committees, and political party executive committees regardless of the amount of contributions or expenditures.]~~

Section 2. If an executive committee of a political party has ~~[ten thousand dollars (\$10,000)]~~ or more in its campaign account fund at any time during the twelve ~~(12) [-]~~month period before July 1, it shall make the campaign finance reports required by KRS 121.180(2)(c) semiannually. In making this determination, the committee shall include any funds received from income tax checkoff contributions in accordance with KRS 141.071(2), whether or not those funds are kept in an account separate from other campaign funds. A committee that does not have more than ~~[ten thousand dollars (\$10,000)]~~ in the twelve ~~(12) [-]~~month period before July 1 shall use the Kentucky Election Finance Management System found on the Registry's Web site at <https://kref.ky.gov> to certify to the registry that it is not required to file a campaign finance report by July 31.~~[Incorporation by Reference.]~~

~~[(1)] [The following material is incorporated by reference:]~~

~~[(a)] ["Candidate/Slate of Candidates Election Finance Statement", reference KREF 006, revised 08/2018;]~~

~~[(b)] ["Executive Committee/ Caucus Campaign Committee Election Finance Statement", reference KREF 006/EC, revised 08/2018;]~~

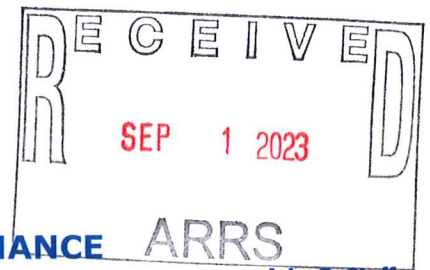
~~[(c)] ["Unauthorized Campaign Committee/ Political Issues Committee Election Finance Statement", reference KREF 006/UCC-IC, revised 08/2018;]~~

~~[(d)] ["Inaugural Committee Election Finance Statement", reference KREF 006/I, revised 08/2018; and]~~

~~[(e)] ["Permanent Committee (PAC)/ Contributing Organization Election Finance Statement", reference KREF 006/PAC-CO, revised 08/2018.]~~

~~[(2) [This material may be inspected, copied, or obtained, subject to applicable copyright law, at the office of the Kentucky Registry of Election Finance, 140 Walnut Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.]]~~

CONTACT PERSON: Leslie Saunders, General Counsel, Kentucky Registry of Election Finance, 140 Walnut Street, Frankfort, Kentucky 40601, phone (502) 573-2226, fax (502) 573-5622, email LeslieM.Saunders@ky.gov.



KENTUCKY REGISTRY OF ELECTION FINANCE

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September 1, 2023

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

Re: **32 KAR 1:046**. Repeal of 32 KAR 1:045 and 32 KAR 1:070.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 32 KAR 1:046, the Kentucky Registry of Election Finance proposes the attached amendment to 32 KAR 1:046.

Sincerely,

Leslie M. Saunders, General Counsel
Kentucky Registry of Election Finance
140 Walnut Street, Frankfort, KY 40601

Final, 8-29-2023

SUGGESTED SUBSTITUTE

GENERAL GOVERNMENT CABINET
Kentucky Registry of Election Finance

32 KAR 1:046. Repeal of 32 KAR 1:045 and 32 KAR 1:070.

RELATES TO: KRS 121.172(8), 121.180(2)(b), (c), ~~[121.180]~~(9)

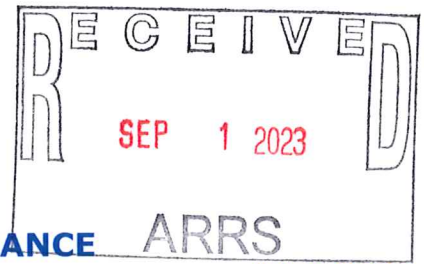
STATUTORY AUTHORITY: KRS 121.120(1)(g), (4), 121.172(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 121.120(1)(g) ~~authorizes~~**grants** the Registry ~~[the authority]~~ to promulgate administrative regulations necessary to carry out the provisions of KRS Chapter 121. KRS 121.120(4) requires the Registry to promulgate administrative regulations and prescribe forms for the making of reports under KRS Chapter 121. KRS 121.172(1) requires the Registry to promulgate administrative regulations to implement provisions permitting a state executive committee of a political party to establish a building fund account. KRS 121.172(8) requires a state executive committee to report all contributions to and expenditures from a building fund account to the Registry of Election Finance on a quarterly basis. KRS 121.180(2)(b) and (c) requires a state executive committee of a political party that has established a building fund account under KRS 121.172 to make full report to the Registry, to be received by the registry within five (5) days after the close of each calendar quarter. The registry **is required to**~~[must]~~ repeal ~~[administrative regulations]~~ 32 KAR 1:045 and 32 KAR 1:070, because the forms identified in the current regulations no longer exist as separate documents, but are now incorporated into other filings into Kentucky Election Finance Management System, the registry's electronic filing system, **and are included in 32 KAR 1:020 and 32 KAR 1:030.**

Section 1. The following administrative regulations are hereby repealed:

- (1) 32 KAR 1:045. Election Finance Statement – State Executive Committee Building Fund; and
- (2) 32 KAR 1:070. Waiver From Filing Candidate Election Finance Statement.

CONTACT PERSON: Leslie Saunders, General Counsel, Kentucky Registry of Election Finance, 140 Walnut Street, Frankfort, Kentucky 40601, phone (502) 573-2226, fax (502) 573-5622, email LeslieM.Saunders@ky.gov.



KENTUCKY REGISTRY OF ELECTION FINANCE

ARRS

Thomas P. O'Brien, III, Chairman
Adrian M. Mendiondo, Vice-Chair
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John R. Steffen
Executive Director
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General Counsel

September 1, 2023

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

Re: **32 KAR 1:050**. Political organization registration.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 32 KAR 1:050, the Kentucky Registry of Election Finance proposes the attached amendment to 32 KAR 1:050.

Sincerely,

Leslie M. Saunders, General Counsel
Kentucky Registry of Election Finance
140 Walnut Street, Frankfort, KY 40601

Final, 8-30-2023

SUGGESTED SUBSTITUTE

GENERAL GOVERNMENT CABINET
Kentucky Registry of Election Finance

32 KAR 1:050. Political organization registration.

RELATES TO: KRS 121.015(3), (4), 121.170, 121.180

STATUTORY AUTHORITY: KRS 121.015(3), (4), 121.120(1)(g), (4), 121.170(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 121.120(1)(g) authorizes the Registry to promulgate administrative regulations necessary to carry out the provisions of KRS Chapter 121. KRS 121.120(4) requires the registry to promulgate administrative regulations and prescribe forms for the making of reports under KRS Chapter 121. KRS 121.015(3)(b)5. requires the Registry to determine by administrative regulation what constitutes a minor political party for purposes of committee registration. As defined by[in] KRS 121.015(4), a "contributing organization" is subject to contribution limits and required to file periodic campaign finance reports~~[reports of campaign finances]~~ under KRS 121.180(6). KRS 121.015(18) defines "form" to mean [an—]"an online Web page or[of] an electronic document designed to capture, validate, and submit data for processing to the registry.["] This administrative regulation defines "minor political party" and "executive committee" ~~[for purposes of Kentucky's Campaign Finance Regulation (KRS Chapter 121),]~~ and establishes[specifies] the Web page that committees and contributing organizations shall use for registration.~~[the form to be used for registration by committees and contributing organizations, and incorporates the form by reference.]~~

Section 1. Definitions.

- (1) "Executive committee" means an organizational unit or affiliate recognized within the document governing a political party, that raises and spends funds to promote political party nominees, and performs other activities commensurate with the day-to-day operation of a political party, including voter registration drives, assisting candidate fundraising efforts, holding state conventions or local meetings, and nominating candidates for local, state, and federal office.
- (2) "Minor political party" means an association, committee, organization, or group having constituted authority for its governance and regulation, which nominates or selects a candidate for election to any federal or statewide-elected state office in Kentucky, whose name appears on an election ballot as the candidate of the association, committee, organization, or group, and does not have a recognized caucus campaign committee within the Kentucky House or Senate, as defined by[in] KRS 121.015(3)(b)1.-4.
- (3) "Political organization" means any committee or contributing organization, as those terms are defined by[in] KRS 121.015(3) and (4).

Section 2. Political Organization Registration. Campaign committees, caucus campaign committees, political issues committees, permanent committees, inaugural committees, executive committees, and contributing organizations shall register using the Kentucky Election Finance Management System found on the Registry's Web site at <https://kref.ky.gov>.~~[The "Political Organization Registration" form, KREF 010, revised 01/2019 shall be the official form to be used for the registration of campaign committees, caucus campaign committees, political issues committees, permanent committees, inaugural committees, executive committees, and contributing organizations.]~~

~~[Section 3.] [Incorporation by Reference.]~~

- ~~[(1)] ["Political Organization Registration" form, KREF 010, revised 01/2019, is incorporated by reference.]~~
- ~~[(2)] [This material may inspected, copied, or obtained, subject to applicable copyright law, at the office of the Kentucky Registry of Election Finance, 140 Walnut Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.]~~

CONTACT PERSON: Leslie Saunders, General Counsel, Kentucky Registry of Election Finance, 140 Walnut Street, Frankfort, Kentucky 40601, phone (502) 573-2226, fax (502) 573-5622, email LeslieM.Saunders@ky.gov.



DEPARTMENT OF MILITARY AFFAIRS

100 Minuteman Parkway
BNGC – EOC Building
Frankfort, KY 40601-6168

Andy Beshear
Governor



Haldane B. Lamberton
Major General, KYNG
The Adjutant General

September 1, 2023

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

RE: 106 KAR 004:020 Commonwealth of Kentucky Military Burial Honor Guard Trust Fund and Military Burial Honor Guard.

Dear Co-Chairs West and Lewis,

After discussions with Administrative Regulation Review Subcommittee staff, the Department of Military Affairs respectfully submits the attached amendment to the following administrative regulation for Subcommittee consideration: 106 KAR 004:020.

Sincerely,

SANDS.CHARLA. Digitally signed by SANDS.CHARLA.RAE.1537223576
RAE.1537223576 Date: 2023.08.17 14:49:09 -04'00'

Charla R. Sands, Attorney
Department of Military Affairs
100 Minuteman Parkway
Frankfort, KY 40601

Staff-suggested Amendment

**Final Version 8/16/2023
GENERAL GOVERNMENT CABINET
Department of Military Affairs**

**106 KAR 4:020. Commonwealth of Kentucky Military Burial Honor Guard Trust Fund and
Military Burial Honor Guard.**

Page 1

Section 1(3)

Line 20

After "Kentucky", delete ",".

Page 2

Section 1(5)

Line 7

After "participates in paid", delete ",".

After "serves on paid", delete ",".

Page 2

Section 2(1)(c)

Line 21

After "honors providers;", insert "or".

Page 4

Section 3(2)(a)4.

Line 10

After "conditions;", insert "or".

Page 5

Section 4(1)(b)1.

Line 7

After "criteria in Section", insert "3".

Delete "1(2)".

Page 6

Section 4(3)(a)8.

Line 12

After "family members", insert "1".

Page 6

Section 4(3)(b)2.

Line 16

After "providers;" , insert "and".

Page 6

Section 4(3)(b)3.

Line 18

After "funeral honors", insert " ".
Delete " ,".

Page 7

Section 4(4)(b)

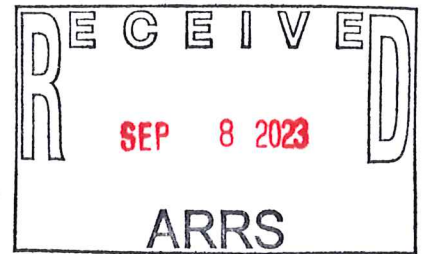
Line 7

Before "This", insert "The".
Delete "This".



State Board of Accountancy

332 W. Broadway, Suite 310
Louisville, KY 40202
Phone: (502) 595-3037
Fax: (502) 595-4500
cpa@ky.gov



Joseph P. Donohue
Executive Director

September 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
029, Capitol Annex
Frankfort KY 40601

Re: Suggested Substitute for 201 KAR 1:050. Accountancy license application.

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 1.050, the Kentucky State Board of Accountancy proposes the attached suggested substitute to 201 KAR 1.050.

Please let me know if you have any questions or need anything further on this.

Sincerely,

Joseph P. Donohue, Executive Director
Kentucky State Board of Accountancy
332 W. Broadway, Suite 310
Louisville, KY 40202

Enc.

SUGGESTED SUBSTITUTE
Final Version: 08/04/23 at 12:27 p.m.

BOARDS AND COMMISSIONS
State Board of Accountancy

201 KAR 1:050. **Accountancy** license application.

RELATES TO: KRS 325.261, 325.280, 325.330

STATUTORY AUTHORITY: KRS 325.240(2), 325.330(1)(c)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 325.240(2) authorizes the Kentucky State Board of Accountancy to promulgate administrative regulations for the administration of KRS Chapter 325. KRS 325.330(1)(c) requires the board to promulgate administrative regulations establishing an application process. This administrative regulation establishes the requirements for obtaining a license as a certified public accountant.

Section 1.(1) A person who has met the qualifications **established[contained]** in KRS 325.261 shall submit the Application for License.

(2) With his or her application, the person shall include:

- (a) A check or money order, which is nonrefundable, made payable to the Kentucky State Board of Accountancy for \$100;
- (b) The certificate of experience as **established[described]** in 201 KAR 1:063;
- (c) A list of colleges and universities **the applicant attended** with graduation dates, degrees awarded, and the "official transcript" **as defined by[described in]** 201 KAR 1:190, **Section 1**, unless it is already in **the** possession of the board;
- (d) An "official transcript" as **defined by[described in]** 201 KAR 1:190, **Section 1**, from an accredited college or university as **established[described]** in 201 KAR 1:190, which verifies **that** the candidate has satisfied the 150-hour requirement of KRS 325.261;
- (e) Proof of successful completion of the Uniform CPA Exam. If the applicant successfully completed the examination in Kentucky, documentation shall not be required. If the examination was successfully completed in another jurisdiction, the applicant shall have an Authorization for Interstate Exchange of Information submitted to the board on his or her behalf; and
- (f) If the applicant is not a citizen of the United States, **documentation from the:**
 1. **[Documentation from the]**United States Citizenship and Immigration Services, or its successor, to verify the person is legally residing in the United States; or
 2. **[Documentation from the]**Employer that verifies the person is an employee of a public accounting firm, company, or institution of postsecondary education located outside the United States, which also has an office or campus located in the United States.

Section 2. License by Reciprocity.

(1) An applicant for a license by reciprocity shall submit or cause to have submitted:

- (a) An Application for Reciprocal License;
- (b) Payment of the fee **established in Section 1(2)(a) of this administrative regulation** and other documents required by Section 1(2) of this administrative regulation, except for an official transcript; and
- (c) An Authorization for Interstate Exchange of Information form completed by the licensing jurisdiction where the applicant holds a valid and active license to practice.

(2) If the applicant cannot provide the certificate of experience as required in Section 1 of this administrative regulation and:

(a) Is applying under the provisions of KRS 325.280(1)(c)1, the applicant shall have the licensing jurisdiction where he or she holds a valid and active license send certified copies of experience requirement documents from his or her license file; or

(b) Is applying under the provisions of KRS 325.280(1)(c)2, he or she shall submit or cause to have submitted one (1) of the following documents, which clearly reflects that the applicant has practiced public accounting as a full-time profession for four (4) of the last ten (10) years:

1. Proof of public accounting errors and omissions insurance;
2. A letter from an attorney, client, or certified public accountant that has knowledge of the applicant's practice;
3. Copies of firm license applications; or
4. Copies of personal tax returns.

Section 3. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Application for License", August 2015;

(b) "Application for Reciprocal License", August 2015; and

(c) "Authorization for Interstate Exchange of Information", ~~2023~~[August 2015].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the State Board of Accountancy, 332 W. Broadway, Suite 310, Louisville, Kentucky 40202, Monday through Friday, 8 a.m. and 4:30 p.m.

CONTACT PERSON: Joseph P. Donohue, Executive Director, Kentucky State Board of Accountancy, 332 W. Broadway, Suite 310, Louisville, Kentucky 40202, phone (502) 595-3037, fax (502) 595-4281, email joep.donohue@ky.gov.

Kentucky State Board of Accountancy
 332 W Broadway #310 • Louisville KY 40202
 502-595-3037 • Web: cpa.ky.gov • Email: cpa@ky.gov

AUTHORIZATION FOR INTERSTATE EXCHANGE OF INFORMATION

Please complete this portion of the form and forward it to the Board of Accountancy where you passed the exam and/or hold a license. That Board, in turn, will complete the remainder of this form (Sections A-C) and return it to this agency. (You are advised to check with that Board before forwarding this form to determine if there are any additional requirements and/or fees charged before such information will be released.)

TO BE COMPLETED BY THE APPLICANT:

Name _____ Maiden _____

Address _____

City _____ State _____ Zip Code _____

Phone # _____ Email _____

I hereby request and authorize the _____ Board of Accountancy to report any and all pertinent information requested in this form to the Kentucky State Board of Accountancy on my behalf. I agree that the State Board may confirm the grades issued to me by the AICPA Advisory Grading Service.

Signature _____ Date _____

SECTIONS A-C TO BE COMPLETED BY THE BOARD OF ACCOUNTANCY ONLY

SECTION A. VERIFICATION OF PASSING EXAMINATION SECTIONS: Please list the date each of the exam sections were passed and provide the corresponding scores:

| Date of Examination | AUD | FAR | REG | BEC | BAR (Business Analysis and Reporting) | ISC (Information Systems and Controls) | TCP (Tax Compliance and Planning) |
|---------------------|-----|-----|-----|-----|------------------------------------------|-------------------------------------------|--------------------------------------|
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| | | | | | | | |

1. Did the applicant receive an exam grade extension? Yes No
If yes, which exam grade was extended and what was the reason for extension:

2. Was the applicant ever denied admission to the Exam? Yes No
If yes, please use section C to explain.

3. If the CPA exam has not been completed, are there any restrictions preventing the applicant from sitting in your state? Yes No

4. Date grades expire, if any: _____/_____/_____

SECTION B: LICENSURE STATUS.

1. The applicant was granted an original reciprocal (circle one) CPA license number _____ issued _____/_____/_____ which is in good standing unless otherwise noted in Section D of this form.

2. Yes No This is a two-tier state.

3. Yes No License from this Board is in good standing and expires on _____.

4. Yes No The applicant is currently licensed to engage in the practice of public accounting.

5. Yes No Has there ever been any disciplinary action instituted against the applicant? If yes, please explain in Section C.

6. If the applicant does not hold a license from your Board, please indicate the requirements to be met for issuance or reinstatement:

License not required

Pay appropriate fees and/or post bond

Complete acceptable accounting/auditing experience

Complete continuing professional education requirements

Other: _____

SECTION C. EXCEPTIONS NOTED OR EXPLANATIONS OF INFORMATION PROVIDED (Official seal and signature must be affixed to attached sheets if needed to respond to this inquiry.)

The information provided herein is correct to the best of my knowledge.

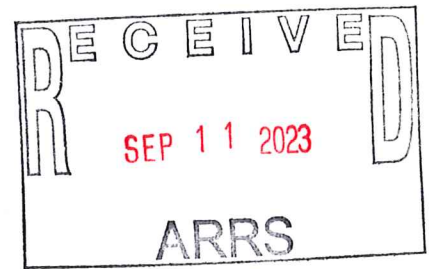
BOARD SEAL

Board/Agency

Official Signature

Title

Date



Andy Beshear
Governor

KENTUCKY BOARD OF PHARMACY

State Office Building Annex, Suite 300
125 Holmes Street
Frankfort KY 40601
Phone (502) 564-7910
Fax (502) 696-3806
<http://pharmacy.ky.gov>

Board Members
Jason Belcher, Consumer
Peter P. Cohron, RPh
Meredith Figg, PharmD
John Fuller, RPh
Anthony B. Tagavi, PharmD
Jonathan Van Lahr, RPh

Executive Director
Christopher P. Harlow, PharmD

September 11, 2023

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

Re: 201 KAR 2:076

Dear Co-Chairs West and Lewis:

After consideration of the issues raised by 201 KAR 2:076, the Board of Pharmacy proposes the attached suggested substitute to this ordinary regulation.

Sincerely,

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

Final, 9-11-2023

SUGGESTED SUBSTITUTE

BOARDS AND COMMISSIONS

Board of Pharmacy

201 KAR 2:076. Compounding.

RELATES TO: KRS 217.055(1)~~(2)~~, 217.065(7), 315.020(1), 315.035(6), 315.0351, 315.121, 315.191(1)(a), (g), 21 U.S.C. 353A, **21 C.F.R. 216.23**

STATUTORY AUTHORITY: KRS 315.020(1), 315.035(6), 315.0351, 315.191(1)(a), (g)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 315.020(1) requires the owner of a pharmacy who is not a pharmacist to place a pharmacist in charge of the owner's pharmacy. KRS 315.035(6) authorizes the board to promulgate administrative regulations to assure that proper equipment and reference material is on hand~~utilized~~~~[on-hand]~~ considering the nature of the pharmacy practice conducted at the particular pharmacy and to assure reasonable health and safety standards for areas within the pharmacies, which are not subject to these standards under CHFS. KRS 315.191(1) authorizes the board to promulgate administrative regulations necessary to regulate and control all matters relating to pharmacists, pharmacist interns, pharmacy technicians, pharmacies, wholesale distributors, and manufacturers. This administrative regulation establishes the requirements for compounding non-sterile and sterile preparations, and the preparation, compounding, dispensing, and repackaging of radiopharmaceuticals in accordance with 21 U.S.C. 353A.

Section 1. Definitions.

(1) "API" means active pharmaceutical ingredient.

(2) "Designated person" means one (1) or more individuals assigned to be responsible and accountable for the performance and operation of the facility and personnel as related to the preparation of compounded non-sterile or sterile preparations or the preparation, compounding, dispensing, and repackaging of radiopharmaceuticals.

(3) "Essential copy of a commercially available drug product" is a compounded preparation in which:

(a) The compounded preparation has the same API as the commercially available drug product;

(b) The APIs have the same, similar, or an easily substitutable dosage strength; and

(c) The commercially available drug product can be used by the same route of administration as prescribed for the compounded preparations, unless a prescriber determines that there is a change, made for an identified individual patient, which produces, for that patient, a significant difference from the commercially available drug product.

(4) "Hazardous Drug" means any drug identified by the National Institute for Occupational Safety and Health with at least one (1) of the following criteria:

(a) Carcinogenicity, teratogenicity, or developmental toxicity;

(b) Reproductive toxicity in humans;

(c) Organ toxicity at low dose in humans or animals;

(d) Genotoxicity; or

(e) New drugs that mimic existing hazardous drugs in structure or toxicity.

(5) "USP" means United States Pharmacopeia.

Section 2. Policies and Procedures.

(1) A policy and procedure manual for non-sterile and sterile ~~[and sterile-]~~ compounding shall be readily available at a pharmacy for inspection purposes.

(2) The policy and procedure ~~[A copy of the]~~ manual shall be made available to the board upon request.

(3) The manual shall be reviewed and revised on an annual basis.

Section 3. ~~[Section 2.]~~ Standards.

(1) All non-sterile compounded preparations shall be compounded pursuant to ~~[United States Pharmacopeia (USP)] USP 795~~, unless specified portions submitted by a pharmacist have been waived by the board. Notwithstanding any USP guidance to the contrary, the addition of flavoring to a drug shall not be considered non-sterile compounding, if the additive:]

~~[(a)] [Is inert, nonallergenic, and produces no effect other than the instillation or modification of flavor; and]~~

~~[(b)] [Is not greater than five (5) percent of the drug product's total volume].~~

(2) All sterile compounded preparations shall be compounded pursuant to USP 797, ~~:[unless specified portions submitted by a pharmacist have been waived by the board].~~

(3) All preparation, compounding, dispensing, and repackaging of radiopharmaceuticals shall be pursuant to ~~USP [United States Pharmacopeia (USP)] 825~~, unless specified portions submitted by a pharmacist have been waived by the board].

(4) All non-sterile or sterile compounded preparations containing hazardous drugs shall be compounded pursuant to USP 800, unless specified portions submitted by a pharmacy have been waived by the board.

~~[(4)] [All written waiver requests submitted by a pharmacist shall be considered by the Board at its next regularly scheduled meeting.]~~

~~[(5)] [The board, upon a showing of good cause and in balancing the best interest of the public health, safety, and welfare, may waive the requirement of any specified portion of USP 795, 797 or 825.]~~

(5) Non-sterile and sterile preparations compounded for human use shall [must]:

(a) 1. Comply with the standards of an applicable USP or National Formulary monograph;

2. ~~for (b)]~~ Be compounded from a component of a human drug approved by the United States Food and Drug Administration (FDA); or

3. ~~(c)]~~ Be compounded from a component that appears on the FDA's list of bulk drug substances established in 21 C.F.R. 216.23 that can be used in compounding; and

~~(b), (d)]~~ Not be essential copies of a commercially available drug product unless authorized by 21 U.S.C. 353(a).

Section 4. ~~[Section 3.]~~ Designated Person.

(1) The designated person of a [A] facility that compounds non-sterile or sterile preparations or prepares, compounds, dispenses, or repackages radiopharmaceuticals shall be [managed by a pharmacist in-charge (PIC) licensed to practice pharmacy in the Commonwealth and who is] knowledgeable in the specialized requirements [functions] of preparing and dispensing compounded [non-sterile and sterile] preparations, including the principles of aseptic technique and quality assurance.

(2) The PIC shall serve or appoint ~~be responsible for the appointment for~~ any designated person [persons]. ~~[The PIC shall be responsible for the: purchasing, storage, compounding, repackaging, dispensing, distribution of all drugs and preparations, development and continuing review of all policies and procedures, training manuals, quality assurance programs, and participation in those aspects of the facility's patient care evaluation program relating to pharmaceutical material utilization and effectiveness.]~~

(3) The PIC shall ~~be responsible to~~ ensure any compounded preparation leaving the premises is shipped or delivered in a manner that maintains the integrity and stability of the preparation ~~[may be assisted by additional pharmacy personnel adequately trained, to the satisfaction of the PIC, in this area of practice and for each product they will be compounding].~~

Section 5. ~~[Section 4.]~~ Dispensing and Labeling.

(1) The pharmacist shall receive a written, electronic, facsimile, or verbal prescription, or medical order from a prescriber before dispensing any compounded, non-sterile or sterile preparation. These prescriptions or medical orders shall contain the following:

(a) Patient's name and species, if not human;

(b) Patient's address on controlled substances prescriptions or location (room number);

(c) Drug name and strength;

(d) Directions for use;

(e) Date;

- (f) Authorized prescriber's name;
- (g) Prescriber's address and DEA number, if applicable;
- (h) Refill or end date instructions, if applicable; and
- (i) Dispensing quantity, if applicable.

(2) A pharmacist dispensing compounded preparations for veterinary use shall/must follow the order requirements of 201 KAR 2:311. ~~[A pharmacy generated patient profile shall be maintained separate from the prescription file. The patient profile shall be maintained under the control of the PIC for a period of two (2) years following the last dispensing activity. In addition, a medication administration record (MAR) as part of the institutional record shall be retained for a period of five (5) years from date of the patient's discharge from the facility, or in the case of a minor, three (3) years after the patient reaches the age of majority under state law, whichever is the longer. Supplemental records may also be employed as necessary. The patient profile shall contain:]~~

- ~~[(a) [Patient's name;]~~
- ~~[(b) [Name of compounded preparation dispensed;]~~
- ~~[(c) [Date dispensed;]~~
- ~~[(d) [Drug content and quantity; and]~~
- ~~[(e) [Patient's directions.]]~~

(3) Each compounded preparation dispensed to patients shall be labeled with the following information:

- (a) Name, address, and telephone number of the licensed pharmacy, if preparation~~[product]~~ will leave the premises;
- (b) Date;
- (c) Identifying number;
- (d) Patient's full name;
- (e) Name of each drug, strength, and amount;
- (f) Directions for use, including infusion rate;
- (g) Required controlled substances transfer warning~~[warnings]~~, if applicable;
- (h) Beyond use date;
- (i) Identity of dispensing pharmacist;
- (j) Storage requirements, if applicable; and
- (k) Auxiliary labels, if applicable.

(4) Verification of a compounded preparation shall be completed by a pharmacist after the preparation is compounded and prior to dispensing to the patient. Documentation of the verification shall include notation of each pharmacist who performs verification.

Section 6. Recordkeeping.

~~(1)[(4)] The PIC shall maintain access to and provide[submit, as appropriate, these] records and reports to the board or its agents upon request[as are required to ensure the patient's health, safety, and welfare]. Records shall be maintained and readily available for no less than five (5) years[~~, maintained for two (2) years at a facility not computerized, but for five (5) years at a facility utilizing computerized recordkeeping, and subject to inspection by the Board of Pharmacy or its agents].~~~~

(2) Records. Records~~[These]~~ shall include the following:

- (a) Prescriptions, ~~[-or]~~ medical orders, or requests for compounded preparations~~[Patient profile];~~
- (b) Purchase records;
- (c) Verification records~~[Biennial controlled substances inventories]; and~~
- (d) [Policy and procedures manual;]
- ~~[(e) [Policies and procedures for hazardous wastes, if applicable;]~~
- ~~[(f) [Quality assurance records; and]~~
- ~~[(g) Other records and reports as [may be] required by USP 795, 797, 800, and 825[~~, state and federal law, and administrative regulations of the Kentucky Board of Pharmacy~~][KRS 217 or 315 and 201 KAR Chapter 2].~~

~~[(5) [Information regarding individual patients shall be maintained in a manner to assure confidentiality of the patient's records. Release of this information shall be in accordance with federal and state laws.]]~~

~~[(6)] [The PIC shall be responsible for the environmental control of all products shipped. Any compounded product that is frozen or requires refrigeration shall be shipped or delivered to a patient in appropriate temperature controlled delivery containers, if the product leaves the premises.]~~

~~[(7)] [The PIC shall be responsible for assuring that there is a system for the disposal of hazardous waste in a manner that does not endanger the public health.]~~

[Section 5.] [Hazardous Drugs.]

~~[(1)] [All non-sterile preparations that contain hazardous substances shall be compounded pursuant to USP 795.]~~

~~[(2)] [All sterile compounded preparations that contain hazardous substances shall be compounded pursuant to USP 797.]~~

Section 7. [Section 6.] Violations. Violation of any provision of this administrative regulation shall constitute unethical or unprofessional conduct in accordance with KRS 315.121.

Section 8. Waivers.

(1) All written waiver requests submitted by a pharmacy shall be considered by the board at its next regularly scheduled meeting.

(2) The board, upon a showing of good cause and in balancing the best interest of the public health, safety and welfare, may waive the requirement of any specified portion of USP 795, 797, 800 or 825 or any provision of this **administrative** regulation. Any waiver issued shall identify with specificity the pharmacy to which it applies and the provisions of law for which the waiver is applied.

Section 9. Enforcement Discretion.

(1) **Effective January 1, 2026**, the board shall ~~[not] enforce the [provisions of this regulatory amendment requiring compliance with the]~~2022 revisions to USP Chapters USP 795, ~~[and] 797, and 800~~[until January 1, 2026]. Until January 1, 2026, **the board shall enforce** the 2014 revision of USP 795~~[will be enforced]~~ and the 2008 revision of USP 797, **and the board shall not enforce USP 800**~~[will be enforced]~~. **USP 800 will not be enforced until January 1, 2026**. Until January 1, 2026, at the request of a permit holder, the board may inspect pursuant to the 2022 revision of the USP Chapters 795, 797, and 800.

(2) The **board shall not enforce the USP 795 standard that the** addition of flavoring to a commercially available drug ~~is~~**[shall not be considered non-sterile]** compounding, if the additive:

(a) Is non-expired, inert, nonallergenic, and produces no effect other than the instillation or modification of flavor; and

(b) Is not greater than five (5) percent of the drug product's total volume.

Section 10. [Section 7.] Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "USP 795, Revision Bulletin, Official", November 1, 2022~~[January 1, 2014]~~;

(b) **"USP 795, Revision Bulletin, Official", January 1, 2014;**

~~(c)~~ "USP 797, Revision Bulletin, Official", November 1, 2022~~[June 1, 2008]~~;

(d) "USP 797, Revision Bulletin Official", June 1, 2008;~~[and]~~

~~(e)~~~~(c)~~ "USP 825, Revision Bulletin, Official, Official", December 1, 2020~~[; and]~~

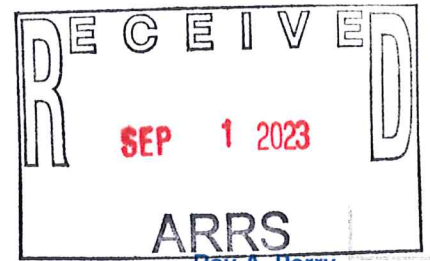
~~(f)~~~~(d)~~ "USP 800, Revision Bulletin", December 1, 2020.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Pharmacy, 125 Holmes Street, Suite 300, State Office Building Annex, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. through 4:30 p.m. This material is also available on the board's Web site at <https://pharmacy.ky.gov/statutesandregulations/Pages/default.aspx>.

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

MATERIAL INCORPORATED BY REFERENCE

The agency filed one (1) clean copy of USP 797, November 1, 2022 missing from its 6-7-23 filing.



Andy Beshear
GOVERNOR

Jacqueline Coleman
LIEUTENANT GOVERNOR

PUBLIC PROTECTION CABINET
Boxing & Wrestling Commission
500 Mero Street, 218 NC
Frankfort, KY 40601
Phone: (502) 564-0085

Ray A. Perry
SECRETARY

Matt Byrd
EXECUTIVE DIRECTOR

September 1, 2023

Sen. Steven West, co-chair
Rep. Derek Lewis, co-chair
Legislative Research Commission
083 Capitol Annex
702 Capitol Avenue
Frankfort, KY 40601

Dear Co-Chairs:

After consideration of the issues raised by **201 KAR 27:005**, 201 KAR 27:008, 201 KAR 27:011, and 201 KAR 27:016, the Kentucky Boxing and Wrestling Commission proposes the attached suggested substitutes to these regulations.

Sincerely,

Doug Hardin, Staff Attorney
Kentucky Boxing and Wrestling Commission
500 Mero Street, 218 NC
Frankfort, Kentucky 40601

SUGGESTED SUBSTITUTE

Final Version: 8/25/23 at 9:11 a.m.

PUBLIC PROTECTION CABINET Kentucky Boxing and Wrestling Commission

201 KAR 27:005. Definitions for 201 KAR Chapter 27.

RELATES TO: KRS 229.011, 229.031, 229.111, 229.131, 229.155, 229.171(1)

STATUTORY AUTHORITY: KRS 229.171(1), (2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 229.171(1) authorizes the commission to exercise sole control, authority, and jurisdiction over all unarmed combat shows in the commonwealth. KRS 229.171(2) authorizes the commission to promulgate administrative regulations it considers necessary or expedient for the performance of its functions provided in KRS Chapter 229. This administrative regulation establishes the definitions used in 201 KAR Chapter 27.

Section 1. Definitions.

- (1) "Battle royal" means an unarmed combat show involving more than two (2) contestants competing in a "last man standing wins" format.
- (2) "Bout" means a single competition or exhibition of unarmed combat pitting two (2) opponents against one another in which the contestants strive earnestly and in good faith to win, are judged, and a winner declared.
- (3) "Boxing" is defined by KRS 229.011(2).
- (4) "Card" means a series of bouts, matches, or exhibitions scheduled or occurring as part of a single program.
- (5) "Commission" is defined by KRS 229.011(3).
- (6) "Contestant" means any person engaging in a show of unarmed combat coming under the commission's jurisdiction.
- (7) "Exhibition" is defined by KRS 229.011(4).
- (8) "Grounded opponent" means a contestant participating in a match or bout:
 - (a) Who has any part of the body, other than the sole of the feet, touching the floor of the fenced area established[~~prescribed~~] by 201 KAR 27:016, Section 5(4):
 - (b) ~~[- To be]~~ Found to be grounded by a referee **with sole authority to make the determination** in accordance with 201 KAR 27:016, Section 18; **and**
 - (c) Who has[~~;~~] a flat palm of one (1) hand [~~must be~~]down, or any other body part [~~must be~~]touching the fighting area floor, other than the sole of the feet. For example, a single knee or arm makes the fighter grounded without having to have any other body part in touch with the fighting area floor. [~~The referee shall have the sole authority to determine whether a contestant is a grounded opponent in accordance with this definition.~~]
- (9)[~~(8)~~] "Healthcare professional" means any person licensed in Kentucky as a physician, chiropractor, podiatrist, nurse practitioner, physician assistant, registered nurse, physical therapist, paramedic, emergency medical technician, or athletic trainer.
- (10)[~~(9)~~] "Inspector" means any person assigned by the executive director of the commission or the executive director's designee to supervise shows coming under the commission's jurisdiction.
- (11)[~~(10)~~] "Judge" means an official licensed by the commission to score bouts and cast a vote in determining the winner of any bout.
- (12)[~~(11)~~] "Kickboxing" is defined by KRS 229.011(5).

(13)~~(42)~~ "Manager":

(a) Means a person who:

1. Undertakes to represent the interest of another person, in procuring, arranging, or conducting a professional bout or exhibition in which the person is to participate as a contestant;
2. Directs or controls the professional unarmed combat activities of a contestant;
3. Receives or is entitled to receive ten (10) percent or more of the gross purse or gross income of any professional contestant for services relating to participation of the contestant in a professional bout or exhibition; or
4. Receives compensation for service as an agent or representative of a bout; and

(b) Does not mean an attorney licensed to practice in this state if his or her participation in these activities is restricted solely to legal representation of the interests of a contestant as his or her client.

(14)~~(43)~~ "Match" means a single event or exhibition in wrestling pitting two (2) or more opponents against one another.

(15)~~(44)~~ "Medical advisory panel" means the Kentucky Boxing and Wrestling Medical Advisory Panel created by KRS 229.260.

(16)~~(45)~~ "Mixed martial arts" is defined by KRS 229.011(6).

(17)~~(46)~~ "Promoter" means any individual, corporation, association, partnership, or club that is licensed to promote or conduct professional boxing, wrestling, mixed martial arts, or kickboxing shows within the commonwealth and who is responsible for the arranging, organizing, matchmaking, and booking of a show.

(18)~~(47)~~ "Ring official" means any person who performs an official function during a bout, match, or exhibition, including an announcer, judge, healthcare professional, referee, or timekeeper.

(19)~~(48)~~ "Second" means any person aiding, assisting, or advising a contestant during a show.

(20)~~(49)~~ "Serious physical injury" means physical injury that creates a substantial risk of death or causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ.

(21)~~(20)~~ "Show" is defined by KRS 229.011(9).

(22)~~(21)~~ "Technical knockout" means the ending of a bout by the referee or physician on the grounds of one (1) contestant's inability to continue, the opponent being declared the winner.

(23)~~(22)~~ "Trainer" means any person who participates in the guidance and instruction of any contestant so as to make that individual proficient or qualified to engage in unarmed combat, if the training occurs within this commonwealth.

(24)~~(23)~~ "Unarmed combat" is defined by KRS 229.011(10).

(25)~~(24)~~ "Wrestling event staff" means anyone other than a wrestler or referee permitted to be inside the six (6) foot barrier around the ring during a wrestling event. This is to certify that the Kentucky Boxing and Wrestling Commission has reviewed and recommended this administrative regulation, as required by KRS 229.025 and KRS 229.171.

CONTACT PERSON: Doug Hardin, Staff Attorney, Kentucky Boxing and Wrestling Commission, 500 Mero Street 218 NC, Frankfort, Kentucky 40601, phone (502) 782-8204, fax (502) 573-6625, email doug.hardin@ky.gov.



PUBLIC PROTECTION CABINET

Boxing & Wrestling Commission

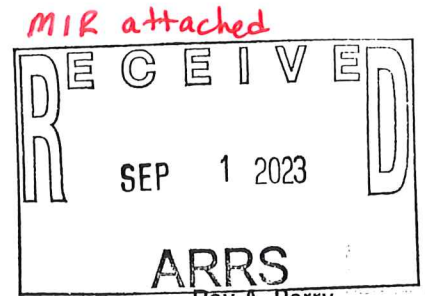
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September 1, 2023

Sen. Steven West, co-chair
Rep. Derek Lewis, co-chair
Legislative Research Commission
083 Capitol Annex
702 Capitol Avenue
Frankfort, KY 40601

Dear Co-Chairs:

After consideration of the issues raised by 201 KAR 27:005, 201 KAR 27:008, 201 KAR 27:011, and 201 KAR 27:016, the Kentucky Boxing and Wrestling Commission proposes the attached suggested substitutes to these regulations.

Sincerely,

Doug Hardin, Staff Attorney
Kentucky Boxing and Wrestling Commission
500 Mero Street, 218 NC
Frankfort, Kentucky 40601

SUGGESTED SUBSTITUTE

Final Version: 08/31/23 at 11:55 a.m.

PUBLIC PROTECTION CABINET Kentucky Boxing and Wrestling Commission

201 KAR 27:008. License requirements and fees.

RELATES TO: KRS 229.025, 229.035, 229.065, 229.171, Chapter 311, 15 U.S.C. 6304, 6305

STATUTORY AUTHORITY: KRS 229.025, 229.035, 229.065, 229.171, 15 U.S.C. 6304, 6305

NECESSITY, FUNCTION, AND CONFORMITY: KRS 229.171(1) authorizes the commission to exercise sole control, authority, and jurisdiction over all unarmed combat shows to be conducted, held, or given within the commonwealth. KRS 229.171(2) authorizes the commission to promulgate administrative regulations it considers necessary or expedient for the performance of its functions provided in KRS Chapter 229. KRS 229.025(3) requires the commission to promulgate administrative regulations to establish license types, the eligibility requirements for each license type, the expiration date of each license type, the annual license fee, and method for submitting all applications for licensure. KRS 229.025(2) prohibits participation in an unarmed combat show in any capacity without holding a license issued by the commission. KRS 229.035 requires a promoter license and a bond approved as to form and sufficiency of sureties by the commission. KRS 229.065 requires a license by the commission for wrestling training. 15 U.S.C. 6304 requires protection of the health and safety of boxers, and includes requirements for a physical examination, a physician to be present at ringside, an ambulance or resuscitation equipment, and health insurance coverage. 15 U.S.C. 6305 requires the commission to issue an identification card to each professional boxer who registers with the commission. This administrative regulation establishes license requirements and fees for persons who conduct activities regulated by the commission.

Section 1. General Provisions. (1) A person shall not participate in an unarmed combat show or exhibition unless the person is licensed by the commission.

(2) Each license shall be separate. A person shall not use a license in one (1) capacity or sport to serve in a different capacity or sport, except:

- (a) A manager may act as a second; and
- (b) A contestant may act as a second.

(3)(a) A promoter license shall be valid for one (1) year from the date of issuance.

(b) All other licenses shall be valid from January 1 through December 31.

(4) Information provided on or with a license application shall be complete and correct. Any false statement of a material matter shall be grounds for:

- (a) Denial of a license; or
- (b) If the license has been issued, suspension, probation, or revocation of the license.

(5) The commission may require an applicant to appear before the commission to answer questions or provide documents in conjunction with an application for a license if:

- (a) The person has not been licensed by the commission within the previous five (5) years;
- (b) The person has a history of violations in any jurisdiction;
- (c) The applicant has not fully completed the required application; or
- (d) The applicant's written submissions have not met the applicant's burden of proof to prove his or her qualifications for a license.

(6) A licensee shall be governed by KRS Chapter 229 and 201 KAR Chapter 27 and shall be subject to any event-related orders given by the commission or an inspector.

Section 2. Licenses, Applications, and Fees. (1) The applicant shall complete the appropriate application as established in the table in subsection (2) of this section. The application shall be signed by the applicant under penalty of perjury.

(2) The following applications and non-refundable annual fees shall be required before any person may be licensed:

(a) Boxing and kickboxing licenses:

| Boxing and Kickboxing License Type | License Application Required | License Fee |
|------------------------------------|---------------------------------------------|-------------|
| Boxer | <u>Boxing-MMA</u> Contestant Application | \$40[\$25] |
| Kickboxer | <u>Boxing-MMA</u> Contestant Application | \$40[\$25] |
| Manager | Non-Contestant Application | \$40[\$25] |
| Trainer | Non-Contestant Application | \$40[\$25] |
| Second | Non-Contestant Application | \$40[\$25] |
| Referee | <u>Referee</u> [Non-Contestant] Application | \$40[\$25] |
| Judge | Non-Contestant Application | \$40[\$25] |
| Timekeeper | Non-Contestant Application | \$40[\$25] |

(b) Mixed martial arts licenses:

| Mixed Martial Arts License Type | License Application Required | License Fee |
|-----------------------------------|---------------------------------------------|-------------|
| Professional mixed martial artist | <u>Boxing-MMA</u> Contestant Application | \$40[\$25] |
| Amateur mixed martial artist | <u>Boxing-MMA</u> Contestant Application | \$40[\$25] |
| Manager | Non-Contestant Application | \$40[\$25] |
| Trainer | Non-Contestant Application | \$40[\$25] |
| Second | Non-Contestant Application | \$40[\$25] |
| Referee | <u>Referee</u> [Non-Contestant] Application | \$40[\$25] |
| Judge | Non-Contestant Application | \$40[\$25] |
| Timekeeper | Non-Contestant Application | \$40[\$25] |

(c) Wrestling licenses:

| Wrestling License Type | License Application Required | License Fee |
|------------------------|---------------------------------------------|-------------|
| Wrestler | <u>Wrestler</u> [Contestant] Application | \$40[\$25] |
| Referee | <u>Referee</u> [Non-Contestant] Application | \$40[\$25] |
| Wrestling event staff | Non-Contestant Application | \$40[\$25] |

(d) Promoter license:

| Promoter License Type | License Application Required | License Fee |
|-----------------------|------------------------------|-------------|
| Promoter | Promoter Application | \$300 |

(e) Medical Provider licenses:

| Medical Provider License Type | License Application Required | License Fee |
|-------------------------------|------------------------------|-------------|
|-------------------------------|------------------------------|-------------|

| | | |
|-------------------------|------------------------------|------------|
| Physician | Medical Provider Application | \$40[\$25] |
| Healthcare Professional | Medical Provider Application | \$40[\$25] |

(f) For all application fees, applicants that do not submit license applications via the eServices option on the commission's Web site shall pay an additional processing fee of ten (10) dollars.

Section 3. Health Physical and Application Timing Requirements. (1) The following applicants for licensure shall submit the form Physical Report to demonstrate the results of a physical that was completed by a physician not more than ninety (90) days before the licensing application is submitted:

- (a) Boxer;
- (b) Kickboxer;
- (c) Professional mixed martial artist;
- (d) Amateur mixed martial artist;
- (e) Boxing and kickboxing referee; and
- (f) Mixed martial arts referee.

(2) An applicant for licensure as a wrestler or wrestling referee shall submit the form Physical Report to demonstrate the results of a physical that was completed by a physician not more than (90) days before the licensing application is submitted if the applicant:

- (a) Has not held a wrestler license in the past two (2) years;
- (b) Is forty-five (45) years of age or older; or
- (c) Has had an in-patient surgical procedure or overnight hospital stay in the past one (1) year.

(3) An applicant who is subject to subsection (1) or ~~subsection~~(2) of this section shall submit his or her physical and bloodwork to the commission no less than two (2) business days prior to the applicant's first event.

Section 4. Determination of Ability to Obtain a License as a Contestant. (1) An applicant for a license as a boxer, kickboxer, or professional mixed martial artist shall demonstrate the ability to:

- (a) Be competitive in the sport; and
- (b) Compete without the risk of serious physical injury.

(2) An applicant for a license as a wrestler or an amateur mixed martial artist shall demonstrate that the applicant has the ability to compete without the risk of serious physical injury.

(3)(a) Individual consideration from a member of the medical advisory panel shall be required if an applicant for licensure as a boxer, kickboxer, professional mixed martial artist, or amateur mixed martial artist:

- 1. Is thirty-eight (38) or more years old;
- 2. Has accrued six (6) consecutive losses;
- 3. Has lost more than twenty-five (25) fights in his or her career;
- 4. Has fought in 350 or more career rounds;
- 5. Has lost more than five (5) bouts by knockout in his or her career; or
- 6. Has been inactive for more than thirty (30) months.

(b) A member of the medical advisory panel may order additional medical testing if the medical evidence before it is inconclusive or incomplete.

(c) The medical advisory panel or member of the panel shall report its recommendation to the commission within forty-five (45) days of being referred a physical.

Section 5. Medical Provider License. (1) An applicant for a physician license shall be a physician licensed pursuant to KRS Chapter 311.

(2) A person licensed or seeking licensure as a physician or healthcare professional shall maintain an active license in his or her field of practice and certification to administer cardiopulmonary resuscitation.

Section 6. Promoter License. An applicant for licensure as a promoter shall obtain a \$10,000 Surety bond. To obtain a surety the applicant shall complete and have notarized the Promoter Bond Form.

Section 7. Change from Amateur Status to Professional Status. (1) The commission shall consider the applicant's previous fighting experience in deciding whether to permit a person licensed as an amateur to become a professional. This consideration shall include the:

- (a) Number of sanctioned bouts the applicant has competed in;
- (b) Number of sanctioned rounds the applicant has competed in;
- (c) Date of the applicant's bouts;
- (d) Applicant's performance in previous bouts, including the applicant's win-loss record; and
- (e) Level of competition the applicant has competed against.

(2) A person shall not be licensed as a professional unless the person has fought in a minimum of three (3) bouts.

(3) A licensee who seeks to change his or her status from amateur to professional shall submit his or her license application to the commission no less than fifteen (15) calendar days prior to the applicant's first professional event.

Section 8. Boxer's Federal Identification Card. (1) To obtain a boxer's federal identification card, an applicant shall complete and submit to the commission a Boxer's Federal Identification Card Application.

(2) The fee for a boxer's federal identification card shall be ten (10) dollars, which shall be submitted with the Boxer's Federal Identification Card Application.

(3) The boxer's federal identification card shall be valid for four (4) years from the date issued.

Section 9. Change of address. A licensee shall provide his or her new address to the commission within thirty (30) days of a change in address.

Section 10. Incorporation by Reference.

(1) The following material is incorporated by reference:

- (a) "~~MMA/Boxing~~**[Boxing-MMA]** Contestant Application", ~~June 2023~~**[November, 2019]**;
- (b) "~~Wrestler~~ **[Contestant]** Application", June 2023;
- (c)~~[(b)]~~ "Non-Contestant Application", ~~June 2023~~**[November, 2019]**;
- (d)~~[(c)]~~ "Promoter Application", ~~June 2023~~**[November, 2019]**;
- (e)~~[(d)]~~ "Medical Provider Application", ~~August~~**[June]** 2023~~[November, 2019]~~;
- (f)~~[(e)]~~ "Physical Report", ~~June 2023~~**[November, 2019]**;
- (g)~~[(f)]~~ "Promoter Bond Form", ~~June 2023~~**[November, 2019]**; ~~and~~
- (h)~~[(g)]~~ "Boxer's Federal Identification Card Application", ~~June 2023~~**[November, 2019]**; ~~and~~
- (i) "Referee Application", June 2023.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Boxing and Wrestling Commission office at 500 Mero St, 218NC, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m., and is available online at <http://kbwa.ky.gov/Pages/Appsforms.aspx>.

Contact Person: Doug Hardin, Staff Attorney, Kentucky Boxing & Wrestling Commission Phone: (502) 782-8204 Email: doug.hardin@ky.gov

Kentucky Boxing and Wrestling
Commission

500 Mero St, 218NC

Frankfort, Ky 40601



Phone: (502) 564-0085

Fax: (502) 696-3938

Email: kbwc@ky.gov

www.kbwc.ky.gov

MEDICAL PROVIDER APPLICATION

Instructions: Please complete both pages of this application. Applications shall be printed legibly and in ink. Incomplete applications are subject to rejection and will cause delay in issuance of a license.

Applications for licensure as a physician or healthcare professional are required annually. The license fee for a physician or healthcare professional is forty (40) dollars, plus a ten (10) dollar processing fee. Licenses are valid from January 1st – December 31st. Make payment in the form of a check or money order, made payable to the *Kentucky State Treasurer*.

I am applying for licensure as a: (circle one)

Physician
\$40

Healthcare Professional
\$40

Name: _____ Date of Birth: _____

Address: _____

Phone (Home): _____ (Work): _____ (Cell): _____

Fax: _____ E-mail: _____

Healthcare Occupation: _____ Employer: _____

Employer Address: _____

Professional License #: _____ Expiration Date: _____

How long have you licensed in this profession? _____

Emergency Contact: _____ Relation: _____ Phone: _____

(OVER)

Describe your experience that would support your being granted a license.

(Continue on a separate sheet if needed): _____

Have you ever held a license from the commission? YES NO

If yes, what sport(s): _____ License number(s): _____

Have you ever been licensed as a healthcare professional by another state's boxing and wrestling governing body?

YES NO If yes, what state(s): _____ Sport(s): _____

License Number(s): _____

Have you ever been convicted of a crime? YES NO

If yes, please provide details: FELONY MISDEMEANOR

Date: _____

Offense: _____ Court: _____

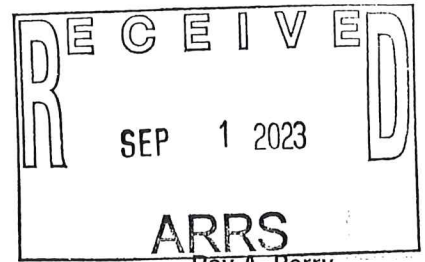
Disposition: (Use another sheet of paper if necessary) _____

I certify under penalty of perjury that all of the information submitted in this application is true and complete. I am aware that submitting false information or omitting pertinent or material information in connection with this application is grounds for license revocation or denial of the license and may subject me to civil or criminal penalties. I acknowledge that I understand and will comply with the Kentucky Boxing and Wrestling Commission laws and regulations to which I am applying for licensure.

Signature of Applicant

Date

PLEASE MAIL OR HAND DELIVER THE COMPLETED APPLICATION AND \$40 FEE TO THE COMMISSION.



Andy Beshear
GOVERNOR

Jacqueline Coleman
LIEUTENANT GOVERNOR

PUBLIC PROTECTION CABINET

Boxing & Wrestling Commission
500 Mero Street, 218 NC
Frankfort, KY 40601
Phone: (502) 564-0085

Ray A. Perry
SECRETARY

Matt Byrd
EXECUTIVE DIRECTOR

September 1, 2023

Sen. Steven West, co-chair
Rep. Derek Lewis, co-chair
Legislative Research Commission
083 Capitol Annex
702 Capitol Avenue
Frankfort, KY 40601

Dear Co-Chairs:

After consideration of the issues raised by 201 KAR 27:005, 201 KAR 27:008, 201 KAR 27:011, and 201 KAR 27:016, the Kentucky Boxing and Wrestling Commission proposes the attached suggested substitutes to these regulations.

Sincerely,

Doug Hardin, Staff Attorney
Kentucky Boxing and Wrestling Commission
500 Mero Street, 218 NC
Frankfort, Kentucky 40601

SUGGESTED SUBSTITUTE

Final Version: 08/25/23 at 9:34 a.m.

PUBLIC PROTECTION CABINET Kentucky Boxing and Wrestling Commission

201 KAR 27:011. General requirements for boxing and kickboxing shows.

RELATES TO: KRS 229.025, 229.031, 229.055, 229.111, 229.131, 229.155, 229.171, 15 U.S.C. 6304, 6305(a), (b)

STATUTORY AUTHORITY: KRS 229.025, 229.171, 15 U.S.C. 6304, 6305

NECESSITY, FUNCTION, AND CONFORMITY: KRS 229.171(1) authorizes the Kentucky Boxing and Wrestling Commission to exercise sole direction, management, control, and jurisdiction over all unarmed combat shows in the Commonwealth~~[commonwealth]~~. KRS 229.171(2) authorizes the commission to promulgate administrative regulations it considers necessary or expedient for the performance of its functions provided in KRS Chapter 229. KRS 229.025 requires every licensee to be subject to administrative regulations promulgated by the commission. 15 U.S.C. 6304 requires protection of the health and safety of boxers, and includes requirements for a physical examination, a physician to be present at ringside, an ambulance or resuscitation equipment, and health insurance coverage. 15 U.S.C. 6305 requires the commission to issue an identification card to each professional boxer who registers with the commission. This administrative regulation establishes the requirements for boxing and kickboxing shows, and for participants in boxing and kickboxing shows.

Section 1. Show Date.

- (1) A promoter shall request a show date by completing and submitting to the commission the Boxing and Kickboxing Show Notice Form.
- (2) The Boxing and Kickboxing Show Notice Form shall be submitted to the commission for approval no less than thirty (30) calendar days before the requested show date.
- (3) A promoter shall not advertise a show until the date has been approved by the commission. Approval is effective upon the commission:
 - (a) Placing the event on the Calendar of Events available on the commission's Web site at https://kbwc.ky.gov/ppc_boxing/Ecal.aspx~~[http://ins.kbwa.ky.gov/ecal.asp]~~; or
 - (b) Providing written notice that the event is approved.

Section 2. Program and Changes.

- (1) If a contestant is unable to participate in a show for which the contestant has a contract, the contestant shall immediately notify the promoter and the commission. A contestant with repeated and unexcused absences or cancelations~~[a cancelation]~~ shall be issued a violation.
- (2) The proposed card for a show shall be filed with the commission at least five (5) business days prior to the show date. Notice of a change in a program or substitution in a show shall be immediately filed with the commission.
- (3) If the commission determines that a proposed bout may not be reasonably competitive, the bout may be denied. Bout approval does not exempt contestants~~[contestant]~~ from individual physical approval as required by 201 KAR 27:008, Section 3. The commission's determination shall be based upon the contestants' previous fighting experience, including:
 - (a) The number of bouts the contestants have competed in;
 - (b) The number of rounds the contestants have competed in;
 - (c) The date of the contestants' bouts;

- (d) The contestants' performance in previous bouts, including the contestants' win-loss record;
 - (e) The level of competition the contestants have faced; and
 - (f) The contestants' medical histories.
- (4) The final approved card for a show shall comprise a minimum of five (5) complete bouts, no later than two (2) business days prior to the show date.

Section 3. Compensation.

- (1) If a show or exhibition is cancelled with less than twenty-four (24) hours' notice to the commission, ring officials shall be paid one-half (1/2) the compensation agreed upon prior to the bout.
- (2) Before the commencement of a show or exhibition, the promoter shall tender to the inspector payment to each ring official. The schedule of compensation for a ring official shall be at least as established in this section. If a ring official serves both as a referee and as a judge under Section 13(2)(a) of this **administrative** regulation, the official shall receive pay for both referee and judge services as established in this section. If a referee also serves as a judge other than as an in-ring judge, the referee shall only receive compensation as a referee as established in this section.~~[as follows:]~~
- (a) Judge: at least the amount **established by subparagraphs 1. and 2. of this paragraph and set by the following schedule** based on the number of bouts on the show card:~~[seventy-five (75) dollars each;]~~
 - 1. One (1) to eleven (11), \$125; **and**
 - 2. Twelve (12) or more bouts, \$175.
 - (b) Timekeeper: at least the amount **established by subparagraphs 1. and 2. of this paragraph and set by the following schedule** based on the number of bouts on the show card:~~[seventy-five (75) dollars;]~~
 - 1. One (1) to eleven (11) bouts, \$100; **and**
 - 2. Twelve (12) or more bouts, \$125.
 - (c) Physician: at least the amount **established by subparagraphs 1. and 2. of this paragraph and set by the following schedule** based on the number of bouts on the show card:~~[\$350;]~~
 - 1. One (1) to eleven (11) bouts, \$400; **and**
 - 2. Twelve (12) or more bouts, \$500.
 - (d) Each referee: At least the amount **established by subparagraphs 1. and 2. of this paragraph and set by the following schedule** based on the number of bouts on the show card:~~[Referee: \$100 each; and]~~
 - 1. One (1) to eleven (11) bouts, \$150; **and**
 - 2. Twelve (12) or more bouts, \$200.
 - (e) Each~~[Bout]~~ assistant: at least the amount **established by subparagraphs 1. and 2. of this paragraph and set by the following schedule** based on the number of bouts on the show card:~~[seventy-five (75) dollars each.]~~
 - 1. One (1) to eleven (11) bouts, seventy-five (75) dollars; **and**
 - 2. Twelve (12) or more bouts, \$100.
- (3) Each contestant's compensation agreement shall be in writing and submitted to the commission for approval not less than two (2) calendar days prior to the date of the proposed show.

Section 4. Pre-Fight.

- (1) A contestant shall weigh in stripped at a time set by the commission, which shall not be more than thirty-six (36) hours before the first scheduled bout of the show.
- (a) A contestant shall produce one (1) form of picture identification at the weigh-in.

- (b) The inspector and the promoter or a representative of the promoter conducting the show shall be in attendance to record the official weights.
- (2) A contestant shall check in with the commission at least one (1) hour prior to the event start time. A contestant shall produce one (1) form of picture identification at check-in.
- (3) A contestant shall attend a pre-fight meeting as directed by the commission.
- (4)
 - (a) A contestant shall remain in the locker room area until it is time to compete unless approved by the inspector.
 - (b) The promoter shall supply a separate locker room for males and females.
- (5) A contestant shall submit an original or certified copy of his or her HIV Antibody, Hepatitis B Antigen, and Hepatitis C Antibody test results to the commission at least forty-eight (48) hours prior to the event.
 - (a) The results of these tests shall be no more than 365 days old.
 - (b) A person with a positive test result shall not compete.
- (6) A contestant shall undergo a pre-fight physical conducted by a physician within eight (8) hours of the show. Prior to undergoing the physical, a contestant shall submit a completed Boxing and Kickboxing Pre-Fight Medical Questionnaire under penalty of perjury.
- (7) A contestant shall report to and be under the general supervision of the inspector in attendance at the show and shall comply with instructions given by the inspector.

Section 5. The Ring.

- (1) The area between the ring and the first row of spectators on all four (4) sides and the locker room area shall be under the exclusive control of the commission. Commission staff and licensees shall be the only people allowed inside the areas under the control of the commission without inspector approval.
- (2) An event held outdoors if the heat index is at or exceeds 100 degrees Fahrenheit shall be conducted under a roof or cover that casts shade over the entire ring.
- (3)
 - (a) A ring shall have a canvas mat or similar material, unless the event is held outdoors in which case only canvas shall be used.
 - (b) A bout may be held in a mixed martial arts cage if the bout is in conjunction with a mixed martial arts event.
- (4) There shall be an area of at least six (6) feet between the edge of the ring floor and the first row of spectator seats on all four (4) sides of the ring. A partition, barricade, or some type of divider shall be placed:
 - (a) Between the first row of the spectator seats and the six (6) foot area surrounding the ring; and
 - (b) Along the sides of the entry lane for contestants to enter the ring.
- (5) Ring specifications shall be as established in this subsection.
 - (a) A bout shall be held in a four (4) sided roped ring.
 - 1. The floor of the ring inside the ropes shall not be less than sixteen (16) feet square.
 - 2. The floor of the ring shall extend beyond the ropes for a distance of not less than one (1) foot.
 - 3. The floor of the ring shall be elevated not more than six (6) feet above the arena floor.
 - 4. The ring shall have steps to enter the ring on two (2) sides.
 - (b) The ring shall be formed of ropes.
 - 1. There shall be a minimum of three (3) ropes extended in a triple line at the following heights above the ring floor:
 - a. Twenty-four (24) inches;
 - b. Thirty-six (36) inches; and

- c. Forty-eight (48) inches.
- 2. A fourth rope may be used if the inspector finds that it will not pose a health or safety concern.
- 3. The ropes shall be at least one (1) inch in diameter.
- 4. The ropes shall be wrapped in a clean, soft material and drawn taut.
- 5. The ropes shall be held in place with two (2) vertical straps on each of the four (4) sides of the ring.
- 6. The ropes shall be supported by ring posts that shall be:
 - a. Made of metal or other strong material;
 - b. Not less than three (3) inches in diameter; and
 - c. At least eighteen (18) inches from the ropes.
- (c) The ring floor shall be padded or cushioned with a clean, soft material that:
 - 1. Is at least one (1) inch thick and uses slow recovery foam matting;
 - 2. Extends over the edge of the platform;
 - 3. Is covered with a single canvas stretched tightly; and
 - 4. Is, at the commencement of the event, clean, sanitary, dry, and free from:
 - a. Grit;
 - b. Dirt;
 - c. Resin; and
 - d. Any other foreign object or substance.
- (d) A ring rope shall be attached to a ring post by turnbuckles padded with a soft vertical pad at least six (6) inches in width.

Section 6. Equipment.

- (1) A bell or horn shall be used by the timekeeper to indicate the time.
- (2) In addition to the ring and ring equipment, the promoter shall supply:
 - (a) A public address system in good working order;
 - (b) Chairs for judges and timekeepers elevated sufficiently to provide an unobstructed view of the ring and the ring floor;
 - (c) Items for each contestant's corner, to include:
 - 1. A stool or chair;
 - 2. A clean bucket;
 - 3. Towels; and
 - 4. Rubber gloves;
 - (d) A complete set of numbered round-cards, if needed;
 - (e) Gloves for each boxer or kickboxer; and
 - (f) A scale used for weigh-in, which shall be approved as accurate in advance by the inspector.

Section 7. Contestant Equipment and Attire.

- (1) A contestant shall be clean and neatly attired in proper ring attire, and the trunks of opponents shall be of distinguishing colors.
- (2) A contestant shall not use a belt that:
 - (a) Extends above the waistline of the contestant; or
 - (b) Contains any metal substance during a bout.
- (3) A contestant shall wear shoes during a bout. The shoes shall not be fitted with spikes, cleats, hard soles, or hard heels.
- (4) A contestant shall wear a properly fitted:
 - (a) Groin protector; and
 - (b) Double-arch mouthpiece.

(5) If a contestant has long hair, the hair shall be secured by a soft, non-abrasive material so that the hair does not interfere with the vision or safety of either contestant.

(6) If cosmetics are used, a contestant shall use a minimum of cosmetics.

(7) Boxing gloves.

(a) Contestants shall wear boxing gloves that shall be of the same weight for each contestant and:

1. Dry, clean, and sanitary;
2. Furnished by the promoter;
3. Of equal weight, not to exceed twelve (12) ounces per glove;
4. A minimum of eight (8) ounces per glove for a contestant weighing no more than 154 pounds;
5. A minimum of ten (10) ounces per glove for a contestant weighing over 154 pounds; and
6. Thumbless or thumb-attached.

(b) Gloves shall be new for main events and for bouts and exhibitions scheduled for ten (10) or more rounds.

(c) Gloves shall be approved or denied in accordance with this administrative regulation by the commission prior to a bout.

(d) Gloves for all main events shall be dry and free from defects and shall be put on in the ring or locker room while supervised by the inspector.

(e) Breaking, roughing, or twisting of gloves shall not be permitted.

(f) The laces on gloves shall be tied on the back of the wrist and taped.

(g) Kickboxing contestants shall wear padded kickboxing boots. The padding shall be sufficient to protect the kickboxer and his or her competitor.

(8) Bandages.

(a) For boxing and kickboxing, only soft cotton or linen bandages shall be used for the protection of the boxer or kickboxer's hands.

(b) Bandages shall not be more than two (2) inches in width and twelve (12) yards in length for each hand.

(c) If adhesive tape is used:

1. Medical adhesive tape not more than one (1) inch in width shall be used to hold bandages in place;
2. Adhesive tape shall not be lapped more than one-eighth (1/8) of one (1) inch;
3. Adhesive tape not to exceed one (1) layer shall be crossed over the back of the hand for its protection; and
4. Three (3) strips of adhesive tape, lapping not to exceed one-eighth (1/8) of one (1) inch, may be used for protection of the knuckles.

(d) Hand wraps shall be applied in the dressing room in the presence of an inspector or ring official. The inspector or ring official shall sign the hand wrap and the tape around the strings of the gloves.

Section 8. Weight Classes.

(1) The class weights permitted in boxing and kickboxing bouts shall be as follows:

| CLASS | WEIGHT |
|-------------------|----------------|
| Flyweight | Up to 112 lbs. |
| Bantamweight | Up to 118 lbs. |
| Jr. Featherweight | Up to 122 lbs. |
| Featherweight | Up to 126 lbs. |
| Jr. Lightweight | Up to 130 lbs. |

| | |
|-------------------|----------------|
| Lightweight | Up to 135 lbs. |
| Jr. Welterweight | Up to 140 lbs. |
| Welterweight | Up to 147 lbs. |
| Jr. Middleweight | Up to 154 lbs. |
| Middleweight | Up to 160 lbs. |
| Light Heavyweight | Up to 175 lbs. |
| Cruiserweight | Up to 195 lbs. |
| Heavyweight | Over 195 lbs. |

(2) After the weigh-in, a contestant shall not change weight in excess of eight (8) percent prior to the bout.

(3) After the weigh-in, a contestant shall not re-hydrate by the use of intravenous fluids unless approved by the inspector for medical purposes. A contestant may be subject to a random urine specific gravity test to determine compliance with this subsection.

Section 9. Fight Length.

(1) Bouts and rounds shall:

- (a) Be three (3) minutes in duration; and
- (b) Have a one (1) minute rest period between rounds.

(2) A bout shall consist of no less than four (4) and no more than twelve (12) rounds. A championship bout shall be twelve (12) rounds in length.

(3) A contestant who has not fought within the last twelve (12) months shall not be scheduled to box or kickbox more than ten (10) rounds without commission approval.

Section 10. Judging and Scoring.

(1) Scoring shall be as established in this subsection.

(a) Each round shall be accounted for on the scorecard, using the ten (10) point system. Scoring shall be expressed in ratio of merit and demerit.

(b) Score cards shall be:

1. Signed;
2. Handed to the referee in the ring; and
3. Filed by the referee with the inspector.

(c) The decision shall then be announced from the ring.

(2) Decisions shall be rendered as established in this subsection.

(a) If a bout lasts the scheduled limit, the winner of the bout shall be decided by:

1. A majority vote of the judges, if three (3) judges are employed to judge the bout; or
2. A majority vote of the judges and the referee, if two (2) judges are employed to judge the bout.

(b) Decisions shall be based primarily on boxing or kickboxing effectiveness, with points awarded for display of the following attributes, and points deducted for an opposite showing:

1. Clean, forceful hitting;
2. Aggressiveness;
3. Defensive work; and
4. Ring generalship.

(c) The requirements governing knockdowns shall be as established in this paragraph.

1. If a contestant is knocked to the floor by the contestant's opponent, or falls from weakness or other causes, the contestant's opponent shall:
 - a. Immediately retire to the farthest neutral corner of the ring; and
 - b. Remain there until the referee completes the count or signals a resumption of action.
 2. The timekeeper shall commence counting off the seconds and indicating the count with a motion of the arm while the contestant is down.
 3. The referee shall pick up the count from the timekeeper.
 4. If a contestant fails to rise to his or her feet before the count of ten (10), the referee shall declare the contestant the loser by waving both arms to indicate a knockout.
 5. If a contestant who is down rises to his or her feet during the count, the referee may step between the contestants long enough to assure that the contestant just arisen is in condition to continue the bout.
 6. If a contestant who is down arises before the count of ten (10) is reached, and again goes down from weakness or the effects of a previous blow without being struck again, the referee shall resume the count where he or she left off.
 7. A standing eight (8) count shall be used at the discretion of the referee.
 8. If a contestant is knocked down three (3) times during a round, the bout shall be stopped. The contestant scoring the knockdowns shall be the winner by a technical knockout.
 9. If a round ends before a contestant who was knocked down rises, the count shall continue, and if the contestant fails to arise before the count of ten (10), the referee shall declare the contestant knocked out.
- (3) A contestant shall be considered down if:
- (a) Any part of the contestant's body other than his or her feet is on the ring floor;
 - (b) The contestant is hanging helplessly over the ropes and in the judgment of the referee, is unable to stand; or
 - (c) The contestant is rising from the down position.
- (4) Failure to resume a bout.
- (a) If a contestant fails to resume the bout for any reason after a rest period, or leaves the ring during the rest period and fails to be in the ring when the bell rings to begin the next round, the referee shall count the contestant out the same as if the contestant were down in that round.
 - (b) If a contestant who has been knocked out of or has fallen out of the ring during a bout fails to return immediately to the ring and be on his or her feet before the expiration of ten (10) seconds, the referee shall count the contestant out as if the contestant were down.

Section 11. Fouls.

- (1) The following shall be considered fouls:
 - (a) Hitting below the belt;
 - (b) Hitting an opponent who is down or who is getting up after having been down;
 - (c) Holding an opponent and deliberately maintaining a clinch;
 - (d) Holding an opponent with one (1) hand and hitting with the other;
 - (e) Butting with the head or shoulder or using the knee;
 - (f) Hitting with the inside, or butt, of the hand, the wrist, or the elbow;
 - (g) Hitting, or flicking, with the glove open or thumbing;
 - (h) Wrestling, or roughing, against the ropes;
 - (i) Purposely going down without having been hit;
 - (j) Deliberately striking at the part of an opponent's body over the kidneys;

- (k) Using a pivot blow or rabbit punch;
- (l) Biting of the opponent;
- (m) Using abusive or profane language;
- (n) Failing to obey the referee;
- (o) Engaging in any unsportsmanlike trick or action that causes injury to another person;
- (p) Hitting after the bell has sounded at the end of the round; or
- (q) Backhand blows except in kickboxing.

(2)

(a) A contestant who commits a foul may be disqualified and the decision awarded to the opponent by the referee.

(b) The referee shall immediately disqualify a contestant who commits a deliberate and willful foul that prevents the opponent from continuing in the bout.

(c) The referee may take one (1) or more points away from a contestant who commits an accidental foul.

(3) A contestant committing a foul may be issued a violation by an inspector.

(4)

(a) If a bout is temporarily stopped by the referee due to fouling, the referee, with the aid of the physician, if necessary, shall decide if the contestant who has been fouled is in physical condition to continue the bout.

(b) If in the referee's opinion the contestant's chances have not been seriously jeopardized as a result of the foul, the referee shall order the bout resumed after a reasonable time set by the referee, but not exceeding five (5) minutes.

(5)

(a) If a contestant is unable to continue as the result of an accidental foul and the bout is in one (1) of the first three (3) rounds, the bout shall be declared a technical draw.

(b) If an accidental foul occurs after the third round, or if an injury sustained from an accidental foul in the first three (3) rounds causes the bout to be subsequently stopped, the bout shall be scored on the basis of the judges' scorecards.

(6) If a bout is ended by reason of fouling or failure to give an honest demonstration of skill, as determined by an inspector or referee, the compensation of the offending contestant shall be withheld by the promoter.

Section 12. Prohibitions.

(1) The following shall be prohibited:

(a) Battle royal type events; and

(b) Use of excessive grease or other substance that may handicap an opponent.

(2) A contestant shall not engage at a show in boxing or sparring with a member of the opposite sex.

Section 13. Non-Contestant Participants.

(1) A promoter shall provide a minimum of two (2) security guards on the premises for each show.

(2) All ring officials shall be selected, licensed, and assigned to each show by the commission. For each show, a minimum of the following shall be required:

(a) A minimum of three (3) judges, or a minimum of two (2) judges if a referee also serves as a judge, and a maximum of five (5) judges;

(b) One (1) timekeeper;

(c) One (1) physician, except two (2) physicians shall be assigned to a bout designated a championship bout by a national sanctioning body recognized by the commission; and

- (d) One (1) referee, unless the card has more than thirty (30) rounds, in which case a minimum of two (2) referees shall be required.

Section 14. Judges.

- (1) A judge shall arrive at least one (1) hour prior to the start of a show.
- (2) At the beginning of a bout, the judges shall locate themselves on opposite sides of the ring and shall carefully observe the performance of the contestants.
- (3) At the conclusion of the bout, the judges shall render their decision based on the requirements of Section 10 of this administrative regulation.
- (4) Upon request of the referee, the judges shall assist in determining:
 - (a) Whether or not a foul has been committed;
 - (b) Whether or not each contestant is competing in earnest; and
 - (c) Whether or not there is collusion affecting the result of the bout.

Section 15. Timekeeper.

- (1) The timekeeper shall be seated outside the ring near the bell and shall take the cue from the referee to commence or take time out.
- (2) The timekeeper shall be equipped with a whistle and a stop watch. Prior to the first bout, the inspector shall ensure that the whistle and stopwatch function properly.
- (3) Ten (10) seconds before the start of each round, the timekeeper shall give notice by sounding the whistle.
- (4) The timekeeper shall indicate the starting and ending of each round by striking the bell with a metal hammer.
- (5) If a bout terminates before the scheduled limit, the timekeeper shall inform the announcer of the exact duration of the bout.
- (6) Ten (10) seconds prior to the end of each round, the timekeeper shall give warning by striking a gavel three (3) times.

Section 16. Physicians and Healthcare Requirements.

- (1) There shall be at least one (1) physician licensed by the commission at ringside at all times during a bout. A bout shall not begin or continue if a physician is not at ringside.
- (2) The physician shall have general supervision over the physical condition of each contestant at all times while on the premises of a show or exhibition.
- (3) The physician's pre-bout duties:
 - (a) A physician shall make a thorough physical examination of each contestant within eight (8) hours prior to a bout.
 1. The physician's examination shall include a review of the Boxing and Kickboxing Pre-Fight Medical Questionnaire of each contestant.
 2. The physician shall deliver to the inspector the Boxing and Kickboxing Pre-Fight Examination form that documents the results of the examination prior to the contestant entering the ring.
 - (b) The physician shall ensure that all equipment required by subsection (5) of this section is present before the start of the first bout or exhibition.
 - (c) The physician shall prohibit a contestant from competing if the physician believes the contestant is physically unfit for competition or impaired by alcohol or a controlled substance.
- (4) The physician's duties during the bout or exhibition:
 - (a) The physician shall remain at ringside during the progress of any bout or exhibition unless attending to a person.

- (b) The physician shall observe the physical condition of each contestant during a bout.
- (c) The physician shall administer medical aid if needed or requested.
- (d) The physician shall order the referee to pause or end a bout or exhibition if necessary to prevent serious physical injury to a contestant.
- (5) The physician shall have at ringside medical supplies necessary to provide medical assistance for the type of injuries reasonably anticipated to occur in a boxing or kickboxing show. The physician shall not permit a referee to begin a bout if the medical supplies are not present. At a minimum, these medical supplies shall include:
 - (a) A clean stretcher and blanket, placed under or adjacent to the ring throughout each bout;
 - (b) Spine board;
 - (c) Cervical collar;
 - (d) Oxygen apparatus or equipment; and
 - (e) First aid kit.
- (6) The promoter shall ensure that a certified ambulance with an emergency medical technician is on the premises of a show at all times. A show shall not begin or continue if the ambulance and emergency medical technician are not on the premises.
- (7) The physician shall make a thorough physical examination of each contestant after each bout. The physician shall deliver to the inspector the form Boxing and Kickboxing Post-Fight Examination that documents the results of the examination.

Section 17. Announcers.

- (1) The announcer shall have general supervision over all announcements made to spectators.
 - (a) The announcer shall announce the name of contestants, their weight, decisions at the end of each bout, and any other matters as are necessary.
 - (b) A person other than the official announcer shall not make an announcement, unless deemed necessary by an inspector:
- (2) If a bout is stopped before its scheduled termination, the announcer shall immediately confer with the referee and judges and then shall immediately announce the decision.
- (3) The announcer shall not enter the ring during the actual progress of a bout.

Section 18. Referees.

- (1) The referee shall be the chief official of the show, be present in the ring at all times, and have general supervision over each contestant, manager, and second during the entire event.
- (2)
 - (a) The referee shall have the authority to disqualify a contestant who commits a foul and award the decision to the opponent.
 - (b) The referee shall immediately disqualify a contestant who commits an intentional or deliberate foul that causes serious physical injury to an opponent.
- (3) The referee's duties and responsibilities shall be as established in this subsection.
 - (a) The referee shall, before starting a bout, ascertain from each contestant the name of the contestant's chief second. The referee shall hold the chief second responsible for the conduct of the chief second's assistants during the progress of the bout.
 - (b) The referee shall call the contestants together in the ring immediately preceding a bout for final instructions. During the instructional meeting, each contestant shall be accompanied in the ring by the contestant's chief second only.

(c) The referee shall inspect the person, attire, and equipment of each contestant and make certain that no foreign substances that are prohibited by KRS Chapter 229 or 201 KAR Chapter 27 have been applied on a contestant's body or equipment or used by a contestant.

(d) The referee shall stop a bout at any time if the referee has grounds to believe either contestant is:

1. Unable to protect himself or herself from possible injury;
2. Not competing in earnest; or
3. Colluding with another person to affect the results of the bout.

(e) The referee may take one (1) or more points away from a contestant who commits an accidental foul, and the referee may permit a rest period not exceeding five (5) minutes for the contestant who was fouled.

(f) The referee shall not touch a contestant during the bout except upon failure of a contestant to obey the referee's orders or to protect a contestant.

(g) The referee shall decide all questions arising during a bout that are not otherwise specifically covered by KRS Chapter 229 or 201 KAR Chapter 27.

Section 19. Trainers and Seconds.

(1) A trainer or second shall be equipped with a first aid kit and the necessary supplies for proper medical attendance upon the contestant.

(2) There shall be no more than three (3) persons total serving as a trainer or second in any bout and only two (2) shall be allowed in the ring at the same time.

(3) A trainer and a second shall leave the ring at the timekeeper's ten (10) seconds whistle before the beginning of each round and shall remove all equipment from the ring. Equipment shall not be placed on the ring floor until after the bell has sounded at the end of the round or period.

(4) A trainer and a second shall wear surgical gloves at all times while carrying out their duties.

Section 20. Medical Prohibitions.

(1) The executive director, the executive director's designee, or a commission representative may issue an order for a medical suspension of a contestant's license **as established in paragraphs (a) through (f) of this subsection.**~~[under the following circumstances:]~~

(a) A contestant who has been repeatedly knocked out and severely beaten shall be retired and not permitted to compete in unarmed combat again if, after subjecting the boxer or kickboxer to a thorough examination by a physician licensed by the commission, the medical advisory panel determines the action is necessary to protect the health and welfare of the contestant.

(b) If a contestant receives an injury to the head or body, the contestant's license may be suspended indefinitely **based on increased risk for probably injury.** The ringside physician may require that a contestant suspended pursuant to this paragraph undergo a physical or neurological examination and submit a completed Medical Release Form or the Neurological Release Form as a condition of reinstatement.

~~(c)[(2)]~~ A contestant who has suffered five (5) consecutive defeats by knockout or medical stoppage shall not be allowed to compete in unarmed combat until the contestant has been evaluated and subsequently cleared for further competition by the medical advisory panel.

~~(d)[(3)]~~ A contestant who has been knocked out shall be prohibited from all competition for a minimum of sixty (60) days.

~~(e)[(4)]~~ Any contestant who has suffered a technical knockout may be prohibited from competition for up to thirty (30) days if the contestant's health or safety would be jeopardized without the prohibition.

(f) A contestant subject to an order levying a medical suspension may appeal the medical suspension. **An appellant shall submit**~~[by submitting]~~ a written notice of appeal to the Commission within

twenty (20) days of the Commission's order. The provisions of KRS Chapter 13B shall govern the proceedings.

~~(2)(5)~~

(a) A female boxer or kickboxer shall submit proof she is not pregnant prior to her bout. The proof may be either:

1. An original or certified copy of the result of a medical test taken no more than one (1) week before the day of the bout that shows she is not pregnant; or
2. From an over-the-counter home pregnancy test taken while on the premises of the show that tests for human chorionic gonadotropin.

(b) A female boxer or kickboxer shall be prohibited from competing if:

1. She is pregnant; or
2. She fails to comply with this subsection.

Section 21. Insurance.

(1) A promoter shall provide insurance for a contestant for any injuries sustained in the boxing or kickboxing show.

(2) The minimum amount of coverage per contestant shall be \$5,000 health and \$5,000 accidental death benefits.

(3) A certificate of insurance coverage shall be provided to the commission no less than two (2) business days before the event.

(4) The deductible expense under the policy for a contestant shall not exceed \$1,000.

Section 22. Other Provisions.

(1) A promoter shall maintain an account with the recognized national database as identified by the commission and submit contestant's names to that database upon approval of the show date. The promoter shall be responsible for the costs associated with the use of this service.

(2) All shows shall be video recorded and retained by the promoter for at least for one (1) year. Upon request of the commission, the promoter shall provide the video recording of a show to the commission.

(3) Smoking shall be prohibited inside the gymnasium, room, or hall in which the ring is located.

(4) Alcohol shall be prohibited inside the six-foot area alongside the ring.

Section 23. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Boxing & Kickboxing Show Notice Form", **May[June] 2023**~~[November, 2019]~~;

(b) "Boxing & Kickboxing Pre-Fight Medical Questionnaire", **May[June] 2023**~~[November, 2019]~~;

(c) "Boxing & Kickboxing Pre-Fight Examination", **May[June] 2023**~~[November, 2019]~~; [and]

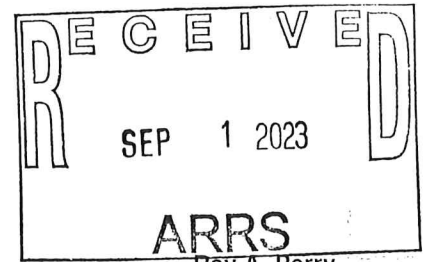
(d) "Boxing & Kickboxing Post-Fight Examination", **May[June] 2023**~~[November, 2019]~~; [-]

(e) "Boxing & Kickboxing Medical Release Form", **May[June] 2023**; and

(f) "Boxing & Kickboxing Neurological Evaluation Form", **May[June] 2023**.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Boxing and Wrestling Commission office at 500 Mero St, 218NC, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m., and is available online at https://kbwc.ky.gov/New_Docs.aspx?cat=29&menuid=27~~[http://kbwa.ky.gov/Pages/Appsforms.aspx]~~.

CONTACT PERSON: Doug Hardin, Staff Attorney, Kentucky Boxing and Wrestling Commission, 500 Mero Street 218 NC, Frankfort, Kentucky 40601, phone (502) 782-8204, fax (502) 573-6625, email doug.hardin@ky.gov.



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EXECUTIVE DIRECTOR

September 1, 2023

Sen. Steven West, co-chair
Rep. Derek Lewis, co-chair
Legislative Research Commission
083 Capitol Annex
702 Capitol Avenue
Frankfort, KY 40601

Dear Co-Chairs:

After consideration of the issues raised by 201 KAR 27:005, 201 KAR 27:008, 201 KAR 27:011, and 201 KAR 27:016, the Kentucky Boxing and Wrestling Commission proposes the attached suggested substitutes to these regulations.

Sincerely,

Doug Hardin, Staff Attorney
Kentucky Boxing and Wrestling Commission
500 Mero Street, 218 NC
Frankfort, Kentucky 40601

SUGGESTED SUBSTITUTE

Final Version: 08/25/23 at 10:09 a.m.

PUBLIC PROTECTION CABINET Kentucky Boxing and Wrestling Commission

201 KAR 27:016. General requirements for mixed martial arts matches, shows, or exhibitions.

RELATES TO: KRS 229.025, 229.031, 229.055, 229.111, 229.131, 229.155, 229.171,

STATUTORY AUTHORITY: KRS 229.025, 229.031, 229.111, 229.131, 229.171,

NECESSITY, FUNCTION, AND CONFORMITY: KRS 229.171(1) authorizes the Kentucky Boxing and Wrestling Commission to exercise sole direction, management, control, and jurisdiction over all unarmed combat shows in the Commonwealth~~[commonwealth]~~. KRS 229.171(2) authorizes the commission to promulgate administrative regulations it considers necessary or expedient for the performance of its functions provided in KRS Chapter 229. KRS 229.025 requires every licensee to be subject to administrative regulations promulgated by the commission. This administrative regulation establishes the requirements for mixed martial arts shows and for participants in mixed martial arts shows.

Section 1. Show Date.

- (1) A promoter shall request a show date by completing and submitting to the commission the Mixed Martial Arts Show Notice Form, which is incorporated by reference in 201 KAR 27:011, Section 23(1)(a).
- (2) The Mixed Martial Arts Show Notice Form shall be submitted for approval no less than thirty (30) calendar days before the requested show date.
- (3) A promoter shall not advertise a show until the date has been approved by the commission. Approval is effective upon the commission:
 - (a) Placing the event on the Calendar of Events available on the commission's Web site at https://kbwc.ky.gov/ppc_boxing/Ecal.aspx~~[http://ins.kbwa.ky.gov/ecal.aspx]~~; or
 - (b) Providing written notice that the event is approved.

Section 2. Program and Changes.

- (1) If a contestant is unable to participate in a show for which the contestant has a contract, the contestant shall immediately notify the promoter and the commission. A contestant with repeated and unexcused absences or cancelation~~[a cancelation]~~ shall be assessed~~[result in]~~ a violation.
- (2) The proposed card for a show shall be filed with the commission at least five (5) business days prior to the show date. Notice of a change in a program or substitution in a show shall be immediately filed with the commission.
- (3) If the commission determines that a proposed bout may not be reasonably competitive, the bout may be denied. Bout approval does not exempt contestants~~[contestant]~~ from individual physical approval as required by 201 KAR 27:008, Section 3. The commission's determination shall be based upon the contestants' previous fighting experience, including:
 - (a) The number of bouts the contestants have competed in;
 - (b) The number of rounds the contestants have competed in;
 - (c) The date of the contestants' bouts;
 - (d) The contestants' performance in previous bouts, including the contestants' won-loss record;
 - (e) The level of competition the contestants have faced; and
 - (f) The contestants' medical histories.

(4) The final approved card for a show shall comprise a minimum of five (5) complete bouts, no later than two (2) business days prior to the show date.

Section 3. Compensation.

(1) If a show or exhibition is cancelled with less than twenty-four (24) hours' notice to the commission, ring officials shall be paid one-half (1/2) the compensation agreed upon prior to the bout.

(2) Before the commencement of a show or exhibition, the promoter shall tender to the inspector payment to each ring official. The schedule of compensation for a ring official shall be at least as established in this section. If a ring official serves both as a referee and as a judge under Section 13(2)(a) of this **administrative** regulation, the official shall receive pay for both referee and judge services as established in this section. If a referee also serves as a judge other than as an in-ring judge, the referee shall only receive compensation as a referee as established in this section.

(a) A judge shall be paid at least the amount **established in subparagraphs 1. and 2. of this subsection and [set by the following schedule]** based on the number of bouts on the show card: ~~[\$150 unless the show card has twelve (12) or fewer bouts, in which case each judge's pay shall be \$100;]~~

1. One (1) to eleven (11) bouts, \$125; and

2. Twelve (12) or more bouts, \$175.

(b) A timekeeper shall be paid at least the amount **established in subparagraphs 1. and 2. of this subsection and [set by the following schedule]** based on the number of bouts on the show card: ~~[\$100 unless the show card has twelve (12) or fewer bouts, in which case the timekeeper's pay shall be seventy-five (75) dollars;]~~

1. One (1) to eleven (11) bouts, \$100; and

2. Twelve (12) or more bouts, \$125.

(c) A physician shall be paid at least the amount **established in subparagraphs 1. and 2. of this subsection and [set by the following schedule]** based set by the following schedule based on the number of bouts on the show card: ~~[\$350;]~~

1. One (1) to eleven (11) bouts, \$400; and

2. Twelve (12) or more bouts, \$500.

(d) A referee shall be paid at least the amount **established in subparagraphs 1. and 2. of this subsection and [set by the following schedule]** based on the number of bouts on the show card: ~~[\$150; and]~~

1. One (1) to eleven (11) bouts, \$175; and

2. Twelve (12) or more bouts, \$225.

(e) A bout assistant shall be paid at least the amount **established in subparagraphs 1. and 2. of this subsection and [set by the following schedule]** based on the number of bouts on the show card: ~~[seventy-five (75) dollars;]~~

1. One (1) to eleven (11) bouts, seventy-five dollars (\$75); and

2. Twelve (12) or more bouts, \$100.

(3) Each contestant's compensation agreement shall be in writing and submitted to the commission for approval not less than two (2) calendar days prior to the date of the proposed show.

Section 4. Pre-Fight.

(1) A contestant shall weigh in stripped at a time set by the commission, which shall not be more than thirty-six (36) hours before the first scheduled bout of the show.

(a) A contestant shall produce to the inspector one (1) form of picture identification at the weigh-in.

- (b) The inspector and the promoter or a representative of the promoter conducting the show shall be in attendance to record the official weights.
- (2) A contestant shall check in with the commission at least one (1) hour prior to the event start time. A contestant shall produce one (1) form of picture identification at check-in.
- (3) A contestant shall attend a pre-fight meeting as directed by the commission.
- (4)
 - (a) A contestant shall remain in the locker room area until it is time to compete unless approved by the inspector.
 - (b) The promoter shall supply a separate locker room for males and females.
- (5) A contestant shall submit an original or certified copy of his or her HIV Antibody, Hepatitis B Antigen, and Hepatitis C Antibody test results to the commission at least forty-eight (48) hours prior to the event.
 - (a) The results of these tests shall be no more than 365 days old.
 - (b) A person with a positive test result shall not compete.
- (6) A contestant shall undergo a pre-fight physical conducted by a physician within eight (8) hours of the show. Prior to undergoing the physical, a contestant shall submit a completed Mixed Martial Arts Pre-Fight Medical Questionnaire, which is incorporated by reference in 201 KAR 27:011, Section 23(1)(b), under penalty of perjury.
- (7) A contestant shall not assume or use the name of another and shall not change his or her ring name nor be announced by any name other than that appearing on his or her license, except upon approval of the inspector.
- (8) A contestant shall report to and be under the general supervision of the inspector in attendance at the show and shall be subject to instructions given by the inspector.

Section 5. The Cage.

- (1) The area between the cage and the first row of spectators on all sides and the locker room shall be under the exclusive control of the commission.
- (2) Commission staff and licensees shall be the only people allowed inside the areas under the control of the commission.
- (3) There shall be an area of at least six (6) feet between the edge of the cage floor and the first row of spectator seats on all sides of the cage. A partition, barricade, or similar divider shall be placed:
 - (a) Between the first row of the spectator seats and the six (6) foot area surrounding the cage; and
 - (b) Along the sides of the entry lane for contestants to enter the cage and the spectator area.
- (4) A bout or exhibition of mixed martial arts shall be held in a fenced area meeting the requirements established in this subsection.
 - (a) The fenced area shall be circular or have equal sides and shall be no smaller than twenty (20) feet wide and no larger than thirty-two (32) feet wide.
 - (b) The floor of the fenced area shall be padded with closed-cell foam, with at least a one (1) inch layer of foam padding, with a top covering of a single canvas or a synthetic material stretched tightly and laced to the platform of the fenced area, unless the event is held outdoors, in which case only canvas shall be used.
 - (c) The platform of the fenced area shall not be more than six (6) feet above the floor of the building and shall have steps suitable for the use of the contestants.
 - (d) Fence posts shall be made of metal, shall not be more than six (6) inches in diameter, and shall extend from the floor of the building to between five (5) and seven (7) feet above the floor of the fenced area, and shall be properly padded.

- (e) The fencing used to enclose the fenced area shall be made of a material that shall prevent a contestant from falling out of the fenced area or breaking through the fenced area onto the floor of the building or onto the spectators, and the fencing shall be coated with vinyl or a similar covering to minimize injuries to a contestant.
- (f) Any metal portion of the fenced area shall be properly covered and padded and shall not be abrasive to the unarmed combatants.
- (g) The fenced area shall have at least one (1) entrance.
- (h) There shall not be a protrusion or obstruction on any part of the fence surrounding the area in which the contestants are to be competing.
- (i) Any event held outdoors while the heat index is or exceeds 100 degrees Fahrenheit shall be conducted under a roof or cover that casts shade over the entire cage.
- (j) A cage shall have a canvas mat or a synthetic material, unless the event is held outdoors, in which case only canvas shall be used.

Section 6. Equipment.

- (1) A bell or horn shall be used by the timekeeper to indicate the time.
- (2) In addition to the cage and cage equipment, the promoter shall supply:
 - (a) A public address system in good working order;
 - (b) Chairs for judges and timekeepers elevated sufficiently to provide an unobstructed view of the cage and the cage floor;
 - (c) Items for each contestant's corner, to include:
 - 1. A stool or chair;
 - 2. A clean bucket;
 - 3. Towels;
 - 4. Rubber gloves; and
 - (d) A complete set of numbered round-cards, if needed.
- (3) A scale used for any weigh-in shall be approved as accurate in advance by the inspector.

Section 7. Contestant Equipment and Attire.

- (1) A contestant shall be clean and neatly clothed in proper ring attire, and the trunks of opponents shall be of distinguishing colors.
- (2) A contestant shall not use a belt that contains a metal substance during a bout. The belt shall not extend above the waistline of the contestant.
- (3) A contestant shall not wear shoes or any padding on his or her feet during the bout.
- (4) A contestant shall wear a properly fitted:
 - (a) Groin protector; and
 - (b) Double-arch mouthpiece.
- (5) If a contestant has long hair, the hair shall be secured by a soft, non-abrasive material so that the hair does not interfere with the vision or safety of either contestant.
- (6) If cosmetics are used, a contestant shall use a minimum of cosmetics.

Section 8. Weight Classes.

- (1) The classes for contestants competing in bouts or exhibitions of mixed martial arts and the weights for each class shall be as established in the following schedule:

| CLASS | WEIGHT |
|-------------|------------------------------|
| Strawweight | Up to and including 115 lbs. |

| | |
|--------------------|------------------------------------------------------------------------|
| Flyweight | Over 115 lbs. up to and including Up to 125 lbs. |
| Bantamweight | Over 125 lbs. up to and including Up to 135 lbs. |
| Featherweight | Over 135 lbs. up to and including Up to 145 lbs. |
| Lightweight | Over 145 lbs. up to and including Up to 155 lbs. |
| Super Lightweight | Over 155 lbs. up to and including 165 lbs. |
| Welterweight | Over 165 lbs. up to and including Up to 170 lbs. |
| Super Welterweight | Over 170 lbs. up to and including 175 lbs. |
| Middleweight | Over 175 lbs. up to and including Up to 185 lbs. |
| Super Middleweight | Over 185 lbs. up to and including 195 lbs. |
| Light Heavyweight | Over 195 lbs. up to and including 205 lbs. [Up to 195 lbs.] |
| Cruiserweight | Over 205 lbs. up to and including 225 lbs. |
| Heavyweight | Over 225 lbs. up to and including 265 lbs. [Up to 230 lbs.] |
| Super Heavyweight | Over 265 [230] lbs. |

(2) After the weigh-in, a contestant shall not change weight in excess of eight (8) percent prior to the bout.

(3) After the weigh-in, a contestant shall not re-hydrate by the use of intravenous fluids unless approved by the inspector for medical purposes. A contestant may be subject to a random urine specific gravity test to determine compliance with this subsection.

Section 9. Fight Length. Unless the commission approves an exception upon finding that the health and safety of the contestants will not be compromised:

(1) A non-championship bout or exhibition of mixed martial arts shall not exceed three (3) rounds in duration;

(2) A championship bout of mixed martial arts shall not exceed five (5) rounds in duration;

(3) The length of a round in a professional bout or exhibition of mixed martial arts shall be a maximum of five (5) minutes in duration, and a period of rest following a round shall be one (1) minute in duration; and

(4) The length of a round in an amateur bout or exhibition of mixed martial arts shall be a maximum of three (3) minutes in duration, and a rest period following a round shall be ninety (90) seconds in duration.

Section 10. Judging and Scoring.

(1) Each judge of a bout or exhibition of mixed martial arts shall score the bout or exhibition and determine the winner through the use of the system established in this section.

(a) The better contestant of a round shall receive ten (10) points, and the opponent shall receive proportionately less.

(b) If the round is even, each contestant shall receive ten (10) points.

(c) Fraction of points shall not be given.

(d) Points for each round shall be awarded immediately after the end of the period of unarmed combat in the round.

- (2) After the end of the bout or exhibition, the announcer shall pick up the scores of the judges from the commission's representative.
- (3) The majority opinion shall be conclusive and, if there is no majority, the decision shall be a draw.
- (4)
 - (a) Once the commission's representative has checked the scores, he or she shall inform the announcer of the decision.
 - (b) The announcer shall then inform the audience of the decision.
- (5) Unjudged exhibitions shall be permitted with the prior approval of the commission.
- (6) A bout of mixed martial arts shall end in:
 - (a) Submission by:
 1. Physical tap out; or
 2. Verbal tap out;
 - (b) Technical knockout by the referee or physician stopping the bout;
 - (c) Decision via the scorecards, including:
 1. Unanimous decision;
 2. Split decision;
 3. Majority decision; or
 4. Draw, including:
 - a. Unanimous draw;
 - b. Majority draw; or
 - c. Split draw;
 - (d) Technical decision;
 - (e) Technical draw;
 - (f) Disqualification;
 - (g) Forfeit; or
 - (h) No contest.

Section 11. Fouls.

- (1) The following acts shall constitute fouls in mixed martial arts:
 - (a) Butting with the head;
 - (b) Eye gouging;
 - (c) Biting;
 - (d) Hair pulling;
 - (e) Fishhooking;
 - (f) Groin attacks;
 - (g) Putting a finger into any orifice or into any cut or laceration on an opponent;
 - (h) Small joint manipulation;
 - (i) Striking to the spine or the back of the head;
 - (j) Striking downward using the point of the elbow;
 - (k) Throat strikes including grabbing the trachea;
 - (l) Clawing, pinching, or twisting the flesh;
 - (m) Grabbing the clavicle;
 - (n) Kicking the head of a grounded opponent;
 - (o) Kneeing the head of a grounded opponent;
 - (p) Stomping the head of a grounded opponent;
 - (q) Kicking to the kidney with the heel;

- (r) Spiking an opponent to the canvas on his or her head or neck;
 - (s) Throwing an opponent out of the fenced area;
 - (t) Holding the shorts of an opponent;
 - (u) Spitting at an opponent;
 - (v) Engaging in unsportsmanlike conduct;
 - (w) Holding the fence;
 - (x) Using abusive language in the fenced area;
 - (y) Attacking an opponent on or during the break;
 - (z) Attacking an opponent who is under the care of the referee;
 - (aa) Attacking an opponent after the bell has sounded the end of the period of unarmed combat;
 - (bb) Intentionally disregarding the instructions of the referee;
 - (cc) Timidity, such as intentionally or consistently dropping the mouthpiece or faking an injury;
 - (dd) Interference by a contestant's corner staff; and
 - (ee) The throwing by a contestant's corner staff of objects into the cage during competition.
- (2) If a contestant fouls his or her opponent during a bout or exhibition of mixed martial arts, the referee may penalize the contestant by deducting points from his or her score, regardless of whether or not the foul was intentional. The referee shall determine the number of points to be deducted in each instance and shall base his or her determination on the severity of the foul and its effect upon the opponent.
- (3) If the referee determines that it is necessary to deduct a point or points because of a foul, he or she shall warn the offender of the penalty to be assessed.
- (4) The referee shall, as soon as is practical after the foul, notify the judges and both contestants of the number of points, if any, to be deducted from the score of the offender.
- (5) Any point or points to be deducted for any foul shall be deducted in the round in which the foul occurred and shall not be deducted from the score of any subsequent round.
- (6)
- (a) If a bout or exhibition of mixed martial arts is stopped because of an accidental foul, the referee shall determine if the contestant who has been fouled is able to continue.
 - (b) If the contestant's chance of winning has not been seriously jeopardized as a result of the foul, and if the foul does not involve a concussive impact to the head of the contestant who has been fouled, the referee may order the bout or exhibition continued after a recuperative interval of not more than five (5) minutes.
 - (c) Immediately after separating the contestants, the referee shall inform the commission's representative of his or her determination that the foul was or was not accidental.
- (7) If the referee determines that a bout or exhibition of mixed martial arts shall not continue because of an injury suffered as the result of an accidental foul, the bout or exhibition shall be declared a no bout if the foul occurs during:
- (a) The first two (2) rounds of a bout or exhibition that is scheduled for three (3) rounds or less; or
 - (b) The first three (3) rounds of a bout or exhibition that is scheduled for more than three (3) rounds.
- (8) If an accidental foul renders a contestant unable to continue the bout or exhibition, the outcome shall be determined by scoring the completed rounds, including the round in which the foul occurs, if the foul occurs after:
- (a) The completed second round of a bout or exhibition that is scheduled for three (3) rounds or less; or
 - (b) The completed third round of a bout or exhibition that is scheduled for more than three (3) rounds.

- (9) If an injury inflicted by an accidental foul later becomes aggravated by fair blows and the referee orders the bout or exhibition stopped because of the injury, the outcome shall be determined by scoring the completed rounds and the round during which the referee stops the bout or exhibition.
- (10) A contestant committing an intentional foul may be issued a violation by an inspector.

Section 12. Prohibitions. The following shall be prohibited:

- (1) Battle royal type events; and
- (2) Use of excessive grease or other substance that may handicap an opponent.

Section 13. Non-Contestant Participants.

- (1) A promoter shall provide a minimum of two (2) security guards on the premises for each show.
- (2) Judges, physicians, referees, and timekeepers shall be selected, licensed, and assigned to each show by the commission. The following shall be required:
 - (a) Three (3) judges, or two (2) judges if a referee also serves as a judge;
 - (b) One (1) timekeeper;
 - (c) One (1) physician, unless more than eighteen (18) bouts are scheduled, in which case a minimum of two (2) physicians shall be required; and
 - (d) One (1) referee, unless more than eight (8)~~eighteen (18)~~ bouts are scheduled, in which case a minimum of two (2) referees shall be required.

Section 14. Judges.

- (1) A judge shall arrive at least one (1) hour prior to the start of a show.
- (2) At the beginning of a bout, the judges shall locate themselves on opposite sides of the ring and shall carefully observe the performance of the contestants.
- (3) At the conclusion of the bout, the judges shall render their decision based on the requirements of Section 10 of this administrative regulation.
- (4) Upon request of the referee, the judges shall assist in determining whether or not:
 - (a) A foul has been committed;
 - (b) Each contestant is competing in earnest; and
 - (c) There is collusion affecting the result of the bout.

Section 15. Timekeeper.

- (1) The timekeeper shall be seated outside the ring near the bell and shall take the cue to commence or take time out from the referee.
- (2) The timekeeper shall be equipped with a whistle and a stop watch. Prior to the first bout, the inspector shall ensure that the whistle and stopwatch function properly.
- (3) Ten (10) seconds before the start of each round, the timekeeper shall give notice by sounding the whistle.
- (4) The timekeeper shall indicate the starting and ending of each round by sounding a horn or striking the bell with a metal hammer.
- (5) If a bout terminates before the scheduled limit, the timekeeper shall inform the announcer of the exact duration of the bout.
- (6) Ten (10) seconds prior to the end of each round, the timekeeper shall give warning by striking a gavel three (3) times.

Section 16. Physicians and Healthcare Requirements.

- (1) There shall be at least one (1) physician licensed by the commission at ringside at all times during a bout. A bout shall not begin or continue if a physician is not at ringside.
- (2) The physician shall have general supervision over the physical condition of each contestant at all times while on the premises of a show or exhibition.
- (3) The physician's pre-bout duties:
 - (a) A physician shall make a thorough physical examination of each contestant within eight (8) hours prior to a bout.
 1. The physician's examination shall include a review of the Mixed Martial Arts Pre-Fight Medical Questionnaire of each contestant.
 2. The physician shall deliver to the inspector the form Mixed Martial Arts Pre-Fight Examination, [~~which is incorporated by reference in 201 KAR 27:011, Section 23(1)(c),~~] that documents the results of the examination prior to the contestant entering the ring.
 - (b) The physician shall ensure that all equipment required by subsection (5) of this section is present before the start of the first bout or exhibition.
 - (c) The physician shall prohibit a contestant from competing if the physician believes the contestant is physically unfit for competition or impaired by alcohol or a controlled substance.
- (4) The physician's duties during the bout or exhibition:
 - (a) The physician shall remain at ringside during the progress of any bout or exhibition unless attending to a person.
 - (b) The physician shall observe the physical condition of each contestant during a bout or match.
 - (c) The physician shall administer medical aid if needed or requested.
 - (d) The physician shall order the referee to pause or end a bout or exhibition if necessary to prevent serious physical injury to a contestant.
- (5) The physician shall have at ringside medical supplies necessary to provide medical assistance for the type of injuries reasonably anticipated to occur in a mixed martial arts show. The physician shall not permit a referee to begin a bout if the medical supplies are not present. At a minimum, these medical supplies shall include:
 - (a) A clean stretcher and blanket, placed under or adjacent to the ring throughout each bout;
 - (b) Spine board;
 - (c) Cervical collar;
 - (d) Oxygen apparatus or equipment; and
 - (e) First aid kit.
- (6) The promoter shall ensure that a certified ambulance with an emergency medical technician is on the premises of a show at all times. A show shall not begin or continue if the ambulance and emergency medical technician are not on the premises.
- (7) The physician shall make a thorough physical examination of each contestant after each bout. The physician shall deliver the form Mixed Martial Arts Post-Fight Examination [~~which is incorporated by reference in 201 KAR 27:011, Section 23(1)(d)~~] that documents the results of the examination.

Section 17. Announcers.

- (1) The announcer shall have general supervision over all announcements made to spectators.
 - (a) The announcer shall announce the name of contestants, their weight, decisions at the end of each match or bout, and any other matters as are necessary.
 - (b) A person other than the official announcer shall not make an announcement, unless deemed necessary by an inspector.

- (2) If a match or bout is stopped before its scheduled termination, the announcer shall immediately confer with the referee and judges and then shall immediately announce the decision.
- (3) The announcer shall not enter the ring during the actual progress of a match or bout.

Section 18. Referees.

- (1) The referee shall be the chief official of the show, be present in the ring at all times, and have general supervision over each contestant, manager, and second during the entire event.
- (2)
 - (a) The referee shall have the authority to disqualify a contestant who commits a foul and award the decision to the opponent.
 - (b) The referee shall immediately disqualify a contestant who commits an intentional or deliberate foul that causes serious physical injury to an opponent.
- (3) The referee's duties and responsibilities shall be as established in this subsection.
 - (a) The referee shall, before starting a bout or match, ascertain from each contestant the name of the contestant's chief second. The referee shall hold the chief second responsible for the conduct of the chief second's assistants during the progress of the bout or match.
 - (b) The referee shall call the contestants together in the ring immediately preceding a bout or match for final instructions. During the instructional meeting, each contestant shall be accompanied in the ring by the contestant's chief second only.
 - (c) The referee shall inspect the person, attire, and equipment of each contestant and make certain that no foreign substances that are prohibited by KRS Chapter 229 or 201 KAR Chapter 27 have been applied on a contestant's body or equipment or used by a contestant.
 - (d) The referee shall stop a bout or match at any time if the referee has reasonable grounds to believe either contestant is:
 1. Unable to protect himself or herself from possible injury;
 2. Not competing in earnest; or
 3. Colluding with another person to affect the results of the bout.
 - (e) The referee may take one (1) or more points away from a contestant who commits an accidental foul, and the referee may permit a rest period not exceeding five (5) minutes for the contestant who was fouled.
 - (f) The referee shall not touch a contestant during the bout or match except upon failure of a contestant to obey the referee's instructions or to protect a contestant.
 - (g) The referee shall decide all questions arising during a bout or match that are not otherwise specifically covered by KRS Chapter 229 or 201 KAR Chapter 27.
 - (h) Events scheduled to include more than eight (8) bouts shall require the presence of at least two (2) referees. One (1) referee shall be designated to oversee each bout.

Section 19. Trainers and Seconds.

- (1) A trainer or second shall be equipped with a first aid kit and the necessary supplies for proper medical attendance upon the contestant.
- (2) There shall be no more than three (3) persons total serving as a trainer or second in any bout and only two (2) shall be allowed in the ring at the same time.
- (3) A trainer and a second shall leave the ring at the timekeeper's ten (10) seconds whistle before the beginning of each round and shall remove all equipment from the ring. Equipment shall not be placed on the ring floor until after the bell has sounded at the end of the round or period.
- (4) A trainer and a second shall wear surgical gloves at all times while carrying out their duties.

Section 20. Medical Prohibitions.

(1) The executive director, the executive director's designee, or a commission representative may issue an order for a medical suspension of a contestant's license **as established in paragraphs (a) through (f) of this subsection.** ~~under the following circumstances:~~

(a) A contestant who has been repeatedly knocked out and severely beaten shall be retired and not permitted to compete again if, after subjecting the contestant to a thorough examination by a physician licensed by the commission, the medical advisory panel determines action is necessary to protect the health and welfare of the contestant.

(b) If a contestant receives an injury to the head or body, the contestant's license may be suspended indefinitely **based on increased risk for probably injury.** The ringside physician may require that a contestant suspended pursuant to this paragraph undergo a physical or neurological examination and submit a completed Medical Release Form or the Neurological Release Form as a condition of reinstatement.

(c)~~(2)~~ A contestant who has suffered five (5) consecutive defeats by knockout or medical stoppage shall not be allowed to compete again until the contestant has been evaluated and subsequently cleared for further competition by the medical advisory panel.

(d)~~(3)~~ A contestant who has been knocked out shall be prohibited from all competition for a minimum of sixty (60) days.

(e)~~(4)~~ Any contestant who has suffered a technical knockout may be prohibited from competition for up to thirty (30) days if the contestant's health or safety would be jeopardized without the prohibition.

(f) A contestant subject to an order levying a medical suspension may appeal the medical suspension. **An appellant shall submit/by submitting** a written notice of appeal to the Commission within twenty (20) days of the Commission's order. The provisions of KRS Chapter 13B shall govern the proceedings.

~~(2)(5)~~

(a) A female mixed martial artist shall submit proof she is not pregnant prior to her bout. The proof may be either:

1. An original or certified copy of the result of a medical test taken no more than one (1) week before the day of the match that shows she is not pregnant; or
2. From an over-the-counter home pregnancy test taken while on the premises of the show that tests for human chorionic gonadotropin.

(b) A female mixed martial artist shall be prohibited from competing if:

1. She is pregnant; or
2. She fails to comply with this subsection.

Section 21. Insurance.

(1) A promoter shall provide insurance for a contestant for any injuries sustained in the mixed martial arts event.

(2) The minimum amount of coverage per contestant shall be \$5,000 health and \$5,000 accidental death benefits.

(3) A certificate of insurance coverage shall be provided to the commission no less than two (2) business days before the event.

(4)

(a) The deductible expense under the policy for a professional mixed martial artist shall not exceed \$1,000.

(b) The deductible expense for an amateur mixed martial artist shall not exceed \$500.

Section 22. Other Provisions.

- (1) A contestant shall not compete against a member of the opposite gender.
- (2) Each show shall be video recorded and retained by the promoter for at least one (1) year. Upon request of the commission, the promoter shall provide the video recording of a show to the commission.
- (3) A promoter shall maintain an account with the recognized national database as identified by the commission and shall submit contestants'~~[contestants]~~ names to that database upon approval of the show date. The promoter shall be responsible for the costs associated with the use of this service.
- (4) A bout or exhibition of mixed martial arts shall be conducted pursuant to the official rules for the particular art unless the official rules conflict with KRS Chapter 229 or 201 KAR Chapter 27.
 - (a) If an official rule conflicts with KRS Chapter 229 or a requirement in 201 KAR Chapter 27, the statute or administrative regulation shall prevail.
 - (b) The sponsoring organization or promoter shall file a copy of the rules that shall apply at the show with the commission along with the thirty (30) day show notice required in Section 1 of this administrative regulation.
- (5) A contestant shall report to and be under the general supervision of an inspector in attendance at the show and shall be subject to instructions given by an inspector.
- (6) More than two (2) fifteen (15) minute intermissions shall not be allowed at any show.

Section 23. Prohibitions and Restrictions.

- (1) The following shall be prohibited:
 - (a) Battle royal type events;
 - (b) Use of excessive grease or other substance that may handicap an opponent; and
 - (c) Elbow strikes to the head if the bout is an amateur bout.
- (2) Knees to the head shall be permitted, but shall only be used and delivered from a standing position.
- (3) A professional mixed martial arts contestant found to be competing during an amateur mixed martial arts show shall have his or her license suspended for a period of not less than one (1) year.
- (4) A promoter who allows a professional to compete against an amateur shall have his or her license suspended for a period of not less than one (1) year.
- (5) Smoking shall be prohibited inside the gymnasium, room, or hall in which the ring is located.
- (6) Alcohol shall be prohibited inside the six (6) foot area alongside the ring.

Section 24. Incorporation by Reference.

- (1) The following material is incorporated by reference:
 - (a) "Mixed Martial Arts Show Notice Form", June 2023;
 - (b) "Mixed Martial Arts Pre-Fight Medical Questionnaire", June 2023;
 - (c) "Mixed Martial Arts Pre-Fight **[Medical]** Examination", June 2023;
 - (d) "Mixed Martial Arts Post-Fight Examination", June 2023;
 - (e) "Mixed Martial Arts Medical Release Form", June 2023;
 - (f) "Mixed Martial Arts Neurological Evaluation Form", June 2023.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Boxing and Wrestling Commission office at 500 Mero St, 218NC, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m., and is available online at https://kbwc.ky.gov/New_Docs.aspx?cat=29&menuid=27.

CONTACT PERSON: Doug Hardin, Staff Attorney, Kentucky Boxing and Wrestling Commission, 500 Mero Street 218 NC, Frankfort, Kentucky 40601, phone (502) 782-8204, fax (502) 573-6625, email doug.hardin@ky.gov.



September 1, 2023

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

Re: 202 KAR 7:555

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by **202 KAR 7:555**, the Kentucky Board of Emergency Medical Services proposes the attached amendment to 202 KAR 7:555.

Sincerely,

A handwritten signature in black ink, appearing to read "John R. Holder".

John R. Holder, Chair
Kentucky Board of Emergency Medical Services
500 Mero Street, 5th Floor 5SE32
Frankfort, KY 40601



Subcommittee Substitute

KENTUCKY BOARD OF EMERGENCY MEDICAL SERVICES (As Amended at ARRS)

202 KAR 7:555. Ground agencies.

RELATES TO: KRS 311A.030, 311A.190, 29 C.F.R. 1910.1030

STATUTORY AUTHORITY: KRS 311A.020, 311A.025, 311A.030, 311A.190

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311A.020 requires the Board of Emergency Medical Services to exercise all administrative functions in the regulation of the EMS system and the licensing of ambulance services and medical first response agencies, except those regulated by the Board of Medical Licensure[~~Emergency Medical Services~~] or the Cabinet for Health and Family Services. KRS 311A.030 requires the board to promulgate administrative regulations for the licensing, inspection, and regulation of ambulance providers and medical first response agencies. This administrative regulation establishes minimum licensing requirements.

Section 1. Utilization of Ground Vehicles by Class I, II, III, and IV Licensed Agencies.

(1) At the time of initial inspection, each agency shall inform the Kentucky Board of Emergency Medical Services (KBEMS) office of the make, model, year, vehicle identification number or serial number, and license tag number for each vehicle the agency plans to use for medical care and transportation.

(2) A vehicle shall not be placed into operation until the board has conducted a physical inspection of the vehicle and determined it meets the requirements of 202 KAR Chapter 7.

(3) Each agency shall complete a Vehicle Delete application in the Kentucky Emergency Medical Services Information System (KEMSIS), no later than the next business day after the permanent removal of any licensed vehicle from service by the license holder.

(4)(a) A licensed agency may use a replacement vehicle that meets all of the requirements of 202 KAR Chapter 7 on a temporary basis while a permitted vehicle is out of service. The agency shall complete an Add TEMPORARY Vehicle/Aircraft Part 1 application in KEMSIS within twenty-four (24) hours of the replacement.

(b) A temporary replacement vehicle shall not be used for more than thirty (30) days annually unless the KBEMS office has verified, through a physical inspection, that it meets the requirements of 202 KAR Chapter 7.

(5) The KBEMS office shall be notified by a completed Add TEMPORARY Vehicle/Aircraft Part 2 application in KEMSIS within twenty-four (24) hours or on the next business day if a temporary vehicle is removed from service and the original licensed vehicle is returned to service.

(6)(a) An agency that fails to report using a temporary vehicle shall be required to immediately cease use of the replacement vehicle until the reporting requirements are met.

(b) An agency that fails to remove a temporary vehicle from service after thirty (30) days shall be fined \$500 for each day or partial day the vehicle is in service and not reported.

(7) This administrative regulation shall not prevent a licensed agency from utilizing other means of transporting patients in:

(a) Disasters;

- (b) Mass casualty incidents; or
- (c) Extraordinary scene conditions that would impair access to the safety or care of the patient or personnel operating at the scene.

Section 2. Provider Management Requirements.

(1) All licensed agencies shall maintain:

(a) An organizational chart that establishes lines of authority, including the designation of:

1. An administrator responsible for assuring compliance with KRS Chapter 311A and 202 KAR Chapter 7 during the daily operation of the service; and

2. A designee who shall serve in the absence of the administrator;

(b) Records and reports at the ambulance agency base station including:

1. An original, electronic equivalent, or copy of all patient care records consistent with the U.S. Department of Transportation National Highway Traffic Safety Administration (NHTSA) National Emergency Medical Services Information System (NEMSIS) data dictionary found at www.nemsis.org/technical-resources/version-3;

2. An electronic copy of all completed patient care reports, which shall be maintained to ensure confidentiality and safekeeping for at least seven (7) years from the date on which the service was rendered, or in the case of a minor, at least three (3) years after the minor reaches the age of majority; and

3. Copies of Patient Care Reports for the preceding twelve (12) months, which shall be accessible and be immediately available to the board, KBEMS office, or representatives upon request;

(c) Personnel files for each employee or volunteer who staffs a vehicle of a licensed agency. Personnel files shall be maintained for at least one (1) year following separation from employment. As a minimum, all personnel files shall contain:

1. A pre-employment and annual criminal background check administered by the Kentucky Administrative Office of the Courts;

2. A copy of the employee's valid KBEMS certification or licensure card; and

3. A copy of each employee's completion of the National Incident Management System (NIMS) Incident Command System (ICS) 100, 200, 700, and 800 courses;

(d) A policy for the provision of a pre-employment and annual health assessment of employees of the agency, which shall include reporting mechanisms for work-related illness or injury;

(e) A written plan for providers to consult with online adult and pediatric medical direction. This plan shall address as a minimum:

1. The availability of medical direction twenty-four (24) hours a day, seven (7) days a week;

2. The availability of medical direction during an emergency event;

3. The provision of medical direction by a medical professional with a higher level of training or expertise; and

4. Recommended actions if:

a. There is an equipment failure, a communication barrier, or other unusual circumstance; and

b. It is not possible to contact online medical direction;

(f) A plan and records for the provision of continuing education for staff and volunteers, including:

1. A written plan for the method of assessment of staff continuing education needs; and

2. A coordinated plan to meet those needs, including a provision that all continuing education shall be provided either by a licensed TEI or in accordance with 202 KAR 7:601;

(g) An infection control plan in accordance with 29 C.F.R. 1910.1030;

(h) A written plan for training or educating personnel for responding to hazardous materials, criminal, and potential terrorist incidents, including plans for the protection and decontamination of patients, ambulances, equipment, and staff;

(i) A written policy regarding the appropriate destination of a patient who expires during transport if a valid Kentucky EMS Do Not Resuscitate (DNR), or Medical Orders for Scope of Treatment (MOST) form is present;

(j) A written plan for the quality assessment of patient care and provider quality improvement, including a monthly review of patient care reports and evaluation of staff performance related to patient care. This plan shall address as a minimum:

1. Employee health and safety;
2. Compliance with protocols and operating procedures;
3. Assessment of dispatch protocols;
4. Vehicle operations and vehicle safety;
5. Additional training necessary for the patient care provider or providers;
6. Equipment preventive maintenance programs; and
7. A process for the resolution of customer complaints;

(k) A written plan for training personnel and responding to mass casualty incidents and disasters;

(l) A written orientation program for all personnel, including at a minimum:

1. Validation of certification or license with KBEMS;
2. Validation of the National Incident Management System (NIMS) Incident Command System (ICS) 100, 200, 700, and 800 courses within sixty (60) days of employment for any employee who staffs a licensed vehicle;
3. Validation of Driver's License if applicable;
4. A review of all agency policies, procedures, and protocols;
5. Communication equipment at the base station and on each vehicle;
6. Operational aspects of the agency fleet and equipment;
7. Inspection and routine maintenance of agency fleet, facilities, and equipment;
8. Appropriate processes for disinfection of agency fleet, facilities, and equipment;
9. Local navigation and geographic orientation; and
10. Completion of Patient Care Reports and other documentation as established by the agency;

(m) Proof of professional liability malpractice insurance of a minimum of \$1,000,000; and

(n) Proof of vehicular liability insurance.

(2) Each agency shall notify the board at least twenty-four (24) hours prior to the transfer of coverage, cancellation, lapse, or other cessation or change in professional liability malpractice insurance or vehicular liability insurance.

(3) Each agency shall verify valid staff certification or licensure as of the first day of the calendar year.

(4) If ceasing to operate, an agency shall provide the board with the physical storage location of all Patient Care Reports within five (5) business days of closure. ***The [These]*** reports shall be maintained by the owner of the licensed agency~~[s]~~ or a contracted third party to meet the timeline

established in subsection (1)(b) of this section.

(5) Each agency that allows an employed emergency responder to provide medical services while off duty in accordance with 202 KAR 7:701, Section 6, shall maintain and implement a policy regarding which employees are approved to provide medical services off duty by the agency's medical director and the manner in which worker's compensation and general liability insurance covers employees off duty. The policy shall be signed by both the agency's administrator and medical director, shall be reviewed annually, and shall include:

(a) Direction on which employees may remove medical equipment from the agency's premises for the purpose of providing care off duty;

(b) Direction on which equipment may be removed from the agency's premises for the purpose of providing care off duty; and

(c) A provision that controlled substances shall not be removed from the agency's premises for the purposes of providing care off duty.

(6) Each agency, ~~shall~~ **shall** in the county in which the agency's base station or a satellite is located, **shall**:

(a) Document evidence of participation in a local, county, regional, or state disaster or preparedness exercise within the preceding twelve (12) months;

(b) Coordinate with the county emergency management director plans for the possible use of agency personnel for use in the emergency operations center in a disaster; and

(c) Maintain a hard copy or electronic equivalent of the most current adopted city, county, or urban county government emergency management agency's emergency operations plan at the ambulance base station.

Section 3. Operating Requirements. (1) Each licensed agency, except Class IV and VIII, shall provide service twenty-four (24) hours a day, seven (7) days a week. Class IV and VIII agencies shall operate during the hours of operation for their geographical service area or designated event.

(2) Each licensed agency shall retain staffing schedules for at least the previous twelve (12) months.

(3) Each agency administrator or designee shall be familiar with emergency management reporting and procurement processes and software platforms utilized to communicate the needs of the local government to state agencies.

~~[(4) A licensed Class I, II, III, VI, or VII agency that ceases to provide continuous service on a twenty-four (24) hour basis shall surrender its license to the board's office within twenty-four (24) hours of the agency ceasing to provide continuous service.]~~

~~(4)[(5)]~~ A licensed agency shall have a written plan to assure all requests for service shall be promptly answered.

~~(5)[(6)]~~ A licensed agency shall have a written scope of care policy to include the types of services performed, limitations of response, and the types of medical teams provided.

~~(6)[(7)]~~ Any agency licensed and located within the geographical service area that determines it is unable to have a vehicle responding within ten (10) minutes from the initial time an emergency call is received ~~[from the dispatch center]~~ shall request that~~[notify]~~ the next closest appropriate licensed agency ~~[to]~~ respond.

(7) If an agency licensed for a specific geographical service area is unable to respond to a non-

emergency call within two (2) hours from the initial time a non-emergency call is received, the requesting healthcare facility may contact any licensed agency and request that the agency conduct the transport.

(8) An agency shall enter into a mutual aid agreement with another Kentucky licensed ambulance agency operating within the same or contiguous counties that provide response to medical emergencies. ***The [These]*** agreements shall be in writing and address:

(a) The type of mutual aid assistance to be provided, including advanced life support (ALS) or basic life support (BLS) medical care and transport and ALS or BLS medical first response;

(b) Response personnel, including levels of training or education and provisions for joint in-service training or education if appropriate;

(c) Response vehicles, including unit identifiers and the station or location from which the vehicles shall be operated;

(d) A plan of action for the mutual aid agreement, including dispatch and notification procedures;

(e) Radio and other communications procedures between the ambulance agency and other response agencies with which the agency has mutual aid agreements;

(f) On-scene coordination and scene control including medical direction if several agencies respond to the same incident;

(g) Exchange of patient information, records, and reports as allowed by law; and

(h) The effective dates and process for amendment or termination.

(9) A ground agency shall send a written request for a mutual aid agreement to at least two (2) contiguous counties and retain a copy of each request and each county's response. ***[?]***

(10) Each agency shall maintain a policy or affiliation agreement with the primary call-taking center that provides dispatch services for all or part of the service area of the ground agency. The agreement shall ***[state]*** at a minimum, ***[that]***:

(a) ***State that*** requests for emergency ambulance service shall be dispatched or notified within two (2) minutes from determining that the caller is requesting ambulance response;

(b) ***State that*** if the closest licensed agency for that geographic service area is unable to have a vehicle responding to an emergency call within ten (10) minutes from the time the call is dispatched, the agency shall notify the next closest appropriate licensed agency to respond; and

(c) ***[The agreement shall]*** Specify which patient information shall be collected by the call-taking center during a call for service.

(11) If a ground agency is unable to secure a written affiliation agreement with the dispatch center, the ground agency shall retain all written correspondence to the dispatch center requesting an affiliation agreement and the dispatch center's denial of the agency's request.

(12) An agency shall not respond to requests for emergency service outside of its licensed geographic service area without first receiving authorization from the licensed agency in the geographic service area in which the request originates.

(13) A licensed Class I ground agency that is located in a geographical service area containing multiple destination hospitals, with regard to the furnishing of 911 response and transportation, shall not engage in:

(a) Exclusive or coercive practices regarding transportation decisions with regard to any affiliated hospital or hospital emergency department;

(b) Preferential transportation to any affiliated hospital emergency department if the transports

are not justified by time, place, patient convenience, or other objective factors affecting a patient;

(c) Noncompetitive transportation to any affiliated hospital emergency department; or

(d) Transports to any affiliated hospital emergency department if that hospital is not the closest to the patient location or most appropriate based on the availability of particular services or patient preference.

(14) Each licensed Class I ground agency shall schedule a minimum of one (1) staffed ambulance to be staged in the agency's geographic service area.

~~(15)~~~~(14)~~ An agency that cannot meet the timelines established in subsection (10) of this section shall contact another licensed agency and receive an estimated time of arrival to the request for service. If the mutual aid agency can arrive at the location where the request originated more quickly than the agency licensed for the geographic service area, the agency licensed for the geographic service area shall request mutual aid from its neighboring agency to respond to the call.

~~(16)~~~~(15)~~ An agency shall not refuse a request for emergency pre-hospital response if a unit is available in its geographic service area.

~~(17)~~~~(16)~~ An agency shall not exhaust its resources by answering a nonemergency call or for response to mutual aid requests.

~~(18)~~~~(17)~~ This administrative regulation shall not be construed to prevent a licensed agency from providing medical first response emergency or nonemergency pre-hospital care at or below the level for which the agency is licensed through the use of designated agency-owned response vehicles.

~~(19)~~~~(18)~~ A communications system shall be developed, coordinated, and maintained by each licensed agency. The communication system shall comply with paragraphs (a) through (f) of this subsection.

(a) Radio equipment used in emergency medical services vehicles shall be appropriately licensed through the Federal Communications Commission (FCC). Copies of the current FCC licenses shall be on file in the agency office.

(b) Each ambulance shall have an operational push-to-talk two-way radio programmed with all very high frequency (VHF) Kentucky State Mutual Aid Frequencies in accordance with the Commonwealth of Kentucky Field Operations Guide (KY-FOG).

(c) Each ambulance shall be equipped with a minimum of one (1) mobile two-way radio located in the driver's compartment.

(d) Each ambulance shall have a minimum of two (2) portable push-to-talk two-way radios capable, under normal conditions, of operating on the agency, dispatch center, mutual aid, and hospital frequencies.

(e) Each ambulance shall be equipped with two-way radio communication equipment with the ability to communicate from the driver's compartment and patient care compartment.

(f) One (1) alternative method of two-way communication may be substituted for one (1) portable two-way radio.

Section 4. Ceasing Continuous Service.

(1) A licensed Class I, II, III, VI, or VII agency that ceases to provide continuous service on a twenty-four (24) hour basis shall surrender its license to the board office within twenty-four (24) hours of the agency ceasing to provide continuous service.

(2) The agency's chief operations or service director shall immediately contact the executive director of the board upon determining that his or her Class I, II, III, VI, or VII agency **shall [will]** cease providing continuous service, and shall provide the approximate date and time that the agency **shall [will]** cease continuous service.

(3) The agency's chief operations or service director shall immediately contact the executive director of the board upon determining that his or her Class I, II, III, VI, or VII agency has ceased providing continuous service, and shall provide the date and time that the agency ceased continuous service.

(4) Notwithstanding subsection (1) of this section and Section 3(1) of this administrative regulation, a Class I, II, III, VI, or VII agency shall resume continuous service no later than seventy-two (72) hours after ceasing continuous service if the executive director of the board determines, in writing, that:

(a) Circumstances beyond the agency's control exist which justify the agency's temporary lapse in continuous service; and

(b) Public health, safety, and welfare will be better served by allowing the agency to resume continuous service within seventy-two (72) hours after ceasing continuous service.

(5) A licensed Class I, II, III, VI, or VII agency that ceases continuous service shall be deemed to pose a threat to the public and the agency's license shall be temporarily suspended in accordance with KRS 311A.075 if:

(a) The agency fails to surrender its license in accordance with subsection (1) of this section; and

(b) The executive director of the board does not make the determinations set forth in subsection (4)(a) and (b) of this section; or

(c) The executive director of the board makes the determinations set forth in subsection (4)(a) and (b) of this section, but the agency fails to resume continuous service within seventy-two (72) hours after ceasing continuous service and fails to surrender its license to the board office within seventy-two (72) hours after ceasing continuous service.

Section 5. Issuance of Temporary Class I Hardship Licenses to Counties.

(1) The board office shall issue a temporary Class I hardship license to the county or counties listed as the geographic service area on a Class I license that:

(a) Is the only Class I license for the geographic service area; and

(b) Is surrendered in accordance with Section 4(1) of this administrative regulation; or

(c) Is temporarily suspended in accordance with Section 4 of this administrative regulation and KRS 311A.075.

(2) A temporary hardship license shall not be transferrable.

(3) A county issued a temporary hardship license may contract with a licensed Class I agency to provide service to the geographic service area listed on the temporary hardship license.

(4) Notwithstanding Sections 3(1) and 4(1) of this administrative regulation, a county issued a temporary hardship license shall begin providing continuous service no later than 120 days after the license is issued.

(5) Notwithstanding any other administrative regulation promulgated by the board, for up to and not exceeding 120 days after a temporary hardship license is issued to a county under this section, the county may request that any licensed Class I agency respond to a call for service in

the geographic service area listed on the temporary hardship license.

(6) A temporary hardship license shall expire one (1) year after the license is issued, after a new Class I license for the geographic service area is issued, or, if the Class I license for the geographic service area was temporarily suspended in accordance with Section 4 of this administrative regulation, after that license is reinstated, whichever occurs first.

Section 6. Medical Directors. (1) Each licensed agency shall have a medical director who meets the requirements established in 202 KAR 7:801.

(2) A licensed agency shall notify KBEMS within twenty-four (24) hours of a decision to discontinue a medical director agreement by either the agency or the medical director.

(3)(a) If an agency is found to be operating without a medical director, the agency shall be provided emergency medical direction by the KBEMS Medical Advisor for a fee of \$100 per day for the first thirty (30) calendar days the agency is without a medical director.

(b) The fee shall increase to \$500 per day after thirty (30) calendar days.

Section 7.~~[Section 5.]~~ Public Notice of Negative Action. The board office shall cause to be published, on the KBEMS web site or similar publication of the board, the name of any licensed agency that is fined, placed on probationary status, placed on restricted status, suspended, or had a license revoked.

Section 8.~~[Section 6.]~~ Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Commonwealth of Kentucky Field Operations Guide (KY-FOG)", (6/2012) found at <https://kwiec.ky.gov/SiteCollectionDocuments/KYFOG.pdf>;

(b) "NHTSA NEMSIS Data Dictionary", (v3.40) U.S. Department of Transportation National Highway Traffic Safety Administration (NHTSA) National Emergency Medical Services Information System (NEMSIS) data dictionary found at https://www.nemsis.org/media/nemsis_v3/3.4.0.150302/DataDictionary/PDFHTML/DEMEMS/NEMSISDataDictionary.pdf;

(c) "Vehicle Delete application in KEMSIS", (12/2019);

(d) "Add TEMPORARY Vehicle/Aircraft application Part 1 in KEMSIS", (12/2019); and

(e) "Add TEMPORARY Vehicle/Aircraft application Part 2 in KEMSIS", (12/2019).

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of the Kentucky Board of Emergency Medical Services, 500 Mero Street, 5th Floor 5SE32, Frankfort, Kentucky 40601~~[118 James Court, Suite 50, Lexington, Kentucky 40505]~~, Monday through Friday, 8 a.m. to 4:30 p.m.

(3) This material is also available on the board's Web site at: kyems.com.

CONTACT PERSON: John K. Wood, Legal Counsel, Kentucky Board of Emergency Medical Services, 163 E. Main Street, Suite 200, Lexington, Kentucky 40507, phone (859) 225-4714, email administrativeregulations@wgmfirm.com.

Ryan F. Quarles
Commissioner

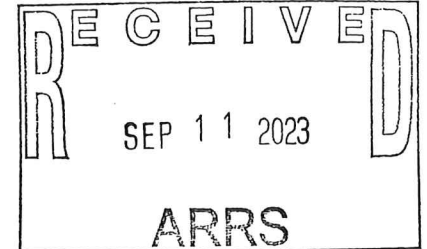


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Kentucky Department of Agriculture

January 6, 2023

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



Re: **302 KAR 16:010.** Business registration and permit amusement rides or attractions.
302 KAR 16:020. Inspection and operation of amusement rides or amusement attractions.
302 KAR 16:030. Determination of administrative or safety violations which cannot be corrected immediately; section stop order.
302 KAR 16:071. Repeal of 302 KAR 16:070.
302 KAR 16:072. Notification of occurrence involving an amusement ride or attraction.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 302 KAR 16:010, 302 KAR 16:020, 302 KAR 16:030, 302 KAR 16:071 and 302 KAR 16:072 the Kentucky Department of Agriculture proposes the attached amendments to 302 KAR 16:010, 302 KAR 16:020, 302 KAR 16:030, 302 KAR 16:071 and 302 KAR 16:072.

Sincerely,

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

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



SUGGESTED SUBSTITUTE

**GENERAL GOVERNMENT
Department of Agriculture
Office of the Consumer and Environmental Protection**

302 KAR 16:010. Business registration and permit~~[Business Identification Number]~~ for amusement rides or attractions.

RELATES TO: KRS 247.234

STATUTORY AUTHORITY: KRS 247.234

NECESSITY, FUNCTION, AND CONFORMITY: KRS 247.234(2) and ~~(6)~~~~(3)(a)~~ require the ~~[Commissioner of the]~~ Department of Agriculture to promulgate administrative regulations for the process for registering a business and applying for an amusement ride or attraction permit.~~[of application for a business identification number.]~~ This administrative regulation establishes the criteria for registering a business and obtaining a permit~~[business identification number]~~ to operate an amusement ride or attraction.

Section 1. Definition. "Permit"~~["Business identification number"]~~ means a number identifying ~~[the individual or business entity owner of an amusement ride or amusement attraction and]~~ the specific ride or attraction to which it is assigned.

Section 2. A permit~~[unique business identification number]~~ shall be required to operate each applicable amusement ride or amusement attraction in this state, and shall be valid for the remainder of the calendar~~[one (1)]~~ year from the date of issuance~~[, in accordance with KRS 247.234(3)(a)(2)]~~. A permit~~[business identification number]~~ shall not be transferred or assigned.

Section 3. Procedure for Registering a Business. Every owner of an amusement ride or attraction seeking to operate in Kentucky shall submit:

- (1) An Amusement Ride and Attraction~~[A]~~ Business Registration Form~~[Application]~~; and
- (2) A Business Registration Fee of fifty (50) dollars.

Section 4.~~[Section 3.]~~ Procedure for Obtaining a Permit~~[business identification number]~~.

(1) Every owner of an amusement ride or ~~[amusement]~~ attraction seeking to operate in Kentucky shall submit ~~[a business identification number]~~:

- (a) An Amusement Ride and Attraction~~[A]~~ Permit Application Form for rides and attractions;~~[along with]~~
- (b) A permit fee of five (5) dollars for each ride or device; and
- (c) The fee for each required initial safety inspection required by 302 KAR 16:020.

(2)

(a) The owner of the amusement ride or ~~[amusement]~~ attraction shall provide a written itinerary indicating:

1. The location of the first setup;
2. All future operating dates and locations, including addresses;
3. The operating period at each location;
4. The names of all rides requiring initial safety inspections pursuant to KRS 247.234(3)~~(e)~~~~(b)~~; and
5. All rides or attractions being operated at each location.

(b) The itinerary shall be submitted~~[delivered]~~ to the department at least fourteen (14) days prior to the first scheduled setup and shall be updated in writing immediately if cancellations are made or additional locations added.

(c) The itinerary shall be submitted:

1. Via the online portal at <https://kyagr-apps.com/AgExternal/Security/Account/Login>; or

2. In writing, including by facsimile or electronic mail, by using:

a. The Itinerary Mobile Operators form; or

b. The Itinerary Permanent Fixed Locations form.

(3) Except as established in subsection (4) of this section, the applicant shall provide proof of liability insurance in the amount of at least ~~\$1,000,000~~[\$500,000] per occurrence for bodily injury or death, for each amusement ride or amusement attraction.

(a) The proof of insurance shall include a statement that the insurer shall not cancel the policy without at least thirty (30) days written notice to the ~~department~~[**commissioner**].

(b) Proof of insurance shall be either the policy or a certified statement issued by the insurer and shall include:

1. A listing of all amusement rides and amusement attractions insured; or

2. A statement that all amusement rides and amusement attractions operated under the supervision of the insured are covered in the policy.

(4) If the applicant's amusement rides or amusement attractions are permanently located or erected, the applicant may, instead of providing proof of liability insurance, provide proof of financial responsibility in at least the amount of ~~\$1,000,000~~[\$500,000] on or before the date of the initial safety inspection. Proof of financial responsibility shall be shown by:

(a) Proof of liability insurance of at least ~~\$1,000,000~~[\$500,000] per occurrence for bodily injury or death;

(b) A financial statement, certified by a licensed certified public accountant, dated no more than thirty (30) days prior to the application date, indicating a net worth of at least ~~\$1,000,000~~[\$500,000] or more in assets located in the state; or

(c) An irrevocable letter of credit to the department in the amount of at least ~~\$1,000,000~~[\$500,000].

~~Section 4.~~ Section 5. Upon receipt of a complete application, applicable fees, proof of liability insurance or financial responsibility, and a complete itinerary, a ~~permit~~[**business identification number**] shall be issued ~~to~~[**in the name of**] the applicant.

~~[(4)]~~ If all items required by this section are not physically available to the inspector when the initial safety inspection takes place, the inspector shall not perform the initial safety inspection and a ~~permit~~[**business identification number**] shall not be issued.

~~[(2)]~~ ~~[The business identification number certificate shall be available for inspection at all times.]~~

~~[(3)]~~ ~~[If the business identification number holder is operating in multiple locations, a clear and legible copy of the business identification number shall be displayed.]~~

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

(1) The following material is incorporated by reference:

(a) "**Amusement Ride and Attraction Business Registration Form**", 6/23;

(b) "**Amusement Ride and Attraction Permit**[~~Business Identification Number~~] **Application Form**[~~for Rides and Attractions~~]", 6/23[08/08];

(c)[~~(b)~~] "Itinerary Mobile Operators", 03/03; and

(d)[~~(c)~~] "Itinerary Permanent Fixed Locations", 03/03.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Agriculture, Division of Regulation and Inspection, 107 Corporate Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. **This material is also available on the department's Web site at <https://kyagr.com/consumer/amusement-rides.html>.**

CONTACT PERSON: Clint Quarles, Staff Attorney, Kentucky Department of Agriculture, 107 Corporate Drive, Frankfort Kentucky 40601, phone (502) 330-6360, email clint.quarles@ky.gov.

Ryan F. Quarles
Commissioner

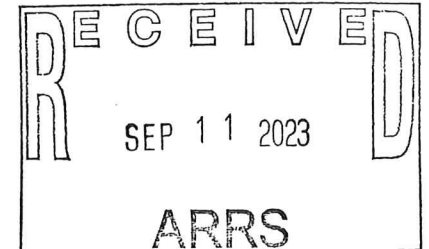


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Kentucky Department of Agriculture

January 6, 2023

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



Re: 302 KAR 16:010. Business registration and permit amusement rides or attractions.
302 KAR 16:020. Inspection and operation of amusement rides or amusement attractions.
302 KAR 16:030. Determination of administrative or safety violations which cannot be corrected immediately; section stop order.
302 KAR 16:071. Repeal of 302 KAR 16:070.
302 KAR 16:072. Notification of occurrence involving an amusement ride or attraction.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 302 KAR 16:010, 302 KAR 16:020, 302 KAR 16:030, 302 KAR 16:071 and 302 KAR 16:072 the Kentucky Department of Agriculture proposes the attached amendments to 302 KAR 16:010, 302 KAR 16:020, 302 KAR 16:030, 302 KAR 16:071 and 302 KAR 16:072.

Sincerely,

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

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



SUGGESTED SUBSTITUTE

**GENERAL GOVERNMENT
Department of Agriculture
Office of the Consumer and Environmental Protection**

302 KAR 16:020. Inspection and operation of amusement rides or amusement attractions.

RELATES TO: KRS 247.232, 247.234~~[(3)]~~, 247.236(3)

STATUTORY AUTHORITY: KRS 247.234, 247.236

NECESSITY, FUNCTION, AND CONFORMITY: KRS 247.234(3)~~(e) requires[(b) and (d) require]~~ the department to promulgate administrative regulations establishing initial safety inspection fees and safety requirements for amusement rides or attractions. KRS 247.236(3) requires the department to promulgate an administrative regulation establishing the requirements for the construction of safety barriers around an amusement ride or attraction. This administrative regulation establishes safety guidelines for the operation and inspection of amusement rides or attractions and establishes the initial safety inspection fees.

Section 1. Definitions.

- (1) "Air inflatable device" means an object that is filled with air that is supplied continuously by an electric motor-driven blower.
- (2) "Dark ride" means an amusement ride or amusement attraction enclosed and with the lights turned off during the duration of the ride, and is a nonmechanized self-propelled amusement.
- (3) "Go-cart facility" means an amusement ride or amusement attraction that carries a rider on a fixed path and includes the vehicle that travels the fixed path.
- (4) "Inspection fee" means a fee required to be paid to operate any amusement ride or amusement attraction in Kentucky.
- (5) "Kiddie ride" means an amusement ride or amusement attraction that has a height requirement of forty-two (42) inches or less to ride.
- (6) "Major ride" means any ride that:
 - (a) Has height requirement of forty-three (43) inches or greater to ride; and
 - (b) Does not have a specific fee established for it in Section 2 of this administrative regulation.
- (7) "Play port" means an object designed for use by children on which a child can swing, walk, climb, or slide, and that follows a fixed path.
- (8) "Steel roller coaster" means roller coaster of which the track portion is constructed of steel or other metal material.
- (9) "Walk through" means a fun house or glass house that is nonmechanized and self-propelled.
- (10) "Water ride" means an amusement ride or amusement attraction that uses water as a means of propulsion and includes bumper boats and water park slides that are in excess of fifteen (15) feet at the highest point of the slide.
- (11) "Wooden roller coaster" means a roller coaster of which the track portion is constructed of wood material.

Section 2.

- (1) All amusement ride and amusement attractions operating in Kentucky shall bear a Kentucky permit[an initial safety inspection] seal. Following and passing an initial safety inspection, a Kentucky permit[an initial safety inspection] seal shall be affixed to a permanent and accessible section of the amusement ride or amusement attraction.
- (2) If the required Kentucky permit[initial safety inspection] seal does not appear on the amusement ride or amusement attraction, operation of the amusement ride or amusement attraction shall be stopped until proof of an initial inspection is provided.

Section 3. Initial safety inspection fees, and any required re-inspection fees, shall be levied for each amusement ride and amusement attraction. The initial safety inspection fees shall be assessed as established in subsections (1) through (12) of this section.

- (1) Air inflatable devices shall be fifty (50) dollars.
- (2) Kiddie rides shall be seventy-five (75) dollars.
- (3) Play ~~ports~~~~port~~ shall be seventy-five (75) dollars.
- (4) Water rides shall be seventy-five (75) dollars.
- (5) Dark rides shall be seventy-five (75) dollars.
- (6) Walk throughs and glass houses shall be seventy-five (75) dollars.
- (7) Tracked trains shall be \$100.
- (8) Go-cart ~~facilities~~~~facility~~ shall be \$125.
- (9) Major rides shall be \$150.
- (10) Steel roller ~~coasters~~~~coaster~~ shall be \$200.
- (11) Wooden roller ~~coasters~~~~coaster~~ shall be \$300.
- (12) Any amusement ride or amusement attraction not listed in this section shall be \$150.
- (13) Re-inspection as established in KRS 247.234(4)(a).
 - (a) Re-inspection fees shall be assessed as established in paragraph (b)1. through 12. of this subsection.
 - (b)
 1. Air inflatable devices shall be \$100.
 2. Kiddie rides shall be \$150.
 3. Play ~~ports~~~~port~~ shall be \$150.
 4. Water rides shall be \$150.
 5. Dark rides shall be \$150.
 6. Walk throughs and glass houses shall be \$150.
 7. Tracked trains shall be \$200.
 8. Go-cart ~~facilities~~~~facility~~ shall be \$250.
 9. Major rides shall be \$300.
 10. Steel roller ~~coasters~~~~coaster~~ shall be \$400.
 11. Wooden roller ~~coasters~~~~coaster~~ shall be \$500.
 12. Any amusement ride or amusement attraction not listed in this paragraph shall be \$300.

Section 4. All new permanent amusement rides and amusement attractions shall have all required state and local permits before the initial safety inspection.

CONTACT PERSON: Clint Quarles, Staff Attorney, Kentucky Department of Agriculture, 107 Corporate Drive, Frankfort Kentucky 40601, phone (502) 330-6360, email clint.quarles@ky.gov.

Ryan F. Quarles
Commissioner

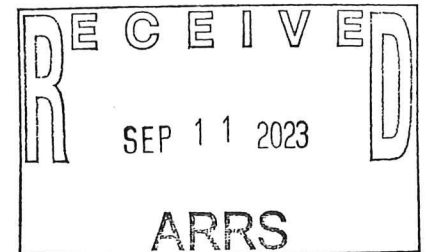


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Administrative Regulation Review Subcommittee
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029, Capitol Annex
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Re: 302 KAR 16:010. Business registration and permit amusement rides or attractions.
302 KAR 16:020. Inspection and operation of amusement rides or amusement attractions.
302 KAR 16:030. Determination of administrative or safety violations which cannot be corrected immediately; section stop order.
302 KAR 16:071. Repeal of 302 KAR 16:070.
302 KAR 16:072. Notification of occurrence involving an amusement ride or attraction.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 302 KAR 16:010, 302 KAR 16:020, 302 KAR 16:030, 302 KAR 16:071 and 302 KAR 16:072 the Kentucky Department of Agriculture proposes the attached amendments to 302 KAR 16:010, 302 KAR 16:020, 302 KAR 16:030, 302 KAR 16:071 and 302 KAR 16:072.

Sincerely,

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



Final: 9/11/23

SUGGESTED SUBSTITUTE

**GENERAL GOVERNMENT
Department of Agriculture
Office of the Consumer and Environmental Protection**

302 KAR 16:030. Determination of administrative or safety violations which cannot be corrected immediately; section stop order.

RELATES TO: KRS 247.232, 247.234, 247.236

STATUTORY AUTHORITY: KRS 247.234, 247.236

NECESSITY, FUNCTION, AND CONFORMITY: KRS 247.234 authorizes~~[the Commissioner of]~~ the Department of Agriculture to provide for inspections for amusement rides or attractions. This administrative regulation establishes procedures to determine violations which cannot be immediately corrected.

Section 1. Definition. "Immediately correctable violation" means a violation ~~that~~**[which]** can be corrected on the day of ~~an~~~~[the initial]~~ inspection.

Section 2. The department's inspector shall determine the nature and severity of violations and shall determine if the violations are not immediately correctable based on the manufacturer's standards, KRS 247.232 through 247.236, and 302 KAR 16:010 through 302 KAR 16:140.

Section 3. A violation issued for operation of an amusement ride or amusement attraction without a valid permit ~~shall~~**[may]**~~[business identification number shall]~~ be considered a violation ~~that~~**[which]** is not immediately correctable.

Section 4. A safety inspector may order closed a unit or ~~section~~~~[portion]~~ of a ride ~~that~~**[which]** fails to comply with safety or operational guidelines, if closure of ~~that section of~~ the ride does not affect the remaining ~~units or sections~~~~[portion]~~ of the ride, by placing upon that unit or ~~section~~~~[portion]~~ of the ride a section stop order. The owner shall notify the department when the unit or ~~section~~~~[portion]~~ of the ride has been repaired to ~~provide the department with~~~~[obtain]~~ information ~~in support of a~~~~[for]~~ section stop order removal.

CONTACT PERSON: Clint Quarles, Staff Attorney, Kentucky Department of Agriculture, 107 Corporate Drive, Frankfort Kentucky 40601, phone (502) 330-6360, email clint.quarles@ky.gov.

Ryan F. Quarles
Commissioner

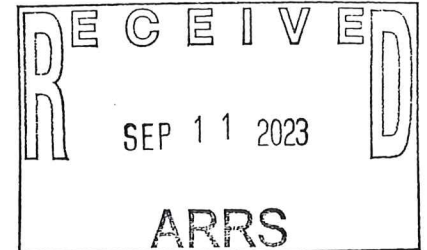


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302 KAR 16:072. Notification of occurrence involving an amusement ride or attraction.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 302 KAR 16:010, 302 KAR 16:020, 302 KAR 16:030, 302 KAR 16:071 and 302 KAR 16:072 the Kentucky Department of Agriculture proposes the attached amendments to 302 KAR 16:010, 302 KAR 16:020, 302 KAR 16:030, 302 KAR 16:071 and 302 KAR 16:072.

Sincerely,

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



Final: 9/11/23

SUGGESTED SUBSTITUTE

**GENERAL GOVERNMENT
Department of Agriculture
Office of the Consumer and Environmental Protection**

302 KAR 16:071. Repeal of 302 KAR 16:070.

RELATES TO: KRS ~~247.232 - 247.236~~[~~CHAPTER 363.900-363.908, 16 C.F.R. 306.12, 40 C.F.R. 80.27~~]

STATUTORY AUTHORITY: KRS ~~247.233~~[~~363.902, 16 C.F.R. 306.12, 40 C.F.R. 80.27~~]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 247.233 requires amusement ride and attraction owners to **notify the department**[~~submit a written report~~] following an accident. This administrative regulation repeals 302 KAR 16:070 because 302 KAR 16:072 will cover the reporting criteria.

Section 1. 302 KAR 16:070,~~[.]~~ Reports of injuries involving amusement rides and amusement attractions, is hereby repealed.

FISCAL NOTE

302 KAR 16:071

Contact Person: Clint Quarles

Phone: 502-782-0284

Email: clint.quarles@ky.gov

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

The KDA.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS 247.233

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?

The KDA expects to receive \$110,000 annually at current participation levels.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?

The KDA expects to receive \$110,000 annually at current participation levels.

(c) How much will it cost to administer this program for the first year?

The cost to administer this regulation is approximately \$530,000.

(d) How much will it cost to administer this program for subsequent years?

The cost to administer for subsequent years is estimated to be at least \$530,000.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year?

This is a repealer and will have no financial impact.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years?

This is a repealer and will have no financial impact.

(c) How much will it cost the regulated entities for the first year?

This is a repealer and will have no financial impact.

(d) How much will it cost the regulated entities for subsequent years?

This is a repealer and will have no financial impact.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Cost Savings (+/-):

Expenditures (+/-):

Other Explanation:

(5) Explain whether this administrative regulation will have a major economic impact, as defined below. *"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)]*

Fees will not exceed the major economic impact threshold.

Ryan F. Quarles
Commissioner

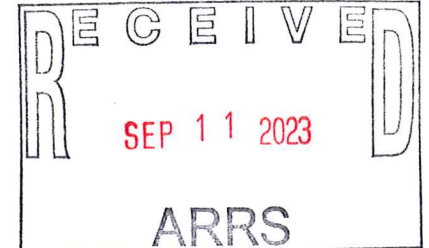


Corporate Drive
Complex
Frankfort, KY 40601
(502) 573-0282

Kentucky Department of Agriculture

January 6, 2023

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



Re: 302 KAR 16:010. Business registration and permit amusement rides or attractions.
302 KAR 16:020. Inspection and operation of amusement rides or amusement attractions.
302 KAR 16:030. Determination of administrative or safety violations which cannot be corrected immediately; section stop order.
302 KAR 16:071. Repeal of 302 KAR 16:070.
302 KAR 16:072. Notification of occurrence involving an amusement ride or attraction.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 302 KAR 16:010, 302 KAR 16:020, 302 KAR 16:030, 302 KAR 16:071 and 302 KAR 16:072 the Kentucky Department of Agriculture proposes the attached amendments to 302 KAR 16:010, 302 KAR 16:020, 302 KAR 16:030, 302 KAR 16:071 and 302 KAR 16:072.

Sincerely,

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

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



Final: 9/11/23

SUGGESTED SUBSTITUTE

**GENERAL GOVERNMENT
Department of Agriculture
Office of Consumer and Environmental Protection**

302 KAR 16:072. Notification of occurrence involving an amusement ride or attraction.

RELATES TO: KRS 247.233

STATUTORY AUTHORITY: KRS 247.233

NECESSITY, FUNCTION, AND CONFORMITY: KRS 247.233 requires amusement ride and attraction owners to notify the department following an accident or specified incident and requires the department to conduct mandatory investigations of amusement ride and attraction accidents and incidents. This administrative regulation establishes requirements for the owner to notify the department of an occurrence involving an amusement ride or attraction[notification].

Section 1. Definition. "Damage" means structural, mechanical, or electrical failure of an amusement ride or attraction.

Section 2. Method of Notification and Information Required.

(1) Within twelve (12) hours of an occurrence described in KRS 247.233(1), the owner of an amusement ride or attraction involved in the occurrence shall notify the department by e-mail at agr.rides@ky.gov or via the portal at <https://www.kyagr-apps.com/AgExternal/Security/Account/Login>.

(2) The notification shall contain the following information:

- (a) The date and time of the incident or accident;
- (b) The location of the incident or accident;
- (c) A description of the incident, accident, or damage to the amusement ride or attraction;
- (d) The name, address, and telephone number of the owner or company for the amusement ride or attraction involved;
- (e) The name, address, and telephone number of each operator of the amusement ride or attraction involved;
- (f) The name, permit number, serial number, and manufacturer of the amusement ride or attraction involved;
- (g) The name, address, telephone[phone] number, and age of the injured person, if known;
- (h) The nature and extent of the injury, if known;
- (i) A statement by the owner of whether the injury was caused by the amusement ride or attraction;
- (j) The name and location of the facility or person providing medical treatment other than first aid; and
- (k) The name, address, and telephone number of the person submitting the notification.

Ryan F. Quarles
Commissioner

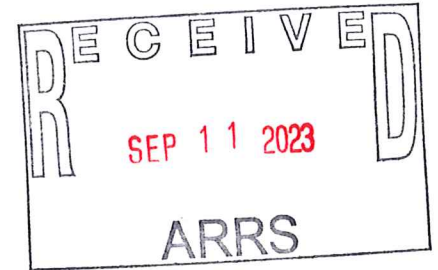


Corporate Drive
Complex
Frankfort, KY 40601
(502) 573-0282

Kentucky Department of Agriculture

January 6, 2023

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



Re: 302 KAR 33:010. Grain dealers and grain warehouse operators.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 302 KAR 33:010 the Kentucky Department of Agriculture proposes the attached amendments to 302 KAR 33:010.

Sincerely,

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

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



SUGGESTED SUBSTITUTE

**GENERAL GOVERNMENT
Department of Agriculture
The Office for Consumer and Environmental Protections**

302 KAR 33:010. Grain dealers and grain warehouse operators.

RELATES TO: KRS 251.010, 251.340, 251.355, 251.365, 251.375, 251.380, 251.440, 251.470, 251.990
STATUTORY AUTHORITY: KRS 251.020, 251.355, 251.370(9), 251.375(4)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 251.355 requires grain dealers and grain warehouse operators to be licensed by the department. KRS 251.020 authorizes the department to promulgate administrative regulations necessary to administer and enforce KRS Chapter 251. KRS 251.355(8) and (9) require the department to establish a schedule of fees. KRS 251.375(4) requires the department to establish the minimum information required to be included in a forward pricing contract. This administrative regulation establishes licensure, purchasing, and storage requirements for grain dealers and grain warehouse operators[This administrative regulation established the rules for administration and enforcement of the provisions of KRS Chapter 251].

Section 1. Licenses.

(1) To apply for a grain dealer or grain warehouse operator license, an applicant shall mail a completed Application for Grain Dealer/Warehouse License, the fee required by Section 2 of this administrative regulation, and the attachments required by the application form to the address at the top of the form.

(2) In accordance with KRS 251.355, each person acting as a grain dealer or grain warehouse operator who operates more than one (1) facility shall have a separate license for each facility when each facility is operated as separate business establishment.

(3)[(2)] All licenses shall be posted in a location at each business establishment that is easily viewable by customers and the public.

(4)[(3)] All grain warehouse operators licensed under the United States Warehouse Act, 7 U.S.C. 241 et seq., and operating in Kentucky shall also be required to hold a valid Kentucky Grain Warehouse Operator's license.

(5)(a) Grain dealer and grain warehouse operator licenses shall be renewed by July 1 each year.

(b) The licensee shall mail a completed Application for Grain Dealer/Warehouse License, the fee required by Section 2 of this administrative regulation, and any attachments required by the form to the address at the top of the form.

Section 2. License Fee Schedule. License fees for grain dealers and grain warehouse operators shall be based upon the number of bushels purchased by the dealer or warehouse operator during the previous year.

(1) The license fee schedule for grain dealers shall be:

- (a) From 0 - 5,999 bushels [~~your fee will be~~]: seventy-five (75) dollars.
- (b) From 6,000 - 99,999 bushels: \$150.
- (c) From 100,000 - 1,999,999 bushels: \$300.
- (d) From 2,000,000 - 5,999,999 bushels: \$450.
- (e) From 6,000,000 - 9,999,999 bushels: \$600.
- (f) From 10,000,000 bushels or more: \$750.

(2) The license fee schedule for grain warehouse operators shall be:

- (a) Under 2,000,000 bushels [~~your fee will be~~]: \$300.
- (b) From 2,000,000 - 5,999,999 bushels: \$450.
- (c) From 6,000,000 - 9,999,999 bushels: \$600.
- (d) 10,000,000 bushels or more: \$750.

Section 3. Forward Pricing Contracts. All forward pricing contracts used in Kentucky shall contain the following information ~~that~~**[which]** includes, at a minimum:

- (1) Date of agreement;
- (2) Agreement number;
- (3) Description of the commodities under agreement;
- (4) A statement that the seller freely sells and delivers to the buyer listed commodities on which the price is to be established at a later date and the seller pledges the commodities delivered pursuant to the agreement shall be free of any lien or encumbrance;
- (5) A statement that the seller understands that ownership is being transferred to the buyer upon delivery, and that after delivery the seller becomes a creditor of the buyer for the fair market value of the delivered commodities until the price is established and settlement is completed, and if the buyer defaults on the obligation for settlement, the seller may be held as an unsecured creditor of the buyer for the value of the commodities;
- (6) A statement that upon demand of the seller, the buyer is obligated to pay the regular bid price upon the date of demand for the delivered commodities being priced by the seller less any service charge due to the buyer, and the buyer shall pay the same price as the buyer is bidding for like commodities being delivered for sale on that date by other sellers;
- (7) A statement that for services rendered in connection with the agreement the seller shall be liable to the buyer for forward price charges printed on a scale ticket;
- (8) A statement that each scale ticket marked for forward price becomes a part of the agreement between the seller and the buyer; and
- (9) The name, contact information, and signature of the seller and buyer.

Section 4. Temporary Storage Structures.

- (1) To ease demand on approved warehouse space for a single crop year, the department may authorize other storage ~~structures~~**[facilities]** as temporary storage structures by a Kentucky licensed grain warehouse.
- (2) Grain stored in temporary storage structures may be used to cover storage obligations, forward pricing obligations, or otherwise be counted as an asset from the date of authorization until the following March 31. Grain held in temporary storage beginning April 1 shall not count as an asset during a KDA inspection.
- (3) Authorization for temporary storage by the department may be granted if the following conditions are met:
 - (a) Requests for temporary storage shall be in writing and shall receive prior approval of the department before use.
 - (b) The identity of the grain placed in temporary storage shall be preserved by a unique or identifying mark that appears on the receipt.
 - (c) The structure to be used for temporary storage shall meet the following requirements:
 - 1. Have a solid floor;
 - 2. Have rigid self-supporting walls;
 - 3. Provide adequate aeration;
 - 4. Have acceptable covering; and
 - 5. Be fully insured against loss of grain.
 - (d) The warehouse operator shall meet all financial and bonding requirements **established by KRS Chapter 251 and this administrative regulation.**
 - (e) The warehouse operator shall maintain a separate record of all grain stored in a temporary structure and show daily balance as part of the daily position record.

- (f) The warehouse operator shall move the grain in temporary storage by sale or into their department licensed warehouse by:
1. March 31 following initial warehouse licensing for fund covered grain; or
 2. Other **later** dates, as **mutually agreed upon[established]** by the **warehouse operator and the** department.
- (g) Grain stored in temporary storage **may[can]** be considered part of commingled inventory to cover storage or forward pricing obligations.

Section 5. Emergency Storage. Authorization for emergency storage may be granted by the department if the following conditions are met:

- (1) The warehouse operator provides written justification that a need for emergency storage exists for the current crop year in the local area including the exact location, kind of grain to be stored, and the quantity of grain requested to be placed in emergency storage.
- (2) The warehouse operator receives authorization from the Department before using emergency storage space.
- (3) The warehouse operator moves the grain in emergency storage by sale or into their department licensed warehouse by:
 - (a) March 31 following initial warehouse licensing for fund covered grain; or
 - (b) Other **later** dates, as **mutually agreed upon[established]** by the **warehouse operator and the** department.
- (4) Grain held in emergency storage shall not count as an asset for purposed of a KDA inspection.

Section 6. Producer Payment Responsibility.

- (1) For purposes of Kentucky grain insurance fund coverage eligibility, in any grain transaction the entity that is responsible for payment to the producer shall be deemed to be a grain dealer, without regard to intermediaries or transporters.
- (2) For purposes of Kentucky grain insurance fund coverage eligibility, ownership of grain shall be deemed to transfer the first time when that grain is delivered or weighed on a Department-approved scale.
- (3) A claim arising from a transaction that did not conform to the requirements of this section **[6-]** shall not be eligible for Kentucky grain insurance fund coverage.

Section 7. Violation Review and Appeal. All appeals shall be conducted in accordance with KRS **Chapter** 13B.

Section 8. Incorporation by Reference.

- (1) "Application for Grain Dealer/Warehouse License", **September[April]** 2023, is incorporated by reference.
- (2) **This material[These materials]** may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Agriculture, Regulation and Inspection Division, 107 Corporate Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. **This material is also available on the department's Web site at <https://kyagr.com/consumer/grain-licensing-and-regulation.html>.**



KENTUCKY DEPARTMENT OF AGRICULTURE
 Division of Regulation and Inspection
 111 Corporate Dr.
 Frankfort, KY 40601

Phone: (502) 573-0282
 Fax: (502) 573-0303
 TTY: (502) 564-2075
 http://www.kyagr.com

APPLICATION FOR GRAIN DEALER/WAREHOUSE LICENSE
 Grain Program – KRS 251.410 – KRS 251.990
 July 1 to June 30

Application Date _____ Signature _____

- FIRST TIME LICENSED BUSINESS (Never been licensed)
 LICENSE RENEWAL. If previously licensed, indicate license number and name:

Business Information:

Physical Address (911 address, street, or highway)

Business Name: _____
 Address: _____
 City: _____ State _____ Zip _____
 County: _____ E-mail: _____
 Business Phone: (_____) _____ Fax: (_____) _____
 Owner/Operator: _____ Contact: _____

Mailing Address (address specific for business physical location)

- Indicate (x) if the mailing address is same as the physical address. If different, complete the following:

Attention Line: _____
 Mailing Address: _____
 City: _____ State _____ Zip _____

Billing/License Renewal Address

Complete the following if your billing address is different than the business location and/or mailing address.

Billing Name: _____
 Address: _____
 City: _____ State _____ Zip _____
 Business Phone: (_____) _____ Fax: (_____) _____
 Contact: _____ E-mail: _____

LICENSING FEE is based on bushels purchased in the previous year. See Fee Schedule for details. Make checks payable to the KENTUCKY STATE TREASURER. Please return your application, financial statement, and fee to the above address. All facilities need to carry a Letter of Credit, Certificate of Deposit, or a bond. If you are a new licensee, please call the office for assistance.

September 2023

GRAIN LICENSE QUESTIONNAIRE, Page 2.

Applicant is: () ASSOCIATE () CORPORATION
() INDIVIDUAL () PARTNERSHIP

Dollar amount of grain purchased from producers: \$ _____

Total number of bushels purchased last fiscal year: _____ bushels.

First year applicants must give an estimated dollar amount for the amount of grain purchased and an estimated amount for the number of bushels purchased. Renewal applicants must give the amount for the 12 months ending as of the last fiscal year closing.

Do you store grain for others? () YES () NO
Do you buy grain from producers? () YES () NO

Type of business: () COUNTRY ELEVATOR () FARMER DEALER
() FEED MILL () GRAIN PROCESSOR
() SEED DEALER () SUB TERMINAL
() TERMINAL () TRUCKER DEALER

Total Bin Capacity (Bushels): _____

Is grain purchased only in connection with or incidental to some other business? () YES () NO

Do you have a moisture meter? () YES () NO

Do you offer delayed pricing? () YES () NO

Fiscal Year closing date: _____
(Month) (Year)

Are you a Federally licensed facility? () YES () NO

Do you have a Uniform Grain & Rice Storage Agreement (UGRSA)? () YES () NO

This application must be signed by the owner, if an individual; by one of the partners, if a partnership; or by an officer of the corporation, if incorporated, where designated by the "X".

X _____
Signature Date

Manager's Signature Date

You must list names, titles, and addresses of all officers of the business:

President: _____

Secretary: _____

Treasurer: _____

Registered Agent: _____

Manager: _____

Please return your financial statement, application, and fee to the above address with a check made payable to the KENTUCKY STATE TREASURER.

September 2023



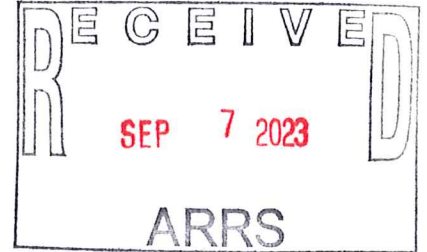
Andy Beshear
GOVERNOR

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

September 6, 2023



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

Re: 907 KAR 1:025. Payment for services provided by an intermediate care facility for individuals with an intellectual disability, a dually-licensed pediatric facility, an institution for mental diseases, or a nursing facility with an all-inclusive rate unit.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 907 KAR 1:025, the Department for Medicaid Services proposes the attached suggested amendment to 907 KAR 1:025.

If you have any questions, please feel free to contact Jonathan Scott, Regulatory and Legislative Advisor with the Department for Medicaid Services at (502) 564-4321 ext. 2015.

Sincerely,

Stacy Carey
Executive Staff Advisor
Office of Legislative and Regulatory Affairs

Final, 9-6-2023

STAFF-SUGGESTED AMENDMENT

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Medicaid Services
Division of Long Term Services and Supports

907 KAR 1:025. Payment for services provided by an intermediate care facility for individuals with an intellectual disability, a dually-licensed pediatric facility, an institution for mental diseases, or a nursing facility with an all-inclusive rate unit.

Page 2

Section 1(6)(a)

Line 19

After "(21);", insert "and".

Page 2

Section 1(6)(b)

Line 20

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

Page 2

Section 1(6)(b) and (c)

Lines 21-22

After "(21); or", insert "2.".
Delete "(c)".

Page 3

Section 1(13)

Line 21

After "administrative regulation,", insert "is not".

Lines 21-22

Immediately following, delete "shall not be".

Page 21

Section 11(2)(b)3.b.

Line 14

After "b.", insert "(i)".

Page 21

Section 11(2)(b)3.b. and c.

Lines 15-16

After "(21); or", insert "(ii)".
Delete "c.".



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

September 11, 2023



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

Re: 907 KAR 1:038. Hearing Program coverage provisions and requirements.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 907 KAR 1:038, the Department for Medicaid Services proposes the attached suggested substitutes to 907 KAR 1:038.

If you have any questions, please feel free to contact Jonathan Scott, Regulatory and Legislative Advisor with the Department for Medicaid Services at (502) 564-4321 ext. 2015.

Sincerely,

Krista Quarles
Policy Specialist
Office of Legislative and Regulatory Affairs

SUGGESTED SUBSTITUTE – ORDINARY ONLY

Final Version: 09/06/23 at 10:01 a.m.

**CABINET FOR HEALTH AND FAMILY SERVICES
Department for Medicaid Services
Division of Health Care Policy**

907 KAR 1:038. Hearing program coverage provisions and requirements.

RELATES TO: KRS 205.520, 205.622, 205.8451(9), 334.010(4), (9), 334A.020(5), 334A.030, 42 C.F.R. 400.203, 438.20, ~~438.20~~ 457.310, 42 U.S.C. 1396a, b, d, 1396r-6

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3)

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services has responsibility to administer the Medicaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed or opportunity presented by federal law to qualify for federal Medicaid funds. This administrative regulation establishes the Medicaid Program provisions and requirements regarding the coverage of audiology services and hearing instruments.

Section 1. Definitions. (1) "Audiologist" is defined by KRS 334A.020(5).

(2) "CPT code" means a code used for reporting procedures and services performed by medical practitioners and published annually by the American Medical Association in Current Procedural Terminology.

(3) "Department" means the Department for Medicaid Services or its designee.

(4) "Enrollee" means a recipient who is enrolled with a managed care organization.

(5) "Federal financial participation" is defined by 42 C.F.R. 400.203.

(6) "Healthcare Common Procedure Coding System" or "HCPCS" means a collection of codes acknowledged by the Centers for Medicare and Medicaid Services (CMS) that represents procedures or items.

(7) "Hearing instrument" is defined by KRS 334.010(4).

(8) "Managed care organization" means an entity for which the Department for Medicaid Services has contracted to serve as a managed care organization as defined by 42 C.F.R. 438.2.

(9) "Medically necessary" or "medical necessity" means that a covered benefit is determined to be needed in accordance with 907 KAR 3:130.

(10) "Recipient" is defined by KRS 205.8451(9).

(11) "Specialist in hearing instruments" is defined by KRS 334.010(9).

Section 2. General Requirements. (1)(a) For the department to reimburse for a service or item, the service or item shall:

1. Be provided:

a. To a recipient[;]

~~[(i)] [Under the age of twenty-one (21) years, including the month in which the recipient becomes twenty-one (21); or]~~

~~[(ii)] [For evaluation and testing services, not limited by age, by an audiologist, only if the recipient has received a referral from a physician]; and~~

b. By a provider who is:

(i) Enrolled in the Medicaid Program pursuant to 907 KAR 1:672;

(ii) Except as **established[provided]** by paragraph (b) of this subsection, currently participating in the Medicaid Program pursuant to 907 KAR 1:671; and

(iii) Authorized to provide the service in accordance with this administrative regulation;

2. Be covered in accordance with this administrative regulation;

3. Be medically necessary; [and]

4. Have a CPT code or HCPCS code that is listed on the most current Kentucky[Department for] Medicaid Audiology[Services Hearing Program] Fee Schedule, posted on the department Web site at: <https://chfs.ky.gov/agencies/dms/Pages/feesrates.aspx>. Any fee schedule posted shall comply with all relevant existing rate methodologies utilized by the department and established by state and federal law. As appropriate and relevant, the department shall utilize the Medicaid Physician Fee Schedule established in 907 KAR 3:010 to inform and populate the Audiology[Hearing Program] Fee Schedule; and

5. Be limited[**Audiology service limits shall be**] as established on the Kentucky Medicaid Audiology Fee Schedule [**as**] available at: <https://www.chfs.ky.gov/agencies/dms/Pages/feesrates.aspx>.

(b) In accordance with 907 KAR 17:015, Section 3(3), a provider of a service to an enrollee shall not be required to be currently participating in the fee-for-service Medicaid Program.

(2)(a) If a procedure is part of a comprehensive service, the department shall:

1. Not reimburse separately for the procedure; and

2. Reimburse one (1) payment representing reimbursement for the entire comprehensive service.

(b) A provider shall not bill the department multiple procedures or procedural codes if one (1) CPT code or HCPCS code is available to appropriately identify the comprehensive service provided.

(3) A provider shall comply with:

(a) 907 KAR 1:671;

(b) 907 KAR 1:672; and

(c) All applicable state and federal laws.

(4)(a) If a provider receives any duplicate payment or overpayment from the department, regardless of reason, the provider shall return the payment to the department.

(b) Failure to return a payment to the department in accordance with paragraph (a) of this subsection may be:

1. Interpreted to be fraud or abuse; and

2. Prosecuted. **A prosecution shall be** in accordance with applicable federal or state law.

(c) Nonduplication of payments and third-party liability shall be in accordance with 907 KAR 1:005.

(d) A provider shall comply with KRS 205.622.

(5)(a) An in-state audiologist shall:

1. Maintain a current, unrevoked, and unsuspended license in accordance with KRS Chapter 334A;

2. Before initially enrolling in the Kentucky Medicaid Program, submit proof of the license **established[referenced]** in subparagraph 1. of this paragraph to the department; and

3. Annually submit proof of the license **established[referenced]** in subparagraph 1. of this paragraph to the department.

(b) An out-of-state audiologist shall:

1. Maintain a current, unrevoked, and unsuspended license to practice audiology in the state in which the audiologist is licensed;

2. Before initially enrolling in the Kentucky Medicaid Program, submit proof of the license **established[referenced]** in subparagraph 1. of this paragraph to the department;

3. Annually submit proof of the license **established[referenced]** in subparagraph 1. of this paragraph to the department;

4. Maintain a Certificate of Clinical Competence issued to the audiologist by the American Speech-Language-Hearing Association; and

5. Before enrolling in the Kentucky Medicaid Program, submit proof of having a Certificate of Clinical Competence issued to the audiologist by the American Speech-Language-Hearing Association.

(c) If an audiologist fails to comply with paragraph (a) or (b) of this subsection, as applicable based on if the audiologist is in-state or out-of-state, the:

1. Audiologist shall be ineligible to be a Kentucky Medicaid Program provider; and

2. Department shall not reimburse for any service or item provided by the audiologist effective with the date the audiologist fails or failed to comply.

(6)(a) An in-state specialist in hearing instruments shall:

1. Maintain a current, unrevoked, and unsuspended license issued by the Kentucky Licensing Board for Specialists in Hearing Instruments;

2. Before initially enrolling in the Kentucky Medicaid Program, submit proof of the license **established[referenced]** in subparagraph 1. of this paragraph to the department;

3. Annually submit proof of the license **established[referenced]** in subparagraph 1. of this paragraph to the department;

4. Maintain a Certificate of Clinical Competence issued to the specialist in hearing instruments by the American Speech-Language-Hearing Association; and

5. Before enrolling in the Kentucky Medicaid Program, submit proof of having a Certificate of Clinical Competence issued to the specialist in hearing instruments by the American Speech-Language-Hearing Association.

(b) An out-of-state specialist in hearing instruments shall:

1. Maintain a current, unrevoked, and unsuspended license issued by the licensing board with jurisdiction over specialists in hearing instruments in the state in which the license is held;

2. Before initially enrolling in the Kentucky Medicaid Program, submit proof of the license referenced in subparagraph 1. of this paragraph to the department;

3. Annually submit proof of the license referenced in subparagraph 1 of this paragraph to the department;

4. Maintain a Certificate of Clinical Competence issued to the specialist in hearing instruments by the American Speech-Language-Hearing Association; and

5. Before enrolling in the Kentucky Medicaid Program, submit proof of having a Certificate of Clinical Competence issued to the specialist in hearing instruments by the American Speech-Language-Hearing Association.

(c) If a specialist in hearing instruments fails to comply with paragraph (a) or (b) of this subsection, as applicable based on if the specialist in hearing instruments is in-state or out-of-state, the:

1. Specialist in hearing instruments shall be ineligible to be a Kentucky Medicaid Program provider; and

2. Department shall not reimburse for any service or item provided by the specialist in hearing instruments effective with the date the specialist in hearing instruments fails or failed to comply.

Section 3. Audiology Services. (1) Audiology service coverage shall be limited to one (1) complete hearing evaluation per calendar year.

(2) Unless a recipient's health care provider demonstrates, and the department agrees, that an additional hearing instrument evaluation is medically necessary, a hearing instrument evaluation shall:

(a) Include three (3) follow-up visits, which shall be:

1. Within the six (6) month period immediately following the fitting of a hearing instrument; and

2. Related to the proper fit and adjustment of the hearing instrument; and
- (b) Include one (1) additional follow-up visit, which shall be:
 1. At least six (6) months following the fitting of the hearing instrument; and
 2. Related to the proper fit and adjustment of the hearing instrument.
- (3)(a) A referral by a physician to an audiologist shall be required for an audiology service.
 - (b) The department shall not cover an audiology service if a referral from a physician to the audiologist was not made.
 - (c) An office visit with a physician shall not be required prior to the referral to the audiologist for the audiology service.

Section 4. Hearing Instrument Coverage. (1) Hearing instrument benefit coverage shall:

- (a)~~[(1)]~~ [If the benefit is a hearing instrument model,] Be for a hearing instrument model that is:
 - 1.~~[(a)]~~ Recommended by an audiologist licensed pursuant to KRS 334A.030; and
 - 2.~~[(b)]~~ Available through a Medicaid-participating specialist in hearing instruments; and
- (b)~~[(2)]~~ Except as **established**~~[(2)]~~ **provided** by Section 5(3) of this administrative regulation, not exceed ~~[\$1,200]~~~~[\$800]~~ per ear every thirty-six (36) months.
- (2) Hearing instrument coverage may include the replacement or upgrading of a hearing instrument battery if the upgrade is cost-effective or extends the service life of the hearing instrument.

Section 5. Replacement of a Hearing Instrument. (1) The department shall reimburse for the replacement of a hearing instrument if:

- (a) A loss of the hearing instrument necessitates replacement;
- (b) Extensive damage has occurred necessitating replacement;
- (c) Medical necessity demonstrates that new or improved technology would significantly increase hearing; or
- (d)~~[(e)]~~ A medical condition necessitates the replacement of the previously prescribed hearing instrument in order to accommodate a change in hearing loss.
- (2) If replacement of a hearing instrument is necessary within twelve (12) months of the original fitting, the replacement hearing instrument shall be fitted upon the signed and dated recommendation from an audiologist.
- (3) If replacement of a hearing instrument becomes necessary beyond twelve (12) months from the original fitting:
 - (a) The recipient shall be examined by a physician with a referral to an audiologist; and
 - (b) The recipient's hearing loss shall be re-evaluated by an audiologist.

Section 6. Noncovered services. The department shall not reimburse for:

- (1) A routine screening of ~~a~~~~[an individual or]~~ group of individuals for identification of a hearing problem;
- (2) Hearing therapy except as covered through the six (6) month adjustment counseling following the fitting of a hearing instrument;
- (3) Lip reading instructions except as covered through the six (6) month adjustment counseling following the fitting of a hearing instrument;
- (4) A service for which the recipient has no obligation to pay and for which no other person has a legal obligation to provide or to make payment;
- (5) A telephone call;
- (6) A service associated with investigational research; or

(7) A replacement of a hearing instrument for the purpose of incorporating a recent improvement or innovation unless the replacement results in appreciable improvement in the recipient's hearing ability as determined by an audiologist.

Section 7. Equipment. (1) Equipment used in the performance of a test shall meet the current standards and specifications established by the American National Standards Institute.

(2)(a) A provider shall ensure that any audiometer used by the provider or provider's staff shall:

1. Be checked at least once per year to ensure proper functioning; and
2. Function properly.

(b) A provider shall:

1. Maintain proof of calibration and any repair, if any repair occurs; and
2. Make the proof of calibration and repair, if any repair occurs, available for departmental review upon the department's request.

Section 8. Service and equipment limits may be exceeded by prior authorization for children under **twenty-one (21)[21]** if medically necessary.

Section 9. Federal Approval and Federal Financial Participation. The department's coverage of services pursuant to this administrative regulation shall be contingent upon:

- (1) Receipt of federal financial participation for the coverage; and
- (2) Centers for Medicare and Medicaid Services' approval for the coverage.

Section 10.~~[Section 9.]~~ Appeal Rights. An appeal of a negative action regarding a Medicaid recipient who is:

- (1) Enrolled with a managed care organization shall be in accordance with 907 KAR 17:010; or
- (2) Not enrolled with a managed care organization shall be in accordance with 907 KAR 1:563.

Section 11. Incorporation by Reference.

(1) "KY Medicaid Audiology Fee Schedule", April 2023, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law:

(a) At the Department for Medicaid Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.; or

(b) Online at the department's Web site located at <https://www.chfs.ky.gov/agencies/dms/Pages/feesrates.aspx>.

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



Agency

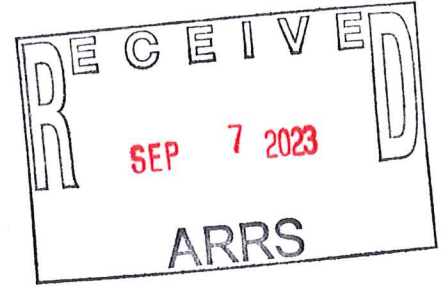
Andy Beshear
GOVERNOR

CABINET FOR HEALTH AND FAMILY SERVICES

Eric Friedlander
SECRETARY

275 East Main Street, 5W-A
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Phone: (502) 564-7042
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September 6, 2023



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

Re: 907 KAR 1:126. Dental services' coverage provisions and requirements.

Dear Regulations Compiler:

After discussions with various stakeholders of the issues raised by 907 KAR 1:126, the Department for Medicaid Services proposes the attached agency amendment to 907 KAR 1:126.

If you have any questions, please feel free to contact Jonathan Scott, Regulatory and Legislative Advisor with the Department for Medicaid Services at (502) 564-4321 ext. 2015.

Sincerely,

Stacy Carey
Executive Staff Advisor
Office of Legislative and Regulatory Affairs

9/5/2023
Agency Amendment
CABINET FOR HEALTH AND FAMILY SERVICES
Department for Medicaid Services
Division of Health Care Policy

907 KAR 1:126. Dental services' coverage provisions and requirements.

Page 9

Section 6(1)(c)1.

Lines 15-16

After "1.", delete the following:

"A limited oral evaluation for trauma related injuries;
2."

Page 9

Section 6(1)(c)

Line 17

Before "3." Insert "2."

Delete "3."

Page 9

Section 6(1)(c)

Line 18

Before "4." Insert "3."

Delete "4."

Page 9

Section 6(1)(c)

Line 19

Before "5." Insert "4."

Delete "5."

Page 9

Section 6(1)(c)

Line 20

Before "6." Insert "5."

Delete "6."

Page 9

Section 6(1)(c)

Line 21

Before "7." Insert "6."

Delete "7."

Page 9

Section 6(1)(c)

Line 22

Before "8." Insert "7."
Delete "8."

Page 9

Section 6(1)(c)

Line 23

Before "9." Insert "8."
Delete "9."

Page 10

Section 6(1)(c)

Line 1

Before "10." Insert "9."
Delete "10."

Page 10

Section 6(1)(c)

Line 2

Before "11." Insert "10."
Delete "11."

Page 10

Section 6(2)

Line 3

After "(2)(a)" delete:

Coverage for a limited oral evaluation shall:

1. Be limited to a trauma related injury or acute infection; and
 2. Be limited to one (1) per date of service, per recipient, per provider.
- (b) A limited oral evaluation shall not be covered in conjunction with

another service except for:

1. A periapical X-ray;
2. A bitewing X-ray;
3. A panoramic X-ray;
4. Resin, anterior;
5. A simple or surgical extraction;
6. Surgical removal of a residual tooth root;
7. Removal of a foreign body;
8. Suture of a recent small wound;
9. Intravenous sedation; or
10. Incision and drainage of infection.

(3)(a).



Andy Beshear
GOVERNOR

CABINET FOR HEALTH AND FAMILY SERVICES

Eric Friedlander
SECRETARY

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Frankfort, Kentucky 40621
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September 11, 2023

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

Re: 907 KAR 1:126. Dental services' coverage provisions and requirements.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 907 KAR 1:126, the Department for Medicaid Services proposes the attached suggested substitute to 907 KAR 1:126.

If you have any questions, please feel free to contact Jonathan Scott, Regulatory and Legislative Advisor with the Department for Medicaid Services at (502) 564-4321 ext. 2015.

Sincerely,

Executive Staff Advisor
Office of Legislative and Regulatory Affairs

SUGGESTED SUBSTITUTE – ORDINARY ONLY

Final Version: 08/28/23 at 9:42 a.m.

907 KAR 1:126. Dental services' coverage provisions and requirements.

RELATES TO: KRS 205.520, 205.622, 205.8451, 313.010, 313.040, 369.102(8), 369.101 ~~–[to]~~ 369.120, 415.152, 42 C.F.R. 400.203, 415.170, 415.172, 415.174, 438.2, 45 C.F.R. ~~[Parts]~~160, 164, 42 U.S.C. 1320d, 1396a-d

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3)

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, has the responsibility to administer the Medicaid program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed or opportunity presented by federal law to qualify for federal Medicaid funds. This administrative regulation establishes the Kentucky Medicaid program provisions and requirements regarding the coverage of dental services.

Section 1. Definitions.

- (1) "Comprehensive orthodontic" means a medically necessary dental service for treatment of a dentofacial malocclusion ~~that~~~~[which]~~ requires the application of braces for correction.
- (2) "Current Dental Terminology" or "CDT" means a publication by the American Dental Association of codes used to report dental procedures or services.
- (3) "Debridement" means a preliminary procedure that:
 - (a) Entails the gross removal of plaque and calculus that interfere with the ability of a dentist to perform a comprehensive oral evaluation;
 - (b) Does not preclude the need for further procedures; and
 - (c) Is separate from a regular cleaning and is usually a preliminary or first treatment when an individual has developed very heavy plaque or calculus.
- (4) "Department" means the Department for Medicaid Services or its designee.
- (5) "Direct practitioner interaction" means the billing dentist or oral surgeon is physically present with and evaluates, examines, treats, or diagnoses the recipient, unless the service can be appropriately performed via telehealth pursuant to 907 KAR 3:170.
- (6) "Disabling malocclusion" means a condition that meets the criteria established in Section ~~14(9)~~~~[13(7)]~~ of this administrative regulation.
- (7) "Electronic signature" is defined by KRS 369.102(8).
- (8) "Federal financial participation" is defined by 42 C.F.R. 400.203.
- (9) "Implant" means a medical device that is surgically implanted into the jaw to restore a person's ability to chew or appearance. An implant provides support for artificial teeth including a crown, a bridge, or dentures.
- (10) "Incidental" means that a medical procedure:
 - (a) Is performed at the same time as a primary procedure; and
 - (b)
 1. Requires little additional practitioner resources; or
 2. Is clinically integral to the performance of the primary procedure.
- (11) "Integral" means that a medical procedure represents a component of a more complex procedure performed at the same time.
- (12) "Locum tenens dentist" means a substitute dentist:

- (a) Who temporarily assumes responsibility for the professional practice of a dentist participating in the Kentucky Medicaid Program; and
- (b) Whose services are paid under the participating dentist's provider number.
- (13) "Managed care organization" means an entity for which the Department for Medicaid Services has contracted to serve as a managed care organization as defined by 42 C.F.R. 438.2.
- (14) "Medically necessary" or "medical necessity" means that a covered benefit is determined to be needed in accordance with 907 KAR 3:130.
- (15) "Mutually exclusive" means that two (2) procedures:
 - (a) Are not reasonably performed in conjunction with one (1) another during the same patient encounter on the same date of service;
 - (b) Represent two (2) methods of performing the same procedure;
 - (c) Represent medically impossible or improbable use of CDT codes; or
 - (d) Are described in CDT as inappropriate coding of procedure combinations.
- (16) "Other licensed medical professional" or "OLMP" means a health care provider, other than a dentist, who has been approved to practice a medical specialty by the appropriate licensure board.
- (17) "Prepayment review" or "PPR" means a departmental review of a claim regarding a recipient who is not enrolled with a managed care organization to determine if the requirements of this administrative regulation have been met prior to authorizing payment.
- (18) "Prior authorization" or "PA" means approval that a provider shall obtain from the department before being reimbursed for a covered service.
- (19) "Provider" is defined by KRS 205.8451(7).
- (20) "Public health hygienist" means an individual who:
 - (a) Is a "dental hygienist" as defined by KRS 313.010(6);
 - (b) Meets the public health hygienist requirements established in KRS 313.040(8);
 - (c) Meets the requirements for a public health registered dental hygienist established in 201 KAR 8:562; and
 - (d) Is employed by or through:
 - 1. The Department for Public Health; or
 - 2. A governing board of health.
- (21) "Recipient" is defined by KRS 205.8451(9).
- (22) "Resident" is defined by 42 C.F.R. 415.152.
- (23) "Timely filing" means receipt of a claim by Medicaid:
 - (a) Within twelve (12) months of the date the service was provided;
 - (b) Within twelve (12) months of the date retroactive eligibility was established; or
 - (c) Within six (6) months of the Medicare adjudication date if the service was billed to Medicare.

Section 2. Conditions of Participation.

- (1) A participating provider shall:
 - (a) Be licensed as a provider in the state in which the practice is located;
 - (b) Comply with the terms and conditions established in ~~[the following administrative regulations]~~:
 - 1. 907 KAR 1:005;
 - 2. 907 KAR 1:671; and
 - 3. 907 KAR 1:672;
 - (c) Comply with the requirements to maintain the confidentiality of personal medical records pursuant to 42 U.S.C. 1320d and 45 C.F.R. Parts 160 and 164;
 - (d) Comply with all applicable state and federal laws; and

(e) Meet all applicable medical and dental standards of practice.

(2)

(a) A participating provider shall:

1. Have the freedom to choose whether ***or not*** to accept an eligible Medicaid recipient; and
2. Notify the recipient of the decision prior to the delivery of service.

(b) If the provider accepts the recipient, the provider:

1. Shall bill Medicaid rather than the recipient for a covered service;
2. May bill the recipient for a service not covered by Kentucky Medicaid, if the provider informed the recipient of noncoverage prior to providing the service; and
3. Shall not bill the recipient for a service that is denied by the department for:
 - a. Being:
 - (i) Incidental;
 - (ii) Integral; or
 - (iii) Mutually exclusive;
 - b. Incorrect billing procedures, including incorrect bundling of procedures;
 - c. Failure to obtain prior authorization for the service; or
 - d. Failure to meet timely filing requirements.

(3)

(a) In accordance with 907 KAR 17:015, Section 3(3), a provider of a service to an enrollee shall not be required to be currently participating in the fee-for-service Medicaid program.

(b) A provider of a service to an enrollee shall be enrolled in the Medicaid program.

(4)

(a) If a provider receives any duplicate or overpayment from the department or managed care organization, regardless of reason, the provider shall return the payment to the department or managed care organization.

(b) Failure to return a payment to the department or managed care organization in accordance with paragraph (a) of this subsection may be:

1. Interpreted to be fraud or abuse; and
2. Prosecuted in accordance with applicable federal or state law.

(c) Nonduplication of payments and third-party liability shall be in accordance with 907 KAR 1:005.

(d) A provider shall comply with KRS 205.622.

Section 3. DMS Activities in Response to Federal Approval.

(1) The department shall negotiate the dental program with the federal government consistent with 42 U.S.C. 1396a.

(2) The department shall seek official federal approval when implementing new covered services. New covered services may be received via approved state plan amendments with the federal government or via other reliable methods of receiving federal approval.

Section 4. Record Maintenance.

(1)

(a) A provider shall maintain comprehensive legible medical records that substantiate the services billed.

(b) A dental record shall be considered a medical record.

(2) A medical record shall be signed on the date of service by the:

- (a) Provider; or
- (b) Other practitioner authorized to provide the service in accordance with:

1. KRS 313.040; and
 2. 201 KAR ~~Chapter 8~~**[8:562]**.
- (3) An X-ray shall be:
- (a) Of diagnostic quality; and
 - (b) Maintained in a manner that identifies the:
 1. Recipient's name;
 2. Service date; and
 3. Provider's name.
- (4) A treatment regimen shall be documented to include:
- (a) Diagnosis;
 - (b) Treatment plan;
 - (c) Treatment and follow-up; and
 - (d) Medical necessity.
- (5) Medical records, including X-rays, shall be maintained in accordance with 907 KAR 1:672.

Section 5. General and Certain Service Coverage Requirements.

- (1) A covered service shall be:
- (a) Medically necessary; and
 - (b) Except as **established**~~[provided]~~ in subsection (2) of this section, **provided**~~[furnished]~~ to a recipient through direct practitioner interaction.
- (2) A covered service provided by another licensed medical professional (OLMP) shall be covered if the:
- (a) OLMP is employed by the supervising oral surgeon, dentist, or dental group;
 - (b) OLMP is licensed in the state of practice; and
 - (c) Supervising provider has direct practitioner interaction with the recipient, except for a service provided by a dental hygienist if the dental hygienist provides the service under general supervision of a practitioner in accordance with KRS 313.040.
- (3)
- (a) A medical resident may provide and the department shall cover services if provided under the direction of a program participating teaching physician in accordance with 42 C.F.R. 415.170, 415.172, and 415.174.
 - (b) A dental resident, student, or dental hygiene student may provide and the department shall cover services under the direction or supervision of a program participating provider in or affiliated with an American Dental Association accredited institution.
- (4) Services provided by a locum tenens dentist shall be covered:
- (a) If the locum tenens dentist:
 1. Has a national provider identifier (NPI) and provides the NPI to the department;
 2. Does not have a pending criminal or civil investigation regarding the provision of services;
 3. Is not subject to a formal disciplinary sanction from the Kentucky Board of Dentistry; and
 4. Is not subject to any federal or state sanction or penalty that would bar the dentist from Medicare or Medicaid participation; and
 - (b) For no more than sixty (60) continuous days.
- (5) Preventative services provided by a public health hygienist shall be covered.
- (6) The department shall cover the oral pathology procedures listed on the Kentucky Medicaid Dental Fee Schedule if provided by an oral pathologist who meets the condition of participation requirements established in Section 2 of this administrative regulation.
- (7) Coverage shall be limited to the procedures or services:

- (a) Identified and established on the Kentucky Medicaid Dental Fee Schedule as available at: <https://www.chfs.ky.gov/agencies/dms/Pages/feesrates.aspx>; or
 - (b) Established in this administrative regulation.
- (8) The department shall not cover a service provided by a provider or practitioner that exceeds the scope of services established for the provider or practitioner in:
- (a) Kentucky Revised Statutes;
 - (b) Kentucky administrative regulations; or
 - (c) As established on the Kentucky Medicaid Dental Fee Schedule **[as]**available at: <https://www.chfs.ky.gov/agencies/dms/Pages/feesrates.aspx>.
- (9) The department shall not reimburse for services under this administrative regulation that are only cosmetic in nature.

Section 6. Diagnostic Service Coverage Limitations.

(1)

- (a) Except as **established****[provided]** in paragraph (b) of this subsection, coverage for a comprehensive oral evaluation shall be limited to one (1) per twelve (12) month period, per recipient, per provider.
- (b) The department shall cover a second comprehensive oral evaluation if the evaluation is provided in conjunction with a prophylaxis.
- (c) A comprehensive oral evaluation shall not be covered in conjunction with **the following**:
 1. A limited oral evaluation for **trauma-related****[trauma-related]** injuries;
 2. A space maintainer;
 3. Denture relining;
 4. A transitional appliance;
 5. A prosthodontic service;
 6. Temporomandibular joint therapy;
 7. An orthodontic service;
 8. Palliative treatment;
 9. An extended care facility call;
 10. A house call; or
 11. A hospital call.

(2)

- (a) Coverage for a limited oral evaluation shall **be limited to**:
 1. ~~**Be limited to**~~A trauma related injury or acute infection; and
 2. ~~**Be limited to**~~One (1) per date of service, per recipient, per provider.
- (b) A limited oral evaluation shall not be covered in conjunction with another service except for:
 1. A periapical X-ray;
 2. A bitewing X-ray;
 3. A panoramic X-ray;
 4. Resin, anterior;
 5. A simple or surgical extraction;
 6. Surgical removal of a residual tooth root;
 7. Removal of a foreign body;
 8. Suture of a recent small wound;
 9. Intravenous sedation; or
 10. Incision and drainage of infection.

(3)

(a) Except as **established[provided]** in paragraph (b) of this subsection, the following limitations shall apply to coverage of a radiograph service:

1. Bitewing X-rays shall be limited to four (4) per twelve (12) month period, per recipient, per provider;
2. Periapical X-rays shall be limited to fourteen (14) per twelve (12) month period, per recipient, per provider;
3. An intraoral complete X-ray series shall be limited to one (1) per twenty-four (24) month period, per recipient, per provider;
4. Periapical and bitewing X-rays shall not be covered in the same twelve (12) month period as an intraoral complete X-ray series per recipient, per provider;
5. A panoramic film shall:
 - a. Be limited to one (1) per twenty-four (24) month period, per recipient, per provider; and
 - b. Require prior authorization in accordance with Section 15(1) **through[~~-(2), and~~]** (3) of this administrative regulation for a recipient under the age of six (6) years;
6. A cephalometric film shall be limited to one (1) per twenty-four (24) month period, per recipient, per provider; or
7. A cephalometric and panoramic X-ray shall not be covered separately in conjunction with a comprehensive orthodontic consultation.

(b) The limits established in paragraph (a) of this subsection shall not apply to **an x-ray**:

1. **[An X-ray]** Necessary for a root canal or oral surgical procedure; or
2. **[An X-ray]** That:
 - a. Exceeds the established service limitations; and
 - b. Is determined by the department to be medically necessary.

Section 7. Preventive Service Coverage Limitations.

(1)

- (a) Coverage of a prophylaxis shall be limited to one (1) per six (6) month period, per recipient.
- (b) A prophylaxis shall not be covered in conjunction with periodontal scaling or root planing.

(2)

- (a) Coverage of a sealant shall be limited to:
 1. Each six (6) and twelve (12) year molar once every four (4) years with a lifetime limit of three (3) sealants per tooth, per recipient; and
 2. An occlusal surface that is noncavitated.
- (b) A sealant shall not be covered in conjunction with a restorative procedure for the same tooth on the same surface on the same date of service.

(3)

- (a) Coverage of a space maintainer shall require the following:
 1. Fabrication;
 2. Insertion;
 3. Follow-up visits;
 4. Adjustments; and
 5. Documentation in the recipient's medical record to:
 - a. Substantiate the use for maintenance of existing interdental space; and
 - b. Support the diagnosis and a plan of treatment that includes follow-up visits.
- (b) The date of service for a space maintainer shall be considered to be the date the appliance is placed on the recipient.

(c) Coverage of a space maintainer, an appliance therapy specified in the CDT orthodontic category, or a combination of the two (2) shall not exceed two (2) per twelve (12) month period, per recipient.

Section 8. Restorative Service Coverage Limitations.

- (1) A four (4) or more surface resin-based anterior composite procedure shall not be covered if performed for the purpose of cosmetic bonding or veneering.
- (2) Coverage of a prefabricated crown shall include any procedure performed for restoration of the same tooth.
- (3) Coverage of a pin retention procedure shall be limited to:
 - (a) A permanent molar;
 - (b) One (1) per tooth, per date of service, per recipient; and
 - (c) Two (2) per permanent molar, per recipient.
- (4) Coverage of a restorative procedure performed in conjunction with a pin retention procedure shall be limited to one (1) of the following:
 - (a) An appropriate medically necessary restorative material encompassing three (3) or more surfaces;
 - (b) A permanent prefabricated resin crown; or
 - (c) A prefabricated stainless-steel crown.

Section 9. Endodontic Service Coverage Limitations.

- (1) A therapeutic pulpotomy shall not be covered if performed in conjunction with root canal therapy.
- (2)
 - (a) Coverage of root canal therapy shall require:
 1. Treatment of the entire tooth;
 2. Completion of the therapy; and
 3. An X-ray taken before and after completion of the therapy.
 - (b) The following root canal therapy shall not be covered:
 1. The Sargenti method of root canal treatment; or
 2. A root canal that does not treat all root canals on a multi-rooted tooth.

Section 10. Periodontic Service Coverage Limitations.

- (1) Coverage of a gingivectomy or gingivoplasty procedure shall require prepayment review and shall be limited to:
 - (a) A recipient with gingival overgrowth due to a:
 1. Congenital condition;
 2. Hereditary condition; or
 3. Drug-induced condition; and
 - (b) One (1) per tooth or per quadrant, per provider, per recipient per twelve (12) month period.
- (2) Coverage of a gingivectomy or gingivoplasty procedure shall require documentation in the recipient's medical record that includes:
 - (a) Pocket-depth measurements;
 - (b) A history of nonsurgical services; and
 - (c) A prognosis.
- (3) Coverage for a periodontal scaling and root planing procedure shall:
 - (a) Not exceed one (1) per quadrant, per twelve (12) months, per recipient, per provider;
 - (b) Require prior authorization in accordance with Section 15(1), (2), and (4) of this administrative regulation; and
 - (c) Require documentation to include:

1. A periapical film or bitewing X-ray;
 2. Periodontal charting of preoperative pocket depths; and
 3. A photograph, if applicable.
- (4) Periodontal scaling and root planing shall not be covered if performed in conjunction with dental prophylaxis.

Section 11. Prosthodontic Service Coverage Limitations.

- (1) A denture repair in the following categories shall not exceed three (3) repairs per twelve (12) month period, per recipient:
- (a) Repair resin denture base; or
 - (b) Repair cast framework.
- (2) Coverage for the following services shall not exceed one (1) per twelve (12) month period, per recipient:
- (a) Replacement of a broken tooth on a denture;
 - (b) Laboratory relining of:
 1. Maxillary dentures; or
 2. Mandibular dentures;
 - (c) An interim maxillary partial denture; or
 - (d) An interim mandibular partial denture.
- (3) An interim maxillary or mandibular partial denture shall be limited to use:
- (a) During a transition period from a primary dentition to a permanent dentition;
 - (b) For space maintenance or space management; or
 - (c) As interceptive or preventive orthodontics.

Section 12. Maxillofacial Prosthetic Service Coverage Limitations. The following services shall be covered if provided by a board eligible or board-certified prosthodontist:

- (1) A nasal prosthesis;
- (2) An auricular prosthesis;
- (3) A facial prosthesis;
- (4) A mandibular resection prosthesis;
- (5) A pediatric speech aid;
- (6) An adult speech aid;
- (7) A palatal augmentation prosthesis;
- (8) A palatal lift prosthesis;
- (9) An oral surgical splint; or
- (10) An unspecified maxillofacial prosthetic.

Section 13. Oral and Maxillofacial Service Coverage Limitations.

- (1) The simple use of a dental elevator shall not constitute a surgical extraction.
- (2) Root removal shall not be covered on the same date of service as the extraction of the same tooth.
- (3) Coverage of surgical access of an unerupted tooth shall:
 - (a) Be limited to exposure of the tooth for orthodontic treatment; and
 - (b) Require prepayment review.
- (4) Coverage of alveoplasty shall:
 - (a) Be limited to one (1) per quadrant, per lifetime, per recipient; and
 - (b) Require a minimum of a four (4) tooth area within the same quadrant.
- (5) An occlusal orthotic device shall:

- (a) Be covered for temporomandibular joint therapy;
 - (b) Require prior authorization in accordance with Section 15(1), (2), and (5) of this administrative regulation; and
 - (c) Be limited to one (1) per lifetime, per recipient.
- (6) Frenulectomy shall be limited to two (2) per date of service.
- (7) Coverage shall be limited to one (1) per lifetime, per recipient, for removal of ~~the following~~:
- (a) Torus palatinus (maxillary arch);
 - (b) Torus mandibularis (lower left quadrant); or
 - (c) Torus mandibularis (lower right quadrant).

Section 14. Orthodontic Service Coverage Limitations.

- (1) Coverage of an orthodontic service shall require prior authorization except as established in Section 15(1)(b) of this administrative regulation.
- (2) The combination of space maintainers and appliance therapy shall be limited to two (2) per twelve (12) month period, per recipient.
- (3) Space maintainers and appliance therapy shall not be covered in conjunction with comprehensive orthodontics.
- (4) Orthodontic braces shall be limited to recipients under the age of twenty-one (21) years.
- (5) Space maintainers shall be allowed for adults ~~if~~ **when**:
- (a) There has been an extraction or lost tooth;
 - (b) A permanent tooth is waiting for a partial;
 - (c) In preparation for an implant, if an implant is medically necessary and approved;
 - (d) A third molar is partially erupted; or
 - (e) There is a congenitally missing tooth.
- (6) The department shall only cover new orthodontic brackets or appliances.
- (7) An appliance for minor tooth guidance shall not be covered for the control of harmful habits.
- (8) In addition to the **prior authorization requirement** ~~limitations specified~~ in subsection (1) of this section, a comprehensive orthodontic service shall:
- (a) Require a referral by a dentist; and
 - (b) Be limited to the correction of a disabling malocclusion for transitional, full permanent dentition, or treatment of a cleft palate or severe facial anomaly.
- (9) A disabling malocclusion shall:
- (a) Exist if a patient:
 1. Exhibits a severe overbite encompassing one (1) or more teeth in palatal impingement diagnosed by a lingual view of orthodontic models (stone or digital) showing palatal soft tissue contact;
 2. Exhibits a true anterior open bite:
 - a. Either skeletal or habitual in nature that if left untreated will result in:
 - (i) The open bite persisting; or
 - (ii) A medically documented speech impediment; and
 - b. That does not include:
 - (i) One (1) or two (2) teeth slightly out of occlusion; or
 - (ii) ~~If~~ **Where** the incisors have not fully erupted;
 3. Demonstrates a significant antero-posterior discrepancy (Class II or III malocclusion that is comparable to at least one (1) full tooth Class II or III):
 - a. Dental or skeletal; and

- b. If skeletal, requires a traced cephalometric radiograph supporting significant skeletal malocclusion;
 - 4. Has an anterior crossbite that involves:
 - a. More than two (2) teeth within the same arch; or
 - b. A single tooth crossbite if there is evident detrimental changes in supporting tissues including:
 - (i) Obvious gingival stripping; or
 - (ii) A functional shift of the mandible or severe dental attrition for an individual under the age of twelve (12) years; or
 - c. An edge-to-edge crossbite if there is severe dental attrition due to a traumatic occlusion;
 - 5. Demonstrates a handicapping posterior transverse discrepancy that:
 - a. May include several teeth, one (1) of which shall be a molar; and
 - b. Is handicapping in a function fashion as follows:
 - (i) Functional shift;
 - (ii) Facial asymmetry; or
 - (iii) A complete buccal or lingual crossbite;
 - 6. Demonstrates a medically documented speech pathology resulting from the malocclusion;
 - 7. Demonstrates a significant posterior open bite that does not involve:
 - a. Partially erupted teeth; or
 - b. One (1) or two (2) teeth slightly out of occlusion;
 - 8. Except for third molars, demonstrates an impacted tooth that:
 - a. Will not erupt into the arch without orthodontic or surgical intervention; and
 - b.
 - (i) Shows a documented pathology; or
 - (ii) Poses a significant threat to the integrity of the remaining dentition or to the health of the patient;
 - 9. Has an extreme overjet in excess of eight (8) millimeters and one (1) of the skeletal conditions ***established[specified]*** in subparagraphs 1 through 8 of this paragraph;
 - 10. Has trauma or injury resulting in severe misalignment of the teeth or alveolar structures and does not include simple loss of teeth with no other affects;
 - 11. Has a congenital or developmental disorder giving rise to a handicapping malocclusion;
 - 12. Has a significant facial discrepancy requiring a combined orthodontic and orthognathic surgery treatment approach; or
 - 13. Has developmental anodontia in which several congenitally missing teeth result in a handicapping malocclusion or arch deformation; and
- (b) Not include:
- 1. One (1) or two (2) teeth being slightly out of occlusion;
 - 2. Incisors not having fully erupted; or
 - 3. A bimaxillary protrusion.
- (10) Coverage of comprehensive orthodontic treatment shall not include orthognathic surgery.
- (11) If comprehensive orthodontic treatment is discontinued prior to completion, the provider shall submit to the department:
- (a) Documentation of the referral ***established[referenced]*** in subsection (8)(a) of this section; and
 - (b) A letter ***stating[detailing]***:
 - 1. Treatment provided, including dates of service;
 - 2. Current treatment status of the patient; and
 - 3. Charges for the treatment provided.

(12) Remaining portions of comprehensive orthodontic treatment may be authorized for prorated coverage upon compliance with the prior authorization requirements ***established[specified]*** in Section 15(1), (2), and (7) of this administrative regulation if treatment:

- (a) Is transferred to another provider; or
- (b) Began prior to Medicaid eligibility.

Section 15. Adjunctive General Service Coverage Limitations.

(1)

- (a) Coverage of palliative treatment for dental pain shall be limited to one (1) per date of service, per recipient, per provider.
- (b) Palliative treatment for dental pain shall not be covered in conjunction with another service except for a radiograph.

(2)

- (a) Coverage of a hospital or ambulatory surgical center call or extended care facility call shall be limited to one (1) per date of service, per recipient, per provider.
- (b) A hospital call, ambulatory surgical center call, or extended care facility call shall not be covered in conjunction with:
 - 1. Limited oral evaluation; or
 - 2. Comprehensive oral evaluation.

(3) Intravenous sedation shall not be covered for local anesthesia or nitrous oxide.

Section 16. Implant Policy.

(1) Implants shall meet the medical necessity criteria and be used to stabilize a retaining prosthetic device.

(2) Implants shall be limited to no more than:

- (a) For an individual who has lost all of their natural teeth, a total of ten (10) but with a limit of five (5) for each arch; and
- (b) For an individual who retains some natural teeth, a limit of eight (8) for replacement of individual teeth of for a larger restorative purpose such as a bridge that spans three (3) or more teeth.

Section 17. Prior Authorization.

(1)

- (a) The prior authorization requirements established in this administrative regulation shall apply to services for a recipient who is not enrolled with a managed care organization.
- (b) A managed care organization shall not be required to apply the prior authorization requirements established in this administrative regulation for a recipient who is enrolled with the managed care organization.
- (c) Prior authorization shall be required for ***[the following]***:
 - 1. A panoramic film for a recipient under the age of six (6) years;
 - 2. Periodontal scaling and root planing;
 - 3. An occlusal orthotic device;
 - 4. A preorthodontic treatment visit;
 - 5. Removable appliance therapy;
 - 6. Fixed appliance therapy;
 - 7. A comprehensive orthodontic service; or
 - 8. An implant.

- (2) Limits may also be exceeded by prior authorization for children under the age of twenty-one (21) if medically necessary.
- (3) A provider shall request prior authorization by submitting the following information to the department:
- (a) A MAP 9, Prior Authorization for Health Services;
 - (b) Additional forms or information as **established[specified]** in subsections (3) through (8) of this section; and
 - (c) Additional information required to establish medical necessity if requested by the department.
- (4) A request for prior authorization of a panoramic film shall include a letter of medical necessity.
- (5) A request for prior authorization of periodontal scaling and root planing shall include periodontal charting of preoperative pocket depths.
- (6) A request for prior authorization of an occlusal orthotic device shall include a MAP 306, Temporomandibular Joint (TMJ) Assessment Form.
- (7) A request for prior authorization of removable and fixed appliance therapy shall include:
- (a) A MAP 396, Kentucky Medicaid Program Orthodontic Evaluation Form;
 - (b) Panoramic film or intraoral complete series; and
 - (c) Dental models or the digital equivalent of dental models.
- (8) A request for prior authorization for comprehensive orthodontic services shall include:
- (a) A MAP 396, Kentucky Medicaid Program Orthodontic Evaluation Form;
 - (b) A MAP 9A, Kentucky Medicaid Program Orthodontic Services Agreement;
 - (c) A cephalometric X-ray with tracing;
 - (d) A panoramic X-ray;
 - (e) Intraoral and extraoral facial frontal and profile pictures;
 - (f) An occluded and trimmed dental model or the digital equivalent of a model; and
 - (g) An oral surgeon's pretreatment work up notes if orthognathic surgery is required.
- (9) If prior authorization for comprehensive orthodontic services is given following a request submitted pursuant to subsection (8) of this section, additional information shall be submitted as required in this subsection.
- (a) After six (6) monthly visits are completed, but not later than twelve (12) months after the banding date of service, the provider shall submit:
 - 1. A MAP 559, Six (6) Month Orthodontic Progress Report; and
 - 2. An additional MAP 9, Prior Authorization for Health Services.
 - (b) Within three (3) months following completion of the comprehensive orthodontic treatment, the provider shall submit:
 - 1. Beginning and final records; and
 - 2. A MAP 700, Kentucky Medicaid Program Orthodontic Final Case Submission.
- (10) Upon receipt and review of the materials required in subsection (7)(a) through (g) of this section, the department may request a second opinion from another provider regarding the proposed comprehensive orthodontic treatment.
- (11) If a service that requires prior authorization is provided before the prior authorization is received, the provider shall assume the financial risk that the prior authorization may not be subsequently approved.
- (12)
- (a) Prior authorization shall not be a guarantee of recipient eligibility.
 - (b) Eligibility verification shall be the responsibility of the provider.

(13) Upon review and determination by the department that removing a prior authorization requirement shall be in the best interest of a Medicaid recipient, the prior authorization requirement for a specific covered benefit shall be discontinued, at which time the covered benefit shall be available to all recipients without prior authorization, as necessary.~~[r]~~ An age limit related prior authorization may continue to be enforced.

Section 18. Use of Electronic Signatures.

(1) The creation, transmission, storage, and other use of electronic signatures and documents shall comply with the requirements established in KRS 369.101 ~~through~~~~[tø]~~ 369.120.

(2) A dental service provider that chooses to use electronic signatures shall:

(a) Develop and implement a written security policy that shall:

1. Be adhered to by each of the provider's employees, officers, agents, or contractors;
2. Identify each electronic signature for which an individual has access; and
3. Ensure that each electronic signature is created, transmitted, and stored in a secure fashion;

(b) Develop a consent form that shall:

1. Be completed and executed by each individual using an electronic signature;
2. Attest to the signature's authenticity; and
3. Include a statement indicating that the individual has been notified of his or her responsibility in allowing the use of the electronic signature; and

(c) Provide the department, immediately upon request, with:

1. A copy of the provider's electronic signature policy;
2. The signed consent form; and
3. The original filed signature.

Section 19. Auditing Authority.

(1) The department or the managed care organization in which an enrollee is enrolled shall have the authority to audit any:

- (a) Claim;
- (b) Medical record; or
- (c) Documentation associated with any claim or medical record.

(2) A dental record shall be considered a medical record.

Section 20. Federal Approval and Federal Financial Participation. The coverage provisions and requirements established in this administrative regulation shall be contingent upon:

- (1) Receipt of federal financial participation for the coverage; and
- (2) Centers for Medicare and Medicaid Services' approval of the coverage.

Section 21. Appeal Rights. An appeal of a department decision regarding a Medicaid recipient who is:

- (1) Enrolled with a managed care organization shall be in accordance with 907 KAR 17:010; or
- (2) Not enrolled with a managed care organization shall be in accordance with 907 KAR 1:563.

Section 22. Incorporation by Reference.

(1) The following material is incorporated by reference:

- (a) "~~[MAP 9,]~~Prior Authorization for Health Services", MAP 9, December 1995;
- (b) "~~[MAP 9A,]~~Kentucky Medicaid Program Orthodontic Services Agreement", MAP 9A, December 1995;
- (c) "~~[MAP 306,]~~Temporomandibular Joint (TMJ) Assessment Form", MAP 306, December 1995;

- (d) "~~MAP 396,~~Kentucky Medicaid Program Orthodontic Evaluation Form", MAP 396, March 2001;
- (e) "~~MAP 559,~~Six (6) Month Orthodontic Progress Report", MAP 559, December 1995;
- (f) "~~MAP 700,~~Kentucky Medicaid Program Orthodontic Final Case Submission", MAP 700, December 1995; and
- (g) "KY Medicaid Dental Fee Schedule", April 2023.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law:

(a) At the Department for Medicaid Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.; or

(b) Online at the department's Web site located at <https://chfs.ky.gov/agencies/dms/dpo/bpb/Pages/dental.aspx>.



Andy Beshear
GOVERNOR

CABINET FOR HEALTH AND FAMILY SERVICES

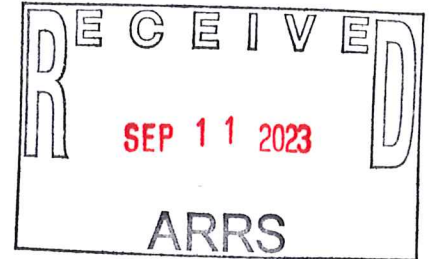
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September 11, 2023



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

Re: 907 KAR 1:632. Vision program coverage provisions and requirements.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 907 KAR 1:632, the Department for Medicaid Services proposes the attached suggested substitutes to 907 KAR 1:632.

If you have any questions, please feel free to contact Jonathan Scott, Regulatory and Legislative Advisor with the Department for Medicaid Services at (502) 564-4321 ext. 2015.

Sincerely,

Lucie Estill
Staff Assistant
Office of Legislative and Regulatory Affairs

SUGGESTED AMENDMENT – ORDINARY ONLY – to AMENDED AFTER COMMENTS VERSION

Final Version: 09/06/23 at 10:26 a.m.

**CABINET FOR HEALTH AND FAMILY SERVICES
Department for Medicaid Services
Division of Health Care Policy**

907 KAR 1:632. Vision program coverage provisions and requirements.

RELATES TO: KRS 205.520, ~~205.622, 205.8451(7), (9), Chapter 320, Chapter 326, 326.030, 326.040, 369.101~~
~~–[to] 369.120, 42 C.F.R. 400.203, 431.17, 438.2, 440.40, 440.60, 447 Subpart B, [42 U.S.C. 1396a-d,]~~45 C.F.R.
147.126, ~~[Parts]160, [and]164, 164.306, 164.316, 42 U.S.C. 1320d to 1320d-8, 1396a-d~~

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 42 C.F.R. 441.30, 42 C.F.R. 441.56(c)(1)
NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services has responsibility to administer the Medicaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law to qualify for federal Medicaid funds. This administrative regulation establishes the Kentucky Medicaid Program provisions and requirements regarding the coverage of vision services.

Section 1. Definitions.

- (1) "Current procedural terminology code" or "CPT code" means a code used for reporting procedures and services performed by medical practitioners and published annually by the American Medical Association in Current Procedural Terminology.
- (2) "Department" means the Department for Medicaid ~~Services~~[~~Services~~] or its designee.
- (3) "Enrollee" means a recipient who is enrolled with a managed care organization.
- (4) "Federal financial participation" is defined by 42 C.F.R. 400.203.
- (5) "Healthcare Common Procedure Coding System" or "HCPCS" means a collection of codes acknowledged by the Centers for Medicare and Medicaid Services (CMS) that represents procedures or items.
- (6) "Managed care organization" means an entity for which the Department for Medicaid Services has contracted to serve as a managed care organization as defined in 42 C.F.R. 438.2.
- (7) "Medicaid basis" means a scenario in which:
 - (a) A provider provides a service to a recipient as a Medicaid-participating provider in accordance with:
 1. 907 KAR 1:671; and
 2. 907 KAR 1:672;
 - (b) The Medicaid Program is the payer for the service; and
 - (c) The recipient is not liable for payment to the provider for the service~~–other than any cost-sharing obligation owed by the recipient to the provider~~].
- (8) "Medically necessary" or "medical necessity" means that a covered benefit is determined to be needed in accordance with 907 KAR 3:130.
- (9) "Ophthalmic dispenser" means an individual who is qualified to engage in the practice of ophthalmic dispensing in accordance with KRS 326.030 or 326.040.
- (10) "Optometrist" means an individual who is licensed as an optometrist in accordance with KRS Chapter 320.
- (11) "Provider" is defined by KRS 205.8451(7).
- (12) "Recipient" is defined by KRS 205.8451(9).

Section 2. General Requirements and Conditions of Participation.

(1)

(a) For the department to reimburse for a vision service or item, the service or item shall be:

1. Provided:

a. To a recipient; and

b. By a provider who is:

(i) Enrolled in the Medicaid Program pursuant to 907 KAR 1:672;

(ii) Except as ***established[provided]*** in paragraph (b) of this subsection, currently participating in the Medicaid Program pursuant to 907 KAR 1:671; and

(iii) Authorized by this administrative regulation to provide the given service or item;

2. Covered in accordance with this administrative regulation;

3. Medically necessary;

4. A service or item authorized within the scope of the provider's licensure; and

5. A service or item listed on the Kentucky Medicaid Vision Fee Schedule. [~~Department for Medicaid Services Vision Program Fee Schedule.~~]

(b) In accordance with 907 KAR 17:015, Section 3(3), a provider of a service to an enrollee shall not be required to be currently participating in the fee-for-service Medicaid Program.

(2)

(a) To be recognized as an authorized provider of vision services, an optometrist shall:

1. Be licensed by the:

a. Kentucky Board of Optometric Examiners; or

b. Optometric examiner board in the state in which the optometrist practices if the optometrist practices in a state other than Kentucky;

2. Submit to the department proof of licensure upon initial enrollment in the Kentucky Medicaid Program; and

3. Annually submit to the department proof of licensure renewal including the expiration date of the license and the effective date of renewal.

(b)

1. To be recognized as an authorized provider of vision services, an in-state optician shall:

a. Hold a current license in Kentucky as an ophthalmic dispenser;

b. Comply with the requirements established in KRS Chapter 326;

c. Submit to the department proof of licensure upon initial enrollment in the Kentucky Medicaid Program; and

d. Annually submit to the department proof of licensure renewal including the expiration date of the license and the effective date of renewal.

2. To be recognized as an authorized provider of vision services, an out-of-state optician shall:

a. Hold a current license in the state in which the optician practices as an ophthalmic dispenser;

b. Submit to the department proof of licensure upon initial enrollment in the Kentucky Medicaid Program; and

c. Annually submit to the department proof of licensure renewal including the expiration date of the license and the effective date of renewal.

(c) A physician shall be an authorized provider of vision services.

(3) A provider shall comply with:

(a) 907 KAR 1:671;

(b) 907 KAR 1:672;

(c) All applicable state and federal laws; and

(d) The confidentiality of personal records pursuant to 42 U.S.C. 1320d ~~through~~**[to]** 1320d-8 and 45 C.F.R. Parts 160 and 164.

(4)

(a) A provider shall:

1. Have the freedom to choose whether **or not** to provide services to a recipient; and
2. Notify the recipient **established**~~[referenced]~~ in paragraph (b) of this subsection of the provider's decision to accept or not accept the recipient on a Medicaid basis prior to providing any services to the recipient.

(b) A provider may provide a service to a recipient on a non-Medicaid basis:

1. If the recipient agrees to receive the service on a non-Medicaid basis; and
2. ~~The service is not a Medicaid covered service~~~~[Whether or not the:]~~

~~[a:] [Provider is a Medicaid-participating provider; or]~~

~~[b:] [Service is a Medicaid-covered service].~~

Section 3. Vision Service Coverage.

(1) Vision service coverage shall be limited to a service listed with a CPT code or item with an HCPCS code on the Kentucky Medicaid Vision Fee Schedule~~[Department for Medicaid Services Vision Program Fee Schedule]~~**[as]** available at: <https://www.chfs.ky.gov/agencies/dms/Pages/feesrates.aspx>.

(2) Vision service limits shall be as established on the Kentucky Medicaid Vision Fee Schedule~~[Department for Medicaid Services Vision Program Fee Schedule]~~**[as]** available at: <https://www.chfs.ky.gov/agencies/dms/Pages/feesrates.aspx>.

(3) Vision service limits may be exceeded by prior authorization for children under twenty-one (21) if medically necessary.

Section 4. Coverage of Eyeglasses and Frames.

(1) To be eligible for eyeglasses covered by the department, a recipient shall~~[:]~~

~~[(a)] [Be under the age of twenty-one (21) years, including the month in which the recipient becomes twenty-one (21) years of age; and]~~

~~[(b)] have a diagnosed visual condition that:~~

~~(a)[1:] Requires the use of eyeglasses;~~

~~(b)[2:] Is within one (1) of the following categories:~~

~~1.[a:] Amblyopia;~~

~~2.[b:] Post surgical eye condition;~~

~~3.[c:] Diminished or subnormal vision; or~~

~~4.[d:] Other diagnosis **that**~~[which]~~ indicates the need for eyeglasses; and~~

~~(c)[3:] Requires a prescription correction in the stronger lens no weaker than:~~

~~1.[a:] +0.50, 0.50 sphere +0.50, or 0.50 cylinder;~~

~~2.[b:] 0.50 diopter of vertical prism; or~~

~~3.[c:] A total of two (2) diopter of lateral prism.~~

(2) Provisions regarding any limit on the number of eyeglasses covered shall be as established in 907 KAR 1:631.

(3) For the department to cover:

(a) A frame, the frame shall be:

1. First quality;

2. Free of defects;~~[-and]~~

3. Deluxe; and

4. Have a **manufacturer** warranty of at least one (1) year; or

- (b) A lens, the lens shall be:
1. First quality;
 2. Free of defects;
 3. Meet the United States Food and Drug Administration's impact resistance standards; ~~and~~
 4. Polycarbonate and scratch coated; and
 5. If medically necessary, inclusive of prisms.

(4) The dispensing of eyeglasses shall include:

- (a) Single vision prescriptions;
- (b) Bi-focal vision prescriptions;
- (c) Multi-focal vision prescriptions;
- (d) Progressive lens prescriptions;
- (e) Services to frames; or
- (f)~~(e)~~ Delivery of the completed eyeglasses which shall include:
 1. Instructions in the use and care of the eyeglasses; and
 2. Any adjustment, minor or otherwise, for a period of one (1) year.

(5) A provider shall be responsible, at no additional cost to the department or the recipient, for:

- (a) An inaccurately filled prescription;
- (b) Defective material; or
- (c) An improperly fitted frame.

Section 5. Contact Lenses, Tint, and Plano Safety Glasses.

(1) The department shall ~~not~~ reimburse for contact lenses substituted for eyeglasses if a medical indication prevents the use of eyeglasses~~[unless:]~~

~~[(a)] [The corrected acuity in a recipient's stronger eye is twenty (20)/fifty (50) and shall be improved with the use of contact lenses;]~~

~~[(b)] [The visual prescription is of + 8.00 diopter or greater; or]~~

~~[(c)] [The recipient's diagnosis is 4.00 diopter anisometropia].~~

(2) The department's reimbursement for contact lenses shall include **disposable[daily]** contact lenses.

(3) The department shall not reimburse for tint unless the prescription specifically indicates a diagnosis of photophobia.

~~(4)~~~~(3)~~ The department shall not reimburse for plano safety glasses unless the glasses are medically indicated for the recipient.

Section 6. Noncovered Services or Items. The department shall not reimburse for:

- (1) Tinting if not medically necessary;
- (2) Photochromics if not medically necessary;
- (3) Anti-reflective coatings if not medically necessary;
- (4) Other lens options that[which] are not medically necessary;
- (5) Low vision services;
- (6) A press-on prism if not medically necessary; or
- (7) A service with a CPT code or item with an HCPCS code that is not listed on the Kentucky Medicaid Vision Fee Schedule~~[Department for Medicaid Services Vision Program Fee Schedule].~~

Section 7. Required Provider Documentation.

(1)

(a) In accordance with 42 C.F.R. 431.17, a provider shall maintain medical records of a service provided to a recipient for the period of time currently required by the United States Health and Human Services

Secretary unless the department requires a retention period, pursuant to 907 KAR 1:671, longer than the period required by the United States Health and Human Services Secretary.

(b) If, pursuant to 907 KAR 1:671, the department requires a medical record retention period longer than the period required by the United States Health and Human Services Secretary, the medical record retention period established in 907 KAR 1:671 shall be the minimum record retention period.

(c) A provider shall maintain medical records of a service provided to a recipient in accordance with:

1. 45 C.F.R. 164.316; and
2. 45 C.F.R. 164.306.

(2) A provider shall maintain the following documentation in a recipient's medical record:

(a) Any covered service or covered item provided to the recipient;

(b) For each covered service or covered item provided to the recipient:

1. A signature by the individual who provided the service or item signed on the date the service or item was provided;
2. The date that the service or item was provided; and
3. Demonstration that the covered service or covered item was provided to the recipient;

(c) The diagnostic condition necessitating the service or item; and

(d) The medical necessity as substantiated by an appropriate medical order.

Section 8. No Duplication of Service.

(1) The department shall not reimburse for a service provided to a recipient by more than one (1) provider of any program in which the service is covered during the same time period.

(2) For example, if a recipient is receiving a speech-language pathology service from a speech-language pathologist enrolled with the Medicaid Program, the department shall not reimburse for the same service provided to the same recipient during the same time period via the physician services program.

Section 9. Third Party Liability. A provider shall comply with KRS 205.622.

Section 10. Auditing Authority. The department shall have the authority to audit any claim, medical record, or documentation associated with the claim or medical record.

Section 11. Use of Electronic Signatures.

(1) The creation, transmission, storage, and other use of electronic signatures and documents shall comply with the requirements established in KRS 369.101 ~~through~~ 369.120.

(2) A provider that chooses to use electronic signatures shall:

(a) Develop and implement a written security policy that shall:

1. Be adhered to by each of the provider's employees, officers, agents, or contractors;
2. Identify each electronic signature for which an individual has access; and
3. Ensure that each electronic signature is created, transmitted, and stored in a secure fashion;

(b) Develop a consent form that shall:

1. Be completed and executed by each individual using an electronic signature;
2. Attest to the signature's authenticity; and
3. Include a statement indicating that the individual has been notified of his or her responsibility in allowing the use of the electronic signature; and

(c) Provide the department, immediately upon request, with:

1. A copy of the provider's electronic signature policy;
2. The signed consent form; and
3. The original filed signature.

Section 12. Federal Approval and Federal Financial Participation. The department's coverage of services pursuant to this administrative regulation shall be contingent upon:

- (1) Receipt of federal financial participation for the coverage; and
- (2) Centers for Medicare and Medicaid Services' approval for the coverage.

Section 13. Appeal Rights. An appeal of a department decision regarding a Medicaid recipient who is:

- (1) Enrolled with a managed care organization shall be in accordance with 907 KAR 17:010; or
- (2) Not enrolled with a managed care organization shall be in accordance with 907 KAR 1:563.

Section 14. Incorporation by Reference.

(1) "Kentucky Medicaid Vision Fee Schedule"["~~Department for Medicaid Services Vision Program Fee Schedule~~"], April 2023~~[May 13, 2014]~~, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Medicaid Services, 275 East Main Street, Frankfort, Kentucky, Monday through Friday, 8 a.m. to 4:30 p.m. or online at the department's Web site at <https://www.chfs.ky.gov/agencies/dms/Pages/feesrates.aspx>~~[http://www.chfs.ky.gov/dms/incorporated.htm]~~.

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