

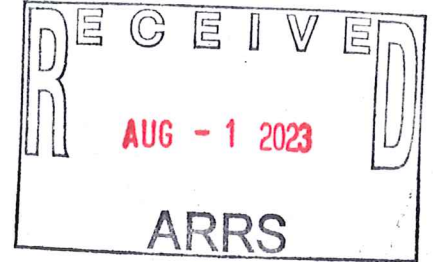
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KENTUCKY DEPARTMENT OF EDUCATION
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August 1, 2023

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: 16 KAR 9:080E. University-Based Alternative Certification Program.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 16 KAR 9:080E, the Education Professional Standards Board proposes the attached amendment to 16 KAR 9:080E.

Thank you for your consideration.

Sincerely,

Cassie L. Trueblood
Policy Advisor and Special Counsel

Final, 7-7-2023

SUGGESTED SUBSTITUTE

EDUCATION AND LABOR CABINET Education Professional Standards Board

16 KAR 9:080E. University-based alternative certification program.

EFFECTIVE: April 26, 2023

RELATES TO: KRS 156.111, 160.345(2)(h), ~~[160.380(5)(c),]~~ 161.027, 161.028(1)(k), (s), (t), 161.030(11)(40), 161.048, **161.1211**, 34 C.F.R. 300.156 (c)(2)

STATUTORY AUTHORITY: KRS 161.027(1), 161.048(1)(d), (7)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.048(1)(d) and (7) require the Education Professional Standards Board (EPSB) to promulgate administrative regulations establishing the standards and procedures for a university alternative certification option for teacher and administrator certification. This administrative regulation establishes the requirements for entry and completion of the teacher and administrator university-based alternative certification options, the responsibilities of the employing school or school district, and the responsibilities of the approved college or university alternative program.

Section 1. Definitions.

(1) "Alternative certification administrator program" means a college or university post baccalaureate or post masters administrator preparation program for an individual enrolled concurrently with employment in a local school district as an assistant principal, principal, assistant superintendent, ~~school~~[guidance] counselor, director of special education, director of pupil personnel, supervisor of instruction, or superintendent.

(2) "Alternative certification teacher program" means a college or university post baccalaureate teacher preparation program for an individual enrolled concurrently with employment as a teacher.

Section 2. Admission Requirements.

(1) An applicant for an alternative certification teacher program shall meet the admission standards for an initial certification program established in 16 KAR 5:020.

(2) An applicant for an alternative certification administrator program shall meet the admission standards for the corresponding administrator certification program established in 16 KAR Chapter 3.

~~[(3)] [An applicant for any alternative certification teacher or administrator program shall meet all certification requirements for the corresponding certificate established in 16 KAR Chapter 2 or 3 except completion of the corresponding educator preparation program and the required assessments.]~~

Section 3. University Requirements for Alternative Certification Teacher Program.

(1) An accredited college or university seeking to offer an alternative certification teacher program shall apply to the EPSB[~~Education Professional Standards Board~~] for program approval in accordance with 16 KAR 5:010.

(2) In addition to the standards for program approval established in 16 KAR 5:010, the educator preparation provider[~~institution~~] seeking alternative certification teacher program approval shall design the alternative certification teacher program to provide a candidate with the coursework and mentoring necessary to permit a candidate to maintain employment in an eligible position and to successfully complete any applicable assessments, including internship programs, within a period of three (3) years for those enrolled in an alternative certification teacher program for teachers of exceptional children or interdisciplinary early childhood education employed in a public school, or a period of five (5) years for all other alternative certification teacher programs.

(3) Upon approval, the alternative certification teacher program unit shall:

- (a) Assess a candidate's educational background and develop a plan of coursework that shall adequately prepare the candidate for successful completion of the requirements for program completion and certification for the areas and grade ranges that correspond with the candidate's school placement;
 - (b) Provide a candidate written and dated documentation of eligibility for the university alternative certification teacher program so that the candidate may be considered for employment pursuant to KRS 160.345(2)(h);
 - (c) Ensure that a candidate begins coursework no later than ninety (90) days from the date the eligibility notice is issued;
 - (d) Develop a written agreement to provide, in collaboration with the administration of the candidate's employing school, mentoring to the candidate in the employment setting which shall include:
 - 1. ~~A~~ ~~[Prior to the candidate's enrollment in the Kentucky Teacher Internship Program pursuant to KRS 161.030 and 16 KAR 7:010, a]~~ minimum of fifteen (15) hours of annual observation utilizing university faculty and a district-based mentor of the candidate practicing instruction in the classroom, as follows:
 - a. A minimum of five (5) hours of observation by university faculty;
 - b. A minimum of five (5) hours of observation by a district-based mentor; and
 - c. A minimum of five (5) hours of observation by either the university faculty or the district-based mentor;
 - 2. A description of how support shall be offered to the candidate during in-class and out-of-class time to assist the candidate in meeting the teacher's instructional responsibilities;
 - 3. The name, contact person, and role for the collaborating educator preparation provider ~~[institution]~~ mentor; and
 - 4. The name and role of all school district mentor teachers;
 - (e) Establish a process to maintain regular communication with the employing school so that the ~~educator preparation provider~~ ~~[institution]~~ and employing school may assist the candidate as needed and address identified areas of improvement; and
 - (f) Notify the ~~EP~~ ~~SPS~~ ~~Board~~ in writing if a candidate's employment in a covered position or enrollment in the alternative certification teacher program permanently ceases.
- (4) Student teaching shall not be required for program completion.

Section 4. Temporary Provisional Certificate for Teaching.

- (1) The temporary provisional certificate for teaching shall be issued and renewed in accordance with KRS 161.048(7).
- (2) The temporary provisional certificate for teaching shall be issued in accordance with a grade level and specialization as recommended by the educator preparation provider and valid for employment consistent with the area of certification being sought through the preparation program.[-]
 - ~~[(a)]~~
 - ~~[1.] [Until December 31, 2014, issued in accordance with a grade level and specialization as recommended by the educator preparation institution on Form TC-TP; or]~~
 - ~~[2.] [Beginning January 1, 2015, issued in accordance with a grade level and specialization as recommended by the educator preparation institution on Form CA-TP; and]~~
 - ~~[(b)] [Valid for employment consistent with the area of certification being sought through the preparation program.]~~
- (3) The temporary provisional certificate for teaching shall be issued at the rank corresponding to the degree held by the teacher applicant in accordance with the requirements established in KRS 161.1211 and 16 KAR Chapter 8 ~~[16 KAR 8:020]~~.

Section 5. Issuance of a Temporary Provisional Certificate for Teaching.

- (1) Prior to seeking employment in a Kentucky public school, a candidate shall request from the ~~educator preparation provider~~ ~~[institution]~~ written and dated documentation of eligibility for the alternative certification teacher program to provide to school districts pursuant to KRS 160.345(2)(h).
- (2) Prior to employment, a superintendent, on behalf of the employing local board of education, shall be responsible for requesting the temporary provisional certificate.

(3) The candidate shall submit to the EPSB[~~Education Professional Standards Board~~] an official college transcript from each college or university attended.

(4) The candidate shall demonstrate compliance with 16 KAR 2:010, Section 3(1).

~~(5)~~[(4)] The employing school district shall submit [with Form TC-TP or Form CA-TP] a completed and signed copy of the mentoring collaboration agreement with the alternative certification teacher program as required by Section 3(3)(d) of this administrative regulation.

(6) The educator preparation provider shall submit a recommendation for the grade level and specialization of the temporary provisional certificate.

~~[(5)] [Beginning January 1, 2015, a candidate who is not currently certified as an educator in Kentucky shall submit a national and state criminal background check performed in accordance with KRS 160.380(5)(c) within twelve (12) months prior to the date of application.]~~

Section 6. Requirements for Renewal of the Temporary Provisional Certificate for Teaching.

(1) A candidate shall be eligible for renewal of the temporary provisional certificate upon application to the EPSB, compliance with 16 KAR 2:010, Section 3(1), and successful completion of the following requirements:

(a) Evidence of employment in a Kentucky school district or regionally- or nationally accredited nonpublic school in the content area or areas indicated on the initial certificate; and

(b) Recommendation from the educator preparation provider based on continued enrollment, completion of annual observation hours, and progress towards the completion of the alternative teacher preparation program.

(2) If a candidate is required to complete an internship in accordance with KRS 161.030, **the candidate[they]** shall complete the required assessments as established in 16 KAR 6:010 prior to issuance of the final temporary provisional **certificate** and shall complete the internship during the final temporary provisional certificate.

(3) A candidate for exceptional children or interdisciplinary early childhood certification **employed in a public school** may only renew the temporary provisional certificate two (2) times.

(4) All other alternative certification teacher candidates may renew the temporary provisional certificate four (4) times.[A candidate shall be eligible for the first renewal of the temporary provisional certificate upon successful completion of the following requirements:]

~~[(a)] [Evidence of employment in a Kentucky school district or nonpublic school in the content area or areas indicated on the initial provisional certificate;]~~

~~[(b)] [A minimum of six (6) semester hours or its equivalent from the approved preparation program; and]~~

~~[(c)]~~

~~[1.] [Until December 31, 2014, completion of Form TC-TP; or]~~

~~[2.] [Beginning January 1, 2015, completion of Form CA-TP.]~~

~~[(2)] [A candidate shall be eligible for the final renewal of the temporary provisional certificate upon successful completion of the following requirements:]~~

~~[(a)] [Evidence of employment in a Kentucky school district or nonpublic school in the content area or areas indicated on the initial provisional certificate;]~~

~~[(b)] [A minimum of six (6) new semester hours or its equivalent from the approved preparation program;]~~

~~[(c)] [The required assessments as established in 16 KAR 6:010; and]~~

~~[(d)]~~

~~[1.] [Until December 31, 2014, completion of Form TC-TP; or]~~

~~[2.] [Beginning January 1, 2015, completion of Form CA-TP.]~~

Section 7. Alternative Certification Teacher Program Completion Requirements.

(1) An applicant for teacher certification shall meet all certification requirements for the corresponding certificate established in 16 KAR Chapter 2 and the assessment requirements established in 16 KAR 6:010.

(2) Upon completion of all program requirements of the university based alternative teacher program, the candidate may apply to the EPSB for the professional certificate.

~~(3) Upon application to the EPSB, compliance with 16 KAR 2:010, Section 3(1), and verification that a candidate has met all eligibility requirements for certificate issuance, the EPSB shall issue a professional certificate. [If the candidate has successfully passed the required assessments as outlined in 16 KAR 6:010, and completed the required coursework, the institution shall provide written notice to the employing school district that a candidate is eligible to participate in the Kentucky Teacher Internship Program in each subject area covered by the temporary provisional certificate and in accordance with 16 KAR 7:010.]~~

~~[(2)] [When the candidate is prepared to enroll in the Kentucky Teacher Internship Program, the recommending institution shall complete and sign page five (5) of the TC-TP or page four (4) of the CA-TP form and deliver it to the employing school district for submission to the Education Professional Standards Board.]~~

~~[(3)] [Upon completion of all program requirements of the alternative certification teacher program, including successful completion of the Kentucky Teacher Internship Program established in KRS 161.030 and 16 KAR 7:010, the candidate may make application to the Education Professional Standards Board for the professional certificate on the form TC-1 or CA-1, which are incorporated by reference in 16 KAR 2:010.]~~

~~[(4)] [Upon verification that a candidate has met all eligibility requirements for certificate issuance, the Education Professional Standards Board shall issue a professional certificate.]~~

~~[(5)] [A candidate who failed to successfully complete the assessments, the internship, or the required coursework during the initial issuance and two (2) renewals of the temporary certificate, in accordance with KRS 161.048(7), and who has been transitioned into an institution's traditional educator preparation program, shall be eligible for a Teacher Internship Statement of Eligibility Confirmation of Employment as a Teacher upon recommendation of the institution after the candidate's completion of the preparation program and the required assessments.]~~

~~[(6)] [If a candidate fails to complete all alternative certification program requirements during the initial issuance and two (2) renewals of the temporary provisional certificate, in accordance with KRS 161.048(7), the employing school district may, pursuant to 16 KAR 2:010, 2:120, and 2:180, submit an application for emergency or conditional certification on behalf of the former employee to allow the individual to continue employment.]~~

Section 8. University Requirements for an Alternative Certification Administrator Program.

(1) An accredited college or university seeking to offer an alternative certification administrator program shall apply to the EPSB~~[Education Professional Standards Board]~~ for program approval in accordance with 16 KAR 5:010.

(2) In addition to the standards for program approval established in 16 KAR 5:010, the educator preparation provider~~[institution]~~ seeking alternative certification administrator program approval shall design the alternative certification administrator program to provide a candidate with the coursework and mentoring appropriate to permit a candidate to maintain employment in an eligible position and successfully complete any applicable assessments, including any internship or training programs, within a period of two (2) years for those enrolled in an alternative certification administrator program.

(3) Upon approval, the alternative certification administrator program unit shall:

(a) Assess a candidate's educational background and develop a plan of coursework that shall adequately prepare the candidate for successful completion of the requirements for program completion and certification for the areas and grade ranges that correspond with the candidate's school placement;

(b) Provide a candidate written and dated documentation of eligibility for the university alternative certification administrator program so that the candidate may be considered for employment pursuant to KRS 160.345(2)(h);

(c) Ensure that a candidate begins coursework no later than ninety (90) days from the date the eligibility notice is issued;

(d) Develop a written agreement to provide, in collaboration with the administration of the candidate's employing school, mentoring to the candidate in the employment setting which shall include:

1. A minimum of fifteen (15) hours of annual observation utilizing university faculty and a district-based mentor of the candidate practicing in the appropriate administrative role, as follows:

- a. A minimum of five (5) hours of observation by university faculty;
 - b. A minimum of five (5) hours of observation by a district-based mentor; and
 - c. Five (5) hours of observation by either the university faculty or the district-based mentor;
2. A description of how support shall be offered to the candidate to assist the candidate in meeting the candidate's administrative responsibilities;
 3. The name, contact person, and role for the collaborating educator preparation provider~~[institution]~~ mentor; and
 4. The name and role of all school district mentors;
- (e) Establish a process to maintain regular communication with the employing school so that the educator preparation provider~~[institution]~~ and employing school may assist the candidate as needed and address identified areas of improvement; and
- (f) Notify the EPSB~~[Education Professional Standards Board]~~ in writing if a candidate's employment in a covered position or enrollment in the alternative certification administrator program permanently ceases.

Section 9. Temporary Provisional Administrative Certificate.

- (1) The temporary provisional administrative certificate shall be issued for a validity period not to exceed one (1) year.
- (2) The temporary provisional administrative certificate may be renewed a maximum of one (1) time.
- (3) The temporary provisional administrative certificate shall be valid for employment in a position consistent with the area of certification being sought through the preparation program.

Section 10. Issuance of a Temporary Provisional Administrative Certificate.

- (1) Prior to seeking employment in a Kentucky public school, a candidate shall request from the educator preparation provider~~[institution]~~ written and dated documentation of eligibility for the university based alternative certification administrator program to provide to school districts pursuant to KRS 160.345(2)(h).
- (2) Prior to employment, a superintendent, on behalf of the employing local board of education, shall be responsible for requesting the temporary provisional certificate.
- (3) The candidate shall submit to the EPSB~~[Education Professional Standards Board]~~ an official college transcript from each college or university attended.
- (4) The candidate shall demonstrate compliance with 16 KAR 2:010, Section 3(1).
- (5)[(4)] The employing school district shall submit [with Form TC-TP or Form CA-TP] a completed and signed copy of the mentoring collaboration agreement with the university based alternative certification program as required by Section 8(3)(d) of this administrative regulation.
- (6) The educator preparation provider shall submit a recommendation for the specialization of the temporary provisional certificate.
- ~~[(5)] [Beginning January 1, 2015, a candidate who is not currently certified as an educator in Kentucky shall submit a national and state criminal background check performed in accordance with KRS 160.380(5)(c) within twelve (12) months prior to the date of application.]~~

Section 11. Requirements for Renewal of the Temporary Provisional Certificate for an Administrator.

- (1) A candidate shall be eligible for no more than one (1) renewal of the temporary provisional certificate.
- (2) A candidate shall be eligible for renewal of the temporary provisional certificate upon application to the EPSB, compliance with 16 KAR 2:010, Section 3(1), and successful completion of the following requirements:
 - (a) Evidence of employment in a Kentucky school district or nonpublic school in the position indicated on the initial certificate; and
 - (b) Recommendation from the educator preparation provider based on continued enrollment, completion of annual observation hours, and progress towards the completion of the alternative administrator program.
- (3) If a candidate is seeking principal certification and is required to complete an internship in accordance with KRS 161.030, **the candidate[they]** shall complete the required assessments as

established in 16 KAR 3:090 prior to renewal of the temporary provisional **certificate** and shall complete the internship during the final temporary provisional certificate.

~~[(2)] [A candidate shall be eligible for renewal of the temporary provisional certificate upon successful completion of the following requirements:]~~

~~[(a)] [Evidence of employment in a Kentucky school district or nonpublic school in the position indicated on the temporary provisional certificate;]~~

~~[(b)] [A minimum of six (6) semester hours or its equivalent from the approved preparation program; and]~~

~~[(c)]~~

~~[1.] [Until December 31, 2014, completion of Form TC-TP; or]~~

~~[2.] [Beginning January 1, 2015, completion of Form CA-TP.]~~

Section 12. Alternative Certification Administrator Program Completion Requirements.

~~(1)~~

~~[(a)] [If the alternative certification administrator candidate for principal certification has successfully passed the required assessments, as outlined in 16 KAR 6:030, and completed the required coursework, the institution shall provide written notice to the district that the candidate is eligible to participate in the Kentucky Principal Internship Program in accordance with 16 KAR 7:020.]~~

~~[(b)] [When a principal candidate is ready to enroll in the Kentucky Principal Internship Program, the recommending institution shall complete page five (5) of the TC-TP form or Form CA-TP and deliver the form to the employing school district for submission to the Education Professional Standards Board.]~~

~~[(2)]~~

~~[(a)] [An alternative certification administrator candidate who failed to complete the assessments, the internship, or the required coursework during the initial issuance and one (1) renewal of the temporary provisional certificate and who has been transitioned into an institution's traditional preparation program, shall be eligible for an administrative certificate in the area of study upon recommendation of the institution after the candidate's completion of the preparation program and the required assessments.]~~

~~[(b)] [If the candidate was initially enrolled in the alternative certification program for principal, the candidate shall be eligible for a Principal Internship Statement of Eligibility Confirmation of Employment as a Principal/Assistant Principal in an Accredited Kentucky School upon recommendation of the institution after the candidate's completion of the preparation program and the required assessments.]~~

~~[(3)]~~

~~(a) During the period of enrollment in the alternative certification administrator program, a candidate seeking superintendent certification and serving in a local school district as a superintendent or assistant superintendent shall successfully complete both the coursework in the institution's alternative certification administrator program as well as the Superintendents Training Program and assessments required in KRS 156.111.~~

~~(b) The college or university faculty shall maintain contact with the employing school district and the Kentucky Department of Education regarding the completion of coursework to ensure that a superintendent candidate has completed the required coursework to prepare for the assessments and participation in the Superintendents Training Program.~~

~~(2) An applicant for administrator certification shall meet all certification requirements for the corresponding certificate established in 16 KAR Chapter 3.~~

~~(3) Upon completion of all program requirements of the alternative administrator program the candidate may apply to the EPSB for the professional certificate.~~

~~(4) Upon application to the EPSB, compliance with 16 KAR 2:010, Section 3(1), and verification that a candidate has met all eligibility requirements for certificate issuance, the EPSB shall issue a professional certificate.~~

~~[(4)] [Upon completion of the alternative certification administrator program, the assessments, and the internship or Superintendents Training Program as applicable, the university shall provide a~~

~~recommendation for the professional certificate on the candidate's TC-1 or CA-1 form, which are incorporated by reference in 16 KAR 2:010.]~~

~~[(5)] [Upon verification that a candidate has met all eligibility requirements for certificate issuance, the Education Professional Standards Board shall issue a professional certificate.]~~

~~[Section 13.] [Incorporation by Reference.]~~

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

~~[(a)] ["Application for Temporary Provisional Certification", Form TC-TP, May 2007;]~~

~~[(b)] ["Application for Temporary Provisional Certification", Form CA-TP, June 2014;]~~

~~[(c)] ["Teacher Internship Statement of Eligibility Confirmation of Employment as a Teacher", November 2004; and]~~

~~[(d)] ["Principal Internship Statement of Eligibility Confirmation of Employment as a Principal/Assistant Principal in an Accredited Kentucky School", May 2005.]~~

~~[(2)] [This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Education Professional Standards Board, 100 Airport Road, Third Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.]~~

CONTACT PERSON: Todd Allen, General Counsel, Kentucky Department of Education, 300 Sower Boulevard, 5th Floor, Frankfort, Kentucky 40601, phone 502-564-4474, fax 502-564-9321; email regcomments@education.ky.gov.

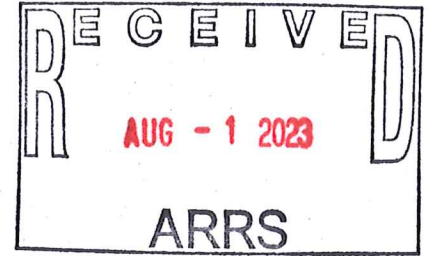
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August 1, 2023

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: 16 KAR 9:080. University-Based Alternative Certification Program.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 16 KAR 9:080, the Education Professional Standards Board proposes the attached amendment to 16 KAR 9:080.

Thank you for your consideration.

Sincerely,

Cassie L. Trueblood
Policy Advisor and Special Counsel

Final, 7-10-2023

SUGGESTED SUBSTITUTE

EDUCATION AND LABOR CABINET Education Professional Standards Board

16 KAR 9:080. University-based alternative certification program.

RELATES TO: KRS 156.111, 160.345(2)(h), ~~[160.380(5)(c),]~~ 161.027, 161.028(1)(k), (s), (t), 161.030(11)~~[(10)]~~, 161.048, **161.1211**, 34 C.F.R. 300.156 (c)(2)

STATUTORY AUTHORITY: KRS 161.027(1), 161.048(1)(d), (7)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.048(1)(d) and (7) require the Education Professional Standards Board (EPSB) to promulgate administrative regulations establishing the standards and procedures for a university alternative certification option for teacher and administrator certification. This administrative regulation establishes the requirements for entry and completion of the teacher and administrator university-based alternative certification options, the responsibilities of the employing school or school district, and the responsibilities of the approved college or university alternative program.

Section 1. Definitions.

(1) "Alternative certification administrator program" means a college or university post baccalaureate or post masters administrator preparation program for an individual enrolled concurrently with employment in a local school district as an assistant principal, principal, assistant superintendent, school~~[guidance]~~ counselor, director of special education, director of pupil personnel, supervisor of instruction, or superintendent.

(2) "Alternative certification teacher program" means a college or university post baccalaureate teacher preparation program for an individual enrolled concurrently with employment as a teacher.

Section 2. Admission Requirements.

(1) An applicant for an alternative certification teacher program shall meet the admission standards for an initial certification program established in 16 KAR 5:020.

(2) An applicant for an alternative certification administrator program shall meet the admission standards for the corresponding administrator certification program established in 16 KAR Chapter 3.

~~[(3)] [An applicant for any alternative certification teacher or administrator program shall meet all certification requirements for the corresponding certificate established in 16 KAR Chapter 2 or 3 except completion of the corresponding educator preparation program and the required assessments.]~~

Section 3. University Requirements for Alternative Certification Teacher Program.

(1) An accredited college or university seeking to offer an alternative certification teacher program shall apply to the EPSB~~[Education Professional Standards Board]~~ for program approval in accordance with 16 KAR 5:010.

(2) In addition to the standards for program approval established in 16 KAR 5:010, the educator preparation provider~~[institution]~~ seeking alternative certification teacher program approval shall design the alternative certification teacher program to provide a candidate with the coursework and mentoring necessary to permit a candidate to maintain employment in an eligible position and to successfully complete any applicable assessments, including internship programs, within a period of three (3) years for those enrolled in an alternative certification teacher program for teachers of exceptional children or interdisciplinary early childhood education employed in a public school, or a period of five (5) years for all other alternative certification teacher programs.

(3) Upon approval, the alternative certification teacher program unit shall:

(a) Assess a candidate's educational background and develop a plan of coursework that shall adequately prepare the candidate for successful completion of the requirements for program

completion and certification for the areas and grade ranges that correspond with the candidate's school placement;

(b) Provide a candidate written and dated documentation of eligibility for the university alternative certification teacher program so that the candidate may be considered for employment pursuant to KRS 160.345(2)(h);

(c) Ensure that a candidate begins coursework no later than ninety (90) days from the date the eligibility notice is issued;

(d) Develop a written agreement to provide, in collaboration with the administration of the candidate's employing school, mentoring to the candidate in the employment setting which shall include:

1. ~~A~~ ~~[Prior to the candidate's enrollment in the Kentucky Teacher Internship Program pursuant to KRS 161.030 and 16 KAR 7:010, a]~~ minimum of fifteen (15) hours of annual observation utilizing university faculty and a district-based mentor of the candidate practicing instruction in the classroom, as follows:

a. A minimum of five (5) hours of observation by university faculty;

b. A minimum of five (5) hours of observation by a district-based mentor; and

c. A minimum of five (5) hours of observation by either the university faculty or the district-based mentor;

2. A description of how support shall be offered to the candidate during in-class and out-of-class time to assist the candidate in meeting the teacher's instructional responsibilities;

3. The name, contact person, and role for the collaborating educator preparation provider~~[institution]~~ mentor; and

4. The name and role of all school district mentor teachers;

(e) Establish a process to maintain regular communication with the employing school so that the educator preparation provider~~[institution]~~ and employing school may assist the candidate as needed and address identified areas of improvement; and

(f) Notify the EPSB~~[Education Professional Standards Board]~~ in writing if a candidate's employment in a covered position or enrollment in the alternative certification teacher program permanently ceases.

(4) Student teaching shall not be required for program completion.

Section 4. Temporary Provisional Certificate for Teaching.

(1) The temporary provisional certificate for teaching shall be issued and renewed in accordance with KRS 161.048(7).

(2) The temporary provisional certificate for teaching shall be issued in accordance with a grade level and specialization as recommended by the educator preparation provider and valid for employment consistent with the area of certification being sought through the preparation program.~~[-]~~

~~[(a)]~~

~~[1.] [Until December 31, 2014, issued in accordance with a grade level and specialization as recommended by the educator preparation institution on Form TC-TP; or]~~

~~[2.] [Beginning January 1, 2015, issued in accordance with a grade level and specialization as recommended by the educator preparation institution on Form CA-TP; and]~~

~~[(b)] [Valid for employment consistent with the area of certification being sought through the preparation program.]~~

(3) The temporary provisional certificate for teaching shall be issued at the rank corresponding to the degree held by the teacher applicant in accordance with the requirements established in KRS 161.1211 and 16 KAR Chapter 8~~[16 KAR 8:020]~~.

Section 5. Issuance of a Temporary Provisional Certificate for Teaching.

(1) Prior to seeking employment in a Kentucky public school, a candidate shall request from the educator preparation provider~~[institution]~~ written and dated documentation of eligibility for the alternative certification teacher program to provide to school districts pursuant to KRS 160.345(2)(h).

(2) Prior to employment, a superintendent, on behalf of the employing local board of education, shall be responsible for requesting the temporary provisional certificate.

(3) The candidate shall submit to the EPSB~~[Education Professional Standards Board]~~ an official college transcript from each college or university attended.

(4) The candidate shall demonstrate compliance with 16 KAR 2:010, Section 3(1).

~~(5)[(4)] The employing school district shall submit [with Form TC-TP or Form CA-TP] a completed and signed copy of the mentoring collaboration agreement with the alternative certification teacher program as required by Section 3(3)(d) of this administrative regulation.~~

(6) The educator preparation provider shall submit a recommendation for the grade level and specialization of the temporary provisional certificate.

~~[(5)] [Beginning January 1, 2015, a candidate who is not currently certified as an educator in Kentucky shall submit a national and state criminal background check performed in accordance with KRS 160.380(5)(c) within twelve (12) months prior to the date of application.]~~

Section 6. Requirements for Renewal of the Temporary Provisional Certificate for Teaching.

(1) A candidate shall be eligible for renewal of the temporary provisional certificate upon application to the EPSB, compliance with 16 KAR 2:010, Section 3(1), and successful completion of the following requirements:

(a) Evidence of employment in a Kentucky school district or regionally- or nationally accredited nonpublic school in the content area or areas indicated on the initial certificate; and

(b) Recommendation from the educator preparation provider based on continued enrollment, completion of annual observation hours, and progress towards the completion of the alternative teacher preparation program.

(2) If a candidate is required to complete an internship in accordance with KRS 161.030, **the candidate[they]** shall complete the required assessments as established in 16 KAR 6:010 prior to issuance of the final temporary provisional **certificate** and shall complete the internship during the final temporary provisional certificate.

(3) A candidate for exceptional children or interdisciplinary early childhood certification **employed in a public school** may only renew the temporary provisional certificate two (2) times.

(4) All other alternative certification teacher candidates may renew the temporary provisional certificate four (4) times. [A candidate shall be eligible for the first renewal of the temporary provisional certificate upon successful completion of the following requirements:]

~~[(a)] [Evidence of employment in a Kentucky school district or nonpublic school in the content area or areas indicated on the initial provisional certificate;]~~

~~[(b)] [A minimum of six (6) semester hours or its equivalent from the approved preparation program; and]~~

~~[(c)]~~

~~[1.] [Until December 31, 2014, completion of Form TC-TP; or]~~

~~[2.] [Beginning January 1, 2015, completion of Form CA-TP.]~~

~~[(2)] [A candidate shall be eligible for the final renewal of the temporary provisional certificate upon successful completion of the following requirements:]~~

~~[(a)] [Evidence of employment in a Kentucky school district or nonpublic school in the content area or areas indicated on the initial provisional certificate;]~~

~~[(b)] [A minimum of six (6) new semester hours or its equivalent from the approved preparation program;]~~

~~[(c)] [The required assessments as established in 16 KAR 6:010; and]~~

~~[(d)]~~

~~[1.] [Until December 31, 2014, completion of Form TC-TP; or]~~

~~[2.] [Beginning January 1, 2015, completion of Form CA-TP.]~~

Section 7. Alternative Certification Teacher Program Completion Requirements.

(1) An applicant for teacher certification shall meet all certification requirements for the corresponding certificate established in 16 KAR Chapter 2 and the assessment requirements established in 16 KAR 6:010.

(2) Upon completion of all program requirements of the university based alternative teacher program, the candidate may apply to the EPSB for the professional certificate.

(3) Upon application to the EPSB, compliance with 16 KAR 2:010, Section 3(1), and verification that a candidate has met all eligibility requirements for certificate issuance, the EPSB shall issue a

~~professional certificate. [If the candidate has successfully passed the required assessments as outlined in 16 KAR 6:010, and completed the required coursework, the institution shall provide written notice to the employing school district that a candidate is eligible to participate in the Kentucky Teacher Internship Program in each subject area covered by the temporary provisional certificate and in accordance with 16 KAR 7:010.]~~

~~[(2)] [When the candidate is prepared to enroll in the Kentucky Teacher Internship Program, the recommending institution shall complete and sign page five (5) of the TC-TP or page four (4) of the CA-TP form and deliver it to the employing school district for submission to the Education Professional Standards Board.]~~

~~[(3)] [Upon completion of all program requirements of the alternative certification teacher program, including successful completion of the Kentucky Teacher Internship Program established in KRS 161.030 and 16 KAR 7:010, the candidate may make application to the Education Professional Standards Board for the professional certificate on the form TC-1 or CA-1, which are incorporated by reference in 16 KAR 2:010.]~~

~~[(4)] [Upon verification that a candidate has met all eligibility requirements for certificate issuance, the Education Professional Standards Board shall issue a professional certificate.]~~

~~[(5)] [A candidate who failed to successfully complete the assessments, the internship, or the required coursework during the initial issuance and two (2) renewals of the temporary certificate, in accordance with KRS 161.048(7), and who has been transitioned into an institution's traditional educator preparation program, shall be eligible for a Teacher Internship Statement of Eligibility Confirmation of Employment as a Teacher upon recommendation of the institution after the candidate's completion of the preparation program and the required assessments.]~~

~~[(6)] [If a candidate fails to complete all alternative certification program requirements during the initial issuance and two (2) renewals of the temporary provisional certificate, in accordance with KRS 161.048(7), the employing school district may, pursuant to 16 KAR 2:010, 2:120, and 2:180, submit an application for emergency or conditional certification on behalf of the former employee to allow the individual to continue employment.]~~

Section 8. University Requirements for an Alternative Certification Administrator Program.

(1) An accredited college or university seeking to offer an alternative certification administrator program shall apply to the ~~EPSB~~[Education Professional Standards Board] for program approval in accordance with 16 KAR 5:010.

(2) In addition to the standards for program approval established in 16 KAR 5:010, the educator preparation ~~provider~~[institution] seeking alternative certification administrator program approval shall design the alternative certification administrator program to provide a candidate with the coursework and mentoring appropriate to permit a candidate to maintain employment in an eligible position and successfully complete any applicable assessments, including any internship or training programs, within a period of two (2) years for those enrolled in an alternative certification administrator program.

(3) Upon approval, the alternative certification administrator program unit shall:

(a) Assess a candidate's educational background and develop a plan of coursework that shall adequately prepare the candidate for successful completion of the requirements for program completion and certification for the areas and grade ranges that correspond with the candidate's school placement;

(b) Provide a candidate written and dated documentation of eligibility for the university alternative certification administrator program so that the candidate may be considered for employment pursuant to KRS 160.345(2)(h);

(c) Ensure that a candidate begins coursework no later than ninety (90) days from the date the eligibility notice is issued;

(d) Develop a written agreement to provide, in collaboration with the administration of the candidate's employing school, mentoring to the candidate in the employment setting which shall include:

1. A minimum of fifteen (15) hours of annual observation utilizing university faculty and a district-based mentor of the candidate practicing in the appropriate administrative role, as follows:

a. A minimum of five (5) hours of observation by university faculty;

b. A minimum of five (5) hours of observation by a district-based mentor; and

- c. Five (5) hours of observation by either the university faculty or the district-based mentor;
- 2. A description of how support shall be offered to the candidate to assist the candidate in meeting the candidate's administrative responsibilities;
- 3. The name, contact person, and role for the collaborating educator preparation provider~~[institution]~~ mentor; and
- 4. The name and role of all school district mentors;
- (e) Establish a process to maintain regular communication with the employing school so that the educator preparation provider~~[institution]~~ and employing school may assist the candidate as needed and address identified areas of improvement; and
- (f) Notify the EPSB~~[Education Professional Standards Board]~~ in writing if a candidate's employment in a covered position or enrollment in the alternative certification administrator program permanently ceases.

Section 9. Temporary Provisional Administrative Certificate.

- (1) The temporary provisional administrative certificate shall be issued for a validity period not to exceed one (1) year.
- (2) The temporary provisional administrative certificate may be renewed a maximum of one (1) time.
- (3) The temporary provisional administrative certificate shall be valid for employment in a position consistent with the area of certification being sought through the preparation program.

Section 10. Issuance of a Temporary Provisional Administrative Certificate.

- (1) Prior to seeking employment in a Kentucky public school, a candidate shall request from the educator preparation provider~~[institution]~~ written and dated documentation of eligibility for the university based alternative certification administrator program to provide to school districts pursuant to KRS 160.345(2)(h).
- (2) Prior to employment, a superintendent, on behalf of the employing local board of education, shall be responsible for requesting the temporary provisional certificate.
- (3) The candidate shall submit to the EPSB~~[Education Professional Standards Board]~~ an official college transcript from each college or university attended.
- (4) The candidate shall demonstrate compliance with 16 KAR 2:010, Section 3(1).
- ~~(5)~~(4) The employing school district shall submit ~~[with Form TC-TP or Form CA-TP]~~ a completed and signed copy of the mentoring collaboration agreement with the university based alternative certification program as required by Section 8(3)(d) of this administrative regulation.
- (6) The educator preparation provider shall submit a recommendation for the specialization of the temporary provisional certificate.
- ~~[(5)] [Beginning January 1, 2015, a candidate who is not currently certified as an educator in Kentucky shall submit a national and state criminal background check performed in accordance with KRS 160.380(5)(c) within twelve (12) months prior to the date of application.]~~

Section 11. Requirements for renewal of the temporary provisional certificate for an administrator.

- (1) A candidate shall be eligible for no more than one (1) renewal of the temporary provisional certificate.
- (2) A candidate shall be eligible for renewal of the temporary provisional certificate upon application to the EPSB, compliance with 16 KAR 2:010, Section 3(1), and successful completion of the following requirements:
 - (a) Evidence of employment in a Kentucky school district or nonpublic school in the position indicated on the initial certificate; and
 - (b) Recommendation from the educator preparation provider based on continued enrollment, completion of annual observation hours, and progress towards the completion of the alternative administrator program.
- (3) If a candidate is seeking principal certification and is required to complete an internship in accordance with KRS 161.030, **the candidate[they]** shall complete the required assessments as established in 16 KAR 3:090 prior to renewal of the temporary provisional **certificate** and shall complete the internship during the final temporary provisional certificate.

- ~~[(2)] [A candidate shall be eligible for renewal of the temporary provisional certificate upon successful completion of the following requirements:]~~
- ~~[(a)] [Evidence of employment in a Kentucky school district or nonpublic school in the position indicated on the temporary provisional certificate;]~~
 - ~~[(b)] [A minimum of six (6) semester hours or its equivalent from the approved preparation program; and]~~
 - ~~[(c)]~~
 - ~~[(1-)] [Until December 31, 2014, completion of Form TC-TP; or]~~
 - ~~[(2-)] [Beginning January 1, 2015, completion of Form CA-TP.]~~

Section 12. Alternative Certification Administrator Program Completion Requirements.

- (1)
- ~~[(a)] [If the alternative certification administrator candidate for principal certification has successfully passed the required assessments, as outlined in 16 KAR 6:030, and completed the required coursework, the institution shall provide written notice to the district that the candidate is eligible to participate in the Kentucky Principal Internship Program in accordance with 16 KAR 7:020.]~~
 - ~~[(b)] [When a principal candidate is ready to enroll in the Kentucky Principal Internship Program, the recommending institution shall complete page five (5) of the TC-TP form or Form CA-TP and deliver the form to the employing school district for submission to the Education Professional Standards Board.]~~
- ~~[(2)]~~
- ~~[(a)] [An alternative certification administrator candidate who failed to complete the assessments, the internship, or the required coursework during the initial issuance and one (1) renewal of the temporary provisional certificate and who has been transitioned into an institution's traditional preparation program, shall be eligible for an administrative certificate in the area of study upon recommendation of the institution after the candidate's completion of the preparation program and the required assessments.]~~
 - ~~[(b)] [If the candidate was initially enrolled in the alternative certification program for principal, the candidate shall be eligible for a Principal Internship Statement of Eligibility Confirmation of Employment as a Principal/Assistant Principal in an Accredited Kentucky School upon recommendation of the institution after the candidate's completion of the preparation program and the required assessments.]~~
- ~~[(3)]~~
- (a) During the period of enrollment in the alternative certification administrator program, a candidate seeking superintendent certification and serving in a local school district as a superintendent or assistant superintendent shall successfully complete both the coursework in the institution's alternative certification administrator program as well as the Superintendents Training Program and assessments required in KRS 156.111.
 - (b) The college or university faculty shall maintain contact with the employing school district and the Kentucky Department of Education regarding the completion of coursework to ensure that a superintendent candidate has completed the required coursework to prepare for the assessments and participation in the Superintendents Training Program.
- (2) An applicant for administrator certification shall meet all certification requirements for the corresponding certificate established in 16 KAR Chapter 3.
- (3) Upon completion of all program requirements of the alternative administrator program the candidate may apply to the EPSB for the professional certificate.
- (4) Upon application to the EPSB, compliance with 16 KAR 2:010, Section 3(1), and verification that a candidate has met all eligibility requirements for certificate issuance, the EPSB shall issue a professional certificate.
- ~~[(4)] [Upon completion of the alternative certification administrator program, the assessments, and the internship or Superintendents Training Program as applicable, the university shall provide a recommendation for the professional certificate on the candidate's TC-1 or CA-1 form, which are incorporated by reference in 16 KAR 2:010.]~~

~~[(5)] [Upon verification that a candidate has met all eligibility requirements for certificate issuance, the Education Professional Standards Board shall issue a professional certificate.]~~

~~[Section 13.] [Incorporation by Reference.]~~

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

~~[(a)] ["Application for Temporary Provisional Certification", Form TC-TP, May 2007;]~~

~~[(b)] ["Application for Temporary Provisional Certification", Form CA-TP, June 2014;]~~

~~[(c)] ["Teacher Internship Statement of Eligibility Confirmation of Employment as a Teacher", November 2004; and]~~

~~[(d)] ["Principal Internship Statement of Eligibility Confirmation of Employment as a Principal/Assistant Principal in an Accredited Kentucky School", May 2005.]~~

~~[(2)] [This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Education Professional Standards Board, 100 Airport Road, Third Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.]~~

CONTACT PERSON: Todd Allen, General Counsel, Kentucky Department of Education, 300 Sower Boulevard, 5th Floor, Frankfort, Kentucky 40601, phone 502-564-4474, fax 502-564-9321; email regcomments@education.ky.gov.

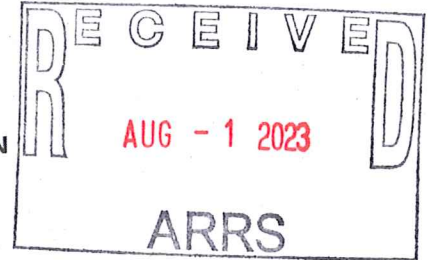
Andy Beshear
Governor



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

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August 1, 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: 16 KAR 9:100E. Alternative Route to Certification Institute.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 16 KAR 9:100E, the Education Professional Standards Board proposes the attached amendment to 16 KAR 9:100E.

Thank you for your consideration.

Sincerely,

Cassie L. Trueblood
Policy Advisor and Special Counsel

Final, 7-7-2023

SUGGESTED SUBSTITUTE

**EDUCATION AND LABOR CABINET
Education Professional Standards Board**

16 KAR 9:100E. Alternative Route to Certification Institute.

EFFECTIVE: April 26, 2023

RELATES TO: KRS 161.028, 161.030, 161.048, 34 C.F.R. 300.156 (c)(2)

STATUTORY AUTHORITY: KRS 161.028, 161.030, 161.048(1)(e)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.048(1)(e) requires the Education Professional Standards Board (EPSB) to promulgate administrative regulations establishing standards and procedures for the Alternative Route to Certification Institute and the approval criteria for these programs. This administrative regulation establishes the required elements of the alternative route to certification and the application review process.

Section 1. Institute Providers.

- (1) A provider not currently accredited by the EPSB in accordance with 16 KAR 5:010, may demonstrate a partnership with an institution of higher education accredited by the EPSB and a school district or cooperative recognized by the Kentucky Department of Education.
- (2) A provider shall submit an application to the EPSB in accordance with the Guidelines for Submitting an Application to Provide an Alternative Route to Certification Institute (Option 7).

Section 2. Application Review.

- (1) An application to provide an alternative route to certification institute shall be submitted to EPSB staff.
- (2) EPSB staff shall complete an initial review to ensure that the application addresses the requirements of KRS 161.048(8) and the Guidelines for Submitting an Application to Provide an Alternative Route to Certification Institute (Option 7).
 - (a) If EPSB staff determines that the application addresses the requirements of this subsection, the application shall be forwarded to an external review team.
 - (b) If EPSB staff determines that the application does not address all the requirements of this subsection, staff shall notify the provider of the deficiencies.
- (3) An external review team of trained reviewers appointed by EPSB pursuant to subsection (4) of this section, staff shall review the application in accordance with KRS 161.048(8) and the Guidelines for Submitting an Application to Provide an Alternative Route to Certification Institute (Option 7).
- (4) The external review team shall be comprised of:
 - (a) One (1) representative from an EPSB accredited postsecondary institution;
 - (b) One (1) representative from a Kentucky education cooperative; and
 - (c) One (1) representative from a Kentucky public school district.
- (5) The external review team shall review the application to provide an alternative route to certification institute and determine the quality of the application based on compliance with subsection (2) of this section. The review team shall recommend acceptance or denial of the application to the EPSB and shall include a supporting rationale for the recommendation.
- (6) The EPSB shall review the external review team's recommendation, shall approve or deny each application, and shall transmit the decision and rationale for the decision to the provider.
- (7) The provider may revise and resubmit a plan that has been denied.
- (8) Any approval granted by the EPSB shall specify the period of approval of the institute, which shall not exceed two (2) years for initial approval. A provider may apply for an extension of approval as established in Section 3 of this administrative regulation.

Section 3. Continuance of Program Approval.

(1) An institute provider may apply for continuance of an approved alternative route to certification institute for an additional period of time not to exceed seven (7) years. The request for continuance shall specify any changes in program components that have occurred since the institute received prior EPSB approval and that are planned for implementation in subsequent training periods.

(2) The request for continuance shall provide specific examples of demonstrating program quality as established in this section and the application required by this administrative regulation. The request for continuance shall include statistical information related to teacher retention for all prior candidates who have completed the institute. Standards for program approval established under this administrative regulation shall be maintained under any program extension.

Section 4. Revocation for Cause.

(1) If an area of concern or an allegation of misconduct arises after an institute has been approved, staff shall bring a complaint to the EPSB for initial review.

(2) After review of the allegations in the complaint, the EPSB may refer the matter to the external review team for further investigation.

(3)

(a) Notice of the EPSB's decision to refer the matter and the complaint shall be sent to the provider.

(b) Within thirty (30) days of receipt of the complaint, the provider shall respond to the allegations in writing and provide information pertaining to the allegations in the complaint to the EPSB.

(4)

(a) The external review team shall review any evidence supporting the allegations and any information submitted by the provider.

(b) The external review team may conduct on-site evaluations to evaluate the quality of the program.

(c) Upon completion of the review, the external review team shall issue a report recommending to the EPSB continued approval of the institute or revocation of institute approval if the institute no longer meets the standards and requirements for approval established in this administrative regulation.

(5) The provider shall receive a copy of the external review team's report and may file a response to the recommendation.

(6)

(a) The recommendation from the external review team and the provider's response shall be presented to the EPSB.

(b) The EPSB shall consider the findings and recommendations of the external review team and make a final determination regarding the approval of the institute.

Section 5. Reconsideration.

(1) If a provider seeks reconsideration of an EPSB decision, the provider shall submit a request within thirty (30) days of receipt of the EPSB official notification. A provider shall submit the request on the grounds that:

(a) A prescribed standard was disregarded;

(b) A procedure was not followed; or

(c) Evidence of compliance in place at the time of the review and favorable to the provider was not considered.

(2) A panel of no fewer than three (3) members shall be appointed by the EPSB chair from members of the EPSB who do not have a conflict of interest regarding the provider or institute. The ad hoc committee shall recommend action on the request to the full EPSB.

Section 6. Data Reports.

(1) The EPSB shall maintain data reports related to:

(a) Approval status of all EPSB approved Option 7 programs;

(b) Contact information for the person responsible for the institute;

(c) Year of last program review;

(d) Tables relating the institute total enrollment disaggregated by ethnicity and gender for the last three (3) years;

- (e) Tables relating the institute faculty disaggregated by the number of full-time equivalents (FTE), ethnicity, and gender for the last three (3) years;
 - (f) Table of the number of program completers for the last three (3) years;
 - (g) Table relating pass rates on the required assessments;
 - (h) Table relating program completer satisfaction with the preparation program; and
 - (i) Table relating new teacher (under three (3) years) and supervisor satisfaction with the preparation program.
- (2) A provider shall report to the EPSB staff at the end of each school year continuous improvement efforts relating to the institute.

Section 7. Temporary Provisional Certificate.

- (1) An eligible candidate who meets the requirements of KRS 161.048(8)(a)1. through 4. and 16 KAR 2:010, Section 3(1), shall be issued a one (1) year provisional teaching certificate.
- (2) The candidate shall apply to the EPSB and provide:
 - (a) Official transcripts of all college work undertaken by the candidate establishing proof of a bachelor's degree or graduate degree and grade point average;
 - (b) Proof of a passing score on the admission assessments as established in 16 KAR 5:020, unless the applicant holds a terminal degree;
 - (c) Proof of a passing score on the academic content assessment, as established in 16 KAR 6:010, in the area in which certification is being sought;
 - (d) Verification by the institute provider of completion of half of the requisite institute hours; and
 - (e) Evidence of employment in a Kentucky school district or regionally- or nationally accredited nonpublic school in the content area of the certification.
- (3) ~~[The temporary provisional certificate may be renewed for a maximum of two (2) additional years.]~~
~~[(4)]~~ A candidate shall be eligible for first renewal of the temporary provisional certificate upon application to the EPSB, compliance with 16 KAR 2:010, Section 3(1), and:
 - (a) Verification of completion of:
 - 1. 240 hour institute for elementary or K-12 certification; or
 - 2. 180 hour institute for middle or high school certification; and
 - (b) Evidence of employment in a Kentucky school district or regionally- or nationally accredited nonpublic school in the content area of the certification.
- (4) A candidate shall be eligible for subsequent renewal of the temporary provisional certificate upon application to the EPSB, compliance with 16 KAR 2:010, Section 3(1), and successful completion of the following requirements:
 - (a) Evidence of employment in a Kentucky school district or regionally- or nationally accredited nonpublic school in the content area or areas indicated on the initial certificate; and
 - (b) Recommendation from the institute provider based on continued enrollment, completion of mentoring, and progress towards the completion of the program.
- (5) If a candidate is required to complete an internship in accordance with KRS 161.030, **the candidate[they]** shall complete the required assessments as established in 16 KAR 6:010 prior to issuance of the final temporary provisional **certificate** and shall complete the internship during the final temporary provisional certificate.
- (6) A candidate for exceptional children or interdisciplinary early childhood certification **employed in a public school** may only renew the temporary provisional certificate two (2) times.
- (7) All other candidates may renew the temporary provisional certificate four (4) times.

Section 8. Professional Certificate.

- (1) Upon completion of all program requirements established in this administrative regulation, the applicant may apply for the professional certificate.
- (2) Prior to issuance of the professional certificate, the candidate shall obtain a passing score on the pedagogy assessment, as established in 16 KAR 6:010, for the certificate being sought.
- (3) Upon application to the EPSB, compliance with 16 KAR 2:010, Section 3(1), and verification that a candidate has met all eligibility requirements for certificate issuance, the EPSB shall issue the candidate a professional certificate.

Section 9. Incorporation by Reference.

(1) "Guidelines for Submitting an Application to Provide an Alternative Route to Certification Institute (Option 7)", 2022, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Education Professional Standards Board, 300 Sower Boulevard, 5th Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. **This material is also available on the Education Professional Standards Board's Web site at <http://www.epsb.ky.gov/course/view.php?id=2>.**

CONTACT PERSON: Todd Allen, General Counsel, Kentucky Department of Education, 300 Sower Boulevard, 5th Floor, Frankfort, Kentucky 40601, phone 502-564-4474, fax 502-564-9321; email regcomments@education.ky.gov.

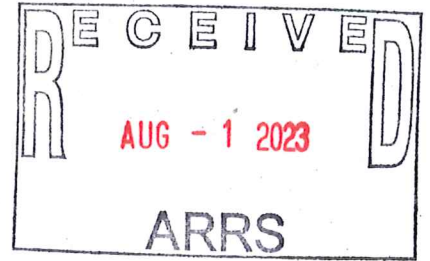
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August 1, 2023

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: 16 KAR 9:100. Alternative Route to Certification Institute.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 16 KAR 9:100, the Education Professional Standards Board proposes the attached amendment to 16 KAR 9:100.

Thank you for your consideration.

Sincerely,

Cassie L. Trueblood
Policy Advisor and Special Counsel

Final, 7-10-2023

SUGGESTED SUBSTITUTE

**EDUCATION AND LABOR CABINET
Education Professional Standards Board**

16 KAR 9:100. Alternative Route to Certification Institute.

RELATES TO: KRS 161.028, 161.030, 161.048, 34 C.F.R. § 300.156 (c)(2)

STATUTORY AUTHORITY: KRS 161.028, 161.030, 161.048(1)(e)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.048(1)(e) requires the Education Professional Standards Board (EPSB) to promulgate administrative regulations establishing standards and procedures for the Alternative Route to Certification Institute and the approval criteria for these programs. This administrative regulation establishes the required elements of the alternative route to certification and the application review process.

Section 1. Institute Providers.

- (1) A provider not currently accredited by the EPSB in accordance with 16 KAR 5:010, may demonstrate a partnership with an institution of higher education accredited by the EPSB and a school district or cooperative recognized by the Kentucky Department of Education.
- (2) A provider shall submit an application to the EPSB in accordance with the Guidelines for Submitting an Application to Provide an Alternative Route to Certification Institute (Option 7).

Section 2. Application Review.

- (1) An application to provide an alternative route to certification institute shall be submitted to EPSB staff.
- (2) EPSB staff shall complete an initial review to ensure that the application addresses the requirements of KRS 161.048(8) and the Guidelines for Submitting an Application to Provide an Alternative Route to Certification Institute (Option 7).
 - (a) If EPSB staff determines that the application addresses the requirements of this subsection, the application shall be forwarded to an external review team.
 - (b) If EPSB staff determines that the application does not address all the requirements of this subsection, staff shall notify the provider of the deficiencies.
- (3) An external review team of trained reviewers appointed by EPSB pursuant to subsection (4) of this section, staff shall review the application in accordance with KRS 161.048(8) and the Guidelines for Submitting an Application to Provide an Alternative Route to Certification Institute (Option 7).
- (4) The external review team shall be comprised of:
 - (a) One (1) representative from an EPSB accredited postsecondary institution;
 - (b) One (1) representative from a Kentucky education cooperative; and
 - (c) One (1) representative from a Kentucky public school district.
- (5) The external review team shall review the application to provide an alternative route to certification institute and determine the quality of the application based on compliance with subsection (2) of this section. The review team shall recommend acceptance or denial of the application to the EPSB and shall include a supporting rationale for the recommendation.
- (6) The EPSB shall review the external review team's recommendation, shall approve or deny each application, and shall transmit the decision and rationale for the decision to the provider.
- (7) The provider may revise and resubmit a plan that has been denied.
- (8) Any approval granted by the EPSB shall specify the period of approval of the institute, which shall not exceed two (2) years for initial approval. A provider may apply for an extension of approval as established in Section 3 of this administrative regulation.

Section 3. Continuance of Program Approval.

(1) An institute provider may apply for continuance of an approved alternative route to certification institute for an additional period of time not to exceed seven (7) years. The request for continuance shall specify any changes in program components that have occurred since the institute received prior EPSB approval and that are planned for implementation in subsequent training periods.

(2) The request for continuance shall provide specific examples of demonstrating program quality as established in this section and the application required by this administrative regulation. The request for continuance shall include statistical information related to teacher retention for all prior candidates who have completed the institute. Standards for program approval established under this administrative regulation shall be maintained under any program extension.

Section 4. Revocation for Cause.

(1) If an area of concern or an allegation of misconduct arises after an institute has been approved, staff shall bring a complaint to the EPSB for initial review.

(2) After review of the allegations in the complaint, the EPSB may refer the matter to the external review team for further investigation.

(3)

(a) Notice of the EPSB's decision to refer the matter and the complaint shall be sent to the provider.

(b) Within thirty (30) days of receipt of the complaint, the provider shall respond to the allegations in writing and provide information pertaining to the allegations in the complaint to the EPSB.

(4)

(a) The external review team shall review any evidence supporting the allegations and any information submitted by the provider.

(b) The external review team may conduct on-site evaluations to evaluate the quality of the program.

(c) Upon completion of the review, the external review team shall issue a report recommending to the EPSB continued approval of the institute or revocation of institute approval if the institute no longer meets the standards and requirements for approval established in this administrative regulation.

(5) The provider shall receive a copy of the external review team's report and may file a response to the recommendation.

(6)

(a) The recommendation from the external review team and the provider's response shall be presented to the EPSB.

(b) The EPSB shall consider the findings and recommendations of the external review team and make a final determination regarding the approval of the institute.

Section 5. Reconsideration.

(1) If a provider seeks reconsideration of an EPSB decision, the provider shall submit a request within thirty (30) days of receipt of the EPSB official notification. A provider shall submit the request on the grounds that:

(a) A prescribed standard was disregarded;

(b) A procedure was not followed; or

(c) Evidence of compliance in place at the time of the review and favorable to the provider was not considered.

(2) A panel of no fewer than three (3) members shall be appointed by the EPSB chair from members of the EPSB who do not have a conflict of interest regarding the provider or institute. The ad hoc committee shall recommend action on the request to the full EPSB.

Section 6. Data Reports.

(1) The EPSB shall maintain data reports related to:

(a) Approval status of all EPSB approved Option 7 programs;

(b) Contact information for the person responsible for the institute;

(c) Year of last program review;

(d) Tables relating the institute total enrollment disaggregated by ethnicity and gender for the last three (3) years;

- (e) Tables relating the institute faculty disaggregated by the number of full-time equivalents (FTE), ethnicity, and gender for the last three (3) years;
 - (f) Table of the number of program completers for the last three (3) years;
 - (g) Table relating pass rates on the required assessments;
 - (h) Table relating program completer satisfaction with the preparation program; and
 - (i) Table relating new teacher (under three (3) years) and supervisor satisfaction with the preparation program.
- (2) A provider shall report to the EPSB staff at the end of each school year continuous improvement efforts relating to the institute.

Section 7. Temporary Provisional Certificate.

- (1) An eligible candidate who meets the requirements of KRS 161.048(8)(a)1. through 4. and 16 KAR 2:010, Section 3(1), shall be issued a one (1) year provisional teaching certificate.
- (2) The candidate shall apply to the EPSB and provide:
- (a) Official transcripts of all college work undertaken by the candidate establishing proof of a bachelor's degree or graduate degree and grade point average;
 - (b) Proof of a passing score on the admission assessments as established in 16 KAR 5:020, unless the applicant holds a terminal degree;
 - (c) Proof of a passing score on the academic content assessment, as established in 16 KAR 6:010, in the area in which certification is being sought;
 - (d) Verification by the institute provider of completion of half of the requisite institute hours; and
 - (e) Evidence of employment in a Kentucky school district or regionally- or nationally accredited nonpublic school in the content area of the certification.
- (3) ~~[The temporary provisional certificate may be renewed for a maximum of two (2) additional years.]~~
[4] A candidate shall be eligible for first renewal of the temporary provisional certificate upon application to the EPSB, compliance with 16 KAR 2:010, Section 3(1), and:
- (a) Verification of completion of:
 - 1. 240 hour institute for elementary or K-12 certification; or
 - 2. 180 hour institute for middle or high school certification; and
 - (b) Evidence of employment in a Kentucky school district or regionally- or nationally accredited nonpublic school in the content area of the certification.
- (4) A candidate shall be eligible for subsequent renewal of the temporary provisional certificate upon application to the EPSB, compliance with 16 KAR 2:010, Section 3(1), and successful completion of the following requirements:
- (a) Evidence of employment in a Kentucky school district or regionally- or nationally accredited nonpublic school in the content area or areas indicated on the initial certificate; and
 - (b) Recommendation from the institute provider based on continued enrollment, completion of mentoring, and progress towards the completion of the program.
- (5) If a candidate is required to complete an internship in accordance with KRS 161.030, **the candidate[they]** shall complete the required assessments as established in 16 KAR 6:010 prior to issuance of the final temporary provisional **certificate** and shall complete the internship during the final temporary provisional certificate.
- (6) A candidate for exceptional children or interdisciplinary early childhood certification **employed in a public school** may only renew the temporary provisional certificate two (2) times.
- (7) All other candidates may renew the temporary provisional certificate four (4) times.

Section 8. Professional Certificate.

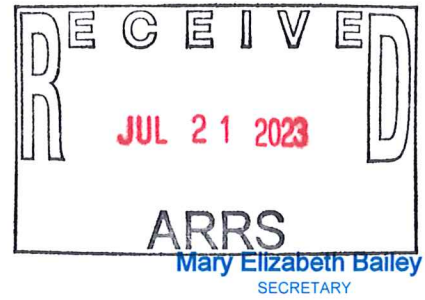
- (1) Upon completion of all program requirements established in this administrative regulation, the applicant may apply for the professional certificate.
- (2) Prior to issuance of the professional certificate, the candidate shall obtain a passing score on the pedagogy assessment, as established in 16 KAR 6:010, for the certificate being sought.
- (3) Upon application to the EPSB, compliance with 16 KAR 2:010, Section 3(1), and verification that a candidate has met all eligibility requirements for certificate issuance, the EPSB shall issue the candidate a professional certificate.

Section 9. Incorporation by Reference.

(1) "Guidelines for Submitting an Application to Provide an Alternative Route to Certification Institute (Option 7)", 2022, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Education Professional Standards Board, 300 Sower Boulevard, 5th Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. **This material is also available on the Education Professional Standards Board's Web site at <http://www.epsb.ky.gov/course/view.php?id=2>.**

CONTACT PERSON: Todd Allen, General Counsel, Kentucky Department of Education, 300 Sower Boulevard, 5th Floor, Frankfort, Kentucky 40601, phone 502-564-4474, fax 502-564-9321; email regcomments@education.ky.gov.



Andy Beshear
GOVERNOR

PERSONNEL CABINET

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July 21, 2023

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

Re: 101 KAR 2:034. Classified compensation administrative regulations.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 101 KAR 2:034, the Personnel Cabinet proposes the attached amendment to 101 KAR 2:034.

Sincerely,

Rosemary G. Holbrook
Assistant General Counsel
Office of Legal Services

Final, 6-27-2023

SUGGESTED SUBSTITUTE

PERSONNEL CABINET

101 KAR 2:034. Classified compensation administrative regulations.

RELATES TO: KRS 18A.030(2), 18A.110, 18A.165, 29 U.S.C. sec. 201, et seq.

STATUTORY AUTHORITY: KRS 18A.110(1)(c), (d), (g), (7)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.110 requires the Secretary of Personnel to promulgate administrative regulations which govern the pay plan for all employees in the classified service. This administrative regulation establishes requirements to assure uniformity and equity in administration of the pay plan in accordance with statutory requirements.

Section 1. New Appointments.

(1) An appointing authority shall appoint a new employee at a salary not to exceed the midpoint of the pay grade.

(2) The appointing authority shall adjust to that salary an employee who is not on initial or promotional probation and is earning less than the new appointee's salary, if the appointing authority determines that the incumbent employee:

(a) Is in the same job classification;

(b) Is in the same department or office;

(c) Is in the same work county; and

(d) Has a similar combination of education and experience relating to the relevant job class specification.

(3) If sufficient funds are available, the appointing authority may identify each incumbent employee affected by subsection (2) of this section whose salary is less than five (5) percent above the appointment salary assigned to the new employee. The appointing authority may adjust all affected incumbent employees' salaries to five (5) percent above the new appointee's salary.

Section 2. Reentrance to Classified Service.

(1) Returning retirees. An employee who was formerly employed under KRS Chapter 18A and who is appointed to a position covered by the provisions of KRS Chapter 18A while receiving retirement payments through the Kentucky Public Pensions Authority or Kentucky Teachers Retirement System shall be appointed in accordance with the provisions for new appointments in this administrative regulation.

(2) Other reentering employees.

(a) Former classified employees. An appointing authority shall set the salary of a former classified employee, other than a returning retiree, who is being reemployed, reinstated after a break in continuous employment in the classified service, or probationarily appointed in one (1) of the following ways:

1. a. In accordance with the standards used for making new appointments in this administrative regulation;

b.[2.] Up to the same salary as that paid at the time of separation from the classified service, if that salary does not exceed the midpoint salary plus the difference, in dollars, between the job class entry level salary and the pay grade midpoint salary; or

c.[3.] The same salary as that paid at the time of separation from the classified service *if[provided]* the employee is returning to the same pay grade or same job classification held at the time of separation from the classified service.

2.[4.] If sufficient funds are available, the appointing authority may identify each incumbent employee affected by Section 1(2) of this administrative regulation who is not on initial or promotional probation at the time the salary adjustment becomes effective. For all affected incumbent employees whose salary is less than five (5) percent above the appointment salary assigned to the new employee, the

appointing authority may adjust all affected incumbent employees' salaries to five (5) percent above the new appointee's salary on that same effective date. An adjustment made pursuant to this subparagraph shall not exceed the midpoint salary plus the difference, in dollars, between the job class entry level salary and the pay grade midpoint salary.

(b) Former unclassified employees with prior classified service. An appointing authority shall set the salary of a former classified employee who moved to the unclassified service and who is reinstated, reemployed, or probationarily appointed to a position in the classified service in one (1) of the following ways:

1. a. In accordance with the standards for making new appointments;

b.[2.] Up to the same salary as that paid at the time of separation from the classified service, if that salary does not exceed the pay grade midpoint salary plus the difference, in dollars, between the job class entry level salary and the pay grade midpoint salary;

c.[3.] At a salary that is the same as the salary the employee last received in the classified service with adjustments for increases that would have been received if the employee had remained in the classified service prior to resignation if the salary does not exceed the pay grade midpoint salary plus the difference, in dollars, between the job class entry level salary and the pay grade midpoint salary; or

d.[4.] At a salary up to five (5) percent above the pay grade entry level wage for each year of service in the KRS Chapter 18A system, if the salary does not exceed the pay grade midpoint salary plus the difference, in dollars, between the job class entry level salary and the pay grade midpoint salary. Salary shall be calculated using whole percentages.

2.[5.] If sufficient funds are available, the appointing authority may identify each incumbent employee affected by Section 1(2) of this administrative regulation who is not on initial or promotional probation at the time the salary adjustment becomes effective. For all affected incumbent employees whose salary is less than five (5) percent above the appointment salary assigned to the new employee, the appointing authority may adjust all affected incumbent employees' salaries to five (5) percent above the new appointee's salary on that same effective date. An adjustment made pursuant to this subparagraph shall not exceed the midpoint salary plus the difference, in dollars, between the job class entry level salary and the pay grade midpoint salary.

(c) Former unclassified employees with no previous classified service. An appointing authority shall set the salary of a former unclassified employee with no previous classified service, who is probationarily appointed or reemployed, in one (1) of the following ways:

1. a. In accordance with the standards for making new appointments; or

b.[2.] At a salary up to five (5) percent above the minimum salary for each year of service in the unclassified service, if the salary does not exceed the pay grade midpoint salary plus the difference, in dollars, between the job class entry level salary and the pay grade midpoint salary. Salary shall be calculated using whole percentages.

2.[3.] If sufficient funds are available, the appointing authority may identify each incumbent employee affected by Section 1(2) of this administrative regulation who is not on initial or promotional probation at the time the salary adjustment becomes effective. For all affected incumbent employees whose salary is less than five (5) percent above the appointment salary assigned to the new employee, the appointing authority may adjust all affected incumbent employees' salaries to five (5) percent above the new appointee's salary on that same effective date. An adjustment made pursuant to this subparagraph shall not exceed the midpoint salary plus the difference, in dollars, between the job class entry level salary and the pay grade midpoint salary.

(d) Laid off employees. A former employee, separated from the classified service by layoff and reinstated or reemployed in the same or similar job classification within five (5) years from the date of layoff, may receive the salary the employee was receiving at the time of layoff, even if the salary is above the maximum of the pay grade.

(3) Probationary increments upon reentrance to state service. A former employee who is probationarily appointed at a salary at or below the midpoint of the pay grade shall receive a probationary increment upon successful completion of the probationary period.

Section 3. Salary Adjustments.

(1) Promotion.

(a) An employee who is promoted shall receive the greater of five (5) percent for each grade, or an increase to the minimum of the new grade except as provided under subsections[subsection] (2)(b), (3)(b), and (4)(b) of this section; or

(b) If sufficient funds are available [~~and except as provided under subsection (2)(b) of this Section~~], an appointing authority may adjust the employee's salary up to the midpoint of the pay grade ~~if~~**if as long as** the increase is greater than the increase specified in ~~paragraph~~**subsection (1)(a)** of this ~~subsection~~**section**.

(2) Demotion.

(a) If an employee is demoted, the appointing authority shall determine the salary in one (1) of the following ways:

1. The employee's salary shall be reduced by five (5) percent for each grade the employee is reduced; or

2. The employee shall retain the salary received prior to demotion. If the employee's salary is not reduced upon demotion, the appointing authority shall explain the reason in writing and place the explanation in the employee's personnel files.

(b) An employee whose salary is not reduced by five (5) percent per grade upon demotion shall not be eligible for a salary increase upon promotion, reclassification, detail to special duty, reallocation, pay grade change, or successful completion of promotional probation until the employee is moved to a job classification with a higher pay grade than that from which he or she was demoted. If a promotion, reclassification, detail to special duty, reallocation, or pay grade change occurs, it shall be deemed as having been made from the grade from which the employee had been demoted.

(c) ~~Upon the~~**in the event of a** salary schedule adjustment of an entry level wage of a pay grade, if an employee demoted to a lower pay grade, retained his or her salary, and was subsequently promoted and on promotional probation on the effective date of the new salary schedule, if the employee's salary is less than five (5) percent above the new entry level salary of the pay grade assigned to that employee on the effective date, the Personnel Cabinet shall adjust that employee's salary to five (5) percent above the new entry level wage.

(3) Reclassification.

(a) An appointing authority shall adjust the salary of an employee who is advanced to a higher pay grade through reclassification in one (1) of the following ways:

1. The greater of five (5) percent for each grade or the new grade minimum except as provided under subsections[subsection] (2)(b) [~~(3)(b)~~] and (4)(b) of this section, **and paragraph (b) of this subsection**; or

2. If sufficient funds are available [~~and except as provided under subsection (2)(b) of this Section~~], up to the midpoint of the pay grade ~~if~~**if as long as** the increase is greater than the increase specified in subparagraph 1. of this paragraph.

(b) An employee who is placed in a lower pay grade through reclassification shall receive the same salary received prior to reclassification, but shall not be eligible for a salary increase upon promotion, reclassification, detail to special duty, reallocation, pay grade change, or successful completion of promotional probation until the employee is moved to a job classification with a higher pay grade than that from which he or she was reclassified. If a promotion, reclassification, detail to special duty, reallocation, or pay grade change occurs, it shall be deemed as having been made from the grade from which the employee had been reclassified.

(c) If sufficient funds are available, an appointing authority may adjust up to the midpoint of the pay grade the salary of an employee who is placed in the same pay grade through reclassification.

(d) An employee shall not be reclassified from a job classification that does not require the supervision of employees to a job classification that requires the supervision of employees as mandated within the job class specification.

(4) Reallocation.

(a) An employee who is advanced to a higher pay grade through reallocation shall receive the greater of five (5) percent for each grade or the new grade minimum except as provided under subsections[subsection] (2)(b) ~~and~~**and** (3)(b) [~~and (4)(b)~~] of this section, **and paragraph (b) of this subsection**.

(b) An employee who is placed in a lower pay grade through reallocation shall receive the same salary received prior to reallocation, but shall not be eligible for a salary increase upon promotion, reclassification, detail to special duty, reallocation, pay grade change, or successful completion of promotional probation until he or she is moved to a job classification with a higher pay grade than that from which he or she was reallocated. If a promotion, reclassification, detail to special duty, reallocation, or pay grade change occurs, it shall be deemed as having been made from the grade from which the employee had been reallocated.

(5) Detail to special duty.

(a) An employee who is approved for detail to special duty shall receive, during the period of detail, the greater of five (5) percent for each grade or the new grade minimum except as provided under subsections~~[subsection]~~ (2)(b), (3)(b), and (4)(b) of this section.

(b) If sufficient funds are available, an appointing authority may adjust the salary of an employee who is placed in the same pay grade or higher pay grade through detail to special duty, up to the midpoint of the pay grade, if/as long as/ the increase is greater than the increase specified in paragraph (a) of this subsection.

(c) An employee who is approved for detail to the same or lower pay grade shall receive the same salary received prior to detail except as provided under ~~paragraph~~[subsection (5)] (b) of this subsection~~[section]~~.

(6) Reversion.

(a) The salary of an employee who is reverted while serving a promotional probationary period, or following detail to special duty in a higher pay grade, shall be adjusted to:

1. The salary received prior to the promotion or detail; and
2. All salary advancements and adjustments which would have been awarded if the promotion or detail had not occurred.

(b) The salary of an employee who is reverted from a position in the unclassified service to a position in the classified service shall be adjusted to:

1. The salary received prior to leaving the classified service; and
2. All salary advancements and adjustments which would have been awarded if the individual had remained in the classified service.

(c) The increment date of an employee who is reverted from a position in the unclassified service to a position in the classified service shall be restored to the increment date set prior to leaving the classified service.

(7) Pay grade changes.

(a) If a job classification is assigned to a higher pay grade, except as provided under subsections (2)(b), (3)(b), and (4)(b) of this section, the appointing authority shall raise the salary of an employee below the new grade minimum to the new grade minimum. If sufficient funds are available, an appointing authority may uniformly adjust the salary of all employees in that agency in that job classification to:

1. The greater of the new grade minimum or five (5) percent per pay grade; ~~[-or]~~
2. The greater of the new grade minimum or ten (10) percent per pay grade; or
3. At a percentage determined by the Personnel Cabinet.

(b) If a job classification is assigned to a lower pay grade, an employee in that job classification shall retain his or her current salary.

(8) Special entrance rates. If a special entrance rate is established for a job classification, an appointing authority shall adjust the salary of an employee in that job classification who is below the special entrance rate to the new rate. If sufficient funds are available, on the same date as the establishment of the special entrance rate, an appointing authority may uniformly grant to all employees in that job classification, except those employees who are on initial probation, a salary adjustment equal to the difference between the entrance of the pay grade and the new entrance rate.

(9) Other salary adjustments.

(a) On the 16th of a month, an appointing authority may grant a salary adjustment to all employees in a job classification within an agency who were eligible for, but did not receive, a five (5) percent per pay grade increase or ten (10) percent per pay grade increase~~[salary adjustment]~~ as a result of a grade change applicable to the job classification, on or after January 1, 1999. The total adjustment

granted at the time of the grade change and under this paragraph shall equal a five (5) percent per pay grade increase or ten (10) percent per pay grade increase to~~of~~ the employee's salary immediately prior to the grade change. ~~The~~~~Such~~ adjustment shall not be retroactive.

(b) If sufficient funds are available, an appointing authority may adjust the salary of one (1) or more employees with status in an office or department due to internal pay equity issues within a job classification or sustained retention issues impacting the mission of the agency.

1. The appointing authority shall substantiate in writing to the secretary the need for adjustment and include the proposed adjustment for each employee.

2.

a. An adjustment shall be any amount that does not cause an employee's hourly rate to exceed the midpoint of the pay grade; or

b. An adjustment that causes an employee's hourly rate to exceed the midpoint of the pay grade shall not exceed twenty-five (25) percent of the employee's hourly pay rate.

(10) Conversion rule. The salary of an employee whose position changes from a thirty-seven and ~~one-half~~~~five-tenths~~ (37.5) hour workweek to a forty (40) hour workweek, or vice versa, shall be converted to accurately reflect the employee's hourly rate of base pay. This conversion shall be applied before applying any other salary adjustment to which the employee is entitled pursuant to this section.

Section 4. Salary Advancements.

(1) Initial probation increase. A full-time or part-time employee who completes an initial probationary period shall be granted a five (5) percent salary advancement on the first of the month following completion of the probationary period.

(2) Promotional probation increase. An employee shall receive a five (5) percent salary advancement on the first of the month following completion of the promotional probationary period except as provided under Sections 3(2)(b), 3(3)(b), and 3(4)(b) of this administrative regulation.

(3) An employee who separates prior to the first of the month following completion of a probationary period shall forfeit the five (5) percent salary advancement.

(4) Annual increment dates shall be established as follows:

(a) Upon completion of an initial probationary period;

(b) When a former employee has been probationarily appointed and has received compensation in any twelve (12) months without receiving an increment; or

(c) When an employee returns from leave without pay under the provisions of subsection ~~(6)~~~~(5)~~ of this section.

~~(5)~~~~(4)~~ Annual increment dates shall not change if an employee:

(a) Is in a position which is assigned a new or different pay grade;

(b) Receives a salary adjustment as a result of a reallocation;

(c) Is promoted;

(d) Is transferred;

(e) Is demoted;

(f) Is detailed to special duty;

(g) Receives an educational achievement award;

(h) Returns from military leave;

(i) Is reclassified;

(j) Receives a promotional increase after completion of a promotional probationary period; or

(k) Is reemployed after layoff.

~~(6)~~~~(5)~~ Return from leave without pay. An employee returning to duty from leave without pay shall receive an annual increment on the first of the month after receiving compensation in any twelve (12) months since the last increment was received.

~~(7)~~~~(6)~~ Service computation. Full-time and part-time service shall be counted in computing service for the purpose of determining increment eligibility.

~~(8)~~~~(7)~~ Order of calculating increments and other salary increases which occur at the same time. If an employee's increment date occurs on the same date that a salary adjustment or advancement is granted, the increment shall be applied before the adjustment or advancement is added to the

employee's salary, except if the adjustment is based on a reversion, pay grade change, a salary schedule change, or establishment of a special entrance rate.

Section 5. Educational Achievement Award.

(1) On the 16th of a month, an appointing authority may grant a five (5) percent increase to an employee's base salary based on educational achievement as specified in this section.

(2) An agency may elect not to participate in the educational achievement program if sufficient funds are not available.

(3) An employee shall not receive more than one (1) educational achievement award in a fiscal year.

(4) An employee shall not receive an educational achievement award and an adjustment for continuing excellence (ACE) based on the same training.

(5) By submitting a personnel action to grant an educational achievement award, the appointing authority shall certify that all of the qualifying conditions established by this section for the appropriate type of educational achievement award have been met.

(a) For a high school diploma, high school equivalency certificate, or a passing score on the GED test, the qualifying conditions shall be met if:

1. The employee has obtained the high school diploma, equivalency certificate, or passing score on the GED test:

- a. Outside of work hours;
- b. While in state service; and
- c. After establishing an increment date;

2. The employee has not previously attained a high school diploma, equivalency certificate, or passing score on the GED test; and

3. The employee has not completed college coursework on the undergraduate or graduate level prior to obtaining the high school diploma, equivalency certificate, or a passing score on the GED test.

(b) For postsecondary education or training, the qualifying conditions shall be met if:

1. The employee has completed 260 hours of job-related instruction, or the equivalent;

2. The employee began the course work after becoming a state employee and completed the course work after establishing an increment date;

3. The employee has completed the course work within five (5) years of the date on which it was begun;

4. The course work has not previously been applied toward an educational achievement award;

5. The agency has not paid for the course work or costs associated with it, in whole or in part; and

6. The employee was not on educational or extended sick leave when the courses were taken.

Section 6. Salary Schedule Adjustment.

(1) If the secretary authorizes an adjustment of a[the] salary schedule, an appointing authority shall adjust the salaries of all employees below the new schedule entry level wage for the pay grade to the new schedule entry level wage for the pay grade. If sufficient funds are available, the secretary may authorize an appointing authority to grant a salary increase for all employees equal to the difference in the old schedule entry level wage for the grade and the new schedule entry level wage for the grade.

(2) After consultation with the state budget director, if sufficient funds are available, and the Secretary of Personnel determines that an increase in the entry level wage of one (1) or more pay grades is warranted, the Personnel Cabinet shall identify each currently active employee in the pay grade(s), other than an interim employee, who is not on initial or promotional probation at the time the revised salary schedule becomes effective. For an employee whose salary is less than five (5) percent above the new entry level wage of the pay grade assigned to that employee on the effective date, the Personnel Cabinet shall adjust that employee's salary to five (5) percent above the new entry level wage.

Section 7. Paid Overtime.

(1) Overtime for which pay is authorized shall be in accordance with 101 KAR 2:102, Section 5, and the Fair Labor Standards Act, 29 U.S.C. Section 201, et seq., as amended.

- (2) Eligibility for overtime pay shall be approved by the appointing authority, and shall be subject to review by the Secretary of Personnel.
- (3) An employee who is eligible for overtime shall request permission from or be directed in advance by the supervisor to work overtime.
- (4) An overtime payment shall not be added to base salary or wages.

Section 8. Maintenance and Maintenance Allowance. If an employee, or the employee and family, is provided with full or partial maintenance, consisting of one (1) or more meals per day, lodging or living quarters, and domestic or other personal services, the maintenance shall be treated as partial payment of wages. The value of those services shall be deducted from the employee's salary in accordance with a maintenance schedule developed by the appropriate appointing authority after consultation with the Secretary of the Finance and Administration Cabinet.

Section 9. Supplemental Premiums.

(1) Locality premium.

(a)

1. Upon request by an appointing authority, the secretary may authorize and establish the amount of the payment of a locality premium for an employee who is regularly, temporarily, or intermittently assigned to work in a job classification, work county, and organizational unit *if[where]* the agency can demonstrate sustained recruitment and retention issues impacting the mission of the agency; or[-]

2. The secretary may direct the payment of a locality premium for an employee who is regularly, temporarily, or intermittently assigned to work in a job classification, work county, and organizational unit *if[where]* there are demonstrated sustained recruitment and retention issues impacting the mission of the agency.

(b) Once authorized or directed, this premium shall apply to all employees in that organizational unit who are regularly or temporarily assigned to work in the job classification and work county for which the locality premium is approved.

(c) An employee shall not receive a locality premium after transfer, reclassification, reallocation, detail to special duty, promotion or demotion to a position in a job classification, organizational unit, or work county that is ineligible for a locality premium.

(d) The secretary may rescind authorization to pay a locality premium for a job classification at any time.

(e) Locality premium pay shall not be considered a part of base pay or wages and shall not be applied to any leave time usage.

(2) Shift premium.

(a) Upon request by an appointing authority, the secretary may authorize the payment of a supplemental premium for an employee who is regularly assigned to work an evening or night shift in that agency.

(b) Once authorized, this premium shall apply to all employees in that agency who are regularly assigned to work an evening or night shift in a job classification for which the shift premium is approved.

(c) An employee shall not receive a shift premium after shift reassignment, transfer, promotion or demotion to a position that is ineligible for a shift differential premium.

(d) The secretary may rescind authorization to pay shift premium for a job classification at any time.

(e) Shift differential pay shall not be considered a part of base pay or wages and shall not be applied to any leave time usage.

(3) Weekend premium.

(a) Upon request by an appointing authority, the secretary shall authorize the payment of a weekend premium for an employee in a specific job classification who is regularly assigned to work on Saturdays, Sundays, or state holidays as part of the usual work week.

(b) Once authorized, the premium shall apply to all employees in the specified job classifications in that agency who are regularly assigned to work Saturdays, Sundays, or state holidays as part of their usual work week.

- (c) An employee shall not receive a weekend premium after reassignment, transfer, promotion, or demotion to a position that is ineligible for weekend premium.
- (d) The secretary may rescind authorization to pay weekend premium at any time.
- (e) Weekend premium pay shall not be considered part of the employee's base salary or wages and shall not be applied to any leave time usage.
- (f) An agency may request, and be authorized for, both shift premium and weekend premium for the same job classifications.

(4) Multilingual hourly premium.

- (a) Upon request by an appointing authority, the secretary may authorize the payment of a supplemental multilingual hourly premium for an employee who is assigned to complete work duties in a specified foreign language. An employee completing work duties in a specified foreign language shall receive a multilingual hourly premium based on the percentage of time multilingual skills are performed. An employee in a job classification that includes interpreting services as a characteristic of the job on the job class specification shall not be eligible for this premium.
- (b) Language proficiency testing shall be completed prior to an employee receiving the multilingual hourly premium. Testing shall indicate a standard level of multilingual proficiency as required by the appointing authority.
- (c) An appointing authority shall submit the multilingual premium request to the Personnel Cabinet in writing. The request shall contain, at a minimum:
 1. An explanation of the reason or reasons for granting the multilingual premium;
 2. The percentage of time the employee will use multilingual skills; and
 3. Certification by the appointing authority that the employee has completed multilingual testing and received a standard level of multilingual proficiency rating. This certification shall include the name of the testing facility or organization, the format of the test taken (oral, written, or a combination of oral and written), and the level of proficiency granted in the request for the multilingual premium.
- (d) Once authorized, the multilingual hourly premium shall apply to all employees in that agency who are regularly assigned to complete work in a specified foreign language once the employees are individually approved in accordance with this subsection.
- (e) An employee shall not receive a multilingual hourly premium after reassignment, reclassification, transfer, promotion, reallocation, or demotion to a position which no longer requires work in a specified foreign language.
- (f) An employee who ceases to perform work duties in a specified foreign language shall not be eligible to receive a multilingual hourly premium.
- (g) The secretary may rescind the multilingual hourly premium authorization provided to an agency or individual employee at any time.
- (h) The multilingual hourly premium shall not be considered a part of base pay or wages and shall not be applied to any leave time usage.

(5) Critical position premium.

- (a) Upon request by an appointing authority, the secretary may authorize the payment of a premium for a position held by an employee who has established an annual increment date and is regularly assigned to perform job duties that are deemed critical to the operation of the agency.
- (b) A critical position premium may be authorized for at least one (1) full-time filled position in an office or department. The premium may be authorized for additional full-time filled positions if the total number of premiums does not exceed one (1) percent of the total number of full-time filled positions in an office or department.
- (c) The premium shall not exceed twenty-five (25) percent of the employee's hourly rate.
- (d) The critical position designation shall expire when the position becomes vacant.
- (e) An employee shall not receive a critical position premium after transfer, reclassification, reallocation, detail to special duty, promotion, or demotion to a position in a different job classification, organizational unit, or work county, unless the appointing authority submits a new request, for approval by the secretary, to designate the position in the different job classification, organizational unit, or work county as critical prior to the personnel action at issue.
- (f) The appointing authority or the secretary may rescind authorization to pay a critical position premium at any time.

(g) A critical position premium shall not be considered a part of base pay or wages and shall not be applied to any leave time usage.

(6) Sign-on bonus.

(a) Upon written request by an appointing authority, the secretary may prospectively authorize a sign-on bonus for full-time or part time classified positions if:

1. The positions are in the same job classification, work county, and department or office *if[where]* the appointing authority can substantiate sustained recruitment and retention issues impacting the mission of the agency;
2. The total amount of the sign-on bonus is uniform and does not exceed \$5,000 for the job classification; and
3. Eligibility for the sign-on bonus is limited to a probationarily appointed, rehired, or reinstated employee who:
 - a. Has not been employed in a KRS Chapter 18A classified position within ninety (90) calendar days preceding the effective date of appointment, rehire, or reinstatement;
 - b. Has not previously received any amount of sign-on bonus pursuant to this subsection; and
 - c. Is working or on approved leave at the time payment is scheduled to be issued.

(b) Once a sign-on bonus is authorized by the secretary, an eligible employee shall receive:

1. Twenty-five (25) percent of the total sign-on bonus on the first day of the month after appointment, rehire, or reinstatement;
2. Twenty-five (25) percent of the total sign-on bonus on the first day of the month after completion of six (6) months of active service in the position into which the employee was appointed, rehired, or reinstated; and
3. Fifty (50) percent of the total sign-on bonus on the first day of the month after completion of twelve (12) months of active service in the position into which the employee was appointed, rehired, or reinstated.

(c) An employee shall not receive future payment of any portion of a sign-on bonus after transfer, promotion, or demotion to a position in a job classification, department or office, or work county other than the position into which the employee was appointed, rehired, or reinstated.

(d) An employee who is detailed to special duty or whose position is reclassified or reallocated shall remain eligible for future payment of the original sign-on bonus amount.

(e) The secretary may rescind authorization to pay a sign-on bonus at any time prior to the effective date of appointment, rehire, or reinstatement.

(f) A sign-on bonus shall not be considered a part of base pay or wages and shall not be applied to any leave time usage.

Section 10. Employee Recognition Award (ERA).

(1) On the 16th day of a month, an appointing authority may grant an employee an ERA in the form of a lump sum payment of any whole percentage from one (1) to ten (10) percent of the grade midpoint under the following conditions:

~~(a) [The employee has established an annual increment date and has worked at least twenty-four (24) consecutive months in KRS Chapter 18A state service, twelve (12) consecutive months of which is in the department or office granting the award;]~~

~~[(b)]~~ The employee has not received an ERA in the preceding twenty-four (24) months, nor an Adjustment for Continuing Excellence (ACE) award in the preceding twelve (12) months; and

~~(b) [(e)]~~

1. The appointing authority determines that the employee's acts or ideas have resulted in significant financial savings or improvements in services to the Commonwealth and its citizens;
2. The employee has exhibited distinguished performance during participation in special projects that have had a significant beneficial impact on the department, office, or governmental operations; or
3. The employee has demonstrated a sustained level of exceptional job performance.

(2) An employee shall not be eligible for an ERA under this section for an act or idea that has been approved or submitted for consideration as an Employee Suggestion System Award. An employee who has received an ERA shall not be eligible to be considered for an Employee Suggestion System Award for those acts or ideas upon which the ERA is based.

- (3) The granting of an ERA shall be within the sole discretion of the appointing authority.
- (4) If an appointing authority grants an ERA, the justification for the award shall be stated in writing, and placed in the employee's personnel files.
- (5) ~~[An appointing authority shall not grant an ERA to more than twenty-five (25) percent of the total number of full-time employees in a department or office in a calendar year.]~~
- ~~[(6)]~~ An appointing authority shall submit a written justification to the Personnel Cabinet to award an ERA. The justification shall:
 - (a) Explain the reason or reasons for the granting of the award; and
 - (b) Include a certification by the appointing authority that:
 1. Sufficient funds are available within the department or office; and
 2. The criteria and limitations established in this section have been met.

Section 11. Adjustment for Continuing Excellence (ACE) Award.

- (1) On the 16th day of a month, an appointing authority may grant a salary adjustment of any whole percentage from one (1) to ten (10) percent of the grade midpoint of the position in which the employee holds status to a full-time employee's base pay as an ACE award under the following conditions:
 - (a) The employee has an established annual increment date;
 - (b) The employee has worked at least twenty-four (24) consecutive months in KRS Chapter 18A state service, twelve (12) consecutive months of which shall have been served in the department or office granting the award;
 - (c) The employee has not received an ACE award in the preceding twenty-four (24) months or an ERA in the preceding twelve (12) months; and
 - (d)
 1. The employee has demonstrated a sustained level of exceptional job performance;
 2. The employee has assumed a significant level of additional job responsibilities or duties consistent with the assigned job classification, and has performed them in an exceptional manner; or
 3. The employee has acquired professional or technical skills or knowledge through department or office directed or authorized attainment of a job related licensure, certification, or formal training that will substantially improve job performance.
- (2) An employee shall not be eligible for an ACE award under this section if:
 - (a) An educational achievement award has been granted for the same training; or
 - (b) The employee received either of the two (2) lowest possible evaluation ratings on the most recent performance evaluation.
- (3) The granting of an ACE award shall be within the sole discretion of the appointing authority.
- (4) ~~[An appointing authority shall not grant an ACE award to more than twenty-five (25) percent of the total number of full-time employees in a department or office in a calendar year.]~~
- ~~[(5)]~~ An appointing authority shall submit a written justification to the Personnel Cabinet to grant an ACE award. The justification shall:
 - (a) Explain the reason or reasons for the granting of the award; and
 - (b) Include a certification by the appointing authority that:
 1. The criteria and limitations established in this section have been met; and
 2. Sufficient funds are available within the department's or office's current recurring base budget to support the award.

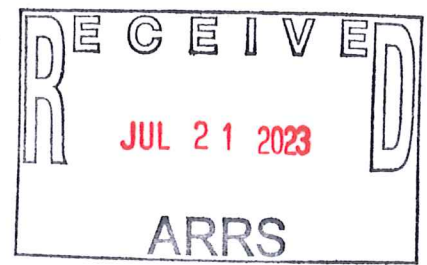
Section 12. Voluntary actions. An employee request for transfer, demotion, or promotion shall be documented on the Voluntary Transfer/Demotion/Promotion Employee Agreement Form in Accordance with 101 KAR 1:335 and 101 KAR 1:400.

Section 13. Incorporation by Reference.

- (1) "Voluntary Transfer/Demotion/Promotion Employee Agreement Form", September 2017, is incorporated by reference.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Personnel Cabinet, 501 High Street, 3rd Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. The material incorporated by reference is also available on the Personnel Cabinet's

Web site at:
<https://personnel.ky.gov/Pages/mir.aspx>~~<https://extranet.personnel.ky.gov/Pages/Documentsin-demand.aspx>~~.

CONTACT PERSON: Rosemary Holbrook, Assistant General Counsel, Office of Legal Services, 501 High Street, 3rd floor, Frankfort, Kentucky 40601, phone (502) 564-7430, fax (502) 564-0224, email RosemaryG.Holbrook@ky.gov.



Andy Beshear
GOVERNOR

PERSONNEL CABINET

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Mary Elizabeth Bailey
SECRETARY

July 21, 2023

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

Re: 101 KAR 2:095. Classified service general requirements.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 101 KAR 2:095, the Personnel Cabinet proposes the attached amendment to 101 KAR 2:095.

Sincerely,

Rosemary G. Holbrook
Assistant General Counsel
Office of Legal Services

Final, 6-27-2023

SUGGESTED SUBSTITUTE

PERSONNEL CABINET

101 KAR 2:095. Classified service general requirements.

RELATES TO: KRS 18A.020, 18A.030(2), 18A.095, 18A.110, 18A.190

STATUTORY AUTHORITY: KRS 18A.030, 18A.110

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.110 requires the Secretary of Personnel to promulgate comprehensive administrative regulations for the classified service. This administrative regulation establishes requirements for the classified service and governs the maintenance of employee and other records and reports in the cabinet and other conditions of employment.

Section 1. Attendance; Hours of Work.

- (1) The number of hours a full-time employee shall be required to work shall be thirty-seven and one-half ~~(37.5)~~~~[(37-1/2)]~~ hours per week or forty (40) hours per week, unless specified otherwise by the appointing authority or the statutes.
- (2) The normal work day shall be from:
 - (a) 8 a.m. to 4:30 p.m., local time, Monday through Friday, for a thirty-seven and one-half ~~(37.5)~~~~[(37-1/2)]~~ hour work schedule; or
 - (b) 8 a.m. to 5 p.m., local time, Monday through Friday, for a forty (40) hour work schedule.
- (3) An appointing authority may require an employee to work hours and days other than regular days and hours, including an overtime or inclement weather schedule if it is in the best interest of the agency.
- (4) An employee who works for an agency that requires more than one (1) shift or seven (7) days a week operation may be reassigned from one (1) shift to another or from one (1) post to another or alternate days off by the agency to meet staffing requirements or to maintain security or provide essential services of the agency.
- (5) An employee shall give reasonable notice in advance of absence from an official work station or alternate work station.

Section 2. Official Work Station, Alternate Work Station, and Temporary Assignment.

- (1) Each employee shall be assigned an official work station and may be assigned one (1) or more additional alternate work stations by the appointing authority.
- (2) An official work station or alternate work station may be changed to better meet the needs of the agency.
- (3) An employee may be temporarily assigned to a different official work station or alternate work station in a different county. The assignment shall be to the same job classification.
 - (a) If an employee is temporarily assigned to a different official work station or alternate work station in a different county, the assignment shall not last more than sixty (60) calendar days.
 - (b) Temporary assignment may be renewed with prior approval of the Secretary of Personnel.
 - (c) A temporarily reassigned employee shall be reimbursed for travel expenses in accordance with 200 KAR 2:006, and the appointing authority shall notify the employee in writing prior to the effective date of the action.
- (4) An appointing authority may assign an employee to work in a different site within the county of employment within the same job classification.

Section 3. Dual Employment. An employee holding a full-time position covered under KRS Chapter 18A shall not hold another KRS Chapter 18A position except upon recommendation of the appointing authority and the written approval of the secretary.

Section 4. Notice of Resignation and Retirement.

- (1) An employee who decides to terminate his or her service shall submit a written resignation or notice of retirement to the appointing authority.
- (2) A resignation or notice of retirement shall be submitted at least fourteen (14) calendar days before the final working day. A copy of an employee's notice shall be attached to the separation personnel action and placed in the personnel files maintained by the agency and the Personnel Cabinet.
- (3) Failure of an employee to give fourteen (14) calendar days' notice may result in forfeiture of accrued annual leave, based on:
 - (a) If the fourteen (14) day deadline was:
 1. Practicable under the circumstances;
 2. Appropriate for the situation; and
 3. Complied with; or
 - (b) If the appointing authority and the employee have agreed that the employee shall retain the leave.
- (4) The effective date of a separation shall be the next calendar day following the last work day unless the employee has been approved for the use of annual, compensatory, or sick leave prior to termination.

Section 5. Records and Reports.

- (1) An appointing authority shall provide a request to the Personnel Cabinet for a personnel action or status change.
 - (a) The Secretary of the Personnel Cabinet shall determine which personnel actions warrant a Personnel Action Notification to the employee, in accordance with KRS 18A.020 and 18A.095.
 - (b) The secretary shall provide a Personnel Action Notification to the appointing authority.
 - (c) The appointing authority shall provide a copy of a Personnel Action Notification to the employee affected by the action.
- (2) The secretary shall maintain a leave record showing for each employee:
 - (a) Annual leave earned, used and unused;
 - (b) Sick leave earned, used and unused;
 - (c) Compensatory leave earned, used and unused; and
 - (d) Special leave or other leave with or without pay.

Section 6. Telecommuting.

- (1) Telecommuting shall be a work arrangement in which a selected state employee is allowed to perform the normal duties and responsibilities of his or her position through the use of computer or telecommunications at home or another place apart from the employee's usual official work station or alternate work station.
- (2) An appointing authority may establish a telecommuting program for all or any part of the agency.
- (3) Eligibility and selection for participation in a telecommuting program shall be the decision of the agency, with no implied or specific right to participation being granted to an employee.
- (4) The telecommuter's conditions of employment shall remain the same as for a nontelecommuting employee.
 - (a) Employee salary, benefits, and employer-sponsored insurance coverage shall not change as a result of telecommuting.
 - (b) The telecommuter shall be responsible for the security and confidentiality of data, as well as the protection of state-provided equipment, used and accessed during telecommuting.
 - (c) The telecommuter shall agree to maintain a clean, safe workplace.
 - (d) An on-site visit by the employer for monitoring of safety issues shall not require advance notice by the employer.

Section 7. Workplace Violence Policy.

- (1) Workplace violence shall be prohibited and shall include:
 - (a) The attempted, threatened, or actual conduct of a person who endangers or is likely to endanger the health and safety of state employees or the general public; or
 - (b) A threatening statement, harassment, or behavior that gives a state employee or member of the general public reasonable cause to believe that his or her health or safety is at risk.
- (2) Examples of prohibited workplace violence shall include:

- (a) Threats of harm;
 - (b) Brandishing or displaying a weapon or an object that looks like a weapon in a manner that would present a safety risk to a state employee or a member of the general public or threatens or intimidates them;
 - (c) Intimidating, threatening, or directing abusive language toward another person, either verbally, in writing or by gesture;
 - (d) Stalking;
 - (e) Striking, slapping, or otherwise physically attacking another person; or
 - (f) Disobeying or failing to follow the reasonable directive of a supervisor to take action or cease actions that create a risk to the health or safety of a state employee or the public or threatens or intimidates them.
- (3) Violation of this section shall constitute grounds for disciplinary action and referral for criminal prosecution.

Section 8. Issuance of Pay to State Employees.

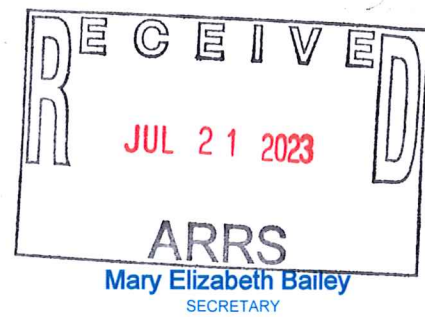
- (1) Pay shall be issued to state employees on the 15th and 30th day of each month.
- (2) If the regularly scheduled pay date falls on a weekend, state employees shall be issued pay on the preceding Friday.
- (3) If the regularly scheduled pay date falls on a state holiday, as defined in KRS 18A.190, pay shall be issued on the workday preceding the holiday.

Section 9. Correction of Errors. With the appointing authority's concurrence, the secretary may correct ~~[an executive branch agency's]~~ pay or leave **errors caused by an executive branch agency if error when** in the best interest of the **Commonwealth such as correction of any errors found to be out of statutory or regulatory compliance[service].**

Section 10. Incorporation by Reference.

- (1) "Personnel Action Notification", PAN, August 2011, is incorporated by reference.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Personnel Cabinet, 501 High Street, 3rd Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. **This material is also available on the cabinet's Web site at <https://personnel.ky.gov/Pages/mir.aspx>.**

CONTACT PERSON: Rosemary Holbrook, Assistant General Counsel, Office of Legal Services, 501 High Street, 3rd floor, Frankfort, Kentucky 40601, phone (502) 564-7430, fax (502) 564-0224, email RosemaryG.Holbrook@ky.gov.



Andy Beshear
GOVERNOR

PERSONNEL CABINET

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July 21, 2023

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

Re: 101 KAR 3:045. Compensation plan and pay incentives for unclassified service.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 101 KAR 3:045, the Personnel Cabinet proposes the attached amendment to 101 KAR 3:045.

Sincerely,

Rosemary G. Holbrook
Assistant General Counsel
Office of Legal Services

Staff-suggested Amendment

**Final Version 6/28/2023
PERSONNEL CABINET**

101 KAR 3:045. Compensation plan and pay incentives for unclassified service.

Page 6

Section 3(9)(a)

Line 2

After "but did not receive", insert "L".

Page 6

Section 3(9)(b)

Line 5

After "but did not receive", insert "L".

Page 6

Section 3(9)(b)

Lines 10 and 11

After "the grade change.", insert "The".

Delete "Such".

Page 6

Section 3(3)(c)

Line 12

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

Page 6

Section 3(10)

Lines 22 and 23

After "thirty-seven and", insert "one-half".

Delete "five-tenths".



KENTUCKY PUBLIC PENSIONS AUTHORITY

David L. Eager, Executive Director

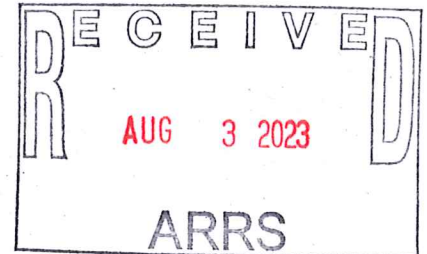
1260 Louisville Road • Frankfort, Kentucky 40601
kyret.ky.gov • Phone: 502-696-8800 • Fax: 502-696-8822



Kentucky Public
Pensions Authority

August 3, 2023

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



Re: 105 KAR 1:220 Periodic disability Review.

Dear Co-Chairs West and Hale:

After further consideration of issues raised concerning the statutory authority for the Kentucky Public Pensions Authority's use of third-party vendors in 105 KAR 1:220, the Kentucky Public Pensions Authority has added the appropriate statutory reference and proposes the attached **agency amendment** to 105 KAR 1:220.

Sincerely,

Jessica Beaubien

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

**AGENCY AMENDMENT
For Amended Ordinary**

**FINANCE AND ADMINISTRATION CABINET
Kentucky Public Pensions Authority
(Amended After Comments)**

105 KAR 1:220. Periodic disability review.

Page 1

Section Statutory Authority

Line 8

After "(1)(g)", add "and(3)(d)"

Page 2

Section 2(1)

Line 13

After "(1)", add "KRS 61.505(3)(d) authorizes the agency to contract with third-party vendors to act on its behalf throughout the disability retirement application and review process, and throughout the periodic review, reinstatement review, and employment review process."

Delete "The agency may contract with third-party vendors to act on its behalf throughout the disability retirement application and review process. The agency may also contract with third-party vendors to act on its behalf throughout the periodic review, reinstatement review, and employment review processes."



KENTUCKY PUBLIC PENSIONS AUTHORITY

David L. Eager, Executive Director

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Kentucky Public
Pensions Authority

August 3, 2023

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



Re: 105 KAR 1:220 Periodic disability Review.

Dear Co-Chairs West and Hale:

The Kentucky Public Pensions Authority adopts the staff-suggested amendment to 105 KAR 1:220 by the Administrative Regulation Review Subcommittee staff.

Sincerely,

Jessica Beaubien

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

Subcommittee Substitute

FINANCE AND ADMINISTRATION CABINET Kentucky Public Pensions Authority (As Amended at ARRS)

105 KAR 1:220. Periodic[Annual] disability review.

RELATES TO: KRS 16.577, 16.583, 16.645, 61.592, 61.600, 61.610, 61.615, 61.630, 61.637, 61.559, 61.597, 61.665, 78.545, 78.5510, 78.5512, 78.5514, 78.5516, 78.5522, 78.5524, 78.5526, 78.5528, 78.5540

STATUTORY AUTHORITY: KRS 61.505(1)(g)[61.645(9)(e)]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.505(1)(g) authorizes the Kentucky Public Pensions Authority to promulgate all administrative regulations on behalf of the Kentucky Retirement Systems and the County Employees Retirement System that are consistent with KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852.~~[KRS 61.645(9)(e) authorizes the Board of Trustees of Kentucky Retirement Systems to promulgate all administrative regulations necessary or proper in order to carry out the provisions of KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852.]~~ KRS 61.610, [and] 61.615, 78.5526, and 78.5528 provide for the employment and medical [staff-]review of a recipient of a disability retirement allowance to determine if the recipient's disability retirement allowance should be continued or discontinued. This administrative regulation establishes the process for employment and medical [staff-]reviews.

Section 1. Definitions.

(1) "Approved employment" means work in any capacity found by the agency **not to [not]** require the same, similar, or greater duties, residual functional capacity, or physical exertion as the position from which the recipient was found disabled.

(2) "Effective retirement date" means the date upon which a member's disability, early, or normal retirement benefits began, whichever occurs first.

(3) "Employer" means a person, agency, company, organization, or other entity that directs or leads a recipient's work, whether or not for pay.

(4) "Trial basis" means a period of time not to exceed nine (9) months during which a recipient works in a non-approved employment position to allow him or her time to determine if he or she is able to maintain employment; employment during this time period **shall [will]** not affect the recipient's disability retirement.

Section 2. Use of Third-party Vendors.

(1) The agency may contract with third-party vendors to act on its behalf throughout the disability retirement application and review process. The agency may also contract with third-party vendors to act on its behalf throughout the periodic review, reinstatement review, and employment review processes.

(2) The agency may utilize independent, licensed physicians provided by third-party vendors to serve as medical examiners pursuant to KRS 61.665 and 78.545. Third-party vendors may provide additional persons to fulfill non-physician roles throughout the disability retirement

application, periodic review, reinstatement review, and employment review processes.

(3) Third-party vendors may act on behalf of the agency and the systems with all the rights and responsibilities therein.

Section 3. Periodic Review.

(1) A recipient of a disability retirement allowance shall have a periodic review of his or her disability status pursuant to KRS 61.610 and 78.5526.

(2)(a) When provided by the agency and in accordance with KRS 61.610 and 78.5526, **a recipient [recipients]** shall complete:

1. Form 8101, Employment and Medical Staff Review Certification;

2. Form 8525, Informed Consent and Authorization: Disability Retirement Applications and Reviews, All Plans; and

3. Form 8130, Disability Retiree Employment Reporting, for each of the following that is applicable:

a. The recipient is currently gainfully employed; or

b. The recipient has gainful employment not previously reported since his or her disability retirement benefits began or since his or her last employment review.

~~[(1) The review form prescribed by the board to be completed and filed by the recipient at the retirement office in accordance with KRS 61.610 is the "Form 8101, Employment and Medical Staff Review Certification".]~~

(b)1. **A recipient [Recipients]** shall file with the agency or its third-party vendor the completed forms indicated in paragraph (a) of this subsection, and all relevant medical and employment information, by the end of day 180 calendar days from the day the Form 8101, Employment and Medical Staff Review Certification, is mailed to the recipient's address on file at the retirement office.

~~2. [(a) The time periods prescribed in KRS 61.610 and 61.615 shall begin on the day the "Form 8101, Employment and Medical Staff Review Certification" or the notification of the recommendation of the medical examiners is mailed and shall end at close of business on the last day of the prescribed time period.~~

~~[(b)] If the last day of the 180 day time period is a Saturday, Sunday, or state or federal holiday, then the submission[application] shall be valid if filed with the agency or its third-party vendor[at the retirement systems] by the end of day on[close of] the next business day following the weekend or holiday.~~

(3) If the recipient fails to complete the requirements of subsection (2) of this section, his or her disability retirement benefits shall be discontinued on the first day of the month following the expiration of the 180 day time period.

(4) If the recipient completes the requirements of subsection (2) of this section, the agency or its third-party vendor shall:

(a) Review and evaluate the medical information and documentation submitted in accordance with Section 4 of this administrative regulation; and

(b) Review and evaluate the employment information and documentation submitted in accordance with Section 6 of this administrative regulation.

(5) A recipient who has reached his or her normal retirement age shall not be subject to a periodic review.

(6) A recipient's disability retirement status that is continued by the Teachers' Retirement System may exempt the retiree from the agency's periodic review.

Section 4. Periodic Medical Review.

(1)(a) The medical examiner **shall [will]** evaluate the submitted medical information and documentation to determine whether the recipient continues to be disabled from the condition(s) for which he or she was initially granted disability retirement. The agency shall notify the recipient of the medical examiner's findings.

(b) If the medical examiner finds the documentation fails to provide evidence that the recipient continues to be disabled from the condition(s) for which he or she was initially granted disability retirement and recommends discontinuance of the disability retirement allowance, the notification shall include:

1. Form 8101, Employment and Medical Staff Review Certification; and
2. Form 8191, Authorization for Independent Medical or Psychological Examination and Release of Medical Information, if the medical examiner recommended an independent medical or psychological examination in accordance with KRS 61.665(2)(j) and 78.545 or KRS 61.665(3)(c) and 78.545.

(2)(a) If the medical examiner recommended discontinuance of the disability retirement allowance, the recipient shall have sixty (60) calendar days from the date the notification in subsection (1) of this section is mailed to file with the agency or its third-party vendor **[one of the following]:**

1. The completed Form 8101, Employment and Medical Staff Review Certification, and additional supporting medical information;
2. The completed Form 8191, Authorization for Independent Medical or Psychological Examination and Release of Medical Information, if applicable; or
3. **A request for** a formal hearing to appeal the findings in accordance with Section 8 of this administrative regulation.

(b) If, at the end of the prescribed time period, the agency or its third-party vendor does not have on file one **(1)** of the options detailed in subparagraph **1. [(a)], 2. [(b)], or 3. [(c)]** of **[this] paragraph (a) of this subsection**, the recipient's disability retirement allowance shall be discontinued on the first day of the month following the expiration of the prescribed time period.

(3)(a) If the recipient completes the requirements of subsection (2)(a)1. of this section, the medical examiner shall review and evaluate the additional supporting medical information.

(b) If the recipient completes the requirements of subsection (2)(a)2. of this section the agency shall administer the independent medical or psychological examination in accordance with Section 5 of this administrative regulation. The medical examiner shall review and evaluate the findings from the independent medical or psychological examination.

(c) Once the medical examiner completes his or her evaluation of the documentation provided from the completion of paragraph (a) or (b) of this subsection, the agency shall notify the recipient of the medical examiner's findings.

1. If the medical examiner finds the documentation fails to provide evidence that the recipient continues to be disabled from the condition(s) for which he or she was initially granted disability retirement and recommends discontinuance, the recipient shall have sixty (60) calendar days from the date the notification is mailed to request a formal hearing to appeal the findings in accordance

with Section 8 of this administrative **regulation**.

2. If the recipient fails to file an appeal within the prescribed time period, his or her retirement allowance shall be discontinued on the first day of the month following the expiration of the prescribed time period.

~~[(2) The recipient shall file a written notice with the retirement systems immediately upon beginning employment in any capacity. The recipient shall identify the employer and include a written statement from the employer of a detailed list of the duties of the new position.]~~

Section 5. [Section 2.] Independent Medical or Psychological Examinations.

(1) If the recipient files the Form 8191, Authorization for Independent Medical or Psychological Examination and Release of Medical Information, with the agency or its third-party vendor in accordance with Section 2(2)(a)2. of this administrative regulation, then the agency shall notify the recipient in writing of the date, time, and location of the appointment. Records from the examination shall be used to complete the medical review in accordance with Section 4(3) of this administrative regulation.

(2)(a) The agency shall reimburse the recipient for expenses associated with the medical or psychological examination in the same manner as prescribed in 105 KAR 1:210, Section 8.

~~[(1) If the retirement systems requires a recipient to submit to a medical or psychological examination under KRS 61.615(3)(h), the retirement systems shall reimburse the recipient for mileage from the recipient's home address as it is on file at the retirement systems, to the place of the examination or evaluation, and returning to the recipient's home address on file at the retirement systems. The recipient shall be reimbursed for the most direct and usually traveled routes.~~

~~(2) Mileage shall be based on the "Kentucky Official Highway Map", mileage software, or the most recent edition of the "Rand McNally Road Atlas". The recipient shall complete and submit a Form 8846, Independent Examination Travel Voucher indicating the mileage the recipient traveled from the recipient's home address as it is on file at the retirement systems, to the place of the examination or evaluation, and returning to the recipient's home address on file at the retirement systems. The recipient shall use the most direct and usually traveled routes.~~

~~(3) The mileage certified by the recipient shall not be greater than the mileage indicated by the "Kentucky Official Highway Map", mileage software, or the most recent edition of the "Rand McNally Road Atlas" for the most direct and usually traveled route from recipient's home address as it is on file at the retirement systems, to the place of the examination or evaluation, and returning to the recipient's home address on file at the retirement systems. If the mileage certified by the recipient is greater than the mileage indicated by the "Kentucky Official Highway Map", mileage software, or the most recent edition of the "Rand McNally Road Atlas" the retirement systems shall pay the recipient the mileage indicated by the "Kentucky Official Highway Map", mileage software, or the most recent edition of the "Rand McNally Road Atlas".~~

~~(4) Reimbursement for use of a privately owned vehicle shall be made at the IRS established standard mileage rate which changes periodically; and shall not exceed the cost of commercial coach fare.~~

~~(5) Actual costs for parking shall be reimbursed upon submission of receipts. The recipient shall submit the originals of the parking receipts along with a written request for reimbursement.~~

~~(6) Actual bridge and highway toll charges shall be reimbursed if the bridge or highway is on~~

the most direct and usually traveled route. The recipient shall submit the originals of the bridge and highway toll receipts along with a written request for reimbursement.]

(b)[(7)] The recipient shall file at the retirement office a completed Form 8846, Travel Voucher for Independent Examination [Travel Voucher], within fifteen (15) calendar days of the date of the examination or evaluation **[in-order]** to receive reimbursement for mileage, actual parking costs, and any actual bridge or highway toll charges as prescribed in 105 KAR 1:210, Section 8.[travel expenses.]

(3) Pursuant to KRS 61.615(3)(h) and 78.5528(3)(h), if the recipient fails or refuses to complete the scheduled medical or psychological examination, the system shall send a notice of discontinuance. The recipient shall have sixty (60) calendar days from the date of the notice to request a formal hearing to appeal the findings in accordance with Section 8 of this administrative regulation. If the recipient fails to file an appeal within the prescribed time period, his or her retirement allowance shall be discontinued on the first day of the month following the expiration of the prescribed time period.

(4) If the recipient fails to appear at the medical or psychological examination, or **fails to cancel [cancel]** the appointment within the timeframes required in the notice of appointment, the recipient shall be responsible for payment of any charges associated with the medical or psychological examination.

Section 6.[Section 3.] Employment Review.

(1) The agency[retirement systems] may request financial information from other local, state, or federal agencies to determine if a recipient is gainfully employed.[receiving income or employed in a new position.]

(2) **A recipient [Recipients]** may at any time file with the agency or its third-party vendor a completed Form 8130, Disability Retiree Employment Reporting, to be reviewed for potential gainful employment. The agency or its third-party vendor shall complete an employment review in accordance with subsection (5) of this section. The anticipated start date of employment indicated on the Form 8130 shall be used to determine time period requirements indicated in subsection (5) of this section. If the start date of employment was unknown on the Form 8130 and at any time becomes known, or if there is a change to the date previously indicated, the recipient shall notify the agency in writing.

(3)(a) Pursuant to KRS 61.615(1) and 78.5528(1), **a recipient [recipients]** of a disability retirement allowance shall notify the agency of any gainful employment. When gainful employment is reported to the agency outside of the periodic review, or if gainful employment is discovered by any other means, the agency shall provide the recipient with a Form 8130, Disability Retiree Employment Reporting. The recipient shall file the completed Form 8130 with the agency or its third-party vendor within sixty (60) calendar days of beginning any gainful employment. The agency or its third-party vendor shall use the completed Form 8130 to perform an employment review in accordance with subsection (5) of this section.

(b)1. If the recipient does not file with the agency or its third-party vendor the Form 8130 or written notification that the employment has ceased within nine (9) months of the first date of employment, the agency shall have the authority to discontinue the disability retirement allowance.

2. If the agency determines the disability retirement allowance shall be discontinued, the

agency shall send notification to the recipient, and he or she shall have sixty (60) calendar days from the date the notice is mailed to request a formal hearing to appeal the findings in accordance with Section 8 of this administrative regulation.

3. If the recipient fails to file an appeal within the prescribed time period, his or her retirement allowance shall be discontinued on the first day of the month following the expiration of the prescribed time period.

(4)(a) During the periodic review, **a recipient [recipients]** shall complete Form 8101, Employment and Medical Staff Review Certification, indicating if he or she is gainfully employed or has any previously unreported gainful employment. When indicated, the recipient shall file with the agency or its third-party vendor a completed Form 8130, Disability Retiree Employment Reporting, for each of the following:

1. His or her current gainful employment; and

2. Any gainful employment not previously reported since his or her disability retirement benefits began, or since his or her last periodic review.

(b) The agency or its third-party vendor shall complete an employment review for all employment not previously approved in accordance with subsection (5) of this section.

(c) During the periodic medical review as prescribed in Section 4 of this administrative regulation, the agency or its third-party vendor shall consider the employment details when determining whether the recipient continues to be disabled from the condition(s) for which he or she was initially granted disability retirement, regardless of whether or not the employment was approved employment.

(5) When gainful employment is reported during or outside of the periodic review, or discovered by any other means, the agency or its third-party vendor shall complete an employment review in accordance with KRS 61.610, 61.615, 78.5526, and 78.5528. The reviewer **shall [will]** evaluate the Form 8130, Disability Retiree Employment Reporting, or any other employment information or documentation available to determine whether the position has similar duties or requires the same or greater physical exertion or functional capacity as the position from which the recipient was found disabled. The agency shall notify the recipient of the findings.

(a) If findings indicate that a recipient's employment is not approved employment, then pursuant to KRS 61.615(1) and 78.5528(1), the recipient may begin or continue the employment on a trial basis and the recipient's monthly retirement allowance shall continue during the trial basis. The recipient's monthly retirement allowance shall cease effective the month following the end of the trial basis unless within sixty (60) calendar days of the date the notice is mailed, one (1) of the following occurs:

1. The recipient requests a formal hearing to appeal the recommendation in accordance with Section 8 of this administrative regulation;

2. The recipient files with the agency or its third-party vendor additional supporting employment information. The agency or agency's third-party vendor shall review and evaluate the additional employment information, and shall notify the recipient of the findings. If the findings indicate the employment is not approved employment, the recipient **shall [will]** have sixty (60) calendar days from the date the notification is mailed to request a formal hearing to appeal the findings in accordance with Section 8 of this administrative regulation; or

3. The recipient files a written notice with the agency or its third-party vendor in one (1) of the

following ways:

a. If the recipient has not yet begun the employment, a written notification with the agency that he or she has elected not to start the employment; or

b. If the recipient begins or continues the employment on a trial basis, prior to the conclusion of the trial basis a written notification that he or she has ceased the employment.

(b) If the recipient fails to file an appeal within the prescribed time period, his or her retirement allowance shall be discontinued on the first day of the month following the end of the trial basis, or upon the expiration of the sixty (60) day time period, whichever occurs later.

(6) Retired members who are reemployed with a participating employer, shall also be subject to the requirements of KRS 61.637, 78.5540, and 105 KAR 1:390.

Section 7. Reinstatement Review.

(1)(a) A recipient whose disability retirement allowance has been discontinued for any reason other than death is eligible to apply for reinstatement and be reevaluated by the agency or the agency's third-party vendor until his or her normal retirement age. The recipient shall submit new objective medical evidence that was not previously considered with his or her application for reinstatement.

(b) A recipient whose disability retirement allowance was discontinued based upon the employment review findings as prescribed in Section 6 of this administrative regulation shall also provide:

1. Employer documentation detailing changes not previously considered that have occurred in his or her position if he or she is still employed in the same position; or

2. Written notification that he or she has ceased the employment that includes the date employment ceased.

(2) Pursuant to KRS 61.615(6)(d) and 78.5528(6)(d), a recipient is only eligible for reinstatement for the same bodily injuries, mental illnesses, diseases, or conditions for which he or she was originally approved for disability benefits. A recipient cannot be reinstated for bodily injuries, mental illnesses, diseases, or conditions for which he or she was not approved for disability, or that occurred or became known after his or her last day of paid employment prior to the original retirement date.

(3) A recipient shall apply for reinstatement by filing **[all of the following]:**

(a) A completed Form 8102, Employment and Medical Staff Review Certification Reinstatement;

(b) A completed Form 8525, Informed Consent and Authorization: Disability Retirement Applications and Reviews;

(c) New objective medical evidence not previously considered;

(d) If filing for reinstatement in accordance with subsection (1)(b) of this section, not previously considered employer documentation detailing changes in the position, or written notification that the employment has ceased that includes the last date of employment; and

(e) If there is any new or previously unreported employment, a completed Form 8130, Disability Retiree Employment Reporting.

(4) Reinstatement reviews shall be conducted in accordance with KRS 61.615(6)(d) and 78.5528(6)(d), considering only those conditions for which the recipient was granted disability.

(5) If the agency or the agency's third-party vendor does not recommend reinstatement of a

recipient's disability retirement benefits, the recipient may request a formal hearing to appeal the findings in accordance with Section 8 of this administrative regulation.

Section 8. Right to Appeal.

(1) Any recipient whose disability benefits have been reduced, discontinued, or denied reinstatement may file an appeal of the findings at the retirement office with a written request for a formal hearing within sixty (60) calendar days of the date the notification of discontinuance was mailed. The hearing shall be conducted in accordance with KRS Chapter 13B.

(2) The written request for a formal hearing shall include a short and plain statement of the reason the determination is being contested.

(3)(a) The hearing officer presiding over an administrative hearing may allow the **person who filed the appeal [appealer]** to introduce, among other evidence, the determination of other state and federal agencies, such as the Kentucky Department of Workers' Claims and the Social Security Administration, approving the applicant for benefits only when accompanied by underlying objective medical evidence or vocational evidence.

(b) The hearing officer presiding over an administrative hearing shall consider only objective medical evidence and vocational records contained within or that accompany a determination by another state or federal agency.

(c) The hearing officer presiding over an administrative hearing shall not consider or be bound by factual or legal findings of other state or federal agencies.

(d) Written statements from medical providers within the administrative record shall not themselves be objective medical evidence~~[-]~~ but may be relied upon if accompanied by, and reviewed in concert with, other supporting objective medical evidence.

(4) During the pendency of an appeal, the recipient shall continue to receive his or her disability retirement benefit.

(5) At the conclusion of the appeal, **a recipient [recipients]** shall be notified of the final order of the Administrative Appeals Committee (AAC) in accordance with KRS 61.615(3)(g) and 78.5528(3)(g).

(a)1. If the AAC orders that the disability retirement allowance shall be discontinued, then it shall be discontinued on the first day of the month following the date of the notification except as provided in subparagraph 2. of this paragraph.

2. If the recipient's disability retirement allowance is discontinued due to the AAC determination that employment was not approved employment, the effective date of discontinuance shall be the first day of the month following the end of the nine (9) month trial basis or the first day of the month following the date of the notification of the AAC order, whichever occurs later.

(b)1. If the recipient fails to notify the agency of gainful employment in accordance with Section 6(3) or (4) of this administrative regulation, then AAC shall have the authority to decide the period for which the agency shall recover any disability retirement allowance payments, health insurance premiums, or both. The earliest date of the period shall not be earlier than the first day of the month following the end of the nine (9) month trial basis.

2. If the agency recovers the disability retirement allowance payments, health insurance premiums paid, or both, it shall be from the recipient or the estate of the recipient only.

Section 9. Benefits Available After Discontinuance of a Disability Retirement Allowance.

(1) A member with a participation date on or after January 1, 2014 in one (1) or more of the Systems whose disability retirement allowance is discontinued pursuant to KRS 61.615 and 78.5528:

(a) Shall begin receiving retirement benefits for which he or she qualifies, if eligible.

(b) Shall not be eligible for early retirement benefits.

(2) A member with a participation date prior to January 1, 2014 in one (1) or more of the Systems whose disability retirement allowance is discontinued pursuant to KRS 61.615 and 78.5528:

(a) Shall begin receiving normal retirement benefits, if eligible.

(b) If not eligible for normal retirement benefits, shall be given the option to begin receiving early retirement benefits, if eligible.

(3) A member who received a disability retirement allowance shall have established an effective retirement date and, accordingly, shall not be eligible to request a refund of any remaining accumulated account balance if the member's disability retirement allowance is discontinued pursuant to KRS 61.615 and 78.5528.

~~[Section 4. The retirement systems may not require a medical review if the recipient's disability status is reviewed by the Kentucky Teachers' Retirement System.]~~

Section 10. Recipient's Death During the Periodic Review Process.

(1) If the recipient dies during the periodic review process, the member's beneficiary may be entitled to receive disability retirement benefits pursuant to KRS 61.630, 78.545(6) and 105 KAR 1:240.

(2) If a recipient dies after the date of discontinuance as enumerated in Section 3, 4, 5, or 6 of this administrative regulation, the disability retirement allowance shall remain discontinued and there **shall [will]** be no ongoing disability benefit paid to a beneficiary. This shall not affect any other benefits to which the beneficiary may be entitled.

(3) The beneficiary shall not be permitted to apply for reinstatement on behalf of the decedent.

Section 11. ~~[Section 5.]~~ Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) Form 8101, "Employment and Medical Staff Review Certification", February 2023~~[May 2008]~~;

(b) Form 8102, "Employment and Medical Staff Review Certification Reinstatement", February 2023;

(c) Form 8130, "Disability Retiree Employment Reporting", February 2023;

(d) Form 8191, "Authorization for Independent Medical or Psychological Examination and Release of Medical Information", April 2023;

(e) Form 8525, "Informed Consent and Authorization: Disability Retirement Applications and Reviews, All Plans", February 2023; and

(f) Form 8846, "~~[Kentucky Retirement Systems-]~~Travel Voucher for Independent Examination", May 2008.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law,

at the Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available on the agency Web site at ky-ret.ky.gov.

CONTACT PERSON: Jessica Beaubien, Policy Specialist, Kentucky Public Pensions Authority, 1260 Louisville Road, Frankfort, Kentucky 40601, phone (502) 696-8800 ext. 8570, fax (502) 696-8615, email Legal.Non-Advocacy@kyret.ky.gov.



KENTUCKY BOARD OF ARCHITECTS

Andy Beshear
Governor

Cordelia Harbut
Executive Director

July 31, 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: **201 KAR 19:225**. Examinations required: general provisions.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 19:225, the Kentucky Board of Architects proposes the attached amendment to 201 KAR 19:225.

Sincerely,

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

SUGGESTED SUBSTITUTE

Final Version: 7/26/23 at 11:59 a.m.

BOARDS AND COMMISSIONS

Board of Architects

201 KAR 19:225. Examinations required; general provisions.

RELATES TO: KRS 323.050, 323.215

STATUTORY AUTHORITY: KRS 323.210(1)(b), (2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 323.210(1)(b) ~~and~~ (2) ~~require~~**requires** the board to promulgate administrative regulations governing the contents and conduct of examinations, the method and time for filing applications, and the time within which an applicant shall be examined after his or her application has been filed. This administrative regulation ~~establishes~~**specifies** the examination required by the board~~;~~ and establishes general provisions relating to the administration of the examination.

Section 1. Examination Definition; Administration.

- (1) Each applicant for licensure shall successfully complete the Architect Registration Examination (ARE), which is developed and graded by the National Council of Architectural Registration Boards (NCARB).
- (2) The board shall designate each testing service consultant who shall administer the examination in accordance with the agreement between the consultant and NCARB.
- (3) The examination sites and schedules shall be as designated by the testing service and agreed to by NCARB.

Section 2. Conditions of Examination.

- (1) Grading of the examination shall be in accordance with the national grading procedure administered by NCARB.
- (2) The board shall adopt the scoring procedures recommended by NCARB.
- (3) Information pertaining to the subject matter of the examination shall not be given to an applicant in advance, except **general examination content and policies** as specifically authorized by the board.
- (4) The board may approve transfer credits for each part of the examination passed prior to the 1983 ARE. Information as to transfer credits shall be provided, if appropriate, to an applicant who requests an Application for Architect Registration Examination, as incorporated by reference in 201 KAR 19:220.

Section 3.

- (1) An applicant who has passed all divisions of the ARE by January 1, 2006, regardless of the time taken, has passed the examination.
- (2) ~~Retention of Credit~~**[Five (5) Year Rolling Clock]**: For all initial candidates for licensure, a passing grade for any division of the ARE ~~taken on or after July 1, 2008, shall remain valid pursuant to National Council of Architectural Registration Board's Score Validity Policy in effect at the time of application. Divisions of the examination passed on or after July 1, 2008, that were considered expired prior to the adoption of the National Council of Architectural Registration Board's Score Validity Policy shall be reinstated pursuant to National Council of Architectural Registration Board's Score Validity Policy in effect at the time of application.~~**[shall be valid for an initial period of five (5) years, plus any extension granted under NCARB's rolling clock extension policy, after which time the division shall expire unless the candidate has completed the ARE.]**
- ~~(3)~~ **[Applicants for licensure that completed the ARE:]**
 - ~~(a)~~ **[Prior to January 1, 2006, will not have any divisions governed by the five (5) year rolling clock;]**

~~[(b)] [Prior to July 1, 2014, will have only divisions passed after January 1, 2006, governed by the five (5) year rolling clock; and]~~

~~[(c)] [On July 1, 2014 or later, will have all divisions governed by the five (5) year rolling clock].~~

~~[(4)] [An applicant who has not passed any division of the ARE by January 1, 2006 shall be governed by the five (5) year requirement, which shall commence on the date when the first passed division is administered.]~~

Section 4. Applicant Notice. Each applicant who has applied and is eligible to take the examination shall be notified of the examination sites and the procedures to make the appointments with the testing service centers to take the examination divisions of his or her choosing. Special instructions and limitations shall be issued to each applicant.

Section 5. Transfer of Scores.

(1) The board, upon ***compliance with KRS 323.050(2) and*** proper Application for Architect Registration Examination, as incorporated by reference in 201 KAR 19:220, may accept passing scores achieved on divisions of the ARE administered and attested to by another NCARB member board under the terms of Section 3 of this administrative regulation.

(2) The board, upon written request ***and if available, shall[may]*** forward the grades achieved by an applicant in the various divisions of the examination given under the board's jurisdiction to any other duly constituted architectural registration board and to NCARB for use in evaluating the applicant's eligibility for NCARB certification. The applicant shall state his or her reason for requesting transfer. The transfer shall terminate the applicant's application pending before the board.

Section 6. Conditions of Examination.

(1) Upon allegation of misbehavior on the part of an applicant in connection with taking the examination, the board shall investigate the allegation and take appropriate action including suspending or revoking ***test-taking[test taking]*** privileges and the cancellation of test scores.

(2) Misbehavior shall include:

- (a) Falsifying information on the examination application;
- (b) Cheating on the examination;
- (c) A violation of examination guidelines; or
- (d) A violation of a confidentiality agreement with respect to the examination.

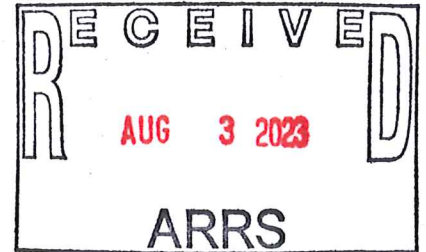
CONTACT PERSON: Cordelia Harbut, Executive Director, Kentucky Board of Architects, 155 East Main Street, Suite 300, Lexington, Kentucky 40507, phone (859)246-2069, email Cordelia.Harbut@ky.gov.

502-429-3300
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KENTUCKY BOARD OF NURSING

312 Whittington Parkway, Suite 300
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Andy Beshear
Governor



August 3, 2023


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

Re: **201 KAR 20:240**. Fees for applications and services.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 20:240, the Kentucky Board of Nursing proposes the attached staff suggested amendment to 201 KAR 20:240.

Sincerely,


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

Final, 7-27-2023

STAFF-SUGGESTED AMENDMENT

**BOARDS AND COMMISSIONS
Board of Nursing**

201 KAR 20:240. Fees for applications and [~~for~~]services.

Page 1

RELATES TO

Line 5

After "(14)(b)", insert "4.".
Delete "(4)".

Page 1

STATUTORY AUTHORITY

Line 8

After "(14)(b)", insert "4.".
Delete "(4)".

Page 1

NECESSITY, FUNCTION, AND CONFORMITY

Line 15

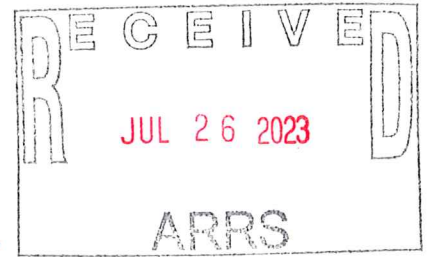
After "(14)(b)", insert "4.".
Delete "(4)".

Page 3

Section 3(1)(d)

Line 19

After "dollars;", insert "or".



KENTUCKY BOARD OF PHYSICAL THERAPY

Andy Beshear
GOVERNOR

312 Whittington Parkway, Suite 102
Louisville, KY 40222-4925
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Stephen Curley
EXECUTIVE DIRECTOR

July 26, 2023

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

RE: 201 KAR 22:045. Continued competency requirements and procedures.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 22:045, the Kentucky Board of Physical Therapy proposes the attached amendment to 201 KAR 22:045.

Sincerely,

A handwritten signature in blue ink, appearing to be "S. Curley", written over a blue circular stamp.

Stephen Curley, Executive Director
Kentucky Board of Physical Therapy

TEAM
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Subcommittee Substitute

**GENERAL GOVERNMENT
Board of Physical Therapy
(As Amended at ARRS)**

201 KAR 22:045. Continued competency requirements and procedures.

RELATES TO: KRS 12.355, 327.010(1), (2), 327.070

STATUTORY AUTHORITY: KRS 327.040(10)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 327.040(10) authorizes the board to promulgate administrative regulations establishing a measure of continued competency as a condition of license renewal. This administrative regulation establishes continued competency requirements and procedures.

Section 1. Definitions.

(1) "Contact hour" means a credit earned based on sixty (60) minutes of participation in a physical therapy-related activity.

(2) "Continued competency" means a planned learning experience relating to the scope of ~~["]physical therapy["]~~ practice, as defined by KRS 327.010(1), if the subject is intervention, examination, research, documentation, education, or management of a health care delivery system.

(3) "Jurisprudence Examination" means **a board-provided [an]** open book tutorial **[provided by the board]** on KRS Chapter 327 and 201 KAR Chapter 22.

Section 2.

(1) A credential holder applying for renewal shall have completed the continued competency requirements established in subsections (2) and (3) of this section during the preceding renewal period. Continued competency shall be based on contact hours awarded.

(a) For a physical therapist, the board shall require thirty (30) contact hours as a condition of licensure renewal. These hours shall be obtained as established in subparagraphs 1. through 3. of this paragraph.

1. Two (2) hours shall be awarded for the successful completion of the Jurisprudence Examination per biennium.

2. At least eighteen (18) hours shall be earned from Category 1 as established in subsection (2) of this section.

3. Hours may be earned from Category 2 **and~~[-If hours are earned from Category 2, hours]~~** shall be as established in subsection (3) of this section. Hours earned from Category 2 over ten (10) hours shall not be awarded.

(b) For a physical therapist assistant, the board shall require twenty (20) contact hours as a condition of renewal. These hours shall be obtained as established in subparagraphs 1. through 3. of this paragraph.

1. Two (2) hours shall be awarded for the successful completion of the Jurisprudence Examination per biennium.

2. At least ten (10) hours shall be earned from Category 1 as established in subsection (2) of this section.

3. Hours may be earned from Category 2 ~~and~~ ~~if hours are earned from Category 2, hours~~ shall be as established in subsection (3) of this section. Hours earned from Category 2 over eight (8) hours shall not be awarded.

(c) A participant shall not be awarded contact hours for a course that is repeated more than once in the same biennium.

(2) Category 1 continued competency shall **include [be]**:

(a) Completion of courses, seminars, workshops, symposia, or home study courses consisting of at least three (3) contact hours that have been approved by the board, the board's designee, the Federation of State Boards of Physical Therapy (FSBPT), another physical therapy licensing agency, or the American Physical Therapy Association (APTA) or its components; ~~or another physical therapy licensing agency;~~

(b) Completion of courses, seminars, workshops, symposia, or home study courses ~~[consisting of less than three (3) contact hours]~~ that have been produced and developed by the American Physical Therapy Association (APTA) or its components ~~[state chapters and sections;]~~ and consist of less than three (3) contact hours;

(c) Completion or auditing of an accredited postsecondary educational institution credit course meeting ~~["]~~ continued competency, ~~["]~~ as defined by Section 1(2) of this administrative regulation, **which shall be awarded as: [-]**

1. Twelve (12) contact hours **[shall be awarded]** for each semester credit hour completed; and

2. Eight (8) contact hours **[shall be awarded]** for each quarter credit hour completed;

(d) Presentation of a continued competency course, workshop, seminar, or symposium that has been approved by the board or its designee. A maximum of three (3) contact hours for preparation may be awarded for each contact hour awarded to participants, ~~[the Federation of State Boards of Physical Therapy (FSBPT), the American Physical Therapy Association (APTA) or its components, or another physical therapy licensure agency. Contact hours shall be awarded equal to contact hours awarded to a participant]~~ with a maximum of two (2) events of the same course per biennium;

(e) Authorship of a research article, manuscript, or scientific paper, published in the biennium and related to physical therapy. Fifteen (15) contact hours shall be awarded per event with a maximum of two (2) events per biennium;

(f) A presented scientific poster or scientific platform presentation related to physical therapy. Ten (10) contact hours shall be awarded per event with a maximum of two (2) events per biennium;

(g) Teaching part of a physical therapy or physical therapist assistant credit course if that teaching is not the primary employment of the credential holder. A maximum of twenty (20) contact hours per biennium shall be awarded;

(h) American Board of Physical Therapy Specialties (ABPTS) certification. Twenty-eight (28) contact hours shall be awarded per biennium;

(i) ABPTS recertification or other certifications and recertifications within the scope of physical therapy practice. A maximum of twenty-eight (28) contact hours per biennium shall be awarded;

(j) Completion of a clinical residency program or clinical fellowship program. Not more than five (5) contact hours shall be awarded for each week of residency with a maximum of twenty-eight (28) contact hours per program per biennium;

(k) Engaging in the practice of ~~[""]~~physical therapy,~~[""]~~ as defined by KRS 327.010(1), at least 1,000 hours per biennium. Five (5) contact hours shall be awarded per biennium;

(l) Engaging in the instruction in a CAPTE-accredited physical therapy or physical therapist assistant program at least 1,000 hours per biennium. Five (5) contact hours shall be awarded per biennium;

(m) Appointment to the Kentucky Board of Physical Therapy. Four (4) contact hours shall be awarded per biennium;

(n) Election or appointment to a position with the APTA Kentucky, APTA, or FSBPT as an officer or committee chair. Four (4) contact hours shall be awarded per biennium;~~[or]~~

(o) **Being a** member of a committee or task force for one (1) of the organizations in paragraph (m) or (n) of this subsection. One (1) contact hour shall be awarded per biennium;

(p) Completion of the APTA's PTA Advanced Proficiency Pathways Program (APP). A maximum of ten (10) contact hours shall be awarded in the biennium during which the certification or recertification of the APP is granted; or

(q) **Being a** member of the APTA. One (1) contact hour shall be awarded per year and a maximum of two (2) contact hours per biennium.

(3) Category 2 continued competency shall **include [be]**:

(a) Self-instruction from reading professional literature. One (1) contact hour shall be awarded per biennium;

(b) Attendance at a scientific poster session, lecture, panel, or symposium other than approved in Section 2(2) or other unapproved applicable courses. One (1) contact hour for each hour of credit shall be awarded up to a maximum of three (3) hours per course.~~[One (1) contact hour shall be awarded for each hour of activity. A maximum of two (2) contact hours shall be awarded per biennium;]~~

(c) Clinical instructor for a CAPTE-approved educational program or an APTA credentialed residency or fellowship program. Continued competency shall be one (1) contact hour per sixteen (16) hours of student supervision;

(d) Participation in a physical therapy in-service or study group consisting of two (2) or more physical therapists or physical therapist assistants. A maximum of two (2) contact hours shall be awarded per biennium;

~~[(e) Completion of other unapproved applicable courses. One (1) contact hour for each hour of credit shall be awarded up to a maximum of three (3) hours per course;]~~

~~[(f)]~~ Participation in community service related to health care. One (1) contact hour for each hour of participation shall be awarded up to a maximum of two (2) hours per biennium;

~~[(g)]~~ Participation as a mentor or mentee in a mentorship program developed by APTA KY. A maximum of two (2)~~[one (1)]~~ contact hours~~[hour]~~ shall be awarded per year and a maximum of four (4)~~[two (2)]~~ contact hours per biennium; **or**

~~[(h)]~~ Completion of other healthcare related courses (cardiopulmonary resuscitation initial certification or re-certification, Bloodborne pathogens courses)~~[cardiopulmonary resuscitation initial certification or re-certification]~~. A maximum of two (2) contact hours shall be awarded per biennium.~~[-or]~~

~~[(i) Completion of a HIV/AIDS course. A maximum of two (2) contact hours shall be awarded per biennium.]~~

(4) Documentation of compliance.

(a) Each licensee shall retain independently verifiable documentation of completion of all continued competency requirements of this administrative regulation for a period of at least two ~~(2)[three-(3)]~~ years from the end of the biennium.

(b) The licensee shall, within thirty (30) days of a written request from the board, provide evidence of continued competency activities to the board.

(c) A licensee who fails to provide evidence of the continued competency activities or who falsely certifies completion of continued competency activities shall be subject to disciplinary action pursuant to KRS 327.070.

(5) Exemption and extension.

(a) A licensee shall be granted a temporary hardship extension for an extension of time, not to exceed one (1) renewal cycle, if the licensee:

1. Files a completed Exemption or Extension for Completion of Continued Competency Form~~;~~ by April 30 of the odd-numbered year in the renewal cycle for which the extension is sought. This plan **shall [must]** include a description on how the required credits will be met~~[including a plan describing how the required credits will be met, by April 30 of the odd-numbered year in the renewal cycle for which the extension is sought];~~ and

2. Submits documentation showing evidence of undue hardship by reason of the licensee's:

~~a. Age;~~

~~a.~~~~[b.]~~ Disability;

~~b.~~~~[c.]~~ Medical condition;

~~c.~~~~[d.]~~ Financial condition; or

~~d.~~~~[e.]~~ Other clearly mitigating circumstance.

(b) A licensee shall be granted a temporary nonhardship extension of time if the licensee cannot show undue hardship and if the licensee:

1. Files a completed Exemption or Extension for Completion of Continued Competency Form~~;~~ by March 31 of the odd-numbered year in the renewal cycle for which the extension is sought. This plan **shall [must]** include a description on how the required credits will be met; ~~[including a plan describing how the required credits will be met, by March 31 of the odd-numbered year in the renewal cycle for which the extension is sought];~~

2. Pays a fee of \$250;

3. Has not received a temporary nonhardship extension of time in the prior renewal cycle; and

4. Files proof of compliance with the continued competency requirements by the following July

1.

(c) A licensee on active military duty shall be granted an exemption from continued competency requirements as established in KRS 12.355.

Section 3. Incorporation by Reference.

(1) "Exemption or Extension for Completion of Continued Competency Form", July 2023 ~~[June 2012]~~~~[September 2016]~~, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable law, at the Kentucky Board of Physical Therapy, 312 Whittington Parkway, Suite 102, Louisville, Kentucky 40222, Monday through Friday, 8 a.m. to 4:30 p.m.

CONTACT PERSON: Stephen Curley, Executive Director, Board of Physical Therapy, 312

Whittington Parkway, Suite 102, Louisville, Kentucky 40222, (502) 429-7140 and Fax (502) 429-7142, Stephen.Curley@ky.gov.

KENTUCKY BOARD OF PHYSICAL THERAPY

312 Whittington Parkway, Suite 102
Louisville, Kentucky 40222
<http://pt.ky.gov>

Exemption or Extension for Completion of Continued Competency Form (See 201 KAR 22:045, Section 2(5))

NOTE: All applications for exemption or time extension shall be in writing.

All **non-hardship** extension applications shall be received by the Board by March 31 of each odd numbered year of the renewal cycle; or

All **hardship** extension applications shall be received by the Board by April 30 of each odd numbered year of the renewal cycle.

1. Name and address of applicant:

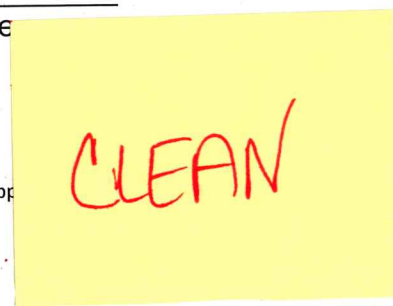
_____	Date of application: _____
_____	License Number: _____
_____	Telephone Number: _____

2. This application is made pursuant to: *(Read carefully and check the proper box)*

- Active Military Duty Exemption:** Attach evidence of circumstances associated with active military duty.
- Non-Hardship Extension:** Attach a \$250.00 filing fee and a written plan setting forth how the applicant's credit deficiency will be in compliance on or before July 1 of the filing year. **Note:** Written plan and fee are required at the time of filing. Application will be returned as denied if not attached. (Make check payable to *Kentucky Board of Physical Therapy*)
- Hardship Extension:** Attach evidence of circumstances establishing "hardship or other clearly mitigating circumstance." **Note:** Statement of evidence is required. Application will be returned as denied if statement is not attached. Provide a plan that will meet the required credit deficiencies and a date by which you propose to complete the process

Signature

Date



KENTUCKY BOARD OF PHYSICAL THERAPY

312 Whittington Parkway, Suite 102
Louisville, Kentucky 40222
<http://pt.ky.gov>

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Signature

Date



KENTUCKY BOARD OF PHYSICAL THERAPY

312 Whittington Parkway, Suite 102

Louisville, KY 40222

http://pt.ky.gov
Phone: 502/429-7140
Fax: 502/429-7142

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Signature

D



DIRTY



KENTUCKY BOARD OF PHYSICAL THERAPY

312 Whittington Parkway, Suite 102

Louisville, KY 40222

http://pt.ky.gov
Phone: 502/429-7140
Fax: 502/429-7142

**Exemption or Extension for Completion of Continued Competency Form
(See 201 KAR 22:045, Section 2(5))**

NOTE: All applications for exemption or time extension shall be in writing.

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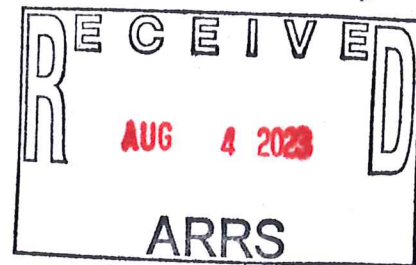
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Signature

Date





Andy Beshear
GOVERNOR
Jacqueline Coleman
LIEUTENANT GOVERNOR

PUBLIC PROTECTION CABINET
Department of Professional Licensing
Kentucky Board of Chiropractic Examiners
P.O. Box 1360
Frankfort, KY 40602
Phone: (502) 892-4250
Fax: (502) 564-4818

Ray A. Perry
SECRETARY
Kristen Lawson
COMMISSIONER

August 2, 2023

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

Re: **201 KAR 21:041**. Licensing; standards, fees.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 21:041, the Kentucky Board of Chiropractic Examiners proposes the attached amendment to 201 KAR 21:041.

Sincerely,

Dr. James England, Chair
Kentucky Board of Chiropractic Examiners
500 Mero Street, 2 SC 32
P. O. Box 1360
Frankfort, Kentucky 40601

SUGGESTED SUBSTITUTE – To Amended After Comments Version

BOARDS AND COMMISSIONS
Board of Chiropractic Examiners

201 KAR 21:041. Licensing; standards, fees.

RELATES TO: KRS 312.085, 312.095, 312.145, 312.175

STATUTORY AUTHORITY: KRS 312.019, 312.085, 312.095, 312.175

NECESSITY, FUNCTION, AND CONFORMITY: KRS 312.019(9) authorizes the Kentucky Board of Chiropractic Examiners to promulgate administrative regulations consistent with KRS Chapter 312, regulating the practice of chiropractic. This administrative regulation establishes the procedures relating to application for licensure, license renewal, and fees.

Section 1. Initial Application. An applicant for initial licensure shall submit to the board:

(1) (a) A completed, **notarized [New-Licensee]** Application **for Licensure with a two (2) inch by two (2) inch passport photo taken within the past six (6) months of application**; and

(b) ~~(2)~~ A nonrefundable application fee of \$350.

~~(2)~~(3) If the initial applicant graduated from chiropractic school more than four (4) years ago, proof of successfully passing the Special Purposes Examination for Chiropractic given by the National Board of Chiropractic Examiners within the past six (6) months shall be submitted to the board unless the initial applicant submits proof acceptable to the board of active practice under a license in good standing in another state or jurisdiction. In determining whether to accept proof of active practice, the board shall consider the following submitted by the licensee in writing:

(a) The number, or approximate number, of patients treated per week;

(b) The practice **location or locations, [location(s)]** and **address or addresses [address(es)]** at which the licensee has practiced, and the month and years of practice at each respective location; and

(c) Any relevant information the licensee may submit to show active practice.

Section 2. Licenses. Each license by the board shall:

(1) Set forth the:

(a) Name of the issuing board;

(b) Name of the licensee;

(c) Number of license; and

(d) Date of the license issuance;

(2) Be signed by a minimum of three (3) members of the board; and

(3) Have the seal of the board affixed.

Section 3. License Renewal.

(1)

(a) Each licensee of the board shall annually renew the license on or before the first day of March.

(b)

1. A licensee seeking active status shall:

a. Submit a completed Application for Annual License Renewal that includes the notarized affidavit, if applicable; and

b. Pay a renewal fee of \$250.

2. A licensee seeking inactive status shall:

a. Submit a completed Application for Annual [Inactive-] License Renewal that includes the notarized affidavit, if applicable [Application]; and

b. Pay a renewal fee of seventy-five (75) dollars.

(2) The amount of the restoration fee established by KRS 312.175(2) and (4) shall be \$250 per year, or any part of a year.

(3) Continuing education requirements.

(a) Each active licensee shall complete at least twelve (12) hours of board-approved continuing education, with:

~~[1.] [A minimum of six (6) hours of the required twelve (12) hours obtained at a live event, which is an event at which both the licensee and presenter are present in-person;]~~

~~1.[2.] No more than eight (8) hours completed in a day; and~~

~~2.[3.] Proof of completion submitted with the Application for Annual License Renewal upon request by the Board.~~

(b) 1. A new licensee shall complete a two (2) hour jurisprudence course, provided by the board, by the licensee's first renewal.

2. A new licensee~~[within one (1) year of the date of the licensee's initial license approval.];~~ but shall not ~~[otherwise]~~ be required to complete the continuing education requirements set out in paragraph~~[(3)]~~(a) of this subsection~~[above]~~ until after the licensee's first renewal and before the licensee's~~[licensees']~~ second renewal.~~[The course shall account for two (2) of the twelve (12) hours of continuing education required by paragraph (a) of this subsection.]~~

~~[(e)] [A new licensee shall complete the licensee's required twelve (12) hours of continuing education by the first relicensing period following the completion of his or her first calendar year in practice.]~~

~~(c)~~~~[(d)]~~ An inactive licensee may renew the inactive license without meeting the continuing education requirements required by this subsection.

(d) A/No] continuing education course shall not/may] be repeated for credit within the same renewal period.

Section 4. Activation of an Inactive License.

(1) To activate an inactive license, a licensee shall submit:

(a) A completed Application for Activation or Reinstatement of Kentucky License;

(b) The renewal fee required by Section 3(1)(b) of this administrative regulation;

(c) Proof that the licensee has met the continuing education requirements established by Section 3(3) of this administrative regulation; and

(d) License verification from each state or jurisdiction from which the licensee has held a license.

(2) If the licensee was inactive for more than four (4) years, proof of successfully passing the Special Purposes Examination for Chiropractic given by the National Board of Chiropractic Examiners within the past six (6) months shall be submitted to the board unless the licensee submits proof acceptable to the board of active practice under a license in good standing in another state or jurisdiction. In determining whether to accept proof of active practice, the board shall consider the following submitted by the licensee in writing: [-]

(a) The number, or approximate number, of patients treated per week;

(b) The practice **location or locations**,~~[location(s)]~~ and **address or addresses**~~[address(es)]~~ at which the licensee has practiced, and the month and years of practice at each respective location;
and

(c) Any relevant information the licensee may submit to show active practice.

Section 5. Denial or Refusal of License. The board may deny or refuse to renew a license if an applicant or licensee:

(1) Has a conviction for a felony or violation of any law involving moral turpitude; or

(2) Violates any of the provisions of KRS Chapter 312 or 201 KAR Chapter 21.

Section 6. Change of Address. Each licensee shall notify the board within ten (10) days of each change of mailing address or place of business.

Section 7. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Application for Licensure", DPL-KBCE-01, ~~June~~**March** 2023; [~~"New Licensee Application", 2016;~~]

(b) "Application for Annual License Renewal", DPL-KBCE-03, ~~June~~**March** 2023; ~~and~~ [September 2020;]

[~~(e)~~] [~~"Annual Inactive License Renewal Application", 2013; and~~]

(c)[~~(d)~~] "Application for Activation or Reinstatement of Kentucky License", DPL-KBCE-04, ~~June~~**March** 2023[2013].

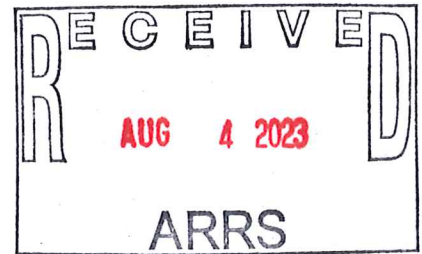
(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Chiropractic Examiners, 500 Mero Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to ~~4:00~~**4:30** p.m. **This material is also available on the board's Web site at www.kbce.ky.gov.**

CONTACT PERSON: Clayton Patrick, General Counsel, Department of Professional Licensing, 500 Mero Street 237 CW, phone (502) 782-0562 (office), fax (502) 564-4818, email Clayton.Patrick@ky.gov.

MATERIAL INCORPORATED BY REFERENCE

At the time that the agency files this staff suggested substitute, it needs to file one (1) clean copy of the following with an updated edition date of June 2023:

- "Application for Licensure" – Updated to include the application fee of \$350 on pg. 4 of the instructions
- "Application for Annual Licensure Renewal" – Updated to delete the KHEAA question, Question 17 on whether in arrears on student loans for consistency with HB 118 that passed during the 2019 Regular Session, and for consistency with as amended regulation changes delete on page 1, under active license, language requiring a minimum of six (6) continuing education hours to be obtained at a live, in person event
- "Application for Activation or Reinstatement of Kentucky License" - Updated to delete the KHEAA question, Question 2 on whether in arrears on student loans for consistency with HB 118 that passed during the 2019 Regular Session



Andy Beshear
GOVERNOR
Jacqueline Coleman
LIEUTENANT GOVERNOR

PUBLIC PROTECTION CABINET
Department of Professional Licensing
Kentucky Board of Chiropractic Examiners
P.O. Box 1360
Frankfort, KY 40602
Phone: (502) 892-4250
Fax: (502) 564-4818

Ray A. Perry
SECRETARY
Kristen Lawson
COMMISSIONER

August 2, 2023

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

Re: **201 KAR 21:042**. Standards, applications and approval of continuing education.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 21:042, the Kentucky Board of Chiropractic Examiners proposes the attached amendment to 201 KAR 21:042.

Sincerely,

Dr. James England, Chair
Kentucky Board of Chiropractic Examiners
500 Mero Street, 2 SC 32
P. O. Box 1360
Frankfort, Kentucky 40601

SUGGESTED SUBSTITUTE – To Amended After Comments Version

BOARDS AND COMMISSIONS
Board of Chiropractic Examiners

201 KAR 21:042. Standards, ~~applications~~[~~application~~] and approval of continuing education.

RELATES TO: KRS 312.017, 312.085, 312.095, 312.145, 312.175

STATUTORY AUTHORITY: KRS 312.019, 312.085, 312.095, 312.175

NECESSITY, FUNCTION, AND CONFORMITY: KRS 312.019(9) authorizes the Kentucky Board of Chiropractic Examiners to promulgate administrative regulations consistent with KRS Chapter 312, regulating the practice of chiropractic. This administrative regulation establishes standards for continuing education and the procedures relating to the application and approval of continuing education.

Section 1. Standards for Continuing Education.

(1) Continuing education shall be ~~[either:]~~

~~[(a)] [A post graduate course of study at or sponsored by a chiropractic college accredited by the Council on Chiropractic Education or its successors; or]~~

~~[(b)] [A continuing education program] approved by the board, or by a committee designated by the board to act between sessions of the board.~~

(2) The continuing education program shall be:

~~(a) 1. A post graduate course of study at or sponsored by a chiropractic college accredited by the Council on Chiropractic Education or its successors; or~~

~~2. ~~[(b)]~~[(a)] Sponsored by a national or state chartered organization of chiropractors, or a chiropractic college; and~~

~~~~[(b)]~~[(c)]~~ Open to all doctors of chiropractic in Kentucky who desire to attend.

(3) The instructors and speakers shall be in the field of chiropractic, chiropractic education, or allied sciences.

(4) The programs to be presented shall contain subjects of clinical benefit to licensees and on a postgraduate level of education.

~~(5) The programs shall comply with the Kentucky chiropractic scope of practice as defined by KRS 312.017.~~

~~~~[(6)]~~; ~~and~~] The board or its designated committee shall determine *if*:~~

~~~~[(a)]~~ ~~whether~~] Online versus live education is appropriate for the subject matter being offered; ~~and~~~~

~~~~[(b)]~~ ~~in its determination whether~~] To approve programs as proposed.~~

Section 2. Requirements for Online Continuing Education.

(1) Any entity submitting an online course for approval shall:

~~(a) Be Pre-Approved Continuing Education (PACE) Commission certified; and~~

~~(b) Submit the program through the PACE pre-check program using the Kentucky Board of Chiropractic Examiners Continuing Education Application form. [~~PACE Pre-Check Expedited Course Submission for Kentucky form. Any entity not certified through PACE shall submit an application for approval for a program directly to the board through December 31, 2020 by completing the Kentucky Board of Chiropractic Examiners Continuing Education Application.~~]~~

(2) The program shall:

(a) Have a mechanism to ensure that users view each page of the program;

(b) Ensure the user has earned all of the time required for the program;

(c) Have a mechanism in place for the user to be able to contact the provider regarding questions about the continuing education programs;

(d) Include a mechanism to evaluate the user's knowledge of the subject matter contained in the program;

(e) Provide a printed verification or allow the user to print verification only upon completion of the program; ~~and~~

(f) Ensure that the course time cannot be earned away from the program and that automatic lock out occurs if the keyboard becomes unattended; and

(g) Have an original recording date within five (5) years from the time the course is approved for credit by the board.

(3) Programs shall be completed and earned one (1) at a time. The user of a program shall not earn credit for multiple windows or programs completed simultaneously.

Section 3. Application for Approval.

(1) The sponsoring party of a proposed educational program for license renewal shall apply for approval of the program prior to its presentation by submitting ~~[either the PACE Pre-Check Expedited Course Submission for Kentucky form if PACE certified, or if not certified through PACE by submitting]~~ the Kentucky Board of Chiropractic Examiners Continuing Education Application, and by providing to the board:

(a) The name of the course;

(b) The name of the sponsoring organization;

(c) The objective of the program;

(d) The number of classroom hours over which the educational program will be presented, and the dates presented;

(e) The names of the instructors and speakers and the name and address of the institution with which they are associated, if applicable;

(f) The instructors' or speakers' educational background and other relevant qualifications;

(g) The name and address of the person authorized to certify attendance; and

(h) An educational program review fee as established in subparagraph 1. through 3. of this paragraph.

1. Live Events Only - A live event is an event at which both the presenter and attendee are present in person. A minimum fee of twenty-five (25) dollars for a live one-time event of sixteen (16) hours or less. Any event over sixteen (16) hours will be two (2) dollars per requested credit hour with a maximum fee of \$100. For events with multiple dates and locations there will be an additional twenty-five (25) dollar fee.

2. Online Events Only - A minimum fee of twenty-five (25) dollars for a live one-time event or recorded event of sixteen (16) hours or less. Any event over sixteen (16) hours will be two (2) dollars per requested credit hour with a maximum fee of \$100. The online event shall remain approved for one (1) calendar year.

3. Live Event That Will Also Be Recorded To Be Used As Online CE - A minimum fee of fifty (50) dollars for an event of sixteen (16) hours or less. Any event over sixteen (16) hours will be two (2) dollars per requested credit hour with a maximum fee of \$100. The online event shall remain approved for one (1) calendar year.

(2) The educational program may be monitored by an officer of the board, the field coordinator of the board, or a person designated by the president of the board.

(3)

(a) A proposed program shall be received by the board for approval at least sixty (60) days prior to the date of the presentation.

(b) The board, or a designee of the board to act between meetings of the board, shall give written notification of the board's approval or disapproval of the program to the sponsoring party not more than thirty (30) days after receiving the proposed educational program.

(c) An online course shall remain approved for one (1) calendar year from a date of the event provider's choosing if that date is no earlier than sixty (60) days from the date the board received the submission for approval.

Section 4. Incorporation by Reference.

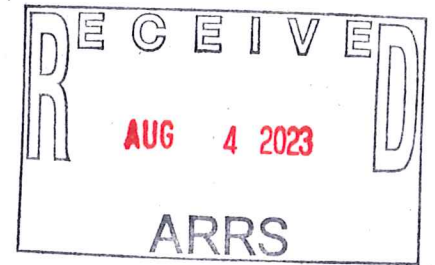
(1) ~~[The following material is incorporated by reference:]~~

~~[(a)] ["PACE Pre-Check Expedited Course Submission for Kentucky form", (2020); and]~~

[(b)] "Kentucky Board of Chiropractic Examiners Continuing Education Application", DPL-KBCE-05, June~~March~~ 2023, is incorporated by reference~~[September 2020]~~.

(2) ~~This material~~*These materials* may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Chiropractic Examiners, 500 Mero Street, Frankfort, Kentucky 40601, Monday through Friday, ~~from~~ 8:00 a.m. to 4:00 p.m. *This material is also available on the board's Web site at www.kbce.ky.gov.*

CONTACT PERSON: Clayton Patrick, General Counsel, Department of Professional Licensing, 500 Mero Street 237 CW, phone (502) 782-0562 (office), fax (502) 564-4818, email Clayton.Patrick@ky.gov.



Andy Beshear
GOVERNOR
Jacqueline Coleman
LIEUTENANT GOVERNOR

PUBLIC PROTECTION CABINET
Department of Professional Licensing
Kentucky Board of Chiropractic Examiners
P.O. Box 1360
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Phone: (502) 892-4250
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Ray A. Perry
SECRETARY
Kristen Lawson
COMMISSIONER

August 2, 2023

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

Re: **201 KAR 21:095**, Licensure, registration, and standards of persons performing peer review.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 21:095, the Kentucky Board of Chiropractic Examiners proposes the attached amendment to 201 KAR 21:095.

Sincerely,

Dr. James England, Chair
Kentucky Board of Chiropractic Examiners
500 Mero Street, 2 SC 32
P. O. Box 1360
Frankfort, Kentucky 40601

Final, 7-21-2023

SUGGESTED SUBSTITUTE

BOARDS AND COMMISSIONS
Board of Chiropractic Examiners

201 KAR 21:095. Licensure, registration, and standards of persons performing peer review.

RELATES TO: KRS 312.175, 312.200(3)

STATUTORY AUTHORITY: KRS 312.019(9)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 312.019(9) authorizes the board to promulgate administrative regulations consistent with KRS Chapter 312 governing the practice of chiropractic. KRS 312.200(3) requires that persons performing peer review of chiropractic claims be licensed by the board, complete annually a board approved utilization review course, and annually register with the board and pay a registration fee. This administrative regulation establishes the requirements for the licensure, review course, registration, and registration fee for persons to perform peer review services.

Section 1. Requirements for Licensure and Registration. A person performing chiropractic peer review shall:

- (1) Hold a current active license to practice chiropractic within the Commonwealth of Kentucky;
- (2)
 - (a) For the first year that a person seeks to register to perform peer review, have previously successfully completed a course consisting of a minimum of 100 hours of utilization review and independent medical examination from a chiropractic college or university accredited by the Council on Chiropractic Education; and
 - (b) For each year thereafter that a person seeks to register to perform peer review, have completed six (6) hours of continuing education in topics specifically related to utilization review and approved by the board to meet this requirement; ~~and [which shall be obtained at a live, in-person event within the Commonwealth of Kentucky; and]~~
- (3) Register annually with the board, by June 1 of each year, by:
 - (a) Presenting evidence of satisfactory compliance with the requirements established in this section and of having met the education requirements of KRS 312.175;
 - (b) Completing the Application for Chiropractic Peer Review ~~[Registration Form for Persons Performing Peer Review of Kentucky Chiropractic Claims]~~; and
 - (c) Paying a registration fee of fifty (50) dollars.

Section 2. In performing peer review activities, a licensee shall:

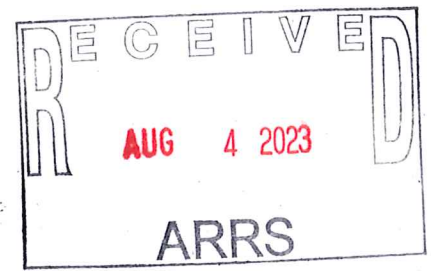
- (1) Render the actual review service and documented report;
- (2) Personally retain a copy of all records associated with each peer review case for a minimum of seven (7) years;
- (3) Employ minimum standards associated with the practice of chiropractic and comply with the code of ethical conduct established in 201 KAR 21:015;
- (4) Provide a report that includes the rationale for the determination in order that the licensee provider is given adequate information to appeal;
- (5) Sign all reports, unless the review is performed under the Kentucky Chiropractic Board of Examiners Peer Review Committee, in which case, the board's administrator or designee shall sign the determination;
- (6) Review in accordance with accepted standards as defined in 201 KAR 21:001;
- (7) Review thoroughly and rely on all documents provided to the reviewer;
- (8) List in the resulting report all documents provided to the reviewer and list all documents reviewed; and
- (9) Personally conduct the review and prepare the report.

Section 3. Complaint Procedure Related to Peer Reviewers. A complaint against a peer reviewer alleging a violation of this administrative regulation or any other provision of KRS Chapter 312 or 201 KAR Chapter 21 shall be filed and processed according to the procedure established in 201 KAR 21:051.

Section 4. Incorporation by Reference.

- (1) "Application for Chiropractic Peer Reviewer", DPL-KBCE-02, March 2023, [~~"Registration Form for Persons Performing Peer Review of Kentucky Chiropractic Claims" 2013,~~] is incorporated by reference.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Chiropractic Examiners, 500 Mero Street, Frankfort, Kentucky 40601, **Monday through Friday, [from] 8:00 a.m. to 4:00 p.m. This material is also available on the board's Web site at www.kbce.ky.gov.**

CONTACT PERSON: Clayton Patrick, General Counsel, Department of Professional Licensing, 500 Mero Street 237 CW, phone (502) 782-0562 (office), fax (502) 564-4818, email Clayton.Patrick@ky.gov.



Andy Beshear
GOVERNOR
Jacqueline Coleman
LIEUTENANT GOVERNOR

PUBLIC PROTECTION CABINET
Department of Professional Licensing
Kentucky Board of Chiropractic Examiners
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Ray A. Perry
SECRETARY
Kristen Lawson
COMMISSIONER

August 2, 2023

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

Re: **201 KAR 21:105**. Telehealth chiropractic services.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 21:105, the Kentucky Board of Chiropractic Examiners proposes the attached amendment to 201 KAR 21:105.

Sincerely,

Dr. James England, Chair
Kentucky Board of Chiropractic Examiners
500 Mero Street, 2 SC 32
P. O. Box 1360
Frankfort, Kentucky 40601

Final, 7-21-2023

SUGGESTED SUBSTITUTE
BOARDS AND COMMISSIONS
Board of Chiropractic Examiners

201 KAR 21:105. Telehealth chiropractic services.

RELATES TO: KRS ~~211.332, 211.334, 211.335, 211.336~~, 312.019, 312.220, 29 U.S.C. 794(d), ~~211.332, 211.334, 211.335, 211.336~~

STATUTORY AUTHORITY: KRS ~~211.332, 211.336~~, 312.220[, ~~211.332, 211.336~~.]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 312.220(2) requires the board to promulgate administrative regulations in accordance with KRS Chapter 13A to implement ~~[this section]~~ and as necessary to: (a) Prevent abuse and fraud through the use of telehealth services; (b) Prevent fee-splitting through the use of telehealth services; and (c) Utilize telehealth in the provision of chiropractic services and in the provision of continuing education. ~~[Additionally,]~~ KRS 312.220(1) requires that a treating chiropractor utilizing telehealth ensures the patient's informed consent and maintains confidentiality. KRS 211.336 establishes requirements for a state agency[agencies] that promulgates[promulgate] administrative regulations relating to telehealth. This administrative regulation establishes the requirements for telehealth for chiropractic services.

Section 1. Definitions.

- (1) "Client" means the person receiving the services of the chiropractor.
- (2) "Telehealth" is defined by KRS 211.332(5) and 312.220(3)~~[-and KRS 211.332(5)]~~.
- (3) "Telehealth chiropractic services" means the practice of chiropractic as defined by KRS 312.220(3), between the chiropractor and the patient that is provided, using:
 - (a) Interactive audio, video, or other electronic media; or
 - (b) Electronic media for diagnosis, consultation, treatment, and transfer of health or medical data.

Section 2. Client Requirements. A practitioner-patient relationship may commence via telehealth. An in-person initial meeting shall not be required unless the provider determines it is medically necessary to perform those services in person as set forth in KRS 211.336(2)(a). A licensed health care practitioner may represent the client at the initial meeting. A credential holder using telehealth to deliver chiropractic services shall, upon initial contact with the client:

- (1) Make ~~[reasonable]~~ attempts to verify the identity of the client;
- (2) Obtain alternative means of contacting the client other than electronically such as by the use of a telephone number or mailing address;
- (3) Provide to the client alternative means of contacting the credential holder other than electronically such as by the use of a telephone number or mailing address;
- (4) Provide contact methods of alternative communication the credential holder shall use for emergency purposes such as an emergency on call telephone number;
- (5) Document if the client has the necessary knowledge and skills to benefit from the type of telehealth provided by the credential holder;
- (6) Use secure communications with clients, including encrypted text messages via e-mail or secure Web sites, and not use personal identifying information in non-secure communications;
- (7) In accordance with KRS 312.220(1)(a) and 900 KAR 12:005, Section 2(3), obtain the informed consent of the client; and
- (8) Inform the client in writing about:
 - (a) The limitations of using technology in the provision of telehealth chiropractic services;
 - (b) Potential risks to confidentiality of information, or inadvertent access of protected health information, due to technology in the provision of telehealth chiropractic services;
 - (c) Potential risks of disruption in the use of telehealth chiropractic services;
 - (d) When and how the credential holder will respond to routine electronic messages;

- (e) In what circumstances the credential holder will use alternative communications for emergency purposes;
- (f) Who else may have access to client communications with the credential holder;
- (g) How communications ~~may~~**can** be directed to a specific credential holder;
- (h) How the credential holder stores electronic communications from the client; and
- (i) How the credential holder may elect to discontinue the provision of services through telehealth.

Section 3. Competence, Limits on Practice, Maintenance, and Retention of Records. A credential holder using telehealth to deliver telehealth chiropractic services shall:

- (1) Limit the practice of telehealth chiropractic services to the area of competence in which proficiency has been gained through education, training, and experience;
- (2) Maintain current competency in the practice of telehealth chiropractic through continuing education, consultation, or other procedures, in conformance with current standards of scientific and professional knowledge;
- (3) Document the client's presenting problem, purpose, or diagnosis;
- (4) Follow the record-keeping requirements of 201 KAR 21:100;
- (5) Use methods for protecting health information, which shall include authentication and encryption technology as required by KRS ~~211.332(5)(c) and~~ 312.220(1)(b) ~~and 211.332(5)(c)~~; and
- (6) Ensure that confidential communications obtained and stored electronically shall not be recovered and accessed by unauthorized persons when the credential holder disposes of electronic equipment and data.

Section 4. Compliance with Federal, State, and Local Law. A credential holder using telehealth to deliver telehealth chiropractic services shall:

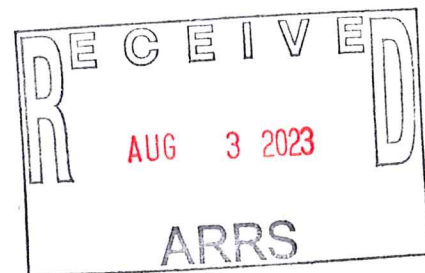
- (1) Maintain patient privacy and security in accordance with 900 KAR 12:005, Section 2(2);
- (2) Comply with Section 508 of the Rehabilitation Act, 29 U.S.C. 794(d), to make technology accessible to a client with disabilities;
- (3) Be licensed or otherwise authorized by law to practice chiropractic where the client is physically present; and
- (4) Comply with applicable state laws and administrative regulations ~~if in the event~~ the credential holder provides telehealth services from a location outside of Kentucky.

Section 5. Representation of Services and Code of Conduct. A credential holder using telehealth to deliver chiropractic services or who practices telehealth chiropractic:

- (1) Shall not engage in false, misleading, or deceptive advertising of telehealth chiropractic services;
- (2) Shall comply with the code of ethical conduct and standards of practice established in ~~Ethics,~~ 201 KAR 21:015;
- (3) Shall not allow fee-splitting through the use of telehealth chiropractic services in compliance with KRS 312.220(2)(b); and
- (4) Shall conform to KRS Chapter 312 and 201 KAR 21:001 through 21:105 ~~the statutes and regulations~~ governing the provision of chiropractic services in Kentucky and in consideration of the scope of practice relating to chiropractic.

Section 6. A person holding a license as a chiropractor who provides telehealth services to a person physically located in Kentucky shall be subject to the laws and administrative regulations governing chiropractic services in Kentucky.

CONTACT PERSON: Clayton Patrick, General Counsel, Department of Professional Licensing, 500 Mero Street 237 CW, phone (502) 782-0562 (office), fax (502) 564-4818, email Clayton.Patrick@ky.gov.



August 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 7:510**

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 202 KAR 7:510, the Kentucky Board of Emergency Medical Services proposes the attached amendments to 202 KAR 7:510.

Sincerely,

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



Kentucky Board of Emergency Medical Services
500 Mero Street, 5th Floor 5SE32
Frankfort, KY 40601
Phone (859) 256-3565 | Toll-Free 1 (866)-97KBEMS | Fax (859) 256-3128
kyems.com

KCTCS is an equal educational and employment opportunity institution.

Staff-suggested Amendment

**Final Version 7/31/2023
KENTUCKY BOARD OF EMERGENCY MEDICAL SERVICES**

202 KAR 7:510. Air ambulance services.

Page 2

Section 2(1)

Line 20

After "shall file", insert "a".

Delete "an".

Page 3

Section 2(2)

Line 1

After "subsection (4)(b)", delete "2".

Page 3

Section 2(8)

Line 18

After "in ownership,", insert "including the".

Delete "such as".

Page 4

Section 2(16)(a)

Line 19

After "plan of correction", delete "in order".

Page 5

Section 2(16)(k)

Line 18

After "KBEMS;", delete "or".

Page 8

Section 4(1)(c)

Line 12

After "Office", insert "i".

Page 10

Section 4(1)(j)1.

Line 8

After "scene, ground", insert "i".

Page 10

Section 4(1)(k)

Line 18

After "insurance;", delete "and".

Page 10

Section 4(1)(l)

Line 19

After "liability insurance", insert "i".
Delete ".".

Page 10

Section 4(2)

Line 23

After "substation is located", insert "i".
Delete "i".

Page 11

Section 5(2)

Line 12

After "medical director", insert "i".

Page 14

Section 6(1)(c)

Line 11

After "(c)", insert "Keep".

After "pharmaceuticals", delete "shall be kept".

Page 14

Section 6(1)(e)

Lines 16-17

After "to the patient", delete "in order".

Page 15

Section 6(1)(j)2.

Line 6

After "the stretcher", insert "i".
Delete ".".

Page 16

Section 7(2)

Line 1

After "subsection (1)", insert "(b)".
Delete "(a)".

Page 17

Section 7(4)(b)2.d.

Line 8

After "care", insert "1".
Delete ";".

Page 17

Section 7(6)

Line 12

After "specialty care", delete "transport".

Page 17

Section 7(6)(b)

Line 15

After "experience", insert "1".

Page 18

Section 7(7)

Line 7

After "orientation training", insert "1".

Page 18

Section 7(7)(f)

Line 20

After "physiology", insert "1".

After "pediatric", insert "1".

Page 20

Section 7(12)

Line 4

After "minimum", insert "1".

Page 21

Section 9(1)(a)3.

Line 11

After "pediatric", insert "1".

Page 22

Section 9(b)8.

Line 3

After "tubing", insert "z".

Page 24

Section 9(1)(g)3.

Line 6

After "glucose; and", return and insert "4."

Page 24

Section 9(3)(e)

Line 18

After "survival supplies", insert "z".

Delete "; and".

Page 25

Section 10(2)

Line 1

After "aircraft", insert "z".

Page 26

Section 10(2)(e)

Line 17

After "needles", delete ",".



KENTUCKY DEPARTMENT OF FISH & WILDLIFE RESOURCES

Rich Storm
Commissioner

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

Brian Clark
Deputy Commissioner

Gabe Jenkins
Deputy Commissioner

August 7, 2023

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

Re: **301 KAR 6:001**. Definitions for 301 KAR Chapter 6., 301 KAR 6:020 Boating safety equipment

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by **301 KAR 6:001** and 301 KAR 6:020, Kentucky Department of Fish and Wildlife Resources proposes the attached amendment to 301 KAR 6:001, 301 KAR 6:020.

Sincerely,

A handwritten signature in black ink that reads "Jenny Gilbert". The signature is written in a cursive style.

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

FINAL

**SUGGESTED AMENDMENT
Tourism, Arts and Heritage Cabinet
Department of Fish and Wildlife Resources**

301 KAR 6:001. Definitions for 301 KAR Chapter 6.

Page 1

NECESSITY, FUNCTION, AND CONFORMITY

Line 7

After "requires the", insert the following:

Department of Fish and Wildlife Resources

Delete "department".

Line 8

After "promulgate administrative regulations", insert the following:

to govern the fair, reasonable, equitable, and safe use of all waters of
Kentucky and to carry out the purposes of KRS Chapter 235

Page 1

Section 1(1)

Line 14

After "ventilation that", insert "meets".

Delete "met".

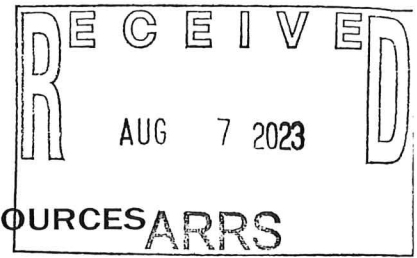
Page 3

Section 1(15)

Line 7

After "Personal", insert "Flotation".

Delete "Floatation".



KENTUCKY DEPARTMENT OF FISH & WILDLIFE RESOURCES **ARRS**

Rich Storm
Commissioner

#1 Sportsman's Lane
Frankfort, Kentucky 40601
Phone (502) 564-3400
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Brian Clark
Deputy Commissioner

Gabe Jenkins
Deputy Commissioner

August 7, 2023

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

Re: 301 KAR 6:001. Definitions for 301 KAR Chapter 6, 301 KAR 6:020 Boating safety equipment

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 301 KAR 6:001 and 301 KAR 6:020, Kentucky Department of Fish and Wildlife Resources proposes the attached amendment to 301 KAR 6:001, 301 KAR 6:020.

Sincerely,

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

FINAL

**SUGGESTED AMENDMENT
Tourism, Arts and Heritage Cabinet
Department of Fish and Wildlife Resources**

301 KAR 6:020. Boating Safety Equipment.

Page 1

RELATES TO

Line 5

After "235.205", insert the following:
, 33 C.F.R. 83, 46 C.F.R. 25

Page 1

STATUTORY AUTHORITY

Line 6

After "235.280", delete the following:
, 33 C.F.R. 83, 46 C.F.R. 25

Page 1

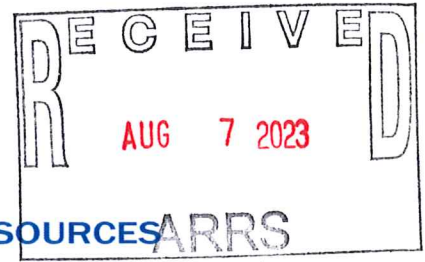
NECESSITY, FUNCTION, AND CONFORMITY

Line 7

After "CONFORMITY:", insert the following:
KRS 235.280 requires the Department of Fish and Wildlife Resources to promulgate administrative regulations to govern the fair, reasonable, equitable, and safe use of all waters of Kentucky and to carry out the purposes of KRS Chapter 235.

After "235.200", insert the following:
authorizes the department to promulgate administrative regulations relating to safety equipment for vessels

Delete the following:
prohibits the operation of vessels without required equipment and authorizes the department to promulgate administrative regulations regarding this equipment. KRS 235.280 authorizes the department to promulgate administrative regulations to govern the fair, reasonable, equitable, and safe use of all waters of the state. This administrative regulation establishes the requirements for boating safety equipment in



KENTUCKY DEPARTMENT OF FISH & WILDLIFE RESOURCES

Rich Storm
Commissioner

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

Brian Clark
Deputy Commissioner

Gabe Jenkins
Deputy Commissioner

August 7, 2023

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

Re: 301 KAR 11:020 Procurement of architectural and engineering services

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 301 KAR 11:020, Kentucky Department of Fish and Wildlife Resources proposes the attached amendment to 301 KAR 11:020.

Sincerely,

A handwritten signature in black ink that reads "Jenny Gilbert".

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

**REVISED:
8/7/2023 11:01 AM**

**SUGGESTED SUBSTITUTE
TOURISM, ARTS AND HERITAGE CABINET
Department of Fish and Wildlife Resources
(New Administrative Regulation)**

301 KAR 11:020. Procurement of architectural and engineering services.

RELATES TO: KRS Chapter 45A, KRS Chapter 150

STATUTORY AUTHORITY: KRS 150.025, 150.0242, ~~[45A.800, 45A.835,]~~ 45A.195, 45A.440, 45A. 695

NECESSITY, FUNCTION, AND CONFORMITY: ~~[The Kentucky Department of Fish and Wildlife Resources is authorized by]~~ KRS 150.025(1)(h) authorizes the Kentucky Department of Fish and Wildlife to promulgate administrative regulations reasonably necessary to implement or carry out the purposes of KRS Chapter 150. ~~KRS 150.0242 authorizes the department to promulgate administrative regulations relating to~~ ~~[to conduct all]~~ procurements necessary for the performance of its duties in accordance with the procurement procedures outlined in KRS Chapter 45A, Chapter 150, and administrative regulations promulgated under KRS Chapter 150. ~~[KRS 150.025(1)(h) authorizes the department to promulgate administrative regulations reasonably necessary to implement or carry out the purposes of KRS Chapter 150.]~~ KRS 150.0242 requires the department to promulgate administrative regulations pursuant to KRS Chapter 13A to implement its procedures for the procurement of engineering services pursuant to KRS 150.0242 and 45A.800 to 45A.838. This administrative regulation establishes requirements relating to the procurement of architectural and engineering services.

Section 1. Solicitations. A solicitation for architectural or engineering services shall comply with the provisions of KRS 45A.825 and include the following evaluation factors:

- (1) Experience and ability:
 - (a) Experience of key personnel that will be assigned to the project, including principal in charge, project manager, other key professional and technical staff. ~~[;]~~
 - (b) Previous projects completed by the firm similar to the proposed project. ~~[;]~~
 - (c) Types of projects on which the firm or key personnel have been the prime design professional or provided significant professional design services. ~~[;]~~
 - (d). Qualifications of the proposed project team. ~~[;]~~
 - (e) Volume of design work in the last two (2) years.
- (2) Past performance:
 - (a) For the two (2) year period prior to solicitation of services, the ability to design projects within specific project budgets and schedules.

(b) Design performance and experience of firm and key personnel with prior projects of similar scope.

(c). Construction supervision services and post construction services, if relevant.

(3) Existing workload relative to the size of the firm and capacity to perform the project.

(4) Geographical location with respect to the project:

(a) Location of offices of persons that will perform the work.

(b) Size of staff, including professional personnel, in the offices that will perform the work.

(c) Additional evaluation factors and other criteria required by the specific needs and scope of the project as set out in the requests for bids.

Section 2. Prequalification.

(1) In order to submit a response to a request for proposal, an architectural or engineering firm shall be prequalified by Kentucky Department of Fish and Wildlife Resources (KDFWR).

(2) A firm shall prequalify by filing with the department a completed current **federal[Federal]** Architect – Engineer Qualifications **form[Form]**, Standard Form 330. This form may be submitted concurrently with a response to a request for proposals.

(3) The prime consultant shall be registered in the Commonwealth of Kentucky with the appropriate professional governing body.

(4) Prequalification shall remain valid for the fiscal year in which it was received. To requalify, a firm shall submit an updated **federal[Federal]** Architect – Engineer Qualifications **form**, Standard Form 330.

(5) A firm desiring to be considered for an award as a prime **consultant** shall provide:

(a) An original certificate of a continuous professional liability policy in an amount not less than \$1,000,000 with a response to a request for proposals.

(b) Proof of current Kentucky workers compensation insurance coverage.

(6) A certificate of self-insurance shall not be accepted by the department.

Section 3. Receipt of Proposals.

(1) Proposals shall be received at the designated location prior to the closing time and date for the receipt of proposals indicated in the solicitation or any extension **[-thereof]** made by addendum. Proposals received after the closing time and date for the receipt of bids shall be considered for evaluation and award only if:

(a) No other bids were received;

(b) The re-advertisement time delay would affect the operations of the department;
and

(c) In the reasonable judgment of the purchasing officer, the bid was finalized prior to the official closing time and date for the receipt of bids.

(2) Submittals received that do not conform with the requirements of the solicitation shall be **rejected[deemed non-responsive]**.

Section 4. Department Employee Responsibilities. All department personnel engaged in the procurement of engineering, architectural, or related services, or the implementation of the provisions of KRS 45A.800 to 45A.835, shall comply with the following. **Department personnel shall be required to:**

(1) **Prioritize**~~Consider~~ the interests of the Commonwealth of Kentucky and the department ~~[first when contracting for professional services];~~

(2) Request and accept assistance from other department and state personnel, as required ~~[without allowing it to impair the dignity and responsibility of the employee's position];~~

(3) Seek to obtain the maximum value for each dollar spent for professional services;

(4) **Be honest and truthful**~~Strive for honesty and truth~~ in contracting;

(5) **Reject**~~Denounce~~ all forms of **attempted** bribery or favors;

(6) Invite all firms to submit their qualifications for consideration by the department;

(7) Assist other department personnel in the contracting for professional services, as necessary; and

(8) Comply with ~~[both the letter and the spirit of]~~ KRS 45A.340.

Section 5. Selection Committee Evaluations.

(1) Each member of an architectural or engineering services selection committee shall use the project evaluation sheet provided by the department procurement **staff**~~branch~~ in evaluating a firm's proposal.

(2) Upon completion of evaluation of all the responses to a request for proposals, each evaluation committee member shall sign **the**~~his/her~~ individual project evaluation sheet and ~~shall~~ submit the sheet to the chairperson of the committee. The chairperson of the selection committee shall record the composite score from each individual evaluation sheet on the evaluation summary sheet for the project. The evaluation summary sheet shall be signed by each participating member of the selection committee. This procedure shall also apply to project interview evaluation sheets used during the interview process as required by KRS 45A.825(8).

(3) All evaluation sheets and evaluation summaries for a project shall be maintained by the department procurement **staff**~~branch~~.

Section 6. Incorporation by Reference.

(1) "Architect-Engineer Qualifications", July 2021 edition, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Fish and Wildlife Resources, #1 Sportsman's Lane, Frankfort, Kentucky, Monday through Friday, 8 a.m. to 4:30 p.m. or online at: **<https://www.gsa.gov/reference/forms/architectengineer-qualifications>**~~<https://www.gsa.gov/Forms/TrackForm/32994> for the "Architect-Engineer Qualifications"~~.

Kentucky. 33 C.F.R. 83 establishes the federal navigation requirements as they pertain to steering and sailing, lights and shapes, and sounds and light signs. 46 C.F.R. 25 establishes the federal safety requirements as they pertain to navigation and shipping vessels.

Page 5

Section 4(3)(f)

Line 16

After "refers to", insert "this".

Delete "such a".

Page 7

Section 7(1)

Line 14

After "the operator", insert "shall".

Delete "may".

Page 7

Section 7(2)

Line 18

After "officer", insert "shall".

Delete "may".



Andy Beshear
GOVERNOR

JUSTICE AND PUBLIC SAFETY CABINET

Kerry Harvey
SECRETARY

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



July 27, 2023

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

Re: 500 KAR 2:020. Filing and processing SLEO commissions.
500 KAR 3:010. Definitions.
500 KAR 3:020. Filing and processing SLPO commissions

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 500 KAR 2:020. Filing and processing SLEO commissions, 500 KAR 3:010. Definitions, and 500 KAR 3:020. Filing and processing SLPO commissions, the Justice and Public Safety Cabinet proposes the attached amendment to 500 KAR 3:010 as well as the attached substitute to 500 KAR 2:020 and 500 KAR 3:020.

Sincerely,

Nathan Goens / By permission JCC
Nathan Goens, Attorney
Justice and Public Safety Cabinet
125 Holmes Street, 2nd Floor
Frankfort, Kentucky 40601

enclosure

Subcommittee Substitute

JUSTICE AND PUBLIC SAFETY CABINET Internal Investigation Branch (As Amended at ARRS)

500 KAR 2:020. Filing and processing SLEO commissions.

RELATES TO: KRS 15.334, 15.383, 61.300, 61.900-61.930, 61.990, 61.991, 62.010, 62.990

STATUTORY AUTHORITY: KRS ~~61.902, [.]~~ 61.904

NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.902 authorizes the Secretary of the Justice and Public Safety Cabinet to commission special law enforcement officers. KRS 61.904 requires the Secretary to promulgate administrative regulations that are reasonable and necessary to carry out the provisions of KRS 61.900 to 61.930. This administrative regulation establishes the criteria and procedures required for filing and processing applications for commissions to be a special law enforcement officer.

Section 1. Definitions.

(1) "Cabinet" is defined by KRS 61.900(3).

(2) "Governmental unit" means the unit or agency of state, county, city, or metropolitan government or other governmental entity authorized by KRS 61.900(6) or 61.902 to employ SLEOs~~["Kentucky Law Enforcement Council" or "KLEC" means the administrative body established in KRS 15.315].~~

(3) "Secretary" is defined by KRS 61.900(5).

(4) "SLEO Act" means the Special Law Enforcement Officer Act found in KRS 61.900 to 61.930.

(5) "SLEO program administrator" means the person designated or appointed by the Secretary of the Justice and Public Safety Cabinet to administer the Special Law Enforcement Officer Program whose address is: SLEO Program Administrator, Internal Investigations Branch, 125 Holmes Street, Frankfort, Kentucky 40601~~[Kentucky Law Enforcement Council, 521 Lancaster Avenue, Suite 401, Richmond, Kentucky 40475].~~

(6) "Special Law Enforcement Officer" or "SLEO" is defined by KRS 61.900(6).

Section 2. Qualifications to Apply for Commission as a Special Law Enforcement Officer. To qualify for a commission as a SLEO~~[special law enforcement officer]~~ pursuant to KRS 61.900 to 61.930, an individual shall comply with the conditions and requirements established in KRS 61.906.

Section 3. Application for Commission as a Special Law Enforcement Officer.

(1) An applicant shall meet ~~[all of]~~ the requirements of the SLEO Act before a commission is granted.

(2) An applicant shall provide to the governmental unit two (2) complete, signed and notarized Special Law Enforcement Officer (SLEO) Application Forms~~[SLEO Application Forms]~~ (SLEO-1).

(3) The governmental unit shall submit both application forms to the ~~[Justice and Public Safety Cabinet.]~~SLEO program administrator.

(4) The application forms shall contain ***[the following information]:***

(a) The name, address, telephone number, and detailed personal description of and information about the applicant; and

(b) All arrests and convictions, including traffic offenses committed within the past ten (10) years, violations, misdemeanors, or felonies as requested on the application and any other information necessary to conduct a criminal history check.

(5) Any false or misleading information, or withholding of information requested on the application or by the cabinet investigator may be grounds for rejection without further consideration.

Section 4. Additional Requirements.

(1) In addition to the application form, an applicant shall provide to the governmental unit who shall submit to the SLEO program administrator ***[the following with his or her application]***:

(a) A copy of the applicant's high school diploma, GED, official college transcript, or college degree~~[or GED]~~;

(b) A **[certified]** copy of the applicant's **certified** birth certificate;

(c) Two (2) recent photographs of the individual (full face) measuring not larger than three (3) inches by five (5) inches and taken within ~~[the last]~~ thirty (30) days of the date the application is submitted;

(d) If the applicant is a veteran, a copy of his or her military release (Form DD-214);

(e) An Authority to Release Information Form, SLEO-2, which allows the release of all necessary information to the SLEO program administrator. ***The form [it]*** shall be signed by the applicant and witnessed by a second person;

(f) A Letter of Intent Form, SLEO-3, completed by the governmental unit giving the name of the applicant, the specific public property to be protected, and the signature of the authorizing official of the requesting governmental unit;

(g) Proof that the applicant has successfully completed first aid and cardiopulmonary resuscitation (CPR) training provided according to the American Heart Association or the American Red Cross requirements and is certified in first aid and CPR; and

(h) The application fee required by KRS 61.908.

(2) ~~[If not on file from a previous application,]~~ An applicant shall be fingerprinted by an approved vendor. The governmental unit shall contact the SLEO program administrator for information related to an approved vendor ~~[at the AFIS Section, Kentucky State Police, 1250 Louisville Road, Frankfort, Kentucky 40601 or at a local law enforcement office]~~.

(3) The applicant shall arrange for and be interviewed by the SLEO program administrator or assigned cabinet investigator before a commission is granted.

(4) All SLEO applicants shall sign and the governmental unit shall submit to the cabinet the SLEO Acknowledgment Form, SLEO-4, which indicates that the applicant~~[he]~~:

(a) ~~[Has]~~ Received, read, and understands:

1. Provisions of the SLEO Act, KRS 61.900-61.930;

2. Administrative regulations in 500 KAR Chapter 2;

3. Penalties imposed for violating the SLEO Act and its administrative regulations; and

4. KRS 61.300, 61.990, 61.991, 62.010, and 62.990; and

(b) Acknowledges that ***his or her [the applicant's]***~~[his]~~ authority is limited and restricted under the SLEO Act.~~[and]~~

~~(c) Understands and acknowledges that his commission as a SLEO does not give him the right or authority to carry a concealed weapon off the premises of the public property, unless he holds a license to carry a concealed deadly weapon issued pursuant to KRS 237.110 or meets the requirements of 18 U.S.C. Section 926B or Section 926C.]~~

Section 5. Fees.

~~[(1)]~~ All fees required by KRS 61.908 shall be:

~~(1) Submitted with the application form; [Paid in advance and are]~~

~~(2) Nonrefundable; and [.]~~

~~(3) [(2)] [Fees shall be] Paid in the form of a check or money order made payable to the Kentucky State Treasurer.~~

Section 6. Approval of Application.

(1) If the applications and all required documents are in order, and if the criminal history information record review and background investigation are favorably completed, the governmental unit for whom the SLEO applicant will be employed shall notify the Department of Criminal Justice Training concerning any training the applicant needs ~~[in order]~~ to satisfy the requirements of KRS 61.906(2)(f).

(2) In notifying the Department of Criminal Justice Training, the governmental unit shall describe the training needed by the applicant. The Department of Criminal Justice Training shall schedule and conduct the training and collect the related fees as prescribed in KRS 61.908(3), (4), and (5). An applicant who has successfully completed the training previously shall not be required to repeat the course.

(3) The Department of Criminal Justice Training shall notify the governmental unit of the results of the training upon completion.

Section 7. Receipt of Defective or Falsified Application.

(1) If the application is incomplete, or otherwise defective in some way other than those referenced in Section 3(5) of this **administrative** regulation, or in conflict with the SLEO Act or its administrative regulations, 502 KAR Chapter 2, the cabinet shall notify the governmental unit.

(2) Upon notice that an **[applicant's]** application is incomplete or otherwise defective, the governmental unit shall notify the applicant. An application may be corrected and resubmitted at no additional cost if it is resubmitted to the SLEO program administrator within sixty (60) days of the date the governmental unit [applicant] is sent notice of the deficiencies by the SLEO program administrator.

(3) An application that has been falsified, ~~[or]~~ contains material omissions, or contains incomplete information may be rejected, and the applicant shall be prohibited from submitting an application for commission as a SLEO for one (1) year.

Section 8. The Grant of the Commission and the Required Oath of Office.

(1) A commission for a SLEO ~~[special law enforcement officer]~~ shall be validated and granted as follows:

(a) If the applicant has successfully satisfied the requirements of the act and a commission has been recommended, a commission certificate ~~[and the recommendation]~~ shall be forwarded by

the SLEO program administrator to the secretary or the secretary's designee for review.

(b) After the commission is issued by the secretary or the secretary's designee, a copy of the commission shall be placed in the SLEO's[officer's] file maintained by the cabinet.

(2) The governmental unit shall be notified that the commission has been granted.

(a) One (1) of the original applications and two (2) County Clerk Oath verification forms (SLEO-6) shall be forwarded by the cabinet to the governmental unit whose property is to be protected.

(b) The governmental unit shall arrange for the appointed applicant to take the oath of office.

(3) The appointed applicant shall take:

(a) One (1) of the applications and the two (2) County Clerk Oath verification forms to the county clerk in the county where the applicant is to serve; and

(b) The constitutional oath of office within thirty (30) days after notice of appointment.

(4) The county clerk shall then:

(a) Complete and sign the clerk's attestation on both County Clerk Oath verification forms[SLEO-6s];

(b) Retain the application and one (1) of the County Clerk Oath verification forms, for filing purposes in the county clerk's office; and

(c) Give the second County Clerk Oath verification form, signed by the clerk, to the applicant.

(5) The applicant shall return the second County Clerk Oath verification form, signed by the Clerk, to the governmental unit. The governmental unit shall return it to the ~~[cabinet-]~~SLEO program administrator within thirty (30) days of the grant of the commission to indicate that the oath was administered and that the application and oath verification form are filed with the county clerk.

(6) Upon receipt of the oath verification, the commission certificate shall be forwarded by the cabinet to the governmental unit whose property is to be protected.

(7) If the second County Clerk Oath verification form, signed by the clerk, is not returned to the SLEO program administrator within thirty (30) days of the granting of the commission, the commission shall be **[null and]** void and the applicant shall be required to repeat the application process.

(8) The applicant shall not exercise the authority of a SLEO until the governmental unit has received the commission certificate from the cabinet.

(9) The commission certificate shall be kept by the governmental unit so long as the SLEO[officer] is employed or until his or her authority is terminated as a result of the expiration of the commission term or by action of the **governmental [government]** unit or the secretary or the secretary's designee.

(10) The SLEO Commission shall be issued for a period of two (2) years, **or five (5) years if the SLEO is employed as a facilities security officer with the Kentucky State Police pursuant to KRS 16.187,** if the SLEO[officer] continues to meet all statutory and regulatory criteria.

(11) After the governmental unit has received the SLEO commission certificate, the governmental unit shall issue an identification card that shall[which is to] be carried by the SLEO ~~[officer-]~~whenever he or she is acting under the authority of KRS 61.900-61.930.

(12) The identification card shall be:

(a) Presented as requested by any duly sworn peace officer or cabinet official;

(b) Subject to control by the cabinet; and

(c) **In compliance [Comply]** with Section 11(4) of this administrative regulation.

(13) If for any reason a SLEO [~~officer~~] is terminated or otherwise relieved of his or her duties as a SLEO [~~officer~~] by the governmental unit or the cabinet, he or she shall immediately return **the** **[this]** identification card to the SLEO's[~~officer's~~] governmental unit.

(14) The SLEO commission certificate shall be held by the governmental unit and shall:

(a) Be available for inspection by the SLEO program administrator or his or her designee;

(b) Remain the property of the cabinet; and

(c) Be returned upon the SLEO's[~~officer's~~] authority being withdrawn for any reason.

Section 9. Special Provisions.

(1) Training pursuant to KRS 61.906(2)(f)2. A SLEO applicant may request approval from the Kentucky Law Enforcement Council (KLEC) for eighty (80) or more hours of training, if that training is not currently approved, by providing documentation verifying successful completion of the training and detailed information concerning the contents of the training to the SLEO program administrator. The training approval request shall be provided to the KLEC to review the request and make a decision.

(2) Training waiver. A SLEO applicant may apply for a training waiver by providing sufficient proof of past police experience, military records, or examination records that substantiates that the applicant meets the waiver requirements set forth in KRS 61.906(2)(f)2.

(3) Firearms and First Aid Proficiency. A SLEO applicant shall:

(a) Be certified in first aid and cardiopulmonary resuscitation (CPR) through training provided according to the American Heart Association or the American Red Cross requirements; and

(b) One (1) of the following:

1. Meet the marksmanship qualification requirements for a retired peace officer as specified in KRS 237.140; or

2. Fire twenty (20) rounds at an adult size silhouette target at a range of twenty-one (21) feet, with a handgun, and shall hit the target not less than eleven (11) times. The range test shall be conducted and certified by a firearms instructor trainer or certified firearms instructor trained pursuant to KRS 237.122 or by other firearms instructor program provided by the Department of Criminal Justice Training.

Section 10. Renewals.

(1) A letter of intent from the governmental unit stating its request to renew a commission, ~~and~~ two (2) complete signed and notarized SLEO Renewal Application Forms (SLEO-5), and the renewal application fee required by KRS 61.908(2) for each individual involved shall be filed with the SLEO[~~cabinet~~] program administrator at least sixty (60) days before the expiration date of the existing commission.

(2) The applicant for renewal shall be fingerprinted by an approved vendor and undergo a background investigation to bring the applicant's[~~his~~] records up-to-date.

(3) In addition to the requirements set forth above in this section, for each renewed commission granted, the governmental unit and SLEO applicant shall comply with the requirements set forth in Section 8 of this administrative regulation.

Section 11. Governmental Units Employing SLEOs[~~SLEO Officers~~] - Records, Reports, and Responsibility.

(1) All governmental units employing SLEOs~~[SLEO officers]~~ shall:

(a) Keep their files current as to the expiration date on each SLEO's~~[officer's]~~ commission;

(b) Keep the individual SLEO's~~[officer's]~~ commission certificates on file, to be returned to the cabinet upon termination of the SLEO~~[officer]~~ and his or her authority;

(c) Provide proof to the SLEO program administrator~~[coordinator]~~ at the time of request for renewal that its SLEOs:

1. Are currently certified in First Aid and CPR; and

2. Have met the same marksmanship qualification required of certified peace officers in KRS 15.383; and

(d) Mail or email to the SLEO program administrator by June 30 of each year:

1. A current list of all active SLEO personnel; and

2. The number of arrests made or citations issued by the agency the previous calendar year.

(2) The unit shall post a copy of the SLEO administrative regulations, 500 KAR Chapter 2, and a copy of KRS 61.900-61.930, 61.990, and 61.991 of the SLEO Act in a conspicuous location in any office or building that is designated security headquarters for persons operating as SLEOs~~[SLEO officers]~~.

(3) Complaints or unusual incidents involving SLEOs~~[SLEO officers]~~ shall be handled by the governmental unit whose public property is being protected by the SLEO ~~[officer]~~ involved except:

(a) The governmental unit shall notify the ~~[cabinet]~~SLEO program administrator by:

1. Direct verbal communication within twenty-four (24) hours of any reported incident involving the misconduct or unlawful act by any of its SLEOs~~[SLEO officers]~~; and

2. A follow-up written report to be filed with the SLEO program administrator, within thirty (30) days of the original oral report, stating the details of the incident and listing any action taken by the governmental unit; and

(b) If formal charges are pending, the governmental unit ~~[or agency]~~ shall advise the SLEO program administrator as to the specific charge, trial date, and the final disposition of the charge.

(4) The governmental unit shall issue each SLEO~~[officer]~~ an identification card upon the individual's appointment. The identification card shall be:

(a) Encased in plastic;

(b) Billfold size (approximately two and one-fourth (2 1/4) inches by three and one-half (3 1/2) inches); and

(c) Composed as follows:

1. One (1) side containing the following language: "The holder of this card ~~is~~**[has been]** commissioned as a Special Law Enforcement Officer~~[-(SLEO)]~~, pursuant to KRS 61.902 ~~and~~**[-As a SLEO, the holder of this card is]** deemed to be a peace officer within the meaning of KRS 527.020 ~~with~~**[and may exercise]** the powers ~~set forth~~**[of a peace officer]** in ~~[accordance with]~~KRS 61.900 to 61.930."; and

2. The other side containing a full-faced photograph of the SLEO~~[officer]~~ with his or her:

a. Name;

b. Identification or notation that the SLEO~~[officer]~~ has been commissioned a "Special Law Enforcement Officer";

c. Governmental unit employing the SLEO~~[officer]~~;

d. Badge number, if any; and

e. **Chief, supervisor, or employer's** signature ~~[of the SLEO's]~~~~[officer's]~~ **[chief, supervisor, or**

employer].

(5) The governmental unit shall obtain and destroy the identification card from any SLEO[~~officer~~] whose employment is terminated.

Section 12. Violations.

(1) All governmental units utilizing SLEO[~~']s~~] shall be subject to inspection and investigation by the cabinet as circumstances may warrant for possible violations.

(2) Violations may result in prosecution and recommendation to the secretary [~~of the cabinet~~] or the secretary's designee that the commission be revoked.

Section 13. Revocation or Suspension of SLEO Commissions.

(1) A SLEO may have his or her commission suspended or revoked in accordance with KRS 61.910.

(2) The SLEO program administrator shall notify the secretary or the secretary's designee of any violations of KRS 61.910, who shall send written notice of the alleged violation to the:

(a) SLEO; and

(b) Governmental unit employing the SLEO.

(3) The notice of alleged violation shall be sent to the SLEO and employing governmental unit by regular, first-class mail and by certified mail, return receipt requested to their last known addresses.

(4) The SLEO may request an administrative hearing before suspension or revocation is imposed. The request for hearing shall be in writing and shall be received by the SLEO program administrator within thirty (30) days of receipt by the SLEO of the notice of intent to seek suspension or revocation.

(5) The secretary or the secretary's designee shall suspend or revoke the commission of a SLEO who fails to request an administrative hearing within **[the]** thirty (30) days[~~day time period~~].

(6) All administrative hearings shall be conducted in accordance with KRS Chapter 13B.

(7) The cabinet may temporarily suspend the commission of a SLEO prior to holding a hearing pursuant to KRS Chapter 13B if the cabinet believes that the safety of the public requires that action. If a commission is temporarily suspended prior to holding a hearing pursuant to KRS Chapter 13B, the cabinet shall hold a Chapter 13B hearing not later than thirty (30) days from the date of the temporary suspension unless the SLEO requests an extension for a time certain. If the SLEO requests an extension for a time certain, then the commission shall remain suspended until the conclusion of the hearing.

(8) If a SLEO commission is suspended or revoked:

(a) The SLEO program administrator shall notify the governmental unit involved to return the commission of the SLEO[~~officer~~];

(b) The governmental unit responsible for the SLEO[~~officer~~] shall forward a letter to the SLEO[~~officer~~] stating that:

1. His or her commission has been revoked or suspended; and

2. He or she shall immediately return the SLEO identification card to the governmental unit;

(c) Upon receipt of the **SLEO identification** card, the governmental unit shall destroy it; and

(d) The SLEO program administrator shall notify the county clerk in the SLEO's[~~officer's~~] county of jurisdiction of the revocation or suspension.

Section 14. Procedures for Investigating Complaints or Unusual Incidents Involving SLEO Officers.

(1) Complaints or unusual incidents involving ~~SLEOs~~ ~~officers~~ shall be handled by the governmental unit whose public property is being protected by the SLEO ~~officer~~ involved. The governmental unit shall notify the cabinet of all incidents involving their SLEO personnel as required by Section 11(3) of this administrative regulation.

(2) The SLEO program administrator or other assigned officers may investigate ~~any and all~~ complaints or unusual incidents involving ~~SLEOs~~ ~~officers~~, if there is reason to believe the provisions of KRS 61.900-61.930, 61.990, 61.991, or 500 KAR Chapter 2, or other applicable laws or administrative regulations have been violated and an investigation is necessary.

(3) Any investigation conducted by the cabinet shall become part of the official record of the SLEO ~~officer~~ involved.

Section 15. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Special Law Enforcement Officer (SLEO) Application Form", SLEO-1, 2023[3/2019];

(b) "Authority to Release Information Form", SLEO-2, 2023[3/2019];

(c) "Letter of Intent Form", SLEO-3, 2023[3/2019];

(d) "SLEO Acknowledgment Form", SLEO-4, 2023[3/2019];

(e) "Special Law Enforcement Officer (SLEO) Renewal Application Form", SLEO-5, 2023[3/2019];

and

(f) "County Clerk Oath", SLEO-6, 2023[3/2019].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Internal Investigations Branch, 125 Holmes Street, Frankfort~~[Kentucky Law Enforcement Council, 521 Lancaster Avenue, Suite 401, Richmond], Kentucky 40601~~~~[40475]~~, Monday through Friday, 8 a.m. to 4:30 p.m. This material may be viewed on the Justice and Public Safety Cabinet Web site in the SLEO area at <https://justice.ky.gov/Departments-Agencies/iib/Pages/sleo.aspx> or <https://justice.ky.gov/about/pages/lrcfilings.aspx>.

CONTACT PERSON: Nathan Goens, Attorney, Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-8216, fax (502) 564-6686, email Justice.RegContact@ky.gov.

Staff-suggested Amendment

6/22/2023

**Justice and Public Safety Cabinet
Internal Investigation Branch**

500 KAR 2:020. Filing and processing SLEO commissions.

MIR

Application form SLEO-1

Page 2, Personal Details

D.O.B. block

After "mm/", insert "dd".

Delete "mm".

MIR

Letter of Intent Form

SLEO-3

After "KRS 62.900-61.930 to", insert a space between "protect" and "the".

CLEAN



Special Law Enforcement Officer (SLEO) Application Form

Please TYPE application and use the "TAB" key to move between blocks.
Written version available upon request.

| | | | | | |
|--|--|---|---|--|--|
| Full Name: | LAST | | FIRST | | MIDDLE |
| Nicknames/Aliases: | | | | | |
| Maiden Name: | | | | | |
| Any previous name changes: | LAST | | FIRST | | MIDDLE |
| Birth Date: | mm/dd/yyyy | AGE | Place of Birth: | | CITY / STATE |
| *OFFICIAL BIRTH CERTIFICATE IS REQUIRED, WILL NOT ACCEPT PHOTO COPY* | | | | | |
| Citizenship: | <input type="checkbox"/> YES <input type="checkbox"/> NO | | Gender: Male Female | | |
| | RACE | HEIGHT | WEIGHT | HAIR COLOR | EYE COLOR |
| Social Security #: | ###-##-#### | | Driver's License #: | | ##/STATE |
| Address: | STREET | | CITY / COUNTY | | STATE ZIP |
| *THIS MUST BE A PHYSICAL ADDRESS AND NOT A P.O. BOX OR THE ADDRESS OF THE PROTECTED PROPERTY* | | | | | |
| Phone Number: | HOME (WITH AREA CODE)
(###) ###-#### | | CELL (WITH AREA CODE)
(###) ###-#### | | E-MAIL ADDRESS |
| Prior Law Enforcement Experience | | | | | |
| Within the past 5 years, have you been employed as a sworn public peace officer for a period of no less than one (1) year? | | | | | <input type="checkbox"/> YES <input type="checkbox"/> NO |
| If yes, supply the following information: | | | | | |
| NAME OF LAW ENFORCEMENT AGENCY | | DATES EMPLOYED: FROM mm/yyyy TO mm/yyyy | | PHONE NUMBER (W/ AREA CODE) (###) ###-#### | |
| Within the past 5 years, have you served in the United States Armed Forces or National Guard as a full-time (active duty) military policeman engaged in law enforcement service for a period of no less than one (1) year? | | | | | <input type="checkbox"/> YES <input type="checkbox"/> NO |
| If yes, give details: | | | | | |
| *PROVIDE A COPY OF YOUR DD-214* | | | | | |

Special Law Enforcement Officer (SLEO) Application Form

Please TYPE application and use the "TAB" key to move between blocks.
Written version available upon request.

| Personal Details | | | | | |
|---|----------------------------------|----------------------------------|-----------------------------------|---|---|
| Marital Status: | <input type="checkbox"/> Single | <input type="checkbox"/> Married | <input type="checkbox"/> Divorced | <input type="checkbox"/> Separated | <input type="checkbox"/> Widowed |
| Spouse's details: | | | | | |
| Name | DOB
<small>mm/dd/yyyy</small> | Street Address | City/State | Birthplace | |
| If spouse is employed, list their employer, location and title. | | | | | |
| Employer | | Location | | Title | |
| Provide home addresses and the approximate time frames of each location for the <u>past 10</u> years.
<small>*IF ADDITIONAL SPACE IS NEEDED, USE ADDENDUM SECTION*</small> | | | | | |
| Street Address | | City/State | | <small>From</small>
<small>mm/yyyy</small> | <small>To</small>
<small>mm/yyyy</small> |
| Specify all traffic violations within the last ten (10) years. Include dates, locations, police department, whether or not convicted and fine paid if convicted.
<small>IF NO TRAFFIC VIOLATIONS, TYPE "NONE", DO NOT TYPE N/A
IF ADDITIONAL SPACE IS NEEDED, USE ADDENDUM SECTION</small> | | | | | |
| Traffic Violation | Date
<small>mm/yyyy</small> | Location | Police Department | Convicted or Not
(Yes/No) | Fine Paid or Not
(Yes/No) |
| | | | | | |
| Specify all arrests (felony, misdemeanor or violation). This would include physical arrests, summonses and non-traffic offense citations. Include dates, locations, by what agency, whether or not convicted. <u>IF YOU HAVE HAD ANY ARRESTS OR CITATIONS AND YOU DO NOT LIST THEM, THERE IS A POSSIBILITY THAT YOU WILL NOT BE APPROVED FOR COMMISSION BY THE JUSTICE AND PUBLIC SAFETY CABINET.</u>
<small>IF NO ARRESTS, TYPE "NONE", DO NOT TYPE N/A *IF ADDITIONAL SPACE IS NEEDED, USE ADDENDUM SECTION*</small> | | | | | |
| Dates
<small>mm/yyyy</small> | Offense/Location | | Agency | Convicted or Not
(yes/no) | Fines or Sentence |
| | | | | | |
| Have you ever been a defendant in any civil court action? If so, specify: | | | | | |
| Date
<small>mm/yyyy</small> | Type of Action | | | Disposition | |
| | | | | | |
| <small>IF NO COURT ACTION, TYPE "NONE", DO NOT TYPE N/A *IF ADDITIONAL SPACE IS NEEDED, USE ADDENDUM SECTION*</small> | | | | | |

Special Law Enforcement Officer (SLEO) Application Form

Please TYPE application and use the "TAB" key to move between blocks.
Written version available upon request.

| | | | | |
|--|--|-------------------|------------|---|
| Military Service: Give dates, Branch of Service and Type of Discharge received. | | | | |
| Date
<small>mm/yyyy</small> | | Branch of Service | | Type of Discharge |
| From | TO | | | |
| | | | | |
| DD-214 REQUIRED FOR EACH BRANCH SERVED *IF ADDITIONAL SPACE IS NEEDED, USE ADDENDUM SECTION* | | | | |
| Medical History | | | | |
| Have you had any serious injuries or illnesses within the past five (5) years? | | | | <input type="checkbox"/> YES
<input type="checkbox"/> NO |
| If yes, explain: | | | | |
| Describe any physical defects: | | | | |
| Do you now have or have you ever suffered from habitual drunkenness, narcotics addiction or dependence? | | | | <input type="checkbox"/> YES
<input type="checkbox"/> NO |
| If yes, explain: | | | | |
| Have you been a patient in a mental hospital or institution or have you been declared mentally disabled? | | | | <input type="checkbox"/> YES
<input type="checkbox"/> NO |
| If yes, explain: | | | | |
| Education/Training History | | | | |
| Education and Training: *ATTACH A COPY OF YOUR HIGH SCHOOL DIPLOMA OR GED CERTIFICATE* | | | | |
| | Name | Address | City/State | Date
<small>mm/yyyy</small>
From To |
| Elementary School | | | | |
| High School | | | | |
| Diploma received: | <input type="checkbox"/> YES <input type="checkbox"/> NO | Date received: | | |
| College/University | | | | |
| Degree received: | <input type="checkbox"/> YES <input type="checkbox"/> NO | Date received: | | |
| Other Training | | | | |
| Degree received: | <input type="checkbox"/> YES <input type="checkbox"/> NO | Date received: | | |
| *ATTACH ANY CERTIFICATES/DIPLOMAS RECEIVED* | | | | |
| *IF ADDITIONAL SPACE IS NEEDED, USE ADDENDUM SECTION* | | | | |

Special Law Enforcement Officer (SLEO) Application Form

Please TYPE application and use the "TAB" key to move between blocks.
Written version available upon request.

| Employment History | | | |
|--|------|----|--|
| Employment History: Beginning with the most recent employer, provide details specifying Employer Name, Address, Title/Position Held and Dates of Employment, (also list periods of unemployment) within the <u>past ten (10) years</u> .
IF ADDITIONAL SPACE IS NEEDED, USE ADDENDUM SECTION | | | |
| Name of Employer: | | | |
| Street Address: | | | |
| City/State/Zip: | | | |
| Phone Number: (###) ###-#### | | | |
| Title/Position Held: | | | |
| Dates of Employment:
<small>mm/yyyy</small> | From | To | |
| Reason for Separation: | | | |
| Annual Salary/Wages: | \$ | | |
| | | | |
| Name of Employer: | | | |
| Street Address: | | | |
| City/State/Zip: | | | |
| Phone Number: (###) ###-#### | | | |
| Title/Position Held: | | | |
| Dates of Employment:
<small>mm/yyyy</small> | From | To | |
| Reason for Separation: | | | |
| Annual Salary/Wages: | \$ | | |
| | | | |
| Name of Employer: | | | |
| Street Address: | | | |
| City/State/Zip: | | | |
| Phone Number: (###) ###-#### | | | |
| Title/Position Held: | | | |
| Dates of Employment:
<small>mm/yyyy</small> | From | To | |
| Reason for Separation: | | | |
| Annual Salary/Wages: | \$ | | |
| | | | |
| May we contact your present or past employers? <input type="checkbox"/> YES <input type="checkbox"/> NO | | | |
| If no, explain: | | | |

Special Law Enforcement Officer (SLEO) Application Form

Please TYPE application and use the "TAB" key to move between blocks.
Written version available upon request.

| References | | | | | |
|---|---------------------------------|-----------------------------------|-------------------|------------------|----------------|
| Provide two (2) personal references, (exclude relatives & co-workers) that have known you for at least three (3) years or more. *IF ADDITIONAL SPACE IS NEEDED, USE ADDENDUM SECTION* | | | | | |
| Name | Address, include City/State/Zip | Home, Work and Cell Phone Numbers | Best time to call | # of years known | E-mail Address |
| | | | | | |
| | | | | | |
| | | | | | |
| Photograph | | | | | |
| <ol style="list-style-type: none"> 1. Provide one (1), un-mounted photograph, no larger than 3" x 5" to each application. 2. For identification, write your full name on the back of the photographs. 3. PHOTOGRAPHS MUST HAVE BEEN TAKEN NO MORE THAN THIRTY (30) DAYS PRIOR TO SUBMITTING THE APPLICATION. 4. Application will not be considered unless proper photographs are included. | | | | | |

Attach Photo
(no larger than 3" x 5")

Special Law Enforcement Officer (SLEO) Application Form

Please TYPE application and use the "TAB" key to move between blocks.
Written version available upon request.

Addendum Section

Please use this space for additional information not provided above (3600 characters max):

NEW

Special Law Enforcement Officer (SLEO) Application Form

Please TYPE application and use the "TAB" key to move between blocks.
Written version available upon request.

THIS PAGE MUST CONTAIN ORIGINAL SIGNATURES ON BOTH SETS OF THE APPLICATION.

Note: This application must be notarized in the space provided below prior to submitting the application.

I, being a candidate to receive a commission as a Special Law Enforcement Officer in compliance with KRS 61.900-61.930, certify that the information required in the above statements of this application are to the best of my knowledge true, and I am not prohibited from serving by the provision of KRS 61.300.

Signature of Candidate

Subscribed and duly sworn to before me by the above named candidate, this _____ day of _____, 20____, at City (or town) of _____ County of _____ and State of _____.

Signature of Notary

(Official Impression Seal)

Notary Expiration Date

NOTE:

Complete and mail both applications and a \$25.00 non-refundable application fee (check or money order made payable to **Kentucky State Treasurer**) to:

Justice & Public Safety Cabinet
Internal Investigations Branch
125 Holmes St.
Frankfort, KY 40601

Any false, misleading or withholding of information requested on the application or by the cabinet investigator, may be grounds for rejection without further consideration.

500 KAR 2:020



COMMONWEALTH OF KENTUCKY
Justice & Public Safety Cabinet
Internal Investigations Branch
SPECIAL LAW ENFORCEMENT OFFICER (SLEO ACT)
 New Application
 Renewal Application
(Type or Print Legibly in Black Ink)
Letter of Intent Form

The undersigned, as an official Representative of _____
Name of Property

located and situated in: _____ / _____ / _____
City County State

Mailing Address: _____ Zip Code: _____,

hereby applies for and recommends the appointment of:

Name of Candidate

| | | | |
|--------|------|--------|-----|
| | | | |
| Street | City | County | Zip |

as a Special Law Enforcement Officer in compliance with KRS 62.900-61.930 to protect the premises of the public property of the above cited Government united location at:

Specific Location of Property

| | | | |
|--------|------|--------|-----|
| | | | |
| Street | City | County | Zip |

| | |
|---------------------------|-----------------------|
| Name of Official & Title: | Signature of Official |
| Agency Phone: | |
| Agency E-mail: | Date: |



Special Law Enforcement Officer (SLEO) Application Form

Please TYPE application and use the "TAB" key to move between blocks.
Written version available upon request.

| | | | | |
|--|--|--|---------------------------------|--|
| Full Name: | | LAST | FIRST | MIDDLE |
| Nicknames/Aliases:
Maiden Name:
Any previous name changes: | | LAST | FIRST | MIDDLE |
| Birth Date: | mm/dd/yyyy {##/##/####} | AGE | Place of Birth:
CITY / STATE | |
| *OFFICIAL BIRTH CERTIFICATE IS REQUIRED, WILL NOT ACCEPT PHOTO COPY* | | | | |
| Citizenship: | <input type="checkbox"/> YES <input type="checkbox"/> NO | Gender: Male Female | | |
| Social Security #: | | RACE | HEIGHT | WEIGHT |
| Driver's License #: | | HAIR COLOR EYE COLOR | | |
| Address: | | STREET | CITY / COUNTY | STATE ZIP |
| *THIS MUST BE A PHYSICAL ADDRESS AND NOT A P.O. BOX OR THE ADDRESS OF THE PROTECTED PROPERTY* | | | | |
| Phone Number: | HOME (WITH AREA CODE)
(###)###-#### | CELL (WITH AREA CODE)
(###)###-#### | E-MAIL ADDRESS | |
| Prior Law Enforcement Experience | | | | |
| Within the past 5 years, have you been employed as a sworn public peace officer for a period of no less than one (1) year? | | | | <input type="checkbox"/> YES <input type="checkbox"/> NO |
| If yes, supply the following information: | | | | |
| NAME OF LAW ENFORCEMENT AGENCY | DATES EMPLOYED: | FROM | TO | PHONE NUMBER (W/ AREA CODE)
(###)###-#### |
| | mm/yyyy{##/##/####} | | mm/yyyy
{##/##/####} | |
| Within the past 5 years, have you served in the United States Armed Forces or National Guard as a full-time (active duty) military policeman engaged in law enforcement service for a period of no less than one (1) year? | | | | <input type="checkbox"/> YES <input type="checkbox"/> NO |
| If yes, give details: | | | | |

PROVIDE A COPY OF YOUR DD-214

Special Law Enforcement Officer (SLEO) Application Form

Please TYPE application and use the "TAB" key to move between blocks.
Written version available upon request.

| Personal Details | | | | | |
|---|--|----------------|------------------------------|---|---|
| Marital Status: <input type="checkbox"/> Single <input type="checkbox"/> Married <input type="checkbox"/> Divorced <input type="checkbox"/> Separated <input type="checkbox"/> Widowed | | | | | |
| Spouse's details: | | | | | |
| Name | DOB
<small>mm/dd[mm]/yyyy
[##/##/###
#]</small> | Street Address | City/State | Birthplace | |
| If spouse is employed, list their employer, location and title. | | | | | |
| Employer | | Location | | Title | |
| Provide home addresses and the approximate time frames of each location for the <u>past 10</u> years.
IF ADDITIONAL SPACE IS NEEDED, USE ADDENDUM SECTION | | | | | |
| Street Address | | City/State | | <small>From</small>
<small>mm/yyyy</small> | <small>To</small>
<small>mm/yyyy</small> |
| Specify all traffic violations within the <u>last ten (10) years</u> . Include dates, locations, police department, whether or not convicted and fine paid if convicted.
IF NO TRAFFIC VIOLATIONS, TYPE [WRITE] "NONE", DO NOT TYPE [WRITE] N/A
IF ADDITIONAL SPACE IS NEEDED, USE ADDENDUM SECTION | | | | | |
| Traffic Violation | Date
<small>mm/yyyy[##
7##/#####]</small> | Location | Police Department | Convicted or Not
(Yes/No) | Fine Paid or Not
(Yes/No) |
| Specify all arrests (felony, misdemeanor or violation). This would include physical arrests, summonses and non-traffic offense citations. Include dates, locations, by what agency, whether or not convicted. <u>IF YOU HAVE HAD ANY ARRESTS OR CITATIONS AND YOU DO NOT LIST THEM, THERE IS A POSSIBILITY THAT YOU WILL NOT BE APPROVED FOR COMMISSION BY THE JUSTICE AND PUBLIC SAFETY CABINET.</u>
IF NO ARRESTS, TYPE [WRITE] "NONE", DO NOT TYPE [WRITE] N/A *IF ADDITIONAL SPACE IS NEEDED, USE ADDENDUM SECTION* | | | | | |
| Date[s]
<small>mm/yyyy[##/##/
#####]</small> | Offense/Location | Agency | Convicted or Not
(yes/no) | Fines or Sentence | |
| Have you ever been a defendant in any civil court action? If so, specify: | | | | | |
| Date
<small>mm/yyyy
[##/##/
#####]</small> | Type of Action | | Disposition | | |
| IF NO COURT ACTION, TYPE [WRITE] "NONE", DO NOT TYPE [WRITE] N/A *IF ADDITIONAL SPACE IS NEEDED, USE ADDENDUM SECTION* | | | | | |

Special Law Enforcement Officer (SLEO) Application Form

Please TYPE application and use the "TAB" key to move between blocks.
Written version available upon request.

| | | | | |
|--|--|--------------------------|--------------------------|---|
| Military Service: Give dates, Branch of Service and Type of Discharge received. | | | | |
| | Date
<small>mm/yyyy
[##/##/####]</small> | Branch of Service | Type of Discharge | |
| From | TO | | | |
| | | | | |
| DD-214 REQUIRED FOR EACH BRANCH SERVED *IF ADDITIONAL SPACE IS NEEDED, USE ADDENDUM SECTION* | | | | |
| Medical History | | | | |
| Have you had any serious injuries or illnesses within the past five (5) years? | | | | <input type="checkbox"/> YES
<input type="checkbox"/> NO |
| If yes, explain: | | | | |
| Describe any physical defects: | | | | |
| Do you now have or have you ever suffered from habitual drunkenness, narcotics addiction or dependence? | | | | <input type="checkbox"/> YES
<input type="checkbox"/> NO |
| If yes, explain: | | | | |
| Have you been a patient in a mental hospital or institution or have you been declared mentally disabled? | | | | <input type="checkbox"/> YES
<input type="checkbox"/> NO |
| If yes, explain: | | | | |
| Education/Training History | | | | |
| Education and Training: *ATTACH A COPY OF YOUR HIGH SCHOOL DIPLOMA OR GED CERTIFICATE* | | | | |
| | Name | Address | City/State | Date
<small>mm/yyyy[##/##/####]</small>
From To |
| Elementary School | | | | |
| High School | | | | |
| Diploma received: | <input type="checkbox"/> YES <input type="checkbox"/> NO | Date received: | | |
| College/University | | | | |
| Degree received: | <input type="checkbox"/> YES <input type="checkbox"/> NO | Date received: | | |
| Other Training | | | | |
| Degree received: | <input type="checkbox"/> YES <input type="checkbox"/> NO | Date received: | | |
| *ATTACH ANY CERTIFICATES/DIPLOMAS RECEIVED*
IF ADDITIONAL SPACE IS NEEDED, USE ADDENDUM SECTION | | | | |

Special Law Enforcement Officer (SLEO) Application Form

Please TYPE application and use the "TAB" key to move between blocks.
Written version available upon request.

| Employment History | | | |
|--|------|----|-----|
| Employment History: Beginning with the most recent employer, provide details specifying Employer Name, Address, Title/Position Held and Dates of Employment, (also list periods of unemployment) within the <u>past ten (10) years</u> .
IF ADDITIONAL SPACE IS NEEDED, USE ADDENDUM SECTION | | | |
| Name of Employer: | | | |
| Street Address: | | | |
| City/State/Zip: | | | |
| Phone Number: (###)###-#### | | | |
| Title/Position Held: | | | |
| Dates of Employment:
<small>mm/yyyy(##/##/####)</small> | From | To | |
| Reason for Separation: | | | |
| Annual Salary/Wages: | \$ | | |
| | | | |
| Name of Employer: | | | |
| Street Address: | | | |
| City/State/Zip: | | | |
| Phone Number: (###)###-#### | | | |
| Title/Position Held: | | | |
| Dates of Employment:
<small>mm/yyyy(##/##/####)</small> | From | To | |
| Reason for Separation: | | | |
| Annual Salary/Wages: | \$ | | |
| | | | |
| Name of Employer: | | | |
| Street Address: | | | |
| City/State/Zip: | | | |
| Phone Number: (###)###-#### | | | |
| Title/Position Held: | | | |
| Dates of Employment:
<small>mm/yyyy(##/##/####)</small> | From | To | |
| Reason for Separation: | | | |
| Annual Salary/Wages: | \$ | | |
| | | | |
| May we contact your present or past employers? | | | YES |
| If no, explain: | | | NO |
| | | | |

Special Law Enforcement Officer (SLEO) Application Form

Please TYPE application and use the "TAB" key to move between blocks.
Written version available upon request.

| References | | | | | |
|---|---------------------------------|-----------------------------------|-------------------|------------------------|----------------|
| Provide two (2) personal references, (exclude relatives & co-workers) that have known you for at least three (3) years or more. *IF ADDITIONAL SPACE IS NEEDED, USE ADDENDUM SECTION* | | | | | |
| Name | Address, include City/State/Zip | Home, Work and Cell Phone Numbers | Best time to call | # of [or] years known | E-mail Address |
| | | | | | |
| | | | | | |
| | | | | | |
| Photograph | | | | | |
| <ol style="list-style-type: none"> 1. Provide one (1), un-mounted photograph, no larger than 3" x 5" to each application. 2. For identification, write your full name on the back of the photographs. 3. PHOTOGRAPHS MUST HAVE BEEN TAKEN NO MORE THAN THIRTY (30) DAYS PRIOR TO SUBMITTING THE APPLICATION. 4. Application will not be considered unless proper photographs are included. | | | | | |

Attach Photo
(no larger than 3" x 5")

Special Law Enforcement Officer (SLEO) Application Form

Please TYPE application and use the "TAB" key to move between blocks.
Written version available upon request.

Addendum Section

Please use this space for additional information not provided above (3600 characters max):

NEW

Special Law Enforcement Officer (SLEO) Application Form

Please TYPE application and use the "TAB" key to move between blocks.
Written version available upon request.

THIS PAGE MUST CONTAIN ORIGINAL SIGNATURES ON BOTH SETS OF THE APPLICATION.

Note: This application must be notarized in the space provided below prior to submitting the application.

I, being a candidate to receive a commission as a Special Law Enforcement Officer in compliance with KRS 61.900-61.930, certify that the information required in the above statements of this application are to the best of my knowledge true, and I am not prohibited from serving by the provision of KRS 61.300.

Signature of Candidate

Subscribed and duly sworn to before me by the above named candidate, this _____ day of _____, 20____, at City (or town) of _____ County of _____ and State of _____.

Signature of Notary

Notary Expiration Date

(Official Impression Seal)

NOTE:

Complete and mail both applications and a \$25.00 non-refundable application fee (check or money order made payable to **Kentucky State Treasurer**) to:

Justice & Public Safety Cabinet
Internal Investigations Branch
125 Holmes St.
Frankfort, KY 40601

~~[Kentucky Law Enforcement
Council Funderburk Building
4449 Kit Carson Drive
Richmond, KY 40475]~~

Any false, misleading or withholding of information requested on the application or by the cabinet ~~[Kentucky Law Enforcement Council Staff]~~ investigator, may be grounds for rejection without further consideration.

500 KAR 2:020



COMMONWEALTH OF KENTUCKY
 Justice & Public Safety Cabinet, Internal Investigations Branch
 [Kentucky Law Enforcement Council]
 SPECIAL LAW ENFORCEMENT OFFICER (SLEO ACT)

- New Application
 Renewal Application

(Type or Print Legibly In Black Ink)

Letter of Intent Form

The undersigned, as an official Representative of _____
Name of Property

located and situated in: _____
City County State

Mailing Address: _____
Street City/State Zip Code

hereby applies for and recommends the appointment of:

Name of Candidate

| | | | |
|--------|------|--------|-----|
| Street | City | County | Zip |
|--------|------|--------|-----|

as a Special Law Enforcement Officer in compliance with KRS 62.900-61.930 to protect
 the [~~protect~~] premises of the public property of the above cited governmental
 [~~Government~~] unit [~~united~~] location at:

Specific Location of Property

| | | | |
|--------|------|--------|-----|
| Street | City | County | Zip |
|--------|------|--------|-----|

| | |
|---------------------------|-----------------------|
| Name of Official & Title: | Signature of Official |
| Agency Phone: | |
| Agency E-mail: | Date: |



Andy Beshear
GOVERNOR

JUSTICE AND PUBLIC SAFETY CABINET

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

Kerry Harvey
SECRETARY

July 27, 2023



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

Re: 500 KAR 2:020. Filing and processing SLEO commissions.
500 KAR 3:010. Definitions.
500 KAR 3:020. Filing and processing SLPO commissions

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 500 KAR 2:020. Filing and processing SLEO commissions, 500 KAR 3:010. Definitions, and 500 KAR 3:020. Filing and processing SLPO commissions, the Justice and Public Safety Cabinet proposes the attached amendment to 500 KAR 3:010 as well as the attached substitute to 500 KAR 2:020 and 500 KAR 3:020.

Sincerely,

Nathan Goens / By permission KCC
Nathan Goens, Attorney
Justice and Public Safety Cabinet
125 Holmes Street, 2nd Floor
Frankfort, Kentucky 40601

enclosure

Staff-suggested Amendment

**Final Version 7/6/2023
JUSTICE AND PUBLIC SAFETY CABINET
Internal Investigations Branch**

500 KAR 3:010. Definitions.

Page 1

Title paragraph

Line 4

After "3:010", insert "1".

After "Definitions", insert "1".

Page 1

STATUTORY AUTHORITY paragraph

Line 6

After "15A.160", insert "61.360".

Page 1

Section 1(1)

Line 17

After ""Cabinet"", insert "is".

Delete the following:

means the Justice and Public Safety Cabinet as

Page 2

Section 1(4)(a)

Line 4

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

Delete "The".

Page 2

Section 1(5)

Lines 10 and 11

After "means", insert the following:

KRS 61.300, 61.360, 61.991, 62.010, and 62.990

Delete the following:

the Kentucky Revised Statutes cited in paragraph (7)(a) of Section 2 of 500 KAR
3:020



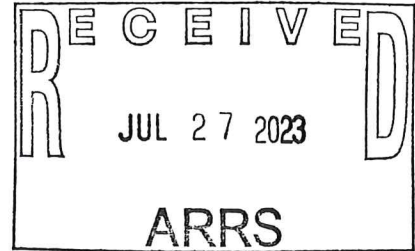
Andy Beshear
GOVERNOR

JUSTICE AND PUBLIC SAFETY CABINET

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

Kerry Harvey
SECRETARY

July 27, 2023



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

Re: 500 KAR 2:020. Filing and processing SLEO commissions.
500 KAR 3:010. Definitions.
500 KAR 3:020. Filing and processing SLPO commissions

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 500 KAR 2:020. Filing and processing SLEO commissions, 500 KAR 3:010. Definitions, and 500 KAR 3:020. Filing and processing SLPO commissions, the Justice and Public Safety Cabinet proposes the attached amendment to 500 KAR 3:010 as well as the attached substitute to 500 KAR 2:020 and 500 KAR 3:020.

Sincerely,

Nathan Goens / By permission KCC
Nathan Goens, Attorney
Justice and Public Safety Cabinet
125 Holmes Street, 2nd Floor
Frankfort, Kentucky 40601

enclosure

Subcommittee Substitute

JUSTICE AND PUBLIC SAFETY CABINET Internal Investigations Branch (As Amended at ARRS)

500 KAR 3:020. Filing and processing SLPO commissions.

RELATES TO: KRS 61.300, 61.360, 61.990, 62.010, 62.990

STATUTORY AUTHORITY: KRS 15A.160, **61.360**

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.160 authorizes the secretary of the Justice and Public Safety Cabinet to promulgate administrative regulations in accordance with KRS Chapter 13A and direct proceedings and actions for the administration of all laws and functions which are vested in the cabinet, except laws and functions vested in the Department for Public Advocacy. KRS 61.360 authorizes the Governor or the Governor's[his] agent to appoint Special Local Peace Officers. This administrative regulation establishes the criteria and procedure for applying for a commission as a Special Local Peace Officer.

Section 1. Qualifications to Apply for Commission as a Special Local Peace Officer. To qualify for a commission as a SLPO, an applicant shall present satisfactory evidence of compliance with the conditions and requirements established in KRS 61.360.

Section 2. Application for Commission and Renewal of Commission as a Special Local Peace Officer. Applications from the property owner for an initial SLPO commission for a SLPO applicant shall be sent to the [~~cabinet~~]SLPO program administrator and shall comply with the following requirements:

(1) An applicant shall meet [~~all of~~]the requirements of KRS 61.360 before a commission is granted. An applicant who qualifies may hold additional commissions for different property locations.

(2) The applicant shall complete two (2) notarized "SLPO Application Candidate Information (SLPO-1)" forms, which shall include **[the following]**:

- (a) The name of the property owner;
- (b) The name, address, date of birth, and Social Security number of the applicant and a detailed personal description;
- (c) A certified copy of the applicant's birth certificate;
- (d) Two (2) photographs of the applicant, which shall be:
 1. Full face;
 2. At least three (3) inches by five (5) inches in size; and
 3. Taken within thirty (30) days prior to submission of the application;
- (e) A copy of the applicant's military discharge or Form DD-214, if the applicant is a veteran;
- (f) The signature of the property owner;
- (g) A statement of all arrests and convictions, including traffic offenses committed within the past ten (10) years, violations, misdemeanors, or felonies; and
- (h) The notarized signature of the applicant.

(3) The ten (10) dollar application fee shall be:

(a) Submitted with the application form;

(b) Nonrefundable; and

(c) Submitted by check or money order made payable to the Kentucky State Treasurer.

(4) Submission of any false or misleading information or the withholding of information requested on the application or by the cabinet investigator may be grounds for rejection without further consideration.

(5) ~~[If not on file from a previous application,]~~ An applicant shall be fingerprinted by an approved vendor. The property owner or applicant shall contact the SLPO program administrator for information related to an approved vendor ~~[at the AFIS Section, Kentucky State Police, 1250 Louisville Road, Frankfort, Kentucky 40601].~~

(6) The application shall also contain the Authority to Release Information Form (SLPO-4) to allow the release of all necessary information to the SLPO program administrator. It shall be signed by the applicant and notarized or may be witnessed by the SLPO program administrator or SLPO program administrator's designee ~~[a cabinet official].~~

(7) The applicant shall also sign the SLPO Acknowledgment Notice Form (SLPO-5), which indicates that the applicant:

(a) ~~[He has]~~ Received, read, and understands:

1. KRS 61.300;

2. KRS 61.360;

3. KRS 61.991;

4. KRS 62.010;

5. KRS 62.990; and

6. The administrative regulations in 500 KAR Chapter 3;

(b) ~~[He]~~ Acknowledges that ***his or her [the applicant's]*** ~~[his]~~ authority is limited and restricted under the SLPO Act, cited in paragraph (a) of this subsection ~~;~~ and

~~(c) He understands and acknowledges that his commission as a SLPO does not give him the right or authority to carry a concealed weapon off the premises of the said property, unless he holds a license to carry a concealed deadly weapon issued pursuant to KRS 237.110].~~

(8) A Letter of Intent Form (SLPO-3) shall be filed with each application by the property owner giving the name of applicant and the specific private property to be protected. If the property is owned by more than one (1) person or entity, a single property owner may file. This letter shall accompany the application forms for an initial SLPO [initial] application and renewal application ~~[or renewals].~~

(9) ***The application shall include*** a copy of or information to identify the bond issued as required by KRS 61.360.

(10) The applicant shall arrange for an interview with the SLPO program administrator or assigned cabinet investigator.

(11) ~~[(10)]~~ If the application is incomplete, or otherwise defective or in conflict with the SLPO Act, cited in subsection (7)(a) of this section or 500 KAR Chapter 3, the application shall be returned to the property owner. An application may be corrected and resubmitted at no additional cost if it is resubmitted within sixty (60) days of the date the property owner ~~[applicant]~~ is sent notice of the deficiencies by the SLPO program administrator.

(12) For ~~[In the case of]~~ a SLPO commission renewal, the process outlined for an initial SLPO commission shall be followed. However, in lieu of two (2) SLPO 1 Forms, two (2) complete, signed, and notarized SLPO Renewal Application Forms (SLPO-7) for each applicant shall be filed with the SLPO program administrator at least sixty (60) days before the expiration date of the existing commission.

Section 3. The Grant of the Commission and the Required Oath of Office. A commission for a ~~SLPO[special local peace officer]~~ shall be validated and granted as follows:

(1) If the applicant has successfully satisfied the requirements of the statutes cited in Section 2(7)(a) of this administrative regulation, a commission certificate ~~[and a Special Local Peace Officer Recommendation of Background Investigator (SLPO-2) form]~~ shall be forwarded by the SLPO program administrator to the secretary or the secretary's designee for review. After the commission is issued by the secretary or the secretary's designee, a copy of the commission shall be placed in the ~~SLPO's[officer's]~~ file.

(2) If a commission is granted:

(a) The commission, one (1) application, and two (2) County Clerk Oath forms (SLPO-6) shall be forwarded by the cabinet to the property owner.

(b) The appointed applicant shall promptly take the application and the two (2) County Clerk Oath forms to the county clerk in the county where the applicant is to serve and shall take the constitutional oath of office within thirty (30) days after notice of appointment.

(c) The county clerk shall then complete and sign the clerk's attestation on both County Clerk Oath forms and retain the application and one (1) of the County Clerk Oath forms for filing purposes in the county clerk's office.

(d) The applicant shall return the second County Clerk Oath form signed by the county clerk to the property owner.

(e) The property owner shall then return the second County Clerk Oath form to the ~~[cabinet]~~ SLPO program administrator to indicate that the oath was administered and that the application and one (1) of the County Clerk Oath forms are filed with the county clerk.

(f) The property owner shall be allowed thirty (30) days to arrange for the appointed applicant to take the oath of office and return the second County Clerk Oath form ~~[is-]~~to the ~~[cabinet-]~~SLPO program administrator. If the County Clerk Oath form is not returned within thirty (30) days, the commission shall be revoked in accordance with KRS 62.010 and 62.990.

(g) The commission certificate shall be kept by the property owner so long as the ~~SLPO[officer]~~ is employed or until the SLPO's[his] authority is terminated by the expiration of the commission term or action of the property owner, the ~~[cabinet-]~~secretary, or the ~~[cabinet-]~~secretary's designee.

(3) A SLPO Commission shall be issued for a period of two (2) years, if the ~~SLPO[officer]~~ continues to meet all statutory and regulatory criteria.

(4) After the ~~SLPO[officer]~~ has taken the constitutional oath of office, the property owner shall issue an identification card that shall be carried by the ~~SLPO[officer]~~ whenever the SLPO[he] is acting under the authority of KRS 61.360. The identification card shall be presented as required by any duly sworn peace officer or cabinet official and is subject to control by the cabinet. ~~[If for any reason a SLPO officer is terminated or otherwise relieved of his duties as a SLPO officer by the property owner or the cabinet, he shall immediately return this identification card to the officer's property owner.]~~The identification card shall be:

- (a) Encased in plastic;
- (b) Billfold size 2 1/4 inches x 3 1/2 inches;
- (c) Composed as follows:

1. One (1) side containing the following language: "The holder of this card ~~is [has been]~~ commissioned as a Special Local Peace Officer (SLPO), pursuant to KRS 61.360 ~~and [- As a SLPO, the holder of this card is]~~ deemed to be a peace officer within the meaning of KRS 527.020 ~~with [and may exercise]~~ the limited powers ~~set forth in [of a peace officer granted by]~~ KRS 61.360"; and

2. The other side containing a full-faced photograph of the SLPO and:

a. The SLPO's name;

b. An identification or notation that the SLPO has been commissioned as a "Special Local Peace Officer";

c. The name and signature of the property owner employing the SLPO; and

d. The SLPO's badge number, if any. ~~[- and]~~

~~(d)[3.]~~ Immediately returned to and destroyed by the property owner employing the SLPO if for any reason the SLPO is terminated or otherwise relieved of the duties of a SLPO by the property owner or the SPLO's commission is terminated by the cabinet. It shall be the responsibility of the property owner to obtain and destroy the identification card from any SLPO whose employment or commission is terminated.

(5) A notice shall be forwarded to the property owner concerning any SLPO[~~officer~~] whose appointment has been suspended or revoked by the secretary or the secretary's designee. The property owner shall maintain current files and make renewal applications at least sixty (60) days prior to the commission's expiration date.

(6) The applicant shall not exercise the authority of a SLPO until the property owner has received the commission certificate from the cabinet.

(7) The SLPO commission certificate shall be held by the property owner and shall be available for inspection by the SLPO[~~cabinet~~] program administrator or SLPO program administrator's[~~his~~] designee. The commission certificate remains the property of the cabinet and ~~shall [is to]~~ be returned upon the SLPO's[~~officer's~~] authority being withdrawn for any reason.

Section 4. Denial of an Application.

(1) If an application for commission as a SLPO is denied, within thirty (30) days of the determination, the SLPO program administrator shall serve upon the applicant a letter setting forth the basis of the SLPO program administrator's determination.

(2) The applicant and property owner may appeal the determination ~~[in accordance with KRS Chapter 13B]~~within thirty (30) days of the date of the written notice that the application has been denied. An appeal shall [be filed]:

(a) **Be filed** in writing with the secretary or the secretary's designee; and

(b) Set forth the basis of the appeal~~[Within thirty (30) days of the date of the written notice that the application has been denied].~~

(3) Within thirty (30) days of receipt of a written appeal, the secretary or secretary's designee:

(a) May request additional information from the applicant, property owner, or [and] the SLPO program administrator;

(b) Shall consider the information provided by the applicant, property owner, **or [and]** SLPO program administrator; and

(c) Shall provide a written decision setting forth the factual basis in support of the determination.

(4)[(2)] An applicant who is denied a commission shall not submit another SLPO application for at least one (1) year.

~~Section 5. [Renewals. A Letter of Intent Form (SLPO-3) from the property owner stating a request to renew a commission and two (2) complete signed and notarized SLPO Renewal Application Forms (SLPO-7) for each applicant involved shall be filed with the cabinet program administrator at least sixty (60) days before the expiration date of the existing commission. The applicant for renewal shall undergo a new background investigation to bring his records up-to-date.~~

~~Section 6.] Records, Reports, and Responsibility. [Each property owner employing SLPO officers shall keep his files current as to the expiration date on each officer's commission and as follows:]~~

~~(1) The property owner shall maintain a file for each SLPO that includes:~~

~~(a) The SLPO's commission certificate;~~

~~(b) The expiration date of the SLPO's commission;~~

~~(c) A copy of the identification card issued to the SLPO;~~

~~(d) Any complaint concerning the SLPO with the results of the investigation; and~~

~~(e) A copy of or information to identify the bond issued as required by KRS 61.360[keep the individual officer's commission certificates on file, to be returned to the cabinet upon termination of the officer's employment].~~

~~(2) The property owner shall post a copy of 500 KAR Chapter 3 and a copy of KRS 61.360 and 61.990 in a conspicuous location in any office or building that is designated security headquarters for persons operating as SLPOs[SLPO officers].~~

~~(3) Complaints or unusual incidents involving a SLPO[SLPO officers] shall be handled by the property owner whose private property is being protected by the SLPO [officer] involved. However, the property owner shall notify the [cabinet-]SLPO program administrator by direct verbal communication within twenty-four (24) hours of any reported incident involving any act as enumerated in KRS 61.360(1)(c) by any of its SLPOs[SLPO officers]. A written report shall be filed with the SLPO program administrator, within thirty (30) days of the original oral report, stating the details of the incident and listing any action taken by the property owner. If formal charges are pending, the property owner shall advise the SLPO program administrator as to all specific charges, trial dates, and the final disposition of all charges.~~

~~(4) The property owner shall mail or e-mail to the SLPO program administrator by June 30 of each year:~~

~~(a) A current list of all active SLPO personnel; and~~

~~(b) The number of arrests made or citations issued by the SLPO the previous calendar year.~~

~~[(5) The property owner shall issue each SLPO officer an identification card upon the individual's appointment. The identification card shall be:~~

~~(a) Encased in plastic;~~

~~(b) Billfold size 2 1/4 in. x 3 1/2 in.; and~~

(e) Composed as follows:

1. One (1) side containing the following language: "The holder of this card has been commissioned as a Special Local Peace Officer (SLPO), pursuant to KRS 61.360. As a SLPO, the holder of this card is deemed to be a peace officer within the meaning of KRS 527.020 and may exercise the limited powers of a peace officer granted by KRS 61.360"; and

2. The other side containing a full-faced photograph of the officer with his or her:

a. Name;

b. Identification or notation that the officer has been commissioned a "Special Local Peace Officer";

c. Property owner employing the officer;

d. Badge number, if any; and

e. Signature of the officer's property owner.

(6) The property owner shall be responsible for obtaining and destroying the identification card from any officer whose employment is terminated.]

(5)[(7)] If the bond required by KRS 61.360 is cancelled or revoked, the property owner shall notify the cabinet of this fact and the reason for cancellation or revocation.

Section 6.[~~Section 7.~~] Violations. A property owner utilizing SLPO[']s shall be subject to inspection and investigation by the cabinet or SLPO program administrator for possible violations, which may include the inspection and investigation of all files related to any SLPO commission maintained by the property owner. Violations may result in prosecution and recommendation to the secretary or the secretary's designee that the commission affected be revoked.

Section 7.[~~Section 8.~~] Revocation or Suspension of SLPO Commissions.

(1) If [it is determined by]the SLPO program administrator determines that a disqualifying factor in KRS 61.360(1) of the SLPO Act applies to a commissioned SLPO[~~an active SLPO commissioned officer~~], the SLPO program administrator shall notify the secretary or the secretary's designee who shall revoke or suspend the commission of the SLPO[~~any special local peace officer~~], after an administrative hearing conducted in accordance with KRS Chapter 13B, if the secretary or the secretary's designee[~~he~~] determines:

(a) That the SLPO[~~commission holder~~] does not meet, or no longer meets the requirements and conditions for the commission;

(b) That the SLPO[~~commission holder~~] has knowingly falsified an application or portion thereof, or has knowingly made any false or misleading statement of a material fact to the cabinet; or

(c) That the SLPO[~~commission holder~~] has violated any of the Kentucky Revised **Statutes** [~~Statutes~~] or administrative regulations cited in Section 2(7)(a) of this administrative regulation, or order of the secretary or the secretary's designee.

(2) Upon revocation or suspension the SLPO program administrator shall notify the property owner involved to return the commission of the SLPO [officer-]involved to the SLPO program administrator[~~for the cabinet~~]. The property owner responsible for the SLPO [officer] shall forward a letter to the SLPO [officer-]involved stating that the SLPO's[~~his~~] commission has been revoked or suspended and that the SLPO[~~he~~] shall immediately return the SLPO identification card to the property owner.

(3) The secretary or the secretary's designee may temporarily suspend the commission of an SLPO prior to holding a hearing pursuant to KRS Chapter 13B if the secretary or the secretary's designee~~[he]~~ believes that the safety of the public requires that action. If a commission is temporarily suspended prior to holding a hearing pursuant to KRS Chapter 13B, the secretary or the secretary's designee shall hold a KRS Chapter 13B hearing not later than thirty (30) days from the date of the temporary suspension unless the SLPO requests an extension for a time certain. If the SLPO requests an extension for a time certain, then the commission shall remain suspended until the conclusion of the hearing.

(4) The SLPO program administrator shall notify the county clerk in the SLPO's~~[officer's]~~ county of jurisdiction if a SLPO's~~[SLPO officer's]~~ commission has been surrendered, suspended, or revoked.

Section 8.~~[Section 9.]~~ Procedures for Investigating Complaints or Unusual Incidents Involving a SLPO~~[-Officers]~~.

(1) Complaints or unusual incidents involving a SLPO ~~[officers-]~~ shall be handled by the property owner whose private property is being protected by the SLPO ~~[officer-]~~ involved. The property owner shall notify the cabinet of all incidents involving their SLPO personnel as indicated in Section 5~~[6]~~ of this administrative regulation.

(2) The SLPO~~[cabinet]~~ program administrator or other assigned investigator~~[officers]~~ may investigate any complaints or unusual incidents involving a SLPO ~~[officer-]~~ if there is reason to believe the provisions of KRS 61.360 or other applicable laws have been violated and an investigation is necessary.

(3) Any investigation conducted by the cabinet shall become part of the official record of the SLPO ~~[officer-]~~ involved.

Section 9.~~[Section 10.]~~ Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "SLPO Application Candidate Information Form (SLPO-1)", 2023~~[July 1, 2010]~~;

(b) ~~["Special Local Peace Officer Recommendation of Background Investigator Form (SLPO-2)", May 8, 2008];~~

~~[(c)]~~ "Letter of Intent Form (SLPO-3)", 2023~~[July 28, 2008]~~;

~~[(c)]~~~~[(d)]~~ "Authority to Release Information Form (SLPO-4)", 2023~~[July 28, 2008]~~;

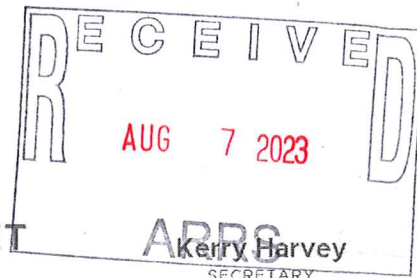
~~[(d)]~~~~[(e)]~~ "SLPO Acknowledgment Notice Form (SLPO-5)", 2023~~[April 29, 2009]~~;

~~[(e)]~~~~[(f)]~~ "County Clerk Oath" Form (SLPO-6), 2023~~[July 1, 2010]~~; and

~~[(f)]~~~~[(g)]~~ "SLPO Renewal Application Form (SLPO-7)" 2023~~[July 1, 2010]~~.

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CONTACT PERSON: Nathan Goens, Attorney, Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-8216, fax (502) 564-6686, email Justice.RegContact@ky.gov.



Andy Beshear
GOVERNOR

JUSTICE AND PUBLIC SAFETY CABINET

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August 7, 2023

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

RE: **501 KAR 6:150**. Eastern Kentucky Correctional Complex.

Dear Ms. Caudill:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 501 KAR 6:150, the Justice and Public Safety Cabinet, Department of Corrections proposes the attached suggested amendment to 501 KAR 6:150.

Sincerely,

Amy V. Barker
Assistant General Counsel

enclosure

SUGGESTED SUBSTITUTE

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections

501 KAR 6:150. Eastern Kentucky Correctional Complex policies and procedures.

RELATES TO: KRS Chapters 196, 197, 439

STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470(2), 439.590, 439.640(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035, 197.020, 439.470(2), 439.590, and 439.640(2) authorize the Justice Cabinet and Department of Corrections to promulgate administrative regulations necessary and suitable for the proper administration of the department or any division therein. These policies and procedures are incorporated by reference [~~in order~~] to comply with the accreditation standards of the American Correctional Association. This administrative regulation establishes the policies and procedures for the Eastern Kentucky Correctional Complex.

Section 1. Incorporation by Reference.

(1) "Eastern Kentucky Correctional Complex Policies and Procedures", ~~August 8/June 14/February 09~~, 2023[December 13, 2016], is incorporated by reference. Eastern Kentucky Correctional Complex Policies and Procedures include:

| | |
|----------------------------|--|
| [EKCC 01-06-02] | [Crime Scene Camera] |
| EKCC 01-07-01 | Institutional Tours and Group Visits of EKCC (Amended 8/8/23 [6/14/23][2/09/23]) |
| EKCC 01-07-03 | Outside Consultation and Research (Amended 2/09/23[12/13/16]) |
| [EKCC 01-10-02] | [Organization and Assignment of Responsibility] |
| [EKCC 01-10-03] | [Institutional Planning] |
| [EKCC 01-13-01] | [Organization of Operations Manual (Amended 8/13/02)] |
| [EKCC 01-13-02] | [Monitoring of Operations, Policies and Procedures] |
| [EKCC 01-13-03] | [Formulation and Revision of EKCC Operating Procedure (Amended 8/13/02)] |
| [EKCC 01-13-04] | [Meetings Conducted and Their Purpose] |
| EKCC 02-01-02 | Inmate Canteen (Amended 2/09/23[12/13/16]) |
| EKCC 02-02-01 | Fiscal Management: Agency Funds (Amended 2/09/23[6/12/02]) |
| [EKCC 02-05-01] | [Fiscal Management: Budget] |
| [EKCC 02-08-01] | [Property Inventory] |
| [EKCC 02-08-02] | [Warehouse Operation and Inventory Control] |
| [EKCC 02-08-03] | [Inventory Control, Nonexpendable Items] |
| [EKCC 02-08-04] | [Warehouse Policy and Procedure] |
| [EKCC 02-11-01] | [Purchase and Supply Requisition] |
| [EKCC 02-12-01] | [Fiscal Management: Audits] |
| EKCC 02-14-01 | Screening Disbursements from Inmate Personal Accounts (Amended 8/8/23 [2/09/23][6/12/02]) |

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|-------------------------------|--|
| [EKCC 04-02-02] | [Advisory Training Committee] |
| EKCC 06-03-01 | Case Record Management (Amended <u>8/8/23[2/09/23]</u> [12/13/16]) |
| [EKCC 10-02-04] | [Special Management Unit: Operating Procedures and Living Conditions] |
| <u>EKCC 10-02-04</u> | <u>Restrictive Housing Unit and Special Management Unit: Operating Procedures and Living Conditions (Added <u>8/8/23[2/09/23]</u>)</u> |
| EKCC 11-02-01 | Meal Planning (Amended <u>2/09/23</u> [10/14/16]) |
| EKCC 11-04-01 | Food Service: Inspections and Sanitation (Amended <u>2/09/23</u>) |
| EKCC 11-04-02 | Medical Screening of Food Handlers (Amended <u>2/09/23</u>) |
| EKCC 11-05-01 | Food Service: Security (Amended <u>2/09/23</u> [12/13/16]) |
| EKCC 11-07-01 | Dining Room Rules (Amended <u>2/09/23</u> [12/13/16]) |
| EKCC 12-01-01 | Vermin and Insect Control (Amended <u>2/09/23</u>) |
| EKCC 12-02-01 | Inmate Dress and Use of Access Areas (Amended <u>2/09/23</u> [10/14/16]) |
| EKCC 13-01-01 | Pharmacy Policy (Amended <u>8/8/23[2/09/23]</u> [12/13/16]) |
| EKCC 13-01-02 | Self-Administration of Medication (SAM) Program (Amended <u>2/09/23</u> [12/13/16]) |
| EKCC 13-02-03 | Consultations (Amended <u>2/09/23</u> [10/14/16]) |
| EKCC 13-02-04 | Medical Services (Amended <u>6/14/23[2/09/23]</u> [9/14/05]) |
| EKCC 13-02-05 | Health Evaluations (Amended <u>2/09/23</u> [12/13/16]) |
| EKCC 13-02-06 | Sick Call[, General, and Dental] (Amended <u>2/09/23</u> [9/14/05]) |
| EKCC 13-05-01 | HIV[Aids] and Hepatitis B: Precautions Against Infection (Amended <u>2/09/23</u> [9/14/05]) |
| EKCC 13-07-01 | Serious Illness, Major Injuries, Death (Amended <u>8/8/23[2/09/23]</u> [9/14/05]) |
| EKCC 13-08-01 | Psychiatric and Psychological Services (Amended <u>6/14/23[2/09/23]</u> [12/13/16]) |
| EKCC 13-08-02 | <i>Multidisciplinary Treatment[Psychiatric and Psychological Services] Team</i> (Amended <u>6/14/23[2/09/23]</u> [10/14/16]) |
| <i>[EKCC 13-08-03]</i> | <i>[Suicide Prevention and Intervention Program (Amended <u>6/14/23</u>[2/09/23][12/13/16])]</i> |
| EKCC 13-08-04 | Detoxification (Amended <u>2/09/23</u> [10/14/16]) |
| EKCC 13-08-05 | Mental Health Services (Amended <u>8/8/23[6/14/23]</u> [2/09/23][Added 9/14/05]) |
| EKCC 13-09-01 | Dental Services (Amended <u>8/8/23[2/09/23]</u> [9/14/05]) |
| EKCC 13-10-01 | Optometric Services (Amended <u>8/8/23[2/09/23]</u> [9/14/05]) |
| EKCC 13-12-02 | Resident Transfer/Medical Profiles (Amended <u>8/8/23[2/09/23]</u> [9/14/05]) |
| EKCC 13-13-01 | Syringes, Needles and Sharps Control (Amended <u>8/8/23[2/09/23]</u> [9/14/05]) |
| EKCC 13-15-01 | Medical Department - General Housekeeping, Decontamination Procedures, and Biohazard Waste Procedures (Amended <u>8/8/23[2/09/23]</u> [9/14/05]) |
| EKCC 13-16-01 | Medical Records (Amended <u>2/09/23</u> [11/8/2005]) |
| EKCC 14-02-01 | Clothing, Bedding and Personal Hygiene Supplies: [Issuance and Replacement Schedule](Amended <u>2/09/23</u>) |

| | |
|-----------------|--|
| EKCC 14-03-01 | Board of Claims (Added <u>8/8/23[2/09/23]</u>) |
| EKCC 14-04-01 | Inmate Legal Services (Amended <u>8/8/23[2/09/23]</u>) |
| EKCC 14-05-01 | Americans with Disabilities Act and Inmate Programs Access (Added <u>8/8/23[2/09/23]</u>) |
| [EKCC 14-07-01] | [Inmate Rights and Responsibilities] |
| EKCC 15-01-01 | Hair and Grooming Standards: Inmate Barber Shop (Amended 2/09/23) |
| EKCC 16-01-01 | Inmate Visiting (Amended <u>8/8/23[2/09/23]</u>) |
| EKCC 16-02-01 | Inmate Correspondence (Amended <u>8/8/23[2/09/23]</u>) |
| EKCC 16-03-01 | Inmate Telephone Procedures (Amended 2/09/23) |
| EKCC 16-05-01 | Inmate Access to and Communication with EKCC Staff (Amended <u>8/8/23[2/09/23]</u>) |
| EKCC 16-05-02 | Unit Bulletin Boards & Inmate TV Channel (Amended 2/09/23) |
| EKCC 17-01-02 | Personal Property Control (Amended <u>8/8/23[2/09/23]</u>) |
| EKCC 17-02-01 | Assessment and [/]Orientation (Amended 2/09/23) |
| EKCC 17-04-01 | Inmate Reception Process (Amended <u>8/8/23[2/09/23]</u>)[at the EKCC] |
| EKCC 17-04-02 | Provisional Assessment Center Operations and Reception Program (Added <u>8/8/23[2/09/23]</u>) |
| EKCC 18-01-01 | Inmate Classification (Amended 2/09/23) |
| EKCC 18-02-01 | Lesbian, Gay, Bisexual, Transgender, and Intersex (LGBTI) (Amended <u>8/8/23[2/09/23]</u>) |
| [EKCC 18-10-01] | [Parole Progress Report] |
| EKCC 18-13-01 | Meritorious Housing (Amended 2/09/23) |
| EKCC 18-13-04 | Minimum Security Unit: Operating Procedures and Living Conditions (Amended <u>8/8/23[2/09/23]</u>)[Added 8/13/02] |
| EKCC 19-04-01 | Inmate Work Program (Amended 2/09/23) |
| EKCC 20-01-01 | Educational Courses (Amended <u>8/8/23[2/09/23]</u>)[Program] |
| EKCC 21-01-01 | Library Services (Amended 2/09/23) |
| EKCC 22-02-01 | Recreation and Inmate Activities (Amended 2/09/23) |
| EKCC 23-01-01 | Religious Services (Amended 2/09/23) |
| EKCC 24-01-01 | Social Services and Counseling Program (Amended 2/09/23) |
| EKCC 25-02-01 | Inmate Discharge Procedure (Amended 2/09/23) |
| EKCC 25-03-01 | Reentry[Prerelease] Preparation (Amended 2/09/23) |

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CONTACT PERSON: Amy V. Barker, Assistant General Counsel, Justice & Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-3279, fax(502) 564-6686, email Justice.RegContact@ky.gov.

CHANGES TO MATERIAL INCORPORATED BY REFERENCE:

EKCC 01-07-01

Page 1

Header

In the top right corner, insert "501 KAR 6:150".

EKCC 02-14-01

Page 1

Header

In the top right corner, insert "501 KAR 6:150".

A.2.

After "An inmate may withdraw funds from his account", insert the following:
as outlined in CPP 15.7.

Delete the remainder of this subsection including paragraphs "a." through "e."

EKCC 06-03-01

Page 1

References/Authority

Delete "61.873,".

EKCC 10-02-04

Page 1

A.2.c.

After "A suicidal inmate shall be under", insert "continuous".

Delete "continuing".

Page 13

B.23.

After "to ensure the security of the institution,", insert the following:

An inmate assigned to Disciplinary Segregation shall have telephone privileges as outlined in CPP 10.2.

Delete the following:

An inmate assigned to Disciplinary Segregation for less than sixty (60) days shall not be granted telephone privileges, with the exception of an initial call within the first forty-eight (48) hours of assignment. After sixty (60) days, a Disciplinary Segregation inmate shall be afforded the same privileges as an Administrative Segregation inmate.

EKCC 13-01-01

Page 5

G.3.b.

After "located in the pharmacy;", insert "and".

G.3.c.

After "c. The medications", insert "shall then be logged".

Delete the following:
are then to be logged

EKCC 13-07-01

Page 1

D.1.

After "1. Immediately following the death of an inmate, the charge medical person shall", insert page 2 of the policy, which was inadvertently omitted, including the following revisions:

D.1.: After "notify the", insert "Health". Delete "Nurse".

D.3.b.: After "received and filed", insert ", or if an autopsy is not performed, until authorized by the Medical Director of the Department of Corrections

EKCC 13-08-03

Pages 1-3

Delete this policy in its entirety.

EKCC 13-08-05

Page 3

C.

After "C. Mental Health Appraisal", insert the following:

Mental health appraisals shall be conducted in accordance with CPP 13.13.

Delete the following:

Inmates who are referred as a result of the mental health screening or by staff referral shall receive a mental health appraisal by a qualified mental health person within fourteen (14) days of admission to EKCC or the referral. If there is documented evidence of a mental health appraisal within the previous 90 days, a new mental health appraisal is not required, except as determined by the designated mental health authority.

Page 7

H.2.

After "threat of harm to another person,", insert the following:

immediate steps shall be taken to ensure the inmate is continuously observed until his mental health status can be assessed by a mental health professional. See CPP 13.12.

Delete the following:

the inmate may be placed on watch for his or others' protection until mental health staff conducts a mental health evaluation. The mental health staff shall determine if the watch status shall be maintained.

Pages 9-11

L.

After "L. Suicide Prevention and Intervention", insert the following:

Refer to CPP 13.12 for suicide prevention and intervention.

Delete the remainder of this section including subsections "1." through "4."

Page 13

N.1.a.

After "substantial pain or disability", insert a semicolon.

Delete the period.

N.1.b.

After "housed in the general population", insert "; or".
Delete the period.

EKCC 13-09-01

**Page 1
Header**

In the top right corner, insert "501 KAR 6:150".

EKCC 13-10-01

**Page 1
E.**

After "Record Request Form and a", insert "cash purchase order (CPO)".
Delete "CPO".

EKCC 13-12-02

**Page 1
Header**

In the top right corner, insert "501 KAR 6:150".

EKCC 13-13-01

**Page 1
Header**

In the top right corner, insert "501 KAR 6:150".

References/Authority box

After "KRS", insert "196.035".
Delete "196.025".

EKCC 13-15-01

**Page 1
A.2.**

After "2.", insert the following:

General bath and shower areas shall be cleaned and disinfected daily, and towels (bath and paper), toilet tissue, and soap kept available.

Delete the remainder of this section in its entirety.

A.3.

After "3.", insert the following:

For inmates' rooms, beds shall be broken down, cleaned, and re-made. Tables, furniture, and baths shall be cleaned. Floors shall be dusted and mopped, with stripping, waxing, and spray buffing monthly or as needed.

Delete the remainder of this section in its entirety.

A.4.

After "4.", insert the following:

Dirty linen shall be taken

Delete "Take dirty linen".

A.6.

After "6.", insert the following:

Hospital walls, vents, and fixtures shall be cleaned on an as needed basis or at least biannually.

Delete the remainder of this section in its entirety.

EKCC 14-03-01

Page 1

A.

After "A. Claim Form", insert the following:

The Kentucky Public Protection Cabinet's Office of Claims and Appeals maintains the claim form.

EKCC 14-04-01

Page 1

References/Authority

After "KRS Chapters 196,", insert "419".

Delete "416".

After "RCr 10.06,", insert "28".

Delete "23".

After "USC" insert "§".

Page 3

B.3.

After "postage upon signing a cash", insert "purchase".

Delete "pay".

Attachment I

Bottom Right Corner

Insert "2023".

Delete "2022".

EKCC 14-05-01

Page 2

D.1.

After "An inmate requesting an auxiliary aid", insert the following:

, such as a watch or alarm clock with bed shaker,

After "Communications Assistance form", insert "(Attachment I)".

After "or amplifier, the inmate shall", delete "also".

After "Healthcare Request form", insert the following:

to the Medical Department. The form may be obtained from the Medical Department

E.1.

After "Qualified Interpreter form (Attachment I)", insert "II".

Delete "I".

Page 3

E.2.m.

After "education programs;", insert "and".

E.2.n.

After "on request", insert a period.
Delete "; and".

E.2.o.

Renumber as "3.".

E.3.

Renumber as "4.".

F.2.

After "within thirty (30) days.", insert a return and the following:
This policy shall be reviewed annually and updated as needed.

Attach new Attachment I, Request for Communications Assistance.
For existing Attachment I, Request for a Qualified Interpreter, renumber as Attachment II.

EKCC 16-01-01

Page 1

References/Authority

After "KRS", delete "430.600".

Page 2

A.4.

After "This shall ensure that all inmates have the opportunity to visit.", insert the following:
5. An inmate shall be allotted a maximum of three (3) in-person visits per month, excluding approved special, attorney, or government official visits.

B.

After "B.", insert the following:
Additional Types of Visits

The Deputy Warden of Security or designee shall review the following visit requests on a case-by-case basis:

1. Special Visit

An approved visitor, member of the clergy, or other appropriate individual desiring an in person visit outside of the regularly scheduled visiting dates or times shall submit a request for a special visit using Attachment I. A special visit shall not exceed two (2) hours. A request for a special visit shall be submitted no later than seven (7) days prior to the visit. There may be one (1) special visit per calendar quarter. Special circumstances such as a family emergency or death may be taken into consideration for approval or denial. The Deputy Warden of Security or designee may authorize a special visit and shall oversee the scheduling of the visit. The approval or denial of a special visit shall be documented in the inmate's electronic visiting record. An approved special visit shall not be counted against the inmate's regularly allotted visit limit.

2. Extended Visit

An approved visitor who wishes to visit in person longer than the regular two (2) hour visit shall submit a request for an extended visit using Attachment I. An extended visit may be approved for up to four (4) hours. A request for an

extended visit shall not be submitted later than seven (7) days prior to the visit. Circumstances such as long-distance travel shall be taken into consideration for approval or denial. There may be one (1) extended visit per calendar quarter. The Deputy Warden of Security or designee may authorize an extended visit and shall oversee the scheduling of the visit. The approval or denial of an extended visit shall be documented in the inmate's electronic visiting record.

3. Attorney or Government Official Visit

An attorney or government official shall contact the Deputy Warden of Security's office to submit a request to visit in person with an inmate at least seven (7) days prior to the visit. If the request is submitted less than seven (7) days prior to the visit, situational consideration may be given. The requested date, time, and length of visit shall be given consideration in relation to what the institution may safely and securely accommodate. There shall not be a limit of the number of requests or visits for an attorney or government official visit. The Deputy Warden of Security or designee may authorize an attorney or government official visit and shall oversee the scheduling of the visit. The approval or denial of an attorney or government official visit shall be documented in the inmate's electronic visiting record. An approved attorney or government official visit shall not be counted against the inmate's regularly allotted in person visit limit.

4. Video Visit

In addition to approved in person visits, an inmate may be approved for up to three (3) video visits per month. Video visits shall be handled in accordance with CPP 16.5.

Delete the remainder of Section B in its entirety including subsections "1." through "3."

Attach new Attachment I, Request for Special or Extended Visit.

EKCC 16-02-01

Page 1

A.

After "All incoming and outgoing", insert "institutional".

After "mail", delete "institution".

Page 2

B.3.c.

After "Inmate mail", insert a semicolon.

Delete the comma.

Page 4

D.3.b.

After "fill out a", insert "cash purchase order (CPO)".

Delete "CPO".

Page 6

G.3.

After "Incoming Privileged Mail:", insert the following:

See CPP 16.2 for privileged mail handling requirements.

Delete the following:

When it is evident that the incoming mail is of a legal or privileged nature, the mail shall be opened by a staff member in the presence of the inmate to ensure it contains no contraband according to section C of this policy.

Page 8

L.5.

After "shall submit a", insert "CPO".
Delete "Cash Purchase Order (CPO)".

EKCC 16-05-01

Page 1

A.

After "regular job duties", insert a period.

EKCC 17-01-02

Attachment I

Bottom Right Corner

Insert "2023".
Delete "2022".

Attachment II

"ANY ABUSE OR DESTRUCTION" section

After "**State issued linens will be provided in the dorm; exchanged per IPP", insert "10-02-04".
Delete "10-02-01".

Bottom Right Corner

Insert "2023".
Delete "2022".

EKCC 17-04-01

Page 2

A.4.

After "signed by the property room", insert "officer".
Delete "office".

EKCC 17-04-02

Page 6

Last line

After "reviewed annually and", insert "updated".
Delete "updates".

EKCC 18-02-01

Page 1

A.2.

After "reviewed annually and", insert the following:
as outlined in CPP 14.8

Delete the following:

by their institutional name as "Inmate" with the inmate's last name

EKCC 18-13-04

Pages 2-3

A.6.d.1)-8)

Renumber subparagraphs "1)" through "8)" as "i." through "viii."

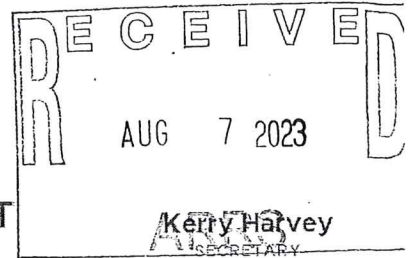
EKCC 20-01-01

Page 1

References/Authority

After "KRS", insert "156.808".

Delete "151B.035".



Andy Beshear
GOVERNOR

JUSTICE AND PUBLIC SAFETY CABINET

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

August 7, 2023

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

Re: **505 KAR 1:200**. Cell Entry Teams, Emergency Response Teams, and Emergency Response.
505 KAR 1:230. Facility capacity, staffing and population count.

Dear Ms. Caudill:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 505 KAR 1:200 and 505 KAR 1:230 the Justice and Public Safety Cabinet, Department of Juvenile Justice proposes the attached suggested amendments to 505 KAR 1:200 and 505 KAR 1:230.

Sincerely,

Amy V. Barker
Assistant General Counsel

enclosure

SUGGESTED SUBSTITUTE

JUSTICE AND PUBLIC SAFETY CABINET
Department of Juvenile Justice

505 KAR 1:200. Cell entry teams, emergency response teams, and emergency response training.

RELATES TO: KRS 15A.065, 15A.0652, 15A.160, 15A.305, 200.080-200.120, Chapters 600-645

STATUTORY AUTHORITY: KRS 15A.065(1), 15A.0652, **15A.067**, 15A.160, 15A.305, 605.150, 635.095, 640.120, 645.250

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.065(1), 15A.0652, 15A.067, 15A.160, 15A.305, 605.150, 635.095, and 640.120 authorize the Justice and Public Safety Cabinet and the Department of Juvenile Justice to promulgate administrative regulations for the proper administration of the cabinet and its programs. KRS 15A.305(8)(b) requires the department to conduct monthly documented trainings related to emergency response. KRS 15A.305(8)(d) requires the department to establish emergency response teams at juvenile detention centers and youth development centers and further requires the emergency response teams to conduct monthly drills. KRS 15A.305(8)(e) requires memoranda of understanding with local law enforcement for emergency response and the inclusion of local law enforcement in emergency response training. This administrative regulation authorizes the creation of cell entry teams and requires emergency response teams and training.

Section 1. Definitions.

- (1) "Cell entry team" means a team of staff that are deployed to remove a juvenile from a cell or other confined area.
- (2) "Emergency Response Team" or "ERT" means a team of staff **designated**~~[trained and equipped]~~ to respond to emergencies within facilities operated by the department, including:
 - (a) Natural disaster;
 - (b) Riot, fire, or any other occurrence that **creates**~~[create]~~ a risk to the safety or security of the facility, juveniles, staff, or volunteers;
 - (c) The escape of a juvenile~~[from a facility operated by the department]~~; **and**~~[or]~~
 - (d) Other similarly emergent events.

Section 2. Cell Entry Team.

- (1) The department may establish and train cell entry teams.
- (2) The department shall use reasonable force necessary to gain the compliance of a juvenile during a cell entry or other action by a cell entry team.
- (3) A juvenile shall comply with the orders of a cell entry team.
- (4) The training shall include how to interact with juveniles with mental or physical disabilities.**

Section 3. Emergency Response Team.

- (1) The department shall establish and train emergency response teams for detention centers and youth development centers. **The training shall include how to interact with juveniles with mental or physical disabilities.**
- (2) If a use of force is necessary during any emergency to which the ERT responds, the ERT shall use only reasonable force to resolve the emergency.
- (3) The ERT shall conduct monthly drills for emergency response. The monthly drills may include:
 - (a) Riot;
 - (b) Fire;
 - (c) Tornado;
 - (d) Mass evacuation;

- (e) Facility infrastructure failure;
- (f) Search; or
- (g) Other topics related to proper response to unexpected or emergent circumstances.

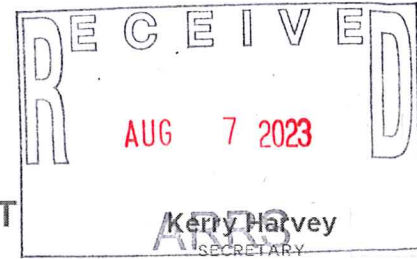
Section 4. Emergency Response Training and Coordination.

(1) DJJ shall contact local law enforcement to:

- (a) Obtain memoranda of understanding with local law enforcement for emergency response; and
- (b) Include them in emergency response training involving DJJ facilities.

(2) A juvenile detention center or a youth development center shall conduct monthly training for staff concerning emergency response. The monthly training may include:

- (a) Riot;
- (b) Fire;
- (c) Tornado;
- (d) Mass evacuation;
- (e) Facility infrastructure failure;
- (f) Search; or
- (g) Other topics related to proper response to unexpected or emergent circumstances.



Andy Beshear
GOVERNOR

JUSTICE AND PUBLIC SAFETY CABINET

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August 7, 2023

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

Re: 505 KAR 1:200. Cell Entry Teams, Emergency Response Teams, and Emergency Response.
505 KAR 1:230. Facility capacity, staffing and population count.

Dear Ms. Caudill:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 505 KAR 1:200 and 505 KAR 1:230 the Justice and Public Safety Cabinet, Department of Juvenile Justice proposes the attached suggested amendments to 505 KAR 1:200 and 505 KAR 1:230.

Sincerely,

Amy V. Barker
Assistant General Counsel

enclosure

Final: 8/4/23

SUGGESTED SUBSTITUTE

**JUSTICE AND PUBLIC SAFETY CABINET
Department of Juvenile Justice**

505 KAR 1:230. Facility capacity, staffing, and population count.

RELATES TO: KRS 15A.065, 15A.0652, 15A.067, 200.080-200.120, Chapters 600-645

STATUTORY AUTHORITY: KRS 15A.065(1), 15A.0652, 15A.160, 605.150, 635.095, 640.120, 645.250

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.065(1), 15A.0652, 15A.160, 605.150, 635.095, and 640.120 authorize the Justice and Public Safety Cabinet and the Department of Juvenile Justice to promulgate administrative regulations for the proper administration of the cabinet and its programs. This administrative regulation establishes requirements for a maximum capacity to be established for each department facility, staffing, and a daily population count to be made.

Section 1. Bed Capacity.

- (1) A facility shall not exceed the maximum capacity established by the State Fire Marshal.
- (2) The department shall establish and maintain recommended maximum bed capacities at each facility.
- (3) The Commissioner or designee may waive the recommended capacity maximum of a juvenile facility established in subsection (2) of this section, if it is determined that a waiver does not seriously affect the security, supervision of juveniles, programs, or the safe, healthful, or efficient operation of the facility.

Section 2. Required Staffing Levels for Juvenile Facilities.

- (1) Each juvenile facility shall have adequate staff to provide reasonable security to the juveniles and ensure their wellbeing.
- (2) A juvenile or group of juveniles shall not be given control or authority over other juveniles.
- (3) At least one (1) same sex staff member of the juvenile population shall be on duty at all times.
- (4) In an emergency, the superintendent may use other approved physical management certified DJJ staff to fulfill required youth worker staff coverage on a shift-by-shift basis.

Section 3. Daily Census.

- (1) A facility operated by or contracted with the department shall conduct a daily census of the juveniles in its custody.
- (2) A facility shall report any other information regarding the juvenile population in the daily census that the commissioner or designee directs, **including:**
 - (a) Sex;**
 - (b) Race;**
 - (c) County of origin;**
 - (d) Admission date;**
 - (e) Release date;**
 - (f) Charge; and**
 - (g) Other information as instructed.**

SUGGESTED SUBSTITUTE

JUSTICE AND PUBLIC SAFETY CABINET
Department of Juvenile Justice

505 KAR 1:230. Facility capacity, staffing, and population count.

RELATES TO: KRS 15A.065, 15A.0652, 15A.067, 200.080-200.120, Chapters 600-645

STATUTORY AUTHORITY: KRS 15A.065(1), 15A.0652, 15A.160, 605.150, 635.095, 640.120, 645.250

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Section 3. Daily Census.

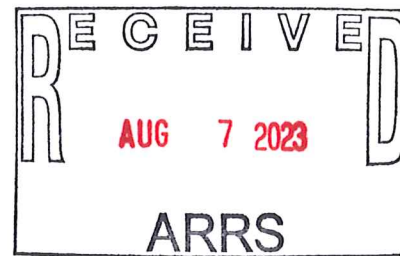
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 - (d) Admission date;**
 - (e) Release date;**
 - (f) Charge; and**
 - (g) Other information as instructed.**



PUBLIC PROTECTION CABINET
Kentucky Department of
Insurance

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August 6, 2023

Emily Caudill, Regulations Compiler
Legislative Research Commission
Rooms 083, Capitol Annex (ARRS)
702 Capitol Avenue
Frankfort KY 40601

Dear Ms. Caudill:

After consideration of the issues raised by **806 KAR 17:570E**, the Department of Insurance proposes the attached suggested substitute to this regulation.

Sincerely,

Abigail Gall, Executive Advisor
Department of Insurance
500 Mero Street
Frankfort, KY 40601

SUGGESTED SUBSTITUTE – *Emergency Version Only*

**PUBLIC PROTECTION CABINET
Department of Insurance
Division of Health, Life and Managed Care**

Final Version: 06/27/23 at 8:55 a.m.

806 KAR 17:570E. Minimum standards for Medicare supplement insurance policies and certificates.

RELATES TO: KRS 304.2-310, 304.2-320, 304.3-240, 304.12-020, 304.14-120, 304.14-500-304.14-550, 304.17-311, 304.17A-005, 304.18-034, 304.32-275, 304.33-030, 304.38-205, 42 C.F.R. 409.87, 45 C.F.R. Part 46, 74 F.R. 18808 (2009), 29 U.S.C. 1002, 42 U.S.C. 426, 42 U.S.C. 1320c-3, 1320d, 1320d-2, 42 U.S.C. 1395-1395ggg, 42 U.S.C. 1396, Pub. L. **114-10**, 108-173, **116-127**, **117-328**

STATUTORY AUTHORITY: KRS 304.2-110(1), 304.14-510, 304.32-250, 304.38-150

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110(1) authorizes the commissioner of the Department of Insurance to promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code, as defined in KRS 304.1-010. KRS 304.14-510 authorizes the commissioner of the Department of Insurance to promulgate administrative regulations establishing minimum standards for Medicare supplement insurance policies. KRS 304.32-250 authorizes the commissioner of the Department of Insurance to promulgate administrative regulations necessary for the proper administration of KRS 304.32. KRS 304.38-150 authorizes the commissioner of the Department of Insurance to promulgate administrative regulations necessary for the proper administration of KRS Chapter 304.38. This administrative regulation establishes minimum standards for Medicare supplement insurance policies and certificates.

Section 1. Definitions.

(1) "Applicant" is defined by KRS 304.14-500(1).

(2) "Bankruptcy" means a petition for declaration of bankruptcy filed by or filed against a Medicare Advantage organization that is not an insurer and has ceased doing business in the state.

(3) "Certificate" is defined by KRS 304.14-500(2).

(4) "Certificate form" means the form on which the certificate is delivered or issued for delivery by the insurer.

(5) "Commissioner" means Commissioner of the Department of Insurance.

(6) "Compensation" means monetary or non-monetary remuneration of any kind relating to the sale or renewal of the policy or certificate including bonuses, gifts, prizes, awards, and finder's fees.

(7) "Complaint" means any dissatisfaction expressed by an individual concerning a Medicare Select insurer or its network providers.

(8) "Continuous period of creditable coverage" means the period during which an individual was covered by creditable coverage, if during the period of the coverage the individual had no breaks in coverage greater than sixty-three (63) days.

(9) "Creditable coverage" is defined by KRS 304.17A-005(8).

(10) "Employee welfare benefit plan" means a plan, fund, or program of employee benefits as defined in 29 U.S.C. Section 1002 of the Employee Retirement Income Security Act.

(11) "Family member" means, with respect to an individual, any other individual who is a first-degree, second-degree, third-degree, or fourth-degree relative of the individual.

- (12) "Genetic information" means except for information relating to the sex or age:
- (a) With respect to any individual:
 - 1. Information about the individual's genetic tests, the genetic tests of family members of the individual, and the manifestation of a disease or disorder in family members of the individual; or
 - 2. Any request for, or receipt of, genetic services, or participation in clinical research which includes genetic services, by the individual or any family member of the individual.
 - (b) Any reference to genetic information concerning an individual or family member of an individual who is a pregnant woman, including:
 - 1. Genetic information of any fetus carried by a pregnant woman; or
 - 2. With respect to an individual or family member utilizing reproductive technology, genetic information of any embryo legally held by an individual or family member.
- (13) "Genetic services" means a genetic test, genetic counseling (including obtaining, interpreting, or assessing genetic information), or genetic education.
- (14) "Genetic test":
- (a) Means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites, that detect genotypes, mutations, or chromosomal changes;
 - (b) Except for an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes; or an analysis of proteins or metabolites that is directly related to a manifested disease, disorder, or pathological condition that may reasonably be detected by a health care professional with appropriate training and expertise in the field of medicine involved.
- (15) "Grievance" means dissatisfaction expressed in writing by an individual insured under a Medicare Select policy or certificate with the administration, claims practices, or provision of services concerning a Medicare Select insurer or its network providers.
- (16) "Health care expenses" means expenses of health maintenance organizations associated with the delivery of health care services, which expenses are analogous to incurred losses of insurers.
- (17) "Insolvency" is defined by KRS 304.33-030~~(12)~~~~(18)~~.
- (18) "Insurer" means insurance companies, fraternal benefit societies, health care service plans, health maintenance organizations, and any other entity delivering or issuing for delivery in this state Medicare supplement policies or certificates.
- (19) "Insurer of a Medicare supplement policy or certificate" means an insurer or third-party administrator, or other person acting for or on behalf of the insurer.
- (20) "Medicare" is defined by KRS 304.14-500(4).
- (21) "Medicare Advantage plan" means a plan of coverage for health benefits under Medicare Part C as defined in 42 U.S.C. 1395w-28(b)(1), including:
- (a) A coordinated care plan, which provides health care services, including the following:
 - 1. A health maintenance organization plan, with or without a point-of-service option;
 - 2. A plan offered by provider-sponsored organization; and
 - 3. A preferred provider organization plan;
 - (b) A medical savings account plan coupled with a contribution into a Medicare Advantage plan medical savings account; and
 - (c) A Medicare Advantage private fee-for-service plan.
- (22) "Medicare Select insurer" means an insurer offering, or seeking to offer, a Medicare Select policy or certificate.
- (23) "Medicare Select policy" or "Medicare Select certificate" means, respectively, a Medicare supplement policy or certificate that contains restricted network provisions.
- (24) "Medicare supplement policy" is defined by KRS 304.14-500(3).

(25) "Network provider" means a provider of health care, or a group of providers of health care, that has entered into a written agreement with the insurer to provide benefits insured under a Medicare Select policy.

(26) "Policy form" means the form on which the policy is delivered or issued for delivery by the insurer.

(27) "Pre-Standardized Medicare supplement benefit plan," "Pre-Standardized benefit plan," or "Pre-Standardized plan" means a group or individual policy of Medicare supplement insurance issued prior to January 1, 1992.

(28) "Restricted network provision" means any provision that conditions the payment of benefits, in whole or in part, on the use of network providers.

(29) "Secretary" means the Secretary of the U.S. Department of Health and Human Services.

(30) "Service area" means the geographic area approved by the commissioner within which an insurer is authorized to offer a Medicare Select policy.

(31) "Structure, language, designation, and format" means style, arrangement, and overall content of a benefit.

(32) "Underwriting purposes" means:

(a) Rules for, or determination of, eligibility, including enrollment and continued eligibility, for benefits under the policy;

(b) The computation of premium or contribution amounts under the policy;

(c) The application of any pre-existing condition exclusion under the policy; and

(d) Other activities related to the creation, renewal, or replacement of a contract of health insurance or health benefits.

(33) "1990 Standardized Medicare supplement benefit plan," "1990 Standardized benefit plan," or "1990 plan" means a group or individual policy of Medicare supplement insurance issued on or after January 1, 1992, with an effective date for coverage prior to June 1, 2010 including Medicare supplement insurance policies and certificates renewed on or after that date that are not replaced by the insurer at the request of the insured.

(34) "2010 Standardized Medicare supplement benefit plan," "2010 Standardized benefit plan," or "2010 plan" means a group or individual policy of Medicare supplement insurance issued with an effective date for coverage on or after June 1, 2010.

Section 2. Purpose. The purpose of this administrative regulation shall be to:

(1) Provide for the reasonable standardization of coverage and simplification of terms and benefits of Medicare supplement policies;

(2) Facilitate public understanding and comparison of the policies;

(3) Eliminate provisions contained in the policies that may be misleading or confusing in connection with the purchase of the policies or with the settlement of claims; and

(4) Provide for full disclosures in the sale of accident and sickness insurance coverage to persons eligible for Medicare.

Section 3. Applicability and Scope.

(1) Except as provided in Sections 6, 15, 16, 19, and 24, the requirements of this administrative regulation shall apply to:

(a) All Medicare supplement policies delivered or issued for delivery in Kentucky on or after January 4, 2010; and

(b) All certificates issued under group Medicare supplement policies, which certificates have been delivered or issued for delivery in Kentucky.

(2) This administrative regulation shall not apply to a policy or contract:

- (a) Of one (1) or more employers or labor organizations, or of the trustees of a fund established by one (1) or more employers or labor organizations, or combination thereof;
- (b) For employees or former employees, or a combination thereof; or
- (c) For members or former members, or a combination thereof, of the labor organizations.

Section 4. Policy Definitions and Terms. A policy or certificate shall not be advertised, solicited, or issued for delivery in this state as a Medicare supplement policy or certificate unless the policy or certificate contains definitions or terms that conform to this section.

(1) "Accident", "accidental injury", or "accidental means" shall be defined to employ "result" language and shall not include words that establish an accidental means test or use words including "external, violent, visible wounds" or similar words of description or characterization.

(a) The definition shall not be more restrictive than the following: "Injury or injuries for which benefits are provided means accidental bodily injury sustained by the insured person which is the direct result of an accident, independent of disease or bodily infirmity or any other cause, and occurs while insurance coverage is in force."

(b) The definition may provide that injuries shall not include injuries for which benefits are provided or available under any workers' compensation, employer's liability or similar law, or motor vehicle no-fault plan, unless the definition is prohibited by law.

(2) "Activities of daily living" shall include bathing, dressing, personal hygiene, transferring, eating, ambulating, assistance with drugs that are normally self-administered, and changing bandages or other dressings.

(3) "At-home recovery visit" shall mean the period of a visit required to provide at home recovery care, without limit on the duration of the visit, except each consecutive four (4) hours in a twenty-four (24) hour period of services provided by a care provider shall be one (1) visit.

(4) "Benefit period" or "Medicare benefit period" shall not be defined more restrictively than as defined in the Medicare program.

(5) "Care provider" shall mean a duly qualified or licensed home health aide or homemaker, personal care aide, or nurse provided through a licensed home health care agency or referred by a licensed referral agency or licensed nurses registry.

(6) "Convalescent nursing home", "extended care facility", or "skilled nursing facility" shall not be defined more restrictively than as defined in the Medicare program.

(7) "Emergency care" shall mean care needed immediately because of an injury or an illness of sudden and unexpected onset.

(8) "Home" shall mean any place used by the insured as a place of residence, if the place would qualify as a residence for home health care services covered by Medicare. A hospital or skilled nursing facility shall not be considered the insured's place of residence.

(9) "Hospital" may be defined in relation to its status, facilities, and available services or to reflect its accreditation by the Joint Commission on Accreditation of Hospitals, but shall not be defined more restrictively than as defined in the Medicare program.

(10) "Medicare" shall be defined in the policy and certificate. Medicare may be substantially defined as "The Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965 as Then Constituted or Later Amended", or "Title I, Part I of Public Law 89-97, as Enacted by the Eighty-Ninth Congress of the United States of America and popularly known as the Health Insurance for the Aged Act, as then constituted and any later amendments or substitutes thereof", or words of similar import.

(11) "Medicare eligible expenses" shall mean expenses of the kinds covered by Medicare Parts A and B, to the extent recognized as reasonable and medically necessary by Medicare.

(12) "Physician" shall not be defined more restrictively than as defined in the Medicare program.

(13) "Preexisting condition" shall not be defined more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six (6) months before the effective date of coverage.

(14) "Sickness" shall not be defined to be more restrictive than the following: "Sickness means illness or disease of an insured person which first manifests itself after the effective date of insurance and while the insurance is in force." The definition may be further modified to exclude sicknesses or diseases for which benefits are provided under any workers' compensation, occupational disease, employer's liability, or similar law.

Section 5. Policy Provisions.

(1) Except for permitted preexisting condition clauses as described in Sections 6(2)(a), 7(1)(a), and 8(1) of this administrative regulation, a policy or certificate shall not be advertised, solicited, or issued for delivery in this state as a Medicare supplement policy if the policy or certificate contains limitations or exclusions on coverage that are more restrictive than those of Medicare.

(2) A Medicare supplement policy or certificate shall not:

(a) Contain a probationary or elimination period; or

(b) Use waivers to exclude, limit, or reduce coverage or benefits for specifically named or described preexisting diseases or physical conditions.

(3) A Medicare supplement policy or certificate in force in the state shall not contain benefits that duplicate benefits provided by Medicare.

(4)

(a) Subject to Sections 6(2)(d), (e), and (g), and 7(1)(d) and (e) of this administrative regulation, a Medicare supplement policy with benefits for outpatient prescription drugs in existence prior to January 1, 2006, shall be renewed for current policyholders who do not enroll in Part D at the option of the policyholder.

(b) A Medicare supplement policy with benefits for outpatient prescription drugs shall not be issued after December 31, 2005.

(c) After December 31, 2005, a Medicare supplement policy with benefits for outpatient prescription drugs shall not be renewed after the policyholder enrolls in Medicare Part D unless:

1. The policy is modified to eliminate outpatient prescription coverage for expenses of outpatient prescription drugs incurred after the effective date of the individual's coverage under a Part D plan; and

2. Premiums are adjusted to reflect the elimination of outpatient prescription drug coverage at Medicare Part D enrollment, accounting for any claims paid, if applicable.

Section 6. Minimum Benefit Standards for Pre-Standardized Medicare Supplement Benefit Plan Policies or Certificates Issued for Delivery Prior to January 1, 1992.

(1) A policy or certificate shall not be advertised, solicited, or issued for delivery in Kentucky as a Medicare supplement policy or certificate unless it meets or exceeds the following minimum standards, which shall not preclude the inclusion of other provisions or benefits that are not inconsistent with these standards.

(2) General standards. The following standards shall apply to Medicare supplement policies and certificates and are in addition to all other requirements of this administrative regulation.

(a) A Medicare supplement policy or certificate shall not exclude or limit benefits for losses incurred more than six (6) months from the effective date of coverage because it involved a preexisting

condition and the policy or certificate shall not define a preexisting condition more restrictively than Section 4(13) of this administrative regulation.

(b) A Medicare supplement policy or certificate shall not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents.

(c) A Medicare supplement policy or certificate shall provide that benefits designed to cover cost sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible, copayment, or coinsurance amounts. Premiums may be modified to correspond with the changes.

(d) A "noncancellable," "guaranteed renewable," or "noncancellable and guaranteed renewable" Medicare supplement policy shall not:

1. Provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than the nonpayment of premium; or
2. Be cancelled or nonrenewed by the insurer solely on the grounds of deterioration of health.

(e)

1. An insurer shall not cancel or nonrenew a Medicare supplement policy or certificate for any reason other than nonpayment of premium or material misrepresentation.
2. If a group Medicare supplement insurance policy is terminated by the group policyholder and not replaced as provided in **subparagraph 4. of this** paragraph ~~[(e)4 of this subsection]~~, the insurer shall offer certificate holders an individual Medicare supplement policy with at least the following choices:
 - a. An individual Medicare supplement policy currently offered by the insurer having comparable benefits to those contained in the terminated group Medicare supplement policy; and
 - b. An individual Medicare supplement policy that provides the benefits as are required to meet the minimum standards as defined in Section 8(2) of this administrative regulation.
3. If membership in a group is terminated, the insurer shall:
 - a. Offer the certificate holder the conversion opportunities described in subparagraph 2 of this paragraph; or
 - b. At the option of the group policyholder, offer the certificate holder continuation of coverage under the group policy.
4. If a group Medicare supplement policy is replaced by another group Medicare supplement policy purchased by the same policyholder, the insurer of the replacement policy shall offer coverage to all persons covered under the old group policy on its date of termination, and coverage under the new group policy shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced.

(f) Termination of a Medicare supplement policy or certificate shall be without prejudice to any continuous loss which commenced while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be predicated upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or to payment of the maximum benefits. Receipt of Medicare Part D benefits shall not be considered in determining a continuous loss.

(g) If a Medicare supplement policy eliminates an outpatient prescription drug benefit as a result of requirements imposed by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, Pub. L. 108-173, the modified policy shall satisfy the guaranteed renewal requirements of this subsection.

(3) Minimum benefit standards. The following minimum benefit standards shall apply to Medicare supplement policies and certificates and are in addition to all other requirements of this administrative regulation.

- (a) Coverage of Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the 61st day through the 90th day in any Medicare benefit period;
- (b) Coverage for either all or none of the Medicare Part A inpatient hospital deductible amount;
- (c) Coverage of Part A Medicare eligible expenses incurred as daily hospital charges during use of Medicare's lifetime hospital inpatient reserve days;
- (d) Upon exhaustion of all Medicare hospital inpatient coverage including the lifetime reserve days, coverage of ninety (90) percent of all Medicare Part A eligible expenses for hospitalization not covered by Medicare subject to a lifetime maximum benefit of an additional 365 days;
- (e) Coverage under Medicare Part A for the reasonable cost of the first three (3) pints of blood, or equivalent quantities of packed red blood cells, pursuant to 42 C.F.R. 409.87(a)(2), unless replaced in accordance with 42 C.F.R. 409.87(c)(2) or already paid for under Part B;
- (f) Coverage for the coinsurance amount, or in the case of hospital outpatient department services paid under a prospective payment system, the copayment amount, of Medicare eligible expenses under Part B regardless of hospital confinement, subject to a maximum calendar year out-of-pocket amount equal to the Medicare Part B deductible; and
- (g) Effective January 1, 1990, coverage under Medicare Part B for the reasonable cost of the first three (3) pints of blood, or equivalent quantities of packed red blood cells, pursuant to 42 C.F.R. 409.87(a)(2), unless replaced in accordance with 42 C.F.R. 409.87(c)(2) or already paid for under Part A, subject to the Medicare deductible amount.

Section 7. Benefit Standards for 1990 Standardized Medicare Supplement Benefit Plan and Policies or Certificates Issued or Delivered on or After January 1, 1992, and With an Effective Date for Coverage Prior to June 1, 2010. The following standards shall apply to all Medicare supplement policies or certificates delivered or issued for delivery in Kentucky on or after January 1, 1992, and with an effective date for coverage prior to June 1, 2010. A policy or certificate shall not be advertised, solicited, delivered, or issued for delivery in this state as a Medicare supplement policy or certificate unless it complies with these benefit standards.

(1) General Standards. The following standards shall apply to Medicare supplement policies and certificates and are in addition to all other requirements of this administrative regulation.

- (a) A Medicare supplement policy or certificate shall not exclude or limit benefits for losses incurred more than six (6) months from the effective date of coverage because it involved a preexisting condition and the policy or certificate shall not define a preexisting condition more restrictively than Section 4(13) of this administrative regulation.
- (b) A Medicare supplement policy or certificate shall not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents.
- (c) A Medicare supplement policy or certificate shall provide that benefits designed to cover cost sharing amounts under Medicare shall be changed automatically to coincide with any changes in the applicable Medicare deductible, copayment, or coinsurance amounts. Premiums may be modified to correspond with the changes.
- (d) A Medicare supplement policy or certificate shall not provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than the nonpayment of premium.
- (e) Each Medicare supplement policy shall be guaranteed renewable.

1. The insurer shall not cancel or nonrenew the policy solely on health status of the individual.
 2. The insurer shall not cancel or nonrenew the policy for any reason other than nonpayment of premium or material misrepresentation.
 3. If the Medicare supplement policy is terminated by the group policyholder and is not replaced as provided under subparagraph 5 of this paragraph, the insurer shall offer certificate holders an option to choose an individual Medicare supplement policy which, at the option of the certificate holder:
 - a. Provides for continuation of the benefits contained in the group policy; or
 - b. Provides for benefits that meet the requirements of this subsection.
 4. If an individual is a certificate holder in a group Medicare supplement policy and the individual terminates membership in the group, the insurer shall:
 - a. Offer the certificate holder the conversion opportunity described in subparagraph 3 of this paragraph; or
 - b. At the option of the group policyholder, offer the certificate holder continuation of coverage under the group policy.
 5. If a group Medicare supplement policy is replaced by another group Medicare supplement policy purchased by the same policyholder, the insurer of the replacement policy shall offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new policy shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced.
 6. If a Medicare supplement policy eliminates an outpatient prescription drug benefit as a result of requirements imposed by the Medicare Prescription Drug, Improvement and Modernization Act of 2003, Pub. L. 108-173, the modified policy shall satisfy the guaranteed renewal requirements of this paragraph.
- (f) Termination of a Medicare supplement policy or certificate shall be without prejudice to any continuous loss that commenced while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be conditioned upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or payment of the maximum benefits. Receipt of Medicare Part D benefits shall not be considered in determining a continuous loss.
- (g)
1. A Medicare supplement policy or certificate shall provide that benefits and premiums under the policy or certificate shall be suspended at the request of the policyholder or certificate holder for the period, not to exceed twenty-four (24) months, in which the policyholder or certificate holder has applied for and is determined to be entitled to medical assistance under Title XIX of the Social Security Act, 42 U.S.C. 1396 et seq., but only if the policyholder or certificate holder notifies the insurer of the policy or certificate within ninety (90) days after the date the individual becomes entitled to assistance.
 2. If suspension occurs and if the policyholder or certificate holder loses entitlement to medical assistance, the policy or certificate shall be automatically reinstated, effective as of the date of termination of entitlement, as of the termination of entitlement if the policyholder or certificate holder provides notice of loss of entitlement within ninety (90) days after the date of loss and pays the premium attributable to the period, effective as of the date of termination of entitlement.
 3. Each Medicare supplement policy shall provide that benefits and premiums under the policy shall be suspended, for any period that may be provided by 42 U.S.C. 1395ss(q)(5), at the request of the policyholder if the policyholder is entitled to benefits under Section 226 (b) of the Social Security Act, 42 U.S.C. 426(b), and is covered under a group health plan, as defined in Section 1862 (b)(1)(A)(v) of

the Social Security Act, 42 U.S.C. 1395y(b)(1)(A)(v). If suspension occurs and if the policyholder or certificate holder loses coverage under the group health plan, the policy shall be automatically reinstated, effective as of the date of loss of coverage, if the policyholder provides notice of loss of coverage within ninety (90) days after the date of the loss and pays the premium attributable to the period, effective as of the date of termination of enrollment in the group health plan.

4. Reinstatement of coverages as described in subparagraphs 2 and 3 of this paragraph:

- a. Shall not provide for any waiting period with respect to treatment of preexisting conditions;
- b. Shall provide for resumption of coverage that is substantially equivalent to coverage in effect before the date of suspension. If the suspended Medicare supplement policy provided coverage for outpatient prescription drugs, reinstatement of the policy for Medicare Part D enrollees shall be without coverage for outpatient prescription drugs and shall provide substantially equivalent coverage to the coverage in effect before the date of suspension; and
- c. Shall provide for classification of premiums on terms at least as favorable to the policyholder or certificate holder as the premium classification terms that would have applied to the policyholder or certificate holder had the coverage not been suspended.

(h) If an insurer makes a written offer to the Medicare Supplement policyholders or certificate holders of one or more of its plans, to exchange during a specified period from his or her 1990 Standardized plan, as described in Section 9 of this administrative regulation, to a 2010 Standardized plan, as described in Section 10 of this administrative regulation, the offer and subsequent exchange shall comply with the following requirements:

1. An insurer shall not be required to provide justification to the commissioner if the insured replaces a 1990 Standardized policy or certificate with an issue age rated 2010 Standardized policy or certificate at the insured's original issue age. If an insured's policy or certificate to be replaced is priced on an issue age rate schedule at offer, the rate charged to the insured for the new exchanged policy shall recognize the policy reserve buildup, due to the pre-funding inherent in the use of an issue age rate basis, for the benefit of the insured. The method proposed to be used by an insurer shall be filed with the commissioner in accordance with KRS 304.14-120 and 806 KAR 14:007.
2. The rating class of the new policy or certificate shall be the class closest to the insured's class of the replaced coverage.
3. An insurer shall not apply new pre-existing condition limitations or a new incontestability period to the new policy for those benefits contained in the exchanged 1990 Standardized policy or certificate of the insured, but may apply pre-existing condition limitations of no more than six (6) months to any added benefits contained in the new 2010 Standardized policy or certificate not contained in the exchanged policy.
4. The new policy or certificate shall be offered to all policyholders or certificate holders within a given plan, except if the offer or issue would be in violation of state or federal law.
5. An insurer may offer its policyholders or certificate holders the following exchange options:
 - a. Selected existing plans; or
 - b. Certain new plans for a particular existing plan.

(2) Standards for basic (core) benefits common to benefit plans A to J. Every insurer shall make available a policy or certificate including at a minimum the following basic "core" package of benefits to each prospective insured. An insurer may make available to prospective insureds any of the other Medicare Supplement Insurance Benefit Plans in addition to the basic core package, but not in lieu of it.

- (a) Coverage of Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the 61st day through the 90th day in any Medicare benefit period;

(b) Coverage of Part A Medicare eligible expenses incurred for hospitalization to the extent not covered by Medicare for each Medicare lifetime inpatient reserve day used;

(c) Upon exhaustion of the Medicare hospital inpatient coverage, including the lifetime reserve days, coverage of 100 percent of the Medicare Part A eligible expenses for hospitalization paid at the applicable prospective payment system (PPS) rate, or other appropriate Medicare standard of payment, subject to a lifetime maximum benefit of an additional 365 days;

(d) Coverage under Medicare Parts A and B for the reasonable cost of the first three (3) pints of blood, or equivalent quantities of packed red blood cells, pursuant to 42 C.F.R. 409.87(a)(2), unless replaced in accordance with 42 C.F.R. 409.87(c)(2); and

(e) Coverage for the coinsurance amount or for hospital outpatient department services paid under a prospective payment system, the copayment amount, of Medicare eligible expenses under Part B regardless of hospital confinement, subject to the Medicare Part B deductible.

(3) Standards for Additional Benefits. The following additional benefits shall be included in Medicare Supplement Benefit Plans "B" through "J" only as provided by Section 9 of this administrative regulation:

(a) Medicare Part A Deductible, which is coverage for all of the Medicare Part A inpatient hospital deductible amount per benefit period.

(b) Skilled Nursing Facility Care, which is coverage for the actual billed charges up to the coinsurance amount from the 21st day through the 100th day in a Medicare benefit period for posthospital skilled nursing facility care eligible under Medicare Part A.

(c) Medicare Part B Deductible, which is coverage for all of the Medicare Part B deductible amount per calendar year regardless of hospital confinement.

(d) Eighty (80) Percent of the Medicare Part B Excess Charges, which is coverage for eighty (80) percent of the difference between the actual Medicare Part B charge as billed, not to exceed any charge limitation established by the Medicare program, and the Medicare-approved Part B charge.

(e) 100 Percent of the Medicare Part B Excess Charges, which is coverage for all of the difference between the actual Medicare Part B charges as billed, not to exceed any charge limitation established by the Medicare Program or state law, and the Medicare-approved Part B charge.

(f) Basic Outpatient Prescription Drug Benefit which is coverage for fifty (50) percent of outpatient prescription drug charges, after a \$250 calendar year deductible, to a maximum of \$1,250 in benefits received by the insured per calendar year, to the extent not covered by Medicare. The outpatient prescription drug benefit may be included for sale or issuance in a Medicare supplement policy until January 1, 2006.

(g) Extended Outpatient Prescription Drug Benefit, which is coverage for fifty (50) percent of outpatient prescription drug charges, after a \$250 calendar year deductible to a maximum of \$3,000 in benefits received by the insured per calendar year, to the extent not covered by Medicare. The outpatient prescription drug benefit may be included for sale or issuance in a Medicare supplement policy until January 1, 2006.

(h) Medically Necessary Emergency Care in a Foreign Country, which is coverage to the extent not covered by Medicare for eighty (80) percent of the billed charges for Medicare eligible expenses for medically necessary emergency hospital, physician and medical care received in a foreign country, which care would have been covered by Medicare if provided in the United States and which care began during the first sixty (60) consecutive days of each trip outside the United States, subject to a calendar year deductible of \$250, and a lifetime maximum benefit of \$50,000.

(i)

1. Preventive Medical Care Benefit, which is coverage for the following preventive health services not covered by Medicare:

- a. An annual clinical preventive medical history and physical examination that may include tests and services from subparagraph 2 of this paragraph and patient education to address preventive health care measures; and
 - b. Preventive screening tests or preventive services, the selection and frequency of which are determined to be medically appropriate by the attending physician.
2. Reimbursement shall be for the actual charges up to 100 percent of the Medicare approved amount for each service, as if Medicare were to cover the service as identified in American Medical Association Current Procedural Terminology (AMA CPT) codes, to a maximum of \$120 annually under this benefit. This benefit shall not include payment for any procedure covered by Medicare.
- (j) At-Home Recovery Benefit, which is coverage for services to provide short term, at-home assistance with activities of daily living for those recovering from an illness, injury or surgery.

1. Coverage requirements and limitations.

a. At-home recovery services provided shall be primarily services that assist in activities of daily living.

b. The insured's attending physician shall certify that the specific type and frequency of at-home recovery services are necessary because of a condition for which a home care plan of treatment was approved by Medicare.

c. Coverage shall be limited to:

(i) No more than the number and type of at-home recovery visits certified as necessary by the insured's attending physician. The total number of at-home recovery visits shall not exceed the number of Medicare-approved home health care visits under a Medicare-approved home care plan of treatment;

(ii) The actual charges for each visit up to a maximum reimbursement of forty (40) dollars per visit;

(iii) \$1,600 per calendar year;

(iv) Seven (7) visits in any one (1) week;

(v) Care furnished on a visiting basis in the insured's home;

(vi) Services provided by a care provider as described in Section 4(5) of this administrative regulation;

(vii) At-home recovery visits while the insured is covered under the policy or certificate and not excluded; and

(viii) At-home recovery visits received during the period the insured is receiving Medicare-approved home care services or no more than eight (8) weeks after the service date of the last Medicare-approved home health care visit.

2. Coverage shall be excluded for:

a. Home care visits paid for by Medicare or other government programs; and

b. Care provided by family members, unpaid volunteers, or providers who are not care providers.

(4) Standards for Plans K and L.

(a) Standardized Medicare supplement benefit plan "K" shall consist of the following:

1. Coverage of 100 percent of the Part A hospital coinsurance amount for each day used from the 61st through the 90th day in any Medicare benefit period;

2. Coverage of 100 percent of the Part A hospital coinsurance amount for each Medicare lifetime inpatient reserve day used from the 91st through the 150th day in any Medicare benefit period;

3. Upon exhaustion of the Medicare hospital inpatient coverage, including the lifetime reserve days, coverage of 100 percent of the Medicare Part A eligible expenses for hospitalization paid at the applicable prospective payment system (PPS) rate, or other appropriate Medicare standard of payment, subject to a lifetime maximum benefit of an additional 365 days;

4. Medicare Part A Deductible, which is coverage for fifty (50) percent of the Medicare Part A inpatient hospital deductible amount per benefit period until the out-of-pocket limitation is met as described in subparagraph 10 of this paragraph;
5. Skilled Nursing Facility Care, which is coverage for fifty (50) percent of the coinsurance amount for each day used from the 21st day through the 100th day in a Medicare benefit period for posthospital skilled nursing facility care eligible under Medicare Part A until the out-of-pocket limitation is met as described in subparagraph 10 of this paragraph;
6. Hospice Care, which is coverage for fifty (50) percent of cost sharing for all Part A Medicare eligible expenses and respite care until the out-of-pocket limitation is met as described in subparagraph 10 of this paragraph;
7. Coverage for fifty (50) percent, under Medicare Part A or B, of the reasonable cost of the first three (3) pints of blood (or equivalent quantities of packed red blood cells, pursuant to 42 C.F.R. 409.87(a)(2)), unless replaced in accordance with 42 C.F.R. 409.87(c)(2), until the out-of-pocket limitation is met as described in subparagraph 10 of this paragraph;
8. Except for coverage provided in subparagraph 9 of this paragraph, coverage for fifty (50) percent of the cost sharing applicable under Medicare Part B after the policyholder pays the Part B deductible until the out-of-pocket limitation is met as described in subparagraph 10 of this paragraph;
9. Coverage of 100 percent of the cost sharing for Medicare Part B preventive services after the policyholder pays the Part B deductible; and
10. Coverage of 100 percent of all cost sharing under Medicare Parts A and B for the balance of the calendar year after the individual has reached the out-of-pocket limitation on annual expenditures under Medicare Parts A and B of \$4,000 in 2006, indexed each year by the appropriate inflation adjustment specified by the secretary.

(b) Standardized Medicare supplement benefit plan "L" shall consist of the following:

1. The benefits described in paragraph (a)1, 2, 3, and 9 of this **subsection[section]**;
2. The benefit described in paragraph (a)4, 5, 6, 7, and 8 of this **subsection[section]**, but substituting seventy-five (75) percent for fifty (50) percent; and
3. The benefit described in paragraph (a)10 of this section, but substituting \$2,000 for \$4,000.

Section 8. Benefit Standards for 2010 Standardized Medicare Supplement Benefit Plan Policies or Certificates Issued for Delivery with an Effective Date for Coverage on or After June 1, 2010. The following standards shall apply to all Medicare supplement policies or certificates delivered or issued for delivery in Kentucky with an effective date for coverage on or after June 1, 2010. A policy or certificate shall not be advertised, solicited, delivered, or issued for delivery in Kentucky as a Medicare supplement policy or certificate unless it complies with these benefit standards. An insurer shall not offer any 1990 Standardized Medicare supplement benefit plan for sale on or after June 1, 2010. Benefit standards applicable to Medicare supplement policies and certificates issued before June 1, 2010, remain subject to the requirements of Sections 7 and 9 of this administrative regulation.

(1) General Standards. The general standards of Section 7(1)(a) through (g), except 7(1)(e)6, shall apply to all policies under Section 8 of this administrative regulation.

(2) Standards for Basic (Core) Benefits Common to Medicare Supplement Insurance Benefit Plans A, B, C, D, F, High Deductible F, G, M and N. Every insurer of Medicare supplement insurance benefit plans shall make available a policy or certificate including, at a minimum, the following basic "core" package of benefits to each prospective insured. An insurer may make available to prospective insureds any of the other Medicare Supplement Insurance Benefit Plans in addition to the basic core package, but not in lieu of it.

- (a) The basic core benefits included within Section 7(2)(a) through (e) of this administrative regulation shall be applied to plans under this section; and
 - (b) Hospice Care, which is coverage of cost sharing for all Part A Medicare eligible hospice care and respite care expenses.
- (3) Standards for Additional Benefits. The following additional benefits shall be included in Medicare supplement benefit Plans B, C, D, F, High Deductible F, G, M, and N as provided by Section 10 of this administrative regulation.
- (a) Medicare Part A Deductible, which is coverage for 100 percent of the Medicare Part A inpatient hospital deductible amount per benefit period.
 - (b) Medicare Part A Deductible, which is coverage for fifty (50) percent of the Medicare Part A inpatient hospital deductible amount per benefit period.
 - (c) Skilled Nursing Facility Care, which is coverage for the actual billed charges up to the coinsurance amount from the 21st day through the 100th day in a Medicare benefit period for posthospital skilled nursing facility care eligible under Medicare Part A.
 - (d) Medicare Part B Deductible, which is coverage for 100 percent of the Medicare Part B deductible amount per calendar year regardless of hospital confinement.
 - (e) 100 percent of the Medicare Part B Excess Charges, which is coverage for the difference between the actual Medicare Part B charges as billed, not to exceed any charge limitation established by the Medicare program, and the Medicare-approved Part B charge.
 - (f) Medically Necessary Emergency Care in a Foreign Country, which is coverage to the extent not covered by Medicare for eighty (80) percent of the billed charges for Medicare-eligible expenses for medically necessary emergency hospital, physician and medical care received in a foreign country, which care would have been covered by Medicare if provided in the United States and which care began during the first sixty (60) consecutive days of each trip outside the United States, subject to a calendar year deductible of \$250, and a lifetime maximum benefit of \$50,000.

Section 9. Standard Medicare Supplement Benefit Plans for 1990 Standardized Medicare Supplement Benefit Plan Policies or Certificates Issued for Delivery on or After January 1, 1992, and with an Effective Date for Coverage Prior to June 1, 2010.

- (1) An insurer shall make available to each prospective policyholder and certificate holder a policy form or certificate form containing only the basic core benefits, as defined in Section 7(2) of this administrative regulation.
- (2) Groups, packages, or combinations of Medicare supplement benefits other than those listed in this section shall not be offered for sale in Kentucky, except as may be permitted in subsection (7) of this section and Section 11 of this administrative regulation.
- (3) Benefit plans shall be uniform in structure, language, designation, and format to the standard benefit plans "A" through "L" listed in this section and conform to the definitions in Section 1 of this administrative regulation. Each benefit shall be structured in accordance with the format provided in Sections 7(2) and 7(3) or 7(4) of this administrative regulation and shall list the benefits in the order shown in this section.
- (4) An insurer may use, in addition to the benefit plan designations required in subsection (3) of this section, other designations to the extent permitted by law.
- (5) Make-up of benefit plans:
 - (a) Standardized Medicare supplement benefit Plan "A" shall be limited to the basic (core) benefits common to all benefit plans, as described in Section 7(2) of this administrative regulation.

(b) Standardized Medicare supplement benefit Plan "B" shall include only the following: The core benefit as described in Section 7(2) of this administrative regulation, plus the Medicare Part A deductible as described in Section 7(3)(a).

(c) Standardized Medicare supplement benefit Plan "C" shall include only the following: The core benefit as described in Section 7(2) of this administrative regulation, plus the Medicare Part A deductible, skilled nursing facility care, Medicare Part B deductible and medically necessary emergency care in a foreign country as described in Sections 7(3)(a), (b), (c), and (h) respectively.

(d) Standardized Medicare supplement benefit Plan "D" shall include only the following: The core benefit, as described in Section 7(2) of this administrative regulation, plus the Medicare Part A deductible, skilled nursing facility care, medically necessary emergency care in an foreign country and the at-home recovery benefit as described in Sections 7(3)(a), (b), (h), and (j) respectively.

(e) Standardized Medicare supplement benefit Plan "E" shall include only the following: The core benefit as described in Section 7(2) of this administrative regulation, plus the Medicare Part A deductible, skilled nursing facility care, medically necessary emergency care in a foreign country and preventive medical care as described in Sections 7(3)(a), (b), (h), and (i) respectively.

(f) Standardized Medicare supplement benefit Plan "F" shall include only the following: The core benefit as described in Section 7(2) of this administrative regulation, plus the Medicare Part A deductible, the skilled nursing facility care, the Medicare Part B deductible, 100 percent of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as described in Section 7(3)(a), (b), (c), (e), and (h) respectively.

(g) Standardized Medicare supplement benefit high deductible Plan "F" shall include only the following: 100 percent of covered expenses following the payment of the annual high deductible Plan "F" deductible. The covered expenses shall include the core benefits as described in Section 7(2) of this administrative regulation, plus the Medicare Part A deductible, skilled nursing facility care, the Medicare Part B deductible, 100 percent of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as described in Section 7(3)(a), (b), (c), (e), and (h) respectively. The annual high deductible Plan "F" deductible shall consist of out-of-pocket expenses, other than premiums, for services covered by the Medicare supplement Plan "F" policy, and shall be in addition to any other specific benefit deductibles. The annual high deductible Plan "F" deductible shall be \$1,500 for 1998 and 1999, and shall be based on the calendar year. It shall be adjusted annually thereafter by the secretary to reflect the change in the Consumer Price Index for all urban consumers for the twelve-month period ending with August of the preceding year, and rounded to the nearest multiple of ten (10) dollars.

(h) Standardized Medicare supplement benefit Plan "G" shall include only the following: The core benefit as described in Section 7(2) of this administrative regulation, plus the Medicare Part A deductible, skilled nursing facility care, eighty (80) percent of the Medicare Part B excess charges, medically necessary emergency care in a foreign country, and the at-home recovery benefit as described in Section 7(3)(a), (b), (d), (h), and (j) respectively.

(i) Standardized Medicare supplement benefit Plan "H" shall consist of only the following: The core benefit as described in Section 7(2) of this administrative regulation, plus the Medicare Part A deductible, skilled nursing facility care, basic prescription drug benefit and medically necessary emergency care in a foreign country as described in Section 7(3)(a), (b), (f), and (h) respectively. The outpatient prescription drug benefit shall not be included in a Medicare supplement policy sold after December 31, 2005.

(j) Standardized Medicare supplement benefit Plan "I" shall consist of only the following: The core benefit as described in Section 7(2) of this administrative regulation, plus the Medicare Part A

deductible, skilled nursing facility care, 100 percent of the Medicare Part B excess charges, basic prescription drug benefit, medically necessary emergency care in a foreign country and at-home recovery benefit as described in Section 7(3)(a), (b), (e), (f), (h), and (j) respectively. The outpatient prescription drug benefit shall not be included in a Medicare supplement policy sold after December 31, 2005.

(k) Standardized Medicare supplement benefit Plan "J" shall consist of only the following: The core benefit as described in Section 7(2) of this administrative regulation, plus the Medicare Part A deductible, skilled nursing facility care, Medicare Part B deductible, 100 percent of the Medicare Part B excess charges, extended prescription drug benefit, medically necessary emergency care in a foreign country, preventive medical care and at-home recovery benefit as described in Section 7(3)(a), (b), (c), (e), (g), (h), (i), and (j) respectively. The outpatient prescription drug benefit shall not be included in a Medicare supplement policy sold after December 31, 2005.

(l) Standardized Medicare supplement benefit high deductible Plan "J" shall consist of only the following: 100 percent of covered expenses following the payment of the annual high deductible Plan "J" deductible. The covered expenses shall include the core benefits as described in Section 7(2) of this administrative regulation, plus the Medicare Part A deductible, skilled nursing facility care, Medicare Part B deductible, 100 percent of the Medicare Part B excess charges, extended outpatient prescription drug benefit, medically necessary emergency care in a foreign country, preventive medical care benefit and at-home recovery benefit as described in Section 7(3)(a), (b), (c), (e), (g), (h), (i) and (j) respectively. The annual high deductible Plan "J" deductible shall consist of out-of-pocket expenses, other than premiums, for services covered by the Medicare supplement Plan "J" policy, and shall be in addition to any other specific benefit deductibles. The annual deductible shall be \$1,500 for 1998 and 1999, and shall be based on a calendar year. It shall be adjusted annually thereafter by the secretary to reflect the change in the Consumer Price Index for all urban consumers for the twelve-month period ending with August of the preceding year, and rounded to the nearest multiple of ten (10) dollars. The outpatient prescription drug benefit shall not be included in a Medicare supplement policy sold after December 31, 2005.

(6) Design of two (2) Medicare supplement plans mandated by The Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA), Pub. L. 108-173.

(a) Standardized Medicare supplement benefit plan "K" shall consist of only those benefits described in Section 7(4)(a) of this administrative regulation.

(b) Standardized Medicare supplement benefit plan "L" shall consist of only those benefits described in Section 7(4)(b) of this administrative regulation.

(7) New or Innovative Benefits: An insurer may, with the prior approval of the commissioner, offer policies or certificates with new or innovative benefits in addition to the benefits provided in a policy or certificate that complies with the applicable standards. The new or innovative benefits may include benefits that are appropriate to Medicare supplement insurance, new or innovative, not available, cost-effective, and offered in a manner that is consistent with the goal of simplification of Medicare supplement policies. After December 31, 2005, the innovative benefit shall not include an outpatient prescription drug benefit.

Section 10. Standard Medicare Supplement Benefit Plans for 2010 Standardized Medicare Supplement Benefit Plan Policies or Certificates with an Effective Date for Coverage on or After June 1, 2010. The following standards shall apply to all Medicare supplement policies or certificates with an effective date for coverage in this state on or after June 1, 2010. A policy or certificate shall not be advertised, solicited, delivered, or issued for delivery in Kentucky as a Medicare supplement policy or certificate unless it

complies with these benefit plan standards. Benefit plan standards applicable to Medicare supplement policies and certificates issued before June 1, 2010, shall remain subject to the requirements of Section 7 and 9 of this administrative regulation.

(1)

(a) An insurer shall make available to each prospective policyholder and certificate holder a policy form or certificate form containing only the basic (core) benefits, as described in Section 8(2) of this administrative regulation.

(b) If an insurer makes available any of the additional benefits described in Section 8(3), or offers standardized benefit Plans K or L, as described in Sections 10(5)(h) and (i) of this administrative regulation, then the insurer shall make available to each prospective policyholder and certificate holder, in addition to a policy form or certificate form with only the basic (core) benefits as described in paragraph (a) of this subsection of this section, a policy form or certificate form containing either standardized benefit Plan C, as described in **subsection 5(c) of this section**~~[Section 10(5)(c) of this administrative regulation]~~, or standardized benefit Plan F, as described **subsection 5(e) of this section**~~[in 10(5)(e) of this administrative regulation]~~.

(2) Groups, packages or combinations of Medicare supplement benefits other than those listed in this Section shall not be offered for sale in this state, except as may be permitted in **subsection (6) of this section**~~[Section 10(6)]~~ and in Section 12 of this administrative regulation.

(3) Benefit plans shall be uniform in structure, language, designation, and format to the standard benefit plans listed in this subsection and conform to the definitions in Section 1 of this administrative regulation. Each benefit shall be structured in accordance with the format provided in Sections 8(2) and 8(3) of this administrative regulation; or, in the case of plans K or L, in subsection(5)(h) or (i) of this section and list the benefits in the order shown.

(4) In addition to the benefit plan designations required in subsection (3) of this section, an insurer may use other designations if approved by the commissioner in accordance with subsection (6) of this section.

(5) 2010 Standardized Benefit Plans:

(a) Standardized Medicare supplement benefit Plan A shall include only the following: The basic (core) benefits as described in Section 8(2) of this administrative regulation.

(b) Standardized Medicare supplement benefit Plan B shall include only the following: The basic (core) benefit as described in Section 8(2) of this administrative regulation, plus 100 percent of the Medicare Part A deductible as described in Section 8(3)(a) of this administrative regulation.

(c) Standardized Medicare supplement benefit Plan C shall include only the following: The basic (core) benefit as described in Section 8(2) of this administrative regulation, plus 100 percent of the Medicare Part A deductible, skilled nursing facility care, 100 percent of the Medicare Part B deductible, and medically necessary emergency care in a foreign country as described in Section 8(3)(a), (c), (d), and (f) of this administrative regulation, respectively.

(d) Standardized Medicare supplement benefit Plan D shall include only the following: The basic (core) benefit, as described in Section 8(2) of this administrative regulation, plus 100 percent of the Medicare Part A deductible, skilled nursing facility care, and medically necessary emergency care in an foreign country as described in Sections 8(3)(a), (c), and (f) of this administrative regulation, respectively.

(e) Standardized Medicare supplement Plan F shall include only the following: The basic (core) benefit as described in Section 8(2) of this administrative regulation, plus 100 percent of the Medicare Part A deductible, the skilled nursing facility care, 100 percent of the Medicare Part B deductible, 100 percent of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as described in Sections 8(3)(a), (c), (d), (e), and (f), respectively.

(f) Standardized Medicare supplement Plan High Deductible F shall include only the following: 100 percent of covered expenses following the payment of the annual deductible set forth in subparagraph 2 of this paragraph ~~[of this subsection]~~.

1. The basic (core) benefit as described in Section 8(2) of this administrative regulation, plus 100 percent of the Medicare Part A deductible, skilled nursing facility care, 100 percent of the Medicare Part B deductible, 100 percent of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as described in Sections 8(3)(a), (c), (d), (e), and (f) of this administrative regulation, respectively.

2. The annual deductible in High Deductible Plan F shall consist of out-of-pocket expenses, other than premiums, for services covered by Plan F, and shall be in addition to any other specific benefit deductibles. The basis for the deductible shall be \$1,500 and shall be adjusted annually from 1999 by the Secretary of the U.S. Department of Health and Human Services to reflect the change in the Consumer Price Index for all urban consumers for the twelve (12) month period ending with August of the preceding year, and rounded to the nearest multiple of ten (10) dollars.

(g)

1. Standardized Medicare supplement benefit Plan G shall include only the following: The basic (core) benefit as described in Section 8(2) of this administrative regulation, plus 100 percent of the Medicare Part A deductible, skilled nursing facility care, 100 percent of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as described in Sections 8(3)(a), (c), (e), and (f), respectively.

2. Beginning January 1, 2020, the standardized benefit plans described in Section (11)(1)(d) of this administrative regulation (Redesignated Plan G High Deductible) may be offered to any individual who was eligible for Medicare prior to January 1, 2020.

(h) Standardized Medicare supplement Plan K is mandated by The Medicare Prescription Drug, Improvement and Modernization Act of 2003, Pub. L. 108-173, and shall include only the following:

1. Part A Hospital Coinsurance 61st through 90th days: Coverage of 100 percent of the Part A hospital coinsurance amount for each day used from the 61st through the 90th day in any Medicare benefit period;

2. Part A Hospital Coinsurance, 91st through 150th days: Coverage of 100 percent of the Part A hospital coinsurance amount for each Medicare lifetime inpatient reserve day used from the 91st through the 150th day in any Medicare benefit period;

3. Part A Hospitalization After 150 Days: Upon exhaustion of the Medicare hospital inpatient coverage, including the lifetime reserve days, coverage of 100 percent of the Medicare Part A eligible expenses for hospitalization paid at the applicable prospective payment system (PPS) rate, or other appropriate Medicare standard of payment, subject to a lifetime maximum benefit of an additional 365 days;

4. Medicare Part A Deductible: Coverage for fifty (50) percent of the Medicare Part A inpatient hospital deductible amount per benefit period until the out-of-pocket limitation is met as described in subparagraph 10 of this paragraph;

5. Skilled Nursing Facility Care: Coverage for fifty (50) percent of the coinsurance amount for each day used from the twenty-first (21) day through the 100th day in a Medicare benefit period for posthospital skilled nursing facility care eligible under Medicare Part A until the out-of-pocket limitation is met as described in subparagraph 10 of this paragraph;

6. Hospice Care: Coverage for fifty (50) percent of cost sharing for all Part A Medicare eligible expenses and respite care until the out-of-pocket limitation is met as described in subparagraph 10 of this paragraph;

7. Blood: Coverage for fifty (50) percent, under Medicare Part A or B, of the reasonable cost of the first three (3) pints of blood, or equivalent quantities of packed red blood cells, as described under 42 C.F.R. 409.87(a)(2) unless replaced in accordance with 42 C.F.R. 409.87(c)(2) until the out-of-pocket limitation is met as described in subparagraph 10 of this paragraph;

8. Part B Cost Sharing: Except for coverage provided in subparagraph 9 of this paragraph, coverage for fifty (50) percent of the cost sharing applicable under Medicare Part B after the policyholder pays the Part B deductible until the out-of-pocket limitation is met as described in subparagraph 10 of this paragraph;

9. Part B Preventive Services: Coverage of 100 percent of the cost sharing for Medicare Part B preventive services after the policyholder pays the Part B deductible; and

10. Cost Sharing After Out-of-Pocket Limits: Coverage of 100 percent of all cost sharing under Medicare Parts A and B for the balance of the calendar year after the individual has reached the out-of-pocket limitation on annual expenditures under Medicare Parts A and B of \$4,000 in 2006, indexed each year by the appropriate inflation adjustment specified by the Secretary of the U.S. Department of Health and Human Services.

(i) Standardized Medicare supplement Plan L is mandated by The Medicare Prescription Drug, Improvement and Modernization Act of 2003, Pub. L. 108-173, and shall include only the following:

1. The benefits described in paragraph(h)1, 2, 3, and 9 of this subsection;

2. The benefit described in paragraph(h)4, 5, 6, 7, and 8 of this subsection, but substituting seventy-five (75) percent for fifty (50) percent; and

3. The benefit described in paragraph(h)10 of this subsection, but substituting \$2,000 for \$4,000.

(j) Standardized Medicare supplement Plan M shall include only the following: The basic core benefit as described in Section 8(2) of this administrative regulation, plus fifty (50) percent of the Medicare Part A deductible, skilled nursing facility care, and medically necessary emergency care in a foreign country as described in Sections 8(3)(a), (c) and (f) of this administrative regulation, respectively.

(k) Standardized Medicare supplement Plan N shall include only the following: The basic core benefit as described in Section 8(2) of this administrative regulation, plus 100 percent of the Medicare Part A deductible, skilled nursing facility care, and medically necessary emergency care in a foreign country as described in Sections 8(3)(a), (c) and (f) of this administrative regulation, respectively, with copayments in the following amounts:

1. The lesser of twenty (20) dollars or the Medicare Part B coinsurance or copayment for each covered health care provider office visit, including visits to medical specialists; and

2. The lesser of fifty (50) dollars or the Medicare Part B coinsurance or copayment for each covered emergency room visit; however, this copayment shall be waived if the insured is admitted to any hospital and the emergency visit is subsequently covered as a Medicare Part A expense.

(6) New or Innovative Benefits: An insurer may, with the prior approval of the commissioner, offer policies or certificates with new or innovative benefits, in addition to the standardized benefits provided in a policy or certificate that complies with the applicable standards of this section. The new or innovative benefits shall include only benefits that are appropriate to Medicare supplement insurance, are new or innovative, are not available, and are cost-effective. Approval of new or innovative benefits shall not adversely impact the goal of Medicare supplement simplification. New or innovative benefits shall not include an outpatient prescription drug benefit. New or innovative benefits shall not be used to change or reduce benefits, including a change of any cost-sharing provision, in any standardized plan.

Section 11. Standard Medicare Supplement Benefit Plans for 2020 Standardized Medicare Supplement Benefit Plan Policies or Certificates Issued for Delivery to individuals Newly Eligible for Medicare on or

After January 1, 2020. The Medicare Access and CHIP Reauthorization Act of 2015 (MACRA), Pub. L. 114-10, requires the following standards to be applicable to all Medicare supplement policies or certificates delivered or issued for delivery in this state to individuals newly eligible for Medicare on or after January 1, 2020. A policy or certificate providing coverage of the Medicare Part B deductible shall not be advertised, solicited, delivered or issued for delivery in this state as a Medicare supplement policy or certificate to individuals newly eligible for Medicare on or after January 1, 2020. All policies shall comply with the following benefit standards. Benefit plan standards applicable to Medicare supplement policies and certificates issued to individuals eligible for Medicare before January 1, 2020, shall remain subject to the requirements of Sections 9 and 10 of this administrative regulation.

(1) Benefit Requirements. The standards and requirements of Section 10 shall apply to all Medicare supplement policies and certificates delivered or issued for delivery to individuals newly eligible for Medicare on or after January 1, 2020, with the following exceptions:

(a) Standardized Medicare supplement benefit Plan C is redesignated as Plan D and shall provide the benefits contained in Section ~~10(5)(c)~~ [(10)(5)(e)] of this administrative regulation but shall not provide coverage for any portion of the Medicare Part B deductible.

(b) Standardized Medicare supplement benefit Plan F is redesignated as Plan G and shall provide the benefits contained in Section (10)(5)(e) of this administrative regulation but shall not provide coverage for 100 percent or any portion of the Medicare Part B deductible.

(c) Standardized Medicare supplement benefit plans C, F, and F with High Deductible shall not be offered to individuals newly eligible for Medicare on or after January 1, 2020.

(d)

1. Standardized Medicare supplement benefit Plan F with High Deductible is redesignated as Plan G with High Deductible and shall provide the benefits contained in Section ~~10(5)(f)~~ [(10)(5)(f)] of this administrative regulation but shall not provide coverage for any portion of the Medicare Part B deductible.

2. The Medicare Part B deductible paid by the beneficiary shall be considered an out of pocket expense in meeting the annual high deductible.

(2) Applicability to Certain Individuals. This section shall apply only to individuals that are newly eligible for Medicare on or after January 1, 2020:

(a) By reason of attaining age 65 on or after January 1, 2020; or

(b) By reason of entitlement to benefits under Part A pursuant to section 226(b) or 226A of the Social Security Act, 42 U.S.C. 426(b) or 426-1, or who is deemed eligible for benefits under section 226(a) of the Social Security Act, 42 U.S.C. 426(a), on or after January 1, 2020.

(3) Guaranteed Issue for Eligible Persons. For purposes of Section 14(5) of this administrative regulation, in the case of any individual newly eligible for Medicare on or after January 1, 2020, any reference to a Medicare supplement policy C or F (including F with High Deductible) shall be deemed to be a reference to Medicare supplement policy D or G (including G with High Deductible) respectively that meet the requirements of this section.

(4) Offer of Redesignated Plans to Individuals Other than Newly Eligible. On or after January 1, 2020, the standardized benefit plans described in subsection (1)(d) of this section may be offered to any individual who was eligible for Medicare prior to January 1, 2020 in addition to the standardized plans described in Section 10(5) of this administrative regulation.

Section 12. Medicare Select Policies and Certificates.

(1)

(a) This section shall apply to Medicare Select policies and certificates, as described in this section.

(b) A policy or certificate shall not be advertised as a Medicare Select policy or certificate unless it meets the requirements of this section.

(2) The commissioner may authorize an insurer to offer a Medicare Select policy or certificate, pursuant to this section and Section 4358 of the Omnibus Budget Reconciliation Act (OBRA) of 1990, 42 U.S.C. 1395ss and 42 U.S.C. 1320c-3, if the commissioner finds that the insurer has satisfied all of the requirements of this administrative regulation.

(3) A Medicare Select insurer shall not issue a Medicare Select policy or certificate in this state until its plan of operation has been approved by the commissioner pursuant to this section and KRS 304.14-120.

(4) A Medicare Select insurer shall file a proposed plan of operation with the commissioner. The plan of operation shall contain at least the following information:

(a) Evidence that all covered services that are subject to restricted network provisions are available and accessible through network providers, including a demonstration that:

1. Covered services may be provided by network providers with reasonable promptness with respect to geographic location, hours of operation and after-hour care. The hours of operation and availability of after-hour care shall reflect usual practice in the local area. Geographic availability shall not be more than sixty (60) miles from the insured's place of residence.

2. The number of network providers in the service area is sufficient, with respect to current and expected policyholders, either:

- a. To deliver adequately all services that are subject to a restricted network provision; or
- b. To make appropriate referrals.

3. There are written agreements with network providers describing specific responsibilities.

4. Emergency care is available twenty-four (24) hours per day and seven (7) days per week.

5. If covered services are subject to a restricted network provision and are provided on a prepaid basis, there are written agreements with network providers prohibiting the providers from billing or seeking reimbursement from or recourse against any individual insured under a Medicare Select policy or certificate. This subparagraph shall not apply to supplemental charges or coinsurance amounts as stated in the Medicare Select policy or certificate.

(b) A statement or map providing a clear description of the service area.

(c) A description of the grievance procedure to be utilized.

(d) A description of the quality assurance program, including:

1. The formal organizational structure;
2. The written criteria for selection, retention, and removal of network providers; and
3. The procedures for evaluating quality of care provided by network providers, and the process to initiate corrective action if warranted.

(e) A list and description, by specialty, of the network providers.

(f) Copies of the written information proposed to be used by the insurer to comply with subsection (8) of this section.

(g) Any other information requested by the commissioner in accordance with this section, KRS 304.14-120, and KRS 304.14-130.

(5)

(a) A Medicare Select insurer shall file any proposed changes to the plan of operation, except for changes to the list of network providers, with the commissioner prior to implementing the changes. Changes shall be considered approved by the commissioner after sixty (60) days unless specifically disapproved.

(b) An updated list of network providers shall be filed with the commissioner at least quarterly.

(6) A Medicare Select policy or certificate shall not restrict payment for covered services provided by nonnetwork providers if:

(a) The services are for symptoms requiring emergency care or are immediately required for an unforeseen illness, injury, or a condition;

(b) It is not reasonable to obtain services through a network provider; or

(c) There are no network providers available within sixty (60) miles of the insured's place of residence.

(7) A Medicare Select policy or certificate shall provide payment for full coverage under the policy for covered services that are not available through network providers.

(8) A Medicare Select insurer shall make full and fair disclosure in writing of the provisions, restrictions and limitations of the Medicare Select policy or certificate to each applicant. This disclosure shall include at least the following:

(a) An outline of coverage sufficient to permit the applicant to compare the coverage and premiums of the Medicare Select policy or certificate with:

1. Other Medicare supplement policies or certificates offered by the insurer; and

2. Other Medicare Select policies or certificates.

(b) A description, which shall include address, phone number and hours of operation of the network providers, including primary care physicians, specialty physicians, hospitals and other providers.

(c) A description of the restricted network provisions, including payments for coinsurance and deductibles when providers other than network providers are utilized. Except to the extent specified in the policy or certificate, expenses incurred when using out-of-network providers shall not count toward the out-of-pocket annual limit contained in plans K and L.

(d) A description of coverage for emergency and urgently needed care and other out-of-service area coverage.

(e) A description of limitations on referrals to restricted network providers and to other providers.

(f) A description of the policyholder's rights to purchase any other Medicare supplement policy or certificate offered by the insurer.

(g) A description of the Medicare Select insurer's quality assurance program and grievance procedure.

(9) Prior to the sale of a Medicare Select policy or certificate, a Medicare Select insurer shall obtain from the applicant a signed and dated form stating that the applicant has received the information provided pursuant to subsection (8) of this section and that the applicant understands the restrictions of the Medicare Select policy or certificate.

(10) A Medicare Select insurer shall have and use procedures for hearing complaints and resolving written grievances from the subscribers. The procedures shall be aimed at mutual agreement for settlement and may include arbitration procedures.

(a) The grievance procedure shall be described in the policy and certificates and in the outline of coverage.

(b) Upon issuance of the policy or certificate, the insurer shall provide detailed information to the policyholder describing how a grievance may be registered with the insurer.

(c) A grievance shall be considered in a timely manner and shall be transmitted to appropriate decision makers who have authority to fully investigate the issue and take corrective action.

(d) If a grievance is found to be valid, corrective action shall be taken promptly.

(e) All concerned parties shall be notified about the results of a grievance.

(f) The insurer shall report no later than each March 31st to the commissioner regarding its grievance procedure, including the number of grievances filed in the past year and a summary of the subject, nature, and resolution of grievances.

(11) Upon initial purchase, a Medicare Select insurer shall make available to each applicant for a Medicare Select policy or certificate the opportunity to purchase any Medicare supplement policy or certificate offered by the insurer.

(12)

(a) At the request of an individual insured under a Medicare Select policy or certificate, a Medicare Select insurer shall make available to the individual insured the opportunity to purchase a Medicare supplement policy or certificate offered by the insurer that has comparable or lesser benefits and that does not contain a restricted network provision. The insurer shall make the policies or certificates available without requiring evidence of insurability after the Medicare Select policy or certificate has been in force for six (6) months.

(b) For the purposes of this subsection, a Medicare supplement policy or certificate shall be considered to have comparable or lesser benefits unless it contains one (1) or more of the following significant benefits not included in the Medicare Select policy or certificate being replaced, coverage for:

1. The Medicare Part A deductible;
2. At-home recovery services; or
3. Part B excess charges.

(13) Medicare Select policies and certificates shall provide for continuation of coverage if the secretary determines that Medicare Select policies and certificates issued pursuant to this section shall be discontinued due to either the failure of the Medicare Select Program to be reauthorized under law or its substantial amendment.

(a) Each Medicare Select insurer shall make available to each individual insured under a Medicare Select policy or certificate the opportunity to purchase any Medicare supplement policy or certificate offered by the insurer that has comparable or lesser benefits and that does not contain a restricted network provision. The insurer shall make these policies and certificates available without requiring evidence of insurability.

(b) For the purposes of this subsection, a Medicare supplement policy or certificate shall be considered to have comparable or lesser benefits unless it contains one (1) or more of the following significant benefits not included in the Medicare Select policy or certificate being replaced, coverage for:

1. The Medicare Part A deductible;
2. At-home recovery services; or
3. Part B excess charges.

(14) A Medicare Select insurer shall comply with reasonable requests for data made by state or federal agencies, including the United States Department of Health and Human Services, for the purpose of evaluating the Medicare Select Program.

Section 13. Open Enrollment.

(1)

(a) An insurer shall not deny or condition the issuance or effectiveness of any Medicare supplement policy or certificate available for sale in Kentucky, nor discriminate in the pricing of a policy or certificate because of the health status, claims experience, receipt of health care, or medical condition of an applicant if:

1. An application for a policy or certificate is submitted prior to or during the six (6) month period beginning with the first day of the first month in which an individual is sixty-five (65) years of age or older; and
2. The applicant is enrolled for benefits under Medicare Part B.

(b) Each Medicare supplement policy and certificate currently available from an insurer shall be made available to all applicants who qualify under this subsection without regard to age.

(2)

(a) If an applicant qualifies under subsection (1) of this section and submits an application during the time period referenced in subsection (1) of this section and, as of the date of application, has had a continuous period of creditable coverage of at least six (6) months, the insurer shall not exclude benefits based on a preexisting condition.

(b) If the applicant qualifies under subsection (1) of this section and submits an application during the time period referenced in subsection (1) of this section and, as of the date of application, has had a continuous period of creditable coverage that is less than six (6) months, the insurer shall reduce the period of any preexisting condition exclusion by the aggregate of the period of creditable coverage applicable to the applicant as of the enrollment date. The secretary shall specify the manner of the reduction under this subsection.

(3) Except as provided in subsection (2) ***of this section*** and Sections 14 and 25 of this administrative regulation, subsection (1) of this section shall not be construed as preventing the exclusion of benefits under a policy, during the first six (6) months, based on a preexisting condition for which the policyholder or certificate holder received treatment or was diagnosed during the six (6) months before the coverage became effective.

Section 14. Guaranteed Issue for Eligible Persons.

(1) Guaranteed Issue:

(a) Eligible persons are those individuals described in subsection (2) of this section who seek to enroll under the policy during the period specified in subsection (3) of this section, and who submit evidence of the date of termination, disenrollment, or Medicare Part D enrollment with the application for a Medicare supplement policy.

(b) With respect to eligible persons, an insurer shall not:

1. Deny or condition the issuance or effectiveness of a Medicare supplement policy described in subsection (5) of this section that is offered and is available for issuance to new enrollees by the insurer;
2. Discriminate in the pricing of a Medicare supplement policy because of health status, claims experience, receipt of health care, or medical condition; and
3. Impose an exclusion of benefits based on a preexisting condition under a Medicare supplement policy.

(2) An eligible person shall include the following:

(a) An individual that is enrolled under an employee welfare benefit plan that provides health benefits that supplement the benefits under Medicare; and the plan terminates, or the plan ceases to provide all the supplemental health benefits to the individual;

(b) An individual is enrolled with a Medicare Advantage organization under a Medicare Advantage plan under part C of Medicare, and:

1. The individual is sixty (65) years of age or older and is enrolled with a Program of All-Inclusive Care for the Elderly (PACE) provider under Section 1894 of the Social Security Act, 42 U.S.C 1395eee, and there are circumstances similar to those described in subparagraph 2 of this paragraph that would permit discontinuance of the individual's enrollment with the provider if the individual were enrolled in a Medicare Advantage plan; or

2. Any of the following circumstances apply:

- a. The certification of the organization or plan has been terminated;

b. The organization has terminated or discontinued providing the plan in the area in which the individual resides;

c. The individual is no longer eligible to elect the plan because of a change in the individual's place of residence or other change in circumstances specified by the secretary, but not including termination of the individual's enrollment on the basis described in Section 1851(g)(3)(B) of the federal Social Security Act, 42 U.S.C. 1395w-21(g)(3)(B), if the individual has not paid premiums on a timely basis or has engaged in disruptive behavior as specified in standards under Section 1856, 42 U.S.C. 1395w-26, or the plan is terminated for all individuals within a residence area; or

d. The individual demonstrates, in accordance with guidelines established by the secretary, that:

(i) The organization offering the plan substantially violated a material provision of the organization's contract under this part in relation to the individual, including the failure to provide an enrollee on a timely basis medically necessary care for which benefits are available under the plan or the failure to provide the covered care in accordance with applicable quality standards;

(ii) The organization, or agent or other entity acting on the organization's behalf, materially misrepresented the plan's provisions in marketing the plan to the individual; or

(iii) The individual meets the other exceptional conditions as the secretary may provide;

(c)

1. An individual is enrolled with:

a. An eligible organization under a contract under Section 1876 of the Social Security Act, 42 U.S.C. 1395mm regarding Medicare cost;

b. A similar organization operating under demonstration project authority, effective for periods before April 1, 1999;

c. An organization under an agreement under Section 1833(a)(1)(A) of the Social Security Act, 42 U.S.C. 1395l(a)(1)(A), regarding health care prepayment plan; or

d. An organization under a Medicare Select policy; and

2. The enrollment ceases under the same circumstances that would permit discontinuance of an individual's election of coverage under paragraph (b) of this subsection;

(d) The individual is enrolled under a Medicare supplement policy and the enrollment ceases due to any of the following reasons:

1.

a. The insolvency of the insurer or bankruptcy of the non-insurer organization; or

b. The involuntary termination of coverage or enrollment under the policy;

2. The insurer of the policy substantially violated a material provision of the policy; or

3. The insurer, or an agent or other entity acting on the insurer's behalf, materially misrepresented the policy's provisions in marketing the policy to the individual;

(e)

1. An individual that was enrolled under a Medicare supplement policy and terminates enrollment and subsequently enrolls, for the first time, with any of the following:

a. A Medicare Advantage organization under a Medicare Advantage plan under part C of Medicare;

b. An eligible organization under a contract under Section 1876 of the Social Security Act, 42 U.S.C. 1395mm regarding Medicare cost;

c. A similar organization operating under demonstration project authority;

d. A PACE provider under Section 1894 of the Social Security Act, 42 U.S.C. 1395eee; or

e. A Medicare Select policy; and

2. The subsequent enrollment under subparagraph 1 of this paragraph is terminated by the enrollee during any period within the first twelve (12) months of subsequent enrollment during which the

enrollee is permitted to terminate the subsequent enrollment under Section 1851(e) of the federal Social Security Act, 42 U.S.C. 1395w-21(e);

(f) An individual who, upon first becoming eligible for benefits under part A of Medicare at age 65, enrolls in:

1. A Medicare Advantage plan under part C of Medicare, or with a PACE provider under Section 1894 of the Social Security Act, 42 U.S.C. 1395eee; and
2. Disenrolls from the plan or program by not later than twelve (12) months after the effective date of enrollment; or

(g) An individual that:

1. Enrolls in a Medicare Part D plan during the initial enrollment period;
2. Upon enrollment in Part D, was enrolled under a Medicare supplement policy that covers outpatient prescription drugs; and
3. Terminates enrollment in the Medicare supplement policy and submits evidence of enrollment in Medicare Part D along with the application for a policy described in subsection (5)(d) of this section.

(h) An individual who:

1. Is sixty five (65) years or older;
2. Has exhausted their options for open enrollment as a result of their continued enrollment in Medicaid under Section 6008(b)(3)[6008] of the Families First Coronavirus Response Act, Pub. L. 116-127, subsequently amended in Section 5131(a) of the Consolidated Appropriations Act, 2023, Pub. L. 117-328[42 U.S.C. 1396d(cc)]; and
3. Has received verification from the Kentucky Cabinet of Health and Family Services, Department of Medicaid Services of their Medicaid disenrollment as permitted under Section 6008(b)(3)[6008] of the Families First Coronavirus Response Act, Pub. L. 116-127, subsequently amended in Section 5131(a) of the Consolidated Appropriations Act, 2023, Pub. L. 117-328[42 U.S.C. 1396d(cc)].

(3) Guaranteed Issue Time Periods.

(a) For an individual described in subsection (2)(a) of this section, the guaranteed issue period shall:

1. Begin on the later of the date:
 - a. The individual receives a notice of termination or cessation of all supplemental health benefits, or, if a notice is not received, notice that a claim has been denied because of a termination or cessation; or
 - b. That the applicable coverage terminates or ceases; and
2. End sixty-three (63) days thereafter;

(b) For an individual described in subsection (2)(b), (c), (e), [or](f), or (h) of this section whose enrollment is terminated involuntarily, the guaranteed issue period shall begin on the date that the individual receives a notice of termination and ends sixty-three (63) days after the date the applicable coverage is terminated;

(c) For an individual described in subsection (2)(d)1 of this section, the guaranteed issue period shall end on the date that is sixty-three (63) days after the date the coverage is terminated and shall begin on the earlier of the date that:

1. The individual receives a notice of termination, a notice of the insurer's bankruptcy or insolvency, or other the similar notice if any; or
2. The applicable coverage is terminated;

(d) For an individual described in subsection (2)(b), (d)2, (d)3, (e), or (f) of this section who disenrolls voluntarily, the guaranteed issue period shall begin on the date that is sixty (60) days before the effective date of the disenrollment and shall end on the date that is sixty-three (63) days after the effective date;

(e) For an individual described in subsection (2)(g) of this section, the guaranteed issue period shall begin on the date the individual receives notice pursuant to Section 1882(v)(2)(B) of the Social Security Act, 42 U.S.C. 1395ss(v)(2)(B), from the Medicare supplement insurer during the sixty (60) day period immediately preceding the initial Part D enrollment period and shall end on the date that is sixty-three (63) days after the effective date of the individual's coverage under Medicare Part D; and

(f) For an individual described in subsection (2) of this section but not described in the preceding provisions of this subsection, the guaranteed issue period shall begin on the effective date of disenrollment and shall end on the date that is sixty-three (63) days after the effective date.

(4) Extended Medigap Access for Interrupted Trial Periods.

(a) For an individual described in subsection (2)(e) of this section whose enrollment with an organization or provider described in Subsection (2)(e)1 of this section is involuntarily terminated within the first twelve (12) months of enrollment, and who, without an intervening enrollment, enrolls with another organization or provider, the subsequent enrollment shall be deemed to be an initial enrollment described in subsection(2)(e)of this section;

(b) For an individual described in subsection (2)(f) of this section whose enrollment with a plan or in a program described in Subsection (2)(f) of this section is involuntarily terminated within the first twelve (12) months of enrollment, and who, without an intervening enrollment, enrolls in another plan or program, the subsequent enrollment shall be deemed to be an initial enrollment described in subsection (2)(f) of this section; and

(c) For purposes of subsection (2)(e) and (f) of this section, enrollment of an individual with an organization or provider described in subsection (2)(e)1 of this section, or with a plan or in a program described in subsection (2)(f) of this section, shall not be deemed to be an initial enrollment under this paragraph after the two (2) year period beginning on the date on which the individual first enrolled with an organization, provider, plan, or program.

(5) Products to Which Eligible Persons are Entitled. The Medicare supplement policy to which eligible persons shall be entitled under:

(a) Section 14(2)(a), (b), (c) and (d) of this administrative regulation is a Medicare supplement policy that has a benefit package classified as Plan A, B, C, F, high deductible F, K, or L offered by any insurer;

(b)

1. Subject to subparagraph 2 of this paragraph, a person eligible pursuant to subsection (2)(e) of this section is the same Medicare supplement policy in which the individual was most recently previously enrolled, if available from the same insurer, or, if not so available, a policy described in paragraph (a) of this subsection;

2. After December 31, 2005, if the individual was most recently enrolled in a Medicare supplement policy with an outpatient prescription drug benefit, a Medicare supplement policy described in this subparagraph is:

a. The policy available from the same insurer but modified to remove outpatient prescription drug coverage; or

b. At the election of the policyholder, an A, B, C, F, high deductible F, K, or L policy that is offered by any insurer;

(c) Subsection (2)(f) of this section shall include any Medicare supplement policy offered by any insurer;

(d) Subsection (2)(g) of this section is a Medicare supplement policy that:

1. Has a benefit package classified as Plan A, B, C, F, high deductible F, K, or L; and

2. Is offered and available for issuance to new enrollees by the same insurer that issued the individual's Medicare supplement policy with outpatient prescription drug coverage.

(6) Notification provisions.

(a) Upon an event described in subsection (2) of this section resulting in a loss of coverage or benefits due to the termination of a contract or agreement, policy, or plan, the organization that terminates the contract or agreement, the insurer terminating the policy, or the administrator of the plan being terminated, respectively, shall notify the individual of the individual's rights under this section, and of the obligations of insurers of Medicare supplement policies under subsection (1) of this section. This notice shall be communicated simultaneously with the notification of termination.

(b) Upon an event described in subsection (2) of this section resulting in an individual ceasing enrollment under a contract or agreement, policy, or plan, the organization that offers the contract or agreement, regardless of the basis for the cessation of enrollment, the insurer offering the policy, or the administrator of the plan, respectively, shall notify the individual of the individual's rights under this section, and of the obligations of insurer of Medicare supplement policies under subsection (1) of this section. The notice shall be communicated within ten (10) working days of the insurer receiving notification of disenrollment.

Section 15. Standards for Claims Payment.

(1) An insurer shall comply with 42 U.S.C. 1395ss, section 1882(c)(3) of the Social Security Act, by:

(a) Accepting a notice from a Medicare carrier on dually assigned claims submitted by participating physicians and suppliers as a claim for benefits in place of any other claim form required and making a payment determination on the basis of the information contained in that notice;

(b) Notifying the participating physician or supplier and the beneficiary of the payment determination;

(c) Paying the participating physician or supplier;

(d) Upon enrollment, furnishing each enrollee with a card listing the policy name, number and a central mailing address to which notices from a Medicare carrier may be sent;

(e) Paying user fees for claim notices that are transmitted electronically or in another manner; and

(f) Providing to the secretary of, at least annually, a central mailing address to which all claims may be sent by Medicare carriers.

(2) Compliance with the requirements established in subsection (1) of this section shall be certified to the commissioner as part of the insurer's annual filing pursuant to KRS 304.3-240.

Section 16. Loss Ratio Standards and Refund or Credit of Premium.

(1) Loss Ratio Standards.

(a)

1. Pursuant to KRS 304.14-530, a Medicare Supplement policy form or certificate form shall not be delivered or issued for delivery in Kentucky unless it is expected to return to policyholders and certificate holders in the form of aggregate benefits, not including anticipated refunds or credits, provided under the policy form or certificate form which total:

a. At least seventy-five (75) percent of the aggregate amount of premiums earned in the case of group policies; or

b. At least sixty-five (65) percent of the aggregate amount of premiums earned in the case of individual policies.

2. The calculation shall be in accordance with accepted actuarial principles and practices; and

a. Based on:

(i) Incurred claims experience or incurred health care expenses if coverage is provided by a health maintenance organization on a service rather than reimbursement basis; and

(ii) Earned premiums for the period; and

b. Incurred health care expenses if coverage is provided by a health maintenance organization shall not include:

- (i) Home office and overhead costs;
- (ii) Advertising costs;
- (iii) Commissions and other acquisition costs;
- (iv) Taxes;
- (v) Capital costs;
- (vi) Administrative costs; and
- (vii) Claims processing costs.

(b) A filing of rates and rating schedules shall demonstrate that expected claims in relation to premiums comply with the requirements of this section when combined with actual experience to date. Filings of rate revisions shall also demonstrate that the anticipated loss ratio over the entire future period for which the revised rates are computed to provide coverage can be expected to meet the appropriate loss ratio standards.

- (c) For policies issued prior to October 14, 1990, expected claims in relation to premiums shall meet:
1. The originally filed anticipated loss ratio when combined with the actual experience since inception;
 2. The appropriate loss ratio requirement from paragraph (a)1a and b of this subsection when combined with actual experience beginning with July 5, 1996, to date; and
 3. The appropriate loss ratio requirement from paragraph (a)1a and b of this subsection over the entire future period for which the rates are computed to provide coverage.

(2) Refund or Credit Calculation.

(a) An insurer shall collect and file with the commissioner by May 31 of each year the data contained in the applicable reporting form contained in HL-MS-1 for each type in a standard Medicare supplement benefit plan.

(b) If on the basis of the experience as reported the benchmark ratio since inception (ratio 1) exceeds the adjusted experience ratio since inception (ratio 3), then a refund or credit calculation shall be required. The refund calculation shall be done on a statewide basis for each type in a standard Medicare supplement benefit plan. For purposes of the refund or credit calculation, experience on policies issued within the reporting year shall be excluded.

(c) For policies or certificates issued prior to October 14, 1990, the insurer shall make the refund or credit calculation separately for all individual policies, including all group policies subject to an individual loss ratio standard when issued, combined and all other group policies combined for experience after July 5, 1996.

(d) A refund or credit shall be made only when the benchmark loss ratio exceeds the adjusted experience loss ratio and the amount to be refunded or credited exceeds the level as identified on the annual refund calculation form HL-MS-1. The refund shall include interest from the end of the calendar year to the date of the refund or credit at a rate specified by the Secretary of Health and Human Services, but it shall not be less than the average rate of interest for thirteen (13) week Treasury notes. A refund or credit against premiums due shall be made by September 30 following the experience year upon which the refund or credit is based.

(3) Annual filing of Premium Rates.

(a) An insurer of Medicare supplement policies and certificates issued before or after January 14, 1992, in this state shall file annually for approval by the commissioner in accordance with the filing requirements and procedures prescribed by the commissioner in KRS ~~304.14-120~~**304.14-120**:

1. Rates;
2. Rating schedule; and
3. Supporting documentation, including ratios of incurred losses to earned premiums by policy duration.

(b) The supporting documentation shall also demonstrate in accordance with actuarial standards of practice using reasonable assumptions that the appropriate loss ratio standards can be expected to be met over the entire period for which rates are computed. The demonstration shall exclude active life reserves.

(c) An expected third-year loss ratio that is greater than or equal to the applicable percentage shall be demonstrated for policies or certificates in force less than three (3) years.

(d) As soon as practicable, but prior to the effective date of enhancements in Medicare benefits, every insurer of Medicare supplement policies or certificates in this state shall file with the commissioner, in accordance with KRS ~~304.14-120~~**[304-14.120]**:

1.

a. Appropriate premium adjustments necessary to produce loss ratios as anticipated for the current premium for the applicable policies or certificates. The supporting documents necessary to justify the adjustment shall accompany the filing.

b. Appropriate premium adjustments necessary to produce an expected loss ratio under the policy or certificate to conform to minimum loss ratio standards for Medicare supplement policies and that are expected to result in a loss ratio at least as great as that originally anticipated in the rates used to produce current premiums by the insurer for the Medicare supplement policies or certificates. A premium adjustment that would modify the loss ratio experience under the policy other than the adjustments described in this subsection shall not be made with respect to a policy at any time other than upon its renewal date or anniversary date.

c. If an insurer fails to make premium adjustments acceptable to the commissioner in accordance with this section, the commissioner may order premium adjustments, refunds or premium credits necessary to achieve the loss ratio required by this section.

2. Any appropriate riders, endorsements, or policy forms needed to accomplish the Medicare supplement policy or certificate modifications necessary to eliminate benefit duplications with Medicare. The riders, endorsements, or policy forms shall provide a clear description of the Medicare supplement benefits provided by the policy or certificate.

(4) Public Hearings. The commissioner may conduct a public hearing pursuant to KRS 304.2-310, to gather information concerning a request by an insurer for an increase in a rate for a policy form or certificate form issued before or after January 1, 1992, if the experience of the form for the previous reporting period is not in compliance with the applicable loss ratio standard. The determination of compliance shall be made without consideration of any refund or credit for the reporting period. Public notice of the hearing shall be furnished in accordance with KRS 304.2-320.

Section 17. Filing and Approval of Policies and Certificates and Premium Rates.

(1) An insurer shall not deliver or issue for delivery a policy or certificate to a resident of Kentucky unless the policy form or certificate form has been filed with and approved by the commissioner in accordance with filing requirements and procedures in KRS 304.14-120.

(2) An insurer shall file, with the commissioner, any riders or amendments to policy or certificate forms, issued in Kentucky, to delete outpatient prescription drug benefits as required by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, Pub. L. 108-173.

(3) An insurer shall not use or change premium rates for a Medicare supplement policy or certificate unless the rates, rating schedule, and supporting documentation have been filed with and approved by the commissioner in accordance with KRS 304.14-120.

(4)

(a) Except as provided in paragraph (b) of this subsection, an insurer shall not file for approval more than one (1) form of a policy or certificate of each type for each standard Medicare supplement benefit plan.

(b) An insurer may offer, with the approval of the commissioner, up to four (4) additional policy forms or certificate forms of the same type for the same standard Medicare supplement benefit plan, one (1) for each of the following cases:

1. The inclusion of new or innovative benefits;
2. The addition of either direct response or agent marketing methods;
3. The addition of either guaranteed issue or underwritten coverage; and
4. The offering of coverage to individuals eligible for Medicare by reason of disability.

(c) A type of a policy or certificate form shall include:

1. An individual policy;
2. A group policy;
3. An individual Medicare Select policy; or
4. A group Medicare Select policy.

(5)

(a) Except as provided in subparagraph 1 of this paragraph, an insurer shall continue to make available for purchase any policy form or certificate form issued after January 1, 1992, that has been approved by the commissioner. A policy form or certificate form shall not be considered to be available for purchase unless the insurer has actively offered it for sale in the previous twelve (12) months.

1. An insurer may discontinue the availability of a policy form or certificate form if the insurer provides to the commissioner in writing its decision at least thirty (30) days prior to discontinuing the availability of the form of the policy or certificate. After receipt of the notice by the commissioner, the insurer shall not offer for sale the policy form or certificate form in Kentucky.

2. An insurer that discontinues the availability of a policy form or certificate form pursuant to subparagraph 1 of this paragraph shall not file for approval a new policy form or certificate form of the same type for the same standard Medicare supplement benefit plan as the discontinued form for a period of five (5) years after the insurer provides notice to the commissioner of the discontinuance. The period of discontinuance may be reduced if the commissioner determines that a shorter period is appropriate.

(b) The sale or other transfer of Medicare supplement business to another insurer shall be considered a discontinuance for the purposes of this subsection.

(c) A change in the rating structure or methodology shall be considered a discontinuance under paragraph (a) of this subsection unless the insurer complies with the following requirements:

1. The insurer provides an actuarial memorandum, describing the manner in which the revised rating methodology and resultant rates differ from the existing rating methodology and existing rates; and
2. The insurer does not subsequently put into effect a change of rates or rating factors that would cause the percentage differential between the discontinued and subsequent rates as described in the actuarial memorandum to change. The commissioner may approve a change to the differential that is in the public interest.

(6)

(a) Except as provided in paragraph (b) of this subsection, the experience of all policy forms or certificate forms of the same type in a standard Medicare supplement benefit plan shall be combined for purposes of the refund or credit calculation prescribed in Section 16 of this administrative regulation.

- (b) Forms assumed under an assumption reinsurance agreement shall not be combined with the experience of other forms for purposes of the refund or credit calculation.
- (7) An insurer shall not present for filing or approval a rate structure for its Medicare supplement policies or certificates issued after October 4, 2005, based upon a structure or methodology with any groupings of attained ages greater than one (1) year. The ratio between rates for successive ages shall increase smoothly as age increases.

Section 18. Permitted Compensation Arrangements.

- (1) An insurer or other entity may provide commission or other compensation to an agent or other representative for the sale of a Medicare supplement policy or certificate only if the first year commission or other first year compensation is no more than 200 percent of the commission or other compensation paid for selling or servicing the policy or certificate in the second year or period.
- (2) The commission or other compensation provided in subsequent (renewal) years shall be the same as that provided in the second year or period and shall be provided for no fewer than five (5) renewal years.
- (3) An insurer or other entity shall not provide compensation to its agents or other producers and an agent or producer shall not receive compensation greater than the renewal compensation payable by the replacing insurer on renewal policies or certificates if an existing policy or certificate is replaced.

Section 19. Required Disclosure Provisions.

(1) General Rules.

(a)

1. Medicare supplement policies and certificates shall include a renewal or continuation provision.
2. The language or specifications of a renewal or continuation provision shall be consistent with the type of contract issued.
3. The renewal or continuation provision shall:
 - a. Be appropriately captioned;
 - b. Appear on the first page of the policy; and
 - c. Include any reservation by the insurer of the right to change premiums and any automatic renewal premium increases based on the policyholder's age.

(b)

1. A rider or endorsement added to a Medicare supplement policy after date of issue or at reinstatement or renewal that reduces or eliminates benefits or coverage in the policy shall require a signed acceptance by the insured, except for a rider or endorsement by which an insurer:
 - a. Effectuates a request made in writing by the insured;
 - b. Exercises a specifically reserved right under a Medicare supplement policy; or
 - c. Is required to reduce or eliminate benefits to avoid duplication of Medicare benefits.
2. After the date of policy or certificate issue, any rider or endorsement that increases benefits or coverage with a concomitant increase in premium during the policy term shall be agreed to in writing signed by the insured, unless:
 - a. The benefits are required by the minimum standards for Medicare supplement policies; or
 - b. If the increased benefits or coverage is required by law.
3. If a separate additional premium is charged for benefits provided in connection with riders or endorsements, the premium charge shall be set forth in the policy.

(c) Medicare supplement policies or certificates shall not provide for the payment of benefits based on standards described as "usual and customary," "reasonable and customary," or words of similar import.

(d) If a Medicare supplement policy or certificate contains any limitations with respect to preexisting conditions, these limitations shall appear as a separate paragraph of the policy and be labeled as "Preexisting Condition Limitations."

(e) Medicare supplement policies and certificates shall have a notice prominently printed on the first page of the policy or certificate, or attached thereto, stating in substance that the policyholder or certificate holder shall have the right to return the policy or certificate within thirty (30) days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the insured person is not satisfied for any reason.

(f)

1. Insurers of accident and sickness policies or certificates which provide hospital or medical expense coverage on an expense incurred or indemnity basis to persons eligible for Medicare shall provide to those applicants a Guide to Health Insurance for People with Medicare in the language, format, type size, type proportional spacing, bold character, and line spacing developed jointly by the National Association of Insurance Commissioners and Centers for Medicare and Medicaid Services and in a type size no smaller than twelve (12) point type.

2. Delivery of the guide described in subparagraph 1 of this paragraph shall be made:

a. Whether or not the policies or certificates are advertised, solicited, or issued as Medicare supplement policies or certificates as described in this administrative regulation.

b. To the applicant upon application and acknowledgement of receipt of the guide shall be obtained by the insurer, except that direct response insurer shall deliver the guide to the applicant upon request but not later than at policy delivery.

(2) Notice requirements.

(a) As soon as practicable, but no later than thirty (30) days prior to the annual effective date of any Medicare benefit changes, an insurer shall notify its policyholders and certificate holders of modifications it has made to Medicare supplement insurance policies or certificates. The notice shall:

1. Include a description of revisions to the Medicare program and a description of each modification made to the coverage provided under the Medicare supplement policy or certificate; and

2. Inform each policyholder or certificate holder as to if any premium adjustment is to be made due to changes in Medicare.

(b) The notice of benefit modifications and any premium adjustments shall be in outline form and in clear and simple terms so as to facilitate comprehension.

(c) The notices shall not contain or be accompanied by any solicitation.

(3) Insurers shall comply with any notice requirements of the Medicare Prescription Drug, Improvement and Modernization Act of 2003, Pub.L. 108-173.

(4) Outline of Coverage Requirements for Medicare Supplement Policies.

(a) An insurer shall provide an outline of coverage to all applicants when an application is presented to the prospective applicant and, except for direct response policies, shall obtain an acknowledgement of receipt of the outline from the applicant.

(b) If an outline of coverage is provided at application and the Medicare supplement policy or certificate is issued on a basis that would require revision of the outline, a substitute outline of coverage properly describing the policy or certificate shall accompany the policy or certificate when it is delivered and contain the following statement, in no less than twelve (12) point type, immediately above the company name: "NOTICE: READ THIS OUTLINE OF COVERAGE CAREFULLY. IT IS NOT IDENTICAL TO THE OUTLINE OF COVERAGE PROVIDED UPON APPLICATION AND THE COVERAGE ORIGINALLY APPLIED FOR HAS NOT BEEN ISSUED."

(c) The outline of coverage provided to applicants pursuant to this section shall consist of four (4) parts: a cover page, premium information, disclosure pages, and charts displaying the features of each benefit plan offered by the insurer. The outline of coverage shall be in the language and format prescribed in the HL-MS-4 or the Plan Benefit Chart in no less than twelve (12) point type. All plans shall be shown on the cover page, and the plans that are offered by the insurer shall be prominently identified. Premium information for plans that are offered shall be shown on the cover page or immediately following the cover page and shall be prominently displayed. The premium and mode shall be stated for all plans that are offered to the prospective applicant. All possible premiums for the prospective applicant shall be illustrated.

(5) Notice Regarding Policies or Certificates That Are Not Medicare Supplement Policies.

(a)

1. Any accident and sickness insurance policy or certificate, other than a Medicare supplement policy, a policy issued pursuant to a contract under Section 1876 of the Federal Social Security Act, 42 U.S.C. 1395 et seq., disability income policy, or other policy identified in Section 3(2) of this administrative regulation, issued for delivery in Kentucky to persons eligible for Medicare shall notify insureds under the policy that the policy is not a Medicare supplement policy or certificate.

2. The notice shall either be printed or attached to the first page of the outline of coverage delivered to insureds under the policy, or if no outline of coverage is delivered, to the first page of the policy, or certificate delivered to insureds.

3. The notice shall be in no less than twelve (12) point type and shall contain the following language: "THIS (POLICY OR CERTIFICATE) IS NOT A MEDICARE SUPPLEMENT (POLICY OR CONTRACT). If you are eligible for Medicare, review the Guide to Health Insurance for People with Medicare available from the company."

(b) Applications provided to persons eligible for Medicare for the health insurance policies or certificates described in paragraph (a) of this subsection shall disclose, using the applicable statement in HL-MS-3 the extent to which the policy duplicates Medicare. The disclosure statement shall be provided as a part of, or together with, the application for the policy or certificate.

Section 20. Requirements for Application Forms and Replacement Coverage.

(1) Comparison statement.

(a) If a Medicare Advantage or Medicare supplement policy or certificate is to replace another Medicare supplement or Medicare Advantage policy or certificate, there shall be presented to the applicant, no later than the application date, HL-MS-5.

(b) Direct response insurers shall present the comparison statement to the applicant not later than when the policy is delivered.

(c) Agents shall:

1. Obtain the signature of the applicant on the comparison statement;

2. Sign the comparison statement; and

3. Send the comparison statement to the insurer and attach a copy of the comparison statement to the replacement policy.

(2)

(a) Application forms shall include the questions on HL-MS-6 designed to elicit information as to whether, as of the date of the application:

1. The applicant currently has Medicare supplement, Medicare Advantage, Medicaid coverage, or another health insurance policy or certificate in force; or

2. A Medicare supplement policy or certificate is intended to replace any other accident and sickness policy or certificate presently in force.
 - (b) An agent shall provide the HL-MS-07 to the applicant.
 - (c) A supplementary application or other form to be signed by the applicant and agent containing the questions as found on the HL-MS-06 and statements on HL-MS-07 may be used.
- (3) Agents shall list, on HL-MS-06 or on the supplementary form as identified in subsection (2)(c) of this section, any other health insurance policies they have sold to the applicant including:
 - (a) Policies sold that are still in force; and
 - (b) Policies sold in the past five (5) years that are no longer in force.
- (4) For an insurer that uses direct response, a copy of the application or supplemental form, signed by the applicant, and acknowledged by the insurer, shall be returned to the applicant by the insurer upon delivery of the policy.
- (5) Upon determining that a sale will involve replacement of Medicare supplement coverage, any insurer, other than an insurer that uses direct response, or its agent, shall furnish the applicant, prior to issuance or delivery of the Medicare supplement policy or certificate, a notice regarding replacement of Medicare supplement coverage. One (1) copy of the notice signed by the applicant and the agent, except if the coverage is sold without an agent, shall be provided to the applicant and an additional signed copy shall be retained by the insurer. An insurer that uses direct response shall deliver to the applicant at issuance of the policy, the notice regarding replacement of Medicare supplement coverage. Upon receipt of the notice, the applicant or the applicant's designee shall notify the insurer who previously provided Medicare supplement coverage of the replacement coverage.
- (6) The notice required by subsection (5) of this section for an insurer shall be provided as specified in HL-MS-08, in no less than twelve (12) point type or in a form developed by the insurer, which shall:
 - (a) Meet the requirements of this section; and
 - (b) Be filed with and approved by the commissioner prior to use.

Section 21. Filing Requirements for Advertising and Policy Delivery.

- (1) An insurer shall provide a copy of any Medicare supplement advertisement intended for use in Kentucky whether through written, electronic, radio, or television, or any other medium to the commissioner for review prior to use. Advertisements shall not require approval prior to use, but an advertisement shall not be used if it has been disapproved by the commissioner and notice of the disapproval has been given to the insurer.
- (2) Insurers and agents shall not use the names and addresses of persons purchased as "leads" unless the solicitation material used to obtain the names and addresses of the "leads" are filed as advertisement as required by this section. Insurers and agents shall not use "leads" if the solicitation materials have been disapproved by the commissioner.
- (3) If a Medicare supplement policy is not delivered by mail, the agent or insurer shall obtain a signed and dated delivery receipt from the insured. If the delivery receipt is obtained by an agent, the agent shall forward the delivery receipts to the insurer.

Section 22. Standards for Marketing.

- (1) An insurer, directly or through its agents or other representatives, shall:
 - (a) Establish marketing procedures to assure that any comparison of policies by its agents or other representatives will be fair and accurate.
 - (b) Establish marketing procedures to assure excessive insurance is not sold or issued.
 - (c) Display prominently by type, stamp or other appropriate means, on the first page of the policy the following disclosure: "Notice to buyer: This policy may not cover all of your medical expenses."

(d) Inquire and make every reasonable effort to identify if a prospective applicant or enrollee for Medicare supplement insurance already has accident and sickness insurance and the types and amounts of any insurance.

(e) Establish auditable procedures for verifying compliance with this subsection.

(2) In addition to the practices prohibited in KRS Chapter 304.12 and 806 KAR 12:092, the following acts and practices shall be prohibited:

(a) Twisting. Making any unfair or deceptive representation or incomplete or fraudulent comparison of any insurance policies or insurers for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on, or convert an insurance policy or to take out a policy of insurance with another insurer.

(b) High pressure tactics. Employing any method of marketing having the effect of or tending to induce the purchase of insurance through force, fright, threat, whether explicit or implied, or undue pressure to purchase or recommend the purchase of insurance.

(c) Cold lead advertising. Making use of any method of marketing which fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance agent or insurance company.

(3) The terms "Medicare Supplement," "Medigap," "Medicare Wrap-Around" and similar words shall not be used unless the policy is issued in compliance with this administrative regulation.

Section 23. Appropriateness of Recommended Purchase and Excessive Insurance.

(1) In recommending the purchase or replacement of any Medicare supplement policy or certificate an agent shall make reasonable efforts to determine the appropriateness of a recommended purchase or replacement.

(2) Any sale of a Medicare supplement policy or certificate that will provide an individual more than one Medicare supplement policy or certificate shall be prohibited.

(3) An insurer shall not issue a Medicare supplement policy or certificate to an individual enrolled in Medicare Part C unless the effective date of the coverage is after the termination date of the individual's Part C coverage.

Section 24. Reporting of Multiple Policies.

(1) On or before March 1 of each year, an insurer shall report to the commissioner the following information, using HL-MS-2, for every individual resident of Kentucky for which the insurer has in force more than one Medicare supplement policy or certificate:

(a) Policy and certificate number; and

(b) Date of issuance.

(2) The items set forth in subsection (1) of this section shall be grouped by individual policyholder.

Section 25. Prohibition Against Preexisting Conditions, Waiting Periods, Elimination Periods, and Probationary Periods in Replacement Policies or Certificates.

(1) If a Medicare supplement policy or certificate replaces another Medicare supplement policy or certificate, the replacing insurer shall waive any time periods applicable to preexisting conditions, waiting periods, elimination periods, and probationary periods in the new Medicare supplement policy or certificate to the extent time was spent under the original policy.

(2) If a Medicare supplement policy or certificate replaces another Medicare supplement policy or certificate which has been in effect for at least six (6) months, the replacing policy shall not provide any time period applicable to preexisting conditions, waiting periods, elimination periods, and probationary periods.

Section 26. Prohibition Against Use of Genetic Information and Requests for Genetic Testing. This Section shall apply to all policies with policy years beginning on or after the effective date of this administrative regulation.

(1) An insurer of a Medicare supplement policy or certificate shall not:

(a) Deny or condition the issuance or effectiveness of the policy or certificate, including the imposition of any exclusion of benefits under the policy based on a pre-existing condition, on the basis of the genetic information with respect to any individual; and

(b) Discriminate in the pricing of the policy or certificate, including the adjustment of premium rates, of an individual on the basis of the genetic information with respect to any individual.

(2) Subsection (1) of this section shall not be construed to limit the ability of an insurer, to the extent permitted by law, from:

(a) Denying or conditioning the issuance or effectiveness of the policy or certificate or increasing the premium for a group based on the manifestation of a disease or disorder of an insured or applicant; or

(b) Increasing the premium for any policy issued to an individual based on the manifestation of a disease or disorder of an individual who is covered under the policy, and the manifestation of a disease or disorder in one individual cannot also be used as genetic information about other group members and to further increase the premium for the group.

(3) Except as provided by subsection (6) of this section, an insurer of a Medicare supplement policy or certificate shall not request or require an individual or a family member of an individual to undergo a genetic test.

(4) Subsection (3) of this section shall not be construed to prohibit an insurer of a Medicare supplement policy or certificate from obtaining and using the results of a genetic test in making a determination regarding payment, as described for the purposes of applying the regulations promulgated under part C of title XI of the Social Security Act, 42 U.S.C. 1320d et seq., and section 264 of the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. 1320d-2, and consistent with subsection (1) of this section.

(5) For purposes of carrying out subsection (4) of this section, an insurer of a Medicare supplement policy or certificate may request only the minimum amount of information necessary to accomplish the intended purpose.

(6) Notwithstanding subsection (3) of this section, an insurer of a Medicare supplement policy may request, but shall not require, that an individual or a family member of the individual undergo a genetic test if each of the following conditions is met:

(a) The request shall be made pursuant to research that complies with 45 C.F.R. part 46, or equivalent federal regulations, and any applicable state or local law, or administrative regulations, for the protection of human subjects in research.

(b) The insurer clearly indicates to each individual, or if a minor child, to the legal guardian of the child, to whom the request is made that:

1. Compliance with the request shall be voluntary; and

2. Noncompliance shall have no effect on enrollment status or premium or contribution amounts.

(c) Genetic information collected or acquired under this subsection shall not be used for underwriting, determination of eligibility to enroll or maintain enrollment status, premium rates, or the issuance, renewal, or replacement of a policy or certificate.

(d) The insurer notifies the secretary in writing that the insurer is conducting activities pursuant to the exception provided for under this subsection, including a description of the activities conducted.

- (e) The insurer complies with other conditions as the secretary may by federal regulation require for activities conducted under this subsection.
- (7) An insurer of a Medicare supplement policy or certificate shall not request, require, or purchase genetic information for underwriting purposes.
- (8) An insurer of a Medicare supplement policy or certificate shall not request, require, or purchase genetic information with respect to any individual prior to an individual's enrollment under the policy in connection with enrollment.
- (9) If an insurer of a Medicare supplement policy or certificate obtains genetic information incidental to the requesting, requiring, or purchasing of other information concerning any individual, the request, requirement, or purchase shall not be considered a violation of subsection (8) of this section if the request, requirement, or purchase is not in violation of subsection (7) of this section.

Section 27. Incorporated by Reference.

(1) The following material is corporate by reference:

- (a) "HL-MS-1", July 2009 edition;
- (b) "HL-MS-2", July 2009 edition;
- (c) "HL-MS-3", July 2009 edition;
- (d) "HL-MS-4", October 2009 edition;
- (e) "HL-MS-5", May 2018 edition;
- (f) "HL-MS-06", July 2009 edition;
- (g) "HL-MS-07", July 2009 edition;
- (h) "HL-MS-08", October 2009 edition; and
- (i) "Plan Benefit Chart", April 2018 edition.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Insurance, 215 West Main Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

(3) This material may also be obtained at the department's Web site at insurance.ky.gov/ppc/new_laws.aspx.

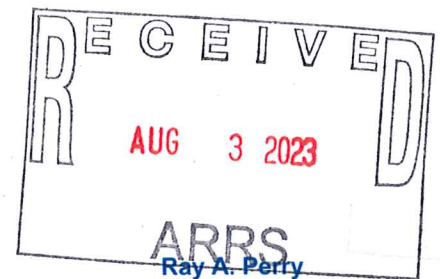


PUBLIC PROTECTION CABINET
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August 3, 2023

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Via Hand-Delivery

Re: **810 KAR 4:090** *Race horse owners*
810 KAR 7:030 *Kentucky Thoroughbred Development Fund*
810 KAR 7:060 *Kentucky Quarter Horse, Paint Horse, Appaloosa, and*
Arabian Development Fund

Dear Ms. Caudill:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 810 KAR 4:090, 810 KAR 7:030 and 810 KAR 7:060 the Horse Racing Commission proposes the attached agency amendments to 810 KAR 4:090, 810 KAR 7:030 and 810 KAR 7:060.

Sincerely,

Jennifer Wolsing
General Counsel

SUGGESTED SUBSTITUTE

Final Version: 07/28/23 at 2:31 p.m.

**PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission**

810 KAR 4:090. Race horse owners.

RELATES TO: KRS 230.215, 230.260, 230.290, 230.310, 230.320

STATUTORY AUTHORITY: KRS 230.215(2), 230.310, 230.320(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) authorizes the Kentucky Horse Racing Commission to promulgate administrative regulations prescribing conditions under which horse racing shall be conducted in Kentucky. KRS 230.310 requires any person who desires to participate in racing in Kentucky as an owner to apply to the commission for a license, and authorizes the commission to promulgate administrative regulations pertaining to licensing. KRS 230.320 authorizes the commission to promulgate administrative regulations under which any license may be denied, suspended, or revoked, and under which any licensee or other person participating in Kentucky horse racing may be assessed an administrative fine or required to forfeit or return a purse. ~~[The function of]~~ This administrative regulation ~~establishes~~~~[is to outline]~~ the requirements for owners to participate in horse racing in Kentucky.

Section 1. Owner's License Required. A horse shall not be raced in ~~Kentucky~~~~[this state]~~ unless the owner or each of the part owners, except as established in Section 4 of this administrative regulation, has been granted a current owner's license or temporary license by the commission.

Section 2. Owner's License Limitations.

- (1) A licensed owner or trainer may personally serve as a farrier or jockey for horses he or she owns or are registered as in his or her care, if he or she has received from the stewards a certification of the licensee's fitness as a competent farrier or jockey.
- (2) A licensed owner shall:
 - (a) Own or have under lease, a horse eligible to race and be prepared to prove same upon call of the stewards; and
 - (b) Not engage in an activity directly or indirectly involving the racing performance of horses owned by others.
- (3)
 - (a) Except as established in paragraph (b) of this subsection, a licensed owner shall be at least eighteen (18) years old.
 - (b) The commission may grant an owner's license to a person less than eighteen (18) years of age who is a son or daughter of a licensed owner in this state, if the parent:
 1. Holds an owner's license in this state; and
 2. Files with the license application of the minor an agreement whereby the parent assumes responsibility for meeting all financial, contractual, or other obligations relating to racing of the applicant son or daughter.
- (4) The commission may deny, suspend, or revoke an owner's license for the spouse or any member of the immediate family or household of a person who is ineligible to hold an owner's license, unless there is a showing on the part of the applicant or licensed owner that his or her participation in racing as an owner shall in no way circumvent the intent of the administrative regulation by ~~allowing~~~~[permitting]~~

a person, under the control or direction of a person ineligible for an owner's license, to serve in essence as a substitute for the ineligible person.

Section 3. Ownership Disclosure.

- (1) Licensed owners and licensed trainers shall be jointly responsible for making a full disclosure of the entire ownership of each horse in their care.
- (2) Disclosure under this section shall identify in writing all persons who directly, or indirectly through a lien, lease partnership, corporate stockholding, syndication, or other joint venture, hold any present or reversionary right, title, or interest in and to a horse, and those persons who by virtue of any form of interest may exercise control over or benefit from the racing of the horse. The degree and time of ownership held by each person shall also be designated.
- (3) Disclosure under this section shall be made when registering each horse with the racing secretary upon arrival on association grounds or at time of entry, whichever event occurs first, and shall be revised immediately upon any subsequent change in the ownership.
- (4) Disclosure under this section, together with all written agreements~~[,]~~ and affidavits setting out oral agreements~~[,]~~ pertaining to the ownership of or rights to a horse, shall be filed with the stewards.
- (5) All documents pertaining to the ownership or lease of a horse filed with the stewards shall be available for public inspection.
- (6) The stewards may review the ownership of each horse entered to race. The stewards may determine the validity for racing purposes of all leases, transfers, and agreements pertaining to ownership of a horse and may call for adequate evidence of ownership at any time. The stewards may declare ineligible to race any horse, the ownership or control of which is in question.

Section 4. Joint Ownership.

- (1) ~~A [No] person owning five (5) percent or less of a horse shall not be required to obtain a license. [More than five (5) individual persons shall not be licensed as owners of a single horse.]~~
- (2) If more than ~~two (2) individuals~~~~[five (5) individual persons]~~ own interests in a single horse, through a partnership, corporation, syndication, or other joint venture, then those individual persons shall designate a member of the partnership, corporation, syndicate, or joint venture to represent the entire ownership of and be responsible for the horse as the licensed principal owner.
- (3) The commission may deny, suspend, or revoke the license of any owner whose ownership of a horse is qualified or limited in part by rights or interests in or to the horse being held or controlled by any other individual person or persons who would be ineligible to be licensed as an owner.

Section 5. Program Listing of Owners.

- (1) Names of all persons licensed as owners of each horse shall be listed in the daily program, in accordance with~~[subject to]~~ subsection (2) of this section.
- (2) Up to ten (10) individual owners or entities may be listed in the program as owners of a single horse. If space limitations preclude listing of first names, then at least two (2) initials shall precede surnames.
- (3) Stable names, partnerships, corporations, syndicates, or other joint ventures may be listed in the program with the principal owner's name shown parenthetically.~~[Stable names, or corporate names, registered in other racing jurisdictions may be shown parenthetically if program space limitations permit.]~~
- (4) Lessees licensed as owners shall be designated on the program as lessees of each leased horse.

Section 6. Leases.

- (1) A horse may be raced under lease with approval of the stewards, who may suspend or void approval at any time.
- (2) A lease shall not be approved by the stewards for racing purposes unless:
 - (a) Lessee is licensed as an owner and lessor is either licensed as an owner or is eligible to be licensed as an owner;
 - (b) Each of the signatures of the lessors and lessees on the lease agreement is subscribed and sworn to before a notary public;
 - (c) Term of the lease is no less than one (1) year, unless sooner terminated by claim or retirement of the horse;
 - (d) Conditions of the lease specify whether or not the horse can be entered in a race to be claimed. If agreeable to lessor that the horse may be entered in a claiming race, then the lease shall specify the minimum price for which the horse may be entered and the name of the payee of the claiming price;
 - (e) Conditions of the lease specify that upon claim of the horse, the lease shall terminate and all rights in and to the horse shall pass to claimant as a bona fide purchaser; and
 - (f) After reviewing the full ownership of the leased horse, and the interests of all persons involved in the lease and the term and conditions of the lease, the stewards in their discretion find that the lease:
 1. Completely divests lessors or sublessors of further control or direction of the racing performance of the horse while under lease; and
 2. The resultant program listing of lessee shall not mislead the betting public by reason of the absence in the program listing of the name of a person or persons possessing a beneficial interest in the leased horse.

Section 7. Thoroughbred Racing Colors.

- (1) Thoroughbred owners shall be responsible for designing and providing individual racing colors, consisting of jackets and caps of distinctive color and pattern to be worn by jockeys during a race.
- (2) The stewards may refuse to **allow[permit]** the use of racing colors that include advertising, or promotions, symbols or words, or that otherwise, in the opinion of the commission, are not in keeping with the traditions of the turf.
- (3) A thoroughbred shall not be raced in racing colors other than those registered in the name of the horse's owner without special permission of the stewards. If an owner races two (2) or more horses in the same race, jackets shall be identical while caps may be varied in color or design.
- (4) Owners and trainers shall be jointly responsible for the condition of racing colors, ensuring[insuring] that they are neat, clean, and in good repair, and that an adequate number of sets of racing colors are placed in the care of the clerk of scales.
- (5) The clerk of scales and the valet serving a jockey shall be jointly responsible for having the correct jacket and cap on each rider upon leaving the jockey room for the paddock.

Section 8. Authorized Agent.

- (1) A licensed owner may, as a principal, authorize any person, as an agent, to act on the owner's behalf in all matters pertaining to racing in this state and ownership of horses on association grounds.
- (2) A licensed owner shall be jointly liable and responsible with his or her licensed authorized agent for all acts and omissions of the authorized agent in a racing matter.

Section 9. Suspension. A horse owned wholly or in part by an owner whose license has been suspended shall not be permitted to race during suspension.

Section 10. Partnerships.

(1) If requested by the stewards or the commission, partnerships~~[Partnerships]~~ that own or control a present or reversionary interest in a horse to be raced shall file partnership papers with an owner's license application and shall **establish[set forth]**~~[shall register with the commission.]~~

~~[(2)] [Partnership papers shall be filed with an owner's license application and shall set forth:]~~

- (a) The name and address of every person having an interest in the horse involved;
- (b) The relative proportion of the interests;
- (c) To whom winnings are payable;
- (d) In whose name the horse shall run;
- (e) With whom the power of entry and declaration rests;
- (f) The terms of any contingency, lease, or any other arrangement; and
- (g) The names of the horses involved.

~~[(2)]~~~~[(3)]~~ All partnership registrations shall be signed by the principal partner or by his or her authorized agent.

~~[(3)]~~~~[(4)]~~ Any alteration in a recorded partnership shall be reported in writing to the commission and signed by all the partners~~;~~ and or their authorized agent.

~~[(4)]~~~~[(5)]~~ All the parties in a partnership and each of them shall be jointly and severally liable for all stakes, fees, and other obligations.

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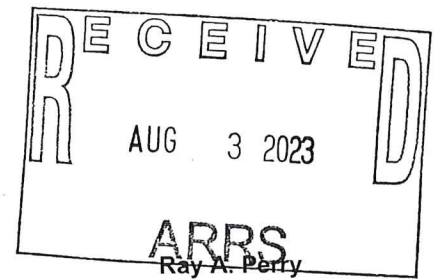


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August 3, 2023

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029, Capitol Annex
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Via Hand-Delivery

Re: 810 KAR 4:090 Race horse owners
810 KAR 7:030 *Kentucky Thoroughbred Development Fund*
810 KAR 7:060 *Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund*

Dear Ms. Caudill:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 810 KAR 4:090, 810 KAR 7:030 and 810 KAR 7:060 the Horse Racing Commission proposes the attached agency amendments to 810 KAR 4:090, 810 KAR 7:030 and 810 KAR 7:060.

Sincerely,

Jennifer Wolsing
General Counsel

SUGGESTED SUBSTITUTE

Final Version: 07/28/23 at 3:07 p.m.

**PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission**

810 KAR 7:030. Kentucky Thoroughbred Development Fund.

RELATES TO: KRS 138.510, 230.215, 230.225(5)(c), 230.400

STATUTORY AUTHORITY: KRS 230.215(2), 230.225(5)(c), 230.400

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(1) *requires[declares]* that it is the policy and intent of the Commonwealth to foster and to encourage the business of legitimate horse racing with pari-mutuel wagering thereon in the Commonwealth on the highest possible plane. KRS 230.215(2) *authorizes[vests in]* the racing commission *to forcefully control[forceful control of]* horse racing in the Commonwealth with plenary power to promulgate administrative regulations *establishing[prescribing]* conditions under which all legitimate horse racing and wagering thereon is conducted in the Commonwealth so as to encourage the improvement of the breeds of horses in the Commonwealth and to regulate and maintain horse racing at horse race meetings in the Commonwealth of the highest quality. KRS 230.225(5)(c) *authorizes[states that]* the racing commission *to recommend[shall be responsible for recommending]* tax incentives and *to implement[implementing]* incentive programs to ensure the strength and growth of the equine industry. KRS 230.400 establishes the Kentucky Thoroughbred Development Fund and requires the Kentucky Horse Racing Commission to promulgate administrative regulations as may be necessary to carry out its provisions and purposes. This administrative regulation establishes standards for eligibility and the administration of payments from the Kentucky Thoroughbred Development Fund.

Section 1. Definitions.

~~[(1)] ["Applicant" means the qualified entity who registers the foal or horse with the KTDF official registrar.]~~

~~[(2)] ["Historical horse race handle" means monies wagered at a licensed Kentucky association on historical horse races as defined in 810 KAR 2:001.]~~

~~[(3)] ["Inter-state wagering" means monies wagered from a Kentucky thoroughbred association on thoroughbred races conducted outside of Kentucky.]~~

~~[(4)] ["Intra-state wagering" means monies wagered at a Kentucky thoroughbred association on thoroughbred races conducted at another Kentucky association.]~~

~~(1)[(5)] "KTDF" means the Kentucky Thoroughbred Development Fund, as established by KRS 230.400.~~

~~(2) "KTDF Advisory Committee" means a five (5) member committee established by KRS 230.400.~~

~~(3)[(6)] "KTOB" means the Kentucky Thoroughbred Owners and Breeders, Inc., as the official registrar for the KTDF in accordance with KRS 230.400.~~

~~[(7)] ["Live racing handle" means the monies wagered by individuals present on association grounds on thoroughbred races physically conducted on association grounds.]~~

~~[(8)] ["Nonlive racing handle" means the monies wagered at an association located in Kentucky on thoroughbred races not physically conducted at the association's grounds.]~~

~~[(9)] ["Official Registrar" means the association recognized and designated as the sole official registrar of the KTDF for the purpose of registering Kentucky thoroughbred stallions and Kentucky bred thoroughbreds in accordance with KRS 230.400.]~~

(4) "Licensed association" means a person or legal entity conducting horse racing pursuant to a license issued under 810 KAR 3:010.

Section 2. KTDF Monies Earned. Money shall be allocated to the credit of each licensed association in the amount the licensed association contributed to the KTDF pursuant to KRS 230.400.[]

~~[(1)] [One (1) live thoroughbred association.]~~

~~[(a)] [Live racing handle. An association conducting live racing shall earn KTDF money in the amount of 0.75 percent of the total live racing handle pursuant to KRS 138.510(1).]~~

~~[(b)] [Nonlive racing handle. An association conducting live racing shall earn KTDF money in the amount of two (2) percent of the total nonlive racing handle pursuant to KRS 138.510(2).]~~

~~[(2)] [More than one (1) live thoroughbred association. Unless there is an agreement among the thoroughbred associations conducting live racing to the contrary, if two (2) or more thoroughbred associations are conducting live racing on the same day, the monies earned from the handle for that day shall be divided as provided by this subsection.]~~

~~[(a)] [The association conducting the live racing shall earn KTDF money in the amount of seventy-five hundredths (0.75) percent of that association's live racing handle pursuant to KRS 138.510(1).]~~

~~[(b)] [Intra-state wagering monies shall be allocated to that Kentucky thoroughbred association on which the wagering is placed for purposes of calculating that association's KTDF earnings.]~~

~~[(c)] [Inter-state wagering monies originating from an association conducting live thoroughbred racing shall be allocated to that association for purposes of calculating that association's KTDF earnings.]~~

~~[(d)] [Inter-State wagering monies from all other Kentucky associations shall be divided evenly among the associations conducting live racing.]~~

~~[(3)] [Historical horse race handle. An association offering wagering on historical horse races shall earn KTDF money as provided by KRS 138.510(1).]~~

~~[(4)] [Unless otherwise stated, all KTDF money earned under this section shall be deposited in the KTDF account for that association.]~~

Section 3. KTDF Reconciliation.

(1) Each licensed association shall file with the commission a copy of the pari-mutuel tax form filed with the Department of Revenue, along with a copy of the check submitted for each report. These reports shall be filed weekly.

~~[(2)] [Each association shall report to the commission the actual KTDF purse distribution within fifteen (15) calendar days after the last day of a live race meeting.]~~

~~(2)[(3)]~~ The commission shall reconcile the weekly reports submitted by the licensed association with the Department of Revenue's reports and deposits on a monthly basis.

~~(3)[(4)]~~ If at the close of a live race meet, a licensed~~[an]~~ association has a surplus balance of KTDF monies earned pursuant to KRS 230.400~~[for that meet that has not been distributed in actual KTDF purse distribution]~~, then the licensed association may request to distribute a portion of that balance~~[choose one of the following options to distribute the remaining balance]~~, **contingent on**~~[subject to]~~ the recommendation of the KTDF Advisory Committee and the approval of the commission to:

(a) Supplement purses at future live racing meets held by that licensed association~~;~~[Use KTDF monies previously earned to supplement purses at future live racing meets held by that association; or]

(b) Fund supplemental purse structures approved by the commission for a previous live racing meet held by the licensed association to the recipients of the original purse allocation~~;~~ or~~[Use KTDF monies previously earned to supplement purses already distributed at the last live racing meet held by the association to the recipients of the original purse allocations.]~~

(c) Supplement purses at another licensed thoroughbred Kentucky racetrack.

~~[(5)] [If at the close of a live race meet, an association offering wagering on historical horse races has a balance of KTDF monies earned from historical horse race wagers that has not been distributed in actual KTDF purse distribution, then the association may distribute a portion of the balance, subject to the recommendation of the KTDF Advisory Committee and the approval of the commission:]~~

~~[(a)] [To supplement purses at future live racing meets held by that association;]~~

~~[(b)] [To supplement purses already distributed at the last live racing meet held by the association to the recipients of the original purse allocations; or]~~

~~[(c)] [To supplement purses at another licensed thoroughbred Kentucky racetrack.]~~

~~(4)[(6)]~~ Reasonable and customary administrative charges for time spent reconciling the KTDF account may be charged by the commission to each licensed association based on the percentage of funds generated by each licensed association for the previous calendar year.

~~(5)[(7)]~~ A licensed[Añ] association, at its option, may pay reasonable advertising charges billed to the association by the KTOB from the association's KTDF available balance, **if[provided]** the advertising charges are consistent with the intent of the KTDF. Approval of any advertising payment shall be **contingent on[subject to]** the recommendation of the KTDF Advisory Committee and the approval of the commission.

~~(6)~~

~~(a)[(8)]~~ Each licensed association shall submit **its[their]** purses paid reports, advertising invoices, or any other documentation requested by the commission, pertinent to reimbursement, within fifteen (15) calendar days after the last day of a live race meet.

~~(b)~~ Each licensed association shall sign an acknowledgment[agreement]from the commission stating that it accepts and agrees with the reconciliation prior to the reimbursement of any KTDF funds.

Section 4. Purse Structure. Each licensed association shall submit its KTDF purse structure proposal to the KTDF Advisory Committee for approval at least forty-five (45) days prior to the opening day of the live racing meet. The KTDF Advisory Committee shall review the proposed purse structure and make a recommendation to the commission whether ~~[or not]~~ to approve the proposed purse structure based upon the best interests of Kentucky racing.

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

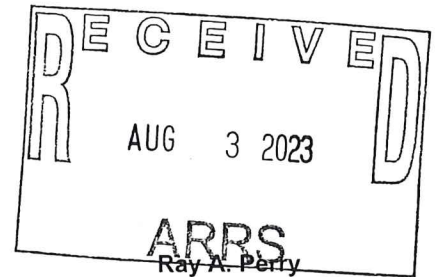


PUBLIC PROTECTION CABINET
Kentucky Horse Racing
Commission

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August 3, 2023

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

Via Hand-Delivery

Re: 810 KAR 4:090 *Race horse* owners
810 KAR 7:030 *Kentucky Thoroughbred Development Fund*
810 KAR 7:060 *Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund*

Dear Ms. Caudill:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 810 KAR 4:090, 810 KAR 7:030 and 810 KAR 7:060 the Horse Racing Commission proposes the attached agency amendments to 810 KAR 4:090, 810 KAR 7:030 and 810 KAR 7:060.

Sincerely,

Jennifer Wolsing
General Counsel

SUGGESTED SUBSTITUTE

Final Version: 08/2/23 at 3:02 p.m.

**PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission**

810 KAR 7:060. Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund.

RELATES TO: KRS 138.510, 230.215, 230.225, 230.443, 230.445

STATUTORY AUTHORITY: KRS 230.215(2), 230.260(8), 230.445

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215 and 230.260 authorize the commission to promulgate administrative regulations **establishing**~~prescribing~~ the conditions under which horse racing shall be conducted in Kentucky and to fix and regulate the minimum amount of purses, stakes, or awards to be offered for the conduct of any horse race meeting. KRS 230.445 establishes the Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian development fund and requires the commission to promulgate administrative regulations to carry out the purpose of the statute and to administer the development fund in a manner to promote and aid in the development of the horse industry in Kentucky.~~;~~ upgrade the quality of racing in Kentucky.~~;~~ and to improve the quality of horses bred in Kentucky. This administrative regulation establishes eligibility standards, administrative practices to enforce the standards, and the administration of purses and payments in these races.

Section 1. Definitions.

(1) "Broodmare" means a mare that conceives and carries her genetic foal to term.

(2) "Donor mare" means the mare from which an embryo is harvested for the purpose of performing an embryo transfer.

(3) "Fund" means the Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund established by KRS 230.445.

~~(4)~~ **[A "horse of racing age" is defined by 810 KAR 4:010.]**

~~[(4)] ["Historical horse race handle" means monies wagered at a licensed Kentucky association on historical horse races as defined in 810 KAR 2:001.]~~

~~[(5)] ["Inter-state wagering" means monies wagered at a Kentucky racing association on Quarter Horse, Paint Horse, Appaloosa, or Arabian races conducted outside of Kentucky.]~~

~~[(6)] ["Intra-state wagering" means monies wagered at a Kentucky racing association on Quarter Horse, Paint Horse, Appaloosa, or Arabian races conducted at another Kentucky association.]~~

~~[(5)]~~ ~~[(7)]~~ "Kentucky bred" means **that** a horse that meets the requirements of this administrative regulation and is:

(a) A Quarter Horse registered with the American Quarter Horse Association~~;~~ or its successor;

(b) An Appaloosa registered with the Appaloosa Horse Club~~;~~ or its successor;

(c) An Arabian registered with the Arabian Horse Association Registry~~;~~ or its successor; or

(d) A Paint Horse registered with the American Paint Horse Association~~;~~ or its successor.

~~[(8)] ["Live racing handle" means the monies wagered by individuals present on association grounds on Quarter Horse, Paint Horse, Appaloosa, or Arabian races physically conducted on that association's grounds.]~~

~~(5)~~ ~~[(6)]~~ ~~[(9)]~~ "Mare" means a broodmare, donor mare, or recipient mare.

~~[(10)] ["Nonlive racing handle" means the monies wagered at an association located in Kentucky on Quarter Horse, Paint Horse, Appaloosa, or Arabian races not physically conducted on that association's grounds.]~~

~~(6)~~~~(7)~~~~[(11)]~~ "Recipient mare" means a mare of any breed who:

- (a) Is implanted with an embryo from a donor mare;
- (b) Carries the non-genetic foal to term; and
- (c) Is implanted with an electronic horse identification microchip that accurately identifies the horse and is compliant with international standards ISO 11784.

Section 2. Advisory Committee. The fund advisory committee shall consist of five (5) members, all of whom shall be Kentucky residents, to be appointed by the chairman of the commission by July 1 of each year. The committee shall consist of **one (1)**~~[the following]:~~

- (1) ~~[One (1)]~~ Member of the commission;
- (2) ~~[One (1)]~~ Officer or director of a licensed racing association in Kentucky conducting Quarter Horse, Paint Horse, Appaloosa, or Arabian racing;
- (3) ~~[One (1)]~~ Owner of a horse nominated to the fund;
- (4) ~~[One (1)]~~ Owner of a mare registered with the fund; and
- (5) ~~[One (1)]~~ Member of the Kentucky Quarter Horse Racing Association recommended by that organization's board of directors.

Section 3. Mare Eligibility.

(1) In order for a foal to be eligible to earn money from the fund, the broodmare or both the donor and recipient mares shall be registered with the fund on or before February 15 of the year of conception. Late registration may be accepted on or before June 15 of the year of conception as **established**~~[provided]~~ by subsection ~~(3)~~~~(4)~~ of this section.

~~(a)~~~~[Notwithstanding other provisions of this regulation to the contrary, all]~~ Registration fees for mares conceiving foals during the 2023 and 2024 breeding seasons shall be waived, and the registration deadlines for each year of conception shall be extended to December 31 of the year of conception, in order to promote field growth.

~~(b)~~ Weanling and all other applicable fees regarding the foals shall remain in effect for all foals, including foals conceived during 2023 and 2024.

(2) In order to be eligible to be registered with the fund, a mare, whether a broodmare, donor mare, or recipient mare, shall reside in Kentucky for a period of no less than 120 days~~[continuously]~~ from conception or embryo transfer implantation until foaling,~~[unless one (1) of the exceptions established in this subsection is met.]~~

~~[(a)] [Medical procedure.]~~

~~[1.] [A medical procedure is required to be performed to protect the health of the mare or the unborn foal that involves an extraordinary medical situation and the owner of the mare desires to have an expert located outside of Kentucky conduct the procedure;]~~

~~[2.] [The owner of the mare files with the commission a "Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund Application to Move Mare Outside of Kentucky", KHRC 7-060-3, within fourteen (14) days after the mare leaves Kentucky and provides information related to the procedure as requested by the commission;]~~

~~[3.] [The executive director of the commission approves the departure of the mare from Kentucky;]~~

~~[4.] [The mare remains under the care of a veterinarian during the entire period of time she is not residing in Kentucky, other than the time during which she is traveling to and from Kentucky;]~~

~~[5.] [The mare returns to Kentucky following the medical procedure for which her departure was authorized; and]~~

~~[6.] [The mare is in Kentucky for foaling, as established by documentation provided to the commission;]~~

~~[(b)] [Racing.]~~

~~[1.] [The owner of the mare desires to race the mare in a pari-mutuel race that is:]~~

~~[a.] [Held outside Kentucky; and]~~

~~[b.] [Sanctioned by the governing body of the jurisdiction in which the race is to be held;]~~

~~[2.] [The owner of the mare files with the commission a "Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund Application to Move Mare Outside of Kentucky", KHRC 7-060-3, at least fourteen (14) days before the mare leaves Kentucky and provides information relating to the race outside of Kentucky as requested by the commission;]~~

~~[3.] [The executive director of the commission approves the departure of the mare from Kentucky based on the criteria in this paragraph;]~~

~~[4.] [The mare returns to Kentucky within ten (10) days after the running of the approved race; and]~~

~~[5.] [The mare is in Kentucky for foaling as established by documentation provided to the commission; or]~~

~~[(c)] [Auction.]~~

~~[1.] [The owner of the mare desires to enter her for sale at a catalogued auction for her breed held outside of Kentucky;]~~

~~[2.] [The owner of the mare files with the commission a "Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund Application to Move Mare Outside of Kentucky", KHRC 7-060-3, at least fourteen (14) days before the mare leaves Kentucky and provides information relating to the auction as requested by the commission;]~~

~~[3.] [The executive director of the commission approves the departure of the mare from Kentucky based on the criteria in this paragraph;]~~

~~[4.] [The mare returns to Kentucky no later than thirty (30) days after the auction; and]~~

~~[5.] [The mare is in Kentucky for foaling, as established by documentation provided to the commission.]~~

~~[(3)] [The owner of a mare approved to leave the state under subsection (2) of this section shall provide the commission with written notification of the mare's return within forty-eight (48) hours of her return.]~~

~~(3)[(4)] A mare shall be registered with the fund by:~~

~~(a) Completing and filing with the commission a ~~[""]~~Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund Mare Registration Form~~[""]~~, KHRC 7-060-1 and;~~

~~(b) Providing the commission with a photocopy of:~~

~~**1.** The mare's official breed registration papers from the American Quarter Horse Association, American Paint Horse Association, Appaloosa Horse Club, the Arabian Horse Association Registry, or The Jockey Club or their respective successors;~~[""]~~ or~~

~~**2.** Documentation regarding a recipient mare's electronic horse identification microchip.~~[""]~~~~and]~~~~

~~[(c)] [Paying the registration fee as follows:]~~

~~[1.] [A twenty-five (25) dollar fee for registrations postmarked no later than February 15 of the year of conception; or]~~

~~[2.] [A \$200 late fee for registrations postmarked after February 15 and no later than June 15 of the year of conception.]~~

Section 4. Nomination.

(1) Except as **established[set forth]** in subsection ~~(4)~~~~(5)~~ of this section, in order for a horse to be eligible to earn money from the fund, it shall be "~~[a]~~Kentucky bred" as defined **by Section 1 of[in]** this administrative regulation and shall be nominated to the fund~~[on or before December 31 of its yearling year]~~ by:

(a) Completing and filing with the commission a ~~["]~~Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund Nomination Form~~[,"]~~ KHRC 7-060-2 ~~and~~;

(b) Providing the commission with a photocopy of the horse's official breed registration papers from the American Quarter Horse Association, American Paint Horse Association, Appaloosa Horse Club, or the Arabian Horse Association Registry, or their respective successors~~[-and]~~

~~[(c)]~~ ~~[Paying the nomination fee as follows:]~~

~~[1.]~~ ~~[A twenty-five (25) dollar fee for nominations postmarked no later than December 31 of the weanling year; or]~~

~~[2.]~~ ~~[A \$100 fee for nominations postmarked after the weanling year but no later than December 31 of the yearling year.]~~

~~[(2)]~~ ~~[Except as provided in subsection (5) of this section, nominations postmarked after December 31 of the yearling year shall not be accepted.]~~

~~(2)~~~~(3)~~ In order for a foal that is the product of an embryo transfer to be eligible to earn monies from the fund, the donor mare and the recipient mare shall be registered as **established[provided]** in Section 3 of this administrative regulation and shall meet the other requirements of this administrative regulation.

~~(3)~~~~(4)~~ If a registered donor mare produces more than one (1) foal in one (1) breeding season, two (2) genetic foals may be nominated to the fund as determined by the owner of the donor mare.

~~(4)~~~~(5)~~ A horse born before ~~2024~~~~[2017]~~ shall be eligible for nomination to the fund and ~~participate~~~~[participating]~~ in races offering monies from the fund. A horse shall be nominated by:

(a) Completing and filing with the commission a ~~["]~~Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund Nomination Form~~[,"]~~, KHRC 7-060-2; ~~and~~~~[-]~~

(b) ~~[Paying a nomination fee of \$300; and]~~

~~[(c)]~~ Including the following with the nomination form:

1. A photocopy of the official breed registration papers from the American Quarter Horse Association, American Paint Horse Association, Appaloosa Horse Club, or the Arabian Horse Association Registry, or their respective successors;

2. Registration papers showing ownership and demonstrating that the horse was foaled in Kentucky;

3. An official breed registry shipped semen report or a stallion breeders certificate demonstrating that the horse was conceived in Kentucky; and

4. A signed affidavit from the owner of the mare at the time of her pregnancy stating that the mare resided in Kentucky for a period of no less than 120 days from **conception[conceptions]** or embryo transfer implantation until foaling~~[during]~~~~[the entirety of her pregnancy]~~.

~~(5)~~~~(6)~~ Nothing in this section shall prevent a registered mare from being eligible to race for monies from the fund.

Section 5. Monies ~~Allocated~~~~[Earned]~~.

(1) Money deposited to the Fund shall be allocated on an equitable basis as determined by the commission, pursuant to KRS 230.445.

(2) In allocating, the commission shall[will] consider at least the following factors:

(a) The amount contributed to the fund by each association;

(b) The amount of handle collected by each association;

(c) The breed or breeds approved for racing in Kentucky; and

(d) The population of horses by breed registered in Kentucky ~~that~~**[who]** are registered with the fund.

~~[(1)] [One (1) live association.]~~

~~[(a)] [Live racing handle. An association conducting live racing shall earn monies to be deposited in the fund account for that association in the amount of one (1) percent of the total live racing handle pursuant to KRS 138.510(1).]~~

~~[(b)] [Nonlive racing handle. An association conducting live racing shall earn monies to be deposited in the fund account for that association in the amount of two (2) percent of the total non-live racing handle pursuant to KRS 138.510(2).]~~

~~[(2)] [More than one (1) live association. Unless there is a commission approved agreement among the associations conducting live racing to the contrary, if two (2) or more associations are conducting live Quarter Horse, Paint Horse, Appaloosa, or Arabian races on the same day, the monies earned from the handle for that day shall be divided as established in this subsection.]~~

~~[(a)] [Live racing handle. An association conducting Quarter Horse, Paint Horse, Appaloosa, or Arabian races shall earn monies to be deposited in the fund account for that association in the amount of one (1) percent of that association's live racing handle pursuant to KRS 138.510(1).]~~

~~[(b)] [The intra-state wagering monies shall be allocated to that association on which the wagering is placed for purposes of calculating that association's fund earnings.]~~

~~[(c)] [Inter-state wagering monies originating from an association conducting live Quarter Horse, Paint Horse, Appaloosa, or Arabian races shall be allocated to that association for purposes of calculating that association's fund earnings.]~~

~~[(d)] [Inter-state wagering monies from all other Kentucky associations shall be divided evenly among the associations conducting live races.]~~

~~[(3)] [Historical horse race handle. An association offering wagering on historical horse races shall earn monies to be deposited in the fund account for that association as provided in KRS 138.510(1).]~~

Section 6. Distribution of Funds.

(1) Each association shall submit a request to the advisory committee, including the proposed races eligible to receive monies from the fund and the proposed purse structure for those races, at least forty-five (45) days prior to the opening day of the live racing meet.

(2) Unless there is a **commission-approved**~~[**commission-approved**]~~ proposal to the contrary, the proposed purse structure shall not exceed the total dollars generated by that breed to the association's fund account. **Commission approval shall be based on the standards established in Section 5(2) of this administrative regulation.**

(3) The advisory committee shall review the proposed eligible races and purse structure and make a recommendation whether **or not** to approve the proposed races and purse structure to the commission based upon the best interests of Kentucky racing.

(4) Two (2) or more associations conducting Quarter Horse, Paint Horse, Appaloosa, or Arabian racing may request permission from the advisory committee to combine their respective fund monies to supplement purses at one (1) of the associations. The advisory committee shall recommend to the commission whether **or not** to approve the request, **based on Section 5(2) of this administrative regulation.**

Section 7. Reconciliation.

(1) Each association shall file weekly with the commission a copy of the pari-mutuel tax form filed with the Department of Revenue, along with a copy of the check submitted for each report.

- (2) Each association shall report to the commission the actual purse distribution within fifteen (15) calendar days after the last day of a live race meeting.
- (3) The commission shall, on a monthly basis, reconcile the weekly reports submitted by the association with the Department of Revenue's reports and deposits.
- (4) If, at the close of a live race meet, an association has a balance of monies earned for that meet that has not been distributed in actual fund purse distribution, then the association may choose one (1) of the following options to distribute the remaining balance, **contingent on[subject to]** the recommendation of the advisory committee and the approval of the commission:
 - (a) Use fund monies previously earned to supplement purses at future live racing meets held by that association; or
 - (b) Use fund monies previously earned to supplement purses already distributed at the last live racing meet held by the association to the recipients of the original purse allocations.
- (5) If, at the close of a live race meet, an association offering wagering on historical horse races has a balance of fund monies earned from historical horse race wagers that has not been distributed in actual fund purse distribution, then the association may choose one (1) of the following options to distribute a portion of the balance, **contingent on[subject to]** the recommendation of the advisory committee and the approval of the commission:
 - (a) Use the historical horse race fund monies previously earned to supplement purses at future live racing meets held by that association;
 - (b) Use historical horse race fund monies previously earned to supplement purses already distributed at the last live racing meet held by the association to the recipients of the original purse allocations; or
 - (c) Use historical horse race fund monies previously earned to supplement purses at another licensed Kentucky racetrack.
- (6) Reasonable and customary administrative charges for time spent reconciling the account may be charged to each association by the commission based on the percentage of funds generated by each association for the previous calendar year.
- (7) Each association shall sign an agreement stating that it accepts and agrees with the reconciliation prior to reimbursement of any funds.

Section 8. Incorporation by Reference.

- (1) The following material is incorporated by reference:
 - (a) "Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund Mare Registration Form", KHRC 7-060-1, 04/2023[11/2018];
 - (b) "Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund Nomination Form", KHRC 7-060-2, 04/2023[11/2018]; and
 - ~~[(c)] ["Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund Application to Move Mare Outside of Kentucky Form", KHRC 7-060-3, 11/2018.]~~
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, Monday through Friday, 8:00 a.m. to 4:30 p.m. This material is also available on the commission's Web site at <http://khrc.ky.gov>.

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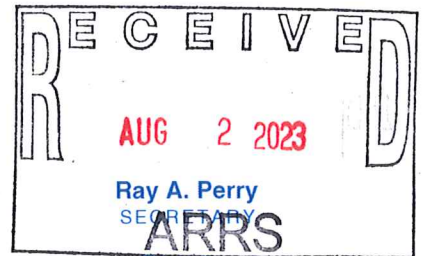
Andy Beshear
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Jacqueline Coleman
LIEUTENANT GOVERNOR

PUBLIC PROTECTION CABINET

**Kentucky Department of Housing,
Buildings and Construction**

500 Mero Street, First Floor
Frankfort, KY 40601
Phone: (502) 573-0365



Rick Hand
COMMISSIONER

Max Fuller
DEPUTY COMMISSIONER

August 2, 2023

Stephen West
702 Capital Ave.
Annex Room 228
Frankfort, KY 40601

Derek Lewis
702 Capital Ave.
Annex Room 416
Frankfort, KY 40601

Dear Mr. West and Mr. Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by **815 KAR 4:030**, 815 KAR 7:130, 815 KAR 10:060, 815 KAR 25:020, 815 KAR 25:060, and 815 KAR 35:060, the Department of Housing, Buildings and Construction proposes the attached suggested amendment to 815 KAR 4:030, 815 KAR 7:130, 815 KAR 10:060, 815 KAR 25:020, 815 KAR 25:060, and 815 KAR 35:060.

Sincerely,

Molly B. Cassady

Molly B. Cassady
General Counsel
Department of Housing, Buildings
and Construction
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SUGGESTED AMENDMENT
Public Protection Cabinet
Department of Housing, Buildings and Construction
Division of Building Code Enforcement

815 KAR 4:030. Elevator licensing.

Page 1

STATUTORY AUTHORITY

Line 8

After "198B.4009", insert "(3)".
Delete "194B.4011, 198B.4013,".

Page 1

NECESSITY, FUNCTION, AND CONFORMITY

Lines 12-15

After "mechanics to be licensed", delete the following:
KRS 198B.4011 provides the eligibility requirements for issuance of an elevator contractor's license. KRS 198B.4013 provides the eligibility requirements for issuance of an elevator mechanic's license and an accessibility and residential elevator mechanic's license.

Line 16

After "requirements for", insert "license renewal".
After "inactive license", insert comma.
Delete "and".

Line 17

After "reactivation procedures", insert the following:
, permissible content of continuing education programs, and qualifications of continuing education providers

Delete the following:
KRS 198B.4025 establishes the continuing education requirements for elevator license renewals. KRS 198B.4027 provides the minimum insurance requirements for elevator contractor licensees.

Page 2

Section 1(1)(a)

Line 2

After "supervision", delete comma.

Line 3

After "responsible for", delete comma.

Page 9

Section 8(3)

Line 7

After "shall be", insert colon.



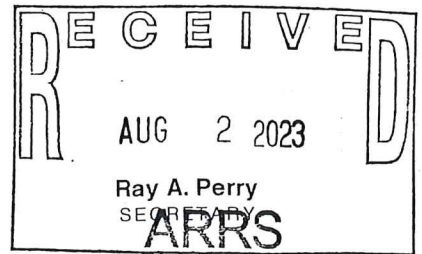
Andy Beshear
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PUBLIC PROTECTION CABINET

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Ray A. Perry
SECRETARY

ARRS

Rick Hand
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August 2, 2023

Stephen West
702 Capital Ave.
Annex Room 228
Frankfort, KY 40601

Derek Lewis
702 Capital Ave.
Annex Room 416
Frankfort, KY 40601

Dear Mr. West and Mr. Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 815 KAR 4:030, 815 KAR 7:130, 815 KAR 10:060, 815 KAR 25:020, 815 KAR 25:060, and 815 KAR 35:060, the Department of Housing, Buildings and Construction proposes the attached suggested amendment to 815 KAR 4:030, 815 KAR 7:130, 815 KAR 10:060, 815 KAR 25:020, 815 KAR 25:060, and 815 KAR 35:060.

Sincerely,

Molly B. Cassady

Molly B. Cassady
General Counsel
Department of Housing, Buildings
and Construction
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SUGGESTED AMENDMENT
Public Protection Cabinet
Department of Housing, Buildings and Construction
Division of Building Code Enforcement

815 KAR 7:130. Kentucky Industrialized Building Systems.

Page 1

RELATES TO

Line 5

After "198B.030", insert "198B.060".

Delete "; KRS".

After "198B.062", insert comma.

Delete "; KRS".

Page 1

STATUTORY AUTHORITY

Line 6

After "198B.040(10)", insert comma.

Delete "; KRS".

After "198B.050(5)", insert comma.

Delete "; KRS".

Page 1

NECESSITY, FUNCTION, AND CONFORMITY

Lines 14-16

After "performed under KRS Chapter 198B.", delete the following:

KRS 198B.062 requires all buildings to be constructed according to the construction documents approved by the building official having jurisdiction of the building in accordance with KRS 198B.060.

Page 2

Section 1(2)

Line 1

After "Construction", insert period.

Page 2

Section 1(6)

Line 8

After "(6)", insert the following:

"Quality Assurance Manual" means a document that describes a business entity's construction practices, quality assurance measures, and dispute resolution procedures.

(7)

Lines 10-13

After "State Building Code", delete "the following:

"Third-Party Inspector" means a building inspector certified by the department in accordance with 815 KAR 7:070 that is not employed by a local government or by the department and is authorized to conduct inspections on industrialized building systems at an out-of-state manufacturing facility

Page 2

Section 1(7)

Line 14

Before "(7)", insert "(8)".

Delete "(7)".

Line 17

After "manufacturing facility.", delete "the following:

(8) "Quality Assurance Manual" means a document that describes a business entities' construction practices, quality assurance measures, and dispute resolution procedures.

Page 4

Section 5(1)(a)

Line 10

After "KIBS-4", insert semicolon.

Delete comma.

Page 4

Section 5(3)(a)

Line 15

After "Affix", insert an".

Delete "a".

Page 4

Section 5(3)(b)

Line 17

After "Not affix", insert an".

Delete "a".

Page 4

Section 5(3)(c)

Line 18

After "M-Seals", insert that.

Page 5

Section 7(1)(d)

Line 10

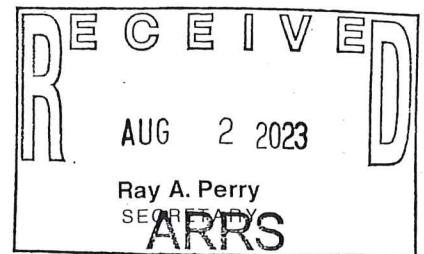
After "April 2023;", insert and.



Andy Beshear
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Rick Rand
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August 2, 2023

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Annex Room 416
Frankfort, KY 40601

Dear Mr. West and Mr. Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 815 KAR 4:030, 815 KAR 7:130, 815 KAR 10:060, 815 KAR 25:020, 815 KAR 25:060, and 815 KAR 35:060, the Department of Housing, Buildings and Construction proposes the attached suggested amendment to 815 KAR 4:030, 815 KAR 7:130, 815 KAR 10:060, 815 KAR 25:020, 815 KAR 25:060, and 815 KAR 35:060.

Sincerely,

Molly B. Cassady

Molly B. Cassady
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Staff-suggested Amendment

**Final Version 8/1/2023
PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction
Division of Fire Prevention**

815 KAR 10:060. Standards of safety.

Page 11

Section 7(2)(e)2.d.

Line 5

After "d.", insert "Provide proof of".

Page 11

Section 7(2)(e)2.d.(i)

Line 6

After "(i)", delete "Provide proof of".
Capitalize "six".

Page 11

Section 7(2)(e)2.d.(ii)

Line 8

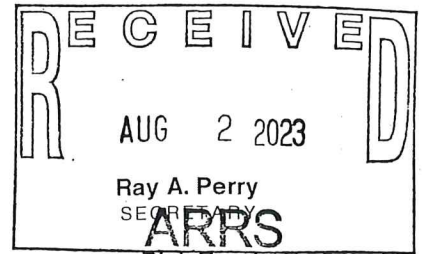
After "(ii)", delete "Provide proof of".
Capitalize "current".



Andy Beshear
GOVERNOR

Jacqueline Coleman
LIEUTENANT GOVERNOR

PUBLIC PROTECTION CABINET
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Ray A. Perry
SECRETARY

ARRS
Rick Rand
COMMISSIONER

Max Fuller
DEPUTY COMMISSIONER

August 2, 2023

Stephen West
702 Capital Ave.
Annex Room 228
Frankfort, KY 40601

Derek Lewis
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Frankfort, KY 40601

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Subcommittee Substitute

**PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction
Division of Building Code Enforcement
(As Amended at ARRS)**

815 KAR 25:020. Recreational vehicles.

RELATES TO: KRS 227.550 - 227.665

STATUTORY AUTHORITY: KRS 227.570, 227.590, 227.620

NECESSITY, FUNCTION, AND CONFORMITY: KRS 227.590(1) requires the Department of Housing, Buildings and Construction to promulgate administrative regulations reasonably ~~required~~necessary to effectuate the provisions of KRS 227.550 to 227.660~~and carry out the department's responsibility as a state administrative agency~~. KRS 227.570(1)(a) requires the department to promulgate administrative regulations establishing a process for licensing retailers and issuing certificates of acceptability to qualifying manufacturers. KRS 227.620(2) requires the department to promulgate administrative regulations establishing application and fee requirements for a retailer's license. KRS 227.620(4)(a) requires the department to establish fees for a retailer's license, a manufacturer's ~~[""]~~certificate of acceptability,~~[""]~~ and ~~[""]~~Class B,~~[""]~~ ~~[""]~~Class B1,~~[""]~~ and ~~[""]~~Class B2~~[""]~~ seals, in accordance with KRS 227.620(4)(a), 1. to 4. This administrative regulation establishes the requirements for retailers to obtain a license to sell recreational vehicles and the standards for issuing a certificate of acceptability to manufacturers of recreational vehicles.

Section 1. Standard for Recreational Vehicles. ~~[(1)]~~ All recreational vehicles manufactured for sale within the Commonwealth of Kentucky shall comply with the applicable standards set forth in the NFPA 1192 Standard on Recreational Vehicles.

Section 2. Licensed Retailers. (1) Application. An applicant for a recreational vehicle retailer license shall submit to the department:

- (a) A completed Form HBC RV-2 Recreational Vehicle Retailer Application;
- (b) A fee in the amount of \$200 for one (1) full year, or a reduced amount prorated on a monthly basis for a period of less than a full year, payable to the Kentucky State Treasurer; and
- (c) Proof of liability insurance naming the department as the certificate holder in the minimum amount of at least:
 1. \$200,000 bodily injury or death for each person;
 2. \$300,000 bodily injury or death for each accident; and
 3. \$100,000 property damage.

(2) Application review period. All licenses shall be granted or denied in accordance with KRS 227.620(3).

(3) Certified Retailer. A licensed retailer may complete inspections for the public if the retailer qualifies as a certified retailer.

- (a) An applicant to become a certified retailer shall complete and submit to the department

Form HBC MH/RV-2 Request for Approval to Inspect.

(b) A certified retailer shall not:

1. Perform negligent inspections or repairs on a unit; or
2. Apply the wrong seal to a unit.

(4) Out-of-state retailers. To inspect and apply Kentucky seals for used recreational vehicles that are sold by out-of-state retailers for delivery into Kentucky, an out-of-state retailer shall be a Kentucky certified retailer.

(5) Periodic reports.

(a) A retailer shall maintain a record of all new or used units sold to include the **[following]**:

1. Serial numbers;
2. B seal numbers;
3. Date manufactured;
4. Make of recreational vehicle; and
5. **[The]** Name and address of the purchaser.

(b) The retailer shall make the report available to any department employee upon request.

Section 3. Certificate of Acceptability.

(1) Certificate of acceptability requirement. A manufacturer shall not manufacture, import, or sell any recreational vehicle in the Commonwealth unless the manufacturer has received a certificate of acceptability issued by the department.

(2) Requirements for issuance. An applicant for a certificate of acceptability shall submit to the department:

(a) A completed Form HBC MH/RV-1 Application of Certificate of Acceptability;

(b) Its in-plant quality control systems;

(c) An affidavit certifying compliance with the applicable standards, such as NFPA 1192 as adopted through REVA;

(d) A \$500 certification of acceptability fee for a full year, or a reduced amount prorated on a monthly basis for a period of less than a full year, by check or money order, made payable to the Kentucky State Treasurer; and

(e) Proof of general liability insurance to include lot and completed operations insurance in the minimum amount of at least:

1. \$300,000 bodily injury or death for each person;
2. \$400,000 bodily injury or death for each accident; and
3. \$100,000 property damage.

(3) In-plant quality control. To obtain in-plant quality control approval, a manufacturer shall submit to an inspection by the department for field certification of satisfactory quality control. Applications for approval of in-plant quality control systems shall contain **[the following]**:

(a) A certified copy of the plans and specifications of a model or model-group for electrical, heating, and plumbing systems. All plans shall be submitted on sheets, the minimum possible size of which is eight and one-half (8 1/2) inches by eleven (11) inches, and the maximum possible size of which is twenty-four (24) inches by thirty (30) inches.

(b) The **manufacturer's certification** **[manufacturer shall certify]** that the systems comply with:

1. NFPA 1192 Standards on Recreational Vehicles; or

2. ANSI A119.5 Park Trailers.

(c) A copy of the procedure that directs the manufacturer to construct recreational vehicles in accordance with the plans, specifying:

1. Scope and purpose;[-]
2. Receiving and inspection procedure for basic materials;[-]
3. Material storage and stock rotation procedure;[-]
4. Types and frequency of product inspection;[-]
5. Sample of inspection control form used;[-]
6. Responsibility for quality control programs, indicating personnel, their assignments, experience, and qualifications;[-]
7. Test equipment;[-]
8. Control of drawings and material specifications; **and**[-]
9. Test procedures.

(4) Manufacturer and retailer. If the manufacturer is also a retailer, the manufacturer shall comply with retailer licensing provisions pursuant to Section 1 of this administrative regulation.

(5) Trade show. A certificate of acceptability shall not be required for manufacturers attending a recreational vehicle trade show within the Commonwealth of Kentucky if they do not sell recreational vehicles to Kentucky licensed retailers.

(6) Incorrect or Incomplete applications.

(a) If the department receives an incorrect or incomplete application, the department shall issue a correction notice specifying the defect to the applicant within thirty (30) days of receiving the application. If no corrected application is filed within thirty (30) days, the department shall deem the application abandoned and the fee forfeited.

(b) A corrected application submitted after the thirty (30) day period shall be processed as a new application.

(7) Proprietary information.

(a) The manufacturer shall label as proprietary any information relating to building systems or in-plant quality control systems that the manufacturer considers proprietary.

(b) The department, the inspection and evaluation personnel, and local enforcement agencies shall maintain and treat the designated information as proprietary unless the department determines that disclosure is necessary to carry out the purposes of KRS 227.550 through KRS 227.665 and 815 KAR Chapter 25.

(8) Alternative standards. A manufacturer may submit **an** alternative standard for recreational vehicles established by another state, federal government, or other independent third party for review by the department. If the department finds that the alternative standard for recreational vehicles is applicable to the standard adopted by this administrative regulation, then a certificate of accessibility shall be issued for those recreational vehicles.

Section 4. License and Certificate Renewals.

(1) Expiration of a license and certificate. A license and a certificate of acceptability shall expire on:

(a) For individuals, the last day of the licensee's or certificate holder's birth month in the following year; or

(b) For business entities:

1. **The last day of** the licensee's or certificate holder's month of incorporation in the following year; or

2. The last day of the birth month of the principal officer of the firm.

(2) Renewal procedure. A retailer and a manufacturer holding a certificate of acceptability wishing to renew a license or certificate shall submit to the department:

(a) A completed Form HBC MH/RV-3 License and Certification Renewal Application;

(b) Proof of continuing general liability insurance coverage; and

(c) A check or money order for the annual license fee payable to the Kentucky State Treasurer, in the amount of:

1. \$200 for a licensed retailer; or

2. \$500 for a certificate of acceptability.

Section 5. Recreational Vehicles in Manufacturers' or Retailers' Possession.

(1) Used recreational vehicle inspection.

(a) Prior to the offering for sale of any used recreational vehicle, or a recreational vehicle taken in trade, the retailer shall first certify that the electric, heating, plumbing, and fire and life safety systems are in a safe working condition.

(b) The retailer shall make any necessary repairs prior to offering the recreational vehicle for sale.

(c) The retailer shall affix a B seal to the recreational vehicle once any repairs have been made.

(d) If a seal is on the recreational vehicle prior to the inspection, the existing seal shall be removed and a new B seal placed on the recreational vehicle.

(2) Salvage units.

(a) A B2 seal shall be required if the retailer submits to the department an affidavit that the unit is a salvage unit.

(b) A salvage unit shall not be sold until it has been authorized, in writing, by the department to be labeled "salvage only" and the label has been affixed to the unit by the retailer.

(3) Sales between retailers.

(a) **A seal [No seal]** shall **not** be required if **a [one (1)]** licensed retailer sells any unit to another licensed retailer.

(b) The retailer selling the unit shall submit prior notice of the sale to the department.

(4) All used recreational vehicles purchased outside the Commonwealth not bearing a Kentucky B seal shall be inspected as a used recreational vehicle by a certified retailer or the department.

(5)

(a) A recreational vehicle that is not in compliance with the requirements of this administrative regulation shall be:

1. Corrected prior to the retailer certifying the recreational vehicle or offering the recreational vehicle for sale; or

2. Classified as a salvage unit and issued a salvage label in accordance with this administrative regulation.

(b) All recreational vehicles requiring repairs or corrections prior to recreational vehicle certification shall be reported to the department specifying the repairs required to correct the deficiencies.

(6) A retailer shall submit a completed Form HBC RV-7 Recreational Vehicle Unit Certification

Format to the department no later than the first week of each month.

(7) Fees for inspections. The fees for the inspection of recreational vehicles shall be:

(a) If performed by a certified retailer:

1. Twenty (20) dollars per hour;

2. Twenty-two (22) cents per mile, measured from the place of the certified retailer's place of business; and

3. Twenty-five (25) dollars for the seal.

(b) If performed by the department:

1. Thirty-five (35) dollars; and

2. Twenty-five (25) dollars for the seal.

Section 6. Serial Numbers, Model Numbers, and Date Manufactured. A clearly designated serial number, model number, and date manufactured shall be stamped into the tongue or front cross member of the frame at the lower left hand side (while facing the unit) and if there is no tongue or cross member, then a data plate with this information shall be affixed on the outside in a conspicuous place.

Section 7. Change of Information.

(1) Manufacturers or retailers shall notify the department in writing within thirty (30) days of a change in ***the [any of the following]:***

(a) ***[The]*** Company or corporate name;

(b) ***[The]*** Address of the company;

(c) Ownership interest of twenty-five (25) percent or more of the company within a twelve (12) month period; or

(d) ***[The]*** Principal officers of the company.

(2) Manufacturers shall notify the department in writing within thirty (30) days of a change in ***the [any of the following]:***

(a) ***[The]*** Location of any manufacturing facility; or

(b) ***[The]*** Location of a new manufacturing facility.

(3) If the business location of a retailer is changed, the department shall reissue the license to reflect the change of location without charge if it is located within the same county. A change of location to another county, which is not adjacent to the initial county, shall require a new license.

Section 8. Temporary Licenses.

(1) An unlicensed retailer may offer for sale recreational vehicles within the Commonwealth of Kentucky if the retailer purchases a temporary license from the department.

(2) Temporary license requirements. An out-of-state applicant for a temporary license shall:

(a) Be a duly licensed retailer in a state other than Kentucky;

(b) Furnish to the department proof of liability insurance in the minimum amount of at least:

1. \$200,000 bodily injury or death for each person;

2. \$300,000 bodily injury or death for each accident; and

3. \$100,000 property damage;

(c) Provide documentation to the department of a physical inspection by an authorized representative of the department that confirms that a B seal is attached to each new unit the

retailer proposes to display, show, or offer for sale;

(d) Submit to the department Form HBC RV-6 Temporary RV Retailer's License;

(e) Provide the department with the name, location, and time of the proposed event;

(f) Pay by check or money order a temporary license fee of \$100 made payable to the Kentucky State Treasurer;

(g) Certify to the department that the event shall comply with the Kentucky Fire code, 815 KAR 10:060;

(h) Possess a valid Kentucky sales tax certificate; and

(i) ***Be licensed in a state that has [The state in which the applicant is licensed shall have]*** reciprocal provisions for temporary licensing of Kentucky retailers.

(3) An application for a temporary license shall be submitted to the department at least thirty (30) days prior to an event at which the retailer intends to offer for sale or sell recreational vehicles.

(4) A retailer shall not be issued more than two (2) temporary licenses per calendar year.

(5) Used recreational vehicles. A temporary license retailer shall not display, show, or offer for sale within the Commonwealth any used recreational vehicles except for used recreational vehicles with a Kentucky seal.

(6) Duration of temporary license. A temporary license shall not exceed fifteen (15) days.

(7) Temporary licenses shall be prominently displayed at the location where the applicant is transacting business. The license shall be valid only for the location stated on the application.

Section 9. Seals.

(1) Application for seals. ***For B seals***, a licensed retailer shall submit to the department ***[the following for B seals]***:

(a) A completed Form HBC MH-12, Application for Purchasing B Seals; and

(b) A fee of twenty-five (25) dollars for each B Seal requested, payable by check or money order to the Kentucky State Treasurer.

(2) Alteration or conversion of a unit bearing a seal.

(a) Any alteration of the plumbing, heat-producing equipment, electrical equipment installations or fire and life safety in a recreational vehicle which bears a seal, shall void the approval and the seal shall be returned to the department.

(b) The following shall not constitute an alteration or conversion:

1. Repairs with approved component parts by the manufacturer;

2. Conversion of listed fuel-burning appliances in accordance with the terms of the manufacturer's listing;

3. Adjustment and maintenance of equipment;

4. Replacement of equipment in kind; or

5. Any change that shall not affect those areas regulated by the NFPA 1192.

(c) Any retailer proposing an alteration to a recreational vehicle bearing a seal shall apply to the department. The application shall include:

1. ***The*** make and model of the recreational vehicle;

2. ***The*** serial number;

3. ***The*** state seal number;

4. A complete description of the work to be performed together with plans and specifications if required; and

5. **The** location of the recreational vehicle where work is to be performed.

(d) Upon completion of the alteration, the applicant shall request the department to make an inspection.

(e) **Based on inspection of the alteration**, the applicant shall purchase a replacement seal/~~based on inspection of the alteration~~ for a fee of twenty-five (25) dollars.

(3) Placement of B seals.

(a) Each B seal shall be assigned and affixed to a specific recreational vehicle.

(b) Assigned B seals shall not be transferable except upon prior approval of the department.

(c) A B seal that is not affixed as assigned shall be void, and the B seal shall be returned to or confiscated by the department.

(d) A B seal shall remain the property of the department and shall be seized by the department if there is of a violation of KRS 227.550 to 227.665 or this administrative regulation.

(e) A B seal shall be securely affixed by the door on the handle side at approximately handle height.

(f) **Other seals, stamps, covers, or other markings** [~~No other seal, stamp, cover, or other marking~~] shall **not** be placed within two (2) inches of the B seal.

(4) Lost or damaged seals.

(a) If a B seal becomes lost or damaged, the owner shall immediately notify the department in writing, specifying:

1. The manufacturer;
2. The recreational vehicle serial number; and
3. When possible, the B seal number.

(b) All damaged B seals shall be returned to the department.

(c) Damaged and lost B seals shall be replaced by the department after an inspection and payment of the appropriate fee under Section 3(10) **of this administrative regulation**.

(5) Denial and repossession of seals.

(a) If the department discovers that a retailer fails to repair a used recreational vehicle under the standards and procedures set forth in KRS 227.550 to 227.665 and this administrative regulation, or fails to comply with any provision for placement of B seals, the department shall provide notice to the retailer of the violations.

(b) The retailer shall fix the violations, and the retailer shall submit proof to the department that the violations were fixed.

(c) If the retailer continues to offer for sale recreational vehicles in violation of KRS 227.550 to 227.665 or this administrative regulation, applications for new seals shall be denied and the seals previously issued and unused shall be confiscated. The department shall reimburse the retailer for the price of the confiscated unused seals.

(d) After the retailer submits proof that the violations have been fixed, the retailer shall resubmit an application for B seals.

(6) Red Tagging.

(a) If any recreational vehicle bearing a B seal is found to be in violation of KRS 227.550 to 227.665 or this administrative regulation, the department shall attach to the vehicle a red tag and furnish the retailer a copy of same.

(b) The department, a retailer, or a manufacturer shall not remove the red tag until the necessary corrections have been made and approved by an inspection conducted by the

department or a certified retailer.

Section 10. Incorporation by reference.

(1) The following material is incorporated by reference:

- (a) "Form HBC MH/RV-1, Application of Certificate of Acceptability", April 2023~~[May 2020]~~;
- (b) "Form HBC MH/RV-2, Request for Approval to Inspect", May 2020;
- (c) "Form HBC MH/RV-3, License and Certification Renewal Application", April 2023~~[May 2020]~~;
- (d) "Form RV-2, Recreational Vehicle Retailer Application", April 2023~~[May 2020]~~;
- (e) "Form HBC RV-6, Temporary RV Retailer's License", May 2020;
- (f) "Form HBC MH-12, Application for Purchasing Seals", May 2020;
- (g) "Form HBC RV-7, Recreational Vehicle Unit Certification Format", November 2018;
- (h) "NFPA 1192, Standard on Recreational Vehicles", 2018; and
- (i) "ANSI A119.5, Park Trailers", 2015.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Housing, Buildings and Construction, Division of Building Code Enforcement, Manufactured Housing Branch~~[Section]~~, 500 Mero Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. and is available online at <http://dhbc.ky.gov>.

CONTACT PERSON: Molly B. Cassady, General Counsel, Department of Housing, Buildings and Construction, Mero St., Kentucky 40601, phone 502-782-5448, fax 502-573-1057; email molly.cassady@ky.gov.

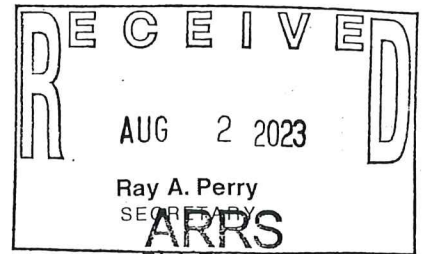


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August 2, 2023

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Sincerely,

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Subcommittee Substitute

PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction
Division of Building Code Enforcement
(As Amended at ARRS)

815 KAR 25:060. Licensing and certifications with manufactured homes and mobile homes.

RELATES TO: KRS 227.550, ~~[227.560,]~~ 227.570, 227.580, 227.590, 227.600, 227.610, 227.620, 227.630, 227.990

STATUTORY AUTHORITY: KRS 227.570(1)(a), (2), (3), ~~[(4)],~~ 227.580, 227.590, **227.620(4)(a)**

NECESSITY, FUNCTION, AND CONFORMITY: KRS 227.590(1) requires the department of Housing, Buildings and Construction to promulgate administrative regulations reasonably required to effectuate the provisions of KRS 227.550 to 227.660~~[governing the standards for the manufacture and sale of manufactured homes and mobile homes]~~. KRS 227.580 makes it unlawful for a manufacturer to manufacture, import, or sell manufactured homes in Kentucky without a certificate of acceptability. KRS ~~227.570(3)~~~~[227.570(4)]~~ requires the department to promulgate administrative regulations to establish standards for the certified installer seal program. KRS 227.570(1)(a) requires the department to promulgate administrative regulations establishing a process for licensing retailers and issuing certificates of acceptability. KRS 227.620(4)(a) requires the department to establish fees for a retailer's license, manufacturer's ~~["]~~certificate of acceptability, ~~["]~~and ~~["]~~Class B, ~~["]~~ ~~["]~~Class B1, ~~["]~~ and ~~["]~~Class B2~~["]~~ seals, in accordance with KRS 227.620(4)(a) 1. to 4. This administrative regulation establishes the standards for licensing persons and companies engaged in the sale of manufactured homes and mobile homes, establishes~~[,]~~ the standards for certificate~~[certification]~~ of acceptability for manufacturers of manufactured homes, and establishes the requirements for certified installer seals and certification of manufactured home installers.

Section 1. Licensed Retailer.

(1) License application.

(a) Except as provided in subsection (2) of this section, a person shall not engage in the business of selling manufactured homes or mobile homes within this state without holding a valid license issued by the department for each location.

(b) Before engaging in business, an applicant shall submit to the department:

1. The completed Form HBC MH-2;
2. A copy of a valid Kentucky sales tax certificate;
3. A check or money order for the annual license fee, in the amount of \$250 for a full year, or a reduced amount prorated on a monthly basis for a period of less than a full year, payable to the Kentucky State Treasurer; and
4. Proof of insurance for general liability coverage that complies with KRS 227.610 in the amount of at least:
 - a. \$200,000 bodily injury or death for each person;

b. \$300,000 bodily injury or death for each accident; ~~and~~

c. \$100,000 for damage to property.

(c) An applicant whose place of business is in another state and who possesses a valid retailer license in another state shall:

1. Comply with this section;

2. Not be required to maintain an established place of business within Kentucky, if the applicant is not offering a home for sale within Kentucky; and

3. Provide a Kentucky B seal for a used manufactured home or mobile home unit sold for delivery into Kentucky.

(2) Exemptions from Licensure as ~~a~~ Retailer.

(a) A manufactured home shall be exempt from seal requirements and a retailer ~~shall be~~ ~~is~~ exempt from licensing if the unit:

1. Is brought into Kentucky for exhibition purposes only;

2. Is not sold in Kentucky; and

3. Inspection does not reveal a condition hazardous to health or safety.

(b) Real estate developer and retailer venture. A retail license shall not be required of a developer who purchases new HUD homes from a licensed Kentucky retailer, places the homes on a parcel of land, and offers the homes for sale to ultimate consumers, if:

1. The developer receives prior written approval from the department;

2. The home was installed by a ~~certified~~ ~~certificated~~ ~~certified~~ installer;

3. The developer owns the homes and the lots upon which the homes are installed;

4. The manufacturer's warranty period begins upon possession and shall be transferred from the developer to the consumer-occupant;

5. The manufacturer's warranty support shall be performed in accordance with generally ~~[-]~~ accepted standards for retail transactions;

6. The developer's documentation contains the name and location of the:

a. Developer;

b. Development; and

c. Retailer; and

7. The retailer and installer ~~provide~~ ~~provides~~ the required services as warranted and as required by laws governing retailer and installer license or certification.

(3) Retailer's satellite location.

(a) An additional license shall not be required ~~for~~ ~~of~~ a fully ~~[-]~~ licensed retailer for the display or sale of a manufactured home located on an individual lot, in a subdivision, land-lease community, or manufactured home or mobile home park.

(b) A suitable sign identifying the name and business location of the retailer licensee shall be posted at the location.

(4) Qualified personnel required.

(a) Education requirements. A new retailer license or a renewal of an existing retailer license shall not be issued unless the retailer employs at least one (1) person in a management position who has successfully completed the educational training and departmental testing program administered as part of the Certified Installer Program under Section ~~(3)~~ ~~(4)~~ of this administrative regulation. The proof of experience in Section ~~3(1)(a)7.~~ ~~4(1)(a)4.~~ shall not be required.

(b) Certification. The department shall classify a person qualifying under subsection (1) of this

section as a certified manager.

(c) Exception. A certified manager shall not be required at each licensed location for a retailer with more than one (1) in-state location if:

1. The retailer has only one (1) set-up, installation, and delivery system located in Kentucky;
2. A certified manager supervises the work of the system; and
3. The arrangement is approved, in writing, by the department.

(5) Notification by Licensees.

(a) A retailer shall notify the department, in writing, within thirty (30) days of a change in **[any of the following]**:

1. Dealership name;
2. Address of business;
3. Retailer ownership interest of twenty-five (25) percent or more within a twelve (12) month period; or
4. **[A]** Principal officer or chief managing officer of the firm.

(b) A change in ownership interest of less than twenty-five (25) percent of the company within a twelve (12) month period shall be reported at the time of the renewal of the license.

(c) A new license shall be required if an established business changes location to a different county.

(6) Maintenance of Records. A retailer shall:

(a) Complete and maintain Form HBC MH-7 for each new or used manufactured home or mobile home sold;

(b) Retain the completed Form HBC MH-7, for three (3) years; and

(c) Keep the form available for[~~to~~] a field inspector upon request.

Section 2. Manufacturer's Certificate of Acceptability.

(1) Requirements for issuance. An applicant for a manufacturer's certificate of acceptability shall submit to the department:

(a) A completed Form HBC MH/RV-1;

(b) Proof of insurance for general liability coverage that complies with KRS 227.610 in the amount of at least:

1. \$300,000 bodily injury or death for each person;
2. \$400,000 bodily or injury or death for each accident; and
3. \$100,000 for damage to property; and

(c) A certificate of acceptability fee in the amount of \$500 for a full year, or a reduced amount prorated on a monthly basis for a period of less than a full year, by a check or money order made payable to the Kentucky State Treasurer.

(2) A manufacturer who is also a retailer shall comply with retailer licensing provisions in Section 1 of this administrative regulation.

(3) A manufacturer shall notify the department in writing, within thirty (30) days of a change in **[any of the following]**:

(a) Business[~~Corporate~~] name;

(b) Company address;

(c) Ownership interest of twenty-five (25) percent or more of the company within a twelve (12) month period;

(d) Location of the[a] manufacturing facility;

(e) The number of facilities by virtue of the establishment of a new manufacturing facility; or

(f) **[A]** Principal officer of the firm.

(4) A change in ownership **interest**[interest] of less than twenty-five (25) percent of the company within a twelve (12) month period shall be reported at the time of the renewal of the certificate of acceptability.

(5)

(a) A manufacturer who considers information relating to a building or in-plant quality control system to be proprietary shall designate the information as proprietary at the time of plan submission.

(b) The designated information shall be maintained and treated as proprietary by:

1. The department;

2. Inspection and evaluation personnel; and

3. Local enforcement agencies.

Section 3. Certified Installers.

(1) Initial application.

(a) An applicant for installer certification[certified installer] shall submit to the department:

1. A completed Form HBC MH-3, Certified Installer Application;

2. An application fee of \$100;

3. Proof of successful completion of a fifteen (15) hour approved course of education;

4. A passing score on the certified installer examination administered by the department;

5. A certificate verifying current worker's compensation insurance coverage or a notarized waiver of exemption; /: /

6. Proof of general liability insurance coverage in an amount not less than \$250,000; and

7. Proof of experience in the form of:

a. A completed Form HBC MH-3A documenting the applicant's experience assisting in site preparation and installation of manufactured homes under the supervision of a certified installer for at least sixty (60) days and on at least five (5) homes; or

[4. Proof of regularly assisting in site preparation and installation functions:

a. Under the supervision of a certified installer;

b. For at least sixty (60) days; and

c. On at least five (5) homes;]

b. An affidavit documenting the applicant's experience assisting in site preparation and installation of manufactured homes under the supervision of a certified installer for at least one (1) year, as attested to by three (3) individuals who are licensed retailers, manufacturers, manufactured home community managers, manufactured home design professionals, or certified installers.

[5. A passing score on the certified installer examination given by the department; and

6. A certificate verifying current worker's compensation insurance coverage, if the applicant is employed at the time of application.]

(b) An applicant who possesses an active installation license issued by the United States Department of Housing and Urban Development pursuant to 24 C.F.R. § 3286.201 through 24 C.F.R. § 3286.211 shall be exempt from the requirements of subparagraphs 4. and 7. of paragraph

(a) of this subsection.

(c) An applicant who possesses an active installation license or certification in good standing from a jurisdiction with which the department has reciprocity shall be exempt from the requirements of subparagraphs 4. and 7. of paragraph (a) of this subsection.

(d)[(b)] If an initial certificate is for a period of less than twelve (12) months, the fee shall be prorated pursuant to the schedule provided in Form HBC MH-3[reduced on a pro-rata monthly basis].

(2) An installer certification shall be issued in the name of the individual qualified under subsection (1) of this section. The individual may request that the certificate also bear the name of the employing company.

(3)

(a) If the certified installer changes his or her business name or is no longer associated with the company whose name appears upon the certificate, the certified installer shall inform the department and request an amended certificate reflecting the individual's status.

(b) If the certified installer is no longer associated with a company, that company shall not hold itself out as a certified installer or as having in its employ a certified installer until another certified person has become associated with that company.

(4) Certified Installer Seal. A certified installer who installs a manufactured home or mobile home in accordance with KRS 227.570(3) and this administrative regulation shall place a certified installer seal on the home.

(a) Certified installer seals shall be obtained from the department.

(b) The application shall be:

1. Filed on Form HBC MH-12, Application for Purchasing Seals; and
2. Accompanied by a fee of twenty-five (25) dollars for each seal.

(5) Application and placement of certified installer seals.

(a) Each certified installer seal consists of two (2) parts that shall be affixed as follows:

1. One (1) part shall be placed two (2) inches above the HUD label on the outside left corner of a manufactured home or on the outside left corner of a mobile home if a HUD label is not required; and

2. One (1) part shall be placed on the inside of the electrical panel in the manufactured home.

(b) Other seals, stamps, covers, or other markings shall not be placed within two (2) inches of the certified installer seal.

(6) Lost or damaged seals.

(a) If a certified installer seal becomes lost or damaged, the owner shall notify the department immediately, in writing, specifying:

1. The manufacturer;
2. The manufactured or mobile home serial number; and
3. The certified installer seal number, if known.

(b) A damaged seal shall be:

1. Promptly returned to the department; and
2. Replaced by the department for a fee of twenty-five (25) dollars.

(7) Recordkeeping. A certified installer shall:

(a) Complete and maintain Form HBC MH 40-30, Monthly Certified Installer Certification, for each certified installation;

(b) Retain the completed Form HBC MH 40-30, Monthly Certified Installer Certification, for three (3) years; **[and]**

(c) Make a copy of the form available to a state inspector upon request; **and[.]**

(d) **[A certified installer shall]** Send the department a monthly report of the information found in HBC MH 40-30 by mail, electronic mail, or facsimile.

~~[Section 4. Incorrect or Incomplete Applications. If there is an incorrect or incomplete application, the department shall:~~

~~(1) Issue a correction notice to an applicant within thirty (30) days of receiving a defective or incomplete application specifying the defect;~~

~~(2) Deem the application abandoned and the fee forfeited for an applicant who fails to submit a corrected application in accordance with the information supplied on the application correction notice, within thirty (30) days of receipt; and~~

~~(3) Process as a new application, a corrected application submitted after the thirty (30) day period.]~~

Section 4.~~[Section 5.]~~ Renewals.

(1) Expiration of licenses~~[a license]~~ and certificates. A license, a certificate of acceptability, and an installer certification, unless renewed, revoked, or suspended, shall expire on:

(a) For individuals, the last day of the licensee's birth month in the following year; or

(b) For business organizations~~[corporations]~~:

1. The **last day of the** licensee's month of incorporation in the following year; or

2. The last day of the licensee's birth month in the following year.

(2) Renewal of licenses ~~and [a license or]~~ certificates.

(a) A retailer, manufacturer, or ~~[a-]~~certified installer, wishing to renew a license or certification, shall submit **[the following]**:

1. A completed License and Certification Renewal, Form HBC MH/RV-3;

2. Proof of continuing general liability insurance coverage; and

3. A check or money order for the renewal~~[annual license]~~ fee, in the amount of:

a. \$250 for a licensed retailer;

b. \$500 for a certificate of acceptability; or

c. Fifty (50) dollars for an installer certification.

(b) A retailer, manufacturer, or certified installer shall renew a license or certificate before the license or certificate expires pursuant~~[according]~~ to subsection (1) of this section.

(c) A certified installer shall submit proof of completion of the continuing education requirements established in 815 KAR 1:030.

(d) A retailer and ~~[a-]~~manufacturer shall maintain at least minimum general liability insurance and shall notify the department if there is a change in insurance coverage.

(3) A certified installer may place his or her certification in inactive status.

(a) To place an installer certification in inactive status, a certified installer shall pay an **[initial]** inactive fee of fifty (50) dollars.

(b) An inactive certified installer shall return any unused certified installer seals to the department within thirty (30) days of his or her certification becoming inactive.

(c) An inactive certified installer shall not install manufactured or mobile homes, represent him

or herself as a certified installer, or otherwise engage in the work of a certified installer.

(d) To reactivate an inactive installer certification, the certificate holder shall complete all renewal requirements of subsection (2) of this section and pay a fifty (50) dollar renewal fee.

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

(1) The following material is incorporated by reference:

(a) Form HBC MH/RV-1, "Application of Certificate of Acceptability~~[for Manufactured Homes]~~", ~~April 2023~~May 2020;

(b) Form HBC MH-2, "Application for Manufactured Home Retailer's License", ~~April 2023~~May 2020;

(c) Form HBC MH-3, "Certified Installer Application", ~~April 2023~~May 2020;

(d) Form HBC MH-3A, "Installer Training Verification Form", April 2023;

~~(e)~~(d) Form HBC MH/RV-3, "License and Certification Renewal", ~~April 2023~~May 2020;

~~(f)~~(e) Form HBC MH-12, "Application for Purchasing Seals", May 2020;

~~(g)~~(f) Form HBC MH-7, "Monthly Manufactured Home Retailer Certification ~~Form~~Format", May 2020; and

~~(h)~~(g) Form HBC MH 40-30, "Monthly Certified Installer Certification", May 2020.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Housing, Buildings and Construction, Division of Building Code Enforcement, Manufactured Housing ~~Branch~~Section, ~~500 Mero Street, First Floor~~101 Sea Hero Road, Suite 400, Frankfort, Kentucky ~~40601~~40601-5412, Monday through Friday, 8 a.m. ~~through~~and 4:30 p.m. and is available online at ~~https://dhbc.ky.gov~~http://dhbc.ky.gov.

CONTACT PERSON: Molly B. Cassady, General Counsel, Department of Housing, Buildings and Construction, Mero St., Kentucky 40601, phone 502-782-5448, fax 502-573-1057; email molly.cassady@ky.gov.



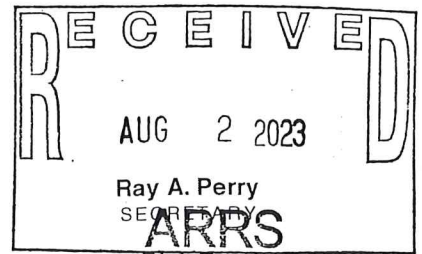
Andy Beshear
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Jacqueline Coleman
LIEUTENANT GOVERNOR

PUBLIC PROTECTION CABINET

**Kentucky Department of Housing,
Buildings and Construction**

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Phone: (502) 573-0365



Ray A. Perry
SECRETARY

ARRS
Rick Rand
COMMISSIONER

Max Fuller
DEPUTY COMMISSIONER

August 2, 2023

Stephen West
702 Capital Ave.
Annex Room 228
Frankfort, KY 40601

Derek Lewis
702 Capital Ave.
Annex Room 416
Frankfort, KY 40601

Dear Mr. West and Mr. Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 815 KAR 4:030, 815 KAR 7:130, 815 KAR 10:060, 815 KAR 25:020, 815 KAR 25:060, and **815 KAR 35:060**, the Department of Housing, Buildings and Construction proposes the attached suggested amendment to 815 KAR 4:030, 815 KAR 7:130, 815 KAR 10:060, 815 KAR 25:020, 815 KAR 25:060, and 815 KAR 35:060.

Sincerely,

Molly B. Cassady

Molly B. Cassady
General Counsel
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and Construction
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Subcommittee Substitute

**PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction
Division of Electrical
(As Amended at ARRS)**

815 KAR 35:060. Licensing of electrical contractors, master electricians, and electricians.

RELATES TO: KRS [~~164.772(3),~~] 227A.010, 227A.060, 227A.100, 339.230, 29 C.F.R. 570

STATUTORY AUTHORITY: KRS 227A.040(1), (8), 227A.060, 227A.100(9)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 227A.040(1) requires the Department of Housing, Buildings and Construction to administer and enforce KRS 227A.010 to 227A.140 and evaluate the qualifications of applicants for electrical licensure. KRS 227A.040(8) authorizes the Department of Housing, Buildings and Construction to promulgate administrative regulations to establish procedures governing the licensure of electrical contractors, master electricians, and electricians. KRS 227A.100(9) authorizes the department to promulgate administrative regulations governing an inactive license. This administrative regulation establishes the eligibility requirements and application procedures for the licensing of electrical contractors, master electricians, and electricians.

Section 1. Initial Application Requirements.

(1) Filing the application.

(a) Electrical contractor. An applicant seeking an electrical contractor's license shall submit to the department:

1. A completed Electrical Contractor's License Application, Form EL-2;
2. An application fee of \$200 for a twelve (12) month license;
3. The name and license number of the master electrician affiliated with the applicant; and
4. Proof of insurance as required by KRS 227A.060(1)(c).

(b) Master Electrician. An applicant seeking a master electrician license shall submit to the department:

1. A completed Electrical License Application, Form EL-3;
2. An application fee of \$100 for a twelve (12) month license; and
3. Proof of the applicant's experience as established by KRS 227A.060(2)(b) and this administrative regulation.

(c) Electrician. An applicant seeking an electrician license shall submit to the department:

1. A completed Electrical License Application, Form EL-3;
2. An application fee of fifty (50) dollars for a twelve (12) month license; and
3. Proof of the applicant's experience as established by KRS 227A.060(3)(b) and this administrative regulation.

(d) The application fees may be prorated for not less than seven (7) months or more than eighteen (18) months and shall expire on the final day of the applicant's birth month.

(2) Photograph requirement. All electrical license applicants shall submit a passport-sized color photograph of the applicant taken within the past six (6) months.

(3) Voiding of application.

(a) The initial application shall remain pending until all requirements are met, up to a period of one (1) year after the date the application is submitted.

(b) At the end of the one (1) year, the application shall be void.

Section 2. Reciprocity. An applicant for reciprocity shall:

(1) Comply with:

(a) The requirements established in the reciprocity agreement between Kentucky and the state in which the applicant is licensed;

(b) The general application requirements in Section 1(2) of this administrative regulation;

(2) Provide:

(a) A copy of the applicant's license from the participating state;

(b) A letter of good standing from the licensing authority of the state in which the applicant is currently licensed; and

(3) If applying for an electrical contractor's license, proof of insurance as required by KRS 227A.060(1)(c).

Section 3. Verification of Experience.

(1) Records of experience. Proof of experience shall be provided by:

(a) Tax returns or other official tax documents that indicate the applicant's occupation or the nature of the applicant's business activities, including Federal Schedule C, Form 1040, Form 1099, or local occupational tax returns;

(b) A copy of a business license issued by a county or municipal government that did not issue electrical ~~contractor's~~[~~contractors~~], master electrician's, or electrician's licenses prior to June 24, 2003, if the business license indicates the applicant operated as an electrical contractor or worker;

(c) A sworn affidavit, on the affiant's letterhead, certifying that the affiant has personal knowledge that the applicant has engaged in electrical work under the scope of the National Electrical Code, NFPA 70, incorporated by reference in 815 KAR 7:120 and 815 KAR 7:125, from[~~worked as a master electrician or an electrician for~~] at least one (1) of the following:

1. An electrical workers union;

2. A licensed electrical contractor and licensed master electrician the applicant was or currently is employed by[~~A certified electrical inspector~~]; [~~or~~]

3. An industrial manufacturing facility or natural gas pipeline facility the applicant was or currently is employed by[~~An employer that employed the applicant as an electrician or a master electrician~~]; or

4. An electrical training program that has been approved by the department pursuant to 815 KAR 35:090 and is an apprenticeship program registered in accordance with 787 KAR 3:010.

(d) Records of a branch of the United States Armed Forces that indicate the applicant performed a function that primarily involved electrical work. Experience gained while in the military shall be deemed to have been earned in Kentucky.

(2) An applicant for a master electrician license or electrician license attending an accepted electrical training program in accordance with 815 KAR 35:090 shall provide **[the following]** with his or her application:

(a) An affidavit from the director or authorized agent of the electrical training program

confirming the applicant's participation in the electrical training program; and

(b) Documentation that the applicant has completed the required number of hours in accordance with 815 KAR 35:090.

(3) Additional proof of experience shall be requested by the department, prior to or after licensing, if the department has reason to believe that the experience shown is insufficient or nonexistent.

(4) One (1) year of electrical experience shall consist minimally of 1,600 hours of electrical work under the scope of the National Electrical Code, NFPA 70, incorporated by reference in 815 KAR 7:120 and 815 KAR 7:125, in a ***continuous [contiguous]*** twelve (12) month period.

Section 4. Examinations.

(1) An applicant for an electrical contractor's license, master electrician's license, or electrician's license shall pass, with a minimum score of seventy (70) percent, an examination administered by an approved examination provider.

(2) A passing score shall be valid for a period of three (3) years.

(3) Reasonable accommodations shall be made to provide accessibility to disabled applicants, upon request.

(4) For an electrical contractor's license, an applicant that is a business entity shall designate a person to take the examination on behalf of the applicant. The designee shall be:

(a) An owner of the applicant's business;

(b) An officer of the applicant's business;

(c) A director of the applicant's business; or

(d) A full-time employee of the applicant's business.

(5) Upon application by a testing agency, a national code group, or by an applicant for licensure, the department may recognize another examination as equivalent to an examination administered by an approved examination provider. The person or group submitting the examination shall demonstrate that the examination covers the same material and requires the same level of knowledge as the approved examinations.

Section 5. Appeal Procedure.

(1) An applicant denied a license may appeal the decision to the commissioner of the department. The applicant shall submit written notice of the appeal to the department within ten (10) business days of receiving notice that the license application has been denied.

(2) The appeal shall be conducted pursuant to KRS Chapter 13B by a hearing officer appointed by the commissioner of the department.

Section 6. Proof of Insurance.

(1) An electrical contractor's insurance policy shall name the department as the certificate holder.

(2) The applicant shall provide proof of workers' compensation insurance by providing:

(a) An insurance certificate from an insurance provider approved by the Kentucky Department of Insurance; or

(b) A notarized statement that the applicant is not required to obtain workers' compensation coverage and the reason why the coverage is not required.

(3) Each electrical contractor shall require the contractor's liability and workers' compensation insurers to provide notice to the department if a policy:

- (a) Is cancelled, terminated, or not renewed; or
- (b) Limit is lowered.

(4) An electrical contractor shall advise the department of **[a]**:

(a) **A** Change in the contractor's insurance coverage, including cancellation or termination of any policy;

(b) **A** Change in the insurer providing the coverage; or

(c) Changed circumstances that require the contractor to obtain coverage.

Section 7. Inactive License Status.

(1) A licensee may request that a license be placed in inactive status.

(2) An electrical contractor **whose license is** [licensee] in inactive status shall not be required to maintain liability insurance or provide proof to the department of compliance with workers' compensation laws.

(3) A certified electrical inspector may be licensed as an electrical contractor, master electrician, or electrician, but shall maintain that license as inactive while having an active electrical inspector certification.

(4) A licensee shall not perform electrical work while the license is inactive. Performing [electrical]work that requires a license while holding an inactive license shall be grounds for revocation or suspension of all electrical licenses and certifications held by the licensee.

Section 8. Renewal Requirements.

(1) A license shall be valid for one (1) year and shall be renewed on or before the last day of the licensee's birth month. For electrical contractor licenses issued to corporations, partnerships, or business entities without a birth month, the renewal **shall occur on or before the last day of the** month ~~[shall be the month]~~ the license was issued.

(2) Filing for renewal. An electrical contractor, a master electrician, or an electrician shall submit to the department:

(a) A completed form DHBC L-1, Licensing Renewal Application;~~[]~~:

1. ~~Electrical Contractor's License Application, Form EL-2 for an electrical contractor; or~~

2. ~~Electrical License Application, Form EL-3 for a master electrician and electrician;~~

(b) A renewal fee of:

1. \$200 for an electrical contractor;

2. \$100 for a master electrician; and

3. Fifty (50) dollars for an electrician;

(c) Proof of annual continuing education [attendance]in accordance with 815 KAR 2:010; and

(d) Proof of insurance as required by KRS 227A.060(1)(c) and this administrative regulation for an electrical contractor.

(3)

(a) A [license]licensee **who [that]** is in inactive status shall be exempt from annual renewal.

(b) An inactive license shall be reactivated upon payment of the annual renewal fee, the reactivation fee, and upon compliance with the continuing education requirements established in 815 KAR 2:010.

[(4)

(a) A licensee who applies for reissuance of a license pursuant to 2018 Ky. Acts ch. 186, sec. 2 shall submit to the department:

1. A completed:

a. Electrical Contractor's License Application, Form EL-2 for an electrical contractor; or

b. Electrical License Application, Form EL-3 for a master electrician and electrician;

2. Proof of licensure as described in 2018 Ky Acts ch. 186, sec. 2;

3. A reissuance fee of \$100; and

4. Proof of insurance as required by KRS 227A.060(1)(c) and this administrative regulation for an electrical contractor.

(b) The reissued license shall be valid for one (1) year from the date of issuance. The reissued license holder shall obtain a full license if the reissued license holder passes the corresponding license examination pursuant to Section 4 of this administrative regulation.

(c) If the individual with the reissued license fails to take and pass an examination within one (1) year of reissuance, the department shall terminate the license.

(5) A licensee who has not previously provided a passport-sized color photograph shall provide one (1) with the licensee's next application for renewal.]

Section 9. Reinstatement and Late Fees.

(1) Application, renewal, reinstatement, and late fees shall not be refundable.

(2) The reinstatement fee for a terminated license pursuant to KRS 227A.100(4) shall be equal to the license renewal fee and shall be paid in addition to the license renewal fee.

(3) The late renewal fee shall be fifty (50) dollars. If all documents required to be submitted for renewal are postmarked on or before the last day of the renewal month, the filing shall be considered timely, and a late fee shall not be assessed.

Section 10. Change of Information.

(1) An electrical contractor and a master electrician shall notify the department of any change to the name of the electrical contractor's or master electrician's[~~electrician's~~] business and its address, employer, and the employer's address each time a change of information[~~employment~~] is made.

(2)

(a) Except as stated in subsection (3) of this section, if an electrical contractor designated by an entity as established in Section 4(4) of this administrative regulation leaves the employment or no longer maintains an [and][~~an~~] interest in that entity, the entity shall designate another person who either:

1. Has passed the electrical contractor's examination; or

2. Successfully passes the electrical contractor's examination within thirty (30) days.

(b) Failure to have a designee that has passed the examination shall render the licensee no longer qualified to be licensed.

(3) Death of an electrical contractor or master electrician.

(a) If the electrical contractor or master electrician representing a company dies, the company shall notify the department within ten (10) days of the electrical contractor's or master electrician's death.

(b) The 180[-]day interim period established in KRS 227.480 and KRS 227A.140 shall begin on the date the electrical contractor or master electrician dies.

(c) The company shall not be required to renew the deceased's electrical contractor or master electrician license[,] if the license renewal date falls within the 180[-]day interim period.

(d) The company shall not use the deceased electrical contractor's or master electrician's license after the expiration date of the interim period.

(e) The company shall notify the department when the company has a replacement electrical contractor or master electrician to represent the company on or before the expiration date of the interim period.

Section 11. Provisional License.

(1) Application. An applicant seeking a provisional electrician license shall submit to the department:

(a) A completed ***Provisional [Provision]***[Provisional] Electrical License Application Form, EL-14;

(b) An application fee of fifty (50) dollars;

(c) A passport-sized color photograph of the applicant taken within the past six (6) months; and

(d) Proof of the applicant's experience as established by KRS 227A.060(4)(a)2.

(e) The proof requested in paragraph (d) of this subsection shall be satisfied with the documents listed in Section 3(1) of this administrative regulation.

(2) Responsibilities. A provisional electrician license holder shall have the same rights and responsibilities as an electrician licensed pursuant to KRS 227A.060(3) and this administrative regulation.

(3) Termination.

(a) A provisional electrician license shall be valid for one (1) year from the date of issuance. The provisional electrician license shall immediately terminate on the date of the one (1) year anniversary of the issuance of the provisional electrician license.

(b) The provisional electrician license holder shall no longer have the rights and responsibilities of an electrician licensed pursuant to KRS 227A.060(3) and this administrative regulation. The provisional electrician license holder shall revert to the individual's unlicensed status [as-]before the issuance of the provisional license.

Section 12. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Electrical Contractor's License Application", Form EL-2, May 2020;

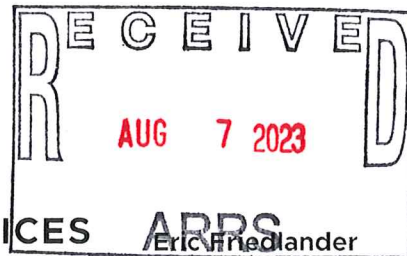
(b) "Electrical License Application", Form EL-3, May 2020; [and]

(c) "Provisional Electrical[Electrician] License Application", Form EL-14, May 2020[-]; and

(d) "Licensing Renewal Application", Form DHBC L-1, April 2023.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Housing, Buildings, and Construction, Electrical Licensing, 500 Mero Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. and is available online at <http://dhbc.ky.gov/Pages/default.aspx>.

CONTACT PERSON: Molly B. Cassady, General Counsel, Department of Housing, Buildings and Construction, Mero St., Kentucky 40601, phone 502-782-5448, fax 502-573-1057; email molly.cassady@ky.gov.



Andy Beshear
GOVERNOR

CABINET FOR HEALTH AND FAMILY SERVICES

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August 7, 2023

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

Re: 906 KAR 1:210

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 906 KAR 1:210, the Cabinet for Health and Family Services proposes the attached amendments to 906 KAR 1:210.

Sincerely,

Lucie Estill
Staff Assistant
Office of Legislative and Regulatory Affairs

Attachments

Final, 8-2-2023

STAFF-SUGGESTED AMENDMENT

**CABINET FOR HEALTH AND FAMILY SERVICES
Office of Inspector General
Division of Health Care**

906 KAR 1:210. Health care services agencies.

Page 1

Section 1(5)

Line 20

After "KRS 216.718", insert "(8)".

Delete "(5)".

Page 1

Section 1(6)

Line 21

After "KRS 216.718", insert "(5)".

Delete "(6)".

Page 2

Section 1(7)

Line 1

After "KRS 216.718", insert "(6)".

Delete "(7)".

Page 2

Section 1(8)

Line 2

After "KRS 216.718", insert "(7)".

Delete "(8)".

Page 2

Section 2(2)

Line 8

After "accordance with", delete the following:

2023 Ky. Acts ch. 61, sec. 6 (

After "KRS 216.725", delete ")".



Andy Beshear
GOVERNOR

CABINET FOR HEALTH AND FAMILY SERVICES Eric Friedlander
SECRETARY

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August 7, 2023

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

Re: 907 KAR 20:010. Medicaid procedures for determining initial and continuing eligibility other than procedures related to a modified adjusted gross income eligibility standard or related to former foster care individuals.

907 KAR 20:045. Special income requirements for hospice and 1915(c) home and community based services.

907 KAR 20:075. Eligibility provisions and requirements regarding former foster care individuals, and individuals who were in out-of-state equivalents to foster care.

907 KAR 20:100. Modified Adjusted Gross Income (MAGI) Medicaid eligibility standards.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 907 KAR 20:010, 907 KAR 20:045, 907 KAR 20:075, and 907 KAR 20:100, the Department for Medicaid Services proposes the attached suggested substitutes to 907 KAR 20:010, 907 KAR 20:045, 907 KAR 20:075, and 907 KAR 20:100.

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,

Staff Assistant
Office of Legislative and Regulatory Affairs
Cabinet for Health and Family Services

SUGGESTED SUBSTITUTE

**CABINET FOR HEALTH AND FAMILY SERVICES
Department for Medicaid Services
Division of Policy and Operations**

907 KAR 20:010. Medicaid procedures for determining initial and continuing eligibility other than procedures related to a modified adjusted gross income eligibility standard or related to former foster care individuals.

RELATES TO: KRS 205.520, 42 C.F.R. 435.530, 435.531, 435.540, 435.541, 435.906, 435.914, 435.916, ~~435.906~~, 435.926, 42 U.S.C. 416, 423, 1382, 1396a, b, d

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 42 U.S.C. 1396a

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 a requirement that may be imposed or opportunity presented by federal law to qualify for federal Medicaid funds. This administrative regulation establishes provisions relating to determining initial and continuing eligibility for assistance under the Medicaid Program except for individuals for whom a modified adjusted gross income is the Medicaid eligibility income standard or former foster care individuals who aged out of foster care while receiving Medicaid coverage.

Section 1. Eligibility Determination Process.

(1)

(a) Except as provided in subsection (3) or (5) of this section, eligibility shall be determined prospectively.

(b) To receive or continue to receive assistance, a household shall meet technical and financial eligibility criteria, for the appropriate month of coverage, pursuant to:

1. This section;
2. Section 3 of this administrative regulation; and
3. As established in:
 - a. 907 KAR 20:005;
 - b. 907 KAR 20:020; and
 - c. 907 KAR 20:025.

(2) A decision regarding eligibility or ineligibility for Medicaid shall be supported by facts recorded in the case record.

(a) The applicant or recipient shall be the primary source of information and shall:

1. Furnish verification of financial and technical eligibility as required by 907 KAR 20:005, 907 KAR 20:020, and 907 KAR 20:025; and
2. Give written consent to those contacts necessary to verify or clarify a factor pertinent to the decision of eligibility.

(b)

1. The department may schedule an appointment with an applicant or recipient to receive specified information as proof of eligibility.
2. Failure to appear for the scheduled appointment or to furnish the required information shall be considered a failure to present adequate proof of eligibility if the applicant or recipient was informed in writing of the scheduled appointment and the required information.

(3) Retroactive eligibility for Medicaid not related to the receipt of SSI benefits shall be effective no earlier than the third month prior to the month of application if:

(a) A Medicaid service was received;

- (b) Technical and financial eligibility requirements were met as established in 907 KAR 20:005, 907 KAR 20:020, and 907 KAR 20:025; and
 - (c) The applicant is excluded from managed care organization participation in accordance with 907 KAR 17:010.
- (4) Eligibility for qualified Medicare beneficiary coverage shall be effective the month after the month of case approval if technical and financial eligibility requirements were met as established in 907 KAR 20:005, 907 KAR 20:020, and 907 KAR 20:025.
- (5) Retroactive eligibility for benefits for a specified low-income Medicare beneficiary benefits, Medicare qualified individual group 1 (QI-1), or a qualified disabled and working individual shall be effective no earlier than the third month prior to the month of application if the individual meets technical and financial eligibility requirements as established in 907 KAR 20:005, 907 KAR 20:020, and 907 KAR 20:025.
- (6) An SSI-related recipient ~~[, in accordance with HCFA Program Issuance Transmittal Notice, Region IV, May 7, 1997, MCD-014-97,]~~ shall be eligible for Medicaid benefits effective the month prior to the first month of SSI payment if the individual:
- (a) Is eligible to be enrolled with a managed care organization in accordance with 907 KAR 17:010; and
 - (b) Meets Medicaid eligibility requirements for that month.
- (7) An SSI-related recipient ~~[, in accordance with HCFA Program Issuance Transmittal Notice, Region IV, May 7, 1997, MCD-014-97,]~~ shall be retroactively eligible for Medicaid benefits effective no earlier than the third month prior to the first month of SSI payment if the individual:
- (a) Is excluded from managed care organization participation in accordance with 907 KAR 17:010; and
 - (b) Meets Medicaid eligibility requirements for these months.

Section 2. Continuing Eligibility.

- (1) The recipient shall be responsible for reporting within thirty (30)~~[ten (10)]~~ days a change in circumstances which may affect eligibility.
- (2) Eligibility shall be redetermined:
 - (a) Every twelve (12) months; or
 - (b) If a report is received or information is obtained about a change in circumstances.

Section 3. Continuous Eligibility for Children.

- (1) An individual who is younger than nineteen (19) shall receive continuous eligibility, consistent with 42 C.F.R. 435.926.
- (2) The continuous eligibility period for a child recipient shall be for a period of twelve (12) months.
- (3) A child's eligibility during a continuous eligibility period shall only be terminated under the following circumstances:
 - (a) The child becomes nineteen (19) during the continuous eligibility period;~~[;]~~
 - (b) The child, or representative, voluntarily requests that the eligibility be terminated;
 - (c) The child ceases to be a resident of the Commonwealth;
 - (d) The agency determines that the eligibility was granted due to:
 - 1. Agency error; or
 - 2. Fraud, abuse, or perjury attributed to the child or representative; or
 - (e) The death of the child.

Section 4. Determination of Incapacity or Permanent and Total Disability.

- (1) Except as provided in subsections (2) and (3) of this section, a determination that a parent with whom the needy child lives is incapacitated, or that the individual requesting Medicaid due to disability is both permanently and totally disabled, shall be made by the medical review team following review of both medical and social reports.
- (2) A parent shall be considered incapacitated without a determination from the medical review team if:
 - (a) The parent declares physical inability to work;
 - (b) The worker observes some physical or mental limitation; and

(c) The parent:

1. Is receiving SSI benefits;
2. Is age sixty-five (65) years or over;
3. Has been determined to meet the definition of blindness or permanent and total disability as contained in 42 U.S.C. 1382c, 416, or 423 by either the Social Security Administration or the medical review team;
4.
 - a. Has previously been determined to be incapacitated or both permanently and totally disabled by the medical review team, hearing officer, appeal board, or court of proper jurisdiction without a reexamination requested; and
 - b. Has not demonstrated any visible improvement in condition;
5. Is receiving Retirement, Survivors, and Disability Insurance benefits, federal black lung benefits, or railroad retirement benefits based on disability as evidenced by an award letter;
6. Is receiving Veterans Affairs benefits based on 100 percent disability, as verified by an award letter; or
7. Is currently hospitalized and a statement from the attending physician indicates that incapacity will continue for at least thirty (30) days. If application was made prior to the admission, the physician shall indicate if incapacity existed as of the application date.

(3) An individual shall be considered permanently and totally disabled without a determination from the medical review team if the individual:

- (a) Receives RSDI or railroad retirement benefits based on disability;
- (b) Received SSI benefits based on disability during a portion of the twelve (12) months preceding the application month and discontinuance was due to income or resources and not to improvement in physical condition;
- (c) Has been determined to meet the definition of blindness or both permanent and total disability as contained in 42 U.S.C. 416 or 1382 by the Social Security Administration; or
- (d)
 1. Has previously been determined to be permanently and totally disabled by the medical review team, hearing officer, appeal board, or court of proper jurisdiction without a reexamination requested; and
 2. Has not demonstrated any visible improvement in condition.

(4)

- (a) A child who was receiving SSI benefits on August 22, 1996 and who, but for the change in definition of childhood disability established by 42 U.S.C. 1396a(a)(10) would continue to receive SSI benefits, shall continue to meet the Medicaid definition of disability.
- (b) If a redetermination is necessary, and in accordance with 923 KAR 2:470, the definition of childhood disability effective on August 22, 1996 shall be used.

Section 5.~~[Section 4.]~~ Disqualification. An adult individual shall be disqualified from receiving Medicaid for a specified period of time if the department or a court determines the individual has committed an intentional program violation in accordance with 907 KAR 1:675, Program integrity.

Section 6.~~[Section 5.]~~ Applicability. The provisions and requirements of this administrative regulation shall not apply to an individual whose Medicaid eligibility is determined:

- (1) Using the modified adjusted gross income as the income standard pursuant to 907 KAR 20:100; or
- (2) Pursuant to 907 KAR 20:075.

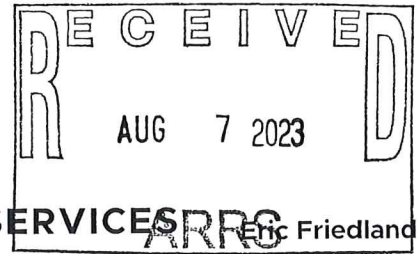
~~[Section 6.] [Incorporation by Reference.]~~

~~[(1)] ["HCFA Program Issuance Transmittal Notice Region IV", May 7, 1997, MCD-014-97, is incorporated by reference.]~~

~~[(2)] [This material may be:]~~

~~[(a) [Inspected, copied, or obtained, subject to applicable copyright law, at the Department for Medicaid Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.; or]~~
~~[(b) [Viewed at][<http://www.chfs.ky.gov/dms/incorporated.htm>.]~~

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



Andy Beshear
GOVERNOR

CABINET FOR HEALTH AND FAMILY SERVICES Eric Friedlander
SECRETARY

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

August 7, 2023

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

Re: 907 KAR 20:010. Medicaid procedures for determining initial and continuing eligibility other than procedures related to a modified adjusted gross income eligibility standard or related to former foster care individuals.

907 KAR 20:045. Special income requirements for hospice and 1915(c) home and community based services.

907 KAR 20:075. Eligibility provisions and requirements regarding former foster care individuals, and individuals who were in out-of-state equivalents to foster care.

907 KAR 20:100. Modified Adjusted Gross Income (MAGI) Medicaid eligibility standards.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 907 KAR 20:010, 907 KAR 20:045, 907 KAR 20:075, and 907 KAR 20:100, the Department for Medicaid Services proposes the attached suggested substitutes to 907 KAR 20:010, 907 KAR 20:045, 907 KAR 20:075, and 907 KAR 20:100.

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,

Staff Assistant
Office of Legislative and Regulatory Affairs
Cabinet for Health and Family Services

SUGGESTED SUBSTITUTE

CABINET FOR HEALTH AND FAMILY SERVICES

Department for Medicaid Services

Division of Policy and Operations

907 KAR 20:045. Special income requirements for hospice and 1915(c) home and community based services.

RELATES TO: KRS 205.520, 42 C.F.R. Part 435, 38 U.S.C. 5503, 42 U.S.C. 1396a, n

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

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services has responsibility to administer the Medicaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with a requirement that may be imposed or opportunity presented by federal law to qualify for federal Medicaid funds. This administrative regulation establishes special income requirements for 1915(c) home and community based waiver and hospice services, except for individuals for whom a modified adjusted gross income is the Medicaid eligibility income standard or former foster care individuals between the ages of nineteen (19) and under twenty-six (26) who aged out of foster care while receiving Medicaid coverage.

Section 1. Special Provisions for Recipients Participating in a 1915(c) Home and Community Based Services Waiver Program.

(1) Medicaid eligibility for a recipient receiving 1915(c) home and community based services shall be determined if necessary to establish eligibility for Medicaid benefits for a case with income in excess of the basic maintenance standard taking into consideration the special provisions established in:

- (a) This section; and
- (b) 907 KAR 20:035.

(2) Income protected for the basic maintenance of a 1915(c) home and community based services waiver program participant who is eligible as medically needy or under the special income level established in this section shall be the standard used for an individual in the Federal SSI Program in addition to the SSI general exclusion from income.

(3) A 1915(c) home and community based services waiver program participant who participates in a 1915(c) home and community based services waiver program for thirty (30) consecutive days, including the actual days of institutionalization within that period, and who has income which does not exceed the special income level, shall be determined to be eligible as categorically needy under the special income level.

(4) If a Supports for Community Living (SCL) Program participant has income in excess of the special income level, eligibility of the participant shall be determined on a monthly spend-down basis with the cost of SCL services projected.

(5) Institutional deeming rules shall apply in accordance with 907 KAR 20:035.

(6)

(a) In the posteligibility determination of available income, the basic maintenance needs allowance shall include a mandatory withholding from income.

(b) Mandatory withholdings shall:

1. Include state and federal taxes; and

2. Not include child support, alimony, or a similar payment resulting from an action by the recipient.

(7) A veteran or the spouse of a veteran who is receiving services in a 1915(c) home and community based services waiver program and who is receiving a Veterans Affairs benefit shall have ninety (90) dollars excluded from the eligibility and posteligibility determination process.

(8) Veterans Affairs payments for unmet medical expenses (UME) and aid and attendance (A&A) shall be excluded in a Medicaid eligibility and posteligibility determination for a veteran or the spouse of a veteran receiving services from a home and community based waiver program.

(9) Income placed in a qualifying income trust established in accordance with 42 U.S.C. 1396p(d)(4) and 907 KAR 20:030, Section 3(5), shall not be excluded in the posteligibility determination.

Section 2. Special Provisions for Hospice Recipients. Medicaid eligibility for a participant in the Medicaid Hospice Program shall be determined in accordance with the provisions in this section.

(1) Income protected for basic maintenance shall be:

(a) The SSI standard and the SSI general exclusion from income for the hospice participant in the posteligibility determination for a noninstitutionalized individual eligible on the basis of the special income level;

(b) The medically needy standard established in 907 KAR 20:020, Section 1, plus the SSI general exclusion for a noninstitutionalized medically needy participant, who shall spend-down on a quarterly basis;

(c) The medically needy standard for the appropriate family size plus the SSI general exclusion for the institutionalized medically needy;

(d) Forty (40) dollars per month for the hospice participant institutionalized in a long-term care facility;

(e) For a veteran or the spouse of a veteran who is receiving services from a hospice and who is receiving a Veterans Affairs benefit, ninety (90) dollars, which shall be excluded from the eligibility and posteligibility determination process; or

(f) The amount of Veterans Affairs payments for unmet medical expenses (UME) and aid and attendance (A&A), which shall be excluded in a Medicaid eligibility and posteligibility determination for a veteran or the spouse of a veteran receiving services from a hospice.

(2) If eligibility is determined for an institutionalized spenddown case, the attributed cost of care against which available income of the hospice participant shall be applied shall be the hospice routine home care per diem for the hospice providing care as established by 42 U.S.C. 1395f(i) plus the private pay rate for the nursing facility.

(3) Eligibility shall continue on the same monthly basis as for an institutionalized individual if the recipient is eligible based on the special income level.

(4) A hospice participant shall be eligible for a benefit based on this section if he or she has elected coverage under the Medicaid Hospice Program rather than the regular Medicaid Program.

(5) Institutional deeming rules shall apply in accordance with 907 KAR 20:035 with regard to the categorically needy including a participant eligible on the basis of the special income level.

(6) Community deeming procedures shall be used in accordance with 907 KAR 20:040 for a noninstitutionalized hospice recipient who is:

(a) A medically needy individual, who shall spend-down on a quarterly basis; and

(b) Not eligible under the special income level.

(7)

(a) In the posteligibility determination of available income, the basic maintenance needs allowance shall include a mandatory withholding from income.

(b) Mandatory withholdings shall:

1. Include state and federal taxes; and

2. Not include child support, alimony, or a similar payment resulting from an action by the recipient.

(8) Income placed in a qualifying income trust established in accordance with 42 U.S.C. 1396p(d)(4) and 907 KAR 20:030, Section 3(5), shall not be excluded in the posteligibility determination.

Section 3. Continuous Eligibility for Children.

(1) An individual who is younger than nineteen (19) shall receive continuous eligibility, consistent with 42 C.F.R. 435.926.

(2) The continuous eligibility period for a child recipient shall be for a period of twelve (12) months.

(3) A child's eligibility during a continuous eligibility period shall only be terminated under the following circumstances:

(a) The child becomes nineteen (19) during the continuous eligibility period; [;]

(b) The child, or representative, voluntarily requests that the eligibility be terminated;

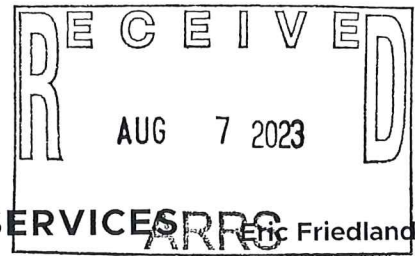
(c) The child ceases to be a resident of the commonwealth;

- (d) The agency determines that the eligibility was granted due to:
 - 1. Agency error; or
 - 2. Fraud, abuse, or perjury attributed to the child or representative; or
- (e) The death of the child.

Section 4. Applicability. The provisions and requirements of this administrative regulation shall not apply to an individual whose Medicaid eligibility is determined:

- (1) Using the modified adjusted gross income standard pursuant to 907 KAR 20:100; or
- (2) Pursuant to 907 KAR 20:075.

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



Andy Beshear
GOVERNOR

CABINET FOR HEALTH AND FAMILY SERVICES Eric Friedlander
SECRETARY

275 East Main Street, 5W-A
Frankfort, Kentucky 40621
Phone: (502) 564-7042
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August 7, 2023

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

Re: 907 KAR 20:010. Medicaid procedures for determining initial and continuing eligibility other than procedures related to a modified adjusted gross income eligibility standard or related to former foster care individuals.

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Dear Co-Chairs West and Lewis:

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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,

Staff Assistant
Office of Legislative and Regulatory Affairs
Cabinet for Health and Family Services

SUGGESTED SUBSTITUTE

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

907 KAR 20:075. Eligibility provisions and requirements regarding former foster care individuals, and individuals who were in out-of-state equivalents to foster care.

RELATES TO: KRS 205.520, 42 C.F.R. 435.150

STATUTORY AUTHORITY: KRS 194A.010(1), 194A.030(2), 194A.050(1), 205.520(3), 42 U.S.C. 1396a(a)(10)(A)(i)(IX).

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 eligibility provisions and requirements for an individual between the age of nineteen (19) and under twenty-six (26) years, who formerly was in foster care, or an out-of-state equivalent to foster care, and was receiving Medicaid benefits at the time that the individual aged out of foster care, or the out-of-state equivalent.

Section 1. Former Foster Care Eligibility Criteria. An individual between the age of nineteen (19) and under twenty-six (26) years, who formerly was in foster care, or an out-of-state equivalent to foster care, and was receiving Medicaid benefits at the time the individual's age exceeded the foster care, or out-of-state equivalent, age limit shall be eligible for Medicaid benefits if the individual meets the requirements of this administrative regulation.

Section 2. Income Standard. There shall be no income standard for individuals between the age of nineteen (19) and under twenty-six (26) years and who formerly were in foster care, or an out-of-state equivalent to foster care, but aged out of foster care or the out-of-state equivalent.

Section 3. Resource Standard. There shall be no resource standard for individuals between the age of nineteen (19) and under twenty-six (26) years and who formerly were in foster care, or an out-of-state equivalent to foster care, but aged out of foster care or the out-of-state equivalent.

Section 4. Attestation of Having Aged Out of Foster Care.

(1) An individual between the age of nineteen (19) and under twenty-six (26) years, who formerly was in foster care, or an out-of-state equivalent to foster care, and was receiving Medicaid benefits at the time the individual's age exceeded the foster care, or out-of-state equivalent to foster care, age limit ~~age limit,~~ shall attest, during the application process, that the individual was receiving Medicaid benefits at the time that the individual reached the age which exceeded the foster care, or out-of-state equivalent to foster care, age limit.

(2) An individual who does not attest as established in subsection (1) of this section shall not be eligible for Medicaid benefits under this administrative regulation.

Section 5. Citizenship and Residency Requirements.

(1) The citizenship requirements established in 42 C.F.R. 435.406 shall apply.

(2) To satisfy the Medicaid:

(a) Citizenship requirements, an applicant or recipient shall be:

1. A citizen of the United States as verified through satisfactory documentary evidence of citizenship or nationality presented during initial application or if a current recipient, upon next redetermination of continued eligibility;
2. A qualified alien who entered the United States before August 22, 1996, and is:
 - a. Lawfully admitted for permanent residence pursuant to 8 U.S.C. 1101;
 - b. Granted asylum pursuant to 8 U.S.C. 1158;
 - c. A refugee admitted to the United States pursuant to 8 U.S.C. 1157;
 - d. Paroled into the United States pursuant to 8 U.S.C. 1182(d)(5) for a period of at least one (1) year;
 - e. An alien whose deportation is being withheld pursuant to 8 U.S.C. 1253(h), as in effect prior to April 1, 1997, or 8 U.S.C. 1231(b)(3);
 - f. Granted conditional entry pursuant to 8 U.S.C. 1153(a)(7), as in effect prior to April 1, 1980;
 - g. An alien who is granted status as a Cuban or Haitian entrant pursuant to 8 U.S.C. 1522;
 - h. A battered alien pursuant to 8 U.S.C. 1641(c);
 - i. A veteran pursuant to 38 U.S.C. 101, 107, 1101, or 1301 with a discharge characterized as an honorable discharge and not on account of alienage;
 - j. On active duty other than active duty for training in the Armed Forces of the United States and who fulfills the minimum active duty service requirements established in 38 U.S.C. 5303A(d);
 - k. The spouse or unmarried dependent child of an individual described in clause i. or j. of this subparagraph or the unremarried surviving spouse of an individual described in clause i. or j. of this subparagraph if the marriage fulfills the requirements established in 38 U.S.C. 1304; or
 - l. An Amerasian immigrant pursuant to 8 U.S.C. 1612(a)(2)(A)(v); or
3. A qualified alien who entered the United States on or after August 22, 1996 and is:
 - a. Granted asylum pursuant to 8 U.S.C. 1158;
 - b. A refugee admitted to the United States pursuant to 8 U.S.C. 1157;
 - c. An alien whose deportation is being withheld pursuant to 8 U.S.C. 1253(h), as in effect prior to April 1, 1997, or 8 U.S.C. 1231(b)(3);
 - d. An alien who is granted status as a Cuban or Haitian entrant pursuant to 8 U.S.C. 1522;
 - e. A veteran pursuant to 38 U.S.C. 101, 107, 1101, or 1301 with a discharge characterized as an honorable discharge and not on account of alienage;
 - f. On active duty other than active duty for training in the Armed Forces of the United States and who fulfills the minimum active duty service requirements established in 38 U.S.C. 5303A(d);
 - g. The spouse or unmarried dependent child of an individual described in clause e. or f. of this subparagraph or the unremarried surviving spouse of an individual described in clause e. or f. of this subparagraph if the marriage fulfills the requirements established in 38 U.S.C. 1304;
 - h. An Amerasian immigrant pursuant to 8 U.S.C. 1612(a)(2)(A)(v); or
 - i. An individual lawfully admitted for permanent residence pursuant to 8 U.S.C. 1101 who has earned forty (40) quarters of Social Security coverage; and

(b) Residency requirements, the applicant or recipient shall be a resident of Kentucky who meets the conditions for determining state residency pursuant to 42 C.F.R. 435.403.

Section 6. Provision of Social Security Numbers.

- (1) Except as provided in subsections (2) and (3) of this section, an applicant for or recipient of Medicaid shall provide a Social Security number as a condition of eligibility.
- (2) An individual shall not be denied eligibility or discontinued from eligibility due to a delay in receipt of a Social Security number from the United States Social Security Administration if appropriate application for the number has been made.
- (3) An individual who refuses to obtain a Social Security number due to a well-established religious objection shall not be required to provide a Social Security number as a condition of eligibility.

Section 7. Institutional Status.

- (1) An individual shall not be eligible for Medicaid if the individual is a:

- (a) Resident or inmate of a nonmedical public institution except as established in subsection (2) of this section;
 - (b) Patient in a mental hospital or psychiatric facility unless the individual is:
 - 1. Under age twenty-one (21) years of age; or
 - 2. Under age twenty-two (22) if the individual was receiving inpatient services on his or her 21st birthday; or
 - (c) Patient in a nursing facility classified by the Medicaid program as an institution for mental diseases.
- (2) An inmate shall be eligible for Medicaid during the period of time the inmate is admitted to a hospital if the inmate:
- (a) Has been admitted to a hospital;
 - (b) Has been an inpatient at the hospital for at least twenty-four (24) consecutive hours; and
 - (c) Meets the Medicaid eligibility criteria established in this administrative regulation.

Section 8. Application Process, Initial and Continuing Eligibility Determination.

- (1) An individual may apply for Medicaid benefits by:
 - (a) Using the Web site located at www.kynect.ky.gov;
 - (b) Applying over the telephone by calling:
 - 1. 1-855- 459-6328; or
 - 2. 1-855-326-4654 if deaf or hearing impaired;
 - (c) Faxing an application to 1-502-573-2007;
 - (d) Mailing a paper application to Office of Health Benefits Exchange, **275 E. Main St., 4W-E[42-Mill Creek]**, Frankfort, **KY 40602[Kentucky 40601]**; or
 - (e) Going to the applicant's local Department for Community Based Services Office and applying in person.
- (2) An individual shall attest in accordance with Section 4 of this administrative regulation when applying for Medicaid benefits.
- (3)
 - (a) An application shall be processed (approved, denied, or a request for additional information sent) by the department or other entity involved in processing the given application within forty-five (45) days of application submittal.
 - (b) If a trusted source indicates that an applicant is incarcerated, a request for additional information shall be generated by the department or other entity involved in processing the application requesting verification of the applicant's incarceration dates or status.
 - (c) If an applicant fails to provide information in response to a request for additional information within forty-five (45) days of the receipt of the request, the application shall be denied.

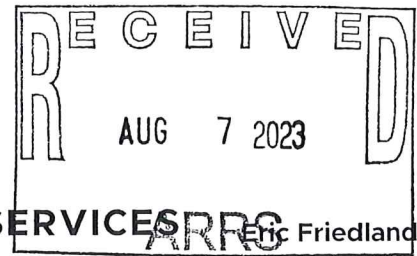
Section 9. Continuous Eligibility for Children.

- (1) An individual who is between the age of nineteen (19) and **under** twenty-six (26) who aged out of foster care, or an out-of-state equivalent to foster care, while receiving Medicaid coverage shall receive continuous eligibility, consistent with 42 C.F.R. 435.926.
- (2) The continuous eligibility period for an individual who is between the age of nineteen (19) and **under** twenty-six (26) who aged out of foster care, or an out-of-state equivalent to foster care, while receiving Medicaid coverage recipient shall be for a period of twelve (12) months.
- (3) The eligibility during a continuous eligibility period of an individual who is between the age of nineteen (19) and **under** twenty-six (26) who aged out of foster care, or an out-of-state equivalent to foster care, while receiving Medicaid coverage shall only be terminated under the following circumstances:
 - (a) The individual becomes older than twenty (26) during the continuous eligibility period;[.]
 - (b) The individual voluntarily requests that the eligibility be terminated;
 - (c) The individual ceases to be a resident of the Commonwealth;
 - (d) The agency determines that the eligibility was granted due to:
 - 1. Agency error; or
 - 2. Fraud, abuse, or perjury attributed to the individual; or

(e) The death of the individual.

Section 10. Adverse Action, Notice, and Appeals. The adverse action, notice, and appeals provisions established in 907 KAR 20:060 shall apply to former foster care, or out-of-state equivalent, individuals between the age of nineteen (19) and **under** twenty-six (26) who aged out of foster care, or an out-of-state equivalent to foster care, while receiving Medicaid coverage.

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



Andy Beshear
GOVERNOR

CABINET FOR HEALTH AND FAMILY SERVICES

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Phone: (502) 564-7042
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Eric Friedlander
SECRETARY

August 7, 2023

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

Re: 907 KAR 20:010. Medicaid procedures for determining initial and continuing eligibility other than procedures related to a modified adjusted gross income eligibility standard or related to former foster care individuals.

907 KAR 20:045. Special income requirements for hospice and 1915(c) home and community based services.

907 KAR 20:075. Eligibility provisions and requirements regarding former foster care individuals, and individuals who were in out-of-state equivalents to foster care.

907 KAR 20:100. Modified Adjusted Gross Income (MAGI) Medicaid eligibility standards.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 907 KAR 20:010, 907 KAR 20:045, 907 KAR 20:075, and 907 KAR 20:100, the Department for Medicaid Services proposes the attached suggested substitutes to 907 KAR 20:010, 907 KAR 20:045, 907 KAR 20:075, and 907 KAR 20:100.

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,

Staff Assistant
Office of Legislative and Regulatory Affairs
Cabinet for Health and Family Services

SUGGESTED SUBSTITUTE

CABINET FOR HEALTH AND FAMILY SERVICES

Department for Medicaid Services

Division of Policy and Operations

907 KAR 20:100. Modified Adjusted Gross Income (MAGI) Medicaid eligibility standards.

RELATES TO: KRS 205.520, 42 U.S.C. 1396a(e)(14), (l)(1), 1396b(x), 9902(2), 42 C.F.R. 435.403, 435.406, 435.603, 435.926, 440.255

STATUTORY AUTHORITY: KRS 194A.010(1), 194A.030(2), 194A.050(1), 205.520(3), 42 U.S.C. 1396a(e)(14)

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 provisions and requirements for individuals whose Medicaid eligibility is determined using the modified adjusted gross income as the income standard. The affected individuals include children under the age of nineteen (19) years, pregnant women to 365 days postpartum, caretaker relatives, and adults under age sixty-five (65) who do not have a dependent child under the age of nineteen (19) years and are not otherwise eligible for Medicaid benefits.

Section 1. Applicability.

(1)

(a) The provisions and requirements of this administrative regulation shall apply to individuals whose Medicaid eligibility is determined using the modified adjusted gross income as the income standard.

(b) An individual whose Medicaid eligibility is determined using the modified adjusted gross income as an income standard shall be an individual who is:

1. A child under the age of nineteen (19) years, excluding a child in foster care;
2. A caretaker relative with income up to 133 percent of the federal poverty level established annually by the United States Department of Health and Human Services pursuant to 42 U.S.C. 9902(2);
3. A pregnant woman, with income up to 195 percent of the federal poverty level established annually by the United States Department of Health and Human Services pursuant to 42 U.S.C. 9902(2), including the postpartum period to 365 days after delivery;
4. An adult under age sixty-five (65) with income up to 133 percent of the federal poverty level established annually by the United States Department of Health and Human Services pursuant to 42 U.S.C. 9902(2), who:
 - a. Does not have a dependent child under the age of nineteen (19) years; and
 - b. Is not otherwise eligible for Medicaid benefits; or
5. A targeted low income child with income up to 150 percent of the federal poverty level established annually by the United States Department of Health and Human Services pursuant to 42 U.S.C. 9902(2).

(2)

(a) If an eligibility determination indicates that an individual's income exceeds 133 percent of the federal poverty level established annually by the United States Department of Health and Human Services pursuant to 42 U.S.C. 9902(2), the department shall apply an additional cushion of five (5) percent of the federal poverty level toward the eligibility determination for the individual as described pursuant to 42 U.S.C. 1396a(e)(14)(l)(i).

(b) If after the five (5) percent adjustment, the individual's income is under the adjusted income threshold, the individual shall meet the modified adjusted gross income standard.

(c) A pregnant person's federal poverty level calculation pursuant to 42 U.S.C. 9902(2) shall be at least two (2) and shall include the pregnant person and the number of children expected to be delivered. Other members of the household shall be calculated and included consistent with KAR Title 907.

(3) The provisions and requirements of this administrative regulation shall not apply to an individual whose Medicaid eligibility is determined using an eligibility standard that is not the modified adjusted gross income.

Section 2. MAGI-based Methods. The department shall use the MAGI-based methods established in 42 C.F.R. 435.603 to determine whether an individual meets the Medicaid income eligibility requirements if the eligibility standard is the modified adjusted gross income.

Section 3. Resources Not Considered. An individual's resources shall not be considered for the purpose of determining Medicaid eligibility if the eligibility standard is the modified adjusted gross income.

Section 4. Citizenship and Residency Requirements.

(1) The citizenship requirements established in 42 C.F.R. 435.406 shall apply.

(2) Except as established in subsection (3) or (4) of this section, to satisfy the Medicaid:

(a) Citizenship requirements, an applicant or recipient shall be:

1. A citizen of the United States as verified through satisfactory documentary evidence of citizenship or nationality presented during initial application or if a current recipient, upon next redetermination of continued eligibility;

2. A qualified noncitizen who entered the United States before August 22, 1996, and is:

a. Lawfully admitted for permanent residence pursuant to 8 U.S.C. 1101;

b. Granted asylum pursuant to 8 U.S.C. 1158;

c. A refugee admitted to the United States pursuant to 8 U.S.C. 1157;

d. Paroled into the United States pursuant to 8 U.S.C. 1182(d)(5) for a period of at least one (1) year;

e. A noncitizen whose deportation is being withheld pursuant to 8 U.S.C. 1253(h), as in effect prior to April 1, 1997, or 8 U.S.C. 1231(b)(3);

f. Granted conditional entry pursuant to 8 U.S.C. 1153(a)(7), as in effect prior to April 1, 1980;

g. A noncitizen who is granted status as a Cuban or Haitian entrant pursuant to 8 U.S.C. 1522;

h. A battered noncitizen pursuant to 8 U.S.C. 1641(c);

i. A veteran pursuant to 38 U.S.C. 101, 107, 1101, or 1301 with a discharge characterized as an honorable discharge and not on account of alienage;

j. On active duty other than active duty for training in the Armed Forces of the United States and who fulfills the minimum active duty service requirements established in 38 U.S.C. 5303A(d);

k. The spouse or unmarried dependent child of an individual described in clause i. or j. of this subparagraph or the unremarried surviving spouse of an individual described in clause i. or j. of this subparagraph if the marriage fulfills the requirements established in 38 U.S.C. 1304; or

l. An Amerasian immigrant pursuant to 8 U.S.C. 1612(a)(2)(A)(v); or

3. A qualified noncitizen who entered the United States on or after August 22, 1996, and is:

a. Granted asylum pursuant to 8 U.S.C. 1158;

b. A refugee admitted to the United States pursuant to 8 U.S.C. 1157;

c. A noncitizen whose deportation is being withheld pursuant to 8 U.S.C. 1253(h), as in effect prior to April 1, 1997, or 8 U.S.C. 1231(b)(3);

d. A noncitizen who is granted status as a Cuban or Haitian entrant pursuant to 8 U.S.C. 1522;

e. A veteran pursuant to 38 U.S.C. 101, 107, 1101, or 1301 with a discharge characterized as an honorable discharge and not on account of alienage;

f. On active duty other than active duty for training in the Armed Forces of the United States and who fulfills the minimum active duty service requirements established in 38 U.S.C. 5303A(d);

- g. The spouse or unmarried dependent child of an individual described in clause e. or f. of this subparagraph or the unremarried surviving spouse of an individual described in clause e. or f. of this subparagraph if the marriage fulfills the requirements established in 38 U.S.C. 1304;
 - h. An Amerasian immigrant pursuant to 8 U.S.C. 1612(a)(2)(A)(v); or
 - i. An individual lawfully admitted for permanent residence pursuant to 8 U.S.C. 1101 who has earned forty (40) quarters of Social Security coverage; and
- (b) Residency requirements, the applicant or recipient shall be a resident of Kentucky who meets the conditions for determining state residency pursuant to 42 C.F.R. 435.403.
- (3) A qualified or nonqualified noncitizen shall be eligible for medical assistance pursuant to 42 C.F.R. 440.255 and as provided in this subsection[paragraph].
- (a) The individual shall meet the income, resource, and categorical requirements of the Medicaid Program.
- (b) Coverage for the individual shall be:
1. Limited to the medical care and services necessary for the treatment of an emergency medical condition or pregnancy of the individual;
 2. Not related to an organ transplant procedure; and
 3. For a medical condition, including severe pain, in which the absence of immediate medical attention could reasonably be expected to result in placing the individual's health in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part.
- (c) The individual's coverage shall be recertified every twelve (12) months.
- (4)
- (a) The satisfactory documentary evidence of citizenship or nationality requirement in subsection (2)(a)1 of this section shall not apply to an individual who:
1. Is receiving SSI benefits;
 2. Previously received SSI benefits but is no longer receiving them;
 3. Is entitled to or enrolled in any part of Medicare;
 4. Previously received Medicare benefits but is no longer receiving them;
 5. Is receiving:
 - a. Disability insurance benefits under 42 U.S.C. 423; or
 - b. Monthly benefits under 42 U.S.C. 402 based on the individual's disability pursuant to 42 U.S.C. 423(d);
 6. Is in foster care and who is assisted under Title IV-B of the Social Security Act, which is codified as 42 U.S.C. 621 through 628b; or
 7. Receives foster care maintenance or adoption assistance payments under Title IV-E of the Social Security Act, which is codified as 42 U.S.C. 670 through 679c.
- (b) The department's documentation requirements shall be in accordance with the requirements established in 42 U.S.C. 1396b(x).
- (5) The department shall assist an applicant or recipient who is unable to secure satisfactory documentary evidence of citizenship or nationality in a timely manner because of incapacity of mind or body and lack of a representative to act on the applicant's or recipient's behalf.
- (6)
- (a) Except as established in paragraph (b) of this subsection, an individual shall be determined eligible for Medicaid for up to three (3) months prior to the month of application if all conditions of eligibility are met.
- (b) The retroactive eligibility period shall begin no earlier than January 1, 2014 for an individual who gains Medicaid eligibility solely by qualifying:
1. As a former foster care individual pursuant to 907 KAR 20:075; or
 2. As an adult with income up to 133 percent of the federal poverty level established annually by the United States Department of Health and Human Services pursuant to 42 U.S.C. 9902(2), who:
 - a. Does not have a dependent child under the age of nineteen (19) years; and
 - b. Is not otherwise eligible for Medicaid benefits.

(7) The documentation of citizenship requirements established in this administrative regulation shall not apply to a noncitizen under nineteen (19) years of age who is lawfully present in the United States of America.

(8) Except as established in subsection (9) of this section, a noncitizen shall be considered to be lawfully present in the United States of America if the individual:

- (a) Is a qualified noncitizen;
- (b) Is a noncitizen in a valid immigrant status;
- (c) Is a noncitizen who has been paroled into the United States of America in accordance with 8 U.S.C. 1182(d)(5) for less than one (1) year, except for an individual:

1. Paroled for:

- a. Prosecution; or
- b. Deferred inspection; or

2. Pending removal proceedings;

- (d) Is a noncitizen who:

1. Has been granted:

- a. Temporary resident status in accordance with 8 U.S.C. 1160 or 1225a;
- b. Temporary protected status in accordance with 8 U.S.C. 1254a or is an individual with a pending application for temporary protected status who has been granted employment authorization;
- c. Employment authorization under 8 C.F.R. 274a.12(c);
- d. Deferred action status; or
- e. An administrative stay of removal under 8 C.F.R. Part 241;

2. Is a family unity beneficiary in accordance with Section 301 of Pub. L. 101-649 as amended, and 8 C.F.R. Part 236;

3. Is under deferred enforced departure in accordance with a decision made by the President of the United States of America; or

4. Is a beneficiary of an approved visa petition who has a pending application for an adjustment of status;

- (e) Is an individual with a pending application for asylum:

- 1.

- a. Under 8 U.S.C. 1158;
- b. For withholding of removal under 8 U.S.C. 1231; or
- c. Under the Convention of Torture; and

2. Who:

- a. Has been granted employment authorization; or
- b. Is under the age of fourteen (14) years and has had an application pending for at least 180 days;

- (f) Is an individual who has been granted withholding of removal under the Convention Against Torture;

- (g) Is a child who has a pending application for special immigrant juvenile status as described in 8 U.S.C. 1101(a)(27)(J); or

- (h) Is a victim of severe trafficking in persons in accordance with the Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106-386, as amended in 22 U.S.C. 7105(b)).

(9) An individual with deferred action under the Department of Homeland Security's deferred action for the childhood arrivals process ~~[, as described in the Secretary of Homeland Security's June 15, 2012 memorandum,]~~ shall not be considered to be lawfully present with respect to any of the categories listed in subsection (8) of this section.

Section 5. Provision of Social Security Numbers.

(1)

- (a) Except as provided in subsections (2) and (3) of this section, an applicant for or recipient of Medicaid shall provide a Social Security number as a condition of eligibility.

- (b) If a parent or caretaker relative and the child, unless the child is a deemed eligible newborn, refuses to cooperate with obtaining a Social Security number for the newborn child or other dependent child, the parent or caretaker relative shall be ineligible due to failing to meet technical eligibility requirements.

(2) An individual shall not be denied eligibility or discontinued from eligibility due to a delay in receipt of a Social Security number from the United States Social Security Administration if appropriate application for the number has been made.

(3) An individual who refuses to obtain a Social Security number due to a well-established religious objection shall not be required to provide a Social Security number as a condition of eligibility.

Section 6. Institutional Status.

(1) An individual shall not be eligible for Medicaid if the individual is a:

(a) Resident or inmate of a nonmedical public institution except as established in subsection (2) of this section;

(b) Patient in a state tuberculosis hospital unless he or she has reached age sixty-five (65);

(c) Patient in a mental hospital or psychiatric facility unless the individual is:

1. Under age twenty-one (21) years of age;

2. Under age twenty-two (22) if the individual was receiving inpatient services on his or her 21st birthday; or

3. Sixty-five (65) years of age or over; or

(d) Patient in a nursing facility classified by the Medicaid program as an institution for mental diseases, unless the individual has reached age sixty-five (65).

(2) An inmate shall be eligible for Medicaid during the period of time the inmate is admitted to a hospital if the inmate:

(a) Has been admitted to a hospital;

(b) Has been an inpatient at the hospital for at least twenty-four (24) consecutive hours; and

(c) Meets the Medicaid eligibility criteria established in this administrative regulation.

Section 7. Assignment of Rights to Medical Support. By accepting assistance for or on behalf of a child, a recipient shall be deemed to have assigned to the Cabinet for Health and Family Services any medical support owed for the child not to exceed the amount of Medicaid payments made on behalf of the recipient.

Section 8. Third-party Liability as a Condition of Eligibility.

(1)

(a) Except as provided in subsection (3) of this section, an individual applying for or receiving Medicaid shall be required as a condition of eligibility to cooperate with the Cabinet for Health and Family Services in identifying, and providing information to assist the cabinet in pursuing, any third party who may be liable to pay for care or services available under the Medicaid Program unless the individual has good cause for refusing to cooperate.

(b) Good cause for failing to cooperate shall exist if cooperation:

1. Could result in physical or emotional harm of a serious nature to a child or custodial parent;

2. Is not in a child's best interest because the child was conceived as a result of rape or incest; or

3. May interfere with adoption considerations or proceedings.

(2) A failure of an individual to cooperate without good cause shall result in ineligibility of the individual.

(3) A pregnant woman with income up to 195 percent of the federal poverty level established annually by the United States Department of Health and Human Services pursuant to 42 U.S.C. 9902(2) shall not be required to cooperate in establishing paternity or securing support for her unborn child.

Section 9. Application Process, Initial and Continuing Eligibility Determination.

(1) An individual may apply for Medicaid by:

(a) Using the Web site located at www.kynect.ky.gov;

(b) Applying over the telephone by calling:

1. 1-855-459-6328;

2. 1-855-306-8959 to speak to the DCBS Family Support Call Center; or

3. 1-855-326-4654 if deaf or hearing impaired;

(c) Faxing an application to 1-502-573-2007;

- (d) Mailing a paper application to DCBS Family Support, P.O. Box 2104, Frankfort, Kentucky 40602; or
- (e) Going to the applicant's local Department for Community Based Services Office and applying in person.

(2)

- (a) An application shall be processed (approved, denied, or a request for additional information sent) within forty-five (45) days of application submittal.
- (b) Immediately after submittal if there is a variance of ten (10) percent or more regarding income information reported by the applicant versus information available from a trusted source or sources, a request for additional information shall be generated for the applicant requesting documentation to prove the applicant's income.
- (c) If a trusted source indicates that an applicant is incarcerated, a request for additional information shall be generated requesting verification of the applicant's incarceration dates.
- (d) If an applicant fails to provide information in response to a request for additional information within thirty (30) days of the receipt of the request, the application shall be denied.

(3)

- (a) An annual renewal of eligibility shall occur without an individual having to take action to renew eligibility, unless:
 - 1. The individual's eligibility circumstances change resulting in the individual no longer being eligible for Medicaid; or
 - 2. A request for additional information is generated due to a change in income or incarceration status.

(b)

- 1. If an individual receives a request for additional information as part of the renewal process, the individual shall provide the information requested within forty-five (45) days of receiving the request.
- 2. If an individual fails to provide the information requested within forty-five (45) days of receiving the request, the individual's eligibility shall be terminated on the forty-fifth day from the request for additional information.

- (4) An individual shall be required to report to the department any changes in circumstances or information related to Medicaid eligibility.

Section 10. Continuous Eligibility for Children.

(1) An individual who is younger than nineteen (19) shall receive continuous eligibility, consistent with 42 C.F.R. 435.926.

(2) The continuous eligibility period for a child recipient shall be for a period of twelve (12) months.

(3) A child's eligibility during a continuous eligibility period shall only be terminated under the following circumstances:

- (a) The child becomes nineteen (19) during the continuous eligibility period; [7]
- (b) The child, or representative, voluntarily requests that the eligibility be terminated;
- (c) The child ceases to be a resident of the Commonwealth;
- (d) The agency determines that the eligibility was granted due to:
 - 1. Agency error; or
 - 2. Fraud, abuse, or perjury attributed to the child or representative; or
- (e) The death of the child.

Section 11. Adverse Action, Notice, and Appeals. The adverse action, notice, and appeals provisions established in 907 KAR 20:060 shall apply to individuals for whom a modified adjusted gross income is the Medicaid eligibility income standard.

Section 12. [Section 14.] Miscellaneous Special Circumstances.

(1) A person during pregnancy, and as though pregnant through the end of the month containing the 365th day of a period beginning on the last day of pregnancy, or a child under six (6) years of age, as specified in 42 U.S.C. 1396a(l)(1), shall meet the income requirements for this eligibility group in accordance with this administrative regulation.

(2) If an eligible child is receiving covered inpatient services, except for services in a long term care facility or behavioral health services in an inpatient facility on a long-term basis, on a birthday which will make the child ineligible due to age, the child shall remain eligible until the end of the stay for which the covered inpatient services are furnished if the child remains otherwise eligible except for age.

(3) A child born to a woman eligible for and receiving Medicaid shall be eligible for Medicaid as of the date of the child's birth if the child has not reached his or her first birthday.

(4)

(a) A parent, including a natural or adoptive parent, may be included for assistance in the case of a family with a child.

(b) If a parent is not included in the case, a caretaker relative or relatives may be included to the same extent the caretaker relative would have been eligible in the Aid to Families with Dependent Children program using the AFDC methodology in effect on July 16, 1996.

(5) For an individual eligible on the basis of utilizing his or her excess income for incurred medical expenses, the effective date of eligibility shall be the day the spend-down liability is met.

(6) If a family member is pregnant, the unborn child shall be considered as a family member for income determination purposes.

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



Andy Beshear
GOVERNOR

CABINET FOR HEALTH AND FAMILY SERVICES APPS

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August 7, 2023

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

Re: 922 KAR 2:180 staff suggested amendment

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of an issue raised by 922 KAR 2:180, the Department for Community Based Services proposes the attached LRC staff suggested amendment. If you have any questions, please feel free to contact Laura Begin at Laura.Begin@ky.gov.

Sincerely,

Staff Assistant
Office of Legislative and Regulatory Affairs

Suggested Amendment

Final Version: 08/04/2023 at 1:55 p.m.

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Community Based Services
Division of Child Care

922 KAR 2:180. Requirements for registered relative child care providers in the Child Care Assistance Program.

Page 6

Section 2(2)(b)2.

Line 15

After "by a", delete "cabinet-approved".

After "training agency", insert the following:

that has been approved by the cabinet as providing research-based and scientific best practices