



FINANCE AND ADMINISTRATION CABINET  
KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

Andy Beshear  
Governor

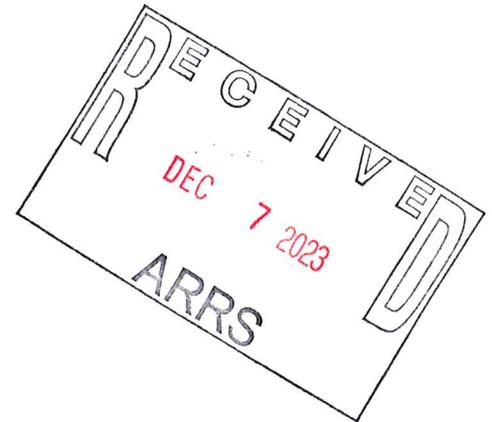
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Holly M. Johnson  
Secretary

Jo Carole Ellis  
Executive Director

December 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  
029, Capitol Annex  
Frankfort, KY 40601



Re: 11 KAR 8:030. Teacher Scholarships.

Dear Co-Chair West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 11 KAR 8:030, the Kentucky Higher Education Assistance Authority proposes the attached amendment to 11 KAR 8:030.

Sincerely,

A handwritten signature in black ink, appearing to be "Miles F. Justice".

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

**REVISED: 12/4/2023 12:19 PM**  
**SUGGESTED AMENDMENT**

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

**11 KAR 8:030. Teacher Scholarships.**

**Page 1**

**NECESSITY, FUNCTION, AND CONFORMITY**

**Lines 7-8**

After "authorizes the", insert the following:

Kentucky Higher Education Assistance Authority

Delete "authority".

**Line 8**

After "provide scholarships", insert comma.

**Lines 8-9**

After "requires the", delete the following:

Kentucky Higher Education Assistance

**Line 11**

After "requires the", delete the following:

Kentucky Higher Education Assistance

**Line 14**

After "administered by the", delete the following:

Kentucky Higher Education Assistance

**Line 16**

After "repayment procedures", insert comma.

**Page 1**

**Section 1(1)**

**Line 19**

After "defined", insert "by".

Delete "in".

**Page 1**

**Section 1(2)**

**Line 20**

After "defined", insert "by".

Delete "in".

**Page 2**

**Section 1(4)**

**Line 4**

After "defined", insert "by".  
Delete "in".  
After "KRS", insert "164.769(2)(c)".  
Delete "164.769(2)(b)".

**Page 2**

**Section 1(5)**

**Line 5**

After "defined", insert "by".  
Delete "in".  
After "KRS", insert "164.769(2)(d)".  
Delete "164.769(2)(c)".

**Page 2**

**Section 1(7)**

**Line 10**

After "defined", insert "by".  
Delete "in".  
After "KRS", insert "164.769(2)(e)".  
Delete "164.769(2)(d)".

**Page 2**

**Section 1(10)**

**Line 17**

After "defined", insert "by".  
Delete "in".  
After "KRS", insert "164.769(2)(f)".  
Delete "164.769(2)(e)".

**Page 2**

**Section 1(11)**

**Line 18**

After "defined", insert "by".  
Delete "in".  
After "KRS", insert "164.769(2)(g)".  
Delete "164.769(2)(f)".

**Page 2**

**Section 1(12)**

**Line 19**

After "defined", insert "by".

Delete "in".  
After "KRS", insert "164.769(2)(h)".  
Delete "164.769(2)(g)".

**Page 3**  
**Section 2(1)**  
**Line 8**

After "holiday", insert comma.

**Page 3**  
**Section 2(3)**  
**Line 16**

After "renewal applicants,", insert "initial".

**Line 18**  
After "following order", insert "of priority".

**Page 3**  
**Section 2(3)(a)**  
**Line 19**

After "who", insert ": (a)".

**Line 20**  
After "161.028", insert semicolon.  
After "and", insert "(b)".

**Lines 21-22**  
After "education program", delete the following:  
shall be ranked in ascending order by expected family contribution

**Page 4**  
**Section 2(3)(b)**  
**Line 3**

After "education program", delete the following:  
shall be ranked in ascending order by expected family contribution

**Page 4**  
**Section 2(3)(c)**  
**Line 5**

After "education program", insert the following:  
. (4) Each group of initial applicants listed in subsection (3) of this section shall be ranked in ascending order by expected family contribution

Delete the following:  
shall be ranked in ascending order by expected family contribution

**Page 5**

**Section 4(1)**

**Lines 5-6**

After "recipient shall", insert ":(a)".

**Line 6**

After "funds", insert semicolon.

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

After "service", delete "in lieu thereof".

**Page 5**

**Section 4(5)**

**Line 16**

After "account", insert comma.

Delete "and".

**Page 7**

**Section 5(2)(a)**

**Line 2**

After "authority", delete comma.

**Page 8**

**Section 6(1)**

**Line 2**

After "interest", delete "thereon".

**Page 12**

**Section 13**

**Line 21**

After "information", insert the following:

about this program to potential recipients

**Lines 21-22**

After "superintendents", delete the following:

about this program to potential recipients

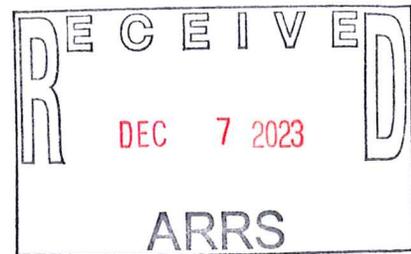
**Page 13**

**Section 14(2)**

**Line 8**

After "4:30 p.m.", insert the following:

or at kheaa.com.



COMMONWEALTH OF KENTUCKY  
**BOARD OF OPTOMETRIC EXAMINERS**  
**CHRISTI LEMAY, EXECUTIVE DIRECTOR**  
2365 HARRODSBURG ROAD, SUITE A240  
LEXINGTON, KY 40504-3333  
(859) 246-2744

December 4, 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 5:005 Fees and fines

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 5:005, the Kentucky Board of Optometric Examiners proposes the attached amendment to 201 KAR 5:005.

Sincerely,

A handwritten signature in blue ink that reads "Christi LeMay".

Christi LeMay, Executive Director  
Kentucky Board of Optometric Examiners  
2365 Harrodsburg Road, Suite A240  
Lexington, KY 40504

Final, 12-4-2023

SUGGESTED SUBSTITUTE

BOARDS AND COMMISSIONS  
Kentucky Board of Optometric Examiners

**201 KAR 5:005. Fees ~~and~~ fines~~, and forms~~.**

RELATES TO: KRS 218A.205(3)~~(h)(g)~~, **(8)**, 320.220, 320.250, 320.270, **320.310**

STATUTORY AUTHORITY: KRS 218A.205(3)~~(h)(g)~~, **(8)**, 320.240~~(4)~~, (7), 320.270(4)

NECESSITY, FUNCTION, AND CONFORMITY: **KRS 320.240(4) requires the board to promulgate administrative regulations for the reasonable regulation of the profession of optometry and the practice thereof by licensed optometrists.** KRS 320.220 requires all persons who practice optometry in this state to be licensed by the Kentucky Board of Optometric Examiners. KRS 320.250 establishes criteria for an applicant to apply for a license. KRS 320.270 ~~authorizes~~**grants** the board ~~the discretion~~ to admit to practice in Kentucky persons licensed to practice optometry in other states. KRS 218A.205(3)~~(h) and (8) require~~~~(g) requires~~ fingerprint-supported criminal record checks and queries to the National Practitioner Data Bank on applicants. This administrative regulation **establishes fees, including fees relating to licensure**~~prescribes the procedures to be followed in making application to the board for a license, renewal of that license,~~ and fines those who fail to comply with continuing education requirements.

Section 1. Initial Application Fee. A non-refundable initial application and license fee shall be \$500 per year, **as established in 201 KAR 5:010.**

Section 2. Application for License by Endorsement Fee. A non-refundable application and license **by endorsement fee** shall be \$700 per year, **as established in 201 KAR 5:010.**

Section 3. Initial License Fee. A non-refundable initial license fee shall be pro-rated from \$250 for the remainder of months left in the license year.

Section 4. Renewal License Fee. A non-refundable renewal **license** fee shall be \$250 per year, **as established in 201 KAR 5:090.**

Section 5. Late Renewal License Fee. A non-refundable late renewal **license** fee shall be \$100, in addition to the renewal license Fee outlined in Section 4 of this administrative regulation.

Section 6. Duplicate License Fee. A non-refundable fee for a duplicate license renewal certificate shall be twenty (20) dollars.

Section 7. Reinstatement Fee. A reinstatement fee shall be \$250 for each year, or any portion of a year that the license was not renewed.

Section 8. Reinstatement Administrative Processing Fee. A reinstatement administrative processing fee shall be \$300, in addition to the reinstatement fee outlined in Section 7 of this administrative regulation.

Section 9. Name Change Fee. A non-refundable fee to process a name change shall be twenty-**five** (25) dollars.

Section 10. Insufficient Funds Fee. **An insufficient funds[A]** fee for **a** returned check or denied online banking (ACH) payment shall be fifty (50) dollars.

Section 11. Continuing Education Non-compliance Fine. A fine of \$500 shall be assessed against any licensee who fails to comply with the Continuing Education requirements for Kentucky Optometrists as outlined in KRS 320.280 and 201 KAR 5:030. The initial assessment of this fine against a licensee shall not result in disciplinary action and shall not be reported to the National Practitioners Databank (NPDB). However, any subsequent violations of this provision may be reported to the NPDB at the discretion of the board. In these[such] instances, the action will be appealable pursuant to KRS ~~320.331~~320.321, ~~201 KAR 5:070,~~ and KRS Chapter 13B.

Section 12. License Verification List. A fee for a licensee verification list shall be \$100.

Section 13. Individual License Verification. A fee for an individual licensee written verification shall be twenty-five (25) dollars.

***[Section 14. Incorporation by Reference.***

~~(1) The following material is incorporated by reference from [www.optometry.ky.gov](http://www.optometry.ky.gov):~~

~~(a) "Application for License to Practice Optometry", March 2023; and~~

~~(b) "Application for License by Endorsement to Practice Optometry", March 2023.~~

~~(c) "Application for Expanded Therapeutic Procedures Course", March 2023;~~

~~(d) "Application for Kentucky Licensed Optometrist to be Credentialed to Utilize Expanded Therapeutic Procedures", March 2023;~~

~~(e) "Application for New Applicant to be Credentialed to Utilize Expanded Therapeutic Procedures", March 2023;~~

~~(f) "Application for Endorsement to be Credentialed to Utilize Expanded Therapeutic Procedures", March 2023;~~

~~(g) "Preceptor Approval Form", March 2023;~~

~~(h) "Preceptor Evaluation of Expanded Therapeutic Laser Procedure", March 2023; and~~

~~(i) "Application to Utilize Expanded Therapeutic Laser Procedure(s)", March 2023.~~

~~(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Optometric Examiners, 2365 Harrodsburg Road, Suite A240, Lexington, Kentucky 40504, telephone (859) 246-2744, Monday through Friday, 9 a.m. to 4:30 p.m. or on our Web site [www.optometry.ky.gov](http://www.optometry.ky.gov)]~~

CONTACT PERSON: Christi LeMay, Executive Director, Kentucky Board of Optometric Examiners, 2365 Harrodsburg Road, Suite A240, Lexington, Kentucky 40504; phone (859) 246-2744; fax (859) 246-2746; email [christi.lemay@ky.gov](mailto:christi.lemay@ky.gov).

Andy Beshear  
Governor



John C. Park, DVM  
Board Chairman

**KENTUCKY BOARD OF VETERINARY EXAMINERS**

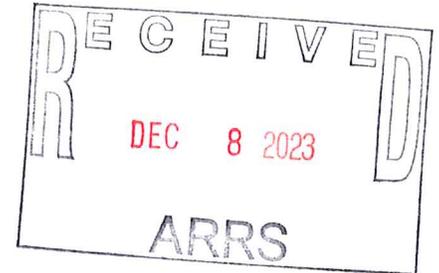
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December 8, 2023

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



**RE: 201 KAR 16:550. Authorization for animal control agencies to apply for a restricted controlled substances certificate from DEA; 201 KAR 16:552. Responsibilities for certified animal control agencies; limitations on drugs; 201 KAR 16:560. Certification as an animal euthanasia specialist; 201 KAR 16:701. Standards for medical records; 201 KAR 16:702. Standards for veterinary surgery; 201 KAR 16:750. Licensed veterinary technicians (LVTs); Veterinary assistants; Scope of practice and supervisory requirements; 201 KAR 16:510. Fees for veterinarians; 201 KAR 16:512. Fees for veterinary technicians; 201 KAR 16:514. Fees for animal control agencies and animal euthanasia specialists; 201 KAR 16:516. Fees – other fees.**

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 16:550, 552, 560, 701, 702, 750, 510, 512, 514, and 516, the Kentucky Board of Veterinary Examiners proposes the attached amendments to 201 KAR 16:550, 552, 560, 701, 702, 750, 510, 512, 514, and 516.

Sincerely,

A handwritten signature in black ink that reads "Michelle M. Shane".

Michelle M. Shane, Executive Director  
Kentucky Board of Veterinary Examiners  
107 Corporate Drive, Second Floor  
Frankfort, KY 4001

## Subcommittee Substitute

### BOARDS AND COMMISSIONS Board of Veterinary Examiners (As Amended at ARRS)

201 KAR 16:510. Fees for veterinarians.

RELATES TO: KRS 321.190, 321.193, 321.201, 321.211, **321.221**, 321.235, [321.240]321.320

STATUTORY AUTHORITY: KRS 321.193(2)[321.193(1), (5)], 321.201(1), 321.211(1)-(3), (5), **321.221(1)**, 321.235(1)(c)[321.235(3)], 321.320[321.240(5)]

NECESSITY, FUNCTION, AND CONFORMITY: KRS **321.235(1)(c)[321.240(5)]** requires the Kentucky Board of Veterinary Examiners to promulgate administrative regulations as it may deem necessary and proper to effectively carry out and enforce the provisions of KRS Chapter 321, including **[regulations]** to establish authorized fees. KRS 321.211(1) **requires [mandates that]** veterinarians **to** pay a renewal fee to the board as a condition of licensure. **KRS 321.201 authorizes the board to issue a special permit for the practice of veterinary medicine, and KRS 321.235(1)(c) requires [authorizes] the board to set fees for such special permits.** This administrative regulation establishes application, examination, renewal, late, reinstatement, inactive status, and retirement[those] fees for veterinarians, **as well as fees for special permits.** This **administrative** regulation also establishes reduced and waived fees for military servicemembers.

#### Section 1. Payment and Submission of Fees.

(1) Fees to the board shall be paid by check or money order, or, if available, online payment by debit or credit card. Checks and money orders shall be made payable to the Kentucky State Treasurer.

(2) All fees shall be nonrefundable.

#### Section 2. ~~[Application Fees for Veterinarians.]~~

~~[(1)] [The application fee for a veterinarian shall be \$100.]~~

~~[(2)] [The fee shall be attached to the completed Application for Licensure as a Veterinarian form as found in 201 KAR 16:540 or online equivalent form, including all required attachments.]~~

#### ~~[Section 3.] Examination Fees for Veterinarians.~~

(1) The fee for the North American Veterinary Licensing Examination (NAVLE) shall be paid directly to the International Council for Veterinary Assessment (ICVA), its designee, or current test administrator.

(2) The fee for the Kentucky~~[State]~~ Board of Veterinary Examiners state jurisprudence exam[Examination] shall be \$100 paid directly to the board.

(3) The fee for an applicant to obtain board approval to retake the NAVLE shall be fifty (50) dollars paid directly to the board and attached to the Application for Retake of the NAVLE form as found in 201 KAR 16:530 or online equivalent form. In 2024, or at the time when the ICVA takes

over the NAVLE eligibility review process, whichever is later, the KBVE shall no longer accept retake applications or collect retake fees.

### Section 3. Fees for Special Permits.

(1) The fee for a special permit issued by the board pursuant to KRS 321.201 shall be \$200.

(2) The fee shall be attached to either the Application for Licensure as a Veterinarian form as found in 201 KAR 16:540 or the Application for Retake of the NAVLE form as found in 201 KAR 16:530, or online equivalent forms.

(3) A special permit shall not be renewed. Following expiration of a special permit, an individual shall reapply for a new special permit **pursuant to the limitations established in KRS 321.201.**

### Section 4. Application Fees for Veterinarians.

(1) The application fee for a veterinarian license shall be **\$350**~~[\$200]~~.

(2) The fee shall be attached to the completed Application for Licensure as a Veterinarian form as found in 201 KAR 16:540 or online equivalent form, including all required attachments.

Section 5.~~[Section 4.]~~ Renewal Fees for Veterinarian Licenses~~[Veterinarians].~~ ***[The following fees shall be paid in connection with licensure renewals:]***

(1) **The renewal deadline shall be September 30 of each year ending in an even number. The renewal biennium shall be [is] the time period beginning the day after the renewal deadline to the next renewal deadline.**

(2)~~[(a)]~~ Except as **established in [provided by] subsections (5) and [-](6)[paragraphs (b) and (c)]** of this **section**~~[subsection]~~, the biennial renewal fee for licensure as a veterinarian in active status shall **[be as established in paragraphs (a)-(c) of this subsection]**~~[\$400]~~~~[\$200]~~~~[if]:~~

**(a) Until June 29, 2026, [the renewal fee shall] be \$275;[-]**

**(b) Between June 30, 2026, and June 30, 2028, [the renewal fee shall] be \$350; and[-]**

**(c) After June 30, 2028, [the renewal fee shall] be \$400.**

(3)~~[1.]~~ The Renewal Application for Veterinarians form as found in 201 KAR 16:570 or online equivalent form shall be [is] complete, and include [including] all required attachments, continuing education credits, and fee payment.~~[- and]~~

(4)~~[2.]~~ **No later than September 30 of the second year of the renewal biennium,** the complete package **shall be [is]** submitted to the board for review and approval **[no] [not] [later than September 30 of the second year of the renewal biennium].**

(5)~~[(b)]~~ For veterinarians who are initially licensed in the second year of the biennium between 365 days and 182 days prior to the end of the renewal biennium, the licensure renewal fee shall be reduced **by half**~~[to \$200]~~~~[\$400]~~ during a licensee's first licensure cycle. The late fee for renewal, if applicable, shall not be reduced or waived without board authorization.

(6)~~[(c)]~~ For veterinarians who are initially licensed in the second year of the biennium between 181 days and the last day of the renewal biennium, the licensure renewal fee shall be waived during a licensee's first licensure cycle.

### **(7) [(2)] Utilization of Renewal Grace Period.**

(a) During the **sixty (60) day** grace period established by KRS 321.211~~(2)~~, a licensed veterinarian who failed to meet the September 30 renewal deadline may continue to function as though licensed until a late renewal application is submitted to **and approved by** the board.

(b) The late fee for biennial renewal shall be ~~\$300~~~~[\$200]~~[\$100] in addition to the renewal fee **established [as described]** in **subsections [Section 5](2), [and] (5), and [-(6)]**~~[Section 4(1) or Section 6]~~ of this **section [administrative regulation]**.

(c) The veterinarian shall submit the complete Renewal Application for Veterinarians form as found in 201 KAR 16:570 or online equivalent form, including all required attachments, continuing education hours, and fee payment, to the board between October 1 and November 30 **of a year ending in an even number**~~[during the last year of the biennium]~~.

~~(8)~~~~(3)~~ A veterinarian's license shall expire if a ~~[no]~~ renewal application package and all attachments, and late fee if applicable, is **not submitted [paid]** to the board by November 30 **each year ending in an even number**.

Section 6.~~[Section 5.]~~ Reinstatement Fees for Veterinarians.

(1)

(a) Except as **established in [provided by] subsection 2 of this section [subparagraphs 1-2. of this paragraph], and Section 7**~~[Section 6]~~ of this administrative regulation, if not more than five (5) years have elapsed since the last date of license expiration pursuant to KRS 321.211(6)~~[KRS 321.211(3)]~~, a veterinarian **shall**~~[may]~~ pay a reinstatement fee **as established in subparagraphs 1. through [1-]3. of this paragraph to reinstate their license to active status.**~~[of \$1,000]~~[\$400]~~[and]~~

**1. Until June 29, 2026, the licensure reinstatement fee shall be \$675.**

**2. Between June 30, 2026, and June 30, 2028, the licensure reinstatement fee shall be \$775.**

**3. After June 30, 2028, the licensure reinstatement fee shall be \$850.**

**(b) The applicant shall** submit a complete Reinstatement Application for Veterinarians form as found in 201 KAR 16:540 or online equivalent form, including all required attachments, to the board for reinstatement of their~~[his or her]~~ license.

~~(c)~~~~(b)~~ A veterinarian shall not apply for a new license during this five (5) year window; a reinstatement application shall be required.

(2) If more than five (5) years have elapsed since the last date of license expiration, a veterinarian shall apply as a new applicant to obtain a license in the Commonwealth of Kentucky.

Section 7.~~[Section 6.]~~ Inactive Status of License.

(1)

(a) A veterinarian **shall**~~[may]~~ request inactive licensure status in accordance with 201 KAR 16:580.

**(b) If more than ninety (90) days prior to the renewal deadline or more than 150 days prior to the grace period deadline, [Outside of a renewal window,] [if] [using] the Request for Licensure Status Change form shall be required, and there shall not be a fee.**

**(c) If less than ninety (90) days prior to the renewal deadline or less than 150 days prior to the grace period deadline, [During an open renewal window,] [if using] the Renewal Application for Veterinarians form shall be required, and the required fee shall be paid**~~[be]~~ as established in subsection (2) of this section.

(2) Renewal of an inactive veterinary license.

(a) The biennial renewal fee for inactive veterinarian licensure status shall be ~~\$100~~~~[\$275]~~[\$100] per renewal biennium.

(b) **The late fee for biennial renewal of an inactive veterinarian license shall be \$200 in addition to the renewal fee established [as described] in paragraph [Section 7][(2)](a) of this subsection [administrative regulation], and [The late fees established in Section 4(2) of this administrative regulation]** shall apply to a veterinarian license in an inactive status that was not renewed by September 30 of the **second year of the renewal** biennium.

(c) A veterinarian license in an inactive status that is not renewed by November 30 shall be **moved to an [deemed to be] expired status.**

(3) Reinstatement of inactive veterinarian license status to active status.

(a) A veterinarian licensee in inactive status may reinstate their~~[his or her]~~ license to active status in accordance with 201 KAR 16:580.

(b) There shall be a reinstatement fee ~~[of \$400]~~[\$200] **due at the time of application, as established [provided for] in subparagraphs 1. and [-]2. of this paragraph.**

**1. For an inactive veterinarian license that has been in inactive status less than twenty-four (24) months:**

**a. Until June 29, 2026, the licensure reinstatement fee shall be \$500; [-]**

**b. Between June 30, 2026, and June 30, 2028, the licensure reinstatement fee shall be \$550; and [-]**

**c. After June 30, 2028, the licensure reinstatement fee shall be \$600.**

**2. For an inactive veterinarian license that has been in inactive status greater than twenty-four (24) months, the licensure reinstatement fee shall be \$400.**

Section 8.~~[Section 7.]~~ Retirement of a Veterinary License.

(1)

(a) A veterinarian may request to retire their~~[his or her]~~ license at any time.

(b) The one-time fee for this service shall be twenty-five (25) dollars, which shall be attached to a Request for Licensure Status Change form as found in 201 KAR 16:580 or the Renewal Application for Veterinarians form as found in 201 KAR 16:570 or online equivalent forms.

(2) Once a license is retired it shall not be reactivated. If a veterinarian holds a retired license and wishes to practice again, **they**~~[he or she]~~ shall apply to the board for a new license to practice veterinary medicine in the Commonwealth of Kentucky.

Section 9.~~[Section 8.]~~ Fee Reduction for Military Personnel.

(1) If a veterinarian applicant submits a copy of their current military orders or~~[his or her]~~ DD-214 (or other documentation acceptable to the board) with their application or renewal paperwork, the board shall waive or reduce fees as **established [indicated]** in this section.

~~(a)~~~~[(1)]~~ For active duty military, active reserves, and National Guard service persons, an individual's initial application fees, the Kentucky State Exam fee, and the biennial renewal fees shall be waived.

~~(b)~~~~[(2)]~~ For retired military personnel with twenty (20) or more years of service, an individual's initial application fees shall be waived, and the biennial renewal fees shall be reduced by half, rounded to the nearest whole dollar.

~~(c)~~~~[(3)]~~ For any other military veteran, the initial application fees shall be waived.

(d)[(4)] All other requirements of licensure, including renewal deadlines and continuing education requirements established in 201 KAR 16:590, shall ***[still]*** be met.

(2) In conformity with federal Pub.L. No 117-333, ***for [if]*** a veterinarian applicant who is an active duty servicemember, or ***whose [their]*** spouse is an active duty servicemember, ***[then]*** all application fees to the board shall be waived ***if [when all of the following conditions are met]:***

(a) The servicemember, ***or [and]*** the service member's spouse, ***has [if one exists, shall have]*** their residency relocated to Kentucky for the duration of current military orders;

(b) The veterinarian ***holds [shall hold]*** at least one (1) license equivalent in scope in another United States jurisdiction;

(c) Within ninety (90) days of relocating, the veterinarian ***registers [shall register]*** with the board on the Application for Licensure as a Veterinarian form as found in 201 KAR 16:540 or online equivalent form, in conformity with 201 KAR 16:540, Section 1(4);~~[-]~~

(d) The servicemember ***submits [shall submit]*** a copy of their current military orders to the board;

(e) All veterinarian ***licenses [licensees]*** held in any jurisdiction by the veterinarian ***[shall]*** remain in good standing;~~[-and]~~

(f) ***In order to demonstrate compliance with the requirement of paragraph [subparagraph (2)](e) of this subsection [section], the servicemember or their spouse submits [shall submit] an AAVSB VAULT report to the board; and***

(g) The veterinarian ***licensee submits [shall submit]*** to the authority of the board for the purposes of standards of practice, discipline, and fulfillment of any continuing education requirements.

CONTACT PERSON: Michelle Shane, Executive Director, Kentucky Board of Veterinary Examiners, 107 Corporate Drive, Second Floor, Frankfort Kentucky 40601, phone (502) 782-0273, fax (502) 695-5887, email michelle.shane@ky.gov.

Andy Beshear  
Governor



John C. Park, DVM  
Board Chairman

**KENTUCKY BOARD OF VETERINARY EXAMINERS**

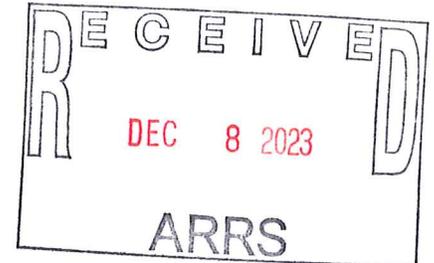
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December 8, 2023

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



**RE: 201 KAR 16:550. Authorization for animal control agencies to apply for a restricted controlled substances certificate from DEA; 201 KAR 16:552. Responsibilities for certified animal control agencies; limitations on drugs; 201 KAR 16:560. Certification as an animal euthanasia specialist; 201 KAR 16:701. Standards for medical records; 201 KAR 16:702. Standards for veterinary surgery; 201 KAR 16:750. Licensed veterinary technicians (LVTs); Veterinary assistants; Scope of practice and supervisory requirements; 201 KAR 16:510. Fees for veterinarians; 201 KAR 16:512. Fees for veterinary technicians; 201 KAR 16:514. Fees for animal control agencies and animal euthanasia specialists; 201 KAR 16:516. Fees – other fees.**

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 16:550, 552, 560, 701, 702, 750, 510, 512, 514, and 516, the Kentucky Board of Veterinary Examiners proposes the attached amendments to 201 KAR 16:550, 552, 560, 701, 702, 750, 510, 512, 514, and 516.

Sincerely,

A handwritten signature in black ink that reads "Michelle M. Shane".

Michelle M. Shane, Executive Director  
Kentucky Board of Veterinary Examiners  
107 Corporate Drive, Second Floor  
Frankfort, KY 4001

## Subcommittee Substitute

### BOARDS AND COMMISSIONS Kentucky Board of Veterinary Examiners (As Amended at ARRS)

201 KAR 16:512. Fees for veterinary technicians.

RELATES TO: KRS 321.190, 321.235[321.240], 321.441, 321.442

STATUTORY AUTHORITY: KRS 321.235(1)(c)[321.235(3)], 321.320[321.240(5)], 321.441(7)[321.441(3)]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 321.235(1)(c)[321.240(5)] requires the Kentucky Board of Veterinary Examiners to promulgate administrative regulations as it may deem necessary and proper to effectively carry out and enforce the provisions of KRS Chapter 321, including **[regulations]** to establish authorized fees. KRS 321.441(7) **requires [mandates that]** veterinary technicians **to** pay an annual fee to the board as a condition of licensure. This administrative regulation establishes application, examination, renewal, late, reinstatement, inactive status, and retirement[those] fees for veterinary technicians. This administrative regulation also establishes reduced and waived fees for military servicemembers **applying for a veterinary technician license.**

Section 1. Payment and Submission of Fees.

(1) Fees to the board shall be paid by check or money order, or, if available, online payment by debit or credit card. Checks and money orders shall be made payable to the Kentucky State Treasurer.

(2) All fees shall be nonrefundable.

Section 2. Examination Fees for Veterinary Technicians. The fee for the Veterinary Technician National Exam (VTNE) shall be paid directly to the American Association of Veterinary State Boards (AAVSB), its designee, or current test administrator.

Section 3. Application Fees for Veterinary Technicians.

(1) The application fee for a veterinary technician shall be fifty (50)[twenty-five (25)] dollars.

(2) The fee shall be attached to the completed Application for Licensure as a Veterinary Technician form as found in 201 KAR 16:540 or online equivalent form, including all required attachments.

~~[Section 3.] Examination Fees for Veterinary Technicians. The fee for the Veterinary Technician National Exam (VTNE) shall be paid directly to the American Association of Veterinary State Boards (AAVSB), its designee, or current test administrator.]~~

Section 4. Renewal Fees for Veterinary Technicians. ~~**[The following fees shall be paid in connection with licensure renewals for veterinary technicians:]**~~

(1) **The renewal deadline shall be September 30 of each year. The renewal period shall be [is] the time period beginning the day after the renewal deadline to the next renewal deadline.**

(2)~~(a)~~ Except as **established in [provided by] subsection (5)[paragraph (b)]** of this section~~[subsection]~~, the annual renewal fee for licensure as a veterinary technician in active status shall **[be as established in paragraphs (a)–(c) of this subsection][fifty (50)][thirty (30)]** dollars if:

**(a) Until June 29, 2026, [the renewal fee shall] be forty (40) dollars; [\$40.]**

**(b) Between June 30, 2026, and June 30, 2028, [the renewal fee shall] be forty-five (45) dollars; and [\$45.]**

**(c) After June 30, 2028, [the renewal fee shall] be fifty (50) dollars [\$50].**

~~(3)[1.]~~ The Renewal Application for Veterinary Technicians form as found in 201 KAR 16:570 or online equivalent form **shall be[is] complete, and include[including]** all required attachments, continuing education credits, and fee payment.~~[; and]~~

~~(4)[2.]~~ **No later than September 30 of the renewal period,** the complete package **shall be[is]** submitted to the board for review and approval **[not later than September 30 of the renewal period].**

~~(5)[(b)]~~ For a veterinary technician who is initially licensed 120 days prior to the end of the renewal period, the licensure renewal fee shall be waived during a licensee's first licensure cycle.

~~(6)[(2)]~~ **Utilization of Renewal Grace Period.**

(a) A sixty (60) day grace period shall be allowed after September 30, during which time the licensed veterinary technician who failed to meet the September 30 renewal deadline may continue to function as though licensed until a late renewal application is submitted to the board.

(b) The late fee for annual renewal shall be **thirty (30)[fifty (50)][fifteen (15)]** dollars in addition to the renewal fee **established [as described] in subsections (2) and (5)[Section 4(1)]** of this section~~[administrative regulation]~~.

(c) The veterinary technician shall submit the complete Renewal Application for Veterinary Technicians form as found in 201 KAR 16:570, including all required attachments, continuing education credits, and fee payment, to the board between October 1 and November 30.

~~(7)[(3)]~~ A veterinary technician's license shall expire if **a [no]** renewal application package and all attachments, and late fee if applicable, is **not submitted [paid]** to the board by November 30.

## Section 5. Reinstatement Fees for Veterinary Technicians.

(1)

(a) Except as **established in [provided by] subsection (2) of this section and** Section 6(3) of this administrative regulation, if not more than five (5) years have elapsed since the last date of license expiration, a veterinary technician **shall[may]** pay a reinstatement fee **[of] as established in subparagraphs 1. through 3. [1–3]** of this paragraph to reinstate their license to active status.~~[\$150.][fifty (50) dollars][and]~~

**1. Until June 29, 2026, the licensure reinstatement fee shall be ninety (90) dollars.**

**2. Between June 30, 2026, and June 30, 2028, the licensure reinstatement fee shall be \$100.**

**3. After June 30, 2028, the licensure reinstatement fee shall be \$115.**

**(b) The applicant shall** submit a complete Reinstatement Application for Veterinary Technicians form as found in 201 KAR 16:540 or online equivalent form, including all required attachments, to the board for reinstatement of their~~[his or her]~~ license.

**(c)**~~(b)~~ A veterinary technician shall not apply for a new license during this five (5) year window; a reinstatement application shall be required.

(2) If more than five (5) years have elapsed since the last date of license expiration, a veterinary technician shall apply as a new applicant to obtain a license in the Commonwealth of Kentucky.

#### Section 6. Inactive Status of a License.

(1)

(a) A veterinary technician **shall**~~[may]~~ request inactive licensure status in accordance with 201 KAR 16:580.

**(b) If more than ninety (90) days prior to the renewal deadline or more than 150 days prior to the grace period deadline,**~~[Outside of a renewal window,]~~~~[If]~~~~[using]~~ the Request for Licensure Status Change form **shall be required, and** there shall not be a fee.

**(c) If less than ninety (90) days prior to the renewal deadline or less than 150 days prior to the grace period deadline,**~~[During an open renewal window,]~~~~[If using]~~ the Renewal Application for Veterinary Technicians form **shall be required, and** the required fee shall **be paid**~~[be]~~ as established in subsection (2) of this section.

(2) Renewal of an inactive veterinary technician license.

(a) The annual renewal fee for inactive veterinary technician licensure status shall be **ten (10)**~~[twenty-five (25)]~~~~[ten (10)]~~ dollars per renewal period.

**(b) The late fee for renewal of an inactive veterinary technician license shall be twenty-five (25) dollars in addition to the renewal fee established [as described] in paragraph [subsection (2)](a) of this subsection [section], and**~~[The late fees established in Section 4(2) of this administrative regulation]~~ shall apply to **a veterinarian technician license in an inactive status that was**~~[licenses]~~ not renewed annually by September 30.

(c) A **veterinarian technician** license in an inactive status that is not renewed by November 30 shall be **moved to an**~~[deemed to be]~~ expired **status**.

(3) Reinstatement of inactive veterinary technician license status to active status.

(a) A licensed veterinary technician in inactive status may reinstate their~~[his or her]~~ license to active status in accordance with 201 KAR 16:580.

**(b) There shall be a reinstatement fee [of \$100]**~~[twenty-five (25) dollars]~~ **due at the time of application, as established [provided for] in subparagraphs 1. and 2. [1.-2.] of this paragraph.**

**1. For an inactive veterinary technician license that has been in inactive status less than twelve (12) months:**

**a. Until June 29, 2026, the licensure reinstatement fee shall be ninety (90) dollars;**~~[-]~~

**b. Between June 30, 2026, and June 30, 2028, the licensure reinstatement fee shall be \$100; and**~~[-]~~

**c. After June 30, 2028, the licensure reinstatement fee shall be \$115.**

**2. For an inactive veterinary technician license that has been in inactive status greater than twelve (12) months, the licensure reinstatement fee shall be seventy-five (75) dollars.**

Section 7. Retirement of **a Veterinary Technician** License.

(1)

(a) A veterinary technician may request to retire ~~their~~~~[his or her]~~ license at any time.

(b) The one-time fee for this service shall be ten (10) dollars, which shall be attached to a Request for Licensure Status Change form as found in 201 KAR 16:580, Renewal Application for Veterinary Technicians form as found in 201 KAR 16:570, or online equivalent forms.

(2) Once a license is retired, it shall not be reactivated. If a veterinary technician holds a retired license and wishes to practice again, ~~they~~~~[he or she]~~ shall apply to the board for a new license to practice the profession of a veterinary technician in the Commonwealth of Kentucky.

Section 8. Fee Reduction for Military Personnel.

(1) If a veterinary technician applicant submits a copy of their current military orders or~~[his or her]~~ DD-214 (or other documentation acceptable to the board) with their application or renewal paperwork, the board shall waive or reduce fees as **established [indicated]** in this section.

~~(a)[(1)]~~ For active duty military, active reserves, and National Guard service persons, an individual's initial application fees and annual renewal fees shall be waived.

~~(b)[(2)]~~ For retired career military, an individual's initial application fees shall be waived, and the annual renewal fees shall be reduced by half, rounded to the nearest whole dollar.

~~(c)[(3)]~~ For any other military veteran, the initial application fees shall be waived.

~~(d)[(4)]~~ All other requirements of licensure, including renewal deadlines and continuing education requirements established in 201 KAR 16:590, shall **[still]** be met.

(2) In conformity with federal Pub.L. No 117-333, **for [if]** a veterinary technician applicant who is an active duty servicemember, or **whose [their]** spouse is an active duty servicemember, **[then]** all application fees to the board shall be waived **if [when all of the following conditions are met]:**

(a) The servicemember, **or [and]** the service member's spouse, **has [if one exists, shall have]** their residency relocated to Kentucky for the duration of current military orders;

(b) The veterinary technician **holds [shall hold]** at least one (1) license equivalent in scope in another United States jurisdiction;

(c) Within ninety (90) days of relocating, the veterinary technician **registers [shall register]** with the board on the Application for Licensure as a Veterinary Technician form as found in 201 KAR 16:540 or online equivalent form, in conformity with 201 KAR 16:540, Section 1(4);~~;~~

(d) The servicemember **submits [shall submit]** a copy of their current military orders to the board;

(e) All veterinary technician **licenses [licensees]** held in any jurisdiction by the veterinary technician **[shall]** remain in good standing;~~[ and]~~

(f) **In order to demonstrate compliance with the requirement of paragraph (e) of this subsection, the servicemember or their spouse submits [shall submit] an AAVSB VAULT report to the board; and**

(g) The veterinary technician **licensee submits [shall submit]** to the authority of the board for the purposes of standards of practice, discipline, and fulfillment of any continuing education requirements.

CONTACT PERSON: Michelle Shane, Executive Director, Kentucky Board of Veterinary Examiners, 107 Corporate Drive, Second Floor, Frankfort Kentucky 40601, phone (502) 782-0273, fax (502) 695-5887, email [michelle.shane@ky.gov](mailto:michelle.shane@ky.gov).

Andy Beshear  
Governor



John C. Park, DVM  
Board Chairman

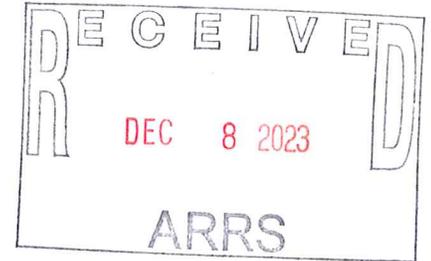
**KENTUCKY BOARD OF VETERINARY EXAMINERS**

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**RE: 201 KAR 16:550. Authorization for animal control agencies to apply for a restricted controlled substances certificate from DEA; 201 KAR 16:552. Responsibilities for certified animal control agencies; limitations on drugs; 201 KAR 16:560. Certification as an animal euthanasia specialist; 201 KAR 16:701. Standards for medical records; 201 KAR 16:702. Standards for veterinary surgery; 201 KAR 16:750. Licensed veterinary technicians (LVTs); Veterinary assistants; Scope of practice and supervisory requirements; 201 KAR 16:510. Fees for veterinarians; 201 KAR 16:512. Fees for veterinary technicians; 201 KAR 16:514. Fees for animal control agencies and animal euthanasia specialists; 201 KAR 16:516. Fees – other fees.**

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 16:550, 552, 560, 701, 702, 750, 510, 512, 514, and 516, the Kentucky Board of Veterinary Examiners proposes the attached amendments to 201 KAR 16:550, 552, 560, 701, 702, 750, 510, 512, 514, and 516.

Sincerely,

A handwritten signature in black ink that reads "Michelle M. Shane".

Michelle M. Shane, Executive Director  
Kentucky Board of Veterinary Examiners

107 Corporate Drive, Second Floor  
Frankfort, KY 4001

## Subcommittee Substitute

### BOARDS AND COMMISSIONS Board of Veterinary Examiners (As Amended at ARRS)

#### **201 KAR 16:514. Fees for animal control agencies and animal euthanasia specialists.**

RELATES TO: KRS ~~321.200(1)(p)~~, 321.207, 321.208, 321.235

STATUTORY AUTHORITY: KRS 321.207, ~~321.208, 321.235(1)(c)[321.235(3)]~~, ~~321.320[321.240(5)]~~

NECESSITY, FUNCTION, AND CONFORMITY: KRS 321.207(1) **requires [authorizes]** the Kentucky Board of Veterinary Examiners to permit qualified animal control agencies in the Commonwealth of Kentucky to apply for a registration certificate from the United States Drug Enforcement Administration (DEA) to purchase, manage, and utilize the specific drugs approved by the board for the purpose of euthanizing~~[euthanize]~~ animals. KRS ~~321.207(4)[321.207(3)]~~ **requires [authorizes]** the board to issue certificates to those persons who are deemed to be qualified to work as animal euthanasia specialists. KRS ~~321.235(1)(c)[321.240(5)]~~ **requires [authorizes]** the board to promulgate administrative regulations as it may deem necessary and proper to effectively carry out and enforce the provisions of KRS Chapter 321, including **[regulations]** to establish authorized fees. This administrative regulation establishes fees for animal control agencies and animal euthanasia specialists.

#### Section 1. Payment and Submission of Fees.

(1) Fees to the board shall be paid by check or money order, or, if available, online payment by debit or credit card. Checks and money orders shall be made payable to the Kentucky State Treasurer.

(2) All fees shall be nonrefundable.

#### Section 2. Application Fees.

(1) The application fee for issuance of a board certificate authorizing an animal control agency to apply for a restricted controlled substance registration with the United States Drug Enforcement Administration (DEA) shall be ~~\$300[fifty (50) dollars]~~. The fee shall be attached to the completed Application for Certification as an Animal Control Agency form as found in 201 KAR 16:550 or online equivalent form, including all required attachments. The animal control agency shall undergo inspection by an authorized representative of the board in accordance with 201 KAR 16:550, Section 1(3) prior to the issuance of a certificate.

(2) The application fee for a certified animal euthanasia specialist shall be fifty (50) dollars. The fee shall be attached to the completed Application for Certification as an Animal Euthanasia Specialist form as found in 201 KAR 16:560 or online equivalent form, including all required attachments.

#### Section 3. Renewal Fees for Animal Control Agencies.

(1) **The renewal deadline shall be March 1 of each year. The renewal period shall be [is] the time period beginning the day after the renewal deadline to the next renewal deadline.**

~~(2)(a)~~ Except as established in [provided by] subsection (4)[paragraph (b)] of this ~~section[subsection]~~, a certified animal control agency shall annually ~~[, on or before March 1,]~~ pay to the board a renewal fee as established in paragraphs (a) through (c) of this subsection ~~[of] [\$300][fifty (50) dollars]~~ for the renewal of the certificate.

**(a) Until June 29, 2026, the renewal fee shall be ninety (90) dollars [\$90].**

**(b) Between June 30, 2026, and June 30, 2028, the renewal fee shall be \$115.**

**(c) After June 30, 2028, the renewal fee shall be \$150.**

**(3)** The animal control agency shall submit the complete Renewal Application for Animal Control Agencies form as found in 201 KAR 16:572 or online equivalent form, including all required attachments, and fee payment to the board.

**(4)(b)** The renewal fee for the first renewal shall be waived for a certificate issued 120 days prior to the end of the renewal period.

**(5)(2) Utilization of Renewal Grace Period.**

**(a)** A sixty (60) day grace period shall be allowed after March 1, during which time the animal control agency may continue to function as though certified until a late renewal application is submitted to the board.

**(b)** The late fee for renewal shall be seventy-five (75) dollars[\$100][ten (10) dollars] in addition to the renewal fee established [as described] in subsection [Section 3](2)[Section 3(1)] of this section [administrative regulation]. The late fee for renewal, if applicable, shall not be reduced or waived without board authorization.

**(c)** The animal control agency shall submit the complete Renewal Application for Animal Control Agencies form as found in 201 KAR 16:572 or online equivalent form, including all required attachments, and fee payment, to the board between March 2 and April 30 of the grace[annual renewal] period. ~~[The late fee for renewal, if applicable, shall not be reduced or waived without board authorization.]~~

**(6)(3)** An animal control agency restricted controlled substance registration certificate shall expire if a [no] renewal package, and late fee if applicable, is not submitted [paid] to the board annually by April 30.

**(7)(4)** If not more than five (5) years have elapsed since the last date of certificate expiration, an animal control agency that has an expired restricted controlled substance registration certificate may be reinstated upon the submission of a completed Reinstatement Application for Animal Control Agencies form as found in 201 KAR 16:550 or online equivalent form, including all attachments, and the payment of a reinstatement fee of \$300[\$600][seventy-five (75) dollars]. The animal control agency shall undergo inspection by an authorized representative of the board in accordance with 201 KAR 16:550, Section 5[Section 1(3)] prior to the reinstatement of a certificate. An animal control agency shall not apply for a new certificate during this five (5) year window; a reinstatement application shall be required.

**(8)(5)** If more than five (5) years have elapsed since the last date of certificate expiration, an animal control agency shall reapply to obtain a board certificate authorizing restricted controlled substance registration with the DEA.

Section 4. Renewal Fees for Animal Euthanasia Specialists.

**(1) The renewal deadline shall be March 1 of each year. The renewal period shall be [is] the time period beginning the day after the renewal deadline to the next renewal deadline.**

(a) Except as **established in [provided by]** paragraph (b) of this subsection, a certified animal euthanasia specialist shall annually, on or before March 1, pay to the board a renewal fee of fifty (50) dollars for the renewal of the certificate. The animal euthanasia specialist shall submit the complete Renewal Application for Animal Euthanasia Specialists form as found in 201 KAR 16:572 or online equivalent form, including all required attachments, and fee payment to the board.

(b) The renewal fee for the first renewal shall be waived for a certificate issued 120 days prior to the end of the renewal period.

(2) A sixty (60) day grace period shall be allowed after March 1, during which time the certified animal euthanasia specialist may continue to function as though certified until a late renewal application is submitted to the board. The late fee for renewal shall be ~~ten (10)~~ fifty (50) dollars in addition to the renewal fee **established [as described]** in **subsection [Section 4](1) of this section [administrative regulation]**. The animal euthanasia specialist shall submit the complete Renewal Application for Animal Euthanasia Specialists form as found in 201 KAR 16:572 or online equivalent form, including all required attachments and fee payments, to the board between March 2 and April 30 of the renewal period. The late fee for renewal, if applicable, shall not be reduced without board authorization.

(3) An animal euthanasia specialist certificate shall expire if **a [no]** renewal package, and late fee if applicable, is **not submitted [paid]** to the board annually by April 30.

(4) If not more than five (5) years have elapsed since the last date of certificate expiration, an animal euthanasia certificate that has expired may be reinstated upon the submission of a completed Reinstatement Application for Animal Euthanasia Specialists form as found in 201 KAR 16:560 or online equivalent form, including all attachments, and the payment of a reinstatement fee of seventy-five (75) dollars. An animal euthanasia specialist shall not apply for a new certificate during this five (5) year window; a reinstatement application shall be required.

(5) If more than five (5) years have elapsed since the last date of certificate expiration, an individual shall reapply to obtain a certificate as an animal euthanasia specialist in the Commonwealth of Kentucky.

#### Section 5. Inactive Status for Animal Euthanasia Specialists.

(1)

(a) A certified animal euthanasia specialist may request **to be moved to inactive status**, or be moved to inactive licensure status **by the board** in accordance with 201 KAR 16:580. There shall not be a fee.

(b) There shall not be a renewal fee for a certified animal euthanasia specialist with inactive licensure status.

(2)

(a) A certified animal euthanasia specialist **shall[may]** reinstate ~~their~~~~his or her~~ certificate to active status in accordance with 201 KAR 16:580.

(b) There shall be a reinstatement fee of fifty (50) dollars only if the certificate was placed in inactive status as a result of:

1. The certificate holder's request; or
2. By severing employment with the affiliated animal control agency on record with the board.

CONTACT PERSON: Michelle Shane, Executive Director, Kentucky Board of Veterinary

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Andy Beshear  
Governor



John C. Park, DVM  
Board Chairman

**KENTUCKY BOARD OF VETERINARY EXAMINERS**

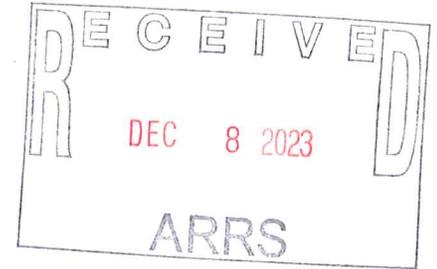
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December 8, 2023

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Representative Derek Lewis, Co-Chair  
c/o Emily Caudill, Regulation Compiler  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
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Sincerely,

  
Michelle M. Shane, Executive Director  
Kentucky Board of Veterinary Examiners  
107 Corporate Drive, Second Floor  
Frankfort, KY 4001



**Subcommittee Substitute**  
**BOARDS AND COMMISSIONS**  
**Board of Veterinary Examiners**  
**(As Amended at ARRS)**

**201 KAR 16:516. Fees – other fees.**

RELATES TO: KRS ~~321.235(1)(c)~~[321.240, 321.201]

STATUTORY AUTHORITY: KRS ~~321.235(1)(c)~~[321.201(1), 321.235(3), 321.240(5)]

NECESSITY, FUNCTION, AND CONFORMITY: KRS ~~321.235(1)(c)~~**[321.240(5)]** *requires* **[authorizes]** the Kentucky Board of Veterinary Examiners to promulgate administrative regulations as it may deem necessary and proper to effectively carry out and enforce the provisions of KRS Chapter 321, including **[regulations]** to establish authorized fees. **[KRS 321.201(1) authorizes the board to issue a special permit for the practice of veterinary medicine and to require a fee for the permit.]**This administrative regulation establishes fees for various services provided by the board**[and the fee for a special permit].**

Section 1. Payment and Submission of Fees.

(1) Fees to the board shall be paid by check or money order, or, if available, online payment by debit or credit card. Checks and money orders shall be made payable to the Kentucky State Treasurer.

(2) All fees shall be nonrefundable.

Section 2. ~~[Fees for Special Permits.]~~

~~[(1) [The fee for a special permit issued by the board pursuant to KRS 321.201 shall be fifty (50) dollars.]~~

~~[(2) [The fee shall be attached to either the Application for Licensure as a Veterinarian form as found in 201 KAR 16:540 or the Application for Retake of the NAVLE form as found in 201 KAR 16:530 or online equivalent forms.]~~

~~[Section 3.]~~ Fees for License Verification Letters and Letters of Good Standing.

(1) The fee for a license verification letter or a letter of good standing shall be thirty (30)~~[ten (10)]~~ dollars per jurisdiction per request.

**(a) Except as established ~~[provided for]~~ in paragraph (b) of this subsection,** the fee shall be attached to a Request for Licensure Verification form or online equivalent form.

**(b) The board may accept orders for licensure verification letters without the required form from the American Association of Veterinary State Boards (AAVSB) on behalf of licensees requesting the letter through the AAVSB VAULT Transfer program, billed by invoice on a periodic basis at the same rate as individual requests.**

(2) Upon receipt of the request and payment, the board shall issue the requested letter and complete any forms required by regulatory bodies in other jurisdictions.

Section 3.~~[Section 4.]~~ Fees for Board Credential Holder Mailing Lists.

(1)

(a) The fee for a request to obtain a copy of the mailing list for a commercial purpose~~[of the board's licensees]~~ shall be sixty (60)~~[fifteen (15)]~~ dollars.

(b) The fee for a request to obtain a copy of the mailing list for a non-commercial purpose shall be thirty (30) dollars.

(c) The board shall not charge a fee to obtain a copy of the mailing list for the first three (3) requests in a calendar year to the Kentucky Veterinary Medical Association (KVMA), ~~or~~ its constituent in-state VMAs, or Kentucky state universities.

(2) The fee shall be attached to a Request for Mailing List form or online equivalent form.

(3)~~(2)~~ Within thirty (30) calendar days of~~[Upon]~~ the receipt of the request and payment, the board shall send a current credential holder~~[licensee]~~ mailing list to the requesting party.

Section 4.~~[Section 5.]~~ Fees for Duplicate Wall Certificates and Laminated Credentials.

(1) The fee for a duplicate wall certificate, including the board's seal, ~~[or a new laminated wallet-sized card,]~~ shall be thirty (30)~~[ten (10)]~~ dollars.

(2) The fee for a new laminated wallet-sized card shall be thirty (30) dollars.

(3) The fee shall be attached to a Request for Printed Credentials form or online equivalent form.

Section 5. Request for Continuing Education Approval. The fee for an applicant to obtain board approval as **an** Approved Program of Continuing Education shall be fifty (50) dollars paid directly to the board and attached to the Request for Continuing Education Approval form as found in 201 KAR 16:590 or online equivalent form.

Section 6. Fees for Processing Payments.

(1) The board may require a reasonable service charge for processing any payments submitted online or in paper form. The fees shall be calculated as a percentage of the underlying fee and shall not be higher than the board's current contracted rate for payment processing services.

(2) Service ***charges [charge]*** fees shall be non-refundable.

Section 7. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Request for Licensure Verification", 8/2023~~[2/2020]~~;

(b) "Request for Mailing List", 8/2023~~[2/2020]~~~~;~~~~and~~

(c) "Request for Printed Credentials", 8/2023~~[3/2020]~~; and

(d) "Request for Continuing Education Course Approval", 8/2023.

(2) This material may be inspected, copied, or obtained, subjected to applicable copyright law, at the Kentucky Board of Veterinary Examiners, 107 Corporate Drive, Frankfort, Kentucky 40601, Monday through Friday, 8:30 a.m.~~[8:00 a.m.]~~ to 4:30 p.m. This material may also be obtained at [www.kybve.com](http://www.kybve.com).

CONTACT PERSON: Michelle Shane, Executive Director, Kentucky Board of Veterinary Examiners, 107 Corporate Drive, Second Floor, Frankfort Kentucky 40601, phone (502) 782-0273, fax (502) 695-5887, email [michelle.shane@ky.gov](mailto:michelle.shane@ky.gov).

Andy Beshear  
Governor



John C. Park, DVM  
Board Chairman

**KENTUCKY BOARD OF VETERINARY EXAMINERS**

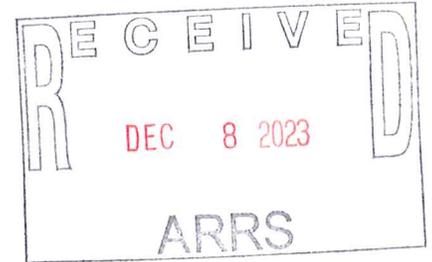
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December 8, 2023

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



**RE: 201 KAR 16:550. Authorization for animal control agencies to apply for a restricted controlled substances certificate from DEA; 201 KAR 16:552. Responsibilities for certified animal control agencies; limitations on drugs; 201 KAR 16:560. Certification as an animal euthanasia specialist; 201 KAR 16:701. Standards for medical records; 201 KAR 16:702. Standards for veterinary surgery; 201 KAR 16:750. Licensed veterinary technicians (LVTs); Veterinary assistants; Scope of practice and supervisory requirements; 201 KAR 16:510. Fees for veterinarians; 201 KAR 16:512. Fees for veterinary technicians; 201 KAR 16:514. Fees for animal control agencies and animal euthanasia specialists; 201 KAR 16:516. Fees – other fees.**

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 16:550, 552, 560, 701, 702, 750, 510, 512, 514, and 516, the Kentucky Board of Veterinary Examiners proposes the attached amendments to 201 KAR 16:550, 552, 560, 701, 702, 750, 510, 512, 514, and 516.

Sincerely,

  
Michelle M. Shane, Executive Director  
Kentucky Board of Veterinary Examiners  
107 Corporate Drive, Second Floor  
Frankfort, KY 4001



**Subcommittee Substitute**

**BOARDS AND COMMISSIONS  
Board of Veterinary Examiners  
(As Amended at ARRS)**

**201 KAR 16:550. Authorization for animal control agencies to apply for a restricted controlled substances certificate from DEA.**

RELATES TO: KRS 217.177(1), (4), Chapter 258, Chapter ~~321 [301]~~, 321.207, 321.351

STATUTORY AUTHORITY: KRS ~~321.207(1) – (3),(5)-(8), 321.235(1)(a), (b), (2)(b)3[(1), (2), 321.235(3), 321.240(5)]~~

NECESSITY, FUNCTION, AND CONFORMITY: KRS 321.207(1) ~~requires [permits]~~ the Kentucky Board of Veterinary Examiners to authorize an animal control agency, ***which the board determines to be qualified***, to apply for a registration certificate by the United States Drug Enforcement Administration (DEA) to euthanize animals. KRS 321.207(2) requires ***an [the]*** applicant agency to comply with administrative regulations that establish standards for the ***proper storage and handling of drugs, including procurement, management, and disposal of drugs***~~[proper storage and handling of the drugs]~~ the board has authorized for use, and other provisions that may be necessary to ensure that the drugs are used safely and solely for the purpose of euthanizing animals. ~~KRS 321.235(1)(a)[,] and (b) require [, and (2)(b)3]~~~~[KRS 321.235(3) and 321.240(5)]~~ ***authorize*** the board to promulgate administrative regulations to implement KRS Chapter 321, ***KRS 321.235(2)(b)3. authorizes the board to promulgate administrative regulations to establish standards in veterinary medicine, medical records, and other matters pertaining to veterinarians, veterinary technicians, animal control agencies, animal euthanasia specialists, designated on-site managers, allied animal health professionals, veterinary facilities, AAHP facilities, veterinarian managers, AAHP managers, registered responsible parties, or unlicensed persons.*** This administrative regulation establishes the application, renewal, and reinstatement requirements for certification of an animal shelter as an animal control agency, and the requirements for board inspections at certified animal control agencies.

Section 1. Definitions.

(1) "Animal control agency" means an animal shelter fulfilling the duties required pursuant to KRS Chapter 258, and the animal shelter is either owned, contracted with, or in service on behalf of a county or municipality.

(2)(a) "Animal shelter" means a public agency or private humane society, society for the prevention of cruelty to animals, animal protection shelter or control agency, or other facility that provides shelter and care for homeless, stray, unwanted, or injured animals.

(b) An "animal shelter" shall not include:

1. Shelter or care of wildlife; or

2. Premises of a Kentucky Department of Fish and Wildlife Resources credentialed:

a. Certified wildlife rehabilitator [(301 KAR 2:075)];

b. Commercial nuisance wildlife control operator [(301 KAR 3:120)];

c. Captive wildlife holder ~~[(301 KAR 2:081)]~~; or

d. Wildlife transporter ~~[(301 KAR 2:082)]~~.

(3)~~[(2)]~~ "Certified animal control agency" means an animal shelter that is certified under the provisions of KRS Chapter 321 and 201 KAR Chapter 16.

(4)~~[(3)]~~ "Designated on-site manager" means a person who registers with the board to assume responsibility for the procurement, management, and disposal of drugs~~[ordering, management, use, and disposal of controlled substances]~~ at a board-certified animal control agency.

**(5) "Dispose" ~~[in relation to drugs]~~ means to destroy or transfer.**

**(6) "Manage" ~~[in relation to drugs]~~ means to administer, dispense, or inventory.**

**(7) "Procure" ~~[in relation to drugs]~~ means to order, purchase, or receive.["]**

## Section 2. Application and Renewal Requirements.

(1) **An ~~[The]~~** applicant animal shelter shall apply to the board for authorization to operate as a certified animal control agency and to apply to the federal Drug Enforcement Administration (DEA) for a Controlled Substance Registration as established by KRS 321.207.

(2) A complete application to the board shall include **~~[the following]~~**~~[-components]:~~

(a) A completed Application for Certification as an Animal Control Agency form or online equivalent form, including all required attachments;

(b) Identification of the agency designated on-site manager;

(c) A complete and current list of all individuals performing euthanasia or related activities at the animal shelter, whether or not each individual holds a credential from the board;~~[-and]~~

(d) An animal control agency verification letter signed by the governing body within the county or municipality, including a statement about the animal shelter's role as an animal control agency or contractor pursuant to KRS 258.195;

(e) A list of all Kentucky counties which are provided service by the animal shelter; and

(f) Payment of the fee in accordance with 201 KAR 16:514.

(3) Prior to the board's issuance of the animal control agency certificate, **an ~~[the]~~** applicant shall undergo an inspection of the facility by the board, its inspector, or other designee of the board in accordance with Section 5 of this administrative regulation.

(4) Following board application approval, **an ~~[the]~~** applicant shall apply to **the** DEA for registration as a practitioner and designate "animal shelter" on the appropriate DEA application form.

(5) A certified animal control agency shall submit to inspection by a board representative at any time, with or without advanced notice.

(6) A certified animal control agency shall identify a designated on-site manager in accordance with 201 KAR 16:552.

(a) The agency shall notify the board in writing within ten (10) days of any change in the designated on-site manager of the certified animal control agency~~[animal shelter]~~ by submitting a completed Request for a New Designated On-site Manager form or online equivalent form, including all required attachments.

(b) The designated on-site manager shall be responsible for complying with all state and federal laws related to the ordering, purchase, storage, tracking, management, and disposal of the drugs obtained under the DEA controlled substances registration.

(7) Background checks. **Pursuant to KRS 321.189**, the board **shall [may:]**

~~[(a)]~~ **conduct**~~[conduct]~~ a national or jurisdictional level background check on each designated on-site manager. The check shall be processed by a board approved background check provider, and **shall [may]** include a copy of the designated on-site manager's fingerprints captured at a board approved location.~~.[i].~~

~~(a)~~~~(b)~~ **The board may** ~~accept~~~~[The board may accept]~~ the results of a state-wide~~[an]~~ employment background check ~~[from the county office]~~ in lieu of a state or federal background check if the background check results are not more than **ninety (90) days**~~[six (6) months]~~ old from the date of application.~~.[i].~~

~~(b)~~~~(c)~~ **The board may** ~~reject~~~~[The board may reject]~~ background checks that do not have an official seal or watermark, or that are more than ninety (90) days old.~~.[; and].~~

~~(c)~~~~(d)~~ **The board may** ~~impose~~~~[The board may impose]~~ additional administrative or safety requirements as a condition of certification for the animal control agency or deny certification following the board's review of findings from a background check.

### Section 3. Renewal Requirements for a Certified Animal Control Agency.

(1) A board-certified animal control agency shall renew the board certification annually in accordance with 201 KAR 16:572.

(2) Failure to renew the certificate for an animal control agency shall result in the following actions by the board:

(a) The animal control agency certificate shall be moved to expired status;

(b) Each "active" status certified animal euthanasia specialist under the employment of the expired certified animal control agency shall be moved to "inactive" status;

(c) The DEA shall be notified of the lapse in certification; and

(d) The board shall conduct a closeout inspection within six (6) months of the date of expiration of the certificate to ensure that the controlled substances and other drugs on-site are properly disposed of. An animal shelter with an expired certificate shall continue to maintain the drugs in accordance with 201 KAR 16:552, and the Kentucky Veterinary Medicine Practice Act (KRS Chapter 321), and 201 KAR Chapter 16, until the drugs are transferred in accordance with state and federal laws, or disposed of in accordance with 201 KAR 16:552, Section 7.

### Section 4. Reinstatement Requirements for Certified Animal Control Agencies.

(1) An animal control agency with an expired certificate shall have five (5) years to reinstate their certificate by submitting a completed Reinstatement Application for Animal Control Agencies form or online equivalent form, including all required attachments and payment of the reinstatement application fee pursuant to 201 KAR 16:514.

(2) The animal control agency shall undergo inspection by an authorized representative of the board in accordance with Section 5(3) of this administrative regulation prior to the reinstatement of a certificate.

(3) After five (5) years of the date of the expiration of the certificate, the agency shall not ~~[be able to]~~ reinstate the certificate and the animal control agency shall be required to apply for a new certificate in accordance with 201 KAR Chapter 16~~[this administrative regulation and 201 KAR 16:572]~~.

Section 5. Inspection Requirements.

(1) A certified animal control agency shall be subject to inspection by the board, its investigator, or a board representative.

(2) An inspection may occur at any time, with or without advance notice. The designated on-site manager shall make themselves available to provide access and information during the inspection.

(3) An inspection shall be required:

(a) Prior to the approval of a new Application for Certification as an Animal Control Agency;

(b) Prior to the approval of a Reinstatement Application for Animal Control Agencies, if the last inspection was completed more than twelve (12) months prior to the date of the application;

(c) Periodically on a schedule set by the board, not more routinely than every ten (10) months, and at least once every two (2) years;

(d) As needed due to staff turnover at the animal control agency;

(e) Under suspicion of probable cause for violation of KRS Chapter 321 or 201 KAR Chapter 16; and

(f) Following the expiration, termination, suspension, or surrender of the certificate in accordance with Section 3(2)(d) of this administrative regulation.

Section 6. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Application for Certification as an Animal Control Agency", 7/2023[12/2022];

(b) "Reinstatement Application for Animal Control Agencies", 7/2023[12/2022]; and

(c) "Request for a New Designated On-site Manager", 7/2023[12/2022].

(2) This material may be inspected, copied, or obtained, subjected to applicable copyright law, at the Kentucky Board of Veterinary Examiners, 107 Corporate Drive, Frankfort, Kentucky 40601, Monday through Friday, 8:30 a.m. to 4:30 p.m. This material may also be obtained at [www.kybve.com](http://www.kybve.com).

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Andy Beshear  
Governor



John C. Park, DVM  
Board Chairman

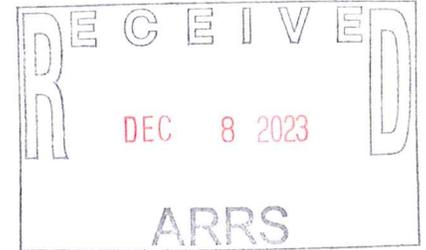
**KENTUCKY BOARD OF VETERINARY EXAMINERS**

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December 8, 2023



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

**RE: 201 KAR 16:550. Authorization for animal control agencies to apply for a restricted controlled substances certificate from DEA; 201 KAR 16:552. Responsibilities for certified animal control agencies; limitations on drugs; 201 KAR 16:560. Certification as an animal euthanasia specialist; 201 KAR 16:701. Standards for medical records; 201 KAR 16:702. Standards for veterinary surgery; 201 KAR 16:750. Licensed veterinary technicians (LVTs); Veterinary assistants; Scope of practice and supervisory requirements; 201 KAR 16:510. Fees for veterinarians; 201 KAR 16:512. Fees for veterinary technicians; 201 KAR 16:514. Fees for animal control agencies and animal euthanasia specialists; 201 KAR 16:516. Fees – other fees.**

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 16:550, 552, 560, 701, 702, 750, 510, 512, 514, and 516, the Kentucky Board of Veterinary Examiners proposes the attached amendments to 201 KAR 16:550, 552, 560, 701, 702, 750, 510, 512, 514, and 516.

Sincerely,

  
Michelle M. Shane, Executive Director  
Kentucky Board of Veterinary Examiners  
107 Corporate Drive, Second Floor  
Frankfort, KY 4001

Subcommittee Substitute

BOARDS AND COMMISSIONS  
Board of Veterinary Examiners  
(As Amended at ARRS)

**201 KAR 16:552. Responsibilities for certified animal control agencies; limitations on drugs.**

RELATES TO: KRS 321.181, 321.207, ~~321.235~~[321.235(7)], 321.351

STATUTORY AUTHORITY: KRS ~~321.207(1) – (3),(5)-(8), 321.235(1)(a), (b), (2)(b)3.~~[(1), (2), 321.235(3), 321.240(5)]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 321.207(1) ~~requires~~ [permits] the Kentucky Board of Veterinary Examiners to authorize an animal control agency, ~~that it determines to be qualified,~~ to apply for a registration certificate by the United States Drug Enforcement Administration (DEA) to ~~procure, manage, and dispose of~~[~~order, purchase, manage, and store~~] controlled substances which are authorized by the board for use in animal sedation and euthanasia. KRS 321.207(2) requires ~~an~~ [the] applicant agency to comply with administrative regulations that establish standards for the proper storage and handling of the drugs the board has authorized for use, and other provisions that may be necessary to ensure that the drugs are used safely and solely for the purpose of euthanizing animals. ~~KRS 321.235(1)(a) and~~[(b) ~~require~~ [ ~~(2)(b)3. authorizes~~][KRS ~~321.235(3) and 321.240(5) authorize~~] the board to promulgate administrative regulations to implement KRS Chapter 321. ~~KRS 321.235(2)(b)3. authorizes the board to establish standards in veterinary medicine, medical records, and other matters pertaining to veterinarians, veterinary technicians, animal control agencies, animal euthanasia specialists, designated on-site managers, allied animal health professionals, veterinary facilities, AAHP facilities, veterinarian managers, AAHP managers, registered responsible parties, or unlicensed persons.~~ This administrative regulation establishes the duties for the animal control agency designated on-site manager, standards for proper drug storage, and drugs that may be used by certified animal control agencies and the certified animal euthanasia specialists they employ.

Section 1. **Definitions.**

**(1) "Dispose" ~~[in relation to drugs]~~ means to destroy or transfer.**

**(2) "Manage" ~~[in relation to drugs]~~ means to administer, dispense, or inventory.**

**(3) "Procure" ~~[in relation to drugs]~~ means to order, purchase, or receive.**

**Section 2. Responsibilities of a Certified Animal Control Agency. A certified animal control agency shall:**

(1) ~~Ensure~~[~~A certified animal control agency and~~] staff shall comply with all requirements of KRS Chapter 321 and 201 KAR Chapter 16;~~;~~

(2) ~~Identify~~[~~A certified animal control agency shall identify~~] an agency designated on-site manager and ensure the person complies with the requirements in Section ~~3~~ [2] of this administrative regulation;~~;~~

(3) **Report any**~~[Any]~~ change to the designated on-site manager ~~[shall be reported]~~ in writing to the board within ten (10) business days by submitting a completed Request for a New Designated On-site Manager form or online equivalent form, including all required attachments;~~[:]~~

(4) **Notify the board in writing within ten (10) business days following the termination or severance of employment of a certified animal euthanasia specialist in order that the certificate of the animal euthanasia specialist may be moved to inactive status;[:]**

(5) **Ensure**~~[A certified animal control agency shall ensure]~~ that the United States Drug Enforcement Administration (DEA) Controlled Substances Registration is kept in active status if there are controlled substances in the possession of the animal control agency;~~[:]~~

(6)~~[(5)]~~ **Submit**~~[A certified animal control agency shall submit]~~ to inspection by a board representative at any time, with or without advanced notice in accordance with 201 KAR 16:550, Section 5; **and**~~[:]~~

(7) **Report to the board and to DEA within twenty-four (24) hours any suspected diversion of controlled substances or theft of controlled substances.**

**Section 3.**~~[Section 2.]~~ Responsibilities of a Designated On-site Manager.

(1) The designated on-site manager shall be responsible for reviewing educational materials provided by the board and submitting a responsive answer sheet for review by the board. A board inspector or representative shall periodically review educational materials with the designated on-site manager.

(2) The designated on-site manager shall:

(a) Ensure proper controls are in place in accordance with all state and federal laws for all controlled substances and other drugs at the animal control agency;

(b) Ensure drugs for euthanasia and drugs used for sedation prior to euthanasia shall be limited to the substances identified in Section **4** ~~[3]~~ of this administrative regulation;

(c) Ensure all employees authorized to conduct animal euthanasia at the certified animal control agency are trained and certified in accordance with the requirements of 201 KAR 16:560 and 16:562, unless the employee is a board-licensed veterinarian or board-licensed veterinary technician;

(d) Ensure all animal euthanasia specialists who conduct euthanasia at the certified animal control agency maintain an active certificate with the board;

(e) Notify the board in writing within ten (10) business days following the termination of a certified animal euthanasia specialist so the certificate of the animal euthanasia specialist may be taken out of ~~["]~~active~~["]~~status;

(f) **Develop**~~[Shall develop]~~ and maintain standard operating procedures in writing for carcass disposal in accordance with all state and local laws and ordinances;~~[and]~~

(g) **Ensure that a designated area is provided for animal euthanasia activities, and that the area is kept clean and orderly, and is maintained as a safe workspace;**

(h) **Ensure that drugs ordered under DEA Registration held by any person or entity other than the certified animal control agency are kept in separate secure storage pursuant to KRS 321.207(8); and**

(i) **Be**~~[Shall be]~~ responsive and cooperative to the board's request for access and information to the certified animal control agency.

(3) The designated on-site manager shall ensure that the animal euthanasia process shall be conducted within the restrictions set forth in this subsection.

(a) Euthanasia shall only be conducted upon animals owned by the certified animal control agency, except in cases of emergency care as defined by KRS 321.181(33)~~[KRS 321.181(10)]~~.

1. Transfer of ownership or a temporary contract shall not be used for the purpose of circumventing this subsection.~~[; and]~~

2. Wildlife shall be redirected to one (1) of the following:

a. A [a] board-licensed veterinarian;~~[;]~~

b. A Certified Wildlife Rehabilitator authorized to operate pursuant to 301 KAR 2:075;~~[; or]~~

c. A Commercial [to a] Nuisance Wildlife Control Operator authorized to operate pursuant to 301 KAR 3:120;

d. A Captive Wildlife Holder authorized to operate pursuant to 301 KAR 2:081;~~[or]~~

e. A Wildlife Transporter authorized to operate pursuant to 301 KAR 2:082;

**f. KDFWR wildlife biologist; or**

**g. KDFWR conservation officer.**

(b) Euthanasia shall only be conducted upon the premises of the certified animal control agency, except in cases of emergency care as defined by KRS 321.181(33)~~[KRS 321.181(10)]~~~~[; and]~~

(c) All euthanized animals shall be disposed of in accordance with the certified animal control agency's standard operating procedures for carcass disposal.

**Section 4.**~~[Section 3.]~~ **Authorized**~~[Approved]~~ Drugs for Animal Euthanasia and Anesthesia or Sedation of Animals Prior to Euthanasia.

(1) **For the purpose of animal euthanasia,** a certified animal control agency shall be restricted to the purchase of only sodium pentobarbital~~[the following board-approved specific drugs]~~ ~~[for the purpose of animal euthanasia]~~. ~~[The drugs approved by the board for euthanasia are:]~~

~~[(a) Sodium pentobarbital; and~~

~~(b) Sodium pentobarbital with lidocaine.]~~

(2) **For the purpose of animal anesthesia or sedation prior to euthanasia,** a certified animal control agency shall be restricted to the purchase of only the following board-authorized~~[board-approved]~~ specific drugs, or any combination thereof;~~[; for the purpose of animal anesthesia or sedation prior to euthanasia.]~~ ~~[The drugs approved by the board for animal anesthesia or sedation prior to euthanasia are, or any combination thereof:]~~

(a) Acepromazine;

(b) Dexmedetomidine;

(c) Ketamine~~[-(30-day supply or less)]~~; and

(d) Xylazine.

(3) Scheduled drugs (controlled substances) shall be limited to a thirty (30) day supply, or the smallest quantity available for purchase if that quantity is greater than a thirty (30) day supply.

(4) **The** DEA's Schedule II order forms (titled "DEA-222") shall be used for each purchase or transfer of board **authorized**~~[approved]~~ controlled substances.

~~(5)~~~~(4)~~ Expired drugs.

(a) Expired drugs shall not be used.

(b) Expired drugs shall be properly disposed of in accordance with Section **8 [7]** of this administrative regulation.

**Section 5. [Section 4.] Storage.**

(1) Board **authorized [approved]** euthanasia and sedation drugs shall be stored at the DEA address of record for the certified animal control agency in a **secure steel safe or** securely locked **steel** cabinet within:

(a) A [a] locked storage room; [r] or

(b) Other locked [other] enclosure; and [at the DEA address of record for the certified animal control agency.]

(c) **If the safe or cabinet weighs less than 750 lbs, it [the] [The] [cabinet]** shall be bolted securely to the floor or wall.

(2) DEA Controlled Substance Schedule II order forms shall be maintained at the DEA address of record for the certified animal control agency [stored] in a securely locked cabinet that is: [r]

(a) Separate [separate] from the storage location of the drugs; **and** [r]

(b) Within [within] a locked storage room [r] or **other locked enclosure**

**[c) Other locked] [other] [enclosure]** [at the DEA address of record for the certified animal control agency].

**Section 6. [Section 5.] Disposal of Needles and Medical Waste.**

(1) All needles in an animal control agency shall:

(a) Not be accessible to the public;

(b) After one (1) use, be rendered incapable of re-use [use]; and

(c) Be disposed of in an approved biohazard or sharps container.

(2) All syringes used in the process of euthanasia shall be disposed of in an approved biohazard or sharps container.

**Section 7. [Section 6.] Records.**

(1) A certified animal control agency shall maintain records of **procurement, management, and disposal [purchases, administration]** of **board authorized [board approved]** euthanasia drugs and sedation drugs, **as listed in Section 4 [3] of this administrative regulation, [r transfer, and destruction of drugs]** for a minimum of two (2) years.

(2) Records of administration shall, **at a minimum,** include [r, **at a minimum, the following**] [information]:

(a) The date of use;

(b) Identification of the animal;

(c) The amount of the drug used;

(d) Any amount wasted;

(e) The signature of the person administering the drug;

(f) The signature of the designated on-site manager certifying the accuracy of the administration of board **authorized [approved]** euthanasia drugs and sedation drugs not less than once per month; and

(g) The signature of the designated on-site manager certifying to the accuracy of the records not less than once per month, as well as on the annual inventory.

(3) Records of **procurement**~~[purchase]~~ and destruction of board **authorized**~~[approved]~~ euthanasia drugs and sedation drugs shall be maintained in a separate file from the records of administration of those substances.

(4) The records of **procurement, management, and disposal**~~[purchase, destruction, and administration]~~ may be audited by representatives of the DEA or authorized designees of the board to determine adequacy, accuracy, and validity of the recordkeeping. The board may impose restrictions and administrative penalties on certificate holders or designated on-site managers as a result of substandard controls or records of the drugs.

(5) The records of purchase, administration, transfer, and destruction of euthanasia and sedation drugs, shall be maintained at the DEA address of record for the certified animal control agency.

**Section 8.**~~[Section 7.]~~ Destruction or Disposal of Drugs. Drugs at an animal control agency that require disposal shall be disposed of in accordance with one (1) of the methods set forth in this section. A written receipt with appropriate signatures shall be obtained for the methods in subsections (1) through (3) of this section, and a record of the action taken shall be made for the method in subsection (4) of this section. The record shall be maintained with the drug logs at the animal control agency.

(1) Transfer non-expired, non-controlled drugs to a licensed veterinarian.

(2) Transfer non-expired, controlled drugs to a DEA registered, board-licensed veterinarian using DEA Form 222. Copies of the DEA Form 222 shall be distributed per federal law.

(3) Surrender expired or non-expired drugs to local law enforcement for destruction.

(4) Inject expired or non-expired drugs into and incinerate an animal carcass in accordance with state and local rules on incineration. Written documentation shall describe the amounts disposed of, type of carcass, date of injection and incineration, witnesses, and any other pertinent details.

**Section 9.**~~[Section 8.]~~ Disciplinary Action. An animal control agency, designated on-site manager, and ~~[credentialed]~~ animal euthanasia specialists shall be subject to disciplinary action pursuant to KRS 321.235 and 321.351 for a violation of state or federal statutes or administrative regulations.

**Section 10.**~~[Section 9.]~~ Incorporation by Reference.

(1) "Request for a New Designated On-site Manager", 07/2023~~[12/2022]~~, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subjected to applicable copyright law, at the Kentucky Board of Veterinary Examiners, 107 Corporate Drive, Frankfort, Kentucky 40601, Monday through Friday, 8:30 a.m. to 4:30 p.m. This material may also be obtained at [www.kybve.com](http://www.kybve.com).

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Board Chairman

**KENTUCKY BOARD OF VETERINARY EXAMINERS**

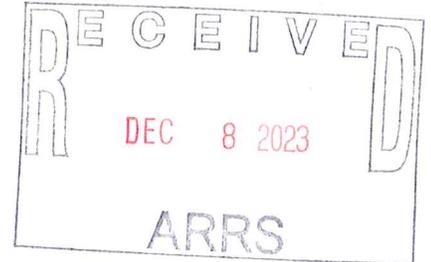
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December 8, 2023

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



**RE: 201 KAR 16:550. Authorization for animal control agencies to apply for a restricted controlled substances certificate from DEA; 201 KAR 16:552. Responsibilities for certified animal control agencies; limitations on drugs; 201 KAR 16:560. Certification as an animal euthanasia specialist; 201 KAR 16:701. Standards for medical records; 201 KAR 16:702. Standards for veterinary surgery; 201 KAR 16:750. Licensed veterinary technicians (LVTs); Veterinary assistants; Scope of practice and supervisory requirements; 201 KAR 16:510. Fees for veterinarians; 201 KAR 16:512. Fees for veterinary technicians; 201 KAR 16:514. Fees for animal control agencies and animal euthanasia specialists; 201 KAR 16:516. Fees – other fees.**

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 16:550, 552, 560, 701, 702, 750, 510, 512, 514, and 516, the Kentucky Board of Veterinary Examiners proposes the attached amendments to 201 KAR 16:550, 552, 560, 701, 702, 750, 510, 512, 514, and 516.

Sincerely,

  
Michelle M. Shane, Executive Director  
Kentucky Board of Veterinary Examiners  
107 Corporate Drive, Second Floor  
Frankfort, KY 4001

## Subcommittee Substitute

### BOARDS AND COMMISSIONS Board of Veterinary Examiners (As Amended at ARRS)

#### 201 KAR 16:560. Certification as an animal euthanasia specialist.

RELATES TO: KRS 257.160, 321.207, ~~[321.235(7),]~~321.351, Chapter 335B

STATUTORY AUTHORITY: KRS 321.207(4)-(7), 321.235(1)(a), (b), (2)(b)3~~(3), 321.235(3), 321.240(5)]~~

NECESSITY, FUNCTION, AND CONFORMITY: KRS 321.207 ~~(4)~~~~(3)~~ requires the Kentucky Board of Veterinary Examiners to issue a certificate to a person who meets the qualifications of an animal euthanasia specialist and is approved by the board for a certificate. KRS 321.235(1)(a) ~~and~~~~(b) require~~~~, and (2)(b)3.~~~~[KRS 321.235(3) and 321.240(5)]~~ ~~[authorize]~~ the board to promulgate administrative regulations to implement KRS Chapter 321. ***KRS 321.235(2)(b)3. authorizes the board to promulgate administrative regulations to establish standards in veterinary medicine, medical records, and other matters pertaining to veterinarians, veterinary technicians, animal control agencies, animal euthanasia specialists, designated on-site managers, allied animal health professionals, veterinary facilities, AAHP facilities, veterinarian managers, AAHP managers, registered responsible parties, or unlicensed persons.*** This administrative regulation establishes the qualifications for certification as an animal euthanasia specialist, renewal, and reinstatement requirements, and the required course contents for the euthanasia by injection training each applicant is required to receive.

Section 1. To be eligible for certification as a board-certified animal euthanasia specialist an applicant shall:

- (1) Be at least twenty-one (21) years of age;
- (2) Be of good moral character;
- (3) ***Subject to the provisions of KRS Chapter 335B,*** not have been convicted of, or entered an "Alford" plea or plea of nolo contendere to, irrespective of an order granting probation or suspending imposition of any sentence imposed following the conviction or entry of the plea, one (1) or more of the following in the last ten (10) years~~, subject to the provisions of KRS Chapter 335B~~:
  - (a) A felony;
  - (b) An act involving moral turpitude or gross immorality; or
  - (c) A violation of any law, rule, or administrative regulation of this state, any other state, or the United States government that involves the use or trafficking of illegal substances;
- (4) Have a high school diploma or general equivalency degree (GED);
- (5) Pay the ~~[initial]~~ certification fee as specified in 201 KAR 16:514;
- (6) Be employed by a board-certified animal control agency; and
- (7) Have successfully completed a board approved sixteen (16) hour euthanasia by injection (EBI) course as established in Section 2 of this administrative regulation within twelve (12) months prior to application.

Section 2. Euthanasia by Injection (EBI) Training Course Curriculum.

(1) The curriculum for the sixteen (16) hour EBI course shall provide information on the following subjects:

(a) Pharmacology, proper administration, and storage of euthanasia solutions that shall consist of a minimum of eight (8) hours;

(b) Federal and state laws regulating the **procurement, management, and disposal**~~[storage and accountability]~~ for euthanasia **drugs**~~[solutions]~~ and **sedation** drugs used to assist in euthanasia;

(c) Euthanasia specialist stress management and compassion fatigue;

(d) Proper animal handling with emphasis on easing the trauma and stress to the animal; and

(e) Disposal of euthanized animals.

(2) An EBI training course shall be reviewed and approved by the board prior to presentation. A provider of an EBI training **course** shall submit **[the following information]** to the board for consideration of approval:

(a) A published course or similar description;

(b) Names and qualifications of current instructors;

(c) A copy of the program agenda indicating hours of education, refreshment, and lunch breaks;

(d) A copy of the full program curriculum;

(e) A copy of an official certificate of completion from the sponsoring agency; and

(f) Upon completion of the instruction of a sixteen (16)-hour euthanasia course, a complete attendee list to the board, including **[the following]**:

1. The dates and locations of the course;

2. Each attendee's full name and address; and

3. Notation by an individual's name if the course was not completed, or more than fifteen (15) consecutive minutes of any portion of the course was missed.

Section 3. An application to the board for certification as an animal euthanasia specialist shall include **[the following]**~~[components]~~:

(1) A completed application on an Application for Certification as an Animal Euthanasia Specialist form or online equivalent form, including all required attachments;

(2) An official copy of final transcripts or a copy of the applicant's diploma from high school, or GED certificate, or other highest level of education attained;

(3) A copy of a certificate of completion from a board approved sixteen (16)-hour euthanasia by injection training course; and

(4) Payment for the application fee pursuant to 201 KAR 16:514.

Section 4. Renewal Requirements for a Certified Animal **Euthanasia Specialist**~~[Control Agency]~~.

(1) A board-certified animal **euthanasia specialist**~~[control agency]~~ shall renew the board certification annually in accordance with 201 KAR 16:572.

(2) Failure to renew the certificate for an animal **euthanasia specialist**~~[control agency]~~ shall result in expiration of the certificate.

Section 5. An individual with an expired animal euthanasia specialist certificate may reinstate their certificate if not more than five (5) years have elapsed since the last date of certificate expiration. Reinstatement applications seeking board approval for certification as an animal euthanasia specialist shall include **[the following]** ~~components~~:

- (1) A completed application on a Reinstatement Application for Animal Euthanasia Specialists form or online equivalent form, including all required attachments; ~~and~~
- (2) Payment for the application fee pursuant to 201 KAR 16:514; ~~and~~
- (3) Proof of certification in the 16-hour euthanasia by injection training course pursuant to Section 1(7) of this administrative regulation.**

Section 6.~~Section 5.~~ An application to the board for approval for a change in certification ~~licensure~~ status shall be made in accordance with 201 KAR 16:580.

Section 7.~~Section 6.~~ Background Checks. **Pursuant to KRS 321.189,** the board **shall [may:]** ~~[(1)]~~ ~~conduct~~ a national or jurisdictional level background check on each applicant for certification. The check shall be processed by a board approved background check provider, and **shall [may]** include a copy of the applicant's fingerprints captured at a board approved location.~~;~~

**(1) The board may[(2)]** ~~accept~~~~The board may accept~~ the results of a state-wide~~an~~ employment background check ~~[from the county office]~~ in lieu of a state or federal background check if the background check results are not more than six (6) months old from the date of application.~~;~~

**(2) The board may[(3)]** ~~reject~~~~The board may reject~~ background checks that do not have an official seal or watermark, or that are more than ninety (90) days old.~~;~~ ~~and~~~~;~~

**(3) The board may[(4)]** ~~impose~~~~The board may impose~~ additional administrative or safety requirements as a condition of certification or deny certification following the board's review of findings from a background check.

Section 8.~~Section 7.~~ Employment and Termination.

(1) A person may function as a certified animal euthanasia specialist only while the person remains employed by a board-certified animal control agency in the Commonwealth of Kentucky.

(2) Upon termination of employment with a certified animal control agency ~~or upon expiration of the certified animal control agency's certificate~~, a certified animal euthanasia specialist's certificate status shall automatically be moved by the board from an active to inactive status. The inactive certified individual shall not perform animal euthanasia until the person has obtained employment with a certified animal control agency with a certificate in active status, and applied to the board and been approved to move the animal euthanasia specialist certificate back into active status in accordance with 201 KAR 16:580.

Section 9.~~Section 8.~~ Disciplinary Action. A certified animal euthanasia specialist shall be subject to disciplinary action pursuant to KRS 321.235 and 321.351 for a violation of state or federal statutes or administrative regulations.

Section 10.~~Section 9.~~ Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Application for Certification as an Animal Euthanasia Specialist", 07/2023[~~3/2023~~]; and

(b) "Reinstatement Application for Animal Euthanasia Specialists", 07/2023[~~12/2022~~].

(2) This material may be inspected, copied, or obtained, subjected to applicable copyright law, at the Kentucky Board of Veterinary Examiners, 107 Corporate Drive, Frankfort, Kentucky 40601, Monday through Friday, 8:30 a.m. to 4:30 p.m. This material may also be obtained at [www.kybve.com](http://www.kybve.com).

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Andy Beshear  
Governor



John C. Park, DVM  
Board Chairman

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Sincerely,

A handwritten signature in black ink, appearing to read "Michelle M. Shane".  
Michelle M. Shane, Executive Director  
Kentucky Board of Veterinary Examiners  
107 Corporate Drive, Second Floor  
Frankfort, KY 4001

**Subcommittee Substitute**  
**BOARDS AND COMMISSIONS**  
**Board of Veterinary Examiners**  
**(As Amended at ARRS)**

**201 KAR 16:701. Standards for medical records.**

RELATES TO: KRS 257.080, 258.043, 258.065, 321.175, 321.181, 321.185, 321.187, 321.188, 321.200

STATUTORY AUTHORITY: KRS 321.175[;], 321.187, 321.235(2)(b)3.c.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 321.175 ***establishes that [states]*** the purpose of the Kentucky Veterinary Medicine Practice Act is to promote, preserve, and protect ***[the-]*** public health, safety, and welfare. KRS 321.235 ***(2)(b)3.c. authorizes [allows]*** the Kentucky Board of Veterinary Examiners to promulgate administrative regulations to establish standards in medical records. This administrative regulation establishes standards for medical records created for animal patients by board credential holders.

Section 1. **Definitions.**

**(1) "Clinical encounter" means an interaction between a patient, client, and a healthcare provider for the purpose of providing healthcare services or assessing the health status of a patient and[; it] is the point at which decisions about diagnosis and treatment are made[;] and during which care [caring] takes place.**

**(2) "Complete medical record" means the record contains sufficient information to:**

- (a) Identify the patient and the client;**
- (b) Support the diagnosis or condition;**
- (c) Justify the care, treatment, and services;**
- (d) Provide options for spectrum of care, where appropriate;**
- (e) Document the course and results of care, treatment, and services; and**
- (f) Promote continuity of care among providers. [A medical record shall be completed no more than forty-eight (48) hours following the clinical encounter.]**

**Section 2.** Veterinary medical records shall be:

- (1) Safeguarded against loss, tampering, or use by unauthorized persons;
- (2) Be readily available to the veterinarian, other veterinarians at the same practice, employees of the veterinarian, and other authorized persons; ***[and]***
- (3) Contain sufficient information to permit any veterinarian to proceed with the care and treatment of the patient by reading the medical record; ***and***
- (4) Be completed no more than forty-eight (48) hours following the clinical encounter.**

**Section 3.**~~**Section 2.**~~ Maintenance of Records.

- (1) Medical records shall be maintained in accordance with KRS 321.187.**
- (2) Cessation from practice, either temporarily or permanently, shall not relieve the practitioner from compliance with this section.**

**(3) Records stored by a third party shall not relieve the veterinarian or AAHP from the responsibility of supplying records to the client upon request.**

**(4) There shall not be a charge for a board investigation.**

~~[(1) The practice where the records were prepared shall be the official records custodian.~~

~~(2) Original patient records shall be retained by the practice, veterinarian, or allied animal health professional (AAHP)[AAHP] who prepared them and be readily retrievable for a period of five (5) years following the last patient encounter. Cessation from practice, either temporarily or permanently, shall [does] not relieve the practitioner from compliance with this section.~~

~~(3)[(a) Records shall not be stored by a third party without a record of signed, informed consent by the client.~~

~~(b)] Records stored by a third party shall not relieve the veterinarian or AAHP from the responsibility of supplying records to the client upon request.~~

~~(4)(a) The veterinarian or AAHP permittee may require that a request for medical records be in writing and may charge a reasonable fee for copying or the staff time in preparing the requested medical records.~~

~~(b) There shall be no charge for a board investigation [In the event of a board investigation, no charges shall be authorized].~~

~~(c) Copies of the medical records shall be provided to the client, designated veterinarian, AAHP permittee, or authorized representative within seven (7) calendar days after receipt of a proper request or sooner in accordance with the patient's medical condition.~~

~~(d) Failure to provide the medical records in a timely fashion upon proper request shall be considered unprofessional conduct.~~

~~(5) Pursuant to KRS 321.187(2), records shall be retained and accessible to the client for five (5) years past the date of the last clinical encounter with the patient.]~~

**Section 4.[Section 3.]** Veterinary medical records shall, **at a minimum,** include **[the following information at a minimum]:**

- (1) Patient or herd identification;
- (2) Client identification;
- (3) A record of every **clinical** encounter and consultation regarding the patient;
- (4) Written or digital records and notes of each **clinical** encounter, including:
  - (a) **Diagnosis or differential diagnosis;**
  - (b) Treatments recommended, including spectrum of care options;
  - (c) Treatment plan agreed upon with client;
  - (d) If a prescription is issued, prescription details consistent with the requirements of 201 KAR 16:600;
  - (e) Recommendations;
  - (f) If a medical determination is made via telemedicine, a written statement about the digital information used to make the decision;
  - (g) If surgery is performed, details of surgery, including:
    1. Amounts and duration of any drugs, sedatives, or other substances administered;
    2. Documentation of appropriate, species-specific anesthetic monitoring, which may include temperature, pulse, and respiration; **[and]**

3. Documentation of recovery; ***and***
4. Materials used [~~and the amounts so used~~], including at a minimum:
  - a. Suture materials;
  - b. Mesh materials; and
  - c. Other materials used; and
  - (h) Any other pertinent details; ~~;~~
- (5) **Laboratory** [~~Radiographs, sonographic images, video recordings, photographs, or other imaging and laboratory~~] reports;
- (6) Any information received as the result of a consultation, including the date, name, and contact information of the consultant;
- (7) **A reference notation of the existence of radiographs, sonographic images, video recordings, photographs, or other diagnostic imaging, with ready access to or copies of those images available;**
- (8) Any authorizations, details of conversations, releases, waivers, patient discharge instructions, records of informed consent, or other related documents;
- (9) [(8)] The first and last name of the veterinarian, licensed veterinary technician, or veterinary assistant, or **AAHP** [~~allied animal health professional (AAHP)~~] permit holder practicing on the patient during the visit, whether in-person or via telehealth, **or an identifying code that corresponds to the first and last name of the practitioner or person making the entry pursuant to subsection (12) of this section;** [~~and~~]
- (10) [(9)] The first and last name of the person making each entry in the medical record, **or an identifying code for each person pursuant to subsection (12) of this section;**
- (11) **The name of the veterinary facility or premises where the clinical encounter took place; and**
- (12) **If [When] an identifying code is used to denote the first and last name of the person making an entry into the medical record, a list of identifying codes and corresponding first and last names shall be made readily available with the medical records to the client or the board upon request.**

#### **Section 5.** [~~Section 4.~~]

- (1) A person shall not:
  - (a) Intentionally create a false record;
  - (b) Make a false statement; or
  - (c) Alter or modify any medical record, document, or report concerning treatment of a patient.
- (2) When correcting a **completed** medical record **for a clinical encounter**, the original content shall be readable, and the alteration shall be clearly identified with the:
  - (a) Correction; ~~;~~
  - (b) Reason for the correction; ~~;~~
  - (c) Date of correction; ~~;~~ and
  - (d) First and last name of the person making the correction, **or an identifying code pursuant to Section 4(12) of this administrative regulation.**

#### **Section 6.** [~~Section 5.~~] **Rabies Clinics.**

(1) During each rabies clinic held pursuant to KRS 258.043, copies of medical records shall be retained for each patient clinical encounter beyond the rabies vaccination.

(2) For rabies vaccinations only, a copy of the rabies certificate satisfies the requirement of this section.

**Section 7. Confidentiality of Records. Medical records shall be kept confidential in accordance with KRS 321.187(6).**~~[Section 6.] [(1) Pursuant to KRS 321.187, an animal patient's medical record and medical condition is confidential and may not be furnished to or discussed with any person other than the client or other veterinarians, veterinary technicians, veterinary assistants, veterinary practice staff, [(including veterinary students, veterinary technician students, and special permittees)], AAHP permittees, or consultants involved in the care or treatment of the patient, except upon written authorization of the client or [under the following circumstances]:~~

~~(a) In response to a court order, or subpoena with notice given to the client or the client's legal representative;~~

~~(b) For statistical and scientific research, if the information is abstracted in a way as to protect the identity of the patient and the client;~~

~~(c) As part of an inspection or investigation conducted by the board or an agent of the board;~~

~~(d) To verify the rabies vaccination status of an animal to law enforcement or local health department officials;~~

~~(e) In the course of a consultation as defined in KRS 321.181(24) or provided for in KRS 321.200(1)(f);~~

~~(f) In cases of animal abuse, pursuant to KRS 321.188;~~

~~(g) Pursuant to KRS 321.185(4)(b)3., in cases of reportable diseases as they relate to public or animal health pursuant to KRS 257.080 and 258.065 and the administrative regulations promulgated under the authority of those chapters;~~

~~(h) If access to the records is specifically required by other state or federal law; or [and]~~

~~(i) Upon request by the board.~~

~~(2)[(a)] For purposes of written authorization from the client, nothing in this section shall require a veterinarian whose records are being authorized to be released to the client only to provide medical records, reports, and opinions to a client that may be used by a third party who does not have a veterinarian-client-patient relationship with the veterinarian for the purpose of, or in consideration of, the buying or selling of the animal.~~

~~(3)[(b)] A veterinarian taking radiographs of a patient[for an animal] shall only be liable to the client[owner of the animal] for the content of the record, and not liable to third parties for the purpose of buying or selling of the animal.]~~

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Andy Beshear  
Governor



John C. Park, DVM  
Board Chairman

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Michelle M. Shane, Executive Director  
Kentucky Board of Veterinary Examiners  
107 Corporate Drive, Second Floor  
Frankfort, KY 4001

**Subcommittee Substitute**

**BOARDS AND COMMISSIONS  
Board of Veterinary Examiners  
(As Amended at ARRS)**

**201 KAR 16:702. Standards for veterinary surgery.**

RELATES TO: KRS 321.175, 321.190, 321.193, 321.441, 321.443

STATUTORY AUTHORITY: KRS 321.175, 321.235(2)(b)3.c.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 321.175 establishes [and 321.235 declare] that the Kentucky Board of Veterinary Examiners shall protect the public by ensuring only qualified individuals are allowed to practice veterinary medicine in the Commonwealth in the interest of the health, safety, and welfare of the animal population and the citizens of Kentucky. KRS 321.235 requires the board to promulgate administrative regulations in accordance with KRS Chapter 13A to effectively carry out and enforce the provisions of this chapter. KRS 321.190 and 321.193 establish [detail] that a license is required for veterinarians to practice veterinary medicine in the Commonwealth. KRS 321.441 and 321.443 establish [detail] that veterinary technicians and veterinary assistants shall be properly supervised when assisting a veterinarian with the practice of veterinary medicine. This administrative regulation sets forth minimum standards for surgical procedures to ensure the safety and welfare of animal patients, and provides confidence in basic care and support for clients.

Section 1. **Definitions.**

(1) "Animal" is defined by [has the same meaning as] KRS 321.181(5).

(2) "Large animal" includes bovids, camelids, cervids, equids, swine, or other animals ordinarily raised or used on a farm.

(3) "Patient" is defined by [has the same meaning as] KRS 321.181(47).

(4) "Professional arrangements" means that the veterinary facility where surgery takes place or the veterinarian who performed surgery shall not list another veterinary facility as able to provide services to a client unless they have previously confirmed that the alternate veterinary facility is available to provide services. This shall [does] not need to be done on a case-by-case basis but may be professionally arranged in advance for all clients.

(5) "Small animal" includes any animal not within the definition of large animal, and regardless of weight includes avians, canids, felines, rabbits, pocket pets, and other animals typically kept as companion animals.

**Section 2.** All veterinary surgical [surgeries][medical] procedures performed in the Commonwealth shall comply with the following basic surgical standards.

(1) If patients[animals] are housed or retained for treatment in a veterinary facility:

(a) Appropriate housing shall be provided for each patient[animal] before and after surgery;  
and

(b) Enclosures shall be secure and provide a flat surface for the **patient[animal]** that is clean, dry, and warm with adequate space for the **patient[animal]** to turn around, while allowing for safety at various stages of sedation and anesthesia and sufficient visibility by the staff.

(2) All drugs and biologicals shall be labeled in accordance with 201 KAR 16:600, and **procured, managed, and disposed of[maintained, administered, dispensed, and prescribed]** in compliance with state and federal laws.

(3) During the postoperative period, care shall be taken to provide patients with a smooth transition from the anesthetized state.

(4) Plans shall be in place to handle any emergency that might occur throughout the procedure, and **immediately** postoperatively **while the patient is with the veterinarian or in the veterinary facility.**

(5) **Immediately prior to release, patients[Patients]** shall be evaluated and deemed adequately recovered, stable, **mobile[ambulatory]**, and within normal physiological parameters following anesthesia. **A veterinarian shall use their best professional judgment and medical training to make an appropriate determination about recovery for the specific species and patient[immediately prior to release].**

(6) **The client shall be provided clear[Clear]** instructions for postoperative care **[by the client shall be provided to the client both verbally and -]in writing. For [those] clients who [which] are provided repeated services, a single instance of written instructions may be provided during the term of the VCPR pursuant to KRS 321.185.**

(7) **The client shall be provided options in writing[Arrangements]** for follow-up or emergency care during the **forty-eight (48) [48-]hour** period after surgery **that includes information for a twenty-four (24) hour emergency veterinary facility or with another veterinary facility where professional arrangements have been made to see clients[shall be provided to the client both verbally and in writing].**

**[(8) A veterinarian may perform emergency aseptic surgical procedures in another room when the room designated for aseptic surgery is occupied or temporarily unavailable.]**

**Section 3.[Section 2.]** Additional Requirements for Small **Animal Patients[Animals]**. All veterinary medical procedures performed on small animals in the Commonwealth shall comply with **Section 2[Section 1]** of this administrative regulation and the following basic surgical standards.

(1) The operating area shall:

(a) Be dedicated to surgery **while in use for surgical purposes;** and

(b) Contain the necessary equipment for anesthesia, appropriate intubation, administration of oxygen, and monitoring.**[- and]**

(2) **A veterinarian and operating area personnel shall** establish, maintain, and **comply with [follow the following protocols]:**

(a) Infectious disease protocols to be performed in an environment to minimize infectious disease;

(b) Aseptic surgical technique protocols;

(c) Sterile instruments protocols ensuring separate sterile instruments to be used for each patient. Cold sterilization **shall [is]** not **be [considered]** an appropriate method to adequately sterilize surgical instruments for small animals, except for cold sterilization for endoscopic,

laproscopic, and arthroscopic procedures. In these allowable instances of cold sterilization, the method is permitted only by use of **FDA-Cleared Liquid Chemical Sterilants and High Level Disinfectants[glutaraldehyde-based products];**

(d) Anesthetic protocols that are balanced and include sedation, the provision of **peri-[pre-]** and post-operative analgesia, stress reduction, muscle relaxation, and controlled, complete recovery of consciousness prior to discharge;

(e) Pre- and post-op monitoring protocols to monitor patients; and

(f) Thermal support protocols.

**Section 4.[Section 3.]** Responsibility for Patient Care.

(1) During the forty-eight (48) hour period after surgery, **a client shall be provided information in accordance with Section 2 [1](7) of this administrative regulation[the veterinarian who performed the surgery is responsible for patient aftercare and 24/7 emergency management following the surgery].**

(2) If there are no personnel on the premises during any time **a patient[an animal]** is left at the veterinary facility:

(a) Prior notice of this fact shall be given to the client in writing and the notification recorded in the medical records; and

(b) If requested, the client shall be provided an option to transfer the patient care to a twenty-four (24) hour facility.

**[(3) The veterinarian who performed the surgery shall be relieved of this responsibility only when the following conditions are met:**

**(a) The veterinarian or veterinary facility has made specific arrangements in writing with another veterinarian to provide emergency care for the surgical patient;**

**(b) The client has been informed both verbally and in writing of the transfer of responsibility; and**

**(c) The client has been provided current contact information for the new responsible care provider.]**

**Section 5.[Section 4.]** Large Animal Patient Standards and Exceptions.

**(1) Field surgeries shall be performed within an appropriate environment as possible.**

**(2) Appropriate cold sterilization is acceptable in field work.**

**(3) During the postoperative period, care shall be taken to provide patients with a smooth transition from the anesthetized state. A veterinarian shall use their best professional judgment and medical training to make an appropriate determination about recovery for the specific species and patient.**

**(4) All drugs and biologicals shall be labeled in accordance with 201 KAR 16:600, and procured, managed, and disposed of in compliance with state and federal laws.**

**(5) Plans shall be in place to handle any emergency that might occur throughout the procedure, and postoperatively while the patient is with the veterinarian.**

**(6) The client shall be provided clear instructions for postoperative care in writing. For [those] clients who [which] are provided repeated services, a single instance of written instructions may be provided during the term of the VCPR pursuant to KRS 321.185.**

**(7) The client shall be provided options in writing for follow-up or emergency care during the forty-eight (48) hour period after surgery that includes information for a 24-hour emergency veterinary facility or professional arrangements with another veterinary facility.** ~~[Client Notification. Clients, owners, or the designated care provider for the patient shall be informed both verbally and in writing of the following information following surgery.~~

~~(1) Post-operative medical care instructions; and~~

~~(2) 24/7 emergency contact information for the forty-eight (48) hour period following surgery.]~~

CONTACT PERSON: Michelle Shane, Executive Director, Kentucky Board of Veterinary Examiners, 107 Corporate Drive, Second Floor, Frankfort, Kentucky 40601, phone (502) 782-0273, fax (502) 695-5887, email michelle.shane@ky.gov.

Andy Beshear  
Governor



John C. Park, DVM  
Board Chairman

**KENTUCKY BOARD OF VETERINARY EXAMINERS**

107 Corporate Drive, Second Floor, Frankfort, KY 40601

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December 8, 2023

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



**RE: 201 KAR 16:550. Authorization for animal control agencies to apply for a restricted controlled substances certificate from DEA; 201 KAR 16:552. Responsibilities for certified animal control agencies; limitations on drugs; 201 KAR 16:560. Certification as an animal euthanasia specialist; 201 KAR 16:701. Standards for medical records; 201 KAR 16:702. Standards for veterinary surgery; 201 KAR 16:750. Licensed veterinary technicians (LVTs); Veterinary assistants; Scope of practice and supervisory requirements; 201 KAR 16:510. Fees for veterinarians; 201 KAR 16:512. Fees for veterinary technicians; 201 KAR 16:514. Fees for animal control agencies and animal euthanasia specialists; 201 KAR 16:516. Fees – other fees.**

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 16:550, 552, 560, 701, 702, 750, 510, 512, 514, and 516, the Kentucky Board of Veterinary Examiners proposes the attached amendments to 201 KAR 16:550, 552, 560, 701, 702, 750, 510, 512, 514, and 516.

Sincerely,

A handwritten signature in black ink that reads "Michelle M. Shane".

Michelle M. Shane, Executive Director  
Kentucky Board of Veterinary Examiners

107 Corporate Drive, Second Floor  
Frankfort, KY 4001



## Subcommittee Substitute

### BOARDS AND COMMISSIONS Board of Veterinary Examiners (As Amended at ARRS)

**201 KAR 16:750. Licensed veterinary technicians (LVTs);~~[-] Veterinary assistants; [-]~~  
]Scope of practice and supervisory requirements.**

RELATES TO: KRS 321.175, 321.190, 321.441, 321.443

STATUTORY AUTHORITY: KRS 321.235(2)(b)3.c., 321.441(3)(b)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 321.175 and 321.235 ***establish [declare]*** that the Kentucky Board of Veterinary Examiners shall protect the public by ensuring only qualified individuals are allowed to engage in the practice of veterinary technology ***in*** the Commonwealth to promote, preserve, and protect the public health, safety, and welfare. KRS 321.441 ***establishes [details]*** that a license is required for veterinary technicians to practice veterinary technology in the Commonwealth. ***KRS 321.190(1) establishes [provides] that veterinary assistants may work in the Commonwealth without a veterinarian or veterinary technician license.*** KRS 321.441 and 321.443 ***establish [detail]*** that ***licensed*** veterinary technicians and veterinary assistants ***shall [must]*** be properly supervised when assisting a veterinarian with the practice of veterinary medicine. This administrative regulation sets forth the scope of practice ***for licensed veterinary technicians (LVTs) and veterinary assistants*** under various levels of veterinarian supervision to ensure the safety and welfare of animal patients, clearly define appropriate roles to be assigned by supervisors, and to provide confidence in basic care and support for clients.

#### Section 1. Definitions.

- (1) "Direct supervision" is defined by KRS 321.181(59)(c).
- (2) "Immediate supervision" is defined by KRS 321.181(59)(b).
- (3) "Indirect supervision" is defined by KRS 321.181(59)(d).
- (4) "Veterinarian-client-patient relationship" or "VCPR" is defined in KRS 321.185.

#### Section 2. **General Provisions.**

***(1) Supervisors and supervisees are separately responsible for their own actions pursuant to KRS 321.190(7). [Pursuant to KRS 321.190(7), a supervising veterinarian is individually and separately responsible and liable for the performance of the acts delegated to and the omissions of the licensed veterinary technician, veterinary assistant, or any other individual working under the veterinarian's supervision. Nothing in this subsection shall be construed to relieve licensed veterinary technicians, veterinary assistants, or any other individuals working under supervision of any responsibility or liability for any of their own acts or omissions.]***

***(2) Except as authorized by KRS 321.200, KRS 321.201, and subsection (3) of this section [administrative regulation], [pursuant to KRS 321.190(6)] the acts of surgery, diagnosis, prognosis, and prescription are limited to a veterinarian pursuant to KRS 321.190(6). [nothing in KRS Chapter 321 or 201 KAR Chapter 16 shall be construed to permit***

**an LVT, veterinary assistant, or any person who is not a veterinarian to perform any of the following activities relating to animals:**

**(a) Surgery;**

**(b) Diagnosis;**

**(c) Prognosis; or**

**(d) Prescription.]**

**(3) Veterinary students enrolled in good standing in an approved veterinary medical program or veterinary technology students enrolled in good standing in an approved veterinary technology program may perform tasks related to curriculum advancement or preparation for a board approved national exam while under the direct supervision of a veterinarian or immediate supervision of an LVT.**

**(4) Persons providing clinical care to patients shall comply with the medical record keeping requirements established in KRS 321.187 and 201 KAR 16:701.**

### **Section 3. Restrictions on the Use of Licensed Veterinary Technicians.**

**(1) An LVT[A licensed veterinary technician (LVT)] may perform acts as assigned[the following acts as set forth in this administrative regulation] under the direction, supervision, and responsibility of a board-licensed veterinarian[,/] who has established and maintains a current veterinarian-client-patient relationship (VCPR) with the patient and the client in accordance with KRS 312.185.**

**(2) The veterinarian and LVT shall comply with the record keeping requirements[rule] established in KRS 321.187 and[by the board in] 201 KAR 16:701 [(Standards for Medical Records)].**

**(3) The decision about the level of supervision required by an LVT shall be at [is ultimately up to] the discretion and professional judgement of the supervising veterinarian if [as long as]:**

**(a) [The tasks assigned to the LVT do not provide a lower level of supervision than that which is prescribed in this administrative regulation;**

**(b)] The supervising veterinarian is confident in the level of training and trust in the LVT; and**

**(b)[(c)] The tasks assigned to the LVT are not otherwise prohibited by KRS Chapter 321 or[;] 201 KAR Chapter 16 and comply with all state and federal laws.**

**[(4) Pursuant to KRS 321.443, a veterinary assistant under the employ of a board-licensed veterinarian may be assigned work similar to an LVT, as described in subsection (3) of this section, so long as the supervising veterinarian is confident in the level of training and trust in the veterinary assistant and their ability to competently and safely perform assigned tasks.**

**(5) Except as authorized by KRS 321.200, nothing in KRS Chapter 321 or 201 KAR Chapter 16 shall be construed to permit an LVT or veterinary assistant, or any person who is not a veterinarian to perform any of the following activities relating to animals:**

**(a) Surgery;**

**(b) Diagnosis;**

**(c) Prognosis; or**

**(d) Prescription.**

~~Section 3. Immediate Supervision. Allowable animal healthcare tasks for LVTs under immediate supervision are:~~

- ~~(1) Assisting the Veterinarian with surgical procedures; and~~
- ~~(2) Placement of abdominal, thoracic, or PEG tubes.~~

~~Section 4. Direct Supervision. Allowable animal healthcare tasks under direct supervision are:~~

- ~~(1) Dental procedures including, at a minimum:
  - ~~(a) The removal of calculus, soft deposits, plaque, and stains;~~
  - ~~(b) The smoothing, filing, and polishing of teeth;~~
  - ~~(c) Dental single root extractions not requiring sectioning of the tooth or sectioning of the bone;~~
  - ~~(d) Suturing a gingival incision;~~~~
- ~~(2) Euthanasia; and~~
- ~~(3) Placement of intraosseous catheterization.~~

~~Section 5. Indirect Supervision. Telesupervision falls under the definition of indirect supervision. Allowable animal healthcare tasks under indirect supervision are:~~

- ~~(1) General anesthesia and sedation, maintenance, and recovery;~~
- ~~(2) Non-emergency endotracheal intubation;~~
- ~~(3) Regional anesthesia, including paravertebral blocks, epidurals, local blocks;~~
- ~~(4) Placement of tubes, including at a minimum:
  - ~~(a) Gastric tubes;~~
  - ~~(b) Nasogastric tubes; and~~
  - ~~(c) Nasoesophageal tubes;~~~~
- ~~(5) Placement of epidural and nasal catheters;~~
- ~~(6) Ear flushing with pressure or suction;~~
- ~~(7) Application of casts, splints, and slings for the immobilization of fractures;~~
- ~~(8) Administration of chemotherapy;~~
- ~~(9) Administration of radiation therapy;~~
- ~~(10) Intravascular catheterization through creation of a relief hole in the skin;~~
- ~~(11) Intra-arterial catheterizations;~~
- ~~(12) Unless prohibited by state or federal regulation administration, preparation and application of treatments, including at a minimum:
  - ~~(a) Drugs;~~
  - ~~(b) Medications;~~
  - ~~(c) Controlled substances;~~
  - ~~(d) Enemas; and~~
  - ~~(e) Biological and immunological agents;~~~~
- ~~(13) Suturing, stapling, and gluing of an existing surgical skin incision;~~
- ~~(14) Fluid aspiration from a body cavity or organ, as known as cystocentesis;~~
- ~~(15) Intravenous catheterization, intra-arterial catheterization, and maintenance;~~
- ~~(16) Imaging, including at a minimum:
  - ~~(a) Radiography;~~~~

- ~~(b) Ultrasonography;~~
- ~~(c) Computed tomography;~~
- ~~(d) Magnetic resonance imaging;~~
- ~~(e) Fluoroscopy; and~~
- ~~(f) Administration of radio-opaque agents/materials;~~
- ~~(17) Except when in conflict with state or federal law:~~
  - ~~(a) Collection of blood;~~
  - ~~(b) Collection and preparation of cellular or microbiological samples by skin scrapings, impressions, or other non-surgical methods;~~
- ~~(18) Collection of urine by expression, catheterization (unobstructed), and insertion of an indwelling urinary catheter;~~
- ~~(19) Monitoring, including at a minimum:~~
  - ~~(a) ECG;~~
  - ~~(b) Blood pressure; and~~
  - ~~(c) CO2 and blood oxygen saturation;~~
- ~~(20) Clinical laboratory test procedures;~~
- ~~(21) Handling and disposal of biohazardous waste materials;~~
- ~~(22) Implantation of a subcutaneous identification chip;~~
- ~~(23) Laser therapy;~~
- ~~(24) Animal rehabilitation therapies;~~
- ~~(25) Ocular tonometry, Schirmer tear test, and fluorescein stain application;~~
- ~~(26) Suture and staple removal;~~
- ~~(27) Reproductive ultrasound, and semen evaluation;~~
- ~~(28) Floating equine teeth; and~~
- ~~(29) Tasks at the discretion of the veterinarian, which are not in contravention of KRS 321.190 and 321.181(50).]~~

**Section 4.[Section 6.] Patient Emergency Care Provided by LVTs.[Emergency Animal Patient care.**

~~(1)] A supervising veterinarian in emergency [animal patient-]care **situations** may assign to an LVT **under indirect supervision, through [via] verbal communication or in accordance with the supervising veterinarian's written protocols, the following tasks until [such time as] the veterinarian is available on the premises to take over treatment:**~~

- ~~(1)[(a)] Application of tourniquets [and/]or pressure procedures to control hemorrhage;~~
- ~~(2)[(b)] Application of appropriate wound dressings in severe burn cases;~~
- ~~(3)[(c)] Resuscitative oxygen procedures;~~
- ~~(4)[(d)] Anti-seizure treatment; [and]~~
- ~~(5)[(e)] Supportive treatment in heat prostration cases;[-~~
- ~~(2) In emergency situations and while under the direct supervision of a veterinarian via verbal communication or in accordance supervising veterinarian's protocols, an LVT may:]~~
  - ~~(6)[(a)] Administer drugs to control pain and shock; **or**~~
  - ~~(7)[(b)] Initiate and perform CPR and provide immediate post resuscitation care, including:~~
    - ~~(a)[1.] Administration of medication; and~~
    - ~~(b)[2.] Defibrillation according to protocols established in writing at the veterinary facility.~~

**Section 5. Restrictions on the Use of Veterinary Assistants.**

**(1) Pursuant to KRS 321.443, a veterinarian may employ a veterinary assistant and assign work at the discretion of the supervising veterinarian, except for those tasks identified in subparagraph (2) of this section, if [so long as]:**

**(a) The veterinary assistant is under the direction, supervision, and responsibility of a board-licensed veterinarian[,] who has established and maintains a current Veterinarian-Client-Patient Relationship (VCPR) with the patient in accordance with KRS 321.185;**

**(b) The tasks assigned to the veterinary assistant are at all times:**

**1. Under the supervision of a veterinarian at a minimum supervisory level as established [detailed] in subsections [subparagraphs] (3) through [-] (5) of this section; or**

**2. Under the immediate or direct supervision of an LVT;**

**(c) The supervising veterinarian or supervising LVT is confident in the level of training and trust in the veterinary assistant and their ability to competently and safely perform assigned tasks; and**

**(d) The tasks assigned to the veterinary assistant comply with all state and federal laws.**

**(2) A veterinary assistant shall not [~~Under no circumstances shall a veterinary assistant~~] be assigned the following tasks:**

**(a) Surgery;**

**(b) Diagnosis;**

**(c) Prognosis;**

**(d) Prescription;**

**(e) Euthanasia; or**

**(f) Tooth extractions of any kind.**

**(3) A supervising veterinarian or LVT may assign to a veterinary assistant the following tasks under immediate supervision:[;]**

**(a) Regional anesthesia, including paravertebral blocks, epidurals, local blocks;**

**(b) Fluid aspiration from a body cavity or organ, known as centesis; or**

**(c) Small animal reproductive ultrasound, and semen collection.[; and]**

**(4) A supervising veterinarian or LVT may assign to a veterinary assistant the following tasks under direct supervision:[;]**

**(a) Unless prohibited by state or federal regulation, the administration, preparation and application of treatments prescribed by a veterinarian, including:**

**1. Controlled substances; and**

**2. Enemas;**

**(b) Maintenance and recovery tasks following veterinarian or LVT administration of general anesthesia and sedation;**

**(c) Non-emergency endotracheal intubation and extubation;**

**(d) Imaging, including at a minimum:**

**1. Computed tomography (CT); [and]**

**2. Magnetic resonance imaging (MRI);**

**3. Radiography;**

**4. Ultrasonography;**

**5. Fluoroscopy; and**

**6. Administration of radio-opaque agents *or* materials;**

**(e) Floating equine teeth;**

**(f) Ocular tonometry, Schirmer tear test, and fluorescein stain application; *or* [and]**

**(g) Tasks at the discretion of the veterinarian, which are not in contravention of KRS 321.190, 321.181(50), 321.443, and this administrative regulation.**

**(5) A supervising veterinarian may assign to a veterinary assistant the following tasks under indirect supervision:[:]**

**(a) Unless prohibited by state or federal law, the administration, preparation, and application of treatments prescribed by a veterinarian, including:**

**1. Drugs;**

**2. Medications; [and]**

**3. Biological and immunological agents;**

**4. Collection of blood; and**

**5. Collection and preparation of cellular or microbiological samples by skin scrapings, impressions, or other non-surgical methods;**

**(b) Intravenous catheterization and maintenance;**

**(c) Collection of urine by voided sample;**

**(d) Monitoring, including at a minimum:**

**1. Electrocardiogram (ECG);**

**2. Blood pressure; and**

**3. CO<sub>2</sub> and blood oxygen saturation;**

**(e) Clinical laboratory test procedures;**

**(f) Handling and disposal of biohazardous waste materials;**

**(g) Implantation of a microchip;**

**(h) Laser therapy;**

**(i) Animal rehabilitation therapies; *or* [and]**

**(j) Suture and staple removal.**

**Section 6. Patient Emergency Care Provided by Veterinary Assistants. A supervising veterinarian in emergency care situations may assign to a veterinary assistant who they employ and who is under the veterinarian's direct supervision, *through* [*via*] verbal communication and in accordance with the supervising veterinarian's written protocols, the following tasks:**

**(1) Application of tourniquets [*and*] or pressure procedures to control hemorrhage;**

**(2) Application of appropriate wound dressings in severe burn cases;**

**(3) Resuscitative oxygen procedures;**

**(4) Anti-seizure treatment;**

**(5) Supportive treatment in heat prostration cases;**

**(6) Administration of drugs to control pain and shock in accordance with state and federal laws; *or* [and]**

**(7) Initiation and performance of CPR and performance of immediate post resuscitation care, including:**

**(a) Administration of medication; and**

**(b) Defibrillation according to protocols established in writing at the veterinary facility.**

CONTACT PERSON: Michelle Shane, Executive Director, Kentucky Board of Veterinary Examiners, 107 Corporate Drive, Second Floor, Frankfort, Kentucky 40601, phone (502) 782-0273, fax (502) 695-5887, email [michelle.shane@ky.gov](mailto:michelle.shane@ky.gov).

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Andy Beshear  
Governor

FILED WITH LRC  
TIME: 10:30 am  
DEC 6 2023  
Emily B Caudill  
REGULATIONS COMPILER

December 6, 2023

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

Re: 201 KAR 20:220. Nursing continuing education provider approval.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 20:220, the Kentucky Board of Nursing proposes the attached suggested amendment to 201 KAR 20:220.

Sincerely,



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

Final, 11-28-2023

**SUGGESTED AMENDMENT**

**GENERAL GOVERNMENT CABINET  
Board of Nursing**

**201 KAR 20:220. Nursing continuing education provider approval.**

**Page 9**

**Section 5(2)**

**Line 10**

After "Web site at", insert the following:

<https://kbn.ky.gov/document-library/Pages/default.aspx>

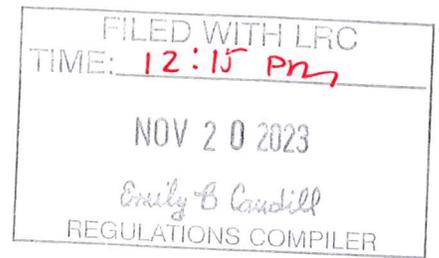
Delete the following:

<https://kbn.ky.gov/General/Pages/Document-Library.aspx>



KENTUCKY BOARD OF SOCIAL WORK

125 Holmes Street, Suite 310  
Frankfort, Kentucky 40601  
(502) 564-2350



**Andy Beshear**  
Governor

**Marc Kelly**  
Executive Director

November 15, 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  
Capital Annex  
Frankfort, KY 40601

Re: **201 KAR 23:055** Inactive Status of License

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 023:055, the Kentucky Board of Social Work proposes and adopts the attached amendment to 201 KAR 023:055.

Sincerely,

Marc Kelly  
Executive Director

VJ  
Enc.



**Staff-suggested Amendment**

**Final Version 9/22/2023  
GENERAL GOVERNMENT CABINET  
Kentucky Board of Social Work**

**201 KAR 23:055. Inactive status of license.**

**Page 2**

**Section 3**

**Lines 10 and 11**

After "Expiration. If", insert "a".

Delete "the".

After "status or", insert "a".

Delete "the".

**Page 2**

**Section 4(1)**

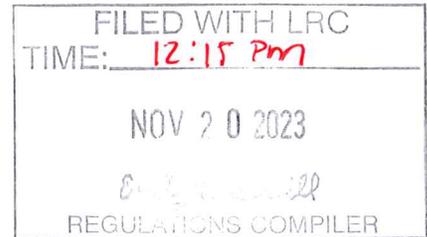
**Line 16**

After "request to", delete "the board to".



KENTUCKY BOARD OF SOCIAL WORK

125 Holmes Street, Suite 310  
Frankfort, Kentucky 40601  
(502) 564-2350



**Andy Beshear**  
Governor

**Marc Kelly**  
Executive Director

November 15, 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  
Capital Annex  
Frankfort, KY 40601

Re: **201 KAR 23:160** Temporary Permission to Practice

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 023:160, the Kentucky Board of Social Work proposes and adopts the attached amendment to 201 KAR 023:160.

Sincerely,

Marc Kelly  
Executive Director

VJ  
Enc.



## Subcommittee Substitute

### BOARDS AND COMMISSIONS Board of Social Work (As Amended at ARRS)

#### 201 KAR 23:160. Temporary permission to practice.

RELATES TO: KRS 335.080, 335.090, 335.100

STATUTORY AUTHORITY: KRS 335.070(1), (3), (9)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.070(1) requires the board to evaluate and approve the qualifications of applicants for licensure. KRS 335.070(3) authorizes the board to promulgate administrative regulations. KRS 335.070(9) authorizes the board to establish requirements for temporary permits to practice social work. This administrative regulation establishes the requirements for the granting of temporary permission to engage in the practice of social work.

Section 1. Temporary Permits without the Examination.

(1) ~~If requested,~~ a temporary permit to engage in the practice of social work shall be granted ~~if requested,~~ to an applicant who has applied for licensure under the provisions of KRS 335.080 or 335.090 and completed all of the requirements for licensure except having passed the required examination.

(2) The application required by subsection (1) of this section shall be made to the board or to the online application management system and shall:

(a) Include a certification by the applicant that ~~the~~:

1. ~~The~~ information in the application is true, correct, and complete to the best of their knowledge and belief; and

2. The applicant is aware that the board may take disciplinary action if the application contains a misrepresentation or falsification; ~~and~~

(b) Be accompanied by payment of the application fee that shall:

1. Be made payable to the Kentucky State Treasurer if the application is processed through the board; or

2. Be made to the online application management system as directed by the board.

(3) A person practicing social work under a temporary permit as a licensed social worker or a certified social worker shall be under the supervision of a certified social worker or licensed clinical social worker licensed in Kentucky, who becomes the supervisor of record.

(4) A supervisor of record for a temporary permit holder not practicing clinical social work ~~shall~~ ~~must~~ have been licensed in Kentucky for two (2) years.

(5) Any changes to the terms of the temporary permit shall be submitted to the board and approved by the board before the temporary permit holder continues social work practice.

(6)(a) ~~Unless renewed,~~ a temporary permit shall not extend for more than 180 days after the temporary permit is approved by the board ~~unless renewed~~.

(b) A person may re-apply for a temporary permit before the issued permit expires, and this permit shall not extend for more than 180 days after the temporary permit is approved by the

board for a maximum of 360 days.

(7) Temporary permit holders shall not practice telehealth outside of Kentucky, which means that the location of the temporary permit holder and the client at the time of service ***shall [must]*** be in Kentucky.

(8) The applicant shall pay the required fee for the permit and any renewal.

(9) Receipt of applications, contracts, and notification of approvals ***may [can]*** be done by mail or electronically.

Section 2. Temporary Permits to Practice Clinical Social Work without the Examination.

(1) ***In addition to the requirements established in Section 1(1), (2), (6), and (7) through (9) of this administrative regulation, a certified social worker who seeks to practice clinical social work under a temporary permit shall be under the supervision of a licensed clinical social worker who qualifies to provide supervision under 201 KAR 23:070 [Section 1(1), (2), (7), (8), and (9) are the same for this section].***

~~(2) [A certified social worker who seeks to practice clinical social work under a temporary permit shall be under the supervision of a licensed clinical social worker who qualifies to provide supervision under 201 KAR 23:070.~~

~~(3)]~~ A person practicing under a temporary permit as a certified social worker to provide clinical social work shall not accumulate hours ***toward [towards]*** the supervision requirements of KRS 335.100(1)(b).

~~(3)[(4)]~~ The application for a temporary permit to practice clinical social work shall include a contract ***or [A]*** letter signed by the proposed supervisor acknowledging the responsibility for supervision and for the practice of the person holding the temporary permit.

~~(4)[(5)]~~ A licensee shall not serve as the supervisor for more than two (2) persons holding a temporary permit at any one (1) time.

~~(5)[(6)]~~ A licensed clinical social worker who qualifies to provide supervision under 201 KAR 23:070 ***shall [must]*** include temporary permit persons in the required limit of six (6) supervisees as supervisor of record.

~~(6)[(7)]~~ Supervision during the period of temporary permission to practice shall be a minimum of one (1) hour of individual, face-to-face, or virtual supervision per week.

~~(7)[(8)]~~ A person practicing under a temporary permit as a certified social worker to provide clinical social work shall be valid until the applicant for the ***Certified [Certifies]*** Social Work license is denied under the provisions of KRS 335.080, or the temporary permit expires.

~~(8)[(9)]~~ The temporary permit to practice clinical social work shall only be issued with an approved contract as required in KRS 335.080(3).

(a) The temporary permit applicant ***shall [must]*** complete the temporary permit application that includes a contract with an approved supervisor.

(b) The temporary permit remains in effect until a new contract is approved after the Certified Social Work license is issued under KRS 335.080, even when the maximum of 360 days of the permit is exceeded.

(c) A new application for a temporary permit shall be submitted to the board immediately for approval if the supervisee changes ***his or her [their]***:

1. Supervisor of record; or
2. Place of employment.

~~(9)~~~~(10)~~ A temporary permit holder shall cease and desist the practice of clinical social work if:

- (a) The supervisor of record terminates supervision; or
- (b) The temporary permit holder ceases employment listed on the application.

~~(10)~~~~(11)~~ Any changes to the terms of the temporary permit to practice clinical social work shall be submitted to the board and approved by the board before the temporary permit holder continues social work practice.

~~(11)~~~~(12)~~ Temporary permit holders who violate the provisions of this [the] section shall be [are] subject to disciplinary action by the board.

Section 3. Temporary Permits for Out-of-state Independent Clinical License Holders. If requested, a temporary permit may [can] be issued for clinical social work practice in Kentucky. ~~if requested, as prescribed when:~~

(1) A temporary permit to provide clinical social work in Kentucky may be granted for not more than ninety ~~(90)~~ consecutive days in one ~~(1)~~ calendar year from the date ~~the [of]~~ application is approved.

~~(2) [A temporary permit to provide clinical social work in Kentucky may be granted for not more than ninety consecutive days in one (1) calendar year from the date of application is approved.]~~

~~(3)~~ A temporary permit holder under this section [provision] shall be [is] subject to the complaint procedures of the Kentucky Board of Social Work. [Any] Complaints shall be [are] reportable to the license board of the jurisdiction where the temporary permit holder or [A] applicant is licensed.

~~(3)~~~~(4)~~ The temporary permit applicant shall [is] not be a resident of Kentucky.

~~(4)~~~~(5)~~ The temporary permit holder shall inform clients [informs the client] of the limited nature of his or her [their] services and that he or she [the person] is not currently licensed in Kentucky.

~~(5)~~~~(6)~~ The temporary permit holder or applicant shall have [has] no complaints filed against their license in their current jurisdiction or in the National Practitioner Database or the Public Protection Database.

~~(6)~~~~(7)~~ A temporary permit holder or applicant may be required to submit billing records or other records to demonstrate compliance with the requirements of this section.

~~(7)~~~~(8)~~ The temporary permit holder applicant shall [must] pay the required fee for the permit.

~~(8)~~~~(9)~~ The temporary permit holder [applicant] shall maintain licensure in the other jurisdiction during the time period of the temporary license.

~~(9)~~~~(10) The person informs the client of the limited nature of their services and that the person is not currently licensed in Kentucky.~~

~~(11)~~ The temporary permit holder shall inform clients [person informs the client] of how to make a complaint to the board for improper practice.

~~(10)~~~~(12)~~ The temporary permit holder shall be [is] allowed to practice telehealth in Kentucky if [so long as] the permit holder:

- (a) Provides evidence to the board of appropriate training for telehealth practice;
- (b) Is complying with all telehealth laws and regulations of Kentucky; and

(c) Has written consent for telehealth with clients.

Section 4. Temporary Permits for Out-of-state Social Workers. ***If requested***, a temporary permit ***may [can]*** be issued for social work practice in ***Kentucky [this state, if requested,]*** for not more than ninety ***(90)*** consecutive days during any one ***(1)*** calendar year from the date of application approval. ***[as prescribed when:]***

(1) ***A temporary permit for an out-of-state social worker may be granted to*** a person who is currently licensed, certified, or regulated pursuant to another jurisdiction or pursuant to the laws of a federally recognized tribe and who provides social work services within the person's scope of practice.***[,]***

(2) A temporary permit holder under this ***section [provision] shall be [is]*** subject to the complaint procedures of the Kentucky Board of Social Work. ***[Any]*** Complaints ***shall be [are]*** reportable to the license board of the jurisdiction where the permit holder ***or [A]*** applicant is licensed.

(3) The ***temporary permit applicant shall seek [person seeks]*** permission to practice social work within the state of Kentucky.

(4) The ***temporary permit applicant shall not be [person is not]*** a resident of Kentucky.

(5) The ***temporary permit applicant shall pay [person pays]*** the required fee.

(6) The ***temporary permit applicant shall complete [person completes]*** the required application and ***be [is]*** approved.

(7) The ***temporary permit holder shall cease practicing [person ceases practice]*** when the permit expires.

(8) The ***temporary permit holder shall have [person has]*** no disciplinary actions against their license in their current jurisdiction.

(9) ***[A temporary permit holder under this provision is subject to the complaint procedures of the Kentucky Board of Social Work. Any complaints are reportable to the license board of the jurisdiction where the permit holder/applicant is licensed.]***

***(10)]*** The ***temporary permit holder shall provide [person provides]*** evidence to the board of appropriate training for social work telehealth practice.

***(10)[(11)]*** The ***temporary permit holder shall inform clients [person informs the client]*** of the limited nature of ***his or her [their]*** services and that ***he or she [the person]*** is only temporarily licensed in Kentucky.

***(11)[(12)]*** The ***temporary permit holder shall inform clients [person informs the client]*** of how to make a complaint to the board for improper practice.

Section 5. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Temporary Non-Clinical Social Work Application", 6/15/2023;

(b) "Temporary Clinical Social Work Application", 6/15/2023;

(c) "Temporary Non-Resident Social Work Application", 6/15/2023; ***[and]***

(d) "Temporary Social Work Non-Clinical and Non-Resident Application", 6/15/2023; ***and[.]***

***(e) "Application for Temporary License Renewal", 7/19/2023.***

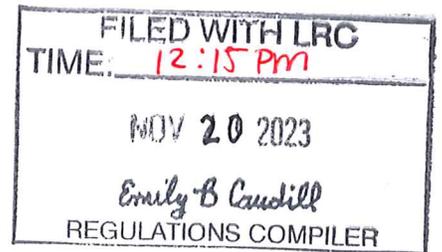
(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Social Work, 125 Holmes Street, Suite 310, Frankfort, Kentucky 40601,

Monday through Friday, 8 a.m. to 4:30 p.m., or from its Web site at <https://telehealth.ky.gov>.

CONTACT PERSON: Marc Kelly, Executive Director, Kentucky Board of Social Work, 125 Holmes Street, Suite 310, Frankfort, Kentucky 40601, phone (502) 564-2350 or (502) 782-2856, or email [marc.kelly@ky.gov](mailto:marc.kelly@ky.gov).



KENTUCKY BOARD OF SOCIAL WORK  
125 Holmes Street, Suite 310  
Frankfort, Kentucky 40601  
(502) 564-2350



**Andy Beshear**  
Governor

**Marc Kelly**  
Executive Director

November 15, 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  
Capital Annex  
Frankfort, KY 40601

Re: **201 KAR 23:170** Telehealth and Social Work Practice

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 023:170, the Kentucky Board of Social Work proposes and adopts the attached amendment to 201 KAR 023:170.

Sincerely,

Marc Kelly  
Executive Director

VJ  
Enc.



## Subcommittee Substitute

### BOARDS AND COMMISSIONS

#### Board of Social Work

(As Amended at ARRS)

#### 201 KAR 23:170. Telehealth and social work practice.

RELATES TO: KRS 335.158

STATUTORY AUTHORITY: KRS 335.158(1), (2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.158(1) requires social workers utilizing telehealth to ensure a patient's informed consent and to maintain confidentiality. **KRS 335.158(2) requires the board to promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to prevent abuse and fraud through the use of telehealth services, prevent fee-splitting through the use of telehealth services, and utilize telehealth in the provision of clinical social work services and in the provision of continuing education.** This administrative regulation protects the health and safety of individuals and establishes procedures for preventing abuse and fraud through the use of telehealth, prevents fee-splitting through the use of telehealth by social workers who utilize telehealth in the provision of social work services, and the provision of continuing education.

#### Section 1. Definitions.

(1) "Client" is defined by 201 KAR 23:080, Section 1.

(2) "Clinical social worker" means a licensed clinical social worker or a certified social worker under the supervision of a licensed clinical social worker.

(3) "Electronic social work service" means the use of Technology-Enabled Modalities and other electronic means to:

(a) Provide information to the public;

(b) Deliver social work services to clients;

(c) Communicate with clients;

(d) Manage confidential information, personally identifiable information, protected health information, and financial and case records;

(e) Deliver services through videoconferencing, electronic mail, text, chat, facsimile, virtual, ~~augmented,~~ ~~extended,~~ ~~or~~ ~~mixed~~ reality, artificial intelligence, standard audio-only telephone, or digital and analog methods;

(f) Store and access information about clients;

(g) Provide synchronous telehealth or asynchronous telehealth; and

(h) Arrange payment for professional services.

(4) "Telehealth" is defined **by** ~~in~~ KRS 335.158(3) and 211.332(5).

(5) "Telehealth service" means any service provided via electronic means that utilizes the social worker's skills, knowledge, and training for a client: ~~is~~

(a) Event;

(b) Encounter;

(c) Consultation;

- (d) Visit;
- (e) Store-and-forward transfer;
- (f) Remote patient monitoring;
- (g) Referral; or
- (h) Treatment.

(6) [~~"Telehealth Terminology Glossary" in 900 KAR 12:005 is incorporated by reference.~~  
~~(7)~~] "Teletherapy" means the practice of clinical social work as defined by [in] KRS 335.020 and 201 KAR 23:070.~~[: and,]~~

Section 2. Standards of Practice. **(1) Upon initial contact with a potential client and with the client thereafter,** all licensees using telehealth to deliver telehealth, teletherapy, or electronic social work services shall~~[: upon initial contact with a potential client and with the client thereafter]:~~

~~(a) [(1)]~~ Make reasonable attempts to verify and document the identity of the client~~[(s)];~~

~~(b) [(2)]~~ Make reasonable attempts to verify and document the physical location of the client~~[(s)];~~

~~(c) [(3)]~~ Obtain alternative means of contacting the client~~[(s)]~~ other than ~~[including]~~ electronically;

~~(d) [(4)]~~ Provide how communications can be directed to the social worker other than electronically;

~~(e) [(5)]~~ Assess and document that the client's needs are appropriate for telehealth, teletherapy, or electronic social work services and that the client has the necessary knowledge and skill to benefit from telehealth, teletherapy, or electronic social work services provided by the social worker;

~~(f) [(6)]~~ Use secure communications with clients, including encrypted text messages, email, non-public remote communication facing products, or secure internet sites~~[:];~~

~~(g) [(7)]~~ Not use personally identifying information or PHI in non-secure communications without expressed written and periodically reviewed informed consent to use non-secure communication~~[:];~~

~~(h) [(8)]~~ Obtain written informed consent for telehealth, teletherapy, or electronic social work services that ~~includes [include]:~~

~~1. [(a)]~~ The informed consent as required 201 KAR 23:080;

~~2. [(b)]~~ The client's right to request in-person visits; ~~and~~

~~3. [(c)]~~ The limitations of using technology in the provision of services;

~~(i) [(9)]~~ ~~Disclose the~~ potential risks to privacy and confidentiality of information due to the use of technology in the provision of services ~~including[:];~~

~~1. [(a)]~~ ~~The~~ potential risks of disruption in the use of technology;

~~2. [(b)]~~ When and how the social worker utilizes electronic messages;

~~3. [(c)]~~ The circumstances in which the social worker ~~may [will]~~ use alternative communications for emergency purposes, including medical, psychiatric, or other emergencies;

~~4. [(d)]~~ ~~The identity of~~ anyone who may have access to client communications with the social worker;

~~5. [(e)]~~ Identification of the social worker, their credentials, and the jurisdiction~~[(s)]~~ of licensed practice;

~~6.[(f)]~~ How or when recording of services may be [is] permitted by either the licensee or the client; and~~;~~

~~7.[(g)]~~ How electronic signatures are obtained;~~;~~

~~(j)[(10)]~~ **The requirement of written informed consent shall not apply to an emergency if the client cannot provide informed consent, and the client's legally authorized representative is unavailable.**

~~(11)]~~ Provide how the social worker stores and disposes of recordings or electronic communications from the client; and~~;~~

~~(k)[(12)]~~ Document in the client's record that a service was provided by electronic social work service within forty-eight (48) hours of the service, including any technical difficulties and adherence to all standards of care.~~;~~

**(2) The requirement of written informed consent shall not apply to an emergency if the client cannot provide informed consent, and the client's legally authorized representative is unavailable.**

~~(3)[(13)]~~ All licensees using telehealth, teletherapy, or electronic social work services to deliver social work services shall adhere to the same or appropriately adapted standards of care as in-person care.

~~(4)[(14)]~~ All licensees shall be aware of the terminology and concepts defined in the Telehealth Terminology Glossary including[, such as, but not limited to,] asynchronous telehealth, clinical text or [A] chat, distant site, and originating site.

Section 3. Competence, Limits on Practice, Maintenance, and Retention of Records.

(1) A social worker using telehealth, teletherapy, or electronic social work services to deliver social work services shall:

(a) Limit the practice of telehealth or teletherapy, or electronic social work services to the area of competence in which proficiency has been gained through education, training, and experience;

(b) Maintain current competency in the practice of telehealth, teletherapy, or electronic social work services through continuing education, consultation, or other methods, in conformance with standards of care and professional knowledge;

~~(c)[(2)]~~ Document the client's presenting problem, service needs, care plan, treatment, diagnosis, or reasons for social work services;

~~(d)[(a)]~~ Ensure that confidential communications obtained and stored electronically cannot be recovered and accessed by unauthorized persons when the social worker disposes of electronic equipment and data;

~~(e)[(b)]~~ Ensure the availability and integrity of digital records;

~~(f)[(c)]~~ Have a set and disclosed retention period for secure storage of records, recordings, or electronic communications; and

~~(g)[(d)]~~ Provide services only within their scope of practice.

~~(2)[(3)]~~ Licensees providing clinical social work under supervision by an approved LCSW supervisor shall:

(a) Disclose all telehealth, teletherapy, or electronic social work services in the contract for supervision required under 201 KAR 23:070 or 201 KAR 23:160; and~~;~~

(b) Comply with the directives of the board.

~~(3)[(4)]~~ A social worker licensed in another jurisdiction and using telehealth, teletherapy, or

electronic social work services to deliver social work services to a client located in Kentucky at the time of service or is located in Kentucky at the time of service shall have a temporary permit to provide services or be licensed in Kentucky.

#### Section 4. Continued Education.

(1) All licensees shall attain or maintain their competence to deliver telehealth, teletherapy, or electronic social work services through appropriate supervision and continued education.

(2) All new licensees shall take a board approved two ~~(2)[-]~~hour course once within their first license cycle on the regulations for delivering telehealth, teletherapy, or electronic social work services.

(3) All current licensees shall take a two ~~(2)[-]~~hour course on the regulations for delivering telehealth, teletherapy, or electronic social work services approved by the board by June 30, 2024.

(4) Continued education presented as an electronic social work service shall comply with 201 KAR 23:075.

Section 5. Compliance with Federal, State, and Local Law. All licensees using telehealth to deliver social work services or teletherapy, or electronic social work services shall comply with **[the following]**:

(1) The federal Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. secs. 1320d to 1320d-9, any amendments or changes subsequently included, and other applicable federal and state laws;~~[-]~~

(2) The laws and regulations of the jurisdiction in which they are located, and in which the client is located at the time service is rendered, and under KRS 211.336(2)(i) when not in conflict with another state's laws; **and**

(3) Section 508 of the Rehabilitation Act, 29 U.S.C. 794(d), to allow telehealth, teletherapy, or electronic social work services accessible to a client with disabilities.

Section 6. Representation of Services and Code of Conduct. A licensee using telehealth to deliver social work services or teletherapy, or electronic social work services:

(1) Shall not, by or on behalf of the social worker, engage in false, misleading, or deceptive advertising of services via telehealth, teletherapy, or electronic social work services;

(2) Shall not employ fee-splitting with other telehealth persons or entities;

(3) Shall comply with 201 KAR 23:080, Code of ethical conduct; and

(4) Shall comply with all applicable administrative regulations.

#### Section 7. Incorporation by Reference.

(1) "Telehealth Terminology Glossary", August 2022, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Telehealth Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m., or from its Web site at <https://telehealth.ky.gov>.

CONTACT PERSON: Marc Kelly, Executive Director, Kentucky Board of Social Work, 125 Holmes Street, Suite 310, Frankfort, Kentucky 40601, phone (502) 564-2350 or (502) 782-2856, or email [marc.kelly@ky.gov](mailto:marc.kelly@ky.gov).



**Andy Beshear**  
GOVERNOR

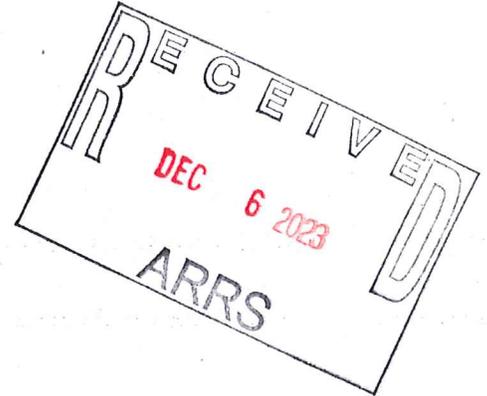
**ENERGY AND ENVIRONMENT CABINET**  
**DEPARTMENT FOR ENVIRONMENTAL PROTECTION**

300 Sower Boulevard  
Frankfort, Kentucky 40601  
Phone: (502) 564-2150  
Fax: 502-564-4245

**Rebecca Goodman**  
SECRETARY

**Anthony R. Hatton**  
COMMISSIONER

December 6, 2023



Senator Stephen West, Co-Chair  
Representative Derek Lewis, Co-Chair  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
083, Capitol Annex  
702 Capitol Avenue  
Frankfort, KY 40601

Dear Co-Chairs West and Lewis:

After consideration of the issued raised by 401 KAR 42:250, the Division of Waste Management proposes the attached suggested substitute to this ordinary regulation.

Sincerely,

Louanna Aldridge, Environmental Scientist Consultant II  
Department for Environmental Protection  
Office of the Commissioner  
300 Sower Boulevard, 2<sup>nd</sup> Floor  
Frankfort, KY 40601

**SUGGESTED SUBSTITUTE**

Final Version: 12/04/23 at 2:41 p.m.

**ENERGY AND ENVIRONMENT CABINET  
Department for Environmental Protection  
Division of Waste Management**

**401 KAR 42:250. Petroleum Storage Tank Environmental Assurance Fund reimbursement.**

RELATES TO: KRS 61.878(1)(c), 224.1-400, 224.1-405, 224.10-410, 224.10-420, 224.10-430, 224.10-440, 224.10-470, 224.60-110, 224.60-120, 224.60-130, 224.60-135, 224.60-140, 224.60-150, 40 C.F.R. 280, Subpart H

STATUTORY AUTHORITY: KRS 224.10-100(28), 224.60-120(6), 224.60-130(1)(a) ~~– [through](e)~~

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.60-130(1)(a) through (e) requires the establishment of the procedures to administer the Petroleum Storage Tank Environmental Assurance Fund (PSTEAF). KRS 224.10-100(28) authorizes the cabinet to promulgate administrative regulations not inconsistent with the provisions of law administered by the cabinet. KRS 224.60-120(6) requires the cabinet to establish administrative regulations to implement the requirements for financial responsibility of petroleum storage tank owners or operators. This administrative regulation establishes procedures to administer the PSTEAF, payment for third-party claims, financial audits, eligible company and partnership certification, laboratory certification, and facility ranking.

Section 1. Applicability. (1) This administrative regulation shall establish~~[establishes]~~ the eligibility requirements and procedures for a petroleum storage tank owner or operator to make application, become an eligible applicant, and receive reimbursement from the cabinet for the cost of corrective action due to a release from a petroleum storage tank.

(2) Federally owned facilities shall not be eligible for reimbursement from the PSTEAF in accordance with KRS 224.60-115(16).

(3) Eligible reimbursement~~[for actions directed by the Underground Storage Tank (UST) Branch prior to October 6, 2011]~~ shall be made in accordance with the reimbursement administrative regulations in effect at the time work was performed.

Section 2. Application for Assistance for Reimbursement. (1) A petroleum storage tank owner or operator seeking reimbursement from the Financial Responsibility Account (FRA) or the Petroleum Storage Tank Account (PSTA), shall:

(a) In accordance with 401 KAR 42:020, submit to the UST Branch a complete and accurate UST Facility Registration, DWM 4225, incorporated by reference in 401 KAR 42:020;

(b) Complete and submit a UST Application for Assistance for PSTEAF, DWM 4282, including all required attachments;

(c) Enter into and submit, a contract in accordance with Section 3 of this administrative regulation;

(d)1. Document that a release requiring corrective action from a petroleum storage tank has occurred;  
or

2. Receive a written directive from the UST Branch or Emergency Response Branch, in accordance with 401 KAR 42:060; and

(e) Subrogate, to the cabinet, the rights to recover costs of corrective action, for which the cabinet has compensated the person seeking reimbursement, from the person responsible or liable for the release in accordance with KRS 224.60-140(14)(c).

(2) If an application for assistance is found deficient by the UST Branch, a written correspondence, stating the deficiencies, shall be issued to the applicant.

(a) Failure by the applicant to provide the requested information and documentation within thirty (30) days of receipt of the request shall cause the application for assistance to be denied.

(b) Denial of the application for assistance shall not prevent the petroleum storage tank owner or operator from reapplying if the requested documentation becomes available.

(3) If the applicant complies with the requirements of subsection (1) of this section, the UST Branch shall determine the eligibility of the applicant to receive reimbursement from either the FRA or PSTA, in accordance with Section 4 of this administrative regulation, and shall issue a written approval of the application for assistance.

(4) Reimbursement in accordance with an approved application for assistance shall be restricted to:

(a) Actions directed in writing by the UST Branch or Emergency Response Branch; and

(b) Initial and immediate response actions taken at a facility, prior to a written directive [~~from the UST Branch~~], and not declared an environmental emergency by the cabinet, and subject to the reimbursement provisions established in Section 3.13 of the UST PSTEAF Reimbursement Rates.

(5) If the petroleum storage tank owner or operator seeking reimbursement from the PSTEAF changes and the new petroleum storage tank owner or operator assumes responsibility for the compliance with 401 KAR Chapter 42, the new petroleum storage tank owner or operator shall submit an amended:

(a) UST Facility Registration, DWM 4225, incorporated by reference in 401 KAR 42:020, in accordance with 401 KAR 42:020, Section 2(4), indicating a change in petroleum storage tank owner or operator; and

(b) UST Application for Assistance for PSTEAF, DWM 4282, including all required attachments, within thirty (30) days of the transfer of the petroleum storage tank.

(6) To maintain eligibility for participation in and reimbursement from the PSTEAF, the petroleum storage tank owner or operator shall maintain compliance with the requirements of this administrative regulation.

Section 3. Contracts. (1) A petroleum storage tank owner or operator shall obtain a contract from an eligible company or partnership to be eligible for reimbursement from the cabinet for the performance of corrective action or site check activities at a facility.

(2) In accordance with KRS 224.60-130(1)(a), an eligible company or partnership shall not require payment from an applicant in an amount greater than the reimbursable amount.

(3) The contract shall be executed prior to commencing corrective action or site check activities.

(4) If a contract is revised, a copy of the revised contract shall be submitted to the UST Branch within thirty (30) days of the revised contract execution.

(5) If a contract is terminated and a new contract is executed:

(a) The petroleum storage tank owner or operator approved for PSTEAF reimbursement shall submit a notarized UST Affidavit of Termination of PSTEAF Contract, DWM 4280, to the UST Branch; and

(b) A copy of the newly executed contract shall be submitted to the UST Branch within thirty (30) days of contract execution[,] and prior to the commencing of corrective action or site check activities by the new eligible company or partnership.

Section 4. Account Placement.

(1) ~~If~~When participating in the FRA, a petroleum storage tank owner or operator shall be eligible to receive reimbursement for:

(a) Corrective action costs;[,]

(b) Site check activities directed in writing by the UST Branch after September 13, 2006, that do not confirm contamination above applicable screening levels; and

(c) Third-party claims in accordance with Section 12 of this administrative regulation, incurred on or after April 9, 1990, if the petroleum storage tank owner or operator has:

1. [(a)] Registered the petroleum storage tanks with the UST Branch, in accordance with 401 KAR 42:020, prior to the release requiring corrective action or site check activities;

2. [(b)] Maintained UST system release detection as required by 401 KAR 42:020. A petroleum storage tank permanently or temporarily closed in accordance with 401 KAR 42:060, shall have been in compliance with UST system release detection requirements prior to the permanent or temporary closure of the system;

3. [(c)] Maintained corrosion protection for the petroleum storage tank system in accordance with 401 KAR 42:020;

4. [(d)] Maintained overflow and spill prevention for the petroleum storage tank system in accordance with 401 KAR 42:020 for those tanks in use after December 22, 1998;

5. [(e)] Reported the release to the cabinet in accordance with KRS 224.1-400(11) and 401 KAR 42:060;

6. [(f)] Performed initial abatement procedures as required by the UST Corrective Action Manual, incorporated by reference in 401 KAR 42:060; and

7. [(g)] Submitted to the cabinet a UST Notice of Intent to Permanently Close Underground Storage Tank **or Piping[System]**, DWM 4266, incorporated by reference in 401 KAR 42:060, if applicable.

(2) A petroleum storage tank owner or operator that is not eligible for participation in the FRA, shall be eligible for reimbursement from the (PSTA) for corrective action costs, incurred on or after April 9, 1990, or site check activities directed in writing by the UST Branch after September 13, 2006, that do not confirm contamination above applicable screening levels, if the petroleum storage tank owner or operator has registered the petroleum storage tanks with the UST Branch in accordance with 401 KAR 42:020.

Section 5. Entry Level. (1) [~~For facilities with releases confirmed after September 13, 2006,~~] A petroleum storage tank owner's or operator's entry level shall be equal to the financial responsibility requirement, as established in KRS 224.60-120(1), and shall be deducted from the eligible reimbursement, except as established in subsection (3) of this section.

(2) An entry level shall be assessed upon confirmation of a release, constituting an occurrence, that requires corrective action for which the applicant is seeking reimbursement through the FRA and PSTA in accordance with subsection (1) of this section, regardless of a petroleum storage tank owner's participation in the Small Owner Tank Removal Account (SOTRA) in accordance with 401 KAR 42:330.

(3) The entry level shall not be deducted from the eligible reimbursement if the petroleum storage tank owner or operator performs:

(a) A site check directed by the UST Branch in accordance with 401 KAR 42:060, that does not confirm contamination requiring further action in accordance with 401 KAR Chapter 42;

(b) An initial and immediate response action in accordance with Section 2.2 of the UST Corrective Action Manual, incorporated by reference in 401 KAR 42:060;

(c) Optional soil removal outside the excavation zone during permanent closure in accordance with Section 4.16 of the UST Corrective Action Manual, incorporated by reference in 401 KAR 42:060;

(d) Transportation and disposal of excavated material contaminated above applicable screening levels within the excavation zone during permanent closure in accordance with 401 KAR 42:060; or

(e) Transportation and disposal of pit water contaminated above applicable screening levels within the excavation zone during permanent closure in accordance with the UST Corrective Action Manual, incorporated by reference in 401 KAR 42:060.

(4) Upon request by the petroleum storage tank owner or operator, the UST Branch shall reimburse, upon final payment, twenty-five (25) percent of the entry level if the petroleum storage tank owner or operator has:

(a) Completed corrective action at the facility within:

1. 180 days from the discovery of the release, for soil contamination only; or
2. Twenty-four (24) months from the discovery of the release, for groundwater contamination only or both soil and groundwater contamination; and

(b) Been issued a no further action letter without additional measures being required for an occurrence associated with the submittal of a UST[æ] Application for Assistance for PSTEAF, DWM 4282.

(5) The applicable entry level shall be equal to the financial responsibility requirement as established in KRS 224.60-120(1), based on the number of tanks owned or operated by the petroleum storage tank owner or operator at the time of the occurrence associated with the submittal of an application for assistance.

Section 6. Newly Discovered UST Systems. (1) A newly discovered UST system encountered at a facility during the performance of corrective action due to a release from a registered petroleum storage tank shall not affect a petroleum storage tank owner's or operator's account placement eligibility.

(2) The number of newly discovered tanks shall not increase the entry level of the petroleum storage tank owner or operator.

Section 7. Establishing the Reimbursable Amount for a Written Directive. (1) The reimbursable amount established for the completion of a written directive issued by the UST Branch shall be based on:

- (a) The formulated task rates established in Section 3.0 of the UST PSTEAF Reimbursement Rates; and
- (b) For a specific task that does not have a formulated task rate in the UST PSTEAF Reimbursement Rates, a cost estimate shall be submitted by the owner or operator.

(2) The cost estimate shall include:

- (a) A cost itemization to complete the individual task using those personnel and equipment rates established in Section 5.0 of the UST PSTEAF Reimbursement Rates applicable to individual components of the task;
- (b) Three (3) bids from suppliers or manufacturers of corrective action equipment for individual equipment purchase or rental, exceeding \$3,000, if applicable, containing a description of the equipment provided by the supplier or manufacturer; and
- (c) An estimate for materials to be purchased, if applicable.

(3) The UST Branch shall establish the reimbursable amount in a written directive based on the formulated task rates established in the UST PSTEAF Reimbursement Rates and applicable, approved, cost estimates.

(4) The cabinet shall attach to the written directive:

- (a) An itemization of the reimbursable amount; and
- (b) A UST Claim Request for Directed Actions, DWM 4286.

(5) The issuance of a written directive by the UST Branch shall, contingent upon compliance with[subject tæ] the provisions of Section 8 of this administrative regulation, constitute an obligation and guarantee of payment of the reimbursable amount identified within a written directive, in accordance with KRS 224.60-140(5).

(6) Upon compliance with Section 8 of this administrative regulation, the reimbursable amount established by the UST Branch in a written directive shall, as applicable and in accordance with the UST PSTEAF Reimbursement Rates, be adjusted as established in this subsection.

(a) The reimbursable amount for over-excavation identified in the written directive issued by the UST Branch is an estimate of the tonnage to be removed and shall be based on the volume and density of material in the proposed excavation area. The UST Branch shall convert cubic yardage to tons using a density of one and one-half (1.5) tons per cubic yard. The reimbursable amount shall be adjusted based on:

1.a. The soil tonnage verified through the submittal of weigh tickets; or

b. If soil is disposed of at a permitted disposal facility incapable of providing weigh tickets, a calculation of the tonnage associated with the actual area and depth of over-excavation, not to exceed the tonnage estimate identified in the written directive from the UST Branch; and

2. The actual quantity of water encountered during an over-excavation that is removed, transported, and disposed of, contingent upon analytical confirmation that contaminant levels of the water exceed the applicable groundwater screening levels, and as documented by disposal manifests and limited to one (1) pit volume.<sup>[;]</sup>

(b) The reimbursable amount for a Mobile Dual-Phase Extraction Event, identified in a written directive issued by the UST Branch, shall be adjusted to include the amount of water disposed as documented by disposal manifests, or the amount of water verified by the eligible company or partnership as being treated on site.<sup>[;]</sup>

(c) The reimbursable amount for operation and maintenance of an approved remediation system shall be adjusted to include the actual cost of utilities as documented by invoices submitted.<sup>[;]</sup>

(d) If the UST Branch has not received and approved the UST Application for Assistance for PSTEAF, DWM 4282, prior to the issuance of the written directive, the reimbursable amount identified in the written directive issued shall not include the applicable formulated task rates for mobilization, per diem, and field equipment cost. The UST Branch shall add the applicable formulated task rates for mobilization, per diem, and field equipment to the reimbursable amount of the submitted claim, in accordance with the UST PSTEAF Reimbursement Rates, once an approved UST Application for Assistance for PSTEAF, DWM 4282, is submitted.<sup>[;]</sup>

(e) If the UST Branch has not received a signed contract between the eligible applicant and the eligible company or partnership prior to the issuance of the written directive, the reimbursable amount identified in the written directive issued shall not include the applicable formulated task rates for mobilization, per diem, and field equipment cost. The UST Branch shall add the applicable formulated task rates for mobilization, per diem, and field equipment to the reimbursable amount of the submitted claim, in accordance with the UST PSTEAF Reimbursement Rates, once the requirements of Section 3 of this administrative regulation are met.<sup>[;]</sup>

(f) If a written directive issued by the UST Branch cannot be complied with to the extent necessary to achieve a technically complete determination by the UST Branch, in accordance with 401 KAR 42:060, for reasons beyond the control of the applicant, or eligible company or partnership, the previously approved reimbursable amount established in the written directive shall, unless addressed in the written directive, be adjusted by the UST Branch, with reference to the UST PSTEAF Reimbursement Rates and the applicable, approved cost estimate, to deduct the cost of actions not completed.<sup>[; -or]</sup>

(g) If the UST Branch rescinds an issued written directive prior to the completion of the entire scope of work identified in the written directive, the previously approved reimbursement amount shall be adjusted to reflect the cost of actions completed, with reference to the UST PSTEAF Reimbursement Rates and the approved cost estimate, if applicable.

(7) Reimbursement for an individual corrective action equipment purchase or rental shall not include markup and shall be limited to:

(a) The original purchase price provided by the supplier or manufacturer, including applicable sales tax, if purchased; or

(b) Rental costs not exceeding the purchase price provided by the supplier or manufacturer, if rented.

(8) The UST Branch shall have final authority to determine all reimbursable actions including site characterization and corrective action technologies in accordance with 401 KAR 42:060.

Section 8. Reimbursement for a Written Directive. (1) Reimbursement for a written directive shall be made after ~~[the following actions are completed]~~:

(a) The submittal and approval of a UST Application for Assistance for PSTEAF, DWM 4282, in accordance with Section 2 of this administrative regulation;

(b) The UST Claim Request for Directed Actions, DWM 4286, which ~~shall include a~~ [includes] payment verification affidavit as required by KRS 224.60-140(18), ~~[provided]~~ with the written directive that has been completed, signed, and submitted to the UST Branch;

(c) The submittal of a UST Payment Waiver, DWM 4289, executed by each affected vendor or subcontractor, as applicable, in accordance with KRS 224.60-140(18);

(d) The submittal of weigh tickets and invoices documenting the actual cost of items that do not have a formulated task rate established in the UST PSTEAF Reimbursement Rates or other required backup documentation as indicated in the written directive;

(e) The technical report submitted in response to the written directive once determined by the UST Branch to be technically complete in accordance with the written directive and 401 KAR 42:060; and

(f) Payment has been received for all applicable annual fees in accordance with KRS 224.60-150 and 401 KAR 42:020, Section 2.

(2) Reimbursement shall be contingent upon the contracted eligible company or partnership complying with the requirements established in accordance with Section 19 of this administrative regulation.

(3) Reimbursement shall be contingent upon a certified laboratory performing the required analysis in accordance with Section 20 of this administrative regulation.

(4) If the contract with the eligible company or partnership designated on a written directive is terminated prior to the commencement of reimbursable activities in response to the written directive, the obligation and guarantee of payment of the reimbursable amount shall be void.

(5) The information completed by the UST Branch on the UST Claim Request for Directed Actions, DWM 4286, attached to the written directive, shall not be modified by the applicant or the eligible company or partnership designated on the written directive.

(6) If the applicant fails to correct a claim-related deficiency or to supply additional claim information, within thirty (30) days of written notice from the UST Branch, that portion of the claim shall be denied.

(7) The UST Branch shall issue a determination in accordance with KRS 224.60-140(7) as to whether or not the costs submitted in the claim are eligible for reimbursement.

(8) All claims shall be submitted within two (2) years after issuance of a no further action letter by the UST Branch, in accordance with KRS 224.60-130(1)(n).

(9) If a request to re-evaluate the reimbursable amount, established in accordance with Section 7 of this administrative regulation, is submitted in accordance with Section 14 of this administrative regulation, and a not-to-exceed amount is warranted, final reimbursement shall be made on a time and material basis, which shall require ~~[the following supporting documentation]~~:

(a) An itemization of the eligible company or partnership invoice with supporting documentation;

(b) Itemized subcontractor and vendor invoices with supporting documentation; and

(c) Time sheets to support all personnel time billed for the completion of the scope of work identified in the written directive.

Section 9. Reimbursement for Actions Not Directed in Writing. (1) Reimbursement shall be made for the following actions in accordance with the applicable formulated task rates established in the UST PSTEAF Reimbursement Rates:

- (a) Optional Soil Removal Outside the Excavation Zone at permanent closure, in accordance with Section 4.16 of the UST Corrective Action Manual incorporated by reference in 401 KAR 42:060;
- (b) Transportation and disposal, treatment, or recycling, at a permitted facility, of material or water contaminated above applicable screening levels, removed from within the excavation zone, at permanent closure, in accordance with the UST Corrective Action Manual incorporated by reference in 401 KAR 42:060;
- (c) Initial and immediate response actions, identified in Section 3.13 of the UST PSTEAF Reimbursement Rates, taken at a facility in accordance with Section 2.0 of the UST Corrective Action Manual, incorporated by reference in 401 KAR 42:060, prior to a written directive from the UST Branch or prior to the date of a declared environmental emergency by the cabinet;
- (d) Transportation and disposal of drums containing purged water or soil cuttings associated with actions directed in accordance with 401 KAR 42:060;
- (e) Encroachment permit renewals necessary to complete directed actions; and
- (f) Unscheduled maintenance of a remediation system installed in accordance with approved corrective action activities. Pre-approval shall be required for one (1) unscheduled maintenance event that will exceed \$3,000 for material and equipment.

(2) Reimbursement shall be made after ~~the following actions are completed~~:

- (a) The approval of a UST Application for Assistance for PSTEAF, DWM 4282, in accordance with Section 2 of this administrative regulation;
- (b) The UST Claim Request for Actions Not Directed, DWM 4285, which shall include the~~includes~~ payment verification affidavit as required by KRS 224.60-140(18), that has been completed, signed, and submitted to the UST Branch;
- (c) The submittal of a UST Payment Waiver, DWM 4289, executed by each affected vendor or subcontractor, as applicable, in accordance with KRS 224.60-140(18);
- (d) The submittal of required backup documentation as identified on the instruction sheet associated with each worksheet;
- (e) Payment has been received for all applicable annual fees in accordance with KRS 224.60-150 and 401 KAR 42:020, Section 2;
- (f) The UST Optional Soil Removal at Permanent Closure Reimbursement Worksheet, DWM 4288, has been completed and submitted to the UST Branch for optional soil removal outside of the excavation zone at permanent closure in accordance with 401 KAR 42:060 for actions listed in subsection (1)(a) of this section, if applicable;
- (g) The UST Miscellaneous Tasks Reimbursement Worksheet, DWM 4287, has been completed and submitted to the UST Branch for actions listed in subsection (1)(b), (c), (d), (e), or (f) of this section, if applicable; and
- (h) The technical report submitted in accordance to subsections (1)(a), (b), or (c) of this section has been deemed technically complete, if applicable, in accordance with 401 KAR Chapter 42.

(3) Reimbursement shall be contingent upon the contracted eligible company or partnership complying with the requirements established in accordance with Section 19 of this administrative regulation.

- (4) Reimbursement shall be contingent upon a certified laboratory performing the required analysis in accordance with Section 20 of this administrative regulation.
- (5) The UST Branch may require additional information and documentation, if necessary to determine that a request for reimbursement is reasonable and necessary.
- (6) If the applicant fails to correct a claim-related deficiency, or to supply additional claim information, within thirty (30) days of written notice from the cabinet[UST Branch], that portion of the claim shall be denied.
- (7) The UST Branch shall issue a determination, in accordance with KRS 224.60-140(7), as to the eligibility for reimbursement of the costs submitted in the claim.
- (8) All claims shall be submitted within two (2) years after issuance of a no further action letter by the UST Branch in accordance with KRS 224.60-130(1)(n).

Section 10. Facility Restoration. (1) The UST Branch shall issue a written directive in accordance with Section 7 of this administrative regulation, once the applicant provides the information required by Section 5.9.2 in the UST Corrective Action Manual, incorporated by reference in 401 KAR 42:060.

(2) If the UST Branch does not issue a written directive in accordance with subsection (1) of this section, the applicant may submit an obligation request to the cabinet, with the information required by Section 5.9.2 of the UST Corrective Action Manual, incorporated by reference in 401 KAR 42:060, for the completion of facility restoration actions.

(3) Reimbursement for facility restoration activities shall be made in accordance with Section 8 of this administrative regulation.

Section 11. Payment for Actions Directed by the Environmental Response Team. Payment for actions directed and documented by the Environmental Response Team during a declared environmental emergency shall not be governed by this administrative regulation and shall be made in accordance with KRS Chapter 224.

Section 12. Third-Party Claims. (1) An eligible third-party claim shall be limited to bodily injury and property damage, asserted against an owner or operator as a result of sudden or non-sudden accidental releases into the environment from a petroleum storage tank at a facility eligible for participation in the FRA.

(2) A petroleum storage tank owner or operator shall be eligible to apply for reimbursement or payment for a third-party claim if:

(a) The cabinet has approved an application for assistance in accordance with Section 2(3) of this administrative regulation; and

(b) The owner or operator has maintained compliance with the eligibility requirements for participation in the FRA in effect at the time the application for assistance was approved.

(3) If a petroleum storage tank owner or operator receives a written notice from the cabinet indicating noncompliance with the eligibility of the FRA in accordance with Section 4 of this administrative regulation, the petroleum storage tank owner or operator shall only be eligible for reimbursement of the costs of third-party claims brought against the petroleum storage tank owner or operator within sixty (60) days from the date of the written notice.

(4) To assert a claim for payment or reimbursement of a third-party claim, an eligible owner or operator shall:

(a) Submit a new UST Application for Assistance for PSTEAF, DWM 4282; and

- (b) Notify the cabinet of the assertion of the third-party claim within twenty-one (21) days of service of process of an action against the owner or operator by the third party, or the receipt of an assertion of a claim in writing by a third party.
- (5) A third-party claim shall be paid on the basis of:
- (a) A final and enforceable judgment; or
  - (b) A written agreement between a third party and the owner or operator, upon review and concurrence by the cabinet.
- (6)(a) A settlement of a third-party claim shall not be made by an owner or operator without the prior approval of the cabinet.
- (b) The cabinet shall not pay a third-party judgment, or reimburse an owner or operator for payment of the judgment, in an amount exceeding a settlement offer rejected by the owner or operator if the settlement offer was:
- 1. Not submitted to the cabinet for consideration; or
  - 2. Previously approved by the cabinet.
- (7) Claim payment shall be limited to actual, documented, bodily injury and property damage caused by the release of petroleum.
- (a) A claim for bodily injury and property damage shall be paid to the extent that the damages are not addressed by the performance of corrective action.
- (b)1. The aggregate amount of payment of all third-party claims shall not exceed \$1,000,000 per occurrence.
2. Claim requests shall be submitted on the UST Third-Party Claim, DWM 4292.
- (c) The cabinet shall acquire by subrogation the right of the third-party to recover, from the person responsible or liable for the release, the amount of damages paid to the third-party.
- (d) Reimbursement for third-party claims shall be made in accordance with Section 21 of this administrative regulation.
- (e) Payment of a third-party claim shall be made after approval by the cabinet.

Section 13. Eligible and Ineligible Costs. (1) Eligible costs for regulated petroleum storage tanks containing motor fuel shall include:

- (a) Initial and immediate response actions directed by or approved by the UST Branch or Emergency Response Branch~~[taken outside of the excavation zone,]~~ in accordance with Section 2.0 of the UST Corrective Action Manual, incorporated by reference in 401 KAR 42:060~~], prior to a written directive from the UST Branch or prior to the date of a declared emergency by the cabinet];~~
- (b) Site checks at a facility, in accordance with a written directive issued after September 13, 2006 by the UST Branch;
- (c) Tank and line tightness testing as requested in writing by the UST Branch in conjunction with site check, site investigation, or corrective action activities for a facility;
- (d) Performance of "corrective action" as defined by KRS 224.60-115(4), due to a release of motor fuel from a regulated petroleum storage tank system, upon written direction by the UST Branch;
- (e) Transportation, disposal, or treatment at a permitted facility, and replacement of excavated material, contaminated above applicable screening levels:
  - 1. Within the excavation zone, excluding the tank volume, in accordance with Section 4.0 of the UST Corrective Action Manual, incorporated by reference in 401 KAR 42:060; or
  - 2. Outside the excavation zone, in accordance with Section 4.16 of the UST Corrective Action Manual, incorporated by reference in 401 KAR 42:060;

(f) Transportation and disposal, treatment, or recycling, at a permitted facility, of free product or water, contaminated above screening levels encountered:

1. Within the excavation zone, during activities in accordance with Section 4.0 of the UST Corrective Action Manual, incorporated by reference in 401 KAR 42:060; and
2. During activities in accordance with Section 4.16 of the UST Corrective Action Manual, incorporated by reference in 401 KAR 42:060;

(g) A fifteen (15) percent total markup above the invoice~~[cost of materials purchased]~~ associated with a task for which there is not a formulated task rate established in the UST PSTEAF Reimbursement Rates;

~~(h) [An eligible company or partnership that employs an unaffiliated subcontractor or other vendor shall receive a fifteen (15) percent markup for costs that do not have a formulated task rate established in the UST PSTEAF Reimbursement Rates;]~~

~~[(i)]~~ Surface material to replace removed or damaged areas directly associated with corrective action activities, upon written direction by the UST Branch; and

~~(i) [(j)]~~ Other costs, associated with corrective action activities, as required in a written directive issued by the UST Branch for the facility.

(2) Ineligible costs for regulated petroleum storage tanks containing motor fuel shall include:

(a) Except as established in subsection (1) of this section, costs incurred prior to written approval by the UST Branch;

(b) Costs incurred for the purpose of complying with the requirements of 401 KAR 42:020;

(c) Replacement, repair, maintenance, or retrofitting of tanks or piping;

(d) A cost associated with a release from a storage tank exempt from requirements of 401 KAR Chapter 42, as established in KRS 224.60;

(e) A cost or cost recovery for governmental emergency services;

(f) A cost of a party employed to act as a surrogate or stand-in for the owner or operator of the facility;

(g) Preparation of documentation, cost estimates, written agreements, contracts, or client invoices that will be submitted to the UST Branch for reimbursement purposes;

(h) Except as established in 401 KAR 42:330, costs related to the removal~~[r]~~ or actions incidental to the removal of a tank system;

(i) Road mileage beyond 1,000 miles round trip;

(j) Reimbursement for work or a portion of work, performed at a facility if the results of laboratory analysis do not confirm the need for corrective action, or for actions to achieve contaminant concentrations less than those directed by the cabinet, except for investigatory or corrective actions directed from the UST Branch in writing;

(k) Work performed that is not in compliance with safety codes;

(l) Free product recovery from monitoring wells or borings during corrective action activities, unless directed in writing by the UST Branch;

(m) Costs incurred to replace a monitoring well destroyed, damaged, or that cannot be accessed or located due to actions within the control of the applicant;

(n) Costs incurred for the purpose of compliance with permit conditions for permitted soil treatment facilities;

(o) Costs incurred for the removal, transportation and disposal, recycling, or treatment of free product from within the excavation zone of a UST system, that is not permanently closed, for which contamination above applicable screening levels outside the excavation zone has not been confirmed;

(p) Costs relating to compliance with a local program having corrective action standards more stringent than those directed by the cabinet;

- (q) A laboratory "rush" fee, unless directed by the UST Branch;
- (r) Costs of resampling and laboratory tests performed as a result of an operational or methodology mistake by the analytical laboratory, or costs for an analytical laboratory to become certified or accredited in accordance with the requirements of KRS 224.60-130(1)(a) and Section 20 of this administrative regulation;
- (s) Laboratory costs incurred after the laboratory certification eligibility expiration date;
- (t) Costs incurred for additional assessment or corrective action plan modification necessary as a result of delayed implementation of the corrective action plan, beyond the deadline established in writing by the UST Branch;
- (u) Costs incurred as a result of delayed implementation of a written directive, beyond twelve (12) months from the issuance date of the deadline established in writing by the UST Branch;
- (v) The portion of a lease or rental cost for capital equipment that exceeds the purchase price of the equipment;
- (w) Equipment replacement costs covered by equipment warranty;
- (x) Payment of the owner's or operator's personnel for overtime or for staff time in planning or implementing "corrective action" as defined by KRS 224.60-115(4);
- (y) Out-of-state travel expense, including air fare;
- (z) Contractor markup expense for a normally expected overhead item or in-stock material;
- (aa) Contractor markup expense for personnel costs;
- (bb) Markup for pass-through costs for utilities and employee expense accounts;
- (cc) Fifteen (15) percent markup for the costs of corrective action for an eligible company or partnership that employs a subcontractor, a subsidiary company, or other vendor, that is affiliated with the eligible company or partnership or a principal of the eligible company or partnership;
- (dd) Except as directed by or approved by the cabinet during an emergency response in accordance with subsection (1)(a) of this section, overtime for eligible company or partnership personnel exceeding forty (40) hours, individually, during a standard workweek;
- (ee) Actions resulting from contractor error or negligence;
- (ff) A contractor surcharge implemented because the owner or operator failed to act in a timely fashion;
- (gg) Costs covered by the contractor's liability insurance;
- (hh) Costs covered by insurance payable to the owner or operator;
- (ii) Interest on an overdue account or loan;
- (jj) Loss of business, income, or profits;
- (kk) An attorney fee related to:
  - 1. Judicial or administrative litigation;
  - 2. Consultation on administrative regulations;
  - 3. Preparation or submittal of documentation related to the reimbursement process; or
  - 4. Other legal services not integral to the performance of corrective action;
- (ll) Corrective action costs incurred after the eligible company or partnership eligibility expiration date;
- (mm) Corrective action activities performed subsequent to the issuance of a no further action letter, unless directed in writing by the UST Branch;
- (nn) Facility or aesthetic improvements, including costs to upgrade the facility, except for approved surface replacement in accordance with Section 10 of this administrative regulation;
- (oo) Decreased property values for the facility;
- (pp) Costs of surface material replacement for areas not removed or damaged as part of corrective action; and

(qq) Unreasonable or unnecessary costs and expenses for corrective action, in accordance with KRS 224.60-140(5).

Section 14. Re-Evaluation of a Reimbursable Amount. (1) If the applicant determines that the scope of work or portion thereof, required in a written directive cannot be completed without exceeding the [total] reimbursable amount established~~[set forth in the written directive]~~, a request for re-evaluation of the reimbursable amount may be submitted to the UST Branch. The request for re-evaluation shall include:~~[on]~~

- ~~(a)~~ The UST Re-Evaluation of a Reimbursable Amount, DWM 4291 form;~~[and shall include:]~~
- ~~(b)~~~~(a)~~ If applicable, [The submittal of] three (3) current written estimates from subcontractors in the area in which the facility is located, for services or materials not provided by the contracting company or partnership;~~[from subcontractors in the area in which the facility is located, if applicable];~~
- ~~(c)~~ If applicable, a copy of any previously approved cost estimate that will be used to perform any portion of the directive; and
- ~~(d)~~~~(b)~~ [The submittal of] An itemized cost breakdown of the eligible company's or partnership's time and materials to be used for the completion of the written directive;~~[and]~~
- ~~(e)~~ [The costs calculated using] The personnel~~[and equipment]~~ rates established in Section 5.2~~[3.0]~~ of the UST PSTEAF Reimbursement Rates shall be used for the contracted eligible company employee rate charges.

~~(2)~~~~(a)~~ The UST Branch shall review the re-evaluation request and determine if a new reimbursable amount shall be established.

- ~~(b)~~ The review shall be based upon~~[itemized cost breakdown, determine]~~ the reasonable and necessary costs for the scope of work.
- ~~(c)~~ The UST Branch shall include a fifteen (15) percent markup for the contracted eligible company in addition to the total requested amount. The fifteen (15) percent markup shall not apply to personnel rates for the contracted eligible company, which shall be as established in Section 3.0 of the UST PSTEAF Reimbursement Rates.

~~(3)~~ If the amount established in accordance with subsection (2) of this section:

- ~~(a)~~ Exceeds the initial reimbursable amount established, the UST Branch shall establish~~[and:]~~  
~~[a)]~~ [Rescind the original written directive, and issue] a new reimbursable~~[written directive establishing a not-to-exceed]~~ amount~~[if the itemized cost breakdown, as adjusted for reasonable and necessary costs, exceeds the reimbursable amount];~~ or
- ~~(b)~~ Is less than or equal to the initial reimbursable amount established, the UST Branch shall deny the request for re-evaluation~~[established in the original directive letter, if costs itemized are at or below the initial reimbursement amount].~~

~~(4)~~~~(a)~~~~(3)~~ If the establishment of a new reimbursable~~[not-to-exceed]~~ amount is warranted, [in accordance with subsection (2)(a) of this section,]~~final reimbursement shall be determined by the UST Branch based upon documentation received and shall include a fifteen (15) percent markup, except for the contracted eligible company personnel rates.~~~~[on an actual time and materials basis, and]~~

- ~~(b)~~ The appropriate supporting documentation shall be submitted to the UST Branch, in accordance with Section 8~~(9)]~~ of this administrative regulation, as an attachment to the claim.

Section 15. Reconsideration for a Claim. (1) An applicant may request a reconsideration of a denial of a claim request, or portion thereof. **Reconsideration shall be requested** by submitting a completed UST Reconsideration Request, DWM 4290, within thirty (30) days from the date the person has notice, or could reasonably have had notice, of the denial, which shall include:

- (a) A statement of the grounds for reconsideration;

- (b) Supporting documents; and
- (c) If applicable, other evidence not previously considered.

(2) The cabinet shall review the previous claim decision[;] and shall revise the claim if the evidence accompanying the request warrants revision by demonstrating clear error or through submittal of additional documentation.

(3) The cabinet shall not reconsider a claim more than once without new supporting documentation.

Section 16. Signatures. (1) Application and reimbursement forms required by this administrative regulation for which a signature is required shall be signed by:

(a) An eligible petroleum storage tank owner or operator;

(b) Legally authorized representative; or[as follows:]

(c)[(a)][For a corporation or limited liability company, by:]

[1.][A president, vice-president of the corporation in charge of a principal business function, or member, or any other person who performs similar policy or decision-making functions for the corporation; or]

[2.][A legally authorized representative or agent, except that a representative of an eligible company or partnership shall not have signatory authority for an owner or operator;]

[(b)][For a partnership, sole proprietorship or individual, by:]

[1.][A general partner;]

[2.][Proprietor; or]

[3.][Individual named as the applicant;]

[(c)][For a state or local governmental agency or unit, or non-profit organization, by:]

[1.][A principal executive officer, which includes a chief executive officer of an agency, or a senior executive officer, having responsibility for the overall operations of a principal geographic unit; or]

[2.][A ranking elected official; or]

[(d)] A person designated by a court to act on behalf of the eligible petroleum storage tank owner or operator.

(2) A claim form or application for assistance shall also be signed by an authorized representative of the eligible company or partnership, unless corrective action commenced prior to July 1, 1999.

(3) The owner or operator shall submit documentary evidence to substantiate the legality of an authorized representative's power of agency or power of attorney.

Section 17. Financial Audits. (1) The cabinet may, in accordance with subsection (2) of this section, conduct[An entity shall be subject to] a financial audit if the[it is an] entity is referenced in KRS 224.60-130(1)(k).

(2) The cabinet shall have the authority to audit an entity if:

(a) A required document, or other document relevant to a cabinet determination, submitted to the cabinet appears to be fraudulent; or

(b) There is evidence that the entity has violated a federal or state law[;] or a requirement of KAR Title 401 [~~of the Kentucky Administrative Regulations~~] related to its actions.

(3) Upon written request by the cabinet, records, as established in KRS 224.60-130(l)(k), shall be provided to the cabinet during a financial audit.

(4) The cabinet shall notify the subject of the audit, in writing, of the date that the audit is scheduled to begin. The notice shall be sent at least ten (10) working days before the scheduled start of the audit or a rescheduled audit.

(5)(a) If the petroleum storage tank owner or operator fails to maintain records as required by KRS 224.60-130(1)(k), the cabinet shall recover any monies reimbursed to the owner or operator for the cost of corrective action at the facility to which the missing documents relate.

(b) If an eligible company or partnership or subcontractor fails to maintain records as required by KRS 224.60-130(1)(k), the cabinet shall recover any monies paid to the entity pursuant to a contract or agreement to perform a corrective action service at that facility, for which costs have been reimbursed by the cabinet.

(6) If the audit by the cabinet finds an improper, irregular, or illegal use of any monies received directly or indirectly from the cabinet, or that the monies were obtained by fraud or misrepresentation, the cabinet shall report the results of the audit to the proper authorities for civil and criminal investigation.

(7)(a) Reimbursements to an owner or operator that fails to cooperate with an audit shall be grounds for ~~subject to~~ recovery by the cabinet.

(b) Failure by an entity, that contracts or subcontracts for corrective action services at a facility, to cooperate with an audit shall result in the recovery of funds paid by the cabinet for corrective action services at that facility.

Section 18. Account Balance. (1) The unobligated balance of the FRA shall not be less than \$1,000,000, to ensure a reserve balance adequate to comply with federal financial responsibility requirements for participants in the account.

(2)(a) If the unobligated balance of the FRA is \$1,000,000, or the reimbursement of additional claims would cause the unobligated balance of the fund to be less than \$1,000,000, the cabinet shall immediately suspend claim reimbursements and the approval of applications until the unobligated balance is greater than \$1,000,000.

(b) If the suspension is lifted, the priority of reimbursement for claims submitted related to an approved application for assistance shall be determined by the date of the claim submittal.

(c) During the suspension, all written directives from the cabinet shall be issued in accordance with Section 21 of this administrative regulation.

Section 19. Eligible Companies and Partnerships. (1) To be eligible to contract with a petroleum storage tank owner or operator seeking reimbursement from the cabinet, a company or partnership shall:

(a) Employ or contract with a professional engineer or a professional geologist;

(b) Be authorized to conduct business in the Commonwealth of Kentucky and remain active, and in good standing, with the Kentucky Secretary of State;

(c) Hold, in good standing, all licenses, permits, training certifications, or other authority required to perform corrective action services, or otherwise conduct business, in Kentucky;

(d)1. Maintain, at a minimum, general and professional liability insurance and pollution or property coverage in the amount of \$1,000,000; and

2. Add the cabinet as an additional interest on the policy to be notified, by the insurance company, if there is a lapse of insurance coverage;

(e) Be approved in writing by the cabinet as eligible to contract with a petroleum storage tank owner or operator seeking reimbursement from the cabinet to perform corrective action services;

(f) Submit the UST Application for PSTeAF Eligible Companies or Partnerships, DWM 4284; and

(g) Sign an application or claim payment request in addition to the eligible owner or operator. The eligible company or partnership shall certify that:

1. The information provided in the claim is true and correct; and

2. Each claim payment cost is reasonable, necessary, and was performed in compliance with 401 KAR 42:060 and this administrative regulation.

- (2) Application requirements for a company or partnership eligibility shall include submittal of:
- (a) A completed UST Application for PSTEAF Eligible Companies or Partnerships, DWM 4284;
  - (b) Verification of the employment or contracting of a professional engineer or a professional geologist; and
  - (c) A list of the names and address of officers and principals of the applicant.
- (3) The cabinet shall inspect the records and business premises of the applicant if necessary to verify information in the application or to assist in the evaluation of the applicant's capabilities.
- (4) The cabinet shall require additional information and documentation if necessary to verify information in the application.
- (5) An application for eligible company or partnership status shall be denied if the applicant:
- (a) Fails to provide the information required in the application or in this administrative regulation;
  - (b) Does not comply with the requirements of subsection (1) of this section;
  - (c) Fails to allow cabinet staff to access company records for audit purposes in accordance with Section 17 of this administrative regulation;
  - (d) Fails to provide additional information and documentation requested by the cabinet to verify that the requirements of this administrative regulation have been met;
  - (e) Provides false or misleading information in the application; or
  - (f) Fails to maintain general and professional liability insurance and pollution or property coverage.
- (6) An applicant whose application for company or partnership eligibility is denied may appeal the determination, Appeal shall be made,] by requesting a reconsideration in accordance with Section 15 of this administrative regulation.
- (7) The cabinet shall issue a letter of eligibility to a qualifying applicant.
- (8) An amended application for a company or partnership shall be submitted if:
- (a) The information in the UST Application for PSTEAF Eligible Companies or Partnerships, DWM 4284, has changed; or
  - (b) Requested by the cabinet to submit an updated application upon the receipt of information indicating a change to application information.
- (9) Eligibility and renewal procedures shall be as established in paragraphs (a) through (d) of this subsection.
- (a) The cabinet shall issue a letter of eligibility to each company or partnership that successfully complies with this administrative regulation.
  - (b) Eligibility shall be renewed two (2) years from the date of the letter of eligibility. The company or partnership shall be responsible for renewing eligibility prior to expiration.
  - (c) An application for eligibility renewal shall be submitted to the cabinet on the UST Application for PSTEAF Eligible Companies or Partnerships, DWM 4284.
  - (d) The failure of the company or partnership, under contract with an owner or operator, to renew eligibility shall render corrective action costs incurred after the expiration date ineligible for reimbursement.
- (10) Revocation of eligibility procedures shall be as established in paragraphs (a) and (b)[~~through (d)~~] of this subsection.
- (a) A letter of eligibility issued in accordance with this administrative regulation shall be revoked if the eligible company or partnership:
    - 1. No longer complies with the eligibility requirements established in subsection (1) of this section;
    - 2. Employs, or has a business relationship with, an employee or agent that knowingly submits materially false information or documentation, or a false payment request, to an owner, operator, or the cabinet;

3. Has a current officer, director, or principal of that company, that has been convicted of, or found liable for, civil or criminal fraud or an environmental crime;
  4. Has failed to comply with the terms established in Section 17 of this administrative regulation; or
  5. Obtained eligibility through fraud or misrepresentation.
- (b) The cabinet shall issue a letter by certified mail notifying a noncompliant company or partnership that its eligibility has been revoked by action of the cabinet.

Section 20. Laboratory Certification. (1) Applicability and requirements for PSTEAF eligibility criteria for laboratory certification shall be as established in this section.

(a) Owners or operators seeking reimbursement from the PSTEAF for analytical testing shall utilize a laboratory certified in accordance with this section.

(b) This section shall apply to analytical testing performed on or after October 1, 1999.

(c) Owners or operators of a petroleum storage tank that fail to comply with this requirement shall not be reimbursed by the cabinet for costs related to analytical testing.

(2) Certification requirements for laboratory certification shall be as established in paragraphs (a) and ~~(b) through (d)~~ of this subsection.

(a) A laboratory shall demonstrate current accreditation by submitting documentation of certification by:

1. The American Association for Laboratory Accreditation; or
2. A state approved to accredit environmental laboratories, in accordance with National Environmental Laboratory Accreditation Program requirements and standards.

(b) A laboratory seeking certification from the cabinet shall submit:

1. A completed UST Application for Laboratory Certification, DWM 4283; and~~[-]~~

~~2. [1.] [The application shall include] Proof of accreditation as established in paragraph (a) of this subsection.~~

~~2. [The laboratory shall be capable of analyzing each of the parameters listed in Table 7 and Table 8 in the UST Corrective Action Manual, incorporated by reference in 401 KAR 42:060, using at least one (1) of the acceptable methods listed in the tables, except for mobile laboratories.]~~

(3) The cabinet shall reimburse a petroleum storage tank owner or operator for the cost of a laboratory analysis if the:

(a) Analysis is conducted in accordance with the established parameters and methods;

(b) Analysis is required by written directive by the cabinet and performed in accordance with 401 KAR Chapter 42; and

(c) Laboratory is certified by the cabinet to conduct that analysis.

(4) Requirements for maintaining laboratory certification shall be as established in paragraphs (a) through ~~(c) [(d)]~~ of this subsection.

(a) A certified laboratory shall maintain accreditation by the American Association for Laboratory Accreditation or the National Environmental Laboratory Accreditation Program for the duration of certification.

(b) If a certified laboratory's accreditation, in accordance with subsection (1) of this section, is renewed, or otherwise changes in status, the certified laboratory shall submit updated documentation of the accreditation status to the cabinet within thirty (30) days.

~~(c) [1.] [A laboratory holding valid certification from the UST Branch issued prior to October 6, 2011 shall not be required to submit a new UST Application for Laboratory Certification, DWM 4283.]~~

~~2. [In order to maintain certification status, the certified laboratory shall comply with this subsection.]~~

[(d)] If a certified laboratory fails to maintain certification in accordance with this subsection [~~of this subsection~~], the laboratory shall be required to submit a UST Application for Laboratory Certification, DWM 4283, in accordance with subsection (2) **of this section**.

(5)(a) The cabinet shall revoke a certification if the applicant:

1. Obtains the certification through fraud or misrepresentation; or
2. Knowingly or intentionally submits materially false information to owners, operators, contractors, or the cabinet.

(b) The cabinet shall, within ten (10) days of a revocation determination, notify the laboratory, in writing, of the revocation of certification.

Section 21. Facility Ranking System. (1) Upon a determination of insufficient PSTEAF funding to initiate corrective action at facilities, facilities shall be ranked according to the extent of damage to the environment, the potential threat to human health, and the financial ability of the petroleum storage tank owner or operator to perform corrective action, in order to prioritize the completion of corrective action and the subsequent reimbursement of eligible costs.

(2) Actions directed and documented by the Environmental Response Team, upon the cabinet's declaration of an environmental emergency, shall take priority over the ranking system in this administrative regulation. Once the Environmental Response Team terminates the emergency phase, subsequent actions at the facility shall be prioritized in accordance with this administrative regulation.

(3) Actions performed by, or on behalf of, the cabinet in accordance with KRS 224.60-135(2) shall not be subject to the ranking system.

(4) Facilities performing site checks or initial abatement, at the written direction of the cabinet in accordance with the UST Corrective Action Manual, incorporated by reference in 401 KAR 42:060, shall not be subject to the ranking system.

(5) Those facilities for which the owner or operator has verified, through submittal of a notarized UST Affidavit of Waiver for PSTEAF Reimbursement, DWM 4281, that reimbursement from the PSTEAF will not be sought shall not be subject to the ranking system.

(6)(a) Facilities eligible to participate in the FRA and the PSTA shall be ranked for purposes of addressing the completion of corrective action.

1. Facilities with releases for which the cabinet has not issued a no further action letter shall be a Rank 1, if:

- a. Contamination is confirmed within domestic-use wells, domestic-use springs, or domestic-use cisterns exceeding the maximum contaminant levels established in 401 KAR Chapter 8; or
- b. "Vapor intrusion", as defined by 401 KAR 42:005, **Section 1(65)**, is confirmed in occupied residential or commercial buildings.

2. All other facilities with releases for which the cabinet has not issued a no further action letter shall be a Rank 2.

(b) Facilities shall be further categorized within their respective rank based on the financial ability of the owner or operator.

1. Facilities shall be placed in Category 1 within their respective rank if:

- a. The owner's or operator's average total income for the last five (5) years is less than or equal to \$100,000; or
- b. The owner or operator is registered and recognized by the federal government as a tax-exempt nonprofit organization.

2. Facilities shall be placed in Category 2 within their respective rank if the owner's or operator's average total income for the last five (5) years is more than \$100,000.

3. The cabinet shall utilize the information provided in an owner's or operator's application for assistance for PSTEAF, for purposes of determining financial ability to perform corrective action.

(c) The cabinet shall be provided access to a facility for the purpose of verifying classification. Refusal by an owner or operator to allow access requested by the cabinet shall render the facility ineligible for reimbursement from the cabinet.

(d) If the cabinet receives misrepresentations[,] or otherwise inaccurate information, or receives new information related to specific facilities, it shall amend facility rankings and categories in accordance with this subsection of this section.

(e) Issuance of written directives shall be prioritized for facilities within the FRA and the PSTA, respectively, according to rank and category, in the following order:

1. Rank 1, Category 1;
2. Rank 1, Category 2;
3. Rank 2, Category 1; and
4. Rank 2, Category 2.

(f) The cabinet shall consider the current legislatively enacted budget and available funding in making the allocations established in subsection (1) of this section.

(g) The cabinet shall notify an owner or operator of the decision to suspend written directives for rankings within either the PSTA or the FRA, upon a determination of insufficient PSTEAF funding to initiate corrective action in all rankings.

Section 22. Extensions. (1) The owner or operator of a UST system may request an extension to a deadline established by this administrative regulation or established by the cabinet in a written directive.

(2) The extension request shall be received by the UST Branch of the Division of Waste Management prior to the deadline.

(3) The cabinet may grant an extension, if an extension would be equitable, does not impact the PSTEAF's financial viability, and would not have a detrimental impact on human health or the environment.

(4) The cabinet shall not grant an extension for any requirements established in Section[Sections] 12 or 15 of this administrative regulation.

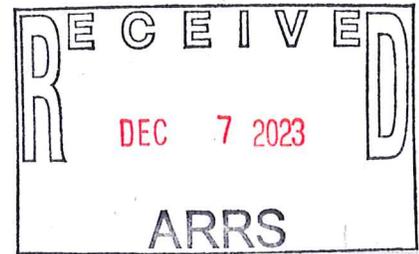
Section 23. Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) "UST Affidavit of Termination of PSTEAF Contract", DWM 4280, September 2019;
- (b) "UST Affidavit of Waiver for PSTEAF Reimbursement", DWM 4281, September 2019;
- (c) "UST Application for Assistance for PSTEAF", DWM 4282, September 2019;
- (d) "UST Application for Laboratory Certification", DWM 4283, August 2023[September 2019];
- (e) "UST Application for PSTEAF Eligible Companies or Partnerships", DWM 4284, September 2019;
- (f) "UST Claim Request for Actions Not Directed", DWM 4285, September 2019;
- (g) "UST Claim Request for Directed Actions", DWM 4286, September 2019;
- (h) "UST Miscellaneous Tasks Reimbursement Worksheet", DWM 4287, August 2023[September 2019];
- (i) "UST Optional Soil Removal at Permanent Closure Reimbursement Worksheet", DWM 4288, August 2023[September 2019];
- (j) "UST Payment Waiver", DWM 4289, September 2019;
- (k) "UST Reconsideration Request", DWM 4290, September 2019;
- (l) "UST Re-Evaluation of a Reimbursable Amount", DWM 4291, August 2023[September 2019];
- (m) "UST Third-Party Claim", DWM 4292, September 2019; and
- (n) "UST PSTEAF Reimbursement Rates", August 2023[May 2019].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Waste Management, 300 Sower Boulevard, Second Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

(3) This material may also be obtained at the Division of Waste Management's Web site at [eec.ky.gov/environmental-protection/waste](http://eec.ky.gov/environmental-protection/waste).

CONTACT PERSON: Louanna Aldridge, Environmental Scientist Consultant, Department for Environmental Protection, Office of the Commissioner, 300 Sower Boulevard, Frankfort, Kentucky 40601, phone (502) 782-0863, fax (502) 564-4245, email [Louanna.Aldridge@ky.gov](mailto:Louanna.Aldridge@ky.gov)



**Andy Beshear**  
GOVERNOR  
**Jacqueline Coleman**  
LIEUTENANT GOVERNOR

**PUBLIC PROTECTION CABINET**

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

**Ray A. Perry**  
SECRETARY  
**Sharon P. Clark**  
COMMISSIONER

December 7, 2023

Senator West, Co-Chair  
Representative Lewis, Co-Chair  
Legislative Research Commission  
083 Capitol Annex  
702 Capitol Avenue  
Frankfort KY 40601

Dear Co-Chairs:

After internal discussion with the Administrative Regulation Review Subcommittee staff of the issues raised in **806 KAR 17:590**, the Department of Insurance proposes the attached subcommittee substitute to 806 KAR 17:590.

Sincerely,

Abigail Gall, Executive Advisor  
Department of Insurance  
500 Mero Street  
Frankfort, KY 40601

## SUGGESTED AMENDMENT

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

806 KAR 17:590. Annual report on providers prescribing medication for addiction treatment.

Page 1

### STATUTORY AUTHORITY

Line 7

After "304.2-110", delete ", 304.17A-732".

Page 1

### NECESSITY, FUNCTION, AND CONFORMITY

Lines 8-9

After "Commissioner of", insert "the Department of".

Line 10

After "Code", insert comma.

Page 2

### Section 2(1)(b) [*renumbered by the compiler as Section 2(2)*]

Line 15

After "ky.gov", insert period.

Delete colon.

Page 3

### Section 3(1)

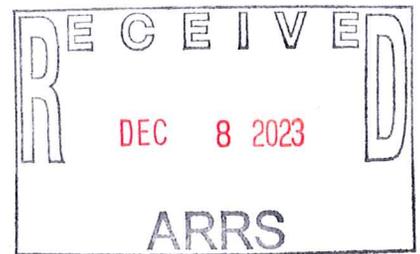
Lines 7-8

**NOTE TO REGULATIONS COMPILER: Please place quotation marks around form title.**

Line 8

After "Form,", insert "9/2023".

Delete "7/2023".



**Andy Beshear**  
GOVERNOR

**Jacqueline Coleman**  
LIEUTENANT GOVERNOR

**PUBLIC PROTECTION CABINET**  
**Kentucky Horse Racing**  
**Commission**

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

**Ray A. Perry**  
SECRETARY

**Jamie Eads**  
EXECUTIVE DIRECTOR

**Jonathan Rabinowitz**  
CHAIRMAN

December 8, 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, Kentucky 40601

Re: 809 KAR 1:002

Dear Co-Chairs West and Lewis:

After consideration of the issues raised by 809 KAR 1:002, the Kentucky Horse Racing Commission proposes the attached suggested substitute to this ordinary administrative regulation.

Sincerely,

Jennifer Wolsing  
General Counsel

**SUGGESTED SUBSTITUTE - ORDINARY ONLY – to AMENDED AFTER COMMENTS VERSION**

Final Version: 12/07/23 at 4:05 p.m.

**809 KAR 1:002. Service provider licensing.**

RELATES TO: KRS Chapter 230

STATUTORY AUTHORITY: KRS 230.260, 230.361, 230.811, 230.814

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.260 ~~(16)~~ requires the commission to ~~[""]~~ promulgate administrative regulations to establish standards for the conduct of sports wagering. ~~[""]~~ KRS 230.361 **requires[states]** the ~~[""]~~ racing commission **to[shall]** promulgate administrative regulations to establish a fully functioning sports wagering system. ~~["..."]~~ KRS 230.811 and ~~[KRS-]~~230.814 **authorize[permit]** a licensed service provider to conduct sports wagering in Kentucky. This administrative regulation establishes ~~[clear-]~~ requirements and guidelines concerning the process by which applications for a service provider license for sports wagering in Kentucky are reviewed and approved.

Section 1. Definitions.

- (1) "Applicant" means a person applying for a service provider license under KRS 230.814.
- (2) "Application" means "Initial/Renewal Application for Service Provider License," KHRC 01-003-01, 06/2023.
- (3) "Service provider" is defined by KRS 230.210 ~~(30)~~.
- (4) "Service provider license" means a license granted to a service provider that has a contract with an operator to provide sports wagering services pursuant to KRS 230.814.
- (5) "Substantial owner" means a person who owns five (5) percent or more of the company.

Section 2. Applications for Sports Wagering Service Providers.

- (1) Initial applications. An applicant shall apply to the commission for a service provider license pursuant to KRS 230.814.
- (2) Renewal applications. A service provider license shall be renewed annually in accordance with KRS 230.814.
- (3) An initial or renewal application for a service provider license shall be submitted on the form ~~[""]~~Initial/Renewal Application for a Service Provider License, ~~[""]~~ KHRC 01-003-01, 06/2023, pursuant to Section 6 of this administrative regulation.

Section 3. License Fees.

- (1) An applicant shall submit the initial fee of \$50,000 with an initial application for a service provider license. The initial fee shall not be refundable.
- (2) A service provider shall submit the renewal fee of \$10,000 with a renewal application for a service provider license. The renewal fee shall not be refundable.
- (3) Pursuant to KRS 230.811, the fees in this section shall be deposited into the fund established by KRS 230.817.
- ~~[(4) Renewal applications for a service provider license shall be received by the commission 120 days before the expiration of the current license.]~~

Section 4. Licensing Criteria. The commission shall grant a service provider **license[application]** if the commission determines that the applicant's participation as a sports wagering service provider is in the best interests of sports wagering in Kentucky. The commission shall consider, at a minimum, **whether or not the applicant[the following factors]:**

- (1) ~~[Whether the applicant]~~ Otherwise qualifies to receive a license under KRS Chapter 230;
- (2) ~~Has~~~~[Whether the applicant's]~~ key persons and substantial owners who qualify to receive applicable occupational licenses under 809 KAR 1:003;
- (3) ~~[Whether the applicant,]~~ In the case of an individual~~[,]~~ or the applicant's substantial owners, is at least eighteen (18) years of age;
- (4) ~~[Whether the applicant]~~ Demonstrates a level of skill, experience, knowledge, and ability necessary to operate as a service provider as required under this administrative regulation;
- (5) ~~[Whether the applicant]~~ Was convicted or charged with any offense for a violation of a gaming law in any jurisdiction;
- (6) ~~[Whether the applicant]~~ Appears on the exclusion list of any jurisdiction for having violated a rule of gaming;
- (7) ~~[Whether the applicant]~~ Has at least one (1) contract to provide services pursuant to KRS 230.814 to a sports wagering operator; and
- (8) ~~[Whether the applicant]~~ Or the applicant's substantial owners are in substantial compliance with all state and federal tax laws.

#### Section 5. Temporary Licensing.

- (1) The commission may grant a temporary license after an applicant submits an initial application **if the submitted information is sufficient to determine the applicant's suitability and based on the history, if any, of the applicant for a service provider license or its parent company of offering sports wagering or other gaming in other jurisdictions.**
- (2) An applicant issued a temporary license pursuant to this administrative regulation or KRS 230.260 shall not be entitled to receive any refund of the license fee submitted in connection with the license application.
- (3) The commission may change a temporary license issued pursuant to this administrative regulation into an annual license if:
  - (a) All investigations into the license application are complete;
  - (b) The commission is satisfied the holder of a temporary license qualifies to hold an annual license; and
  - (c) The applicant, its parent company, or affiliate subsidiaries have demonstrated that it is licensed to provide gaming services in at least three (3) other United States gaming jurisdictions.
- (4) **If**~~[When]~~ the commission changes a temporary license into an annual license, the date of issuance of the annual license shall be deemed to be the date that the commission approved the annual license.
- (5) A temporary authorization ~~shall~~~~[may]~~ expire of its own accord, or it may be suspended, revoked, or summarily suspended. **Suspension, revocation, and summary suspension shall be** under the same terms and conditions as an annual license.
- (6) The temporary license shall not extend beyond one (1) year and shall expire at the end of the calendar year for which it was issued.

#### Section 6. Application Procedure.

- (1) Application procedures for service providers shall be as **established in paragraphs (a) through (g) of this subsection.**~~[follows:]~~
  - (a) **The commission may deny the application if the applicant makes** a material misrepresentation or omission **in its application or supporting documentation**~~[made with respect to an application may be grounds for denial of the application].~~
  - (b) An application shall be deemed filed when the commission receives the completed application forms, including all additional information that the commission requires.

(c) The completed applications shall be filed as established in subparagraphs 1. and 2. of this paragraph.~~[follows:]~~

1. An applicant shall submit an original ~~[and five (5) copies]~~ of a fully-executed hard copy application to the commission at the commission's office in Lexington, Kentucky ~~and~~~~[or]~~ shall submit the application online at <https://khrc.ky.gov/>.

2. ~~An applicant~~~~[Applicants]~~ shall submit the application by September 1 of the year immediately preceding the year for which the license is sought~~[prior to November 1 of each year].~~

(d) An applicant shall be under a continuing duty to disclose any changes in the information submitted to the commission.

(e) Any service provider license holder that enters into or modifies a contract with ~~an~~~~[a-new]~~ operator licensed under 810 KAR 3:010 shall provide notice to the commission and a copy of the contract within fourteen (14) calendar days.

(f) Any service provider license holder that enters into or modifies a contract with ~~an~~~~[a-new]~~ occupational licensee that is an information services provider shall provide notice to the commission within fourteen (14) calendar days and, ~~if~~~~[as]~~ requested, a copy of the contract.

(g) If a service provider license holder ceases to offer goods and services to an operator licensee, then the service provider shall notify the commission.

(2) An application for a service provider's license shall include~~[the following information]:~~

(a) The name, address, and legal information of the applicant that allows the commission to verify the applicant's legal existence, status, and eligibility for a license, including the applicant's:

1. Business registration details,
2. Business structure, and
3. Business identification number.

(b) A Key Employee License Application~~[Application(s)]~~ as required by 809 KAR 1:003, Section 6~~[(6)]~~~~(3)~~~~[Application for a substantial owner or key person];~~

(c) A description of all sports wagering services, equipment, devices, and supplies offered for sale or lease by the applicant in connection with sports wagering;

(d) Details regarding the corporate form of the applicant, including the legal structure or type of business applying for the license;

(e) Relevant contracts related to the sports wagering;

(f) Disclosure of any criminal, civil, or administrative action brought against the applicant;

(g) Description of all other licenses held by the applicant;

(h) The applicant's audited financial statements for each of the three (3) fiscal years immediately preceding the application; and

(i) Organizational and ownership charts of the applicant.

(3) Initial applications completed for sports wagering conducted in 2023 may also serve as the renewal application for sports wagering conducted in 2024.

(4) For sports wagering conducted in 2025 and thereafter, an application shall be filed with the commission prior to November 1 of the preceding calendar year.

#### Section 7. Duty to Maintain Suitability; Duty to Disclose; Transfer of Ownership Interest.

(1) A service provider shall have a continuing duty to maintain suitability for licensure. A license issued under this administrative regulation does not create a property right but shall be a revocable privilege granted by the commission contingent upon continuing suitability for licensure.

(2) A service provider shall be responsible for~~[the following]:~~

- (a) Ensuring that all aspects of the sports wagering operation are conducted in accordance with 809 KAR 10:001 through 809 KAR 10:007;
  - (b) The acts of its employees and agents in the course of their employment; and
  - (c) Notification of a material change in the information submitted in the application, or a matter that renders the service provider ineligible to hold a service provider license.
- (3) A substantial change in ownership shall not occur without prior approval from the commission **based on the best interests of sports wagering.**

Section 8. Incorporation by Reference.

**(1)** "Initial/Renewal Application for Service Provider License", KHRC 01-002-001, 06/2023, is incorporated by reference.

**(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 a.m. to 4:30 p.m. This material may also be obtained at the commission's Web site at <http://khrc.ky.gov>.**

**\*General Reviewer's Note:** Please file one (1) clean and one (1) dirty copy of KHRC 01-002-001, with the form number corrected, with the Compiler in conjunction with filing this suggested substitute.

# KENTUCKY HORSE RACING COMMISSION

## Initial/Renewal Application for a Service Provider License KHRC 01-002-01 (12/2023)

### Service Provider License Application Instructions

#### 1. APPLICATION FULLY COMPLETED

Type or clearly print an answer to every question. If a question does not apply to you, indicate so with an N/A. If you are unsure if a question applies to you or what information the form is asking you to provide, contact the Kentucky Horse Racing Commission office to seek clarification. If the available space is insufficient, continue on a separate sheet and precede each answer with the appropriate title.

#### 2. ALL FORMS SIGNED & ATTACHED

The following accompanying forms must be signed and returned with the application:

- Affirmation & Consent
- Investigation Authorization/Authorization to Release Information
- Applicant's Request to Release Information (leave top two lines of form blank)

#### 3. ALL REQUESTED INFORMATION ATTACHED

The following information requested on the application must be attached, if applicable:

- Trade Name Registration
- Certificate of Authority from the Kentucky Secretary of State's Office
- Certified Copy of Articles of Incorporation, including amendments
- Articles of Organization, including amendments
- Partnership Agreement, including amendments
- Trust Agreement, including amendments
- If corp., annual and bi-annual reports for past 3 years and meeting minutes from past 12 months
- Current Uniform Commercial Code Report for all states where known to be filed
- If publicly traded corporation, recent shareholders list from your transfer agent for all shares of common and preferred stock
- All applicable information requested on pages 4-5

**NOTE:** The Kentucky Horse Racing Commission reserves the right to request additional information and documentation throughout the course of the background investigation.

#### 4. APPLICATIONS FOR ASSOCIATED PERSONS ATTACHED

Submit a Multi-Jurisdictional Key Employee License Application Form KHRC 01-003-02(06/2023) for any person matching the Key Employee Licensing criteria set forth in 809 KAR 1:003.

**NOTE:** A \$1,500 application fee must accompany each Key application (any person who will be involved in management duties with the business operation).

#### 5. LICENSE & APPLICATION FEES/BACKGROUND DEPOSIT SUBMITTED

Submit appropriate license and application fees.

- Sports wagering service provider: \$50,000 initial application fee and \$10,000 renewal application fee
- Make check payable to: **KENTUCKY STATE TREASURER**

### Service Provider License Application Instructions

- 6.** Applicants for a Sports Wagering Service Provider License or Vendor License must provide proposed contracts with all other Operators and Information Service Providers that are licensed for sports wagering in the Commonwealth of Kentucky. Please note, Sports Wagering Service Provider contracts with Operators must be approved by the Commission prior to doing business in the Commonwealth of Kentucky.

Please provide a business structure chart showing all sports wagering operational relationships.

- 7. PLEASE PROVIDE THE LOCATION (address) OF SPORTS WAGERING SERVERS (must be in Kentucky)**

**8. SUBMIT APPLICATION**

Mail or bring in application to: Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Lexington, KY 40511, or  
Submit the application online at <https://khrc.ky.gov/>.

### GENERAL INSTRUCTIONS

1. Do not try to replicate Kentucky Horse Racing Commission forms. You must use forms provided by or obtained from the Commission. You may photocopy Commission forms, but do not attempt to replicate them on your computer. Commission forms are available in electronic format online at <http://khrc.ky.gov>. You must download the form to your computer and use Adobe Acrobat Reader or Adobe Acrobat Exchange to fill in the forms. If you use Acrobat Reader, you cannot save the information, but the application may be printed. If you use Acrobat Exchange, you can save the information.
2. While the application must be submitted in paper form, you have the option of submitting all other supporting documents electronically, on computer disk or flash drive, in .pdf, .doc, .xls or .tif format. (Do not submit by e-mail). A legend must be submitted detailing the file name on the disk along with a description of the documents contained in each file.
3. Submit forms to the Kentucky Horse Racing Commission. Do not address the envelope to any particular individual within the Commission, as this may delay the process.

Kentucky Horse Racing Commission  
**SPORTS WAGERING LICENSE APPLICATION**

<input type="checkbox"/> Service Provider (Initial).....	<input type="checkbox"/>	\$50,000		
<input type="checkbox"/> Service Provider (Renewal).....	<input type="checkbox"/>	\$10,000	<input type="checkbox"/>	
<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	
<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	
<input type="checkbox"/>				
Applicant's Name			Sports Wagering Licensing Number (Assigned by Commission)	
Trade Name (DBA) ( <b>PROVIDE TRADE NAME REGISTRATION</b> )			Website Address	
Street Address of Gaming Business			Gaming Retailer License Number	
City	State	ZIP	Business Phone Number	Business Fax Number
Mailing address, if different from Street Address (city, state, ZIP)				
<b>On a separate sheet, list all principal places of business for the past 10 years if different from above.</b>				
Contact Person for Business			Title	
Contact Phone Number			Contact Email	
Contact Address (city, state, ZIP)			Contact Fax Number	
Federal Taxpayer ID #	Kentucky Sales Tax License #	Kentucky Liquor License #	Name of Liquor License Holder	
Type of Business Structure				
<input type="checkbox"/> Sole Proprietorship	<input type="checkbox"/> Partnership	<input type="checkbox"/> Limited Partnership	<input type="checkbox"/> Limited Liability Company	
<input type="checkbox"/> C Corporation	<input type="checkbox"/> S Corporation	<input type="checkbox"/> Publicly Traded Corporation	<input type="checkbox"/> Trust	<input type="checkbox"/> Other _____
State of incorporation or creation of business entity				Date
Date of qualification to conduct business in Kentucky ( <b>PROVIDE CERTIFICATE OF AUTHORITY FROM THE KENTUCKY SECRETARY OF STATE'S OFFICE</b> )				
If a corporation, list all states where corporation is authorized to conduct business				
List all trade names used by the business entity (other than above)				
<b>Attach certified copies of all articles of incorporation, bylaws, articles of organization, or a true copy of any partnership or trust agreement, including any and all amendments to such.</b> <b>If a corporation, attach copies of all annual and bi-annual reports and SEC filings, if any, for past 3 years, and all minutes from all corporate meetings in the past 12 months.</b> <b>Attach current copy of any Uniform Commercial Code Report for all states where known to be filed.</b>				

Applicant's Printed Trade Name (DBA)

**OWNERSHIP STRUCTURE (See example next page)**

List all persons and/or entities with ownership interest, and all officers and directors, whether they have ownership interest or not. If an entity (corporation, partnership, LLC, etc.) has interest, list all persons associated with such entity, their ownership in the entity, and their effective ownership in the license. List all parent, holding or other intermediary business interest. A Key & Associated Person License Application form must be submitted for all persons with 10% or more effective ownership in either a privately held company or a publicly traded corporation, and all officers and directors. A Limited Ownership Application form must be submitted for all persons with less than 10% effective ownership in a privately held company. If a PTC, submit recent shareholder list from your transfer agent for all shares of common and preferred stock. Make additional copies of this page and/or submit attachments, if necessary.

Name	Title	SSN/FEIN	Date of Birth	App Submitted? <input type="checkbox"/> Yes <input type="checkbox"/> No
Address (city, state, ZIP)			Phone	
Business Associated with (Parent business or sub-entity)		Own. % in Business Associated with	Effective Own. % in Applicant	
Name	Title	SSN/FEIN	Date of Birth	App Submitted? <input type="checkbox"/> Yes <input type="checkbox"/> No
Address (city, state, ZIP)			Phone	
Business Associated with (Parent business or sub-entity)		Own. % in Business Associated with	Effective Own. % in Applicant	
Name	Title	SSN/FEIN	Date of Birth	App Submitted? <input type="checkbox"/> Yes <input type="checkbox"/> No
Address (city, state, ZIP)			Phone	
Business Associated with (Parent business or sub-entity)		Own. % in Business Associated with	Effective Own. % in Applicant	
Name	Title	SSN/FEIN	Date of Birth	App Submitted? <input type="checkbox"/> Yes <input type="checkbox"/> No
Address (city, state, ZIP)			Phone	
Business Associated with (Parent business or sub-entity)		Own. % in Business Associated with	Effective Own. % in Applicant	
Name	Title	SSN/FEIN	Date of Birth	App Submitted? <input type="checkbox"/> Yes <input type="checkbox"/> No
Address (city, state, ZIP)			Phone	
Business Associated with (Parent business or sub-entity)		Own. % in Business Associated with	Effective Own. % in Applicant	
Name	Title	SSN/FEIN	Date of Birth	App Submitted? <input type="checkbox"/> Yes <input type="checkbox"/> No
Address (city, state, ZIP)			Phone	
Business Associated with (Parent business or sub-entity)		Own. % in Business Associated with	Effective Own. % in Applicant	
Name	Title	SSN/FEIN	Date of Birth	App Submitted? <input type="checkbox"/> Yes <input type="checkbox"/> No
Address (city, state, ZIP)			Phone	
Business Associated with (Parent business or sub-entity)		Own. % in Business Associated with	Effective Own. % in Applicant	
Name	Title	SSN/FEIN	Date of Birth	App Submitted? <input type="checkbox"/> Yes <input type="checkbox"/> No
Address (city, state, ZIP)			Phone	
Business Associated with (Parent business or sub-entity)		Own. % in Business Associated with	Effective Own. % in Applicant	

Are there any outstanding options and warrants?

YES\*  NO \*If YES, attach list of persons with outstanding options and warrants

Are there any other persons, other than those listed in the Ownership Structure, including but not limited to suppliers, lenders and landlords, who will receive, directly or indirectly, any compensation or rents based upon a percentage or share of gross proceeds or income of the gaming venture?

YES\*  NO \*If YES, attach list of persons and submit Key & Associate Person License Application forms for each person.

**OWNERSHIP STRUCTURE Example**

**ABC CASINO CORP. - A privately held company (Applicant)**

<u>Associated Person</u>	<u>Title</u>	<u>Ownership</u>	<u>Effective Own.</u>
Jane Makers	President	50%	50%
Jim Smith	Shareholder	20%	20%
Evan Jones	Director	0%	0%
DEF Gaming Inc.		30%	30%
Rose Thompson	CEO	(50%)	15%
GHI Enterprises		(50%)	15%
Lydia May	Owner	((100%))	15%

Name <b>JANE MAKERS</b>	Title <b>PRESIDENT</b>	SSN/FEIN <b>123-45-6789</b>	Date of Birth <b>06/16/65</b>	App Submitted? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Address (city, state, ZIP) <b>1234 BOURBON LANE, LORETTO, KY 40037</b>			Phone <b>415-555-1212</b>	
Business Associated with (Parent business or sub-entity) <b>ABC CASINO CORP.</b>		Own. % in Business Associated with <b>50.0%</b>	Effective Own. % in Applicant <b>50.0%</b>	
Name <b>JIM SMITH</b>	Title <b>SHAREHOLDER</b>	SSN/FEIN <b>222-33-4444</b>	Date of Birth <b>08/24/55</b>	App Submitted? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Address (city, state, ZIP) <b>1616 RYE AVE. CLERMONT, KY 40110</b>			Phone <b>303-555-2222</b>	
Business Associated with (Parent business or sub-entity) <b>ABC CASINO CORP.</b>		Own. % in Business Associated with <b>20.0%</b>	Effective Own. % in Applicant <b>20.0%</b>	
Name <b>EVAN JONES</b>	Title <b>DIRECTOR</b>	SSN/FEIN <b>555-66-7777</b>	Date of Birth <b>03/20/68</b>	App Submitted? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Address (city, state, ZIP) <b>444 TROPICANA DR., BARDSTOWN, KY 40004</b>			Phone <b>702-555-4444</b>	
Business Associated with (Parent business or sub-entity) <b>ABC CASINO</b>		Own. % in Business Associated with <b>0.0%</b>	Effective Own. % in Applicant <b>0.0%</b>	
Name <b>DEF GAMING INC.</b>	Title <b>SHAREHOLDER</b>	SSN/FEIN <b>888-88-8888</b>	Date of Birth <b>Date of Birth</b>	App Submitted? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Address (city, state, ZIP) <b>2018 S. BROADWAY, PADUCAH, KY 42001</b>			Phone <b>303-555-7879</b>	
Business Associated with (Parent business or sub-entity) <b>ABC CASINO CORP.</b>		Own. % in Business Associated with <b>30.0%</b>	Effective Own. % in Applicant <b>30.0%</b>	
Name <b>ROSE FORESTER</b>	Title <b>CEO</b>	SSN/FEIN <b>456-789-9012</b>	Date of Birth <b>10/10/50</b>	App Submitted? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Address (city, state, ZIP) <b>1881 REED ST., PIKEVILLE, KY 41502</b>			Phone <b>303-555-1300</b>	
Business Associated with (Parent business or sub-entity) <b>DEF GAMING INC.</b>		Own. % in Business Associated with <b>50.0%</b>	Effective Own. % in Applicant <b>15.0%</b>	
Name <b>GHI ENTERPRISES</b>	Title <b>SHAREHOLDER</b>	SSN/FEIN <b>888-99-9999</b>	Date of Birth <b>Date of Birth</b>	App Submitted? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Address (city, state, ZIP) <b>1717 17TH ST., GEORGETOWN, KY 40324</b>			Phone <b>303-555-2456</b>	
Business Associated with (Parent business or sub-entity) <b>DEF GAMING INC.</b>		Own. % in Business Associated with <b>50.0%</b>	Effective Own. % in Applicant <b>15.0%</b>	
Name <b>LYDIA MAY</b>	Title <b>OWNER</b>	SSN/FEIN <b>987-65-4321</b>	Date of Birth <b>04-16-55</b>	App Submitted? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Address (city, state, ZIP) <b>7018 EQUESTRIAN BLVD., VERSAILLES, KY 40383</b>			Phone <b>303-555-1616</b>	
Business Associated with (Parent business or sub-entity) <b>GHI ENTERPRISES</b>		Own. % in Business Associated with <b>100.0%</b>	Effective Own. % in Applicant <b>15.0%</b>	

Applicant's Printed Trade Name (DBA)

**LICENSING HISTORY**

1. Has the applicant, the applicant's parent company or any other intermediary business entity ever applied for a gaming license in this or any other jurisdiction, foreign or domestic, whether or not the license was ever issued? If YES, provide details on a separate sheet, including jurisdiction, type of license, license number, and dates license held or applied for.  Yes  No
2. Has the applicant, the applicant's parent company or any other intermediary business entity ever been denied a gaming license, withdrawn a gaming license or had any disciplinary action taken against any gaming license that they have held in this or any other jurisdiction, foreign or domestic? If YES, provide details on a separate sheet, including jurisdiction, type of action, and date of action.  Yes  No

**FINANCIAL HISTORY**

1. Is the applicant, the applicant's parent company or any other intermediary business entity delinquent in the payment of any obligations to any governmental agency anywhere? If YES, provide details on a separate sheet and attach any documents to prove settlement or resolution of the delinquency.  Yes  No
2. Has the applicant, the applicant's parent company or any other intermediary business entity ever held a financial interest in a gambling venture, including but not limited to, a sports wagering operation, a race track, dog track, race horse or dog, lottery, casino, bookmaking operation, internet venture company, card room, bingo parlor or pull tabs, whether or not a license to hold such interest was applied for or received? If YES, provide details on a separate sheet.  Yes  No
3. Has the applicant, the applicant's parent company or any other intermediary business entity ever filed a bankruptcy petition, had such a petition filed against it, or had a receiver, fiscal agent, trustee, reorganization trustee or similar person appointed for it? If YES, provide details on a separate sheet and attach any documents from the bankruptcy court.  Yes  No
4. Does the applicant, the applicant's parent company or any other intermediary business entity now own, has it ever owned, or does it otherwise derive a benefit from, assets held outside the United States, whether held in the business' name or another name, on its behalf or for another entity, or through other business entities, or in trust, or in any other fashion or status? If YES, provide details on a separate sheet.  Yes  No
5. Is the applicant, the applicant's parent company or any other intermediary business entity currently a party to, or has it ever been a party to, in any capacity, any business trust instrument? If YES, provide details on a separate sheet.  Yes  No
6. Has a complaint, judgment, consent decree, settlement or other disposition related to a violation of federal, state or similar foreign antitrust, trade or security law or regulation ever been filed or entered against the applicant, the applicant's parent company or any other intermediary business entity? If YES, provide details on a separate sheet and attach any documents to prove the settlement of any of these issues. Include any items currently under formal dispute or legal appeal.  Yes  No
7. Has the applicant, the applicant's parent company or any other intermediary business entity ever been a party to a lawsuit, either as a plaintiff or defendant, complainant or respondent, or in any other fashion, in this or any other country? If YES, provide details on a separate sheet and attach any documents to prove the settlement of any of these issues. Include any items currently under formal dispute or legal appeal.  Yes  No
8. Has the applicant, the applicant's parent company or any other intermediary business entity made any political contributions, or had any political contributions made on their behalf, during the past 12 months? If YES, provide details on a separate sheet, including name of recipient, amount of contribution, and date of contribution.  Yes  No
9. Has the applicant, the applicant's parent company or any other intermediary business entity filed a business tax return in the past three years? If YES, attach all business tax returns filed in the past three years.  Yes  No

Applicant's Printed Trade Name (DBA)

**FINANCIAL HISTORY (Continued)**

10. Has the applicant, the applicant's parent company or any other intermediary business entity completed financial statements, either audited or unaudited, in the past three years? If YES, attach all financial statements completed in the past three years.  Yes  No
11. Is the business a prospective business or has it recently begun operations? If so, submit an estimated beginning balance sheet (proforma) and a statement of amount(s) and source(s) or funding for the business and specific documentation to support the declaration.  Yes  No
12. Is the business a party to a lease (other than the lease already submitted as part of a retailer application)? If YES, attach copies of all leases to which the business is a party.  Yes  No
13. Does the applicant have a compliance committee or compliance officer? If YES, attach a copy of compliance committee minutes or compliance officer reports from the past 12 months.  Yes  No
14. Has any interest or share in the profits of limited gaming been pledged or hypothecated as security for a debt or deposited as a security for the performance of an act or to secure the performance of a contract? If YES, provide details on a separate sheet.  Yes  No
15. Attach a list detailing the operating and investment accounts for this business, including financial institution name, address, telephone number, and account number for each account.
16. Attach a list detailing each outstanding loan and financial obligation obtained for use in this business, including creditor name, address, phone number, loan number, loan amount, loan terms, date acquired, and date due.

Person who maintains applicant's business records	Title
Address	Phone Number
Person who prepares applicant's tax returns, government forms & reports	Title
Address	Phone Number
Location of financial books and records for applicant's business	

## Affirmation & Consent

I, \_\_\_\_\_, as authorized agent of the Applicant, state under penalty of perjury that the entire Sports Wagering License Application, statements, attachments, and supporting schedules are true and correct to the best of my knowledge and belief, and that this statement is executed with the knowledge that misrepresentation or failure to reveal information requested may be deemed sufficient cause for the refusal to issue a gaming license by the Commonwealth of Kentucky. Further, I am aware that later discovery of an omission or misrepresentation made in the above statements may be grounds for the denial of a gaming license or the revocation of the license. I am voluntarily submitting this application on behalf of the Applicant to the Kentucky Limited Gaming Control Commission under oath with full knowledge that I may be charged with perjury or other crimes for intentional omissions and misrepresentations pursuant to Kentucky law. I further consent to any background investigation necessary to determine the present and continuing suitability of the Applicant and that this consent continues as long as the Applicant holds a Kentucky Sports Wagering License, and for 90 days following the expiration or surrender of such gaming license. I understand that further information may be requested of the Applicant in regard to this application, and the Applicant agrees to supply such information upon request. I also agree that the Commonwealth of Kentucky, its agencies, officers and assigns, shall be entitled to collect from the Applicant all expenses incurred in recovery of any debt created by this license application, or in pursuing any other remedy provided by law, including but not limited to reasonable attorney fees and costs.

Applicant's Legal Business Name	Trade Name (DBA)
Printed Full Legal Name of Agent (Last, First, Middle)	Title
Signature	Date

## Investigation Authorization Authorization to Release Information

I, \_\_\_\_\_, hereby authorize the Kentucky Horse Racing Commission to conduct a complete investigation into my personal background, using whatever legal means they deem appropriate. I hereby authorize any person or entity contacted by the Commission to provide any and all such information deemed necessary by the Commission. I hereby waive any rights of confidentiality in this regard.

I understand that by signing this authorization, a financial record check may be performed. I authorize any financial institution to surrender to the Commission a complete and accurate record of such transactions that may have occurred with that institution, including, but not limited to, internal banking memoranda, past and present loan applications, financial statements and any other documents relating to my personal or business financial records in whatever form and wherever located.

I understand that by signing this authorization, a financial record check of my tax filing and tax obligation status may be performed. I authorize the Kentucky Department of Revenue to surrender to the Commission a complete and accurate record of any and all tax information or records relating to me. I authorize the Commission to obtain, receive, review, copy, discuss and use any such tax information or documents relating to me. I authorize the release of this type of information, even though such information may be designated as "confidential" or "nonpublic" under the provisions of state or federal laws.

I understand that by signing this authorization, a criminal history check will be performed. I authorize the Commission to obtain and use from any source, any information concerning me contained in any type of criminal history record files, wherever located. I understand that the criminal history record files contain records of arrests which may have resulted in a disposition other than a finding of guilt (i.e., dismissed charges, or charges that resulted in a not guilty finding). I understand that the information may contain listings of charges that resulted in suspended imposition of sentence, even though I successfully completed the conditions of said sentence and was discharged pursuant to law. I authorize the release of this type of information, even though this record may be designated as "confidential" or "nonpublic" under the provisions of state or federal laws.

The Commission reserves the right to investigate all relevant information and facts to their satisfaction. I understand that the Commission may conduct a complete and comprehensive investigation to determine the accuracy of all information gathered. However, the Commonwealth of Kentucky, Commission, and other agents or employees of the Commonwealth of Kentucky shall not be held liable for the receipt, use, or dissemination of inaccurate information. I, on behalf of the applicants legal representatives, and assigns, hereby release, waive, discharge, and agree to hold harmless, and otherwise waive liability as to the Commonwealth of Kentucky, Commission, and other agents or employees of the Commonwealth of Kentucky for any damages resulting from any use, disclosure, or publication in any manner, other than a willfully unlawful disclosure or publication, of any material or information acquired during inquiries, investigations, or hearings, and hereby authorize the lawful use, disclosure, or publication of this material or information.

Any information contained within my application, contained within any financial or personnel record, or otherwise found, obtained, or maintained by the Commission, shall be accessible to law enforcement agents of this or any other state, the government of the United States, any foreign country, or any Indian tribe.

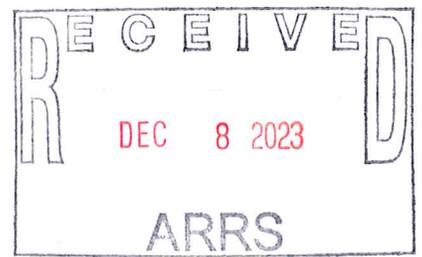
Printed Full Legal Last Name	Legal First Name	Legal Middle Name
Signature		Date
Signature of Kentucky Horse Racing Commission Employee Presenting This Request		Date

# APPLICANT'S REQUEST TO RELEASE INFORMATION

To	From: (Applicant's Printed Name)
----	----------------------------------

1. I hereby authorize and request all persons to whom this request is presented having information relating to or concerning the above named applicant to furnish such information to a duly appointed agent of the Kentucky Horse Racing Commission, whether or not such information would otherwise be protected from the disclosure by any constitutional, statutory or common law privilege.
2. I hereby authorize and request all persons to whom this request is presented having documents relating to or concerning the above named applicant to permit a duly appointed agent of the Kentucky Horse Racing Commission to review and copy any such documents, whether or not such documents would otherwise be protected from disclosure by any constitutional, statutory, or common law privilege.
3. I hereby authorize and request the Kentucky Department of Revenue to permit a duly appointed employee of the Kentucky Horse Racing Commission to obtain, receive, review, copy, discuss and use any such tax information or documents relating to or concerning the above named applicant, whether or not such information or documents would otherwise be protected from disclosure by any constitutional, statutory, or common law privilege.
4. If the person to whom this request is presented is a brokerage firm, bank, savings and loan, or other financial institution or an officer of the same, I hereby authorize and request that a duly appointed agent of the Kentucky Horse Racing Commission be permitted to review and obtain copies of any and all documents, records or correspondence pertaining to the applicant, including but no limited to past loan information, notes co-signed by the applicant, checking account records, savings deposit records, safe deposit box records, passbook records, and general ledger folio sheets.
5. I do hereby make, constitute, and appoint any duly appointed employee of the Kentucky Horse Racing Commission, the applicant's true and lawful attorney in fact for applicant in its name, place, stead, and on its behalf and for its use and benefit:
  - (a) To request, review, copy sign for, or otherwise act for investigative purposes with respect to documents and information in the possession of the person to whom this request is presented as applicant might;
  - (b) To name the person or entity to whom this request is presented and insert that person's name in the appropriate location in this request;
  - (c) To place the name of the agent presenting this request in the appropriate location on this request.
6. I grant to said attorney in fact full power and authority to do, take, and perform all and every act and thing whatsoever requisite, proper, or necessary to be done, in the exercise of any of the rights and powers herein granted, as fully to all intents and purposes as applicant might or could do if personally present, with full power of substitution or revocation, hereby ratifying and confirming all that said attorney in fact, or his substitute or substitutes, shall lawfully do or cause to be done by virtue of this power of attorney and the rights and powers herein granted.
7. This power of attorney ends twenty-four (24) months from the date of execution.
8. The above named applicant has filed with the Kentucky Horse Racing Commission an application for a gaming license. Said applicant understands that it is seeking the granting of a privilege and acknowledges that the burden of proving its qualifications for a favorable determination is at all times on the applicant. Said applicant accepts any risk of adverse public notice, embarrassment, criticism, or other action of financial loss, which may result from action with respect to this application.
9. The applicant does, for itself, its heirs, executors, administrators, successors, and assigns, hereby release, remise, and forever discharge the person to whom this request is presented, and his agents and employees from all and all manner or actions, causes of action, suits, debts, judgements, executions, claims, and demands whatsoever, known or unknown, in law or equity, which the applicant ever had, now has, may have, or claims to have against the person to whom this request is being presented or his agents or employees arising out of or by reason of complying with the request.
10. The applicant agree to indemnify and hold harmless the person to whom this request is presented and his agents and employees from and against all claims, damages, losses, and expenses, including reasonable attorneys' fees arising out of or by reason of complying with this request.
11. A reproduction of this request by photocopying or similar process shall be for all intents and purposes as valid as the original.

Applicant's Business Name	Trade Name
Printed Full Legal Name of Authorized Agent (Last, First, Middle)	Title
Signature	
Signature of Kentucky Horse Racing Commission employee presenting this request	Date



**Andy Beshear**  
GOVERNOR

**Jacqueline Coleman**  
LIEUTENANT GOVERNOR

**PUBLIC PROTECTION CABINET**  
**Kentucky Horse Racing**  
**Commission**

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

**Ray A. Perry**  
SECRETARY

**Jamie Eads**  
EXECUTIVE DIRECTOR

**Jonathan Rabinowitz**  
CHAIRMAN

December 8, 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, Kentucky 40601

Re: 809 KAR 1:003

Dear Co-Chairs West and Lewis:

After consideration of the issues raised by 809 KAR 1:003, the Kentucky Horse Racing Commission proposes the attached suggested substitute to this ordinary administrative regulation.

Sincerely,

Jennifer Wolsing  
General Counsel

**SUGGESTED SUBSTITUTE – ORDINARY ONLY – to AMENDED AFTER COMMENTS VERSION**

Final Version: 12/08/23 at 8:07 a.m.

**809 KAR 1:003. Occupational licenses.**

RELATES TO: KRS Chapter 230

STATUTORY AUTHORITY: 230.260~~(16)~~~~(9)~~, 230.310(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.260(16) requires the commission to promulgate administrative regulations to establish standards for the conduct of sports wagering. KRS 230.310(2) requires the commission to license applicants for occupations related to sports wagering, particularly those who have the capacity to affect the outcome of sports wagering and their supervisors. This administrative regulation establishes occupational licensing application procedures and requirements for individuals involved in the conduct and management of sports wagering in the Commonwealth.

Section 1. Definitions.

- (1) "Annual license" means the occupational license issued by the commission after a thorough review of an application, valid for the calendar year for which it is applied.
- (2) "Applicant" means a person who~~[that]~~ applies for an occupational license.
- (3) "Background check" means a review of an applicant's criminal, financial, and personal history conducted by the commission.
- (4) "Critical component" means any sub-system for which failure or compromise can lead to loss of player entitlements, government revenue, or unauthorized access to data used for generating reports for the regulatory body.
- (5) "Fees" mean the administrative charges levied by the commission for the processing, issuance, and renewal of occupational licenses.
- (6) ~~["Information technology professional license" means a category of occupational license, which is required for all individuals who are responsible for managing, maintaining, developing, and securing the digital and technical assets and systems of an operator or service provider.~~
- (7) ~~"Key employee license" means a category of occupational license, which is required for all significant employees working for an operator or a service provider who has~~[have]~~ substantial decision-making power.~~
- (8) ~~]"Licensee" means any individual or entity that has been granted an occupational license by the commission.~~
- (7)~~(9)~~ "Occupational license" means the categories of licenses established by the commission pursuant to Section 6 of this administrative regulation, for participants in sports wagering pursuant to KRS 230.210.
- (8)~~(10)~~ "Race and sportsbook employee license" means a category of occupational license, which is required for all individuals listed in Section 6 of this administrative regulation.
- (9)~~(11)~~ "Temporary license" means a provisional license granted by the commission during the process of evaluating an application for a permanent license.

Section 2. General Requirements for Applications.

- (1) Eligibility: Any individual or entity desiring to participate professionally in sports wagering activities in the Commonwealth shall apply to the commission for an occupational license as categorized in Section 6~~4~~ of this administrative regulation. This type of license shall be required for certain persons working in a licensed facility for sports wagering, supervisors of individuals who can influence the

outcome of sports wagering, **and** specific individuals who have the capability to affect the outcome of sports wagering through the deployment of code and other persons required under this KAR Title 809.

(2) Submission timeframe.[:] Applications for licenses shall be submitted annually. Licenses granted shall remain active only for the calendar year for which they have been applied.

(3) Legal compliance.[:] All applicants shall demonstrate compliance with all laws, **KAR Titles 809 and 810**, and ~~[regulations regulating sports wagering in Kentucky and]~~ any other regulatory, state, federal, or taxing authority.

(4) Lack of material misrepresentation.[:] All information provided on the application form shall be accurate and complete. Material misrepresentation on the application may result in immediate suspension, revocation, denial of the license, ~~[or]~~ **imposition of fines by the commission, or a combination of license action and fines.**

(5) Minimum age.[:] The minimum age requirement for an occupational license in sports wagering shall be eighteen (18) years.

(6) Transparency in entities.[:] If an entity consisting of multiple individuals applies for a license, the entity shall fully disclose the identities and the type of ownership held by all controlling individuals. This information shall include the degree and type of ownership held by each individual in the entity.

(7) Categories of licenses.[:] Different roles within the sports wagering industry may require distinct categories of licenses as **established[set forth]** in Section **6[5]** of this administrative regulation.

### Section 3. Application Fees.

(1) All required application fees **established[described]** under this section shall be submitted to the commission in the form of **cash**, a certified check, ACH payment, or cashier's check made payable to the commission ~~[, or other form as prescribed by the commission]~~.

(2) The following fees shall accompany applications for the following categories of occupational license:

- (a) Race and Sportsbook Employee License: \$150;
- (b) Information Services Provider: \$5,000; and
- (c) Key Employee: \$1,500.

(3) All occupational licenses shall be renewed annually. The renewal fee for each category shall be the same as the initial licensing fee.

(4) If additional costs become necessary to investigate an applicant for a license, the commission may assess an additional investigation fee **based on actual costs[at its discretion]**. Failure to submit an additional requested payment shall result in suspension of the processing of the license application and may result in denial of the license. The investigative fee shall be based on actual costs **and time expended for the investigation**. If any portion of the investigative fee remains after the investigation is concluded, the remaining portion shall be returned to the applicant or licensee.

(5) Except as **established[noted]** in subsection (4) of this section, all fees are non-refundable, regardless of whether the application is approved, denied, withdrawn, or if the license is surrendered or revoked.

### Section 4. Applications.

(1) Application procedures shall be as **established in paragraphs (a) through (f) of this subsection.[follows:]**

(a) An application shall be deemed filed when the commission has received the completed application forms, including the information that the commission has required.

(b) Applicants shall submit the application online at <https://khrc.ky.gov/> or in hard copy to: **The Kentucky Horse Racing Commission, 4047 Iron Works Parkway, [the commission's office in] Lexington, Kentucky 40511.**

(c) An applicant shall be under a continuing duty to disclose any changes in the information submitted to the commission.

(d) Any change in information required for licensing shall be submitted in writing and filed at the commission's office: 4047 Iron Works Parkway,[-in] Lexington, Kentucky 40511, within thirty (30) days of the change, unless it is information established in paragraph[listed-in] (e) of this subsection[section].

(e) Alternatively, any change in information may be reported online at KHRC.SportsWagering@ky.gov.[via a method approved by the commission,]

(f) The applicant shall report changes in information in writing within five (5) days of the occurrence for ~~[these items]~~:

1. Criminal charges;
2. Criminal convictions;
3. License denials and license suspensions of ten (10) days or more;
4. License revocations or fines of \$500 or more in other jurisdictions;
5. Racing related disciplinary charges pending in other jurisdictions; and
6. Withdrawal, with or without prejudice, of a license application by the licensee in any jurisdiction.

(2) An applicant for a race[racing] and sportsbook employee license or an information services provider license shall include with its application, an agreement or statement of intent indicating that a licensed operator or service provider shall utilize the applicant for the provision of goods and services. For 2023 only, the agreement or statement of intent supporting the applicant's claims may come from a person applying for an operator or service provider license.

(3) The application forms shall be accompanied and supplemented by ~~[such-]~~ documents and information ~~[as may be specified or-]~~ required by the commission. Failure to supply the information requested within five (5) days after the request has been made by the commission shall constitute grounds for delaying consideration of the application.

(4) Renewal applications for licenses may be submitted and may be renewed upon the filing and approval of an application for renewal. Renewal applications for occupational licenses shall be received by the commission sixty (60) days before the expiration of the current license. Renewal applicants who fail to submit their completed applications when due shall not be considered to have made a timely and sufficient application for renewal.

#### Section 5. Temporary Licenses.

(1) The commission ~~shall~~may issue a temporary license in accordance with KRS 230.805.

(2) The commission may issue the applicant a temporary license if the application and a criminal history check completed by the commission reveals that the applicant:

- (a) Has not been charged or convicted of a felony under state or federal law;
- (b) Has not been charged or convicted of a misdemeanor related to gaming; and
- (c) Otherwise meets the statutory criteria established[set forth] in KRS Chapter 230.

(3) A temporary license issued under this section shall include, at a minimum, ~~[, the following]~~:

- (a) The applicant's name and business address;
- (b) A temporary license number assigned by the commission;
- (c) Signature of the executive director, the commission chair, or their designee;
- (d) The date the temporary license was issued;
- (e) The date the temporary license will expire; and
- (f) A reference to any conditions placed on the temporary license.

(4) If the commission grants an annual license to a temporary license holder, the temporary license shall automatically expire upon the start date of the annual license.

(5) A temporary license shall not be transferred without prior approval by the commission **based on the sufficiency of the information submitted to determine the proposed transferee's suitability and the history, if any, of the proposed transferee or its parent company of offering sports wagering or other gaming in other jurisdictions.**

(6) Failure to advise the commission that the applicant has failed to begin or has ceased providing a licensee with goods and services shall be grounds for the commission to withdraw the temporary license and deny licensure in the future.

#### Section 6. Categories of Occupational Licenses.

(1) Race and sportsbook employee licenses.

(a) Race and sportsbook employee license holders shall include the following categories of people, except as otherwise **established[provided]** in this section:

1. Individuals who work directly in a licensed facility for sports wagering regarding the sports wagering aspect of the facility, including **sports wagering:**

a. **[Sports wagering-]**Customer service representatives;

b. **[Sports wagering-]**Ticket writers;

c. **[Sports wagering-]**Supervisors;

d. **[Sports wagering-]**Security personnel; and

e. **[Sports wagering-]**Facility management;

2. Individuals directly supervising other employees in any licensed Kentucky sports wagering business who have the capability of affecting the outcome of sports wagering;

3. Employees in any licensed Kentucky sports wagering business who have the capability to affect the outcome of sports wagering through the deployment of code to production for any critical component of a sports wagering system; and

4. Employees whose duties are performed in the licensed facility for sports wagering that involve money obtained as a result of sports wagering, including the handling of tickets, money, or performing accounting and auditing functions.

(b) The following people shall hold a race and sportsbook employee license, even if they do not work directly in a licensed facility for sports wagering regarding the sports wagering aspect of the facility:

1. Audit manager;

2. Chief of security;

3. Chief of surveillance;

4. Chief financial officer or controller;

5. General manager;

6. Support operations manager;

7. Change management employees; and

8. Compliance employee supervisors;

9. Information technology professionals responsible for maintaining the technology infrastructure of the sports wagering system; and

10. Any other employee of an operator or service provider whose duties:

a. Are performed in the licensed facility for sports wagering and whose duties affect sports wagering;

b. Affect the flow of money obtained as a direct result of sports wagering operations; or

c. Include accounting and auditing functions and whose duties relate to money obtained as a result of sports wagering.

**(c) An employee seeking a race and sportsbook employee license shall submit a completed Race and Sportsbook Employee Application Form, KHRC 01-003-03, to the commission's Lexington office or online at <https://khrc.ky.gov/Sportsbetting/newappwelcome>.**

(2) Information services **provider** licenses.

**(a)** All business entities that provide information services to sports wagering licensees in Kentucky shall obtain an information services license, such as **sports wagering**:

(a) ~~[Sports wagering-]~~Oddsmakers or traders;

(b) ~~[Sports wagering-]~~Data source;

(c) ~~[Sports wagering-]~~Risk management;

(d) ~~[Sports wagering-]~~Player account management; and

(e) ~~[Sports wagering-]~~Platform providers, including geolocation technology, Know Your Customer, or Sports Wagering Equipment Manufacturer.

**(b) To apply for an information services provider license, an applicant shall submit a completed Information Services License Application Form, KHRC 01-003-01, to the commission's Lexington office or online at <https://khrc.ky.gov/Sportsbetting/newappwelcome>.**

(3) Key employee licenses.

(a) Each person applying for a license under this administrative regulation that is not an individual shall designate an individual with decision-making authority for its day-to-day operations to apply for a key employee license.

(b) Additionally, a licensed sports wagering business operating in Kentucky shall designate a supervisor for the following areas to apply for a key employee license:

1. Compliance;

2. Trading;

3. Customer Service;

4. Finance and Audit;

5. Risk and Payments; and

6. Information Technology.

**(c) An applicant seeking a key employee license shall submit a completed and notarized Multi Jurisdictional Key Employee License Form, KHRC 01-003-02, along with photo identification, to the commission's Lexington office or online at <https://khrc.ky.gov/Sportsbetting/newappwelcome>.**

#### Section 7. Waiver for Race and Sports Book Employee License or Key Employee License.

(1) At any time, an applicant **may[shall]** submit a written request for a waiver to be exempt from licensure to prevent dual licensing for one **(1)** individual across multiple disciplines. This waiver shall be submitted to the commission's office in Lexington, Kentucky on form Race & Sportsbook and Key Employee License Waiver **Application** Form, KHRC 01-003-04 or online at **<https://khrc.ky.gov/Sportsbetting/newappwelcome>**~~[<http://khrc.ky.gov>]~~.

(2) The written request for waiver shall include at least the following information:

(a) The name and contact information of the waiver applicant;

(b) All gaming licenses issued to the waiver applicant;

(c) All horse racing licenses issued to the waiver applicant; and

(d) The waiver applicant's current position and job description.

(3) Upon receipt of a waiver request, the commission may grant or deny a waiver, upon consideration of at least the ~~following factors~~:

- (a) ~~The~~ Nature of the employee's duties; and
- (b) ~~The~~ Best interests and integrity of horse racing, pari-mutuel wagering, and sports wagering.

Section 8. Background Checks. After an applicant files a license application, the commission may:

- (1) Investigate the criminal background, employment history, and gaming history record of the applicant;
- (2) Verify information provided by the applicant; or
- (3) Engage in research and interviews to determine the applicant's character and qualifications.

Section 9. License Denial, Revocation, or Suspension.

(1) The commission or its designee shall deny, suspend, or revoke a license, or otherwise penalize in accordance with KRS 230.310, 230.260, or 230.814 a sports wagering licensee, for any of the following reasons:

- (a) Lack of suitability as **established**~~set forth~~ in KRS Chapter 230;
  - (b) Adverse effect on public interest, failure to uphold the integrity of the regulatory activities, or engagement in conduct that is otherwise against the best interest of sports wagering, pari-mutuel wagering, or horse racing;
  - (c) Any criminal conviction, pending charges, or violation of regulatory laws **in any jurisdiction**;
  - (d) Previous license denial, suspension, or revocation by any authority of any state or federal jurisdiction;
  - (e) Material misrepresentation, falsification, or omission of information in a license application;
  - (f) Violation or attempt to manipulate outcomes of regulated activities, such as sports wagering, pari-mutuel wager, or horse racing, in any jurisdiction;
  - (g) Financial irresponsibility or engagement in actions against the best interest of the regulated activities;
  - (h) Failure to comply with rulings, orders, or requirements of the commission, such as failure to cooperate with a commission investigation;
  - (i) Misconduct or disorderly behavior on regulated grounds; or
  - (j) Possession of prohibited substances or devices, or employment of unlicensed personnel.
- (2) A license suspension, revocation, or denial shall be reported in writing to the applicant by the commission or its designee.
- (3) Licensees or applicants may appeal the suspension, revocation, or denial. **An appeal shall be in** accordance with KRS Chapters 13B and 230.

Section 10. Reciprocity. If a person's license has been denied, suspended, or revoked in another jurisdiction, the commission may require reinstatement of the license in that jurisdiction before a license is granted by the commission.

Section 11. Changes in Application Information.

- (1) Any changes in the information provided by the licensee or applicant required for obtaining or maintaining a license shall be ~~promptly~~ reported to the commission in writing **as established in subsections (2) and (3) of this section**.
- (2) Changes in information that are not **established**~~detailed~~ in subsection ~~(3)~~~~(2)~~ shall be reported to the commission within thirty (30) days of the change occurring.

(3) The licensee or applicant shall report the following changes in information to the commission in writing within five (5) days:

- (a) The licensee or applicant is charged with criminal activity related to sports wagering;
- (b) The licensee or applicant is convicted of a crime related to sports wagering;
- (c) The licensee or applicant's sports wagering license is denied or suspended for ten (10) days or more in any jurisdiction; and
- (d) The licensee or applicant's sports wagering license is revoked or they are fined \$500 or more in other jurisdictions. ~~;~~

#### Section 12. License Identification and Display.

(1) For each issued license, the commission shall provide an identification badge to individuals or a certificate of licensure to entities.

(2) All individuals working in a licensed facility for sports wagering shall wear an identification badge.

(3) Operators or service providers shall disable the work badge of any person whose license has been revoked or suspended.

(4) Each identification badge or license shall contain essential details, including ~~;~~ ***but not limited to,*** the licensee's name, license number, date of issuance, and expiration date.

(5) Individual licensees shall ~~be required to~~ wear their identification badges visibly at all times during their working hours in any licensed facility for sports wagering.

(6) ~~If~~ ~~in cases where~~ a licensee fails to display ***his or her*** ~~their~~ badge or license as required, the commission may impose penalties ***based on individual circumstances, such as the reason the person failed to display his or her badge or license and the number of prior violations. Penalties*** ~~;~~ ~~which~~ may include fines, suspension, ~~or~~ revocation of the license, ***or a combination of license action and fines.***

(7) Loss, theft, or damage of an identification badge or license shall be reported to the commission immediately. The commission shall provide a process for obtaining replacement badges or licenses under these circumstances.

(8) Any attempt to falsify, alter, or misuse an identification badge or license shall be considered a severe violation and may result in immediate revocation of the license and potential legal action.

#### Section 13. Incorporation by Reference.

(1) The following material is incorporated by reference:

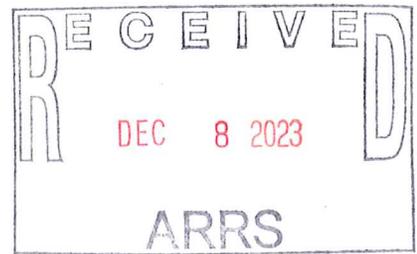
(a) "Information Services License Application Form", KHRC 01-003-01, 06/2023;

(b) ***"Multi Jurisdictional*** ~~Multi-Jurisdictional~~ Key Employee License Form", KHRC 01-003-02, ***11/2023*** ~~06/2023~~;

(c) "Race and Sportsbook Employee Application Form", KHRC 01-003-03, ***11/2023*** ~~06/2023~~; and

(d) "Race & Sportsbook and Key Employee License Waiver ***Application*** Form", KHRC 01-003-04, 06/2023.

(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 a.m. to 4:30 p.m. This material may also be obtained at the commission's Web site at <http://khrc.ky.gov>.



**PUBLIC PROTECTION CABINET**  
**Kentucky Horse Racing**  
**Commission**

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December 8, 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, Kentucky 40601

Re: 810 KAR 10:001

Dear Co-Chairs West and Lewis:

After consideration of the issues raised by 810 KAR 10:001, the Kentucky Horse Racing Commission proposes the attached suggested substitute to this ordinary administrative regulation.

Sincerely,

Jennifer Wolsing  
General Counsel

**SUGGESTED SUBSTITUTE – ORDINARY ONLY – to AMENDED AFTER COMMENTS VERSION**

Final Version: 12/07/23 at 4:11 p.m.

**809 KAR 10:001. Definitions[General provisions].**

RELATES TO: KRS 138.552, Chapter 230, 31 C.F.R. 1010.100(ww)

STATUTORY AUTHORITY: KRS 230.260(16), 230.210

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.260(16) requires the commission to promulgate administrative regulations to establish standards for the conduct of sports wagering. This administrative regulation establishes definitions ~~for~~*of various* terms used throughout the commission's sports wagering administrative regulations.

Section 1. Definitions.

- (1) "Abnormal wagering activity" means wagering activity exhibited by one (1) or more patrons and considered by a licensee to be an indicator of suspicious or illegal wagering activity.
- (2) "Account holder" means an individual for whom the licensee has opened a sports wagering account.
- (3) "Act" means ~~KRS 138.552 and Chapter 230[2023 Ky. Acts Ch. 147, of the Kentucky Revised Statutes, the Kentucky Sports Wagering Act of 2023].~~
- (4) "Adjusted gross revenue" is defined by KRS 138.552(1)(a).
- (5) "Affiliate" means a person that, owns, controls, manages, or is operationally interdependent with a licensee.
- (6) "Amateur youth sporting event" is defined by KRS 230.210(3).
- (7) "Applicant" means a person ~~who~~*that* applies with the racing commission to be an authorized licensee.
- (8) "Cancelled wager" means a sports wager that was valid at the time it was made but has since been invalidated in ~~accordance with KAR TITLE 809[a manner acceptable by the commission]~~ due to an event or action that prevents its completion.
- (9) "Card" means the list of sporting events and types of wager from which a patron can make selections for a given pool.
- (10) "Cash" means U.S. currency.
- (11) "Cash equivalent" means an asset convertible to cash for use in connection with authorized sports wagering, ~~including~~*as follows*:
  - (a) Traveler's checks;
  - (b) Foreign currency and coin;
  - (c) Certified checks, cashier's checks, and money orders;
  - (d) Personal checks and drafts;
  - (e) Digital, crypto, and virtual currencies;
  - (f) Online and mobile payment systems that support online money transfers; and
  - (g) Electronic devices with "prepaid access", as defined by 31 C.F.R. Section 1010.100(ww).
- (12) "Confidential information" means:
  - (a) The amount of money credited to, debited from, withdrawn from, or present in any particular sports wagering account;
  - (b) The amount of money wagered by a particular patron on any event or series of events;
  - (c) The unique sports wagering account ID or username and authentication credentials that identify the particular account holder;
  - (d) The identities of particular sporting events or types of wagers on which the patron is wagering or has wagered; and

- (e) Unless otherwise authorized by the patron, the name, address, and other information in possession of the licensee that would identify the patron to anyone other than the racing commission or the licensee.
- (13) "Communications technology" means the methods used and the components employed to facilitate the transmission of information, such as electronic communications, and transmission and reception systems based on wire, cable, radio, microwave, light, optics, or computer data networks or any similar electronic agent, such as the internet and intranets.
- (14) "Critical employee" means any employee whose duties directly impact the integrity of sports wagering in the Commonwealth, including:
- (a) An individual who has the capability of affecting the outcome of sports wagering through deployment of code to production for any critical components of a sports wagering system;
  - (b) An individual who can deploy code to production and directly supervises individuals who have the capability of affecting the outcome of sports wagering in Kentucky through deployment of code to production for other than read-only or the equivalent access to any critical components of a sports wagering system;
  - (c) An individual who directly manages a licensee or who directly supervises an individual who directly manages a licensee; or
  - (d) An individual **in a decision-making or managerial role**, who has the capability to directly affect the outcome of a sports wager or a payout to a patron.
- (15) "Data source" means a supplier that sells league or event data, participant, or team statistics necessary to enable sports wagering.
- (16) "Department" means Department of Revenue.
- (17) "Electronic sports", "e-sports", "~~and~~ competitive video game events", **and/or** "electronic sporting events" means leagues, competitive circuits, tournaments, or similar competitions **in which/where** individuals or teams play video games, typically for spectators, either in-person or online, for the purpose of prizes, money, or entertainment.
- (18) "Electronic sporting event operator" means a person or entity **that/which** sanctions, **manages/regulates**, or organizes an electronic sporting event.
- (19) "Geofence" is defined by KRS 230.210(7).
- (20) "GLI-CMP Guide" means the Gaming Laboratories International, GLI-CMP: Change Management Program Guide, Version 1.0, Published May 6, 2020.
- (21) "GLI-33 Standards" means the Gaming Laboratories International, GLI-33: Standards for Event Wagering Systems, Version. 1.1, and its appendices, Revised May 14, 2019.
- (22) "Integrity monitoring" means the monitoring of sports wagering to identify abnormal or suspicious wagering activities from a match-fixing and sporting corruption standpoint.
- (23) "Internal controls," "minimum internal control standards," or "control standards" means a system of internal procedures, as well as administrative and accounting controls related to the integrity of sports wagering. This type of system **includes/shall include** wagering rules and **is/shall be** required by the racing commission as a condition to sports wagering, pursuant to the license conditions issued by the racing commission pursuant to KRS 230.290(3).
- (24) "Layoff wager" means a wager placed by a licensee with another licensee for the purpose of offsetting sports wagers.
- (25) "Licensed premises" is defined **by/in** KRS 230.210(16).
- (26) "Licensed facility for sports wagering" is defined **by/in** KRS 230.210(15).
- (27) "Licensee" means the holder of a sports wagering operator's license, ~~or a~~ service provider license, **or an occupational license** as applicable.

(28) [~~"License holder" means any person who holds a sports wagering operator's license, a service provider license, or an occupational license.~~

~~(29)~~] "Mobile sports wagering" means the conduct of sports wagering through or by means of Web sites or mobile applications ~~[, or other off-site technology approved by the commission].~~

~~(29)~~ ~~(30)~~ "Multi-factor authentication" means a type of authentication that ~~[which]~~ uses two (2) or more of the following to verify a person's identity:

(a) Information known only to the person (for example ~~[e.g.]~~, a password, pattern, or answers to challenge questions);

(b) An item possessed by a person (for example ~~[e.g.]~~, an electronic token, physical token, or an identification card); or

(c) A person's biometric data (for example ~~[e.g.]~~, fingerprints, facial recognition, or voice recognition).

~~(30)~~ ~~(31)~~ "Operator licensee" or "sports wagering operator" or means a Kentucky racing association licensed to conduct sports wagering pursuant to KRS 230.805.

~~(31)~~ ~~(32)~~ "Person" is defined by KRS 230.210 ~~(19)~~.

~~(32)~~ ~~(33)~~ "Personal identifying information" means any sensitive information that could potentially be used to identify a particular patron, such as a legal name, date of birth, place of birth, social security number (or equivalent government identification number), driver's license number, passport number, residential address, phone number, email address, debit instrument number, credit card number, or bank account number.

~~(33)~~ ~~(34)~~ "Patron" means a person who wagers on sporting events.

~~(34)~~ ~~(35)~~ "Pool" means an offering in which ~~[where]~~ patrons can ~~[may]~~ make selections of outcomes on a set number of sporting events and types of wagers ~~[wager]~~ on a card in order to enter for a chance to win all or a portion of the prize pool.

~~(35)~~ ~~(36)~~ "Prize pool" means the prizing available for an individual tournament, contest, or pool.

~~(36)~~ ~~(37)~~ "Prohibited patron" means:

(a) Any "underage person", as defined by subsection (63) of this section;

(b) Any individual wagering while not in the authorized geographic boundaries within the Commonwealth of Kentucky;

(c) Any individual wagering on behalf of another;

(d) Any restricted patron wagering in violation of their restrictions;

(e) Any voluntarily or involuntarily excluded person; or

(f) Any individual wagering in violation of Commonwealth, local, or federal law.

~~(37)~~ ~~(38)~~ "Race and sports book" means the area designated by the licensee [and approved by the commission] that is utilized as the primary location for displaying sporting events and offering sports wagering on the licensed premises.

~~(38)~~ ~~(39)~~ "Racing commission" is defined by KRS 230.210 ~~(22)~~.

~~(39)~~ ~~(40)~~ "Rake" means the fee that is deducted by a licensee from entry fees paid by patrons who participate in a tournament, contest, or pool.

~~(40)~~ ~~(41)~~ "Rake adjustment" means an adjustment made by a licensee to account for any shortfall in connection with a tournament, contest, or pool.

~~(41)~~ ~~(42)~~ "Restricted patron" means any patron restricted by KRS 230.820 or 230.823 ~~[and close family members of the persons included in KRS 230.823, who are defined as parents, children, grandparents, and siblings].~~

~~(42)~~ ~~(43)~~ "Self-exclusion list" means a list of individuals who voluntarily excluded themselves from establishing or maintaining a sports wagering account with a licensee.

~~(43)~~~~(44)~~ "Sensitive information" means personal identifying information, transactional wagering data, authentication credentials, and other data to[that shall] be handled in a secure manner such as PINs and passwords~~[;]~~ and secure seeds and keys used in encryption.

~~(44)~~~~(45)~~ "Service provider" is defined by KRS 230.210.

~~(45)~~~~(46)~~ "Shared liquidity pool" means a tournament, contest, or pool offering in Kentucky and at least one (1) other jurisdiction where patrons can[may] make selections of outcomes on a set number of sporting events and types of wager on a card in order to enter for a chance to win all or a portion of the prize pool.

~~(46)~~~~(47)~~ "Sporting event" is defined by KRS 230.210~~(26)~~.

~~(47)~~~~(48)~~ "Sports governing body" is defined by KRS 230.210~~(27)~~.

~~(48)~~~~(49)~~ "Sports wagering" is defined by KRS 230.210~~(28)~~.

~~(49)~~~~(50)~~ "Sports wagering account" or "account" means an account established by an account holder for use in sports wagering with a specific identifiable record of deposits, wagers, and withdrawals.

~~(50)~~~~(51)~~ "Sports wagering device" is defined by KRS 230.210~~(29)~~.

~~(51)~~~~(52)~~ "Sports wagering kiosk" means a sports wagering device within a licensed facility for sports wagering that, at a minimum, can[may] be used for the submission of wagers placed by a patron directly and can[may] be used for redemption of applicable awards or prizes.

~~(52)~~~~(53)~~ "Sports wagering service provider" or "service provider" is defined by KRS 230.210~~(30)~~.

~~(53)~~~~(54)~~ "Sports wagering system" means the hardware, software, firmware, communications technology, and other equipment, as well as procedures implemented in order to allow patron participation in sports wagering, and, if supported, the corresponding equipment related to the display of the wager outcomes, and other similar information necessary to facilitate patron participation.

~~(54)~~~~(55)~~ "Sports wagering ticket" or "ticket" means a printed record, or digital representation thereof, issued by a sports wagering system that contains information pertaining to a sports wager.

~~(55)~~~~(56)~~ "Sports wagering voucher" or "voucher" means a printed record, or digital representation thereof, issued by a sports wagering system that can[may] be used to fund a sports wager or can[may] be redeemable for cash.

~~(56)~~~~(57)~~ "Sufficient clarity" means the capacity of a surveillance system to record images:

(a) At a minimum of twenty (20) frames per second or equivalent recording speed, or other recording speed approved by the commission to clearly identify the intended activity, person, object, or location[;] and

(b) At a resolution determined by the racing commission to clearly identify the intended activity, person, object, or location.

~~(57)~~~~(58)~~ "Surveillance operation room[room(s)]" means the secured area[area(s)] where surveillance takes place or where active surveillance equipment is located.

~~(58)~~~~(59)~~ "Surveillance system" means a system of video cameras, monitors, recorders, video printers, switches, selectors, and other equipment used for surveillance.

~~(59)~~~~(60)~~ "Suspicious or illegal wagering activity" means abnormal wagering activity that cannot be explained and is indicative of any prohibited activity or conduct that could[may] corrupt the outcome of an event, including the following:

(a) Match-fixing;

(b) The manipulation of an event;

(c) Misuse of inside information;

(d) A potential breach of a sports governing body's or equivalent's internal rules or code of conduct pertaining to sports wagering; or

(e) Any other conduct that corrupts the outcome of an event.

~~(60)~~~~(61)~~ "Supplier" means a person who provides services, goods, software, or other components necessary for the creation of sports wagering markets and determination of sports wager outcomes, to any licensee involved in the acceptance of sports wagers, such as: providers of data feeds and odds services, internet platform providers, risk management providers, **and** integrity monitoring providers.

~~(61)~~~~(62)~~ "Ticket writer station" means a sports wagering device that at a minimum will be used by a ticket writer for the execution or formalization of wagers placed on behalf of a patron.

~~(62)~~~~(63)~~ "Type of wager" means the form of a wager offered by a licensee, such as single game bets, teaser bets, parlays, over-under bets, money line bets, pools, in-game wagering, in-play bets, proposition bets, and straight bets.

~~(63)~~~~(64)~~ "Underage person" means any person under eighteen (18) years of age.

~~(64)~~~~(65)~~ "Void wager" or "voided wager" means a sports wager that was not valid at the time it was placed or a sports wager that was valid at the time it was placed but has since become invalid as **established**~~[defined]~~ in 809 KAR 10:002, Section 8.

~~(65)~~~~(66)~~ "Voluntarily excluded person" means any individual whose name is included, at their own request, on a self-exclusion list.

~~(66)~~~~(67)~~ "Wager" or "sports wager" means a sum of money or representation of value that is risked on **a sporting event**~~[an occurrence]~~ for which the outcome is uncertain.

~~(67)~~~~(68)~~ "Wagering **window**~~[windows]~~" means **a** teller **window**~~[windows]~~ dedicated to the receipt and processing of sports wagers and pari-mutuel wagers on horse racing in the race and sports book location of a licensed facility for sports wagering.

~~(68)~~~~(69)~~ "Web site or mobile application" means a Web site or application on a mobile phone or other device through which an individual is able to place a sports wager.

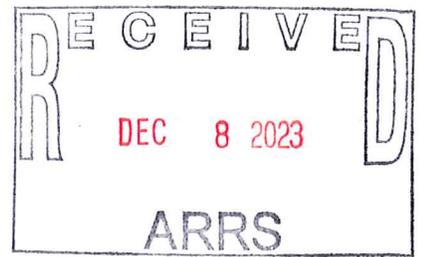
~~(69)~~~~(70)~~ "Winnings" means the total cash value of all property or sums, such as the currency or instruments of monetary value paid to a patron by a licensee as a direct result of a winning sports wager.

## Section 2. Incorporation by Reference.

(1) The following material is incorporated by reference:

- (a) "Gaming Laboratories International, GLI-33: Standards for Event Wagering Systems, Version 1.1, and its appendices, May 14, 2019 Revision Date", KHRC 10-001-1, 06/2023; and
- (b) "Gaming Laboratories International, GLI-CMP: Change Management Program Guide, Version 1.0, Published May 6, 2020", KHRC 10-001-02, 06/2023.

(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 a.m. to 4:30 p.m. This material may also be obtained at the commission's Web site at <http://khrc.ky.gov>.



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December 8, 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, Kentucky 40601

Re: 809 KAR 10:002

Dear Co-Chairs West and Lewis:

After consideration of the issues raised by 809 KAR 10:002, the Kentucky Horse Racing Commission proposes the attached suggested substitute to this ordinary administrative regulation.

Sincerely,

Jennifer Wolsing  
General Counsel

**SUGGESTED SUBSTITUTE – ORDINARY ONLY – to AMENDED AFTER COMMENTS VERSION**

Final Version: 12/07/23 at 4:46 p.m.

**809 KAR 10:002. Standards for sports wagering.**

RELATES TO: KRS Chapter 230

STATUTORY AUTHORITY: KRS 230.260(16), 230.361, 230.808

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.260(16) requires the commission to "promulgate administrative regulations to establish standards for the conduct of sports wagering." KRS 230.361 states the "racing commission shall promulgate administrative regulations to establish a fully functioning sports wagering system...." KRS 230.808 lists the categories of sporting events that may be wagered upon and **allows[permits]** a sports governing body to submit a request to the commission to restrict, limit, or exclude a type, form, or category of sports wagering. This administrative regulation establishes standards for sports wagering in Kentucky, including authorized and prohibited sporting events and types of wagers and data sources for sports wagering.

**Section 1. Authorized and Prohibited Sporting Events and Types of Wagers.**

(1) Sporting events that may be wagered upon **shall** include those listed in KRS 230.808.

(2) Of those events listed in KRS 230.808, only those categories of sporting events and their types of wager authorized by the racing commission in accordance with Section 2 of this administrative regulation and posted on the racing commission's Web site may be offered for sports wagering by a licensee.

(3) **A wager that complies with the criteria established in paragraphs (a) through (d) of this subsection and that**~~[Notwithstanding any contrary provisions of this regulation, any wager which complies with the following criteria and]~~ does not involve any criteria listed in subsection (4) of this section **shall be**~~[is generally]~~ approved and **shall**~~[does]~~ not need specific approval under Section 2 of this administrative regulation prior to being offered by a licensee. **A wager under this subsection shall be based on:**

(a) ~~[It is decided based on-]~~An outcome or outcomes determined because of a sporting event or sporting events sanctioned by a sports governing body or equivalent that is approved by the racing commission **in the best interests of sports wagering;**

(b) ~~[It is based on-]~~Statistical results that can be verified by a data source, box score, aggregation of box scores, or other statistical analysis;

(c) ~~[It is based on-]~~The performance of a single or group of rostered or otherwise registered participants; and

(d) ~~[It is based on-]~~The result of an outcome on the field of play.

(4) A licensee shall not offer sports wagering on:

(a) Any electronic sporting event that:

1. Is not sanctioned by an approved sports governing body or equivalent; or

2. Has not been approved by the racing commission pursuant to the **requirements**~~[regulations]~~ established in Section 2 of this administrative regulation;

(b) Any occurrence of injuries or penalties;

(c) Any **officiating decisions**~~[outcome of replay reviews]~~;

(d) Any disciplinary proceedings against a participant in a sporting event;

- (e) Any amateur youth sporting events in which the majority of participants are under the age of eighteen (18) or are competing on behalf of or under the sponsorship of one **(1)** or more public or private preschools or public or private elementary, middle or junior high, or high schools;
- (f) Any sporting event or type of wager in which the outcome has already been determined and is publicly known;
- (g) Any dog or horse races; and
- (h) Any categories of sporting event or type of wager until the sporting event or type of wager has been approved by the racing commission in accordance with Section 2 of this administrative regulation.

Section 2. Petition for a Category of Sporting Event or Type of Wager. Except as **established[provided]** in Section 1(3) of this administrative regulation, all types of wagers and categories of sporting events shall be reviewed and approved by the racing commission before a licensee **shall be allowed[is permitted]** to offer the wager to the public. A licensee may petition the racing commission for approval of a new category of sporting event or type of wager.

(1) A proposed new sporting event or type of wager may be a variation of an authorized sporting event or type of wager, a composite of authorized sporting events or types of wager, or a new sporting event or type of wager.

(2) A petition for a proposed new sporting event or type of wager shall be in writing and shall include the following information or material as requested by the racing commission:

(a) The **name and address of each petitioner[name(s) and address(es) of petitioner(s)]**;

(b) The name of the sporting event or type of wager;

(c) **If[Whether]** the sporting event or type of wager is a variation of an authorized sporting event or type of wager, a composite of authorized sporting events or types of wager, or a new sporting event or type of wager;

(d) The name of the licensee serving as a sponsor of the new sporting event or type of wager variation petition;

(e) A complete and detailed description of the sporting event or type of wager for which approval is sought, including:

1. A summary of the sporting event or type of wager and the manner in which sports wagers would be placed and winning sports wagers would be determined;
2. A draft of the proposed wagering rules, which **shall include[includes]** a description of any technology that would be used to offer the sporting event or type of wager;
3. Any rules or voting procedures related to the sporting event or type of wager; and
4. Written attestation that the sporting event or type of wager meets the requirements of subsection (3) of this section;

(f) For the approval of an electronic sporting event, complete information about:

1. **Each[The]** proposed **location[location(s)]** of the electronic sporting event;
2. The video game used for the electronic sporting event, including the key role of game publishers as creators of the underlying video game;
3. The electronic sporting event operator, **if[whether]** the electronic sporting event operator is approved to host events by the video game publisher, and **if[whether]** the electronic sporting event operator has any affiliation with the video game publisher; **[-and]**
4. The manner in which the electronic sporting event is conducted by the electronic sporting event operator, including electronic sporting event rules; and

5. As required by the commission, certification from a third party, such as an electronic sporting event operator or game publisher certifying[certifies] that the electronic sporting event meets all event integrity requirements of the racing commission established in KRS Chapter 230 and KAR Titles 809 and 810;

(g) The name of the sports governing body or equivalent; and

(h) A description of the licensee's policies and procedures regarding event integrity.

(3) The type of wager being requested shall meet the following criteria [~~before the request may be approved~~]:

(a) The outcome shall be able to[can] be verified;

(b) The outcome shall[can] be generated by a reliable and independent process;

(c) The sporting event generating the outcome shall be[is] conducted in a manner that ensures sufficient integrity monitoring controls exist so that the outcome can be trusted;

(d) The outcome shall not be[is-not] likely to be affected by any sports wager placed; and

(e) The sporting event shall be[is] conducted in conformity with applicable laws.

(4) The racing commission shall approve types of wagers and categories of sporting events [~~in a reasonable time frame~~]. The racing commission shall[will] consider the request, all provided materials, and any relevant input from the sports governing body or equivalent, or the conductor of the sporting event, prior to authorizing a sporting event or type of wager.

(5) In the best interests of sports wagering, the racing commission may require a[an appropriate] test or experimental period before granting final approval to a sporting event or type of wager. The racing commission may subject any technology that would be used to offer a sporting event or type of wager to [~~such-~~]testing, investigation, and approval.

(6) The racing commission may grant, deny, limit, restrict, or condition a request made pursuant to this procedure for reasonable cause, in order to ensure the integrity of sports wagering in the Commonwealth. The racing commission may issue an order revoking, suspending, or modifying any approval of a sporting event or type of wager granted under this procedure for reasonable cause.

(7) The racing commission shall notify all licensees of any additions, deletions, or changes regarding authorized sporting events and types of wager. Once a particular category of sporting event or type of wager is approved for its first use, it may be used on multiple events without further approval. The racing commission may issue general approval for licensees to offer wagers on enumerated categories of sporting events and types of wagers.

(8) The racing commission shall reserve[reserves] the right to prohibit the acceptance of any sports wagers and may order the cancellation of sports wagers and require refunds on any sporting event or type of wager for which wagering would be contrary to the public policies of the Commonwealth.

(9) If it is determined that a licensee has offered an unauthorized or prohibited sporting event or type of wager, the licensee shall immediately cancel and refund all sports wagers associated with the unauthorized or prohibited sporting event or type of wager. the licensee shall notify the racing commission immediately[promptly] after cancelling and refunding the sports wagers. This notice shall include, without limitation, which sports wagers were cancelled or refunded and the reasons for the cancellations or refund.

(10) The racing commission may use any information it considers appropriate, such as information received from a sports governing body or equivalent, to determine whether to authorize or prohibit wagering on a particular sporting event or type of wager, consistent with industry standards.

(11) The racing commission may restrict, limit, or exclude a certain type, form, or category of sports wagering if the racing commission determines that the restriction, limitation, or exclusion is necessary to ensure the integrity of the licensee.

Section 3. Limitations on Certain Sports Wagering for Good Cause. A sports governing body may submit a request to the racing commission to restrict, limit, or exclude a certain type, form, or category of sports wagering pursuant to KRS 230.808.

(1) The sports governing body shall provide the racing commission with notice of a request to restrict, limit, or exclude a certain type, form, or category of sports wagering, which shall contain information required by the racing commission, including:

(a) The identity of the sports governing body and contact information for at least one **(1)** specific individual who will be the primary point of contact for questions related to the request;

(b) A description of the sports wagering information, event, or wager type that is the subject of the request; and

(c) Information explaining why granting the request is necessary to protect the integrity of the event, or public confidence in the integrity of the event, that is the subject of the request. This may include information regarding any credible threat to the integrity of the event that is beyond the control of the sports governing body to preemptively remedy or mitigate.

(2)**(a)** The request shall be sent to the racing commission at least ten (10) calendar days before the particular sporting event.

**(b)** At any time~~[, however,]~~ a sports governing body shall report information to the racing commission if **the information[it]** involves allegations of prohibited activity, such as match-fixing, the manipulation of an event, or misuse of inside information.

(3) The racing commission shall request comment from licensees on all requests made under subsection (1) of this section. The request for comment shall include the date by which written comments shall be submitted to the racing commission.

(4) **Pursuant to the criteria established in KRS 230.808,** the racing commission shall grant, **provisionally grant,** or deny the request~~[pursuant to the criteria established in KRS 230.808].~~

(5) ~~[The racing commission may provisionally grant the request pursuant to the criteria established in KRS 230.808.~~

~~(6)]~~The racing commission may reconsider its decision if there is a material change in the circumstances related to the original request.

Section 4. Data Sources for Sports Wagering. A licensee shall report to the racing commission in its sports wagering license application, **incorporated by reference in KAR Title 809 or 810 KAR 3:010,** the data **source or sources[source(s)]**~~[source]~~ that it uses to resolve sports wagers. The racing commission may disapprove of a data source for any reason in the best interest of sports wagering integrity.

(1) The data source and corresponding data shall be complete, accurate, reliable, timely, and available.

(2) The data source shall be appropriate to settle the category of sporting events and types of wagers for which it is used.

Section 5. Wagering Rules. The licensee shall adopt comprehensive wagering rules, which shall be approved by the racing commission **as established in subsection (2) of this section.**

(1) The wagering rules shall be conspicuously displayed on the licensee's Web site or mobile application and within the race and sports book location, and copies shall be made readily available to individuals and patrons. Licensees may elect to display copies of comprehensive wagering rules solely in electronic form on sports wagering kiosks, **if the**~~[provided such]~~ licensees **make hard copies of the wagering rules readily available to individuals and patrons or** display commission-approved short-form **wagering**~~[house]~~ rules, **as established in subsection (2) of this section,** in race and sports book locations.

- (2) The wagering rules shall comply with GLI-33 Standards and shall **state[specify]** the amount to be paid on winning wagers and the effect of schedule changes.
- (3) The licensee shall not implement any changes or modifications of the practices, procedures, or representations upon which the approval of wagering rules was based without the prior approval of the racing commission. Failure by a licensee to act in accordance with its approved wagering rules may result in disciplinary action.

#### Section 6. Tournaments, Contests, and Pools.

- (1) **A[No]** sports wagering tournament, contest, or pool shall **not** be conducted unless the licensee, before the first time a tournament, contest, or pool type is offered, files written notice with the racing commission of **the licensee's[its]** intent to offer that tournament, contest, or pool type and obtains approval from the racing commission **in the best interests of sports wagering**. The licensee may file a master list with the racing commission to satisfy this requirement.
- (2) The request shall provide a detailed description of the tournament, contest, or pool type and shall include the rules of the tournament, contest, or pool, the requirements for entry, the entry fees, the rake, and potential payouts. The request shall also indicate **if[whether]** the proposed type involves a shared liquidity pool available to patrons in Kentucky and other jurisdictions with the prize pool being comprised of entry fees collected from patrons in multiple jurisdictions.
- (3) The request shall be submitted to the commission in writing via electronic mail **[and in hard copy]**. All **[such-]**requests shall be submitted at least ten (10) business days prior to start date of the tournament, contest, or pool.
- (4) Once a licensee receives approval to offer a tournament, contest, or pool type, the licensee shall not be required to seek additional approvals from the racing commission for each subsequent type that has only minor variations, such as to the size, number of entries permitted, entry fee, rake, or prize structure.
- (5) Each licensee shall maintain a record of each tournament, contest, or pool it offers for **at least** five (5) years. These records shall include the **[following]**:
- (a) Name or identification of the tournament, contest, or pool;
  - (b) **[The-]**Date and time the tournament, contest, or pool occurred or will occur (if known);
  - (c) Sporting events and types of wager;
  - (d) Rules concerning tournament, contest, or pool play and participation; and
  - (e) For each patron:
    - 1. Unique patron identification;
    - 2. Amount of entry fee collected, including any promotional or bonus credits, and the date collected;
    - 3. Patron scorings or rankings; and
    - 4. Amount of payouts paid, including any promotional or bonus credits **[,]** and the date paid;
  - (f) Total amount of entry fees collected, including any promotional or bonus credits;
  - (g) Total amount of payouts paid to patrons, including any promotional or bonus credits;
  - (h) Total rake, takeout, or fees collected;
  - (i) Funding source amount or amounts comprising the prize pool, such as buy-ins, re-buys, or add-ons;
  - (j) Prize structure on payout;
  - (k) Methodology for determining winner or winners; and
  - (l) The current status of the tournament, contest, or pool, such as **if[whether]** the event is in-progress, complete, interrupted, cancelled.
- (6) The licensee shall be responsible for the rake. At no time shall the calculation resulting from a rake or rake adjustment be negative.

(7) For a contest, tournament, or pool ~~that~~*[which]* utilizes shared liquidity available to patrons in Kentucky and other jurisdictions, the rake rate shall be the same for all jurisdictions participating.

#### Section 7. Acceptance of Wagers.

(1) A licensee shall comply with GLI-33 Standards ~~in~~*[when]* accepting wagers.

(2) A licensee shall not set lines or odds or offer wagering propositions designed for the purposes of ensuring that a patron will win a sports wager or a series of sports wagers, unless the lines, odds, or wagering propositions are offered in connection with a promotion or bonus conducted in accordance with Section 9 of this administrative regulation.

(3) A Licensee shall not accept a sports wager on a sporting event unless a wagering proposition is posted by electronic or manual means.

(4) Sports wagers may only be made by patrons using forms of payment approved by the racing commission including ~~the following~~*]:*

(a) Cash;

(b) Cash equivalents converted to cash;

(c) Credit or debit cards;

(d) Electronic funds transfers (EFTs), including automated clearing house and other electronic methods;

(e) Promotional or bonus credit;

(f) Winning sports wagering tickets or vouchers; and

(g) Funds within a sports wagering account.

(5) The licensee shall debit the amount wagered by a patron from ~~the patron's~~*[their]* sports wagering account. Wagers shall not be accepted in an amount in excess of a sports wagering account balance.

(6) ~~A~~*[No]* licensee shall ~~not~~ accept a sports wager from a person on the sports wagering account of or for any other person.

(7) The licensee shall operate and communicate with the sports wagering system in a way that does not provide or facilitate a wagering advantage based on access to information and processing of mobile sports wagers by account holders relative to patrons who wager at a licensed premises.

Section 8. Cancelled or Voided Wagers. Wagers shall not be cancelled or voided without prior approval of the commission ~~based on the best interests of sports wagering~~, unless the wagers are cancelled or voided by an authorized supervisory employee of the licensee, in accordance with GLI-33 standards and this section.

~~(1) A licensee shall cancel or void a sports wager under the following circumstances established in paragraphs (a) through (i) of this subsection. The licensee need not obtain prior authorization of the racing commission to cancel or void the sports wager under these~~*[Cancellation of an otherwise validly placed sports wager by a licensee shall be nondiscretionary. A licensee may cancel or void a sports wager without prior authorization of the racing commission only under the following]* circumstances:

(a) Any sports wager ~~in which~~*[where]* after a patron has placed a sports wager, the sporting event is cancelled, postponed, or rescheduled to a different date prior to completion of the sporting event.*;*

1. In the case of a sports wager on a portion of a sporting event, that wager shall be valid when the event is canceled, postponed, or rescheduled if the outcome of the affected portion was determined prior to the cancellation, postponement, or rescheduling; or

2. A licensee may establish a timeframe in which an event may be rescheduled or postponed without canceling the sports wager. This timeframe shall be tied to specific sporting events, ~~with~~*[subject to]* the approval of the racing commission, and documented in the internal controls;

- (b) A change in the venue where a sporting event was scheduled to be held occurs after a patron has placed a sports wager and the licensee cancels or voids the sports wager prior to the commencement of the sporting event;
- (c) Any sports wager **in which[when]** an **athlete[individual-participant]** fails to participate in a sporting event and the outcome of the wager is solely based upon that **athlete's[individual participant's]** performance;
- (d) Any sports wager received for an act, or set of acts, to be performed during a sporting event **in which the act[when such act or acts]** does not occur and the ability to wager on the non-occurrence of the event was not offered;
- (e) Any wager received on **if[whether]** a team will qualify to participate in post-season competitions **if[when]** the number of teams allowed to participate in the post-season changes after a patron has placed a wager;
- (f) Changes to rules are made by a sports governing body or equivalent regarding the format or number of participants scheduled to participate in a defined phase of a sporting event or that particular phase is not played at all;
- (g) **If[Where]** the licensee has reasonable basis to believe there was an obvious error in the placement or acceptance of the wager, including:
1. The wager was placed with incorrect odds;
  2. Human error in the placement of the wager; or
  3. Any other obvious error specifically **included[defined]** in the licensee's internal controls.
- (h) **If[When]** a patron requests a sports wager be cancelled or voided prior to the commencement of the sporting event due to an error in communicating the type, amount, or parameters of the sports wager; or
- (i) **If[When]** authorized or ordered by the racing commission pursuant to this section.
- (2) A licensee may cancel or void **a[at]** sports wager for a material change in circumstances for a given sporting event or type of wager, **if[occurs, provided]**:
- (a) ~~[The racing commission approves the material change;~~
- ~~(b)-]~~The licensee documents the material change in its internal controls; and
- (b)[(c)]** The licensee displays **what constitutes a[the]** material change to a patron at the time of placement of the sports wager;
- (3) For all circumstances that are not established in subsection (1) **of this section**, a licensee may request the racing commission authorize the cancellation or voiding of all sports wagers of a specific type, kind, or subject. A licensee shall submit its request to cancel or void the sports wager in writing, and **the[such]** request shall contain ~~[the following]~~:
- (a) A description of the type, kind, or subject of sports wager the licensee is requesting to cancel or void;
  - (b) A description of any facts relevant to the request; and
  - (c) An explanation why cancelling or voiding the sports wager is in the best interests of the Commonwealth or ensures the integrity of the sports wagering industry.
- (4) The racing commission shall issue a written order granting or denying the request to cancel or void the sports wager. In determining whether to grant or deny the request, the racing commission shall consider at least the following factors:
- (a) **If[Whether]** the alleged facts implicate the integrity of the sporting event subject to the wager or the sports wagering industry;
  - (b) **If[Whether]** the alleged facts implicate possible illegal activity relating to the sporting event or the sports wagering industry;
  - (c) **If[Whether]** allowing the wager would be unfair to patrons; or
  - (d) **If[Whether]** allowing the wager is contrary to public policy.

- (5) ~~A/No~~ sports wager subject to the request to cancel or void shall **not** be redeemed, cancelled, or voided, until the racing commission or its designee issues an order granting the request to cancel.
- (6) If the racing commission or its designee grants the request to cancel or void, the licensee shall make commercially and technologically reasonable efforts to notify patrons of the cancellation or voiding of the sports wager.
- (7) The racing commission ~~[or its designee]~~ has discretion to order all licensees to cancel or void all wagers on a specific sporting event or wagers of a specific type or kind on a specific sporting event. In exercising its discretion, the racing commission shall apply the same factors **established**~~[described]~~ in subsection (1) **of this section**.
- (8) A patron may request **that** the racing commission or its designee review any sports wager declared cancelled or voided by a licensee. If the racing commission or its designee concludes **the canceling or voiding of the sports wager did not conform with this administrative regulation**~~[there is no reasonable basis to believe there was obvious error in the placement or acceptance of the sports wager]~~, the racing commission or its designee may order the licensee to honor the sports wager.
- (9) A sports wager shall not be declared canceled or voided without the approval of an authorized supervisory employee of the licensee pursuant to the licensee's internal controls, unless the racing commission or its designee has issued an order requiring the sports wager to be canceled or voided.
- (10) If a sports wager is declared canceled or voided, the sports wager shall be refunded to the patron and that amount shall be deducted from the adjusted gross revenue.

Section 9. Promotional or Bonus Wagering. A licensee may conduct sports wagering promotions or bonuses. **Promotions or bonuses shall be conducted** in accordance with this section. ~~[:]~~

- (1) Procedures for the issuance, acceptance, and tracking of promotions or bonuses shall be **included**~~[defined]~~ in the licensee's internal controls.
- (2) A licensee shall maintain a record of all promotions or bonuses related to sports wagering to facilitate the racing commission's tracking of promotional or bonus activity, which shall address the ~~[following]~~:
- (a) Unique ID for each promotion or bonus;
  - (b) ~~[The]~~ Date and time the promotion or bonus was or is scheduled to be available;
  - (c) Current balance for promotional or bonus awards;
  - (d) Total amount of promotional or bonus awards issued;
  - (e) Total amount of promotional or bonus awards redeemed;
  - (f) Total amount of promotional or bonus awards expired;
  - (g) Total amount of promotional or bonus award adjustments;
  - (h) ~~[The]~~ Current status of the promotion or bonus (**such as** active, disabled, **or** decommissioned~~;~~ **etc.**); and
  - (i) ~~[The]~~ Date and time the promotion or bonus was or is scheduled to be decommissioned.
- (3) All promotion or bonus rules shall be full, accurate, concise, transparent, and shall not contain misleading information. Promotion or bonus rules shall be readily accessible by the patron and provide unambiguous notice of the:
- (a) Date and time the promotion or bonus is active and expires;
  - (b) Rules of play;
  - (c) Nature and value of prizes or awards;
  - (d) Eligibility restrictions or limitations;
  - (e) Wagering and redemption requirements, which shall include a description of any limitations~~[on such]~~;
  - (f) **Patron notification procedure if**~~[How the patron is notified when]~~ they have received an award;
  - (g) Order in which funds are used for wagers;

(h) Eligible events or wagers; and

(i) Cancellation requirements.

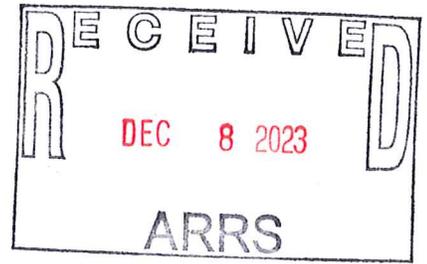
(4) Promotions or bonuses shall not be described as free or risk-free if those promotions or bonuses require the patron to incur any loss or risk the patron's own money to use or withdraw winnings from the free wager. ~~;~~

(5) A licensee shall provide a clear and conspicuous method for a patron to cancel their participation in a promotion or bonus that utilizes restricted wagering credits that cannot be cashed out until a wagering requirement or other restriction associated with the credits is met. ~~;~~

(a) Upon request for cancellation, the licensee shall inform the patron of the amount of unrestricted funds that will be returned upon cancellation and the value of restricted wagering credits that will be removed from the sports wagering account. ~~;~~ **and**

(b) If a patron elects to proceed with cancellation, unrestricted funds remaining in a patron's sports wagering account shall be returned according to the rules of a promotion or bonus.

(6) Once a patron has met the terms of a promotion or bonus, a licensee shall not limit winnings earned while participating in the promotion or bonus.



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December 8, 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, Kentucky 40601

Re: 809 KAR 10:003

Dear Co-Chairs West and Lewis:

After consideration of the issues raised by 809 KAR 10:003, the Kentucky Horse Racing Commission proposes the attached suggested substitute to this ordinary administrative regulation.

Sincerely,

Jennifer Wolsing  
General Counsel

**SUGGESTED SUBSTITUTE – ORDINARY ONLY – to AMENDED AFTER COMMENTS VERSION**

Final Version: 12/08/23 at 9:15 a.m.

**809 KAR 10:003. Technical requirements and oversight.**

RELATES TO: KRS Chapter 230

STATUTORY AUTHORITY: KRS 230.260(16), 230.805, 230.811(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.260(16)(a) requires the racing commission to promulgate regulations to establish standards related to sports wagering, including standards for "maintaining and auditing books and financial records, securely maintaining records of bets and wagers, integrity requirements for sports wagering and related data, . . . surveillance and monitoring systems, and other reasonable technical criteria related to conducting sports wagering." KRS 230.811(2) requires tracks and service providers to "comply with the standards established by the racing commission. . . . to ensure the integrity of the system of sports wagering." KRS 230.805 establishes requirements for geolocation, technology, and servers. This administrative regulation establishes the technical standards for sports wagering technology within the state, establish testing procedures, as well the handling of changes in sports wagering technology.

Section 1. Sports Wagering Standards. A licensee shall use a sports wagering system to offer, conduct, or operate sports wagering in accordance with **KRS Chapter 230 and KAR Titles 809 and 810[applicable laws and these regulations]**. Only an approved licensee may process, accept, offer, or solicit sports wagers.

(1) The licensee shall operate in conformity with the license conditions issued by the racing commission pursuant to KRS 230.290(2) and (3) and GLI-33 Standards.

(2) A sports wagering system shall meet the **requirements[specifications]** established in subsection (1) of this section and **KAR Title 809[these regulations]**. Failure to comply with the **requirements[approved specifications]**, internal controls, or technical specifications may result in disciplinary action by the racing commission.

Section 2. Testing and Certification of Sports Wagering System. Prior to conducting sports wagering[,] and annually thereafter, the sports wagering system utilized by the licensee shall be submitted to **an[a nationally recognized,]** independent testing laboratory approved by the racing commission **in the best interests of sports wagering** for certification testing. Certification and racing commission approval shall be received prior to the use of any sports wagering system to conduct sports wagering. The licensee **shall be[is]** responsible for all costs associated with testing and obtaining **of[such]** certifications.

(1) To obtain a temporary license, a licensee may submit to the racing commission a certification report of an independent testing laboratory of a system in operation in another jurisdiction in the United States where the licensee is currently licensed or permitted. The report **shall[must]** certify the system to either the GLI-33 Standards or **[, at the discretion of the racing commission,]** a standard deemed to be the equivalent of the GLI-33 Standards. This alternative certification report **shall[must]** include a list of all critical files and associated signatures and an appendix **that[which]** lists the differences of any controlled items or processes required to be certified in Kentucky which were not certified in the jurisdiction in which the report was issued. Upon review of the certification report, the racing commission **shall[will]** make a determination on whether to accept the certification or require additional information, **[or]** documentation, or testing.

(2) Unless otherwise authorized by the racing commission, the independent testing laboratory shall be provided access to the sports wagering system's controlled software source code, along with the means

to verify compilation of ~~the[such]~~ source code. The result of the compiled source code shall be identical to that in the software submitted for evaluation.

(3) If the sports wagering system meets or exceeds the GLI-33 Standards and the commission's ~~[regulatory]~~ requirements in KAR Title 809, the independent testing laboratory approved by the racing commission ***in the best interests of sports wagering*** shall certify the sports wagering system. Licensees ***shall not offer[are prohibited from offering]*** sports wagering in Kentucky without ~~[such]~~ certification.

Section 3. Integration Requirements. The licensee shall be responsible for sports wagering offered by the licensee through other service providers and suppliers~~;~~ and other licensees ~~if[where]~~ applicable.

(1) The servers and equipment of service providers and suppliers ~~shall[will]~~ be considered part of the licensee's sports wagering system and shall comply with these regulations.

(2) The licensee shall guarantee that any integration with the servers and other equipment of another licensee is completed in a way that complies with ***KAR Title 809[these regulations]***.

(3) An independent testing laboratory shall conduct integration testing and certification for each ***critical*** server and other equipment with the licensee's sports wagering system prior to its deployment and as requested by the racing commission.

Section 4. Change Management Processes. The licensee shall submit change management processes to the racing commission for approval ***pursuant to subsection (1) of this section***. The change management processes shall ~~include[detail]~~ evaluation procedures for identifying the criticality of updates and determining which updates shall be submitted to the approved independent testing laboratory for review and certification.

(1) ~~[These-]~~Change management processes shall be:

(a) Developed in accordance with the Kentucky Horse Racing Commission license conditions issued by the commission pursuant to KRS 230.290(3) and the GLI-CMP Guide;

(b) Approved by the racing commission prior to its deployment ***in accordance with this administrative regulation***; and

(c) Available for audit by the racing commission ~~[or its designee-]~~ at any time.

(2) Quarterly change reports shall be issued to the racing commission for review to ensure risk is being assessed according to the change management processes and all documentation for all changes to the critical components ~~is[are]~~ complete.

(3) At least once annually, each product operating under the approved change management processes shall be fully certified to ***comply with KAR Titles 809 and 810[the specifications established in these regulations]*** and other technical ***conditions in accordance with KRS 230.290(3)[specifications as prescribed by the racing commission]*** and ***shall be*** accompanied by formal certification documentation from an independent testing laboratory. The licensee ~~may[shall be allowed to]~~ seek approval for ***an*** extension beyond the annual approval if hardship can be demonstrated. Granting of a hardship waiver ***shall be at[is]*** the sole discretion of the racing commission, upon written proof of good cause by the licensee.

Section 5. Geolocation Requirements. Mobile sports wagers shall be initiated, received, and otherwise placed in the authorized geographic boundaries within the Commonwealth of Kentucky.

(1) ~~[The geographic boundaries shall be approved by the racing commission-]~~

~~(2-]~~The licensee shall use geolocation or geofencing technology pursuant to KRS 230.805 and to monitor and block unauthorized attempts to place sports wagers ~~if[when]~~ an individual or patron is physically outside the authorized geographic boundaries within the Commonwealth of Kentucky at the time the sports wager is placed.

~~(2)~~~~(3)~~ The licensee shall trigger:

- (a) A geolocation check prior to the placement of the first wager after login or upon a change of IP address;
- (b) Recurring periodic geolocation checks as follows:
  - 1. For static connections, at least every twenty (20) minutes or five (5) minutes if within one (1) mile of the border; and
  - 2. For mobile connections, at intervals to be based on a patron's proximity to the border with an assumed travel velocity of seventy (70) miles per hour or a demonstrated average velocity of a roadway/path, not to exceed twenty (20) minutes.

~~(3)~~~~(4)~~ Mechanisms shall be in place to detect software, programs, virtualization, and other technology that **could**~~may~~ obscure or falsify the patron's physical location for the purpose of placing sports wagers.

~~(4)~~~~(5)~~ The geolocation services used by the licensee shall be certified by **an authorized, independent testing laboratory approved by the commission in the best interests of sports wagering. The commission [or its designee] may conduct applicable field testing upon certification**~~[the approved independent testing laboratory, including, without limitation, applicable field testing as authorized by the commission, before its deployment].~~

~~(5)~~~~(6)~~ The racing commission may enter into agreements with other jurisdictions or entities to facilitate, administer, and regulate multi-jurisdictional sports wagering by licensees pursuant to KRS 230.805.

Section 6. Data Security. A licensee's data security policies shall comply with KRS 230.805. Nothing in this section shall preclude the use of internet or cloud-based hosting of ~~[such-]~~ data and information or disclosure as required by Commonwealth or federal law or a court order.

Section 7. Location of Servers, Security, and Cloud Storage. A licensee shall maintain in secure locations in the Commonwealth its primary servers used to transmit information for purposes of accepting or settling of wagers on a sporting event placed by patrons in the Commonwealth.

(1) The location of all other technology and servers used by a licensee in connection with sports wagering shall be approved by the racing commission **in the best interests of sports wagering** and shall be accessible by the racing commission.

(2) The racing commission, **based on good cause identified by the licensee**, may approve of the use of internet or cloud-based hosting of duplicate data or data not related to transactional wagering data upon written request of a licensee.

Section 8. Integrity and Security Assessments. Each licensee shall run integrity and security assessments that comply with GLI-33 Standards.

(1) Each licensee shall, within ninety (90) calendar days after commencing operations in Kentucky~~[,]~~ and annually thereafter, have integrity and security assessments of the sports wagering system conducted by a third-party contractor experienced in security procedures, including, without limitation, computer security and systems security. The third-party contractor shall be selected by the licensee and shall be subject to approval of the racing commission **in accordance with subsection (3) of this section. [Such]** Integrity and security assessments shall include a review of ~~[the following]~~:

- (a) Network vulnerability;
- (b) Application vulnerability;
- (c) Application code;
- (d) Wireless security;

- (e) Security policy and processes;
  - (f) Security and privacy program management;
  - (g) Technology infrastructure and security controls;
  - (h) Security organization and governance; and
  - (i) Operational effectiveness.
- (2) The scope of the integrity and security assessments ***shall be[is]*** subject to approval of the racing commission and shall ***be based on[include][the following]***:
- (a) A vulnerability assessment of all digital platforms, Web sites, mobile applications, internal, external, and wireless networks with the intent of identifying vulnerabilities of all devices, the sports wagering systems, and applications transferring, storing, or processing personally identifiable information or other sensitive information connected to or present on the networks;
  - (b) A penetration test of all digital platforms, Web sites, mobile applications, internal, external, and wireless networks to confirm if identified vulnerabilities of all devices, the sports wagering systems, and applications are susceptible to compromise;
  - (c) A review of the firewall rules to verify the operating condition of the firewall and the effectiveness of its security configuration and rule sets performed on all of the perimeter firewalls and the internal firewalls;
  - (d) A security control assessment conducted in accordance with the provisions ***established in KAR Title 809[outlined in the racing commission's regulations]***, including the technical security controls ***established[specified]*** within the GLI-33 Standards, and with generally accepted professional standards***[approved by the racing commission]***.
  - (e) If a cloud service provider is in use, an assessment performed on the access controls, account management, logging and monitoring, and over security configurations of their cloud tenant; and
  - (f) An evaluation of information security services, payment services such as financial institutions and payment processors, geolocation services, and any other services ***that could[which may]*** be offered directly by the sports wagering licensee or involve the use of service providers.
- (3) To qualify as a third-party contractor, the third-party contractor shall demonstrate to the commission's satisfaction, at minimum***[the following qualifications]***:
- (a) Relevant education background or in other ways provide relevant qualifications in assessing sports wagering systems;
  - (b) Certifications sufficient to demonstrate proficiency and expertise as a network penetration tester by recognized certification boards, either nationally or internationally; and
  - (c) At least three (3) years' experience performing integrity and security assessments on sports wagering systems.***[and]***
- (4) The third-party contractor's full security audit report containing the overall evaluation of sports wagering in terms of each aspect of security shall be provided to the racing commission no later than thirty (30) calendar days after the assessment is conducted and shall include the***[following]***:
- (a) Scope of review;
  - (b) Name and company affiliation, contact information, and qualifications of the individual or individuals who conducted the assessment;
  - (c) Date of assessment;
  - (d) Findings;
  - (e) Recommended corrective action, if applicable; and
  - (f) ***[The]***Licensee's response to the findings and recommended corrective action, ***if applicable.***
- (5) ***The licensee may[It is acceptable to]*** reuse the results of prior assessments within the past year conducted by the same third-party contractor ***if[when]*** the testing was conducted pursuant to accepted

industry standards [~~as approved by the commission~~], such as International Organization for Standardization ("ISO")/International Electrotechnical Commission ("IEC") standards, the NIST Cybersecurity Framework ("CSF"), the Payment Card Industry Data Security Standards ("PCI-DSS"), or the equivalent. [~~Such~~] Reuse shall be noted in the third-party contractor's security audit report. This reuse option **shall[does]** not include any critical components of a sports wagering system unique to the Commonwealth **that[which]** will require fresh assessments.

(6) If the third-party contractor's security audit report recommends corrective action, the licensee shall provide the racing commission with a remediation plan and any risk mitigation plans **that state[which detail]** the licensee's actions and schedule to implement the corrective action.

(a) The remediation and risk mediation plans shall be presented within a time period **established[prescribed]** by the racing commission, which shall be based on at least the **[following factors]**:

1. **[The]**Severity of the problem to be corrected;
2. **[The]**Complexity of the problem to be corrected; and
3. **[The]**Risks associated with the problem to be corrected.

(b) **After considering the factors established in paragraph (a)1. through 3. of this subsection and in the best interests of sports wagering**, the commission may require suspension of operations until implementation of any critical corrective **action[action(s)]**.

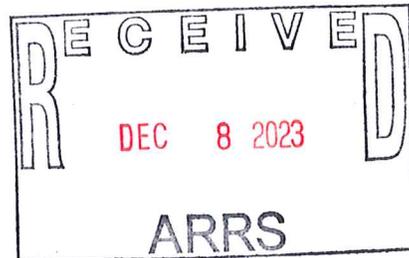
(c) Once the corrective action has been taken, the licensee shall provide the racing commission with documentation evidencing completion.

Section 9. Quarterly Vulnerability Scans. Internal and external network vulnerability scans shall be run at least quarterly and after any significant change to the sports wagering system or network infrastructure.

(1) Testing procedures shall include protocol verifying that four (4) quarterly internal and external scans took place in the past twelve (12) months and that re-scans occurred until all "Medium Risk" (CVSS 4.0 or Higher) vulnerabilities were resolved or accepted via a formal risk acceptance program [~~approved by the racing commission~~]. Internal scans **shall[should]** be performed from an authenticated scan perspective. External scans **may[can]** be performed from an uncredentialed perspective.

(2) The quarterly scans **shall[can]** be performed by either a qualified employee of the licensee or a qualified third-party contractor selected by the licensee and subject to approval of the racing commission **pursuant to Section 8(3) of this section**.

(3) Verification of scans shall be submitted to the racing commission on a quarterly basis and within thirty (30) calendar days of running the scan. The scan verifications shall include a remediation plan and any risk mitigation plans for those vulnerabilities not able to be resolved. The commission may, **in accordance with Section 8(6)(a)1. through 3. of this administrative regulation and in the best interests of sports wagering**, impose disciplinary action in the event of critical unresolved vulnerabilities or vulnerabilities that continue unabated.



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December 8, 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, Kentucky 40601

Re: 809 KAR 10:004

Dear Co-Chairs West and Lewis:

After consideration of the issues raised by 809 KAR 10:004, the Kentucky Horse Racing Commission proposes the attached suggested substitute to this ordinary administrative regulation.

Sincerely,

Jennifer Wolsing  
General Counsel

**SUGGESTED SUBSTITUTE – ORDINARY ONLY – to AMENDED AFTER COMMENTS VERSION**

Final Version: 12/08/23 at 9:28 a.m.

**809 KAR 10:004. Sports wagering accounts.**

RELATES TO: KRS Chapter 230

STATUTORY AUTHORITY: KRS 230.260(16), 230.361(2), 230.805

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.260(16) requires the commission to "promulgate administrative regulations to establish standards for the conduct of sports wagering." KRS 230.361(2) requires the commission to "promulgate administrative regulations governing and regulating sports wagering, including administrative regulations for the deposit of funds by credit or debit cards or other means of electronic funds transfer." KRS 230.805(3) **requires standards**~~[establishes additional requirements]~~ for registration of sports wagering patrons' accounts, such as account registration and wager placement. This administrative regulation establishes sports wagering account requirements, dormant and closed account requirements, and responsible gaming limits.

Section 1. Sports Wagering Account Requirements. Patrons shall register their sports wagering accounts with the licensee pursuant to KRS 230.805. Licensees shall adopt account registration policies pursuant to KRS 230.805. All account registration policies shall be subject to approval by the commission **pursuant to KAR Titles 809 and 810**. Nothing in this section shall be interpreted to prohibit the licensee from accepting anonymous wagers by a sports wagering device within the licensed premises.

(1) An account shall only be established in the name of an account holder who is a natural person and shall not be in the name of any beneficiary, custodian, joint trust, corporation, partnership, or any other entity.

(2) A licensee shall collect the following personally identifiable information from each account holder through the sports wagering system:

(a) The account holder's full legal name;

(b) The account holder's date of birth;

(c) The account holder's Social Security number, or the last four (4) digits of the Social Security number, or an equivalent government identification number for a noncitizen, such as a passport or taxpayer identification number; and

(d) All data required by KRS 230.805.

(3) During the sports wagering account registration process, the licensee shall:

(a) Deny patrons the ability to register for account if they submit a birth date **that[which]** indicates that they are an underage person; and

(b) Inform the patron on the account application;

**1.** Which information fields are "required[;]";

**2.** Which **information fields** are not **required[;]** and

**3.[-what will be]** The consequences of not filling in the required fields.

(4) During the sports wagering account registration process, patrons shall:

(a) Agree to the terms and conditions and privacy policies of the licensee;

(b) Acknowledge that **the patron is[they are]** prohibited from:

1. Transferring or selling an account or account balance;

2. Using any technology that **could[may]** obscure or falsify the account holder's physical location for the purpose of placing sports wagers;

3. Allowing any unauthorized person to access or use their account; and

4. Any form of collusion, cheating, or other unlawful activity.
- (c) Consent to the monitoring and recording of the use of their account by the licensee and the racing commission;
- (d) Attest that:
1. The account holder meets all eligibility requirements to place a wager with a licensee in this Commonwealth; and
  2. The personally identifiable information the account holder is providing to open the account is accurate; ~~and~~;
- (e) Authorize the provision of notices and other required communications either through a designated mobile or other interface or to an electronic mail address designated by the account holder.
- (5) A licensee shall maintain an electronic patron file, which shall include ~~the following~~ for each sports wagering account:
- (a) Unique sports wagering account ID and username (if different);
  - (b) The information ~~established~~~~indicated~~ in subsection (2) of this section to register an account holder and create the account;
  - (c) The date and method of identity verification. ~~;~~
    1. ~~If~~~~Where~~ applicable, the licensee shall maintain the document number of the government-issued identification credential examined and its date of expiration.
    2. If a government-issued identification credential is not required for registration, the electronic record that details the process used to confirm the account holder's identity shall be recorded.
  - (d) The date of account holder agreement to the terms and conditions and privacy policies;
  - (e) Previous sports wagering accounts, if any, and reason for de-activation;
  - (f) The date and method from which the sports wagering account was registered;
  - (g) The date and time a sports wagering account is accessed by any person;
  - (h) The IP address at which a sports wagering account is accessed by any person;
  - (i) A history of financial transactions, including deposits, withdrawals, and account adjustments;
  - (j) Account details and current balance, including any incentive credits. All restricted wagering credits and unrestricted funds that have a possible expiration shall be maintained separately; and
  - (k) The current status of the sports wagering account (~~for example~~~~e.g.~~, active, dormant, closed, suspended, ~~and~~ excluded).
- (6) The following information maintained as part of the electronic patron file shall be stored in encrypted form:
- (a) The account holder's government identification number, or ~~portion~~~~portion(s)~~ thereof;
  - (b) The account holder's previous and current ~~password, PIN, or other authentication credential~~~~password(s), PIN(s), or other authentication credential(s)~~; and
  - (c) The account holder's previous and current debit instrument ~~number~~~~number(s)~~, credit or debit card ~~number~~~~number(s)~~, bank account ~~number~~~~number(s)~~ or other personal financial information.
- (7) A licensee may allow the account holder to update authentication credentials, registration information and the account used for financial transactions. A multi-factor authentication process shall be employed for these purposes.

Section 2. Age and Identity Verification. The licensee shall comply with KRS 230.805. The licensee shall also adopt commercially and technologically reasonable policies and procedures to verify and authenticate the age and identity of each account holder.

- (1) Only eligible persons may create a sports wagering account, deposit funds, or participate in sports wagering. The licensee shall make commercially and technologically reasonable efforts to deny the

ability to create a sports wagering account, deposit funds, or participate in sports wagering to any prohibited patron. This section shall not be construed to prevent a restricted patron from creating a sports wagering account and depositing funds into ~~[-such]~~ an account even if the patron is[they are] prohibited from placing certain wagers.

(2) At the time of account establishment, the licensee shall employ electronic verification with respect to ~~[-the following]~~:

(a) All information required by KRS 230.805; ~~[-and]~~

(b) Each account holder's government identification number or portion[portion(s)] thereof.

(3) The electronic verification information shall be verified by a licensed information services provider ~~[commission-approved independent reference company, or through an alternative process approved by the commission]~~.

(4) The following data shall be verified before account holders may[can] initiate activity including deposits, withdrawals, and wagering:

(a) Items that require an exact match:

1. The account holder's last name;

2. The account holder's date of birth;

3. The account holder's government identification number, or portion[portion(s)] thereof; ~~and[-]~~

(b) Items that permit flexible match for common interpretations of names and abbreviations used in the address fields, including the account holder's first name:

**1. The account holder's first name; and**

**2. The account holder's principal residential address].**

(5) Reasonable measures shall be taken to ensure the person providing identity information is truly the owner of the identity before an account holder may[can] initiate any activity including deposits, withdrawals, and wagering. One (1) of the following methods, or another method approved by the racing commission in accordance with contemporary industry standards, shall be[is] required:

(a) Correctly answer three (3) dynamic knowledge-based questions compiled from public and private data, such as public records, credit reports, marketing data, and other recorded facts;

(b) Verification that the account holder's phone number or e-mail address matches[match] the information provided by the account holder; or

(c) Valid government-issued ~~[government-issued]~~ identification credential.

(6) The licensee may refuse to establish an account if it is found that any of the information supplied is false or incomplete or for any other reason the licensee deems sufficient.

(7) A licensee shall use commercially available and demonstrable standards to confirm that an individual attempting to create a sports wagering account is not prohibited from placing a wager.

(8) A licensee shall immediately ~~[periodically]~~ re-verify an account holder's identification upon reasonable suspicion that the account holder's identification has been compromised.

Section 3. Limitation to One (1) Account per Account Holder. Except as established in subsection (4) of this section, a licensee shall use all commercially and technologically reasonable means to ensure that each individual is limited to one (1) sports wagering account with that licensee in the Commonwealth.

(1) The licensee shall implement procedures to terminate all accounts of any account holder that establishes or seeks to establish more than one (1) username or more than one (1) account, whether directly or by use of another person as proxy.

(2) ~~[Such-]~~ Procedures may allow an account holder that establishes or seeks to establish more than one (1) username or more than one (1) account to retain one (1) account if ~~[provided that]~~ the licensee

investigates and makes a good-faith determination that the account holder's conduct was not intended to obtain a competitive advantage.

(3) This section shall not be construed to prevent an individual from holding other sports wagering accounts in other jurisdictions.

(4) If an operator licensee has contracted with multiple service provider licensees to offer mobile sports wagering on its behalf, individuals may have one (1) sports wagering account with each service provider licensee offering mobile sports wagering.

Section 4. Terms and Conditions and Privacy Policies for Sports Wagering Accounts. All terms and conditions and privacy policies for sports wagering accounts shall be **maintained in a separate, easily accessible repository that shall be reviewed[is subject to review] by the commission. These documents shall be readily accessible to the account holder before and after registration. Material updates to these terms and conditions and privacy policies shall trigger immediate notification to the licensee's internal controls oversight team and the commission[included in the internal controls of the licensee and shall be readily accessible to the account holder before and after registration and noticed when materially updated].**

(1) All terms and conditions for sports wagering accounts shall address all aspects of the licensee, including:

(a) A statement that only individuals located in the authorized geographic boundaries within the Commonwealth of Kentucky **may[can]** participate in sports wagering;

(b) A statement that prohibited patrons **shall not participate[are prohibited from participating]** in sports wagering;

(c) Advice to the account holder to keep their authentication credentials (**for example[e.g.]**, password and username) secure;

(d) All processes for dealing with lost authentication credentials, forced password changes, password strength[**and other related items as required by the racing commission**];

(e) Full explanation of all rules applicable to dormant sports wagering accounts, including the conditions under which an account is declared dormant and what actions will be undertaken on the account once this declaration is made;

(f) Actions that will be taken on the account holder's pending wagers placed prior to any exclusion or suspension, including the return of all wagers, or settling all wagers, as appropriate;

(g) Information about timeframes and limits regarding deposits to and withdrawals from sports wagering accounts, including a clear and concise explanation of all fees, if applicable; and

(h) Statements indicating that the licensee has the right to:

1. Refuse to establish a sports wagering account for what it deems good and sufficient reason;

2. Refuse deposits to or withdrawals from sports wagering accounts for what it deems good and sufficient reason; and

3. Unless there is a pending investigation or dispute, suspend or close any sports wagering account at any time pursuant to the terms and conditions between the licensee and the account holder.

(2) All privacy policies for sports wagering accounts shall address all aspects of the personally identifiable information protection, including:

(a) The personally identifiable information required to be collected;

(b) The purpose and legal basis for personally identifiable information collection and of every processing activity for which consent is being sought;

(c) The period in which the personally identifiable information is stored, or, if no period can be possibly set, the criteria used to set this;

- (d) The conditions under which personally identifiable information may be disclosed;
- (e) An affirmation that measures are in place to prevent the unauthorized or unnecessary disclosure of the personally identifiable information; and
- (f) The identity and contact details on the licensee who is seeking the consent.

#### Section 5. Account Access.

- (1) The sports wagering system shall use authentication credentials, such as a username (or similar) and a password or a secure alternative means to assure that only the account holder ***shall have[has]*** access to the sports wagering account. Allowable authentication credentials ***shall be approved by the commission based on federal law, KRS Chapter 230, and KAR Titles 809 and 810[are subject to the discretion of the racing commission as necessary]***. The requirement ***shall[does]*** not prohibit the option for more than one (1) method of authentication being available for an account holder to access their account.
- (2) If the sports wagering system does not recognize the authentication credentials when entered, an explanatory message shall be displayed to the account holder ***that shall prompt[which prompts]*** the account holder to try again. The error message shall be the same regardless of which authentication credential is incorrect.
- (3) Account holders shall be given the option to use a multi-factor authentication process ***for[when]*** accessing their sports wagering account. In addition, a multi-factor authentication shall be employed for the retrieval or reset of an account holder's forgotten or lost authentication credentials.
- (4) Current account balance information, such as any restricted wagering credits, ***[-and]*** unrestricted funds, and transaction options shall be available to the account holder once authenticated. All restricted wagering credits and unrestricted funds that have a possible expiration shall be indicated separately.
- (5) The sports wagering system shall support a mechanism that allows for an account to be locked if suspicious activity is detected, such as three (3) consecutive failed access attempts in a thirty (30) minute period. A multi-factor authentication process shall be employed for the account to be unlocked.

#### Section 6. Financial Transactions.

- (1) Licensees shall provide the account holder written confirmation or denial of every financial transaction initiated on sports wagering accounts, including:
  - (a) The type of transaction (deposit or withdrawal);
  - (b) The transaction value; and
  - (c) For denied transactions, a descriptive message, if appropriate and available, as to why the transaction did not complete as initiated.
- (2) A sports wagering account may be funded using acceptable form of payment or advance deposit method ***that[which]*** shall produce a sufficient audit trail for verification of the source of the wagers.
  - (a) Payment or advance deposit methods for funding sports wagering accounts may be funded by forms or methods approved by the racing commission including:
    - 1. All forms of payment authorized in KRS 230.805;
    - 2. Cash equivalents converted to cash;
    - 3. Electronic funds transfers (EFTs), such as automated clearing house and other electronic methods;
    - 4. Promotional or bonus credit;
    - 5. Winnings; ***and***
    - 6. Adjustments made by the licensee with documented notification to the account holder ***[-and***
    - 7. Any other form of payment authorized by the commission]***.

(b) The sports wagering account shall be credited for any deposit in accordance with the internal controls as submitted by the licensee and approved by the racing commission as established in 809 KAR 10:006.

(c) For credit or debit cards, and EFTs, the account holder may be liable for any charges imposed by the transmitting or receiving licensee and the charges may be deducted from the account holder's sports wagering account.

(3) ~~If~~**[Where]** financial transactions are conducted through EFT, the licensee shall have security measures and controls to prevent EFT fraud. A failed EFT attempt ~~shall not be~~**[is not]** considered fraudulent if the account holder has successfully performed an EFT on a previous occasion with no outstanding chargebacks. **If an account holder has previously performed an EFT with a chargeback, [Otherwise]** the licensee shall ~~do the following~~**]:**

(a) Temporarily block the account holder's sports wagering account for investigation of fraud after five (5) consecutive failed EFT attempts within a ten (10) minute period. If there is no evidence of fraud, the block may be vacated; and

(b) Suspend the account holder's sports wagering account after five (5) additional consecutive failed EFT attempts within a ten (10) minute period.

(4) An account holder ~~may~~**[shall be allowed to]** withdraw the funds maintained in their sports wagering account, whether the account is open or closed, except as otherwise established in KAR Title 809 [provided in these regulations,] or any other applicable state or federal laws.

(a) A licensee shall employ a mechanism that can detect and prevent any withdrawal activity initiated by an account holder that would result in a negative balance of the sports wagering account.

(b) A licensee shall not allow a sports wagering account to be overdrawn unless caused by payment processing issues outside the control of the licensee.

(c) A licensee shall honor the account holder's request to withdraw funds within five (5) business days after the request, unless the conditions established in paragraph (d) of this subsection are met.

~~[However,]~~**For withdrawals via check, a licensee shall [must] honor the account holder's request within fourteen (14) days after the request, unless the conditions established [set forth] in paragraph (d) of this subsection are met.**

(d) The licensee may decline to honor an account holder's request to withdraw funds only if the licensee believes in good faith that the account holder engaged in either fraudulent conduct or other conduct that would put the licensee in violation of KRS Chapter 230 or KAR Title 809, in which case [the act and these regulations. In such cases,] the licensee shall ~~do the following~~**]:**

1. Suspend the account holder's sports wagering account and provide notice to the account holder; and

2. Conduct ~~an~~**[its]** investigation in a reasonable and expedient fashion, providing the account holder additional written notice of the status of the sports wagering account every 10th business day starting from the day the original notice was provided to the account holder.

(e) For purposes of this subsection, a request for withdrawal ~~shall be~~**[is]** considered honored if it is processed by the licensee notwithstanding a delay by a payment processor, credit or debit card issuer, or the custodian of a financial account.

(5) All adjustments to sports wagering accounts for amounts of \$500 or less shall be ~~periodically~~**[reviewed]** by supervisory personnel at least monthly as established in the licensee's internal controls. All other adjustments shall be authorized by an authorized supervisory personnel of the licensee before being entered.

Section 7. Account Information. Upon request of the account holder, the licensee shall provide a statement detailing account activity for the past year, including wagers, deposit amounts, withdrawal amounts, and bonus or promotion information.

Section 8. Patron-imposed Limits. A licensee shall allow an account holder to limit the amount of money that may be deposited into an account and spent through an account.

(1) A deposit limit shall be offered on a daily, weekly, and monthly basis and shall **state/specify** the maximum amount of money an account holder may deposit into their sports wagering account during a particular period of time.

(2) A wager limit shall be offered on a daily, weekly, and monthly basis and shall **state/specify** the maximum amount of account holder funds that may be put at risk during a particular period of time.

(3) Any decrease to these limits shall be effective immediately or at the point in time (**for example[e.g.]**, next login **or/;** next day) that was clearly indicated to the account holder. Any increase to these limits shall become effective only after the time period of the previous limit (e.g., day, week, month, etc.) has expired. **Upon making [such] an increase, the licensee shall notify the account holder of an option to reverse the increase within a [specified] time frame included/[listed] in the licensee's internal controls[and the account holder reaffirms the requested increase].**

Section 9. Breaks from Wagering.

(1) A licensee shall enable an account holder to request a break from wagering for a period of time the account holder specifies, which shall not be less than seventy-two (72) hours, by submitting a request to the licensee through its Web site or mobile application.

(2) The licensee shall provide to an account holder who requests a break from wagering information concerning:

(a) Available resources addressing addiction and compulsive behavior;

(b) How to close an account and restrictions on opening a new account during the break;

(c) Requirements to reinstate an account at the end of the break;

(d) The ability to enroll in the voluntary self-exclusion program and a link to **the Web[such]** site; and

(e) How the licensee addresses bonuses or promotions and account balances during and after the break, and **if/[when]** the account holder closes their sports wagering account.

Section 10. Suspension and Restoration of Sports Wagering Accounts.

(1) A sports wagering account may be placed into a suspended mode by the Licensee for any reason, not otherwise prohibited by state or federal law, at the sole discretion of the licensee.

(2) A sports wagering account shall be placed into a suspended mode by the licensee **[under any of the following conditions]:**

(a) **If/[When]** the account holder requests a break from wagering under **Section 9(1) of this administrative regulation[subsection (1) of this section];**

(b) **If/[When]** required by the racing commission **in the best interests of sports wagering;**

(c) If the licensee determines it lacks sufficient information to verify the age and eligibility of the account holder;

(d) Upon a determination by a licensee that an account holder:

1. Has provided any false or misleading information in connection with the opening of the account or has engaged in collusion, cheating, or other unlawful conduct;

2. Is barred from placing sports wagers in the Commonwealth of Kentucky; or

3. Is a prohibited patron; or

(e) **If/[When]** the licensee has evidence that indicates **[any of the following]:**

1. Illegal activity, including providing any false or misleading information in connection with the opening of the account, or engaging in collusion, cheating, or other unlawful conduct;
  2. A negative sports wagering account balance; or
  3. A violation of the terms and conditions has taken place on an account holder's sports wagering account.
- (3) ***If/When*** a sports wagering account is in a suspended mode, the licensee shall:
- (a) Prevent the account holder from placing sports wagers;
  - (b) Prevent the account holder from depositing funds unless the account is suspended due to having a negative sports wagering account balance but only to the extent the sports wagering account balance is brought back to zero dollars;
  - (c) Prevent the account holder from withdrawing funds from their sports wagering account, unless the licensee acknowledges that the funds have cleared, and that the ***reason/reason(s)*** for suspension would not prohibit a withdrawal;
  - (d) Prevent the account holder from making changes to their sports wagering account;
  - (e) Prevent the removal of the sports wagering account from the sports wagering system;
  - (f) Prominently display to the account holder that the sports wagering account is in a suspended mode, the restrictions placed on the sports wagering account, and any further course of action needed to remove the suspended mode; and
  - (g) Remove the account holder from any advertising or marketing distribution lists.
- (4) A sports wagering account in a suspended mode may be restored ~~***for any of the following reasons***~~:
- (a) Upon completion of the break from wagering established by the account holder under ***Section 9(1) of this administrative regulation [subsection (1) of this section]***;
  - (b) If authorized by the racing commission ***in the best interests of sports wagering***;
  - (c) ***If/When*** the account holder is no longer a prohibited patron; or
  - (d) ***If/When*** the licensee has lifted the suspended status.
- (5) If the sports wagering account is terminated in accordance with this section, any funds remaining in the sports wagering account shall be refunded to the account holder, ~~***if/provided that***~~ the licensee acknowledges that the funds have cleared, and ~~***if/that***~~ the ***reason/reason(s)*** for termination would not prohibit a withdrawal.

#### Section 11. Account Closure.

- (1) A sports wagering system shall provide a conspicuous and readily accessible method for an account holder to close their sports wagering account through the account management or similar page or through the licensee's customer support team.
- (2) Upon closure, any funds remaining in the sports wagering account shall be refunded to the account holder, ~~***if/provided that***~~ the licensee acknowledges that the funds have cleared and ***there is not a pending/no*** racing commission investigation regarding the funds ~~***is pending***~~.

Section 12. Dormant Accounts. Any sports wagering account ~~***without/with no***~~ log-in activity for at least ***two (2)/three (3)*** years may be closed ***by the licensee***.

**(1) Within two (2) weeks following the closure of an account due to inactivity, the licensee shall notify the account holder by both electronic mail and certified mail to his or her last-known physical address. The notification shall clearly inform the account holder of his or her right to withdraw the funds within a period of at least six (6) months following the account's closure date.**

**(2) The notification shall include the balance of funds due to the account holder and enumerate reasonable methods through which the account holder ~~*may/can*~~ request these funds.**

Methods[Such means] shall include electronic transfer or check, but may include additional methods. In following the procedure provided by the licensee in this notice, the account holder shall be able to elect to withdraw these funds. The notification shall clearly state any processing fees that will be deducted from the account balance upon the disbursement of funds. [Such Processing fees shall be approved by the commission in the licensee's internal controls if exceeding three (3) percent of the funds disbursed]~~[When a sports wagering account is closed, the licensee shall issue any funds, less processing fees, within five (5) business days to the account holder's last known address].~~

Section 13. Test Accounts. A licensee may establish test accounts to be used to test the various components and operation of a licensee pursuant to the internal controls, which shall address the **following**:

- (1) ~~[The]~~ Procedures for issuing funds used for testing, including the identification of who may issue the funds and the maximum amount of funds that may be issued;
- (2) ~~[The]~~ Procedures for assigning each test account for use by only one (1) individual, unless each user's activities are separately logged;
- (3) ~~[The]~~ Maintenance of a record for all test accounts, to include when they are active, to whom they are issued, and the employer of the individual to whom they are issued;
- (4) ~~[The]~~ Procedures for auditing testing activity by the licensee to ensure the accountability of funds used for testing and proper adjustments to adjusted gross revenue; and
- (5) ~~[The]~~ Procedures for authorizing and auditing out-of-state test activity.



**PUBLIC PROTECTION CABINET**

**Kentucky Horse Racing  
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December 8, 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, Kentucky 40601

Re: 809 KAR 10:005

Dear Co-Chairs West and Lewis:

After consideration of the issues raised by 809 KAR 10:005, the Kentucky Horse Racing Commission proposes the attached suggested substitute to this ordinary administrative regulation.

Sincerely,

Jennifer Wolsing  
General Counsel

**SUGGESTED SUBSTITUTE – ORDINARY ONLY to AMENDED AFTER COMMENTS VERSION**

Final Version: 12/07/23 at 4:54 p.m.

**809 KAR 10:005. Licensed premises.**

RELATES TO: KRS Chapter 230

STATUTORY AUTHORITY: KRS 230.260(16), 230.361, 230.805

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.260(16)(a) requires the commission to "promulgate administrative regulations to establish standards for the conduct of sports wagering." KRS 230.361(2) states the "racing commission shall promulgate administrative regulations to establish a fully functioning sports wagering system...." KRS 230.805 **authorizes[permits]** sports wagering at a licensed facility for sports wagering on licensed premises. This administrative regulation establishes controls for sports wagering on licensed premises, including the floor plan, security, surveillance, sports wagering windows, sports wagering kiosks, sports wagers and vouchers, drop and count, and incident reporting.

Section 1. Floor Plan.

(1) An applicant for a sports wagering operator's license shall specify where sports wagering will take place within the licensed facility for sports wagering, if any, by providing ~~[the following information]:~~

(a) A drawing to scale of the building, and each floor thereof, in which sports wagering shall be conducted, at a scale sufficient to identify all of the information established in this section. ~~[(b)]~~ The drawing shall depict ~~[the following information]:~~

1. The total square footage of the race and sports book location;
2. A diagram, outlined in red, of the proposed designated area for the sports wagering, if any, on each floor within the building;
3. The race and sports book locations, including each wagering window;
4. The locations of each sports wagering kiosk. ~~[Notwithstanding the foregoing,]~~ Licensees may move sports wagering kiosks from one location to another with approval of the racing commission **based on the proximity to the cage or wagering window and the accessibility to mitigate risk while performing a cash drop;**
5. Any race and sports book location that is, or is from time to time, a restricted race and sports book location, **stating[specifying]** the nature of the restrictions and **the conditions under which[when]** they will apply;
6. Each cage;
7. The count room;
8. The vault;
9. Any other restricted areas; and
10. All areas subject to surveillance; **and**

~~(b) [(c)] A Certificate of **Occupancy issued by the authority having jurisdiction[approved by the local fire and building officials which has been approved; and a written statement by the appropriate local official that handicapped access to the designated licensed facility for sports wagering has been provided]**.~~

(2)(a) The race and sports book shall include both sports wagering and pari-mutuel products.

(b) All floor plans for a race and sports book shall be approved by the commission.

**(c)** In considering a request related to a floor plan, the commission shall consider **at least[among other things]:**

1. The equitable number, size, and picture clarity of displays or other equipment used to show broadcasts of horse racing and sporting events;
  2. The equitable number of sports wagering kiosks and pari-mutuel wagering terminals; and[;]
  3. The presence of a live sports wagering teller on the licensed premises.
- (3) The designated licensed facility for sports wagering and simulcasting areas shall be approved by the commission as a condition of license approval **based on, at a minimum, the conditions established in Sections 1(2)(c) and 9 of this administrative regulation.**
- (4) A floor plan may be amended upon request by the licensed premises and approval by the racing commission. **The[Such a]** request shall be filed with the racing commission in writing at least seventy-two (72) hours prior to the time for which implementation of the **amendment[amendment(s)]** is sought.
- (5) If a licensee includes a sports wagering kiosk in a simulcast area, the layout of the simulcast area shall be **approved by the racing commission in the best interests of horse racing, pari-mutuel wagering, and sports wagering[subject to commission approval].**

Section 2. Race and Sports Book Locations. Designated race and sports book locations within the licensed premises shall be established so as to control access by the general public and prevent entry by any patron who is under eighteen (18) years of age or is otherwise not **allowed[permitted]** to place wagers.

Section 3. ~~Underage Persons Prohibited from Wagering. An underage person shall not be permitted by any licensee to purchase or cash a sports wagering ticket or voucher.~~

~~Section 4.]~~ Anonymous Wagers and Payouts Greater Than \$10,000. The requirements of this section **shall** only apply for wagers and payouts not associated with a sports wagering account.

(1) Prior to accepting any wager in excess of \$10,000 or making a payout in excess of \$10,000 on a winning wager, a licensee shall obtain and record the **patron's[following information]:**

- (a) ~~[The patron's]~~ Full legal name;
- (b) ~~[The patron's]~~ Date of birth;
- (c) ~~[The patron's]~~ Principal physical address other than a post office box;
- (d) ~~[The patron's]~~ Social Security number, ~~[or]~~ the last four (4) digits of the Social Security number, or an equivalent government identification number for a noncitizen, such as a passport or taxpayer identification number; and
- (e) ~~[The]~~ Document number from one **(1)** of the following valid identification credentials collected from the patron to verify **the patron's[their]** identity:
  1. Driver's license;
  2. Passport;
  3. Non-resident alien identification card;
  4. Other reliable government-issued identification credentials; or
  5. Other picture identification credential normally acceptable as a means of identification when cashing checks.

(2) Subsequent to accepting a wager in excess of \$10,000 or making a payout in excess of \$10,000 on a winning wager, the licensee shall maintain records for **at least** five (5) years that include **the:**

- (a) ~~[The]~~ Time and date of the wager or payout;
- (b) ~~[The]~~ Amount of the wager or payout;
- (c) ~~[The]~~ Patron's full legal name;
- (d) ~~[The]~~ Ticket writer or other identification of the location where the wager or payout occurred; and

- (e) ~~[The]~~ Identification of the employee[employee(s)] accepting or approving the wager and payout on the wager.
- (3) Licensees shall monitor all wagers and payouts to ensure patrons shall not circumvent[are not circumventing] the recording and reporting requirements of this section.

Section ~~4.~~~~5.~~ Wagering Windows.

- (1) Each licensed premises may have one (1) or more wagering windows located in the race and sports book location or other window locations as approved by the racing commission, which shall consider at least the criteria established in subsections (2) through (4) of this section.
- (2) A wagering window shall:
- (a) Be designed and constructed to provide maximum security for the materials stored and the activities performed therein ~~[- in a manner approved by the racing commission];~~
  - (b) Include one (1) or more ticket writer stations, each of which shall:
    - 1. Interface with the sports wagering system for all sports wagers placed;
    - 2. Contain a permanently affixed number, which shall be visible to the surveillance system;
    - 3. Contain manually triggered silent alarm systems, which shall be connected directly to the surveillance operation room[room(s)]; and
    - 4. Contain full enclosures, unless funds are either secured in a drop safe approved by the racing commission, in the best interests of sports wagering, or transferred to the vault or cage;
  - (c) Include manually triggered silent alarm systems, which shall be connected directly to the surveillance operation room(s);
  - (d) Provide for surveillance equipment capable of accurate visual monitoring and recording of any activities; and
  - (e) Require any emergency exit door that is not a mantrap to be alarmed.
- (3) A wagering window shall have access to a secure location, such as a vault, for the purpose of storing funds issued by a cage to be used in the operation of sports wagering. The secure location shall:
- (a) Be a fully enclosed room, located in an area not accessible to the public;
  - (b) Have a metal door with a locking mechanism that shall be maintained and controlled by the wagering manager;
  - (c) Have an alarm device that signals surveillance personnel if the door to the secure location is opened; and
  - (d) Have surveillance equipment capable of accurate visual monitoring and recording of all activities in the secure location.
- (4) A wagering window shall have an operating balance not to exceed an amount stated[specified] in the licensee's internal controls ~~[- and approved by the racing commission]~~. Funds in excess of the operating balance shall be transferred to the cage in a secured container by an employee of the counter accompanied by a security officer. Prior to transporting the funds, security personnel shall notify surveillance personnel that the transfer will take place. Surveillance personnel shall monitor the transfer. The funds shall be transferred with appropriate documentation as stated[set forth] in the internal controls ~~[- as approved by the commission]~~.
- (5) The assets for which each ticket writer is responsible shall be maintained on an imprest basis. A ticket writer shall not allow[permit] any other person to access the ticket writer's imprest inventory.
- (6) A ticket writer shall begin a shift with an imprest amount of currency and coin to be known as the "wagering inventory." ~~[No]~~ Funds shall not be added to or removed from the wagering inventory during the[such] shift except:
- (a) In collection of sports wagers;

- (b) In order to make change for a patron placing a wager;
- (c) In collection for the issuance of vouchers;
- (d) In payment of winning or properly cancelled or refunded wagers;
- (e) In payment of vouchers;
- (f) To process deposits or withdrawals to or from a sports wagering account, **if[where]** supported;
- (g) In exchanges with the cashier's cage, a satellite cage, or vault supported by proper documentation **that[which documentation]** shall be sufficient for accounting reconciliation purposes; or
- (h) In payment of appeasement payments.

(7) A wagering inventory slip shall be completed and signed **or initialed** by the wagering manager, and the following information shall be recorded thereon at the commencement of a shift:

- (a) The date, time, and shift of preparation;
- (b) The denomination of currency and coin in the wagering inventory issued to the ticket writer;
- (c) The total amount of each denomination of currency and coin in the wagering inventory issued to the ticket writer;
- (d) The ticket writer station to which the ticket writer is assigned; and
- (e) The signature **or initials** of the wagering manager.

(8) A ticket writer assigned to a ticket writer station shall count and verify the wagering inventory at the vault or other **secure location not accessible to the public[approved location]** and shall reconcile the count to the wagering inventory slip. The ticket writer shall sign the count sheet attesting to the accuracy of the information recorded thereon. The wagering inventory shall be placed in a ticket writer's drawer and transported directly to the appropriate ticket writer station by the ticket writer.

(9) If funds are transferred from the vault to a ticket writer, the wagering manager responsible for the vault shall prepare a two-part Writer Transfer-Out form. Upon completion of the form, the original shall be retained by the vault manager and the duplicate shall be retained by the ticket writer. The form shall include:

- (a) Date and time of the transfer;
- (b) Designation of the vault location;
- (c) Ticket writer station to where the funds are being transferred to;
- (d) Amount of each denomination being transferred;
- (e) Total amount of the transfer;
- (f) Signature of the preparer of the transfer;
- (g) Signature of the manager verifying and issuing the funds; and
- (h) Signature of the ticket writer verifying and receiving the funds.

(10) If funds are transferred from the ticket writer to a vault, a two-part Writer Transfer-In form shall be prepared. Upon completion of the form, the original shall be retained by the ticket writer and the duplicate shall be immediately returned with the funds to the vault. The form shall include:

- (a) Date and time of the transfer;
- (b) Designation of the vault location where the funds are being transferred to;
- (c) Ticket writer station to where the funds are being transferred from;
- (d) Amount of each denomination being transferred;
- (e) Total amount of the transfer;
- (f) Signature of the ticket writer verifying and sending the funds to the vault; and
- (g) Signature of the manager verifying and receiving the funds.

(11) At the conclusion of a ticket writer's shift, the ticket writer's drawer and its contents shall be transported directly to the vault or to a **secure location not accessible to the public[location approved by the racing commission in the wagering window]**, where the ticket writer shall count the contents of the drawer and record on the wagering inventory slip the **[following information]**:

- (a) ~~[The-]~~ Date, time, and shift of preparation;
- (b) ~~[The-]~~ Denomination of currency and coupons in the drawer;
- (c) ~~[The-]~~ Total amount of each denomination of currency and coupons in the drawer;
- (d) ~~[The-]~~ Total of the Writer Transfer-Out forms;
- (e) ~~[The-]~~ Total of the Writer Transfer-In forms;
- (f) ~~[The-]~~ Total amount in the drawer; and
- (g) ~~[The-]~~ Signature of the ticket writer.

(12) The wagering manager shall compare the ticket writer closing balance to the wagering inventory slip total, record any over or short amount, and sign the wagering inventory slip.

(13) If the wagering inventory slip lists an overage or shortage, the ticket writer and the wagering manager shall attempt to determine the cause of the discrepancy in the count. If the discrepancy cannot be resolved, **the[such]** discrepancy shall be reported to surveillance personnel and the wagering manager or supervisor in charge at **the[such]** time. Any discrepancy in excess of \$500 shall be reported to the racing commission. **The[Such]** report shall include:

- (a) Date on which the discrepancy occurred;
- (b) Shift during which the discrepancy occurred;
- (c) Name of the ticket writer;
- (d) Name of the wagering manager;
- (e) Ticket writer station number; and
- (f) Amount of the discrepancy.

(14) If funds are transferred from the vault to the cashier's cage, the wagering manager responsible for the vault shall prepare a two (2) part Vault Transfer-Out form. Upon completion of the form, the original shall be retained by the vault manager and the duplicate shall be transferred with the funds to the cashier's cage. The form shall include:

- (a) Date and time of the transfer;
- (b) Designation of the vault location;
- (c) Designation of the cage location;
- (d) Amount of each denomination being transferred;
- (e) Total amount of the transfer;
- (f) Signature of the preparer of the transfer;
- (g) Signature of the vault manager verifying and issuing the funds; and
- (h) Signature of the cage cashier verifying and receiving the funds.

(15) If funds are transferred from the cashier's cage to a vault, a two-part Vault Transfer-In form shall be prepared. Upon completion of the form, the original shall be retained by the cage cashier and the duplicate shall be transferred with the funds to the vault. The form shall include:

- (a) Date and time of the transfer;
- (b) Designation of the vault location where the funds are being transferred to;
- (c) Cashier location where the funds are being transferred from;
- (d) Amount of each denomination being transferred;
- (e) Total amount of the transfer;
- (f) Signature of the cage cashier verifying and sending the funds to the vault; and
- (g) Signature of the vault manager verifying and receiving the funds.

(16) In lieu of separate wagering windows with live tellers, cage personnel may write and cash tickets.

Section ~~5.~~~~6.~~ Wrong Ticket Claims. Subject to a ticket writer's discretion, any claim by a patron that he or she has been issued a sports wagering ticket other than that requested shall be made before the patron has left the wagering window or before the ticket writer has initiated a transaction with another patron.

Section ~~6.~~~~7.~~ Sports Wagering Kiosks. A licensee may utilize sports wagering kiosks located in a licensed premises for wagering transactions in conjunction with a sports wagering system in a location approved by the commission based on, at a minimum, proximity to the cage or wagering window and accessibility to mitigate risks while performing a cash drop. A sports wagering kiosk shall be established and operated as follows:

- (1) All aspects of a sports wagering kiosk, including the computer and any related hardware, software, or related devices, shall be submitted to ~~an~~~~[a nationally recognized,]~~ independent testing laboratory approved by the racing commission for certification testing ~~[and approved by the racing commission]~~ prior to use by a licensee. The commission's approval shall be based on the best interests of sports wagering. In the best interests of sports wagering, the racing commission may require any additional testing or field inspection of the sports wagering kiosk it deems necessary prior to or after approval;
- (2) To obtain a temporary license, a licensee may submit to the racing commission a certification report of an independent testing laboratory of kiosk components in operation in another jurisdiction in the United States where the licensee is currently licensed or permitted. The report ~~shall~~~~[must]~~ certify the kiosk components to either the GLI-33 Standards or, at the discretion of the racing commission, a standard deemed to be the equivalent of the GLI-33 Standards. This alternative certification report ~~shall~~~~[must]~~ include a list of all critical files and associated signatures and an appendix ~~that~~~~[which]~~ lists the differences of any controlled items or processes required to be certified in Kentucky ~~that~~~~[which]~~ were not certified in the jurisdiction in which the report was issued. Upon review of the certification report, the racing commission ~~shall~~~~[will]~~ make a determination on whether to accept the certification or require additional information or documentation or testing ~~[:]~~;
- (3) Each sports wagering kiosk shall be configured not to:
  - (a) Issue a sports wagering ticket with a wager in excess of \$10,000;
  - (b) Redeem a winning sports wagering ticket with a value in excess of \$10,000 or other limits set by the IRS; or
  - (c) Issue or redeem a sports wagering voucher with a value in excess of \$10,000 or other limits set by the IRS;
- (4) All sports wagering kiosks shall have a sign permanently affixed to the kiosk notifying the public that patrons shall not be underage persons ~~[, as approved by the commission];~~
- (5) On a schedule documented in the internal controls~~[approved by the commission]~~, a licensee shall remove the drop boxes in the sports wagering kiosks. The drop boxes shall be monitored and recorded by surveillance. The licensee shall submit the sports wagering kiosk drop schedule to the commission or its designee ~~[:]~~~~and]~~
- (6) The licensee shall reconcile the sports wagering kiosks on a schedule approved by the commission pursuant to internal controls. Any variance of \$500 dollars or more shall be documented by the accounting department and reported in writing to the racing commission within five (5) business days after drop and count of sports wagering kiosks. The report shall indicate the cause of the variance and shall contain any documentation required to support the stated explanation ~~[:]~~~~and]~~
- (7) In locations where sports wagering kiosks do not allow for redemption, the licensee shall display prominently the methods of paying out or cashing out vouchers near each sports wagering kiosk.

Section ~~7.~~~~8.~~ Drop and Count.

(1) A licensed premises shall have a count room whose physical access shall be limited to count team employees, designated staff, commission employees, and other persons authorized by the licensee, and shall remain locked unless entry and exist is required by authorized persons.

(a) Count team employees shall not exit or enter the count room during the count except for emergencies or scheduled breaks.

(b) Surveillance staff shall be notified if count room employees exit or enter the count room during the count.

(c) A licensee shall establish a count team policy that shall address the transportation of extraneous personal items, such as personal belongings, toolboxes, and beverage containers, into or out of the count room.

(2) Security of the count and the count room shall be ensured to prevent unauthorized access, misappropriation of funds, forgery, theft, or fraud.

(a) All counts shall be performed by at least two (2) employees.

(b) At no time during the count shall there be fewer than two (2) count team employees in the count room until the drop proceeds have been accepted into cage or vault accountability.

(c) Count team employees shall be independent of the department being counted. A cage or vault employee may be used if they are not the sole recorder of the count and do not participate in the transfer of drop proceeds to the cage or vault. An accounting employee may be used if there is an independent audit of all count documentation.

(3) Currency cassettes and drop boxes shall be securely removed from sports wagering kiosks.

(a) Surveillance shall be notified prior to the drop boxes or currency cassettes being accessed in a kiosk.

(b) At least two (2) employees shall be involved in the collection of currency cassettes and drop boxes from kiosks, and at least one (1) employee shall[should] be independent of kiosk accountability.

(c) Currency cassettes and drop boxes shall be secured in a manner that restricts access to only employees authorized by the licensee.

(d) If applicable, redeemed vouchers collected from the kiosk shall be secured and delivered to the appropriate department (cage or accounting) for reconciliation.

(e) Controls shall be established~~[,]~~ and procedures implemented to ensure that currency cassettes shall contain the correct denominations and have been properly installed.

(f) Access to stored full kiosk drop boxes and currency cassettes shall be restricted to:

1. Employees authorized by the licensee; and

2. In an emergency, additional persons authorized for the resolution of a problem.

(g) The kiosk count shall be performed in a secure area, such as the cage or count room.

(h) If counts from kiosks and any other areas requiring counts occur simultaneously in the count room, procedures shall be in effect that prevent the commingling of funds from the kiosks with any other areas requiring counts.

(i) The kiosk drop boxes and currency cassettes shall be individually emptied and counted so as to prevent the commingling of funds between kiosks until the count of the kiosk contents has been recorded.

(j) Procedures shall be implemented to ensure that any corrections to the count documentation shall be[are] permanent and identifiable, and that the original, corrected information shall remain[remains] legible. Corrections shall be verified by two (2) employees.

Section 8.[9.] Winning Wagers and Vouchers.

- (1) Payment on valid sports wagering tickets shall be made only if presented and surrendered within one (1) year following the settling of the sporting event, or, in the event of a parlay, the last-in-time sporting event to settle on the ticket. Failure to present a ticket within one (1) year shall constitute a waiver of the right to receive payment on the ticket.
- (2) Sports wagering vouchers shall be valid for one (1) year after the date of issuance. Failure to present any voucher for redemption within one (1) year of issuance shall constitute a waiver of the right to receive payment on the voucher.
- (3) A mutilated sports wagering ticket or voucher that cannot be identified as a valid ticket or voucher shall not be accepted for payment.
- (4) A licensee shall establish a written procedure for granting patrons an opportunity to file a claim on a lost sports wagering ticket or voucher and provide a copy to the racing commission.

Section **9.**~~[10.]~~ Cashiers, Windows, and Cages.

- (1) Each licensed premises shall have on or immediately adjacent to the race and sports book location a physical structure known as a cashiers' cage to house the cashiers, which **shall be[is]** located in or within close proximity to the race and sports book location. Each licensed premises may also have one **(1)** or more satellite cages in or within close proximity to the race and sports book location.
- (2) A cage or satellite cage shall be fully enclosed and shall ~~have the following features~~:
  - (a) **Be for performing[Perform]** financial transactions related to sports wagering;
  - (b) Be designed and constructed to provide maximum security for the materials stored and the activities performed therein ~~in a manner approved by the racing commission~~;
  - (c) Include openings at one **(1)** or more numbered cashier windows through which financial transactions related to sports wagering will be conducted, each of which shall contain a cashier's drawer;
  - (d) Include manually triggered silent alarm systems, which shall be connected directly to the surveillance and the security operation **rooms[room(s)]**;
  - (e) Provide for surveillance equipment capable of accurate visual monitoring and recording of any activities; and
  - (f) Include a mantrap if the cage or satellite cage secure assets having a value greater than an amount established by the racing commission. The outer door of the mantrap shall be controlled by security personnel, and the inner door shall be controlled by accounting personnel. The doors of the mantrap shall have separate and distinct locking mechanisms on each door of the double door entry and exit system. The mantrap shall **have[be subject to]** continuous surveillance coverage.
- (3) Each licensed premises may have one **(1)** or more service windows to serve as a location in the facility to conduct financial transactions. **Each[Such]** window shall be designed and constructed in accordance with subsection (2)(b) of this section, and access shall be controlled by an accounting supervisor.
- (4) If approved paperless systems are not in use, the internal controls shall require that documents regarding the funds stored in cages shall be transported between cages in a secure manner **[approved by the racing commission]** and accompanied by security.
- (5) Each licensed premises shall have on hand in the cage ~~or readily available~~, such as in a restricted bank account or by bond, a reserve of cash to pay winning patrons.
- (6) A cashiers' cage and any satellite cage shall be segregated by personnel **so[such]** that **a[no]** single person **shall not have[has]** both control and approval for any aspect of cage operations maintained.
- (7) A qualified supervisor may perform the functions of a cashier **if[provided]** the functions are not incompatible with proper separation of duties. A supervisor shall not operate from another cashier or supervisor's imprest inventory.

(8) The assets for which each cashier is responsible shall be maintained on an imprest basis. A cashier shall not ~~allow~~**[permit]** any other person to access his or her imprest inventory. Cashier functions shall include~~[-the following]~~:

(a) ~~Performing~~**[Perform]** check consolidations, total or partial redemptions, or substitutions for patrons;

(b) ~~Receiving~~**[Receive]** cash, authorized cash equivalents, and authorized electronic transfers from patrons in exchange for currency or sports wagering vouchers;

(c) ~~Performing~~**[Perform]** deposit and withdrawal transactions for sports wagering accounts, ~~if~~**[where]** supported;

(d) ~~Processing~~**[Process]** exchanges with cashiers, supported by documentation with signatures thereon, for the effective segregation of functions in the cashiers' cage;

(e) ~~Receiving~~**[Receive]** sports wagering tickets or vouchers from patrons or authorized employees in exchange for cash; and

(f) ~~Exchanging and reconciling~~**[Exchange and reconcile]** imprest funds used by attendants, including imprest ~~change or pouch~~**[change/pouch]** payout funds.

(9) A licensed premises may consolidate the cashier functions, ~~if~~**[provided that]** the cashier is qualified to perform all functions and ~~does not perform~~**[performs no]** functions incompatible with proper separation of duties.

#### Section ~~10.~~**[11.]** Security and Surveillance.

(1) The licensed premises shall have appropriate physical security and surveillance controls that:

(a) Enable a suitable response to any security issue within the licensed premises; and

(b) Prevent any person from tampering with or interfering with the operation of any sports wagering or equipment.

(2) The licensed premises shall establish provisions describing the duties and operation of its security department, which shall include details relative to the design, construction, and location of primary and secondary armored car routes, including provisions for the security of ~~such~~**[such-]** routes.

(3) Licensed premises shall install, maintain, and operate a surveillance system that has the capability to monitor and record continuous unobstructed views of all sports wagering and financial transactions, as well as any dynamic displays of sports wagering information.

(4) The surveillance system shall:

(a) Have the capability to display all camera views on a monitor; and

(b) Record all camera views.

(5) The surveillance system shall be maintained and operated from a surveillance operation ~~room~~**[room(s)]** or ~~when authorized by the racing commission,~~ a secured location, such as a locked cabinet.

(a) The surveillance operation ~~room~~**[room(s)]** shall be secured to prevent unauthorized entry.

(b) The location of the surveillance operation room or rooms shall ensure the interior ~~shall not be~~**[is not]** visible to the public and employees who do not work in the surveillance room or rooms.

(c) Access to the surveillance operation ~~room~~**[room(s)]** shall be limited to surveillance personnel, the racing commission, and other persons authorized by the licensee.

(d) Surveillance operation ~~room~~**[room(s)]** access logs shall be maintained, recording all entries and exits.

(e) ~~No~~**[No-]** Personal recording devices of any kind ~~shall not be allowed~~**[are permitted]** in the surveillance operation room, ~~including~~**[-This includes]** devices such as cameras, video recorders, and mobile phones.

- (f) Surveillance operation room equipment shall have total override capability over all other satellite surveillance equipment.
- (6) If a power loss to the surveillance system occurs, alternative security procedures, such as additional supervisory or security employees, shall be implemented immediately.
- (7) The surveillance system shall record an accurate date and time stamp on recorded events. The displayed date and time shall not significantly obstruct the recorded view.
- (8) All surveillance employees shall be trained in the use of the equipment and wagering rules.
- (9) ~~[A periodic]~~ Inspection of the surveillance systems shall be conducted by the licensee at least quarterly. If [When] a dedicated camera stops providing coverage in the racing and sports book or to sports wagering kiosks, the coverage failure and necessary repairs shall be documented ~~;~~ and repairs initiated within seventy-two (72) hours.
- (a) If a dedicated camera stops providing coverage, alternative security procedures, such as additional supervisory or security personnel, shall be implemented immediately.
- (b) The racing commission shall be notified **immediately** of any coverage failure for more than twenty-four (24) hours and the alternative security measures being implemented.
- (10) Surveillance coverage shall be provided for the following areas as follows:
- (a) For public entrances to the licensed facility for sports wagering:
1. Each entrance shall have sufficient coverage of at least two (2) cameras that shall be able to positively identify each person entering; and
  2. Each security check-in point at the entrances shall have a dedicated camera to capture an unobstructed facial view of all persons entering the licensed premises; ~~;~~
- (b) For non-public entrances to the licensed facility for sports wagering, including loading docks and emergency exits:
1. Each entrance shall have sufficient camera coverage, of at least two (2) cameras with sufficient image quality to be able to positively identify each person entering;
  2. Employee entrances shall be secured either via the use of digitally controlled access systems or by in-person verification conducted by security; and
  3. Policies shall be in place **requiring that:**
    - ~~a. [Requiring that]~~ Employees entering the licensed facility for sports wagering **shall** be identifiable; and
    - b. Cameras shall be** of sufficient quality to positively identify each person entering.
- (c) For restricted areas of the licensed facility for sports wagering:
1. All restricted areas shall have surveillance coverage sufficient that all persons in the area can be clearly identified;
  2. All restricted areas shall have sufficient coverage and resolution that all cash-handling and gaming equipment and currency and currency equivalents **shall be [are]** identifiable;
  3. All restricted areas shall have additional camera coverage sufficient to provide asset protection **as approved by the racing commission**; and
  4. Access to coverage of the surveillance operation room is limited to senior management and the racing commission; ~~;~~
- (d) For all race and sports book locations:
1. The surveillance system shall monitor and record general activities, to include the ticket writer and cashier areas, with sufficient clarity to identify the personnel performing the different functions; and
  2. All race and sports book locations shall have sufficient coverage that a patron can be tracked throughout the entirety of the race and sports book location; ~~;~~
- (e) For ticket writer stations:

1. All ticket writer stations shall have sufficient coverage to identify currency amounts;
2. Any ticket writer stations that can be utilized for placing wagers shall have surveillance coverage sufficient to identify the patron and employee involved in the transaction; and
3. Surveillance personnel shall have access to the ticket writer stations to access transaction amounts;[.]

(f) For sports wagering kiosks, the surveillance system shall monitor and record activities occurring at each sports wagering kiosk with:

1. Sufficient clarity to identify the activity and the individuals performing it, including maintenance, drops or fills, and redemption of sports wagering tickets or vouchers; and
2. Accurate time stamps;[.]

(g) For the cage and vault:

1. The surveillance system shall monitor and record activities occurring in each cage and vault area with:

- a. Sufficient clarity to identify individuals within the cage and patrons and staff members at the window areas, and to confirm the amount of each cash transaction; and
- b. Accurate time stamps;[.]

2. Each cashier station shall be equipped with **at least** one (1) dedicated overhead camera covering the transaction area; and

3. The cage or vault area in which exchange and transfer transactions occur shall be monitored and recorded by a dedicated camera or motion activated dedicated camera that provides coverage with sufficient clarity to identify the amounts on the exchange and transfer documentation. Controls provided by a computerized exchange and transfer system **shall** constitute an adequate alternative to viewing the amounts on the exchange and transfer documentation;[.]

(h) For count rooms, the surveillance system shall:

1. Monitor and record with sufficient clarity a general overview of all areas where cash or cash equivalents **can[may]** be stored or counted; and
2. Provide coverage of count equipment with sufficient clarity to view any attempted manipulation of the recorded data; **and[.]**

(i) All machines capable of dispensing cash shall have sufficient coverage to view the transaction and the currency amount being dispensed and the individuals at the machine.

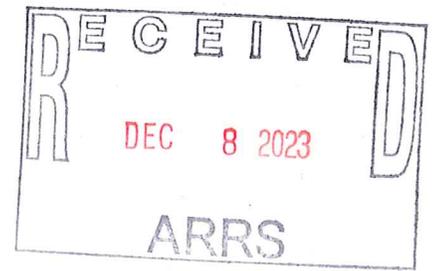
(11) The licensed premises shall utilize an incident reporting system to document incidents and activities, as **established[set forth]** in paragraph (a) of this subsection.

(a) Security and surveillance procedures [~~approved by the racing commission~~] shall be implemented for reporting:

1. An individual engaged in, attempting to engage in, or suspected of cheating, theft, embezzlement, or other illegal activities;
2. An individual possessing a firearm, electronic control device, dangerous weapon, or other device or object prohibited KAR Title 809;
3. An individual in the race and sports book location who is a prohibited person, the subject of a law enforcement contact by the licensee, or a potential victim of human trafficking;[.]
4. All camera, system, or recording outages;
5. Any routine tasks accomplished by security or surveillance personnel at the request of another team; and
6. Any suspicious incidents observed.

(b) Any violation of **KRS Chapter 230[the Act]** or KAR Title 809 shall be identified as **a violation[such]** in the incident reporting system.

- (c) The racing commission shall have real-time, read-only access to the incident reporting system.
- (d) The incident reporting system shall be capable of generating reports that detail all incident types, and ~~[-such]~~ reports shall be delivered to the racing commission upon request.
- (e) The incident reporting system shall be in an electronic format equipped with software that prevents modification of an entry after it has been initially entered into the system.
- (f) The incident reporting system shall document the ~~[-following]~~:
1. Assignment number of the incident;
  2. Date and time **of the incident**;
  3. Name and identification license of the individual covering the incident;
  4. Nature of the incident; and
  5. Resolution of the incident.
- (g) All recordings required by this section shall be retained for a minimum retention period of ninety (90) calendar days. Suspected crimes, illegal activity, or detentions by security personnel discovered within the initial retention period shall be copied and retained for a time period not less than five (5) years.



**Andy Beshear**  
GOVERNOR

**Jacqueline Coleman**  
LIEUTENANT GOVERNOR

**PUBLIC PROTECTION CABINET**

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December 8, 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, Kentucky 40601

Re: 809 KAR 10:006

Dear Co-Chairs West and Lewis:

After consideration of the issues raised by 809 KAR 10:006, the Kentucky Horse Racing Commission proposes the attached suggested substitute to this ordinary administrative regulation.

Sincerely,

Jennifer Wolsing  
General Counsel

**SUGGESTED SUBSTITUTE – ORDINARY ONLY – to AMENDED AFTER COMMENTS VERSION**

Final Version: 12/08/23 at 9:58 a.m.

**809 KAR 10:006. Audit and internal control standards.**

RELATES TO: KRS Chapter 230

STATUTORY AUTHORITY: KRS 230.260(16), 230.811(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.260(16)(a) requires the racing commission to promulgate regulations to establish standards related to sports wagering, including standards for maintaining and auditing books and financial records, securely maintaining records of bets and wagers, integrity requirements for sports wagering and related data surveillance and monitoring systems, and other reasonable technical criteria related to conducting sports wagering." KRS 230.811(2) requires tracks and service providers to "comply with the standards established by the racing commission . . . to ensure the integrity of the system of sports wagering." This administrative regulation establishes internal control standards, including administration and accounting controls, and ***establishes[specifies]*** certain duties to permit access to the racing commission of information and records, record retention, and reporting requirements.

Section 1. Internal Controls. Before beginning operations, a licensee shall submit its administrative and accounting controls, in detail, in a system of internal controls for racing commission review and approval ***in accordance with GLI-33 Standards and subsection (3) of this section***. The racing commission or its designee may perform any inspection necessary in order to determine conformance with the approved internal controls.

(1) Amendments to any portion of the internal controls shall be submitted to the racing commission for approval ***consistent with commission staff audits in accordance with GLI-33 Standards***. If, within thirty (30) calendar days the racing commission has not approved, denied, or otherwise provided written notice, a licensee may implement the amended internal controls, ***which shall be implemented*** as submitted, ***in which case[with]*** the racing commission ***shall retain[retaining]*** its authority to require further amendment, approval, or denial.

(a) The racing commission may approve, deny, or require a revision to the amendment to the internal controls ***consistent with commission staff audits in accordance with GLI-33 Standards***. If the licensee is notified of a required revision, the licensee shall address the revision within fifteen (15) calendar days, unless otherwise required by the commission ***based on immediate risk or immediate implied risk to sports wagering***.

(b) If the racing commission requests additional information, clarification, or revision of an amendment to the internal controls and the licensee fails to satisfy the request within thirty (30) calendar days after the racing commission submits the request, the racing commission shall consider the amendment denied and ***the amendment shall not[it cannot]*** be implemented or, if previously implemented, the licensee shall cease implementation of that amendment within fifteen (15) calendar days. If the licensee subsequently wants to pursue the amendment, it shall resubmit the request along with the additional information previously requested by the racing commission.

(2) In an emergency, the licensee may temporarily amend their internal controls. The racing commission or its designee shall be notified immediately that an emergency exists before the licensee temporarily amends its internal controls due to an emergency. The licensee shall submit the temporary emergency amendment of the internal controls to the racing commission or its designee within twenty-four (24) hours of the amendment. The submission shall include the detailed emergency procedures that will be implemented and the time period the emergency procedures will be temporarily in place. ***[Any***

~~concerns the racing commission has with the submission shall be addressed with the licensee promptly].~~

(3) The internal controls shall include a detailed narrative description of the administrative and accounting procedures designed to satisfy the requirements of KAR Title 809, including ~~the following]:~~

(a) Reliable accounting controls, including the standardization of forms and definition of terms to be used in the sports wagering operations;

(b) Reporting controls, which shall include policies and procedures for the timely reporting of standard financial and statistical information in accordance with this **administrative** regulation;

(c) Access controls, which **shall include[include,]** as their primary objective, the safeguarding of company assets;

(d) Tables of organization, which shall provide for:

1. A system of personnel and chain of command **that allows[which permits]** management and supervisory personnel to be held accountable for actions or omissions within their areas of responsibility;

2. The segregation of functions that are incompatible with separation of duties, so that no employee is in a position both to commit an error or to perpetrate a fraud and to conceal the error or fraud in the normal course of their duties;

3. Supervisory positions **that allow[which permit]** the authorization or supervision of necessary transactions at all relevant times; and

4. Areas of responsibility **that[which]** are not so extensive as to be impractical for one (1) person to monitor;~~;~~

(e) A jobs compendium detailing job descriptions, chains of command, and lines of authority for all personnel engaged in the operation of sports wagering. The licensee shall maintain and update the jobs compendium on a regular basis, but at least annually;

(f) An infrastructure and information security program; and

(g) All wagering procedures and practices **established[specified]** within the GLI-33 Standards.

(4) To the extent a service provider is involved in or provides any of the internal controls required in **809 KAR Chapter 10[this Chapter]**, the licensee's internal controls shall document the roles and responsibilities of the service provider and shall include procedures to evaluate the adequacy of and monitor compliance with the service provider's internal controls.

(5) The licensee shall stamp or otherwise mark each page of the internal controls submitted to the racing commission with the word "CONFIDENTIAL" if the licensee does not believe the material submitted **is[should be]** subject to public disclosure.

(6) If a licensee intends to utilize any new technology not identified in its initial proposal, it shall submit the changes to its internal controls to incorporate the use of any ~~such-]new~~ technology to the racing commission for approval **based on GLI-33 Standards**.

(7) If the racing commission determines that the internal controls of the licensee do not comply with the requirements of KAR Title 809, the racing commission shall notify the licensee in writing. Within fifteen (15) calendar days after receiving the notification, the licensee shall amend its internal controls accordingly and shall submit, for racing commission approval, a copy of the written internal controls, as amended, and a description of any other remedial measure taken. **Commission approval shall be based on commission staff audits and compliance with GLI-33 Standards.**

Section 2. Information Security Responsibilities. The internal controls shall ensure that an information security program **shall be[is]** effectively implemented~~;~~ and information security function responsibilities **shall be[are]** effectively allocated.

(1) The licensee shall implement, maintain, and comply with a comprehensive information security program, the purpose of which shall be to take reasonable steps to protect the confidentiality, integrity, and availability of personally identifiable information of individuals who place a sports wager with the licensee.

(2) The licensee's information security program shall contain administrative, technical, and physical safeguards appropriate to the size, complexity, nature, and scope of the operations, and the sensitivity of the personally identifiable information owned, licensed, maintained, handled, or otherwise in the possession of the licensee.

~~(3) [A licensee's information security forum, data privacy committee, or other similar organizational structure comprised of senior managers shall be formally established to monitor and review the information security program to ensure its continuing suitability, adequacy, and effectiveness, maintain formal minutes of meetings, and convene at least every six months.]~~

~~(4)~~ A licensee's information security department shall exist that *shall be/is* responsible for developing a security strategy in accordance with the overall operation. The information security department *shall/will* subsequently work with the other departments to implement the associated action plans. It shall be involved in reviewing all tasks and processes that are necessary from the security perspective for the licensee, including the protection of information and data, communications, physical, virtual, personnel, and overall business operational security.

~~(4)~~~~(5)~~ The licensee's information security department shall report to no lower than executive level management and shall be independent of the IT department with regard to the management of security risk.

~~(5)~~~~(6)~~ The licensee's information security department shall have the competencies and be sufficiently empowered, and shall have access to all necessary resources, to enable the adequate assessment, management, and reduction of risk.

~~(7) [The licensee's chief security officer or equivalent head of the information security department shall be a full member of the information security forum and be responsible for recommending information security policies and changes.]~~

Section 3. Accounting Records. Licensees shall maintain complete, accurate, and legible records of all financial transactions for *at least* five (5) years, including transactions pertaining to revenues, expenses, assets, liabilities, and equity in conformance with generally accepted accounting principles. The licensee's financial transaction reports shall be in compliance with GLI-33 Standards~~[- unless otherwise permitted by the commission].~~

~~(1) [The accounting records shall be maintained according to GLI-33 Standards, unless otherwise permitted by the commission.]~~ The detailed subsidiary records shall include:

- (a) Detailed general ledger accounts identifying all revenue, expenses, assets, liabilities, and equity;
- (b) A record of all investments, advances, loans, and accounts receivable balances due the establishment;
- (c) A record of all loans and other accounts payable;
- (d) A record of all accounts receivable written off as uncollectible;
- (e) Journal entries prepared;
- (f) Tax work papers used in preparation of any state or federal tax return if applicable;
- (g) Records supporting the accumulation of the costs for complimentary services and items. A complimentary service or item provided to individuals in the normal course of a sports wagering business shall be recorded in an amount based upon the full retail price normally charged for the service or item or as is otherwise consistent with generally accepted accounting principles; and

- (h) Records required by the internal controls.
- (2) The licensee shall maintain all records supporting the adjusted gross revenue for **at least** five (5) years.
- (3) If a licensee fails to maintain the records used by it to calculate the adjusted gross revenue, the racing commission may compute and determine the amount upon the basis of an audit conducted by the racing commission using available information.

Section 4. Financial Audits. Upon application, and annually thereafter, each licensee shall submit to the racing commission, within ninety (90) calendar days of the licensee's fiscal year end, its financial audit for that fiscal year.

- (1) The licensee shall operate in conformity with financial audit conditions established in the license conditions issued by the racing commission pursuant to KRS 230.290(3).
- (2) Upon request by the commission, the licensee shall submit pro forma statements that present projected or estimated financial performance, assets, and liabilities. These pro forma statements shall include:
  - (a) Pro forma balance sheet: A projected or estimated balance sheet **stating[outlining]** the entity's assets, liabilities, and equity at a specific point in time;
  - (b) Pro forma income statement: A projected or estimated income statement presenting the entity's anticipated revenues, expenses, and net income for a specific period;
  - (c) Pro forma cash flow statement: A projected or estimated cash flow statement demonstrating the expected cash inflows and outflows of the entity over a specific period;
  - (d) Pro forma statement of retained earnings: A projected or estimated statement reflecting changes in the entity's retained earnings over a specific period, considering projected net income, dividends, and other adjustments; and
  - (e) Notes for financial statements: Explanatory notes providing additional information and disclosures related to the pro forma statements, including significant assumptions, methodologies used, and any other relevant details.
- (3) If audited financial statements are not available, the licensee shall provide audited financial statements of its parent company and the licensee's unaudited financial statements, which document the licensee's financial performance, assets, and liabilities, including:
  - (a) A balance sheet;
  - (b) An income statement;
  - (c) A cash flow statement;
  - (d) A statement of retained earnings; and
  - (e) Notes for financial statements.
- (4) The pro forma statements shall be clearly labeled as unaudited and based on management's estimates and assumptions. These statements may serve as temporary financial documentation until audited financial statements become available.
- (5) The financial audit shall be performed in accordance with generally accepted accounting principles by an independent certified public accountant currently authorized to practice in Kentucky **or any other U.S. state or jurisdiction**, and shall contain the opinion of the independent certified public accountant as to its fair preparation and presentation in accordance with generally accepted accounting principles.
- (6) The racing commission shall determine the number of copies of audits or reports required under this procedure. The audits or reports shall be received by the racing commission or postmarked no later than the required filing date.

(7) The reporting year-end of the licensee ***shall be [is]*** December 31 of each year, unless otherwise approved by the racing commission ***for good cause shown by the licensee.***

Section 5. Retention, Storage, and Destruction of Records. The internal controls shall include a records retention schedule~~[,]~~ and provisions related to the storage and destruction of records that incorporates the ~~[following]~~ provisions ***established in subsections (1) through (7) of this section.***~~[without limitation:]~~

(1) Each licensee shall maintain, in a place secure from theft, loss, or destruction, adequate records of its business and accounting operations.

(2) A licensee shall make the records available to the racing commission, upon request, with~~n~~ a time provided for by the racing commission. A licensee shall retain the records for not less than five (5) years.

(3) A licensee shall keep and maintain~~[, in a manner and form approved by the racing commission,]~~ accurate, complete, and legible records of any books, records, or documents pertaining to, prepared in, or generated by, the licensee.

(4) A licensee shall organize and index all required records in a manner that enables the racing commission to locate, inspect, review, and analyze the records with reasonable ease and efficiency.

(5) A licensee shall notify the racing commission in writing at least sixty (60) calendar days prior to the scheduled destruction of any record required to be retained in accordance with this section, if within the five (5) year record retention requirement. ~~[Such]~~ Notice shall list each type of record scheduled for destruction, including a description sufficient to identify the records included~~, [;]~~ the retention period~~, [;]~~ and the date of destruction. If documents are to be destroyed in the normal course of business in accordance with document retention policies previously ***established [set forth]*** in the internal controls approved by the racing commission, no notice to the racing commission shall be required.

(6) The racing commission may prohibit the destruction of any record required to be retained in accordance with this section by so notifying the licensee in writing within forty-five (45) calendar days of receipt of the notice of destruction pursuant to subsection (5) or within the ***established [specified]*** retention period. ***This prohibition shall be based on factors such as an ongoing investigation or the licensee's history of unusual wagering activity. An [Such]*** original record may thereafter be destroyed only upon notice from the racing commission, ~~[or]~~ by order of the racing commission upon the petition of the licensee, or by the racing commission on its own initiative.

(7) The licensee may use the services of a disposal company for the destruction of any records required to be retained in accordance with this section.

Section 6. Reserve Requirement.

(1) The internal controls shall include a plan to maintain and protect sufficient funds to conduct sports wagering at all times through a reserve in the amount necessary to ensure the security of funds held in sports wagering accounts and the ability to cover the outstanding sports wagering liability.

(a) The reserve shall be in the form of cash, cash equivalents, payment processor receivables, payment processor reserves, an irrevocable letter of credit, a bond, or a combination thereof.

(b) The reserve shall be not less than the greater of \$25,000 or the sum of ~~[the following amounts]~~:

1. The daily ending cashable balance of all sports wagering accounts;

2. Pending withdrawals;

3. Amounts accepted by the licensee on sports wagers ***with undetermined outcomes [whose outcomes have not been determined]***; and

4. Amounts owed but unpaid on winning sports wagers.

(c) Amounts available to patrons for wagering that are not redeemable for cash may be excluded from the reserve computation.

(2) A licensee shall have access to all sports wagering account and transaction data to ensure the amount of its reserve is sufficient. Unless otherwise directed by the racing commission **based on the risk assessed from audits performed by commission staff**, a licensee shall file a monthly attestation with the racing commission, which **shall state[states]** that funds have been safeguarded under this procedure.

(3) The racing commission may audit a licensee's reserve at any time and may direct a licensee to take any action necessary to ensure the requirements of this section are met.

Section 7. Risk Management Framework. A licensee shall implement a risk management framework. This framework may be provided in-house by a unit capable of performing this function with appropriate segregation of functions and reporting duties, or by a third-party entity.

(1) The internal controls shall contain a description of the risk management framework, including:

- (a) Automated and manual risk management procedures;
- (b) Employee management, including access controls and segregation of duties;
- (c) Information regarding identifying and reporting fraud and suspicious conduct;
- (d) Controls ensuring regulatory compliance;
- (e) Description of Anti-money Laundering (AML) compliance standards;
- (f) Controls for accepting wagers and issuing pay outs in excess of \$10,000;
- (g) Controls for accepting multiple wagers from one patron in a **twenty-four (24) hour[24-hour]** cycle, including a process to identify patron structuring of wagers to circumvent recording and reporting requirements;
- (h) Description of all software applications that comprise the sports wagering system;
- (i) Description of all types of sports wagers available to be offered by the licensee;
- (j) Description of the procedures to prevent past posting of wagers;
- (k) Description of the procedures to prevent individuals from placing wagers as agents or proxies for other individuals; and
- (l) Description of all integrated third-party platforms.

(2) A licensee shall file with the racing commission a report of any error that occurs in offering an event or wager or if an unapproved sporting event or type of wager is offered to the public.

Section 8. Taxation Requirements.

(1) The internal controls shall ensure compliance with all Internal Revenue Service (IRS) requirements, and the licensee shall provide for the withholding or reporting of income tax of patrons as required by applicable state or federal law.

(2) The licensee shall disclose potential tax liabilities to patrons at the time of award of any sports wagering payouts in excess of limits **established[set]** by the IRS. **Disclosure shall[Such disclosures will]** include a statement that the obligation to pay applicable taxes on payouts **shall be[is]** the responsibility of the patron and that failure to pay applicable tax liabilities may result in civil penalties or criminal liability. Upon written request, the licensee shall provide patrons with summarized tax information on sports wagering activities.

Section 9. Reports of Suspicious Transactions.

(1) A transaction **shall require[requires]** reporting under the terms of this section if **the transaction[it]** is conducted or attempted, by, at, or through a licensee, and involves or aggregates to at least \$5,000 in funds or other assets, and the licensee knows, suspects, or has reason to suspect that the transaction or a pattern of transactions of which the transaction is a part **and:**

(a) Involves funds derived from illegal activity or is intended or conducted in order to hide or disguise funds or assets derived from illegal activity (~~such as~~~~including, without limitation,~~ the ownership, nature, source, location, or control of ~~such~~ funds or assets) as part of a plan to violate or evade any federal law or regulation or to avoid any transaction reporting requirement under federal law or regulation or of the racing commission;~~;~~

(b) Is designed, whether through structuring or other means, to evade any requirements of KAR Title 809~~[these regulations or of any other regulations promulgated under the Bank Secrecy Act];~~

(c) ~~Does not have~~~~[Has no]~~ business or an apparent lawful purpose or is not the sort in which the particular patron would normally be expected to engage, and the licensee is not aware of a~~[knows of no]~~ reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction; or

(d) Involves use of the licensee to facilitate criminal activity.

(2) A licensee may also file a report of any suspicious transaction that the licensee~~[it]~~ believes ~~[is]~~ relevant to the possible violation of any law or regulation but whose reporting is not required by this section.

(3) The report shall be filed no later than thirty (30) calendar days after the initial detection by the licensee of facts that might~~[may]~~ constitute a basis for filing ~~such~~ a report. In situations involving violations that require immediate attention, the licensee shall immediately notify the racing commission in addition to ~~timely~~ filing a report.

(4) A licensee shall maintain a copy of any report filed and the original or business record equivalent of any supporting documentation for a period of at least five (5) years from the date of filing the report. Supporting documentation shall be identified~~;~~ and maintained by the licensee~~[-as such]~~, and shall be deemed to have been filed with the report. A licensee shall make all supporting documentation available to the racing commission and any appropriate law enforcement agencies upon request.

(5) Unless otherwise required by KAR Title 809~~[this Chapter]~~, other law, or court order, a licensee and its directors, officers, employees, or agents who file a report pursuant to this administrative regulation shall not notify any person involved in the transaction that the transaction has been reported. Any report filed with the racing commission shall be~~[is]~~ confidential and may be disclosed by the racing commission in the necessary administration of their duties and responsibilities under KRS Chapter 230~~[the Act]~~ or as otherwise required by law or court order.

Section 10. Anti-money Laundering (AML) Monitoring. The internal controls shall implement AML procedures and policies that adequately address the risks posed by sports wagering for the potential of money laundering and terrorist financing. The AML procedures and policies shall provide for~~[-the following]:~~

(1) Up-to-date~~[Up to date]~~ training of employees in the identification of unusual or suspicious transactions;

(2) Assigning an individual or individuals to be responsible for all areas of AML by the licensee, including reporting unusual or suspicious transactions;

(3) Use of any automated data processing systems to aid in assuring compliance; and

(4) Periodic independent tests for compliance with a scope and frequency as required by the racing commission. Logs of all tests shall be maintained for at least five (5) years.

Section 11. Integrity Monitoring and Suspicious Behavior. A licensee shall implement an integrity monitoring system. This solution may be provided in-house by a unit capable of performing this function with appropriate segregation of functions and reporting duties, or by a third-party entity.

(1) The internal controls shall include provisions for a licensee to report to the racing commission as soon as practicable, but in no event longer than forty-eight (48) hours after discovery:

(a) Any information regarding irregularities in volume or changes in odds **identified as abnormal wagering activity**~~[that could signal suspicious activities which were identified]~~;

(b) Any information relating to criminal or disciplinary proceedings commenced against the licensee in connection with its operations;

(c) Any information relating to the following, which shall also be reported to the relevant sports governing body or equivalent:

1. Abnormal wagering activity or patterns that may indicate a concern with the integrity of a sporting event or events;

2. Any potential breach of the internal rules and codes of conduct pertaining to sports wagering of a relevant sports governing body or equivalent, to the extent the licensee has actual knowledge of the potential breach; and

3. Any other conduct that corrupts a sports wagering outcome of a sporting event or events for purposes of financial gain, including match-fixing; or

(d) Any information relating to suspicious or illegal wagering activities, including the use of funds derived from illegal activity, the placement of wagers to conceal or launder funds derived from illegal activity, the use of agents to place wagers, and the use of false identification in placing wagers.

(2) A licensee shall maintain the confidentiality of information provided by a sports governing body or equivalent for purposes of investigating or preventing the conduct **established**~~[described]~~ in subsection (1)(d) **of this section**, unless disclosure is required by **KRS Chapter 230**~~[the Act]~~, the racing commission, or other law or court order, or unless the sports governing body or equivalent consents to its disclosure in writing.

(3) A licensee receiving a report of suspicious or illegal wagering activity ~~may~~**shall be permitted to** suspend wagering on sporting events or types of wager related to the report, and may place a hold on suspicious wagers while investigating, but may only cancel or void sports wagers related to the report after receiving written approval from the racing commission~~[- or its designee]~~.

(4) Upon request by the racing commission or its designee, a licensee shall provide remote, read-only access and the necessary software and hardware for the racing commission to evaluate or monitor the sports wagering system. If requested, the licensee shall provide the racing commission with remote access or other approved mechanism **as established in paragraphs (a) through (d) of this subsection**, which shall provide:

(a) All reports of abnormal wagering activity;

(b) Whether the abnormal wagering activity was subsequently determined to be suspicious or illegal wagering activity;

(c) All reports deemed suspicious or illegal wagering activity at the outset; and

(d) The actions taken by the licensee according to its integrity monitoring system.

(5) Nothing in this section shall require a licensee to provide any information in violation of federal, state or local law or regulation, including laws and regulations relating to privacy and personally identifiable information .

(6) A licensee shall maintain records of all integrity monitoring services and activities, including all reports and suspicious or illegal wagering activity and any supporting documentation, for a minimum of five (5) years after a sporting event occurs. The licensee shall disclose these records to the racing commission upon request.

(7) The racing commission may require a licensee to provide any hardware or software necessary to the racing commission, or to an independent testing laboratory approved by the racing commission **in the**

***best interests of sports wagering***, for evaluation of the licensee's sports wagering offering or to conduct further monitoring of sports wagering data.

#### Section 12. Personally Identifiable Information Security.

(1) Any information obtained in respect to a patron, including confidential information, personally identifiable information, and authentication credentials for a sports wagering account, shall be collected in compliance with the licensee's privacy policies ***established[set forth]*** in its internal controls. Both personally identifiable information and the sports wagering account funds shall be considered as critical assets for the purposes of risk assessment.

(2) ***An[No]*** employee or agent of the licensee shall ***not*** divulge any confidential information or personally identifiable information related to a patron, the placing of any wager, or any other sensitive information related to the operation of the licensee without the consent of the patron, except as required by this section, the racing commission, and as otherwise required by state or federal law.

(3) The internal controls shall include procedures for the security and sharing of confidential information, personally identifiable information, funds in a sports wagering account, and other sensitive information ***as required by the racing commission***, including:

- (a) The designation and identification of one ***(1)*** or more employees having primary responsibility for the design, implementation, and ongoing evaluation of ***[such-]*** procedures and practices;
- (b) The procedures to be used to determine the nature and scope of all information collected, the locations in which ***[such-]*** information is stored, and the storage devices on which ***[such-]*** information ***can[may]*** be recorded for purposes of storage or transfer;
- (c) The measures to be utilized to protect information from unauthorized access; and
- (d) The procedures to be used if a breach of data security has occurred, including required notification to the racing commission.

#### Section 13. Complaints Pertaining to Sports Wagering. The internal controls shall provide procedures for receiving, investigating, responding to, and reporting on complaints by patrons.

(1) ***If[When]*** a patron makes a complaint, the licensee shall, ***within twenty-four (24) hours.[promptly]*** issue a complaint report, setting out:

- (a) The name of the complainant;
- (b) The nature of the complaint;
- (c) The name of the persons, if any against whom the complaint was made;
- (d) The date of the complaint; and
- (e) The action taken or proposed to be taken, if any, by the licensee.

(2) All complaints received by a licensee from a patron and the licensee's responses to complaints shall be retained for at least five (5) years and made available to the racing commission ***upon request[within ten (10) business days of any request by the racing commission]***.

(3) A licensee shall investigate and attempt to resolve all complaints with the patron ***within ten (10) days of the complaint being filed.***

#### Section 14. Prohibition of Credit Extension. The internal controls shall include controls relating to not allowing the acceptance of a sports wager or deposit of funds into a sports wagering account that is derived from the extension of credit by affiliates or agents of the licensee. For purposes of this section, credit shall not be deemed to have been extended ***if[where]***, although funds have been deposited into a sports wagering account, the licensee is awaiting actual receipt of ***the[such]*** funds in the ordinary course of business.

- (1) Credit providers such as small amount credit contracts shall not be advertised or marketed to patrons.
- (2) A patron shall not be referred to a credit provider to finance their sports wagering activity.
- (3) Personally identifiable information related to a patron shall not be provided to any credit provider.

Section 15. Prohibited Patrons. The internal controls shall include commercially and technologically reasonable measures to prevent access to sports wagering by any prohibited patrons at a licensed premises and online via Web site[website] or mobile application.

- (1) If a licensee detects, or is notified of, an individual suspected of being a prohibited patron who had engaged or is engaging in prohibited sports wagering, the licensee shall use reasonable measures to verify whether the individual is prohibited or not.
- (2) If the licensee is able to establish, by reasonable measures, that the individual is prohibited, the licensee shall cancel a sports wager.

Section 16. Layoff Wagers. The internal controls shall include procedures for a licensee to accept layoff wagers placed by other licensees and place layoff wagers with other licensees for the purpose of offsetting sports wagers.

- (1) The licensee placing a layoff wager shall inform the licensee accepting the wager that the wager is being placed by a licensee and shall disclose their identity.
- (2) A licensee may decline to accept a layoff wager in its sole discretion.
- (3) Layoff wagers shall be reported to the racing commission daily[promptly].

Section 17. Reports of Licensees. The internal controls shall include[~~delineate~~] the licensee's capacity to prepare standard reports related to sports wagering revenues, wagering liability, patron information, payouts, or any combination thereof. The internal controls shall be amended to include any additional reports required by the commission to audit sports wagering activity to ensure that all reports shall be[are] prepared in accordance with the technical conditions prescribed by the commission pursuant to KRS 230.290[or its designee]. The internal controls shall provide the licensee's process for the [timely-]filing of the reports prepared pursuant to this section[detail the licensee's ability to prepare reports considered necessary by the racing commission including reports supporting adjusted gross revenue, wagering liability, and payouts. The licensee shall timely file with the commission any additional reports required by the Act or by any regulation prescribed by the racing commission]. Any information provided under this section shall be[is] confidential and proprietary and shall be[is] exempt from disclosure unless disclosure is required by 809 KAR Chapter 10[this Chapter], by other law, or by court order.

Section 18. Racing Commission Access to Sports Wagering Data. The internal controls shall establish measures to ensure that all sports wagering data shall be maintained in compliance with KRS Chapter 230 and KAR Title 809. The internal controls shall also establish measures to ensure that all sports wagering data shall be[detail the controls to assure that all sports wagering data the racing commission requires to be maintained under the Act or KAR Title 809 is appropriately] segregated and controlled to prevent unauthorized access.

- (1) Licensees shall provide the racing commission with access to all applicable[such] data, upon request and with reasonable notice.
- (2) Licensees shall retain [such-] data for a minimum of five (5) years.

Section 19. Independent Audit of Internal Controls. Licensees shall have their internal controls independently audited at least once every two (2) years with the results documented in a written report. This ~~shall include~~*[includes]* internal controls conducted by an affiliate on behalf of the licensee. Reports shall be maintained and available to the racing commission for ~~at least~~ five (5) years.

(1) ~~[Such-]~~Independent audits may be conducted by the racing commission *in accordance with KAR Titles 809 and 810 and GLI-33 Standards*, or a third-party contractor approved by the racing commission *in the best interests of sports wagering*. The racing commission may, in its discretion, approve the licensee to complete an internal audit, if the licensee uses an independent auditing team to serve as a third-party contractor for use in completing this audit.

(2) The racing commission or third-party contractor shall be responsible for auditing the licensee's compliance with *KRS Chapter 230[the Act]* and KAR Title 809, the Wagering Procedures and Practices ~~established~~*[specified]* within the GLI-33 Standards, and the internal controls.

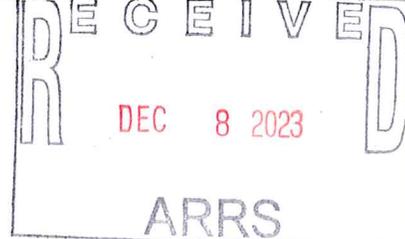
(3) Documentation shall be prepared to evidence all independent audit work performed as it relates to the requirements of this section, including all instances of noncompliance.

(4) Independent audit reports shall include objectives, procedures and scope, findings and conclusions, and recommendations.

(5) Independent audit findings shall be reported to management. Management shall be required to respond to the independent audit findings and the stated corrective measures to be taken to avoid recurrence of the audit exception. ~~[Such-]~~Management responses shall be included in the final independent audit report.

(6) Follow-up observation and examinations shall be performed to verify that corrective action has been taken regarding all instances of noncompliance cited by the independent audits. The verification shall be performed within six (6) months following the date of notification.

(7) ~~The licensee may~~*[It is acceptable to]* reuse the results of prior audits conducted within the audit period by the same third-party contractor in another sports wagering jurisdiction. ~~A~~*[Such]* reuse shall be noted in the audit report. This reuse option ~~shall~~*[does]* not include any internal controls unique to the Commonwealth, which *shall require a new audit*~~*[will require new audits]*~~.



**Andy Beshear**  
GOVERNOR

**Jacqueline Coleman**  
LIEUTENANT GOVERNOR

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**Jonathan Rabinowitz**  
CHAIRMAN

December 8, 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, Kentucky 40601

Re: 809 KAR 10:007

Dear Co-Chairs West and Lewis:

After consideration of the issues raised by 809 KAR 10:007, the Kentucky Horse Racing Commission proposes the attached suggested substitute to this ordinary administrative regulation.

Sincerely,

Jennifer Wolsing  
General Counsel

**SUGGESTED SUBSTITUTE – ORDINARY ONLY – to AMENDED AFTER COMMENTS VERSION**

Final Version: 12/08/23 at 9:43 a.m.

**PUBLIC PROTECTION CABINET  
Kentucky Horse Racing Commission**

**809 KAR 10:007. Responsible gaming and advertising.**

RELATES TO: KRS Chapter 230

STATUTORY AUTHORITY: KRS 230.260(15), (16)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.260(15) requires the commission to "promulgate administrative regulations establishing a self-exclusion list for individuals who self-identify as being problem or compulsive gamblers." KRS 230.260(16) requires the commission to "promulgate administrative regulations to establish standards for the conduct of sports wagering." This administrative regulation establishes a self-exclusion list and responsible gaming programs for sports wagering participants.

Section 1. Self-Exclusion List.

- (1) Each operator licensee shall develop a commission-approved self-exclusion list for individuals who **wish to be temporarily or permanently excluded from gambling in the Commonwealth for any reason, such as self-identification** ~~[self-identify]~~ as problem or compulsive gamblers.
- (2) The commission shall consider at least the ~~[following-]~~ factors **established in paragraphs (a) through (d) of this subsection** in approving a self-exclusion list. ~~[:]~~
  - (a) The list shall include the names and other identifying information of the individuals who have self-excluded from sports wagering at a licensed premises and online via a licensee-specific Web site, mobile application, or by phone.
  - (b) Each licensee shall display a notice to the public of the existence of the self-exclusion list and the method or methods individuals may use to self-identify at the licensed premises, online, or by phone.
  - (c) The notice shall be displayed at public entrances to the race and sports book location ~~[r]~~ and on the licensee's Web site or mobile application.
  - (d) The notice shall include information about the consequences of self-exclusion.
- (3) The notice and its placement locations shall be approved by the racing commission. In approving the notice, the commission shall consider the notice's visibility and any other relevant factors.
- (4) Each licensee shall collect self-exclusion information from individuals who self-identify as problem or compulsive gamblers.
- (5) The self-exclusion information collected shall include the individual's name, address, date of birth, and other identifying information as **established** ~~[prescribed]~~ by the racing commission **in accordance with KRS 230.290**.
- (6) The licensee shall provide any newly-collected self-exclusion information to the racing commission on **an as-needed basis, but at least weekly** ~~[a monthly basis]~~ **through the online portal** ~~[and in a manner approved by the racing commission]~~.
- (7) The commission shall compile and maintain a comprehensive list of all voluntarily self-excluded persons.
- (8) The comprehensive list shall include the self-exclusion information provided by each licensee.
- (9) The comprehensive list shall be provided to all licensees and updated on an as-needed basis, but at least monthly.

(10) Pursuant to KRS 61.878(1)(a) and KRS 230.260, information collected under this Section shall be exempt from disclosure under the Kentucky Open Records Act, KRS 61.870 ~~through~~**[to]** 61.884.

(11) Self-exclusion information shall be kept confidential and shall not be disclosed except as necessary to enforce ***KAR Titles 809 and 810***~~[these administrative regulations]~~ or as required by law.

(12) Each licensee shall establish its own self-exclusion policy. Each policy shall be approved by the racing commission to ensure the best interests of sports wagering and compliance with KRS 230.260.

(13) The policy may cover how the licensee chooses to exclude individuals on the self-exclusion list. The policy may include identification and verification, forfeiture of prizes by voluntarily excluded persons, security personnel, technology, employee training, contractual obligations, or collaboration with other licensees.

(14) Each licensee shall review its self-exclusion policy at least once every two (2) years and amend it as necessary to ensure:

***(a) Compliance with KAR Titles 809 and 810;***~~[racing commission regulations]~~ and

***(b) The policy's***~~[its]~~ effectiveness in achieving the purpose for which it is established.

## Section 2. Responsible Gaming Program.

(1) A licensee shall develop and maintain a responsible gaming program that shall be approved by the racing commission pursuant to this section. The responsible gaming program shall require:

(a) Posting in a conspicuous place on the licensee's Web site or mobile application and in every licensed premises a sign that bears a toll-free number for a commission-approved organization that provides assistance to problem or compulsive gamblers;

(b) Providing commission-approved disclosures on the licensee's Web site or mobile application and informational leaflets or other similar materials at the licensed premises containing information on the dangers associated with problem gambling;

(c) Providing patrons expressing concern with a gambling problem with information on commission-approved organizations that provide assistance to problem or compulsive gamblers;

(d) Providing notification that underage gambling is a criminal offense and that anyone who facilitates an underage person to place a sports wager has committed a criminal offense; and

(e) Ensuring that any request by a patron who wishes to self-exclude from sports wagering ***shall be***~~[is]~~ honored by the licensee.

(2) In approving the organizations and disclosures ~~established in~~***listed in the previous*** subsection ***(1) of this section***, the commission shall consider industry standards for responsible gambling and any other relevant factors.

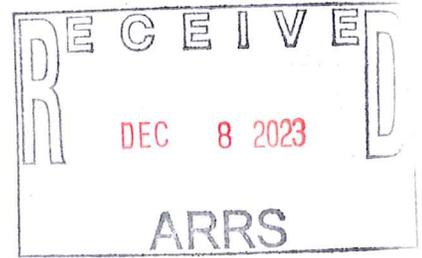
(3) At least every (5) years, the licensee shall ensure that the licensee's responsible gaming program ***utilized in Kentucky shall be***~~[is]~~ independently reviewed by a third party~~[, pursuant to industry standards]~~ and performed by a third party approved by the racing commission ***based on experience with auditing, industry standards, and responsible gaming***. The racing commission ***shall***~~[may]~~ require the licensee to pay for the independent review.

## Section 3. Advertising and Marketing.

(1) A licensee shall not allow, conduct, or participate in any false or misleading advertising or marketing concerning the licensee's sports wagering operations.

(2) A licensee shall only make representations concerning winnings that are accurate, not misleading, and capable of substantiation at the time of the representation. ~~[For purposes of this subsection,]~~ An advertisement shall be misleading if the advertisement makes representations about average winnings without equally prominently representing the average net winnings of all patrons.

(3) A licensee shall not advertise or market at elementary, middle, or high school activities. The prohibition in this subsection shall exclude an advertisement distributed via mass media, such as television, radio, print media, or the Internet, if the advertisement is not specifically directed toward (but **could[may]** be incidentally received by) elementary, middle, or high schools.



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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, Kentucky 40601

Re: 809 KAR 10:008

Dear Co-Chairs West and Lewis:

After consideration of the issues raised by 809 KAR 10:008, the Kentucky Horse Racing Commission proposes the attached suggested substitute to this ordinary administrative regulation.

Sincerely,

Jennifer Wolsing  
General Counsel

**SUGGESTED SUBSTITUTE – ORDINARY ONLY**

Final Version: 12/08/23 at 10:15 a.m.

**PUBLIC PROTECTION CABINET  
Kentucky Horse Racing Commission**

**809 KAR 10:008. Disciplinary actions and hearings.**

RELATES TO: KRS Chapter 230

STATUTORY AUTHORITY: KRS 230.260(16), 230.361 [~~Chapter 13B~~]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.260(16) requires the commission to "promulgate administrative regulations to establish standards for the conduct of sports wagering." KRS 230.361 states the "racing commission shall promulgate administrative regulations to establish a fully functioning sports wagering system...." This administrative regulation establishes procedures and ~~articulate~~ grounds for disciplinary actions, imposing sanctions, investigating suspected violations, providing notice of disciplinary actions, and requesting and conducting an administrative hearing.

Section 1. Grounds for Disciplinary Actions.

(1) The racing commission may take disciplinary action against any person holding a license for a violation of any of the provisions of KRS Chapter 230[;] or KAR Titles 809 and 810~~[any of the regulations promulgated thereunder]~~, by the licensee or its employees or agents.

(2) Acceptance or renewal of a license by a licensee shall constitute~~[constitutes]~~ an agreement on the part of the license-holder to comply with KRS Chapter 230 and KAR Titles 809 and 810~~[be bound by all the racing commission statutes and regulations]~~.

Section 2. Violations.

(1) It shall be a violation of this administrative regulation if an applicant or licensee:

(a) Provides the racing commission, any advisory committee, or any racing commission employee with incorrect, false, or misleading information;

(b) Fails to submit~~[furnish]~~ information requested by the racing commission, any advisory committee, or any racing commission employee pursuant to KRS Chapter 230 or KAR Titles 809 or 810;

(c) Is charged or convicted of a crime;

1. Involving moral turpitude;

2. That constitutes~~[;]~~ a felony;

3. Involving~~[;]~~ sports wagering;

4. Of~~[;]~~ cruelty, mistreatment, abuse, or neglect of a horse; or

5. That~~[; or if the crime]~~ discredits or tends to discredit the Commonwealth of Kentucky, sports wagering, or the gaming industry;

(d) Engages in conduct that is against the best interests of horse racing, pari-mutuel wagering, or sports wagering; or

(e) Violates any provision of KRS Chapter 230 or KAR Titles 809 or 810~~[; KAR Title 810, or KAR Title 809]~~.

(2) For any violation established in subsection (1) of this section, the racing commission may:

(a) Deny a license application;

(b) Suspend or revoke a license;

(c) Issue a fine or monetary penalty pursuant to 810 KAR 8:030, Section 10(1)(d);

- (d) Issue licensure conditions, such as restitution of money, restitution of property, or making periodic reports to the racing commission or designee as required; or
- (e) Issue a written reprimand or admonishment.

### Section 3. Disciplinary Process Investigations.

- (1) The racing commission shall investigate suspected violations of KRS Chapter 230 and KAR Titles 809 and 810 of the Kentucky Administrative Regulations.
- (2) Upon the completion of the investigation, the person or persons completing the investigation shall submit a written report to the commission containing a statement of facts revealed by the investigation.
- (3) Based on consideration of the investigative report, the commission shall determine ~~if~~***whether*** there is probable cause to believe that a violation has been committed.

### Section 4. Notice of Disciplinary Action and Appeals.

- (1) Upon determination that probable cause exists, the commission shall issue written notice of disciplinary action. The notice shall establish:
  - (a) The statutory or regulatory violation;
  - (b) The factual basis on which the disciplinary action is based;
  - (c) The penalty~~[-imposed]~~; and
  - (d) A statement that the notice may be appealed ***and that an appeal shall be*** in accordance with KRS Chapter 13B by written notice sent to the racing commission within twenty (20) calendar days.
- (2) Notice of a disciplinary action under this section may be appealed to an administrative hearing.
- (3) A written request for an administrative hearing shall be filed with the racing commission within twenty (20) calendar days of the date of the notice. The request shall identify the specific issues in dispute and the legal basis on which the racing commission's or designee's decision on each issue is believed to be erroneous.
- (4) An administrative hearing under this section shall be conducted in accordance with KRS Chapter 13B.
- (5) If the request for an administrative hearing is not timely filed ***as established in subsection (3) of this section***, the penalty ~~stated~~***laid-out*** in the notice of disciplinary action shall be effective upon the expiration of the time to request an administrative hearing.
- (6) Denial of an application for licensure may also be appealed. ***An appeal shall be*** in accordance with KRS Chapter 13B, by submitting a written request for an administrative hearing to the racing commission within twenty (20) calendar days of the date of the notice of denial.

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



**PUBLIC PROTECTION CABINET**

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December 1, 2023

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

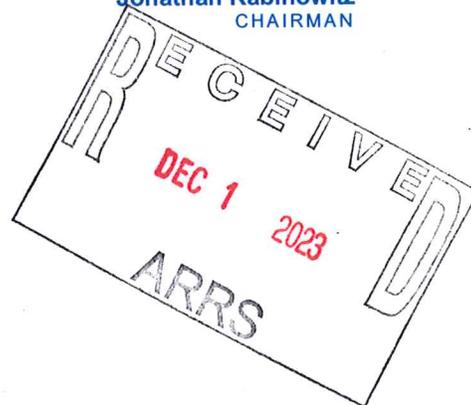
Re: 810 KAR 2:100

Dear Co-Chairs West and Lewis:

After consideration of the issues raised by 810 KAR 2:100, the Kentucky Horse Racing Commission proposes the attached *suggested* amendment to this ordinary administrative regulation.

Sincerely,

Jennifer Wolsing  
General Counsel



**SUGGESTED SUBSTITUTE – ORDINARY ONLY – to AMENDED AFTER COMMENTS VERSION**

Final Version: 11/27/23 at 2:44 p.m.

**810 KAR 2:100. Self-exclusion.**

RELATES TO: KRS ~~[230.260(15)]~~61.870 - 61.884, **230.260(15)**

STATUTORY AUTHORITY: KRS 230.260(15)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.260(15) ~~requires~~**authorizes** the Horse Racing Commission to promulgate administrative regulations prescribing conditions for a self-exclusion list for people who identify as problem or compulsive gamblers. This **administrative regulation establishes provisions for a horse-racing-related self-exclusion list for people who identify as problem or compulsive gamblers**~~[statute also requires the Commission to promulgate regulations prescribing conditions for notifications of the availability of this list by racing associations].~~

Section 1. Self-exclusion List.

- (1) The racing commission shall establish and maintain a self-exclusion list for individuals who **wish to be temporarily or permanently excluded from gambling in the Commonwealth for any reason, such as self-identification**~~[self-identify]~~ as problem or compulsive gamblers.
- (2) The list shall include the names and other identifying information of the individuals who have self-excluded from gambling at racing tracks, as **established**~~[set forth]~~ in Section 3(1) of this administrative regulation.

Section 2. Notice to the Public.

- (1) Each racing association shall display a notice to the public of the existence of the self-exclusion list and the method or methods individuals may use to **self identify**~~[self-identify]~~ at the track, online, or by phone.
- (2) The notice shall be displayed at public entrances to the wagering-specific locations of the racing track and on the racing association's Web site.
- (3) The notice shall include information about the consequences of self-exclusion, including that the individual will be prohibited from entering the racing track and participating in any gambling activity at the track.
- (4) The notice and its placement locations shall be approved by the commission, **based on the notice's content, visibility, and readability.**

Section 3. Collection of Self-exclusion Information.

- (1) Each racing association shall collect self-exclusion information from individuals who self-identify as problem or compulsive gamblers.
- (2) The self-exclusion information collected shall include the individual's name, address, date of birth, and other identifying information **requested**~~[as prescribed]~~ by the racing commission.
- (3) The racing association shall provide the self-exclusion information to the racing commission on **an as-needed basis, but at least weekly**~~[a weekly basis]~~ and in a manner approved by the commission, **based on the information's completeness and ability to facilitate the commission's compilation and dissemination of information for all associations.**

Section 4. Compilation of Comprehensive List.

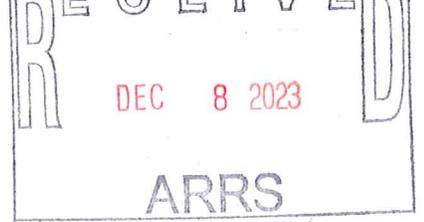
- (1) The racing commission shall compile and maintain a comprehensive list of all individuals who have self-excluded from gambling at racing tracks.
- (2) The comprehensive list shall include the self-exclusion information provided by each racing association.
- (3) The comprehensive list shall be provided to all racing associations and updated on an as-needed basis, but at least monthly.

#### Section 5. Confidentiality of Self-exclusion Information.

- (1) Pursuant to KRS 61.878(1)(a) and 230.260, information collected under this subsection shall be excluded from the application of KRS 61.870 ~~through~~**[to]** 61.884.
- (2) Self-exclusion information shall be kept confidential and shall not be disclosed except as necessary to enforce **KAR Title 810**~~[these regulations]~~ or as required by law.

#### Section 6. Self-exclusion Policy.

- (1) Each racing association may establish its own self-exclusion policy. Each policy shall be approved by the racing commission to ensure the best interests of horse racing and compliance with KRS 230.260.
- (2) The policy may cover how the racing association chooses to exclude individuals on the exclusion list. The policy may include identification and verification, forfeiture of prizes by excluded persons, security personnel, technology, employee training, contractual obligations, or collaboration with other racing associations.
- (3) Each racing association shall review its self-exclusion policy at least once every two (2) years and amend it as necessary to ensure compliance with **KAR Title 810**~~[commission regulations]~~ and its effectiveness in achieving the purposes for which it is established.



**PUBLIC PROTECTION CABINET**

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December 8, 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, Kentucky 40601

Re: 810 KAR 3:010

Dear Co-Chairs West and Lewis:

After consideration of the issues raised by 810 KAR 3:010, the Kentucky Horse Racing Commission proposes the attached suggested substitute to this ordinary administrative regulation.

Sincerely,

Jennifer Wolsing  
General Counsel

**SUGGESTED SUBSTITUTE – ORDINARY ONLY – to AMENDED AFTER COMMENTS VERSION**

Final Version: 12/08/23 at 10:21 a.m.

**PUBLIC PROTECTION CABINET  
Kentucky Home Racing Commission**

**810 KAR 3:010. Licensing of racing associations.**

RELATES TO: KRS 230.215, 230.260, 230.280, 230.290, 230.300, 230.320, 230.811, 230.817, 15 U.S.C. 77a, 78a

STATUTORY AUTHORITY: KRS 230.215(2), 230.260(9), 230.280, 230.300(1), (9), 230.811

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) authorizes[vests] the Kentucky Horse Racing Commission [with the authority-] to promulgate regulations prescribing conditions under which all legitimate horse racing and wagering thereon is conducted in the Commonwealth. KRS 230.280(1) requires[prohibits] any person [from-] conducting a horse race meeting for any stake, purse, or reward within the Commonwealth to obtain[without securing] the required license from the commission. KRS 230.260(9) authorizes the commission to promulgate[prescribe] by administrative regulation, application forms for licenses. KRS 230.300 authorizes the commission to issue licenses to conduct race meetings. KRS 230.811 requires all applicants for a sports wagering operator's license to apply to the commission. KRS 230.260(16) requires the commission to promulgate administrative regulations to establish standards for the conduct of sports wagering. This administrative regulation establishes licensing application procedures and requirements for conducting horse racing at horse race meetings in the Commonwealth~~;~~ and [also-]establishes licensing application procedures and requirements for a licensed racing association to obtain a sports wagering operator's license and offer sports wagering in the Commonwealth.

Section 1. Definitions. (1) "Application" means Initial/Renewal Application for License to Conduct Live Horse Racing, Simulcasting, Pari-Mutuel Wagering, and Sports Wagering Form,[-]" KHRC 3-010-1/[-] incorporated by reference in Section 2 of this administrative regulation].

(2) "Applicant for operator license" means a person licensed as an association under KRS 230.300 who[that] is eligible for an operator license pursuant to KRS 230.811.

(3) "Operator" means a sports wagering operator license applicant that has been granted a license.

(4) "Operator license" means a license to conduct, manage, or offer to conduct sports wagering within the Commonwealth of Kentucky, pursuant to KRS 230.811.

(5) "Occupational licensee" means a person holding a license authorized by KRS 230.210 and 809 KAR 1:003.

(6) "Principal" is defined by KRS 230.210(20)[(14)].

(7)[(2)] "Publicly traded corporation" means a corporation that:

(a) Has voting securities registered under Section 12 of the Securities Exchange Act of 1934 (1934 Act), 15 U.S.C. 78a et seq.;

(b) Issues securities subject to Section 15(d) of the 1934 Act;

(c) Has voting securities exempted from the registration requirements due to Section 3 of the Securities Act of 1933, 15[48] U.S.C. 77a et seq.; or

(d) Is required to file under the 1934 Act.

(8) "Service provider" is defined by KRS 230.210(30).

(9) "Sports wagering" is defined as established in KRS 230.210(28).

(10) "Substantial owner" is any person who owns five (5) percent or more of the business.

Section 2. Racing License Applications. (1) New racing license applications. A person or legal entity desiring to conduct horse[thoroughbred] racing in the Commonwealth shall apply to the commission for an association license pursuant to KRS 230.300(1).

(2) Renewal racing applications. Racing association licenses shall be renewed annually in accordance with KRS 230.300(1).

(3) An initial or renewal license application to conduct a horse racing meeting shall be submitted on the form ~~[""]~~Initial/Renewal Application for License to Conduct Live Horse Racing, Simulcasting, Pari-mutuel Wagering, and Sports[and Pari-mutuel] Wagering, ~~[""]~~ KHRC 3-010-1.

(4) An applicant that is unable to provide information required on the application shall fully explain and document to the satisfaction of the commission its inability to provide the information at the time of filing the application, and shall provide the information ~~[promptly]~~ upon being able to do so.

Section 3. Racing License and Investigation Fees. (1) Racing license~~[License]~~ fee.

(a) An initial applicant for an initial license shall submit with the application a non-refundable application~~[initial license]~~ fee of \$5,000.

(b) A renewal applicant shall not be charged a fee to renew a racing association license, unless an investigation fee is authorized by subsection (2) of this section.

(2) Racing license investigation~~[Investigation]~~ fees.

(a) With the application, initial applicants shall submit ~~[with the application]~~ an investigation fee of \$10,000.

(b)1. The commission may require a renewal applicant or an applicant proposing a substantial change in ownership to pay an investigation fee of \$10,000 if:

- a. The applicant or one (1) of its principals has not previously been subject to an investigation;
- b. More than five (5) years has passed since the last investigation of the applicant or one (1) of its principals was conducted; or
- c. The commission finds other good cause for an investigation.

2. If an investigation fee is requested, the applicant shall submit a cashier's check or certified check payable to the commission within ten (10) days of receipt of the request.

(c) The investigation fee shall pay all costs incurred by the commission in reviewing the application.

(d) Any portion of the investigation fee not required to complete the investigation shall be refunded to the applicant within twenty (20) days of the withdrawal, rejection, or approval of the license application or proposed change of ownership.

(e) If additional costs are incurred in the conduct of the investigation, the applicant shall submit a cashier's check payable to the commission in the amount reasonably requested by the commission within ten (10) days of receipt of the request. Failure to submit this payment shall result in suspension of processing the license application or proposed change of ownership and may result in denial of the license or proposed change of ownership.

Section 4. Racing Licensing Criteria. (1) The commission shall issue a racing license if it determines that:

(a) The applicant meets all requirements of KRS Chapter 230 and KAR Title 810;

(b) The applicant is qualified and financially capable of operating a race track;

(c) The applicant will conduct racing in accordance with KRS Chapter 230 and KAR Title 810;

(d) The applicant will conduct racing in accordance with the highest standards and the greatest level of integrity; and

(e) The issuance of a license will ensure the protection of the public interest.

(2) In reviewing an application, the commission may consider any information, data, reports, findings, or other factors available ~~and[which it deems]~~ relevant to its determination of ~~if[whether]~~ the applicant is qualified to hold a license, including:

- (a) The integrity of the applicant and its principals, including ***if the applicant and its principals:***
  1. ~~Are[Whether the applicant or its principals is]~~ unsuitable pursuant to KRS 230.280(2)(f);
  2. ~~Have[Whether the applicant or its principals has]~~ been a party to litigation over business practices, disciplinary actions over a business license, or refusal to renew a license;
  3. ~~Have[Whether the applicant or its principals has]~~ been a party to proceedings in which unfair labor practices, discrimination, or violation of government regulations pertaining to racing or gaming laws was an issue, or bankruptcy proceedings;
  4. ~~Have[Whether the applicant or its principals has]~~ failed to satisfy judgments, orders, or decrees; and
  5. ~~Have[Whether the applicant or its principals has]~~ been delinquent in filing tax reports or remitting taxes;
- (b) The quality of physical facilities and equipment, including any improvements and equipment proposed or existing in the applicant's facility;
- (c) If a new applicant, the schedule for completion of a racing facility and the feasibility of meeting the schedule;
- (d) The types and variety of pari-mutuel horse racing ~~that[which]~~ the applicant proposes to offer;
- (e) The financial ability of the applicant to develop, own, and operate a pari-mutuel facility successfully;
- (f) If a new applicant, the status of governmental actions required to approve or facilitate the applicant's facility;
- (g) The management ability of the applicant and its principals;
- (h) Compliance of the applicant with applicable statutes ***and regulations, charters, or ordinances in all relevant jurisdictions,*** charters, ~~or ordinances[, or regulations];~~
- (i) The efforts of the applicant to promote, develop, and improve the horse racing industry in Kentucky;
- (j) The impact of the facility upon the Commonwealth of Kentucky in ~~[the following areas]:~~
  1. Employment created, purchases of goods and services, public and private investment, and taxes generated;
  2. Ecological and environmental impact;
  3. Social impact; and
  4. Cost of public improvements;
- (k) The extent of public support or opposition to horse racing and pari-mutuel wagering at the location where the license is sought; and
- (l) The effects of the location of the track, including the ~~[following]:~~
  1. Number, nature, and relative location of other licensees; and
  2. Minimum and optimum number of racing days sought by the applicant.

Section 5. Racing Date Assignments. In assigning racing meetings and race dates to applicants, the commission shall consider factors relating to the economic and practical feasibility of conducting racing meetings at association race tracks, including:

- (1) The types and dates of racing meetings held elsewhere, both within and outside of the Commonwealth;
- (2) The effects that various types of pari-mutuel racing have upon one another;
- (3) The quality of horse racing provided at other racetracks;
- (4) Dates traditionally awarded racetracks in the past;

- (5) The past performance of the licensee;
- (6) **If**~~[Whether]~~ the licensee has complied with KRS Chapter 230 and KAR Title 810;
- (7) **If**~~[Whether]~~ the assignment of racing dates will maximize revenues to the state;
- (8) **If**~~[Whether]~~ the assignment of racing dates will adversely affect the public health, welfare, and safety;
- (9) The projected stability of the racing dates to be awarded; and
- (10) The stability of the racing circuit within and outside the Commonwealth.

Section 6. Racing License Applicant Presentation. (1) An applicant that has submitted a completed license application and all accompanying fees may request to make a presentation of its application at a meeting of the commission prior to the ruling on the application.

(2) The presentation shall be limited to information contained in the application and any supplemental information relevant to the applicant's suitability. The admission of supplemental information shall be subject to the discretion of the commission.

Section 7. Additional Information. At any time prior to issuing a license, the commission may request additional information if the information would assist the commission in deciding whether **or not** to issue a license, including:

- (1) Copies of any documents used by the applicant in preparing the application; and
- (2) Contracts between the applicant and third parties related to operations.

Section 8. Change in Ownership. (1) A change in ownership shall be reported to the commission on the Kentucky Horse Racing Commission Racing Association Change of Control Form, KHRC 3-010-2.

(2) Notice of a nominal change in ownership shall be filed with the commission within fifteen (15) days of the execution of the documents upon which the proposed nominal change is based.

(3) Notice of a change of ownership shall not be required for:

- (a) A nominal change in ownership if the licensee is a publicly traded corporation;
- (b) The transfer of an ownership interest in an association, direct or indirect, whether substantial or nominal, if by a publicly traded corporation and the beneficial ownership is acquired by a person who will hold the voting securities of the publicly traded corporation for investment purposes only; or
- (c) A debt transaction of a publicly traded corporation, unless the transaction results in the pledge or encumbrance of the assets or any portion thereof of the association.

(4) Notice of a substantial change in ownership shall be filed with the commission prior to the execution of the documents upon which the proposed substantial change is based and shall constitute a request for approval of the change.

(a) Absent prior written approval from the commission, a substantial change in ownership shall result in termination of the license.

(b) Any attempt to effect substantial change in ownership not in writing shall be considered void by the commission.

Section 9. Material Modification of Proposed or Existing Facility. A new applicant or association with an existing facility shall not materially alter the grounds or facilities after a license has been issued for that facility without prior written approval of the commission or, if designated by the commission, the executive director of the commission.

Section 10. Racing Licensee Late Fee. (1) **Failure of** a licensee ~~[that fails-]~~ to conduct racing after the commencement date **stated**~~[specified]~~ in the license **shall be grounds for**~~[may be subject to]~~ a late fee not to exceed \$15,000 per day.

- (2) The amount of the late fee shall be based on the economic impact caused by the licensee's failure to perform.
- (3) The late fee shall not be imposed for a particular day if the licensee can prove to the satisfaction of the commission that the cause of delay was:
  - (a) Beyond the control and without the fault or negligence of the licensee, its contractors, and subcontractors; or
  - (b) The default of a contractor or subcontractor, if:
    1. Arising from causes beyond the control of the licensee, its contractors, and subcontractors; and
    2. The supplies or services to be **provided[furnished]** by the contractor or subcontractor were not obtainable from other sources in sufficient time for the licensee to meet the completion date.

Section 11. Sports Wagering Operator License Applications; Deadlines; Provision for 2023. (1) **A racing association shall not[No racing associations shall]** offer sports wagering without a valid license issued by the commission.

(2) Initial applications. An applicant for an operator license in the Commonwealth shall apply to the commission for an operator license pursuant to KRS 230.811.

(3) Renewal applications. An operator license shall be renewed annually in accordance with KRS 230.811.

(4) Except as **established[otherwise provided]** in Section 14 of this administrative regulation, an initial or renewal application for an operator license shall be submitted on the form, Initial/Renewal Application for License to Conduct Live Horse Racing, Simulcasting, Pari-Mutuel Wagering, and Sports Wagering Form, ["] KHRC 3-010-1[, **06/2023**].

(5) Initial **operator licenses granted[applications completed]** for sports wagering conducted in 2023 shall be effective through December 31, 2023.

(6) For sports wagering conducted in 2024 and thereafter, an application shall be filed with the commission prior to September 1 of the preceding calendar year.

(7) For sports wagering conducted in 2023, operators that offer sports wagering in a licensed facility for sports wagering shall offer in-person sports wagering at their licensed facility for sports wagering starting on or after September 7, 2023. Operators shall not offer sports wagering via a Web site or mobile application before September 28, 2023.

Section 12. Operator License Fees. (1) An applicant for an operator license shall submit the initial fee of \$500,000 with its initial application for a license. The initial fee shall be non-refundable.

(2) An operator shall submit the renewal fee of \$50,000 with a renewal application for their license. The renewal fee shall be non-refundable.

(3) Pursuant to KRS 230.811, the fees in this section shall be deposited into the fund established by KRS 230.817.

Section 13. Operator Licensing Criteria. (1) The commission shall issue an operator license if it determines that the applicant for an operator's participation as a sports wagering operator is in the best interests of sports wagering in Kentucky.

(2) In reviewing an application, the commission may consider any information, data, reports, findings, or other factors available that it deems relevant to its determination of whether **or not** the applicant for an operator license is qualified to be an operator. The commission shall consider, at a minimum, **if[whether]**:

(a) The applicant for an operator license has completed and filed an Initial/Renewal Application for License to Conduct Live Horse Racing, Simulcasting, Pari-Mutuel Wagering, and Sports Wagering Form, KHRC 3-010-1;

(b) The applicant for an operator license meets all applicable requirements of KRS Chapter 230, KAR Title 810, and KAR Title 809;

(c) The applicant for an operator license is qualified and financially capable of conducting sports wagering;

(d) The applicant for an operator license will conduct sports wagering in accordance with KRS Chapter 230, KAR Title 810, [;] and KAR Title 809;

(e) The applicant for an operator license will conduct sports wagering in a controlled environment that protects patrons from cheating and fraud; and

(f) The issuance of an operator license will ensure the protection of the public interest.

1. The commission may authorize a temporary sports wagering operator license while determining suitability for the annual operator license.

2. The commission shall consider at least the following factors in determining whether **or not** to issue a temporary operator license:

a. [g)] The information submitted by the applicant is sufficient to determine the applicant's suitability;

b. [h)] The applicant for an operator's history of offering pari-mutuel wagering in the Commonwealth; and

c. [i)] The history, if any, of the applicant for an operator license or its parent company of offering sports wagering or other gaming in other jurisdictions.

Section 14. Operator Application Procedures. (1) An applicant for an operator license shall submit a fully executed original application.

(2) An application **shall be [is]** deemed filed **once [when]** the commission has received the completed application forms, including the information and documentation required by the application, unless a waiver is granted pursuant to subsection (10) of this section.

(3) The completed applications shall be filed as **established in paragraphs (a) through (c) of this subsection. [follows:]**

(a) Applicants for an operator license shall submit six (6) copies or electronically **through the portal maintained [in a method approved]** by the commission **at <https://khrc.ky.gov/Sportsbetting/newappwelcome>**.

(b) Applicants for an operator license shall submit the application to the commission's office in Lexington, Kentucky.

(c) Applicants for an operator license shall submit the application prior to expiration of the deadlines established in Section 11 of this administrative regulation.

(4) An applicant for an operator license **shall be [is]** under a continuing duty to disclose any changes in the information submitted to the commission.

(5) Any operator that enters into a contract with a **[new-]** service provider to provide services in Kentucky shall provide notice to the commission and a copy of **the [such]** contract within fourteen (14) calendar days. If an operator has entered into a contract with a service provider to provide services in Kentucky **[prior to the effective date of this regulation]**, the operator shall attach the contract to its application for an operator's license. The operator shall provide notice to the commission within fourteen (14) calendar days of any subsequent amendments, modifications, or revisions made to the contract.

(6) Any operator that enters into a contract with a **[new-]** information services provider to provide services in Kentucky shall provide notice to the commission within fourteen (14) calendar days of entry into the contract and, as requested by the commission, a copy of **the [such]** contract. If an operator has entered into a contract with an information services provider to provide services in Kentucky **[prior to**

~~the effective date of this administrative regulation~~, the operator shall attach the contract to its application for an operator's license. The operator shall provide notice to the commission within fourteen (14) calendar days of any subsequent amendments, modifications, or revisions made to the contract.

(7) If an occupational licensee ceases to offer goods and services to an operator licensee, then the operator licensee shall notify the commission.

(8) An application shall include at least ~~the following information~~:

(a) The name, address, and business structure of the applicant for an operator license;

(b) A **Multi Jurisdictional** Key Employee License **Form, incorporated by reference in 809 KAR 1:003, [application]** for a substantial owner or key person;

(c) A description of all sports wagering services, equipment, devices, and supplies used by the applicant for an operator;

(d) Contracts with service providers or occupational licensees, which are related to the sports wagering;

(e) Disclosure of any criminal, civil, or administrative action brought against the applicant for an operator license;

(f) Description of all other licenses held by the applicant for an operator license;

(g) Internal controls related to the conduct of sports wagering;

(h) The applicant for an operator's license shall submit audited financial statements for each of the three (3) fiscal years immediately preceding the application.

(i) If the applicant for an operator's license **does not have [has no]** audited financial statements, the applicant shall provide audited financial statements of its parent company and the applicant's unaudited financial statements, which document the applicant's financial performance, assets, and liabilities, including:

1. A balance sheet;

2. An income statement;

3. A cash flow statement;

4. A statement of retained earnings; and

5. Notes for financial statements.

(j) Organizational and ownership charts of the applicant for an operator license; and

(k) Information regarding all testing, certifications, or approvals on any component used by the applicant for an operator license to provide sports wagering services.

(9)(a) For applicants for an operator license in 2024 and subsequent years, internal controls shall be produced to the commission simultaneously with licensure applications.

(b) For 2023 applicants for an operator license, internal controls shall be produced to the commission thirty (30) days before the applicant for an operator license intends to begin accepting sports wagers.

(c) ~~No~~ Sports wagers shall **not** be offered by an applicant for an operator license until the commission has approved its internal controls or otherwise issued a temporary license pursuant to Section 13 of this administrative regulation.

(10)(a) Submission of the application fee and pages 23 through 31 of Form KHRC 3-010-1 on or before August 1, 2023, **shall constitute [constitutes]** an application to provide sports wagering in 2023.

(b) Starting in 2023, submission of the application fee and the entire Form KHRC 3-010-1 on or before ~~October~~ **September** 1 **shall constitute [constitutes]** an application to provide live horse racing, simulcasting, pari-mutuel wagering, and sports wagering in the subsequent year.

(11) The commission may grant an applicant for an operator license a waiver to submit all or part of the required information if it deems that the applicant for an operator license has already submitted the information as a part of the application required under this administrative regulation. An applicant for

an operator license shall request this waiver in advance of submitting an application under this chapter and provide written justification for each waiver sought. [~~This justification shall be drafted to the commission's satisfaction.~~]

Section 15. Operator License Requirements. (1) A license issued under this chapter shall include, at a minimum:

- (a) The applicant for an operator's license name and business address;
- (b) License number assigned by the commission;
- (c) Signature of the executive director, the chairman of the commission, or their designee;
- (d) Date the license was issued;
- (e) The date that the license will expire; and
- (f) A reference to the conditions placed on the license.

(2) The operator license shall remain the property of the commission at all times and the commission may:

- (a) Take licensure action. **Licensure action shall be as established[as set forth]** in 810 KAR 10:008; **and**
- (b) Issue conditions **for the license[thereon]**.

Section 16. Applicant for an Operator License Presentation. (1) An applicant for an operator license that has submitted a completed license application and all accompanying fees may request to make a presentation of its application at a meeting of the commission prior to the ruling on the application.

(2) The presentation shall be limited to information contained in the application and any supplemental information relevant to the applicant for an operator's suitability. The admission of supplemental information shall be subject to the discretion of the commission, in the best interests of sports wagering in the Commonwealth.

Section 17. Joint Ventures. Two (2) or more associations licensed under KRS 230.805 may conduct sports wagering together as part of a joint venture or pursuant to an agreement between them. **A[Such]** joint venture **agreement or contract[agreements or contracts]** shall be submitted to the commission within five (5) days of the effective date.

Section 18.[Section 14.] Incorporation by Reference.

(1) The following material is incorporated by reference:

- (a) "Initial/Renewal Application for License to Conduct Live Horse Racing, Simulcasting, [~~and~~]Parimutuel Wagering, and Sports Wagering Form", KHRC 3-010-1, **11/2023[06/2023]**[11/2018]; and
- (b) "Kentucky Horse Racing Commission Racing Association Change of Control Form", KHRC 3-010-2, 11/2018.

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



Andy Beshear  
GOVERNOR

**CABINET FOR HEALTH AND FAMILY SERVICES**  
**DEPARTMENT FOR PUBLIC HEALTH**

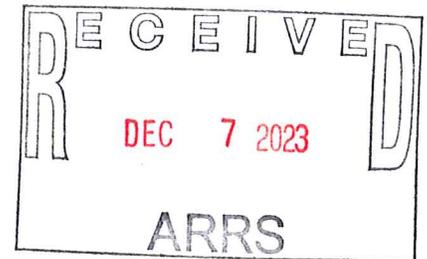
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Frankfort, Kentucky 40621  
Phone: (502) 564-3970  
Fax: (502) 564-9377

Eric Friedlander  
SECRETARY

Steven Stack, MD  
COMMISSIONER

December 6, 2023

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



Re: **902 KAR 4:120**. Health Access Nurturing Development Services (HANDS) Program.

Dear Co-Chairs West and Lewis,

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 902 KAR 4:120, the Department for Public Health proposes the attached suggested substitute to this ordinary regulation.

Please contacted Julie Brooks, Department for Public Health, at (502)229-3377 if you have any questions.

Sincerely,

Krista Quarles  
Policy Analyst  
Office of Legislative and Regulatory Affairs

## SUGGESTED SUBSTITUTE

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

#### 902 KAR 4:120. Health Access Nurturing Development Services (HANDS) Program.

RELATES TO: KRS 13B.080-13B.160, ~~[200.700, 211.090,]~~211.180, 211.689

STATUTORY AUTHORITY: KRS 194A.050(1), 211.690

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations necessary to operate the programs and fulfill the responsibilities vested in the cabinet. KRS 211.690 authorizes the Cabinet for Health and Family Services to implement a voluntary statewide home visitation program for the purpose of providing assistance to at-risk parents during the prenatal period until the child's third birthday. This administrative regulation establishes the eligibility criteria, services, provider qualifications, and hearing rights for participants of the Health Access Nurturing Development Services (HANDS) Program.

#### Section 1. Definitions.

- (1) "Department" means the Department for Public Health or its designated representative.
- (2) "Family support worker" ~~[or "FSW"]~~ means an employee or subcontractor of the local implementing agency~~[a provider's employee or subcontractor]~~ who visits participants and performs services.
- (3) "Local implementing agency" means a local health department or **a contracted~~[an]~~ agency that agrees to participate as a HANDS provider and ~~[to]~~ employ or contract with staff that:**
  - (a) meet the qualifications *specified in Section 3 of this administrative regulation*~~[and training requirements for home visitation service delivery; and~~**
  - (b) Agree to abide by all:**
    - 1. HANDS policies and procedures; and**
    - 2. Reporting requirements**~~["HANDS" means Health Access Nurturing Development Services, a voluntary statewide home visitation program for the purpose of providing assistance to at-risk parents during the prenatal period and until the child's third birthday as funding is available].~~
- (4) "Participant" means the parent and child~~[an individual]~~ enrolled in the HANDS program and receiving HANDS services.
- (5) "Tele-service" means a home visitation service provided through video communication with the HANDS provider, parent, and child present in real time~~["Provider" means a local health department agency subscribing to staff and training requirements, program policies and procedures, and reporting requirements of the HANDS Program and agreeing to participate as a HANDS provider].~~

#### Section 2. Eligibility Criteria.

- (1) In order to receive a service established in Section 4 of this administrative regulation, an individual shall be:
  - (a) ~~[Submit ACH-301, Consent for Services, to the local health department or their subcontractor, in accordance with KRS 211.690(4).]~~
  - ~~[(b)]~~ Be:
    - [1.] A pregnant individual who is under twenty (20) years old~~[woman who has not reached her 20th birthday];~~
    - [2.] A pregnant individual~~[woman]~~ who is at least twenty (20) years old and upon assessment is identified as having **one or more** risk factors~~[a risk is deemed likely]~~ for the pregnancy or the infant;
    - [3.] The child of an individual identified in paragraph (a) or (b) of this subsection who is less than three (3) years of age and assessed~~[Up to the third birthday, an infant or toddler of an individual identified in subparagraph 1. or 2. of this subsection, whose family is determined to be at risk and is screened]~~ for eligibility within ninety (90) days post-birth; or

- (d)[4.] A father or guardian of a child identified in paragraph (c)[subparagraph 3.] of this subsection.
- (2) The local implementing agency shall assess an applicant for eligibility. The assessment shall reflect:
- (a) The child and parents unique strengths and needs; and
  - (b) The services appropriate to meet those needs.
- (3) All assessments of the child and family shall be:
- (a) Conducted in a nondiscriminatory manner;
  - (b) Selected and administered so as not to be racially or culturally discriminatory; and
  - (c) Conducted in the native or preferred language of the child or parent.
- (4) Parental consent shall be provided to the local implementing agency before an assessment.
- (5) The assessment shall:
- (a) Be conducted by a family support worker professional who meets the qualifications listed in Section 3(2) of this administrative regulation; and
  - (b) Result in:
    1. Eligibility for HANDS services, in which the family shall be referred for the development of a home visiting plan; or
    2. Ineligibility for HANDS services, in which the family shall be provided with community resources, referral information, and general parenting information.
- (6) Participation in the HANDS Program is[shall be] voluntary.
- (7)[(3)] Participation in the HANDS Program shall be discontinued if[prevented or terminated if one (1) of the following occurs]:
- (a) The child dies[Death of the fetus or infant];
  - (b) The family elects to withdraw from the program;
  - (c) The family moves out of state;
  - (d) Contact with the family is lost; or
  - (e) The family repeatedly fails to participate in program activities.[-; or]
  - (f) [The goals established for the family are met.]
- [(4)] [A screening shall include the following components:]
- [(a)] [Using the ACH-300, Referral Record Screen, a provider shall determine eligibility][of an applicant by:]
    - [1.] [Face-to-face interview; or]
    - [2.] [Evaluation of health records;]
  - [(b)] [If an individual's screening indicates eligibility for HANDS services, the individual shall be referred for an assessment; and]
  - [(c)] [If an individual's screening indicates ineligibility for HANDS services, the individual shall be provided with community resource and referral information.]
- [(5)] [An assessment shall:]
- [(a)] [Consist of the following components:]
    - [1.] [Using the ACH-302, Parent Survey Summary, and ACH-303, Parent Survey Score Sheet, a comprehensive needs assessment shall be performed by conducting a face-to-face interview with the child, mother, and family to include information regarding each parent's:]
      - [a.] [Childhood experience;]
      - [b.] [Lifestyle behaviors and mental health;]
      - [c.] [Experience and expectations for parenting;]
      - [d.] [Coping skills;]
      - [e.] [Support system;]
      - [f.] [Stress and anger management skills;]
      - [g.] [Expectations of the infant's developmental milestones and behaviors;]
      - [h.] [Plans for the child's discipline;]
      - [i.] [Perception of the new infant; and]
      - [j.] [Bonding and attachment to the infant; and]
    - [2.] [Arrangement for delivery of needed services;]
  - [(b)] [Be conducted by:]
    - [1.] [A social worker;]

- ~~[2.] [A registered nurse;]~~
- ~~[3.] [A graduate of a four (4) year program in a social or behavioral science, education field, or a related field with one (1) year experience performing case management services, except that A master's degree in a human services field may be substituted for the one (1) year experience; or]~~
- ~~[4.] [A graduate with an associate degree in an early childhood education field and successful completion of the department's home visitation model training; and]~~
- ~~[(e)] [Result in:]~~
  - ~~[1.] [Eligibility for HANDS services, in which the individual shall be referred for the development of a home visiting plan; or]~~
  - ~~[2.] [Ineligibility for HANDS services, in which the individual shall be provided with community resource and referral information and general parenting information.]~~

Section 3. Provider Qualifications.

(1) A family support worker paraprofessional shall be a:

- (a) High school graduate or holder of a general education development credential[GED] who[:]
  - ~~[4.] is at least eighteen (18) years of age;~~
  - ~~(b)[2.] Has received department training in:~~
    - ~~1.[a.] Ongoing assessment of family strengths and needs;~~
    - ~~2.[b.] Service plan development;~~
    - ~~3.[c.] Evidence-based home visiting model;~~
    - ~~4.[d.] Coordination of services; and~~
    - ~~5.[e.] Evaluation; and~~
  - ~~(c)[3.] Is supervised by a registered[public health] nurse or licensed social worker.[:]~~

(2) A family support worker professional shall be a:

- (a) Licensed[:]
- ~~[(b)] [Public health] nurse who holds[has] a valid Kentucky Board of Nursing license as a registered nurse or advanced practice registered nurse;~~
- ~~(b)[(e)]~~
  - ~~[4.] Licensed social worker who holds a valid Kentucky[meets the requirements for licensure by the State] Board of ~~[Examiners of-]~~Social Work license;~~
  - ~~(c)[2.] Graduate with a master's degree in human services or closely related field who shall be supervised by a registered nurse or licensed social worker; or~~
  - ~~(d) [social work from an accredited institution; or]~~
    - ~~[3.] Graduate with a bachelor's degree in early childhood education, human services, or closely related field who shall be supervised by a registered nurse or licensed social worker.[social work from an accredited institution;]~~

(3) A HANDS supervisor shall be a:

- (a) Licensed nurse who holds a valid Kentucky Board of Nursing license as a registered nurse or advanced practice registered nurse; or
- (b) Licensed social worker who holds a valid Kentucky Board of Social Work license.

~~(4)[(d)] [Graduate of a four (4) year program in a social or behavioral science, education field, or a related field with one (1) year experience performing case management services, except that a master's degree in a human services field may be substituted for the one (1) year experience; or]~~

~~[(e)] [Graduate with an associate degree in an early childhood education field and successful completion of the department's home visitation model training.]~~

~~[(2)] A local implementing agency[health department] shall meet the requirements to provide HANDS services if:~~

~~(a)[~~The~~][its][~~staff or subcontractor receives the required training provided by the department to become a family support worker;~~~~

~~(b)] It assures that appropriate staff meet the licensure requirements of the department pursuant to subsection (1) or (2)[(b) or (c)] of this section;~~

~~(b)[(c)] It assures supervision by licensed personnel pursuant to subsection (3)(a) or (b)[subsection (1)(b) or (c)] of this section; **and**~~

~~(c)~~~~(d)~~ It reports program data from Section 4(1) of this administrative regulation into the online HANDS database no later than the first Sunday of the month following the date of service~~;~~ and (e) It abides by the policies of the HANDS program.

#### Section 4. Services.

(1) Home visitation may take place in the client's home or another community site if justified in the record. A home visit~~it~~~~[visitation]~~ shall include~~[-the]~~~~[following]~~:

(a) Monitoring the child~~[of the child's, mother's,]~~ and family's progress by:

1. Making referrals to community resources;
2. Tracking appointments to ensure they are being kept;
3. Following up on referrals~~[Performing follow-up services as identified by the provider];~~ and
4. Performing periodic evaluations of ~~[the-]~~ participant's changing needs;

(b) The preparation and maintenance of case records that document~~[which shall be documented with]~~ contacts, services needed, reports, and progress;

(c) Consultations with the family~~[parent or primary caregiver]~~ on positive pregnancy outcomes, optimal child growth and development, safe and healthy~~[health and safe]~~ homes, and family decision making and self-sufficiency; and

(d) Crisis assistance.

(2)

(a) Service frequency shall be provided in accordance with the level of need of the parent or family~~[pursuant to ACH-306, Parent Completion LEVELS-].~~

(b) The frequency of visitation shall be lessened as the family meets goals agreed to by the provider and the participant.

~~[(3)] [Between the second and third birthday, home visitation services shall be limited to a child whose family does not progress beyond level I of ACH-306, Parent Completion LEVELS].]~~

#### Section 5. Appeal Rights.

(1) A local implementing agency~~[provider]~~ shall notify an individual who does not meet criteria for admission or continuation in the program or who has had a service discontinued, in writing, within ten (10) days of the denial or discontinuance.

(2) An individual wishing to appeal an adverse action by the local implementing agency shall notify the department in writing within thirty (30) days of the date of the notice identified in subsection (1) of this section that a hearing is requested.

(3) Notice of an administrative hearing shall be provided in accordance with KRS 13B.050.

(4) The administrative hearing process shall be conducted in accordance with KRS 13B.080 through 13B.160.

#### Section 6. Tele-service Delivery Methods.

(1)

(a) HANDS home visitation services that are otherwise designated as face-to-face in accordance with this administrative regulation may be provided through tele-service delivery methods with informed parental consent.

(b) These services shall include those listed in Sections 2(5) and 4 of this administrative regulation.

(c) Verbal and written consent shall be provided for each child in a shared household. For example, if the family has twins, verbal and written consent shall be provided for each child.

(2) Tele-service delivery methods shall be reimbursed at the usual and customary rate.~~[Incorporation by Reference. (1) The]~~~~[following material is incorporated by reference:]~~

~~[(a)] ["ACH-300, Referral Record Screen", 5/2016;]~~

~~[(b)] ["ACH-301, Consent for Services", 5/2016;]~~

~~[(c)] ["ACH-302, Parent Survey Summary", 5/2016;]~~

~~[(d)] ["ACH-303, Parent Survey Score Sheet", 5/2016; and]~~

~~[(e)] ["ACH-306, Parent Completion LEVELS", 5/2016.]~~

~~[(2)] [This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Public Health, first floor, Health Services Building, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.]~~

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**  
**DEPARTMENT FOR PUBLIC HEALTH**

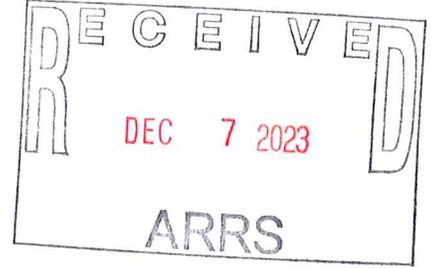
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**Steven Stack, MD**  
COMMISSIONER

December 7, 2023

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



Re: **902 KAR 45:065**. Tattooing.

Dear Co-Chairs West and Lewis,

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 902 KAR 45:065, the Department for Public Health proposes the attached suggested amendment to this ordinary administrative regulation.

Please contacted Julie Brooks, Department for Public Health, at (502)229-3377 if you have any questions.

Sincerely,

Lucie Estill  
Staff Advisor  
Office of Legislative and Regulatory Affairs

**SUGGESTED AMENDMENT**  
**Cabinet for Health and Family Services**  
**Department for Public Health**  
**Division of Public Health Protection and Safety**

**902 KAR 45:065. Tattooing.**

**Page 3**

**Section 1(12)**

**Line 2**

After "lot number", delete comma.

**Page 4**

**Section 2(2)**

**Line 9**

After "under the", insert "authority".

Delete "auspices".

**Page 5**

**Section 2(7)(c)**

**Line 4**

After "Nontransferable from", insert "1.".

After "person to another", insert semicolon.

Delete comma.

After "or", insert "2.".

Delete "from".

**Page 6**

**Section 3(5)(b)**

**Line 6**

After "Nontransferable from", insert "1.".

After "person to another", insert semicolon.

Delete comma.

After "or", insert "2.".

Delete "from".

**Page 10**

**Section 5(5)**

**Lines 9-10**

After "shall", delete the following:  
meet the following requirements

**Page 10**

**Section 5(5)(a)**

**Lines 10-11**

After ":(a)", insert "Be".

Delete "The equipment was".

**Page 10**

**Section 5(5)(b)**

**Line 12**

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

Delete "The equipment is".

**Page 10**

**Section 5(5)(c)**

**Line 14**

After "(c)", insert "Meet".

Delete "The equipment meets".

**Page 13**

**Section 6(8)**

**Line 7**

After "utilized,", insert "maintain".

Delete the following:

the following records shall be maintained

**Line 8**

After "and", insert "make".

Delete "made".

After "available", insert the following:

the following records

**Page 15**

**Section 9(2)**

**Line 22**

After "disposed of in", insert "a site".  
Delete "an".  
After "approved", delete "site".

**Page 20**

**Section 12(8)**

**Line 1**

After "supplied with", insert ":(a)".

**Line 2**

After "cold running water", insert ":(b)".

Delete the following:

and shall be supplied with

After "toilet paper", insert ":(c)".

Delete comma.

After "soap", insert ":(d)".

Delete comma.

**Line 3**

After "dispenser", insert ":(e)".

Delete comma.

After "receptacle", insert semicolon.

Delete comma.

After "and", insert ":(f)".

**Page 24**

**Section 14(4)(a)**

**Line 12**

After "violations", insert comma.

**Page 25**

**Section 14(5)**

**Lines 3-4**

After "shall be", delete "the following:  
deemed to have been

**Line 4**

After "served if", insert ":(a)".

**Line 5**

After "in charge", insert semicolon.

Delete comma.

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

**Page 26**

**Section 16(2)**

**Line 15**

After "in writing", insert "": (a)".

Delete comma.

**Line 17**

After "revocation", insert semicolon.

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

**Page 27**

**Section 17(1)(a)**

**Line 6**

After "(a)", insert the following:

DFS 200, "Application for Permit or License", 07/19;

(b)

**Lines 7-8**

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

Delete "(b)".

CABINET FOR HEALTH AND FAMILY SERVICES  
DEPARTMENT FOR PUBLIC HEALTH  
APPLICATION FOR PERMIT OR LICENSE



Application for permit/license to operate a: \_\_\_\_\_

Facility Profile: Permit/License Fee \_\_\_\_\_ Inspection Fee \_\_\_\_\_ Total \_\_\_\_\_

Date Paid: \_\_\_\_\_ Check  Cash  Money Order

Establishment No.: \_\_\_\_\_ Program: \_\_\_\_\_ County: \_\_\_\_\_

Action:  New  Change  Deleted  Reactivate

Status:  Active  Inactive  Hold  No. App  Suspended

Sanitarian Number: \_\_\_\_\_ Inspection Interval: \_\_\_\_\_ Type of Est.: \_\_\_\_\_

Type of Service:  Sit Down/Full  Cafeteria/Continental  Carry-Out/Retail Market

Caterer (Comm.)  Interstate Conveyance  No Service Type

Water Supply:  Public  Private  Other Sewage:  Public  Private  Other

Federal ID: \_\_\_\_\_ Census Tract: \_\_\_\_\_

**TO BE COMPLETED BY APPLICANT – PLEASE PRINT LEGIBLY**

Name of Establishment: \_\_\_\_\_

Sort Name (Leave Blank): \_\_\_\_\_

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_ Phone # \_\_\_\_\_

Owner's Name: \_\_\_\_\_ Last 4 SSN \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Home Phone: \_\_\_\_\_ Cell Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_

Billing Address (if different from above): \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_ Phone # \_\_\_\_\_

Military status:  Active Duty  Reserves  National Guard  Honorably Discharged Veteran

***I hereby certify that the above statements are true and correct to the best of my knowledge. I understand that a false statement may disqualify me for permits or licenses.***

Applicants Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Establishment GPS Coordinates

Latitude \_\_\_\_\_  
 DEG                      MIN                      SEC

Longitude \_\_\_\_\_  
 DEG                      MIN                      SEC

Quantity 1	Unit Measure	
	Machines	A
	Mobile Home Spaces	M
	Rooms	R
	Seats	S
	Trucks	T
	Gallons	G
	Boarders/Beds	B

Quantity 2	Unit Measure	
	Commissaries	C
	RV Spaces	V
	Feet	F
	Male Student	M
	Female Students	E
	Residents	R
	Square feet	Q

Catering Operation  Drive Through Window  Variance  Planned Construction No. \_\_\_\_\_

Language: \_\_\_\_\_ Menu Type: \_\_\_\_\_ Risk Type: \_\_\_\_\_

State Owned  Fee Paying  WIC  Print Permit  Roster  Truck Only

Home County \_\_\_\_\_ Group ID \_\_\_\_\_

Pool Information Type:  Indoor  Outdoor  Continuous TOR \_\_\_\_\_

Disinfectant type: \_\_\_\_\_ Pump: \_\_\_\_\_ Filter: \_\_\_\_\_

Bond Information

Insurance Company  Individual  Bond Needed  Not Required  Cancelled

**SEPTIC TANK TRUCKS**

Number	Make	Model	Year	Capacity

Construction Plan Approval  New or Additional Plumbing Construction Approval

By: \_\_\_\_\_

Health Authority: \_\_\_\_\_

Date: \_\_\_\_\_



**Andy Beshear**  
GOVERNOR

**CABINET FOR HEALTH AND FAMILY SERVICES**  
**DEPARTMENT FOR PUBLIC HEALTH**

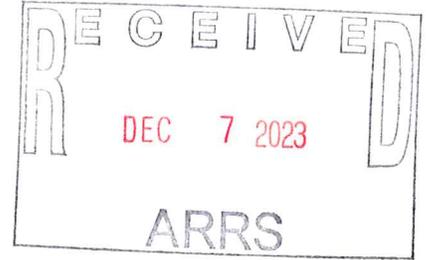
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**Eric Friedlander**  
SECRETARY

**Steven Stack, MD**  
COMMISSIONER

December 6, 2023

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



Re: 902 KAR 45:070. Body piercing and ear piercing.

Dear Co-Chairs West and Lewis,

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 902 KAR 45:070, the Department for Public Health proposes the attached suggested amendment to this ordinary regulation.

Please contacted Julie Brooks, Department for Public Health, at (502)229-3377 if you have any questions.

Sincerely,

Krista Quarles  
Policy Analyst  
Office of Legislative and Regulatory Affairs

**SUGGESTED AMENDMENT**

**Cabinet for Health and Family Services  
Department for Public Health  
Division of Public Health Protection and Safety**

**902 KAR 45:070. Body piercing and ear piercing.**

**Page 2**

**Section 1(5)**

**Line 10**

After "department", insert the following:  
to engage in body piercing or ear piercing

**Page 3**

**Section 1(11) [renumbered by the compiler as (12)]**

**Line 7**

After "pierced", insert comma.

**Page 4**

**Section 1(25)**

**Line 12**

After "days", delete ", and".

**Page 4**

**Section 2(2)**

**Line 21**

After "under the", insert "authority".  
Delete "auspices".

**Page 5**

**Section 2(7)(c)**

**Line 18**

After "Nontransferable from", insert "1."  
After "person to another", insert semicolon.  
Delete comma.  
After "or", insert "2."

Delete "from".

**Page 6**

**Section 3(3)(a)**

**Line 9**

After "License", insert the following:

, incorporated by reference in 902 KAR 45:065, and

**Page 7**

**Section 3(5)(b)**

**Line 1**

After "Nontransferable from", insert "1."

After "person to another", insert semicolon.

Delete comma.

After "or", insert "2."

Delete "from".

**Page 11**

**Section 5(5)(c)**

**Line 1**

After "single-use gloves", insert comma.

**Page 11**

**Section 5(6)**

**Lines 11-12**

After "shall", delete the following:

meet the following requirements

**Page 11**

**Section 5(6)(a)**

**Line 13**

After ":(a)", insert "Be".

Delete "The equipment was".

**Page 11**

**Section 5(6)(b)**

**Line 14**

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

Delete "The equipment is".

**Page 11**

**Section 5(6)(c)**

**Line 16**

After "(c)", insert "Meet".

Delete "The equipment meets".

**Page 17**

**Section 8(5)**

**Line 5**

After "client records", insert comma.

Delete "and".

**Line 6**

After "consent", insert comma.

**Page 17**

**Section 9(2)**

**Line 14**

After "disposed of in", insert "a site".

Delete "an".

After "approved", delete "site".

**Page 22**

**Section 13(8)**

**Line 20**

After "liquid soap", insert comma

Delete "and".

**Page 24**

**Section 14(1)(a)**

**Line 7**

After "License", insert the following:

, incorporated by reference in 902 KAR 45:065,

**Page 28**

**Section 15(6)**

**Lines 11-12**

After "shall be", delete "the following:  
deemed to have been

**Line 12**

After "served if", insert ": (a)".

**Line 13**

After "in charge", insert semicolon.

Delete comma.

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

**Page 30**

**Section 18(2)**

**Line 16**

After "4:30 p.m.", insert the following:

or at

[https://www.chfs.ky.gov/agencies/dph/dafm/Pages/lhddocuments.aspx?View=All  
&Title=Forms%20and%20Documents&Page=1](https://www.chfs.ky.gov/agencies/dph/dafm/Pages/lhddocuments.aspx?View=All&Title=Forms%20and%20Documents&Page=1)



**Andy Beshear**  
GOVERNOR

## CABINET FOR HEALTH AND FAMILY SERVICES

**Eric Friedlander**  
SECRETARY

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December 6, 2023

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



**Re: 907 KAR 3:310.** Community Health Worker services and reimbursement.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 907 KAR 3:310, the Department for Medicaid Services proposes the attached suggested substitutes to 907 KAR 3:310.

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

Sincerely,

Stacy Carey  
Executive Staff Advisor  
Office of Legislative and Regulatory Affairs

Final, 12-4-2023

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

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

**907 KAR 3:310. Community Health Worker services and reimbursement.**

RELATES TO: KRS 309.460-~~[, 309.462, ]~~309.464, 369.101-369.120

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 205.648

NECESSITY, FUNCTION, AND CONFORMITY: ~~[In accordance with]~~ KRS 194A.030(2) requires~~;~~ 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. KRS 205.648 requires DMS to seek a state plan amendment and implement covered services on behalf of community health workers. This administrative regulation establishes community health worker services and reimbursement.

Section 1. Definitions.

(1) "Certified community health worker" is defined by~~[has the same meaning as in]~~ KRS 309.460(2).

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

(3)~~[(a)]~~ "Medical intervention":

(a) Means a treatment, procedure, or other action taken to prevent or treat disease, or improve health in other ways; and~~;~~

(b) ~~["Medical intervention"]~~ Includes, but does not require the direct application of medical care.

(4) "Ordering provider" means a provider that is employed by or contracted with a sponsoring provider and who is:

(a) A physician;

(b) A physician assistant;

(c) An advanced practice registered nurse, including a certified nurse midwife;~~;~~ ~~or~~

(d) A dentist;

(e) An optometrist; or

(f) Any other clinician type included by the department.

(5) "Sponsoring provider":

(a) Means a provider listed or permitted to employ a certified community health worker pursuant to KRS 205.648(2); and

(b) 1. Includes a behavioral health multi-specialty group; or

2. Any other provider or facility that has been approved pursuant to KRS 205.648(2)(b)10.

Section 2. Certified Community Health Worker Qualifications. In order to be eligible for reimbursement, a certified community health worker shall:

(1) Be a legal United States resident;

(2) Be employed as a certified community health worker in the state of Kentucky;

(3) Be at least eighteen (18) years of age; and

(4) Meet and maintain the certification or recertification requirements of 902 KAR 21:040;~~;~~

(5) Provide services as approved by an ordering provider who is associated with a sponsoring provider; and~~;~~

(6)~~[(a)]~~ Provide services on behalf of a sponsoring provider.

~~[(b) For the purposes of this administrative regulation, a sponsoring provider of a certified community health worker shall include:~~

~~1. A behavioral health multi-specialty group; or~~

**2. Any other provider or facility that has been approved pursuant to KRS 205.648(2)(b)10.]**

Section 3. Community Health Worker Services.

(1) A community health worker service shall be related to a medical intervention that is outlined in the individual's care plan.

(2) Community health worker services shall include all services established within KRS 205.648(3)(a)-~~(e)~~~~(d)~~.

(3) Consistent with federal approval, the following services may be conducted by a certified community health worker. Any services provided shall be consistent with established or recognized healthcare standards:

(a) Health system navigation and resource coordination, which may include:

1. Helping a recipient find Medicaid providers to receive a covered service;
2. Helping a recipient make an appointment for a Medicaid covered service;
3. Arranging transportation to a medical appointment;
4. Attending an appointment with the recipient for a covered service; or
5. Helping a recipient find other relevant community resources such as support groups.

(b) Health promotion and coaching, which may include providing information or training to recipients that make positive contributions to their health status, such as:

1. Cessation of tobacco use;
2. Reduction in the misuse of alcohol or drugs;
3. Improvement in nutrition;
4. Improvement of physical fitness;
5. Family planning;
6. Control of stress; or
7. Pregnancy and infant care, including prevention of fetal alcohol syndrome.

(c)~~[-]~~ Health education and training to train or promote to recipients methods and measures that have been proven effective in avoiding illness or lessening its effects, including:

1. Immunizations;
2. Control of high blood pressure;
3. Control of sexually transmittable disease;
4. Prevention and control of diabetes;
5. Control of toxic agents;
6. Occupational safety and health; or
7. Accident prevention.

Section 4. Ordering and Delivery of Community Health Worker Services. Community health worker services shall be:

- (1) Ordered or approved by an ordering provider; and
- (2) Delivered according to a care plan approved by the ordering provider.

Section 5. Documentation of Community Health Worker Services. Community health worker services shall be:

- (1) Signed and documented by the certified community health worker;
- (2) Approved by the **ordering provider**~~[billing supervisor]~~ of the **sponsoring**~~[connected]~~ provider; and
- (3) Recorded and kept in the patient medical record.

Section 6. Reimbursement for Community Health Worker Services. Reimbursement for community health worker services shall be **via appropriate codes that comply with relevant existing rate methodologies utilized by the department and established by state and federal law. As appropriate, billing and reimbursement information shall be included in the Medicaid Physician Fee Schedule established in 907 KAR 3:010**~~[as established on the Community Health Worker Reimbursement Table]~~, available at: <https://www.chfs.ky.gov/agencies/dms/Pages/feesrates.aspx>.

Section 7. There shall **not** be ~~[no-]~~reimbursement under this administrative regulation available for a certified community health worker~~[-that is directly]:~~

- (1) **If/When performing a specific service that is** funded by a federal grant, **and only for that specific federally grant-funded service;** or
- (2) **That is directly** employed by a managed care organization.

Section 8. A community health worker service, by itself, shall not generate a wrap payment, including wrap payments for the following provider types:

- (1) Federally qualified health center (FQHC);
- (2) Rural health clinic (RHC); or
- (3) Certified community behavioral health clinic (CCBHC).

Section 9. Use of Electronic Signatures. The creation, transmission, storage, and other use of electronic signatures and documents shall comply with the requirements established in KRS 369.101 to 369.120.

Section 10. Auditing Authority. The department or the managed care organization in which an enrollee is enrolled **may/shall have the authority to** audit any:

- (1) Claim;
- (2) Medical record; or
- (3) Documentation associated with any claim or medical record.

Section 11. Federal Approval and Federal Financial Participation. The coverage provisions and requirements established in this administrative regulation shall be contingent upon:

- (1) Receipt of federal financial participation for the coverage; and
- (2) Centers for Medicare and Medicaid Services' approval of the coverage.

Section 12. Appeal Rights. An appeal of a department decision or adverse action regarding a Medicaid recipient who is:

- (1) Enrolled with a managed care organization shall be in accordance with 907 KAR 17:010; or
- (2) Not enrolled with a managed care organization shall be in accordance with 907 KAR 1:563.

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.



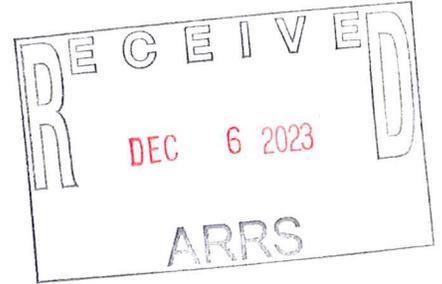
**Andy Beshear**  
GOVERNOR

## CABINET FOR HEALTH AND FAMILY SERVICES

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December 6, 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: 908 KAR 2:300

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 908 KAR 2:300, the Department for Behavioral Health, Developmental and Intellectual Disabilities proposes the attached suggested substitutes to 908 KAR 2:300.

If you have any questions, please feel free to contact Rachael Ratliff, Regulatory Advisor with the Department for Behavioral Health, Developmental and Intellectual Disabilities at [Rachael.Ratliff@ky.gov](mailto:Rachael.Ratliff@ky.gov).

Sincerely,

Stacy Carey  
Executive Staff Advisor  
Office of Legislative and Regulatory Affairs

**SUGGESTED SUBSTITUTE – TO AMENDED AFTER COMMENTS VERSION – ORDINARY ONLY**

Final Version: 11/21/23 at 10:45 a.m.

**CABINET FOR HEALTH AND FAMILY SERVICES  
Department for Behavioral Health, Developmental and Intellectual Disabilities  
Division of Behavioral Health**

**908 KAR 2:300. Kentucky problem gambling assistance account.**

RELATES TO: KRS 194A.005(1), ~~[(3), KRS]~~Chapter 210, ~~[KRS 210.410(2),]~~211.185, 230.826, 309.080(2), 309.083, 309.0832, 309.130(2), ~~(3)~~, 311.571, 311.840 ~~–[to]~~ 311.862, 314.042, 319.050, 319.056, 319.064, 319C.010(6), 335.080, 335.100, 335.300, 335.500~~[:]~~

STATUTORY AUTHORITY: KRS 230.826

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.826~~(2)~~ requires ~~[the secretary of]~~the Cabinet for Health and Family Services to promulgate administrative regulations to establish criteria for the expenditure of funds from the Kentucky problem gambling assistance account to: provide support to agencies, groups, organizations, and persons that provide education, assistance, and counseling to persons and families experiencing difficulty as a result of problem gambling, or substance use disorder; ~~and~~~~[-. These funds may also be used to]~~ promote public awareness and assistance of education and programs to reduce the consequences of problem gambling and pay for the costs and expenses associated with treatment of and recovery from problem gambling. KRS 230.826 also requires the establishment of procedures for the submission, evaluation, and review of applications for funding, the awarding of funds, and the cabinet's monitoring of fund expenditures. This administrative regulation establishes the standards for the types of agencies, groups, organizations, and persons eligible to receive funding from the Kentucky problem gambling assistance account, types of eligible activities, required documentation, and the development of performance measures and evidence of successful expenditures of awarded funds.~~[-KRS 230.826 also requires the establishment of procedures for the submission, evaluation, and review of applications for funding; the awarding of funds; and the cabinet's monitoring of fund expenditures.]~~

Section 1. Definitions. (1) "Behavioral health professional" means: (a) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties, who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc. or the American Osteopathic Board of Neurology and Psychiatry;

(b) A physician licensed in Kentucky to practice medicine or osteopathy in accordance with KRS 311.571;

(c) A psychologist licensed and practicing in accordance with KRS 319.050;

(d) A certified psychologist with autonomous functioning or licensed psychological practitioner practicing in accordance with KRS 319.056;

(e) A clinical social worker licensed and practicing in accordance with KRS 335.100;

(f) An advanced practice registered nurse licensed and practicing in accordance with KRS 314.042;

(g) A physician assistant licensed under KRS 311.840 through[to] 311.862;

(h) A "licensed marriage and family therapist" as defined by KRS 335.300;

- (i) A "licensed professional clinical counselor" as defined by KRS 335.500;
- (j) A "licensed professional art therapist" as defined by KRS 309.130(2);~~[-or]~~
- (k) A "licensed behavior analyst" as defined by KRS 319C.010(6); **or**

**(l) A licensed clinical alcohol and drug counselor in accordance with~~[as defined by]~~ KRS 309.0832.**

- (2) "Behavioral health professional under clinical supervision" means a:
  - (a) Psychologist certified and practicing in accordance with KRS 319.056;
  - (b) Licensed psychological associate ~~[licensed and]~~ practicing in accordance with KRS 319.064;
  - (c) "Marriage and family therapist associate" as defined by KRS 335.300(3);
  - (d) Social worker certified and practicing in accordance with KRS 335.080;
  - (e) "Licensed professional counselor associate" as defined by KRS 335.500(4);
  - (f) "Licensed professional art therapist associate" as defined by KRS 309.130(3);~~[-or]~~
  - (g) Registered behavior technician under the supervision of a licensed behavior analyst; **or**
- (h) A certified alcohol and drug counselor in accordance with~~[as defined by]~~ KRS 309.083.**

(3) "Behavioral Health Services Organization" or "BHSO" means a program licensed in accordance with 902 KAR 20:430.

~~(4) ["Certified alcohol and drug counselor" is defined by KRS 309.080(2).  
(5)]["Client" means an individual described by KRS 210.410(2).~~

~~(5)](6)]~~"Community mental health center" or "CMHC" or "center" means a program established pursuant to KRS Chapter 210.

~~(5)](6)](7)]~~ "Department" means the Department for Behavioral Health, Developmental and Intellectual Disabilities, Cabinet for Health and Family Services, 275 East Main Street, Frankfort, KY 40621.

Section 2. Eligibility. (1) The following organizations and individuals ~~shall be~~**are** eligible to apply for funding, to the extent funds are available, from the Kentucky problem gambling assistance account:

- (a) A CMHC licensed in accordance with 902 KAR 20:091;
- (b) A BHSO licensed in accordance with 902 KAR 20:430;
- (c) A Behavioral health professional;
- (d) **A behavioral health professional under clinical supervision;**
- ~~(e)~~ A health department established pursuant to KRS 211.185;~~[-or]~~
- ~~(f)~~~~(e)]~~ A federally designated 501(c)3 organization; **or**

**(g) A Certified Community Behavioral Health Clinic participating in the Center for Medicaid or Medicare Services Section 223 CCBHC Demonstration.**

(2) **A Kentucky Gambling Assistance Application shall only be filed for the purpose of requesting funds for**~~Applications for funding must be for at least one (1) of the following activities]:~~

- (a) Providing support to agencies, groups, organizations, and persons that provide education, assistance, and counseling to persons and families who experience difficulty as a result of substance use disorder~~;~~ or problem or compulsive gambling;
- (b) Promoting public awareness of, and providing education about, problem gambling;
- (c) Establishing and funding programs to certify problem gambling counselors;~~[-or]~~
- (d) Promoting public awareness of assistance programs for those experiencing consequences of problem gambling; **or**

**(e) Paying the costs associated with the treatment of addictions.**

Section 3. Application for Funding. ~~[(1)]~~ Entities that meet the eligibility requirements established in Section 2(1) of this administrative regulation shall submit a ~~["]~~ Kentucky Gambling Assistance Application ~~["]~~ with the required supporting documentation to the Department for Behavioral Health, Developmental, and Intellectual Disabilities, attention: Problem Gambling Assistance Account:

~~(1)[(a)]~~ In writing to 275 East Main Street, mail-stop 4W-G, Frankfort, Kentucky 40621; or

~~(2)[(b)]~~ Via electronic mail to kyproblemgamblingassistance@ky.gov.

Section 4. Monitoring. (1) Recipients of funds from the Kentucky problem gambling assistance account shall:

(a) Establish and conduct evaluation measures that assess the efficacy of services provided;

(b) Collect and report the ~~["following data"]~~:

1. ~~["The"]~~ Number of individuals served;

2. Types of services provided to individuals served; and

3. Detailed costs for the number of individuals served and the services provided during the reporting period; ~~and["]~~

(c) Submit quarterly reports meeting the requirements established in this section of the administrative regulation:

1. To the Department for Behavioral Health, Developmental, and Intellectual Disabilities, attention: Problem Gambling Assistance Account, 275 East Main Street, mail-stop 4W-G, Frankfort, Kentucky 40621; or

2. Via electronic mail to kyproblemgamblingassistance@ky.gov.

Section 5. Treatment Professional Certification. (1) Qualified behavioral health providers seeking certification from a cabinet-approved ~~or["]~~ nationally or internationally recognized certifying organization shall:

(a) Have at a minimum a bachelor's degree or equivalent in a behavioral health field;

(b) Have current Kentucky licensure in substance use disorder counseling, ~~or["]~~ mental health counseling, or equivalent work experience;

(c) Complete ~~thirty (30)~~ ~~["fifteen (15)"]~~ hours of training on ~~problem gambling~~ ~~["problematic and disordered gaming"]~~ prevention, assessment, and co-occurring issues for individuals and families by an approved trainer ~~through a certifying organization~~;

(d) Complete ~~one hundred (100)~~ ~~["fifty (50)"]~~ direct contact hours addressing the issues, prevention, and early intervention, co-occurring and ~~under what conditions~~ ~~["when"]~~ to refer for individuals and families ~~who experience problem gambling~~ ~~["with a gaming disorder"]~~;

(e) Complete a minimum of four (4) consultation hours with ~~a consultant approved through~~ ~~["an approved consultant from"]~~ the certifying ~~organization's~~ ~~["organizations"]~~ board;

(f) Complete all application materials, ethical statement, and directory authorization forms required by the certifying organization;

(g) Pass any examination required by the cabinet-approved certifying organization; and

(h) Pay ~~applicable~~ fees associated for the completion of certification to the certifying organization.

(2) To the extent funds are available, individuals may apply for reimbursement for any fees paid after successful completion of certification from a cabinet-approved certifying organization by submitting an application to the department for reimbursement.

Section 6. Department Responsibilities. ~~[(1)]~~ The department shall publish on the department ~~Web site~~ ~~["website"]~~:

~~(1)[(a)]~~ Certified treatment providers for individuals experiencing the consequences of

problem gambling; and

**(2)(b)** Problem gambling treatment and recovery services and resources. [;]

Section 7. Incorporation by reference. (1) "Kentucky Gambling Assistance Application", 07/23, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Community Based Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m. This material may also be viewed on the departments **Web site**[**Website**] at <https://www.chfs.ky.gov/agencies/dbhdid/Pages/default.aspx>.