

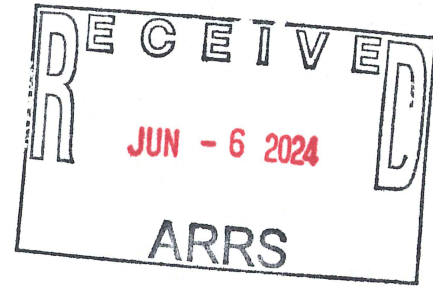
Andy Beshear
Governor



Jamie Link
Secretary, Education and
Labor Cabinet

Robin Fields Kinney
Interim Commissioner of Education

KENTUCKY DEPARTMENT OF EDUCATION
300 Sower Boulevard • Frankfort, Kentucky 40601
Phone: (502) 564-3141 • www.education.ky.gov



June 6, 2024

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

Re: 16 KAR 2:120. Emergency teaching certification and out-of-field teaching.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 16 KAR 2:120, the Education Professional Standards Board proposes the attached substitute to 16 KAR 2:120.

Thank you for your consideration.

Sincerely,

Cassie L. Trueblood
Policy Advisor and Counsel

Final, 6-6-2024

SUGGESTED SUBSTITUTE

EDUCATION AND LABOR CABINET
Education Professional Standards Board

16 KAR 2:120. Emergency teaching certification and out-of-field teaching.

RELATES TO: KRS 157.200, 157.390, 160.380, 161.020, 161.028, 161.030, 161.100, ~~161.102,~~
161.1211, 161.1221, 334A.030, 334A.033, 334A.035, 334A.050, 334A.060, 34 C.F.R. 300.156

STATUTORY AUTHORITY: KRS 161.028(1)(a), 161.030(1), 161.100, 161.1221(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.100 authorizes the Education Professional Standards Board (EPSB) to establish qualifications for granting emergency certificates if qualified teachers are not available for specific positions. KRS 161.1221(1) requires the EPSB~~[Education Professional Standards Board]~~ to establish a definition for out-of-field teaching. This administrative regulation establishes the qualifications and procedures for emergency teacher certifications and establishes the definition for out-of-field teaching.

Section 1. Definition. "Qualified teacher" means a teacher who holds the appropriate certification for the position unless the superintendent of the employing school district has documented evidence that the teacher is unsuitable for appointment.

Section 2.

(1)

~~[(a) [Until December 31, 2014, a superintendent of a local school district shall apply to the Education Professional Standards Board for an emergency teaching certificate on behalf of an applicant by completing the Form TC-4F.]~~

~~[(b) [Beginning January 1, 2015, a superintendent of a local school district shall apply to the Education Professional Standards Board for an emergency teaching certificate on behalf of an applicant by completing the Form CA-4F.]~~

~~[(2) In accordance with KRS 161.100, prior to applying on behalf of an applicant for an emergency teaching certificate, the superintendent and board of education of a local school district shall document the following:~~

~~(a) Qualified teachers have not applied for the vacant position and qualified teachers are not available for the position;~~

~~(b) Diligent efforts have been made to recruit a qualified teacher for the vacant position, and furthermore, this vacancy has been made known locally by appropriate means;~~

~~(c) The local school district has been unsuccessful in recruiting qualified teachers for the vacant position from the listings of teachers supplied by the placement services of the teacher education institutions;~~

~~(d) The position shall be filled by the most suitable applicant available, giving preference to the factors of academic preparation, prior teaching experience or related educational work, and personal attributes compatible with the demands of the teaching profession; and~~

~~(e) The local school district has conducted a criminal records check as required by KRS 160.380 for each applicant prior to applying for the emergency certificate.~~

~~(2) The emergency certificate shall be valid for one (1) school year.~~

~~(3) The emergency teaching certificate shall be limited to two (2) issuances. A candidate may qualify for an additional issuance if ~~an emergency certificate was issued under the following conditions~~:~~

~~(a) The emergency certificate was issued after February 15 of a school year; or~~

~~(b) The emergency certificate was issued for less than fifty (50) percent of the person's class schedule.~~

~~(4) The EPSB shall not issue an emergency certificate for teaching exceptional children or interdisciplinary early childhood education.~~

~~[(3)]~~

~~[(a)] [The Education Professional Standards Board, depending upon the assessment of need for the position and the availability or anticipated availability of qualified teachers, shall approve or disapprove a request for the employment of emergency teachers.]~~

~~[1.] [The term of validity of an emergency certificate may be limited to a period less than the full school year.]~~

~~[2.] [The beginning date shall be no earlier than the date the request form is received by the Education Professional Standards Board.]~~

~~[3.] [In accordance with the licensure requirements of KRS 334A.030, 334A.033, 334A.035, 334A.050, and 334A.060, the Education Professional Standards Board shall not issue an emergency certificate for teaching exceptional children with communication disorders.]~~

~~[(b)] [An emergency certificate shall not be issued to the same person in any subsequent year unless the original emergency certificate was issued under the following conditions:]~~

~~[1.] [The emergency certificate was issued after February 15 of a school year; or]~~

~~[2.] [The emergency certificate was issued for less than fifty (50) percent of the person's class schedule.]~~

~~[(c)] [If an emergency certificate is issued to a person pursuant to paragraph (b) of this subsection, there shall be no more than one (1) subsequent issuance of an emergency certificate to the same person.]~~

~~[(4)]~~

~~[(a)] [Emergency certification for an assignment as teacher of exceptional children shall be issued with the condition that the applicant shall receive intensive training on special education topics, including IEP, assessment, evaluation, individualized instruction, methods, and management. This training shall be accomplished as follows:]~~

~~[1.] [The applicant shall complete twelve (12) clock hours of training as required by the Office of Special Instructional Services of the Kentucky Department of Education;]~~

~~[2.]~~

~~[a.] [The applicant shall complete an additional six (6) clock hours of training during the fall conference conducted by the Division of Exceptional Children Services of the Kentucky Department of Education. Teachers employed after the fall conference shall complete these six (6) clock hours of training during the spring conference of the Council for Exceptional Children; or]~~

~~[b.] [If the applicant is unable to attend either the fall conference or the spring conference, the applicant shall complete an additional six (6) clock hours of training offered through one (1) of the state's eleven (11) special education cooperatives. The training shall be similar to the topics covered at the conferences; and]~~

~~[3.] [The applicant shall participate in at least one (1) day of flexible in-service training, relevant specifically to special education. The training shall be limited to visitation in a classroom of an exemplary special education teacher, special education training relevant to the identified needs of the teacher, or other training provided by the Office of Special Instructional Services.]~~

~~[(b)] [The Kentucky Department of Education shall report to the Education Professional Standards Board those emergency certified teachers of exceptional children who have not completed the training requirements established in this subsection by June 30 of each year for the preceding school year.]~~

(5) The superintendent of the local school district and the board of education may establish the need for emergency substitute teachers on the basis of anticipated shortages of regularly certified teachers and in accordance with district policies and procedures established for the selection and employment of substitute teachers.

(6) The EPSB[~~Education Professional Standards Board~~] shall periodically review the numbers of emergency certificates issued for full-time, part-time, and substitute teaching by school district, by position, and by academic preparation.

Section 3. Emergency Teaching Certificate.

(1) Issuance of an emergency teaching certificate shall require a minimum of a bachelor's degree from a regionally or nationally accredited college or university with ~~one of the following~~:

(a) A cumulative minimum grade point average of 2.5 on a 4.0 scale; or

- (b) A grade point average of 2.75 on a 4.0 scale on the last thirty (30) hours of credit completed, including undergraduate and graduate coursework.
- (2) A candidate meeting the requirements of subsection (1) of this section shall be eligible for issuance of the emergency teaching certificate upon application to the EPSB, compliance with 16 KAR 2:010, Section 3(1), and ~~submitting~~submission of the following documentation of:
- (a) Official transcripts showing all college or university credits necessary for the requested certificate;
- (b) An offer of employment in a Kentucky school district in the area in which emergency certification is being sought; and
- (c) Compliance with Section 2(1) of this administrative regulation.
- (3) An emergency teaching certificate shall not be issued to individuals who have been judged to be unsatisfactory in the beginning teacher internship established in 16 KAR 7:010.

~~Section 4. Emergency Substitute Certificate.~~

- ~~[(1)] Issuance of an emergency substitute certificate shall require a minimum of sixty four (64) semester hours of credit from a regionally or nationally accredited college or university with one of the following:~~
- ~~[(a)] a cumulative minimum grade point average of 2.5 on a 4.0 scale; or~~
- ~~[(b)] a grade point average of 2.75 on a 4.0 scale on the last thirty hours of credit completed, including undergraduate and graduate coursework.~~
- ~~[(2)] A candidate with a bachelor's degree from a regionally or nationally accredited college or university is exempt from the grade point average requirements in Subsection (1) of this section.~~
- ~~[(3)] A local school district shall review the qualifications and transcripts for each applicant for an emergency substitute certificate pursuant to the requirements of this administrative regulation.~~
- ~~[(4)] A candidate meeting the requirements of Subsection (1) of this section shall be eligible for issuance of the emergency substitute certificate upon application to the EPSB, compliance with 16 KAR 2:010, Section 3(1), and submission of the following documentation:~~
- ~~[(a)] An offer of employment in a Kentucky school district; and~~
- ~~[(b)] Compliance with Section 2(5) of this administrative regulation.~~

~~Section 5. Emergency Occupation-Based Career and Technical Education Substitute Certificate.~~

- ~~[(1)] Issuance of an emergency occupation-based career and technical education substitute certificate shall require a minimum of four (4) years of occupational experience in the area to be taught and a high school diploma or its equivalent as determined by evidence of a passing score on the General Education Development Test.~~
- ~~[(2)] A local school district shall review the qualifications and transcripts for each applicant for an emergency substitute certificate pursuant to the requirements of this administrative regulation.~~
- ~~[(3)] A candidate meeting the requirements of Subsection (1) of this section shall be eligible for issuance of the certificate upon application to the EPSB, compliance with 16 KAR 2:010, Section 3(1), and submission of the following documentation:~~
- ~~[(a)] An offer of employment in a Kentucky school district; and~~
- ~~[(b)] Certification of all educational attainment and work experience earned by the prospective emergency teacher.~~
- ~~[(7)]~~
- ~~[(a)]~~
- ~~[(1)] An emergency certificate for full-time or part-time employment shall be issued only to individuals who:~~
- ~~[(a)] Have completed a minimum of a bachelor's degree from a regionally accredited college; and~~
- ~~[(b)]~~
- ~~[(i)] Have a cumulative minimum grade point average of 2.5 on a 4.0 scale; or~~

~~[(ii)] [Have a minimum grade point average of 3.0 on a 4.0 scale on the last sixty (60) hours of credit completed, including undergraduate and graduate coursework.]~~

~~[2.] [An emergency certificate for full-time or part-time employment shall not be issued to individuals who have been judged to be unsatisfactory in the beginning teacher internship established in 16 KAR 7:010.]~~

~~[(b)] [An emergency certificate for substitute teaching shall be issued to individuals who:]~~

~~[1.] [Have completed a minimum of sixty-four (64) semester hours of credit from a regionally accredited institution; and]~~

~~[2.]~~

~~[a.] [Have a cumulative minimum grade point average of 2.5 on a 4.0 scale; or]~~

~~[b.] [Have a minimum grade point average of 3.0 on a 4.0 scale on the last thirtysixty (60) hours of credit completed, including undergraduate and graduate coursework.]~~

~~[(c)] [An emergency certificate for substitute teaching in any career and technical education or occupation-based position may be issued to persons who have a minimum of four (4) years of occupational experience in the area to be taught and a high school diploma or its equivalent as determined by evidence of a passing score on the General Education Development Test.]~~

~~[(8)]~~

~~[(a)]~~

~~[1.] [Until December 31, 2014, a Form TC-4F signed by the local school superintendent and approved by the local board of education shall be submitted for each anticipated emergency position for full-time or part-time employment. The application shall be accompanied by official transcripts of all college credits earned by the prospective emergency teacher.]~~

~~[2.] [Beginning January 1, 2015, a Form CA-4F signed by the local school superintendent and approved by the local board of education shall be submitted for each anticipated emergency position for full-time or part-time employment. The application shall be accompanied by official transcripts of all college credits earned by the prospective emergency teacher.]~~

~~[(b)]~~

~~[1.] [Until December 31, 2014, a TC-4VE signed by the local school superintendent and approved by the local board of education shall be submitted for each anticipated career and technical or occupation-based emergency position for full-time or part-time employment. The application shall be accompanied by official transcripts and certification of all educational attainment and work experience earned by the prospective emergency teacher.]~~

~~[2.] [Beginning January 1, 2015, a CA-4VE signed by the local school superintendent and approved by the local board of education shall be submitted for each anticipated career and technical or occupation-based emergency position for full-time or part-time employment. The application shall be accompanied by official transcripts and certification of all educational attainment and work experience earned by the prospective emergency teacher.]~~

~~[(c)] [A local school district shall review the qualifications and transcripts for each applicant for an emergency certificate for substitute teaching pursuant to the requirements of this administrative regulation and other pertinent Kentucky statutes and administrative regulations regarding school personnel.]~~

~~[1.]~~

~~[a.]~~

~~[(i)] [Until December 31, 2014, a local school district shall initiate the online application process for candidates for an emergency certificate for substitute teaching using the EPSB On-line TC-4 Application System in accordance with the On-line TC-4 Implementation Guide for Kentucky School Districts.]~~

~~[(ii)] [Until December 31, 2014, a candidate for an emergency certificate for substitute teaching shall complete the Form TC-4 by using the EPSB On-line TC-4 Application System in accordance with the On-line TC-4 Implementation Guide for Kentucky School Districts.]~~

~~[b.]~~

~~[(i)] [Beginning January 1, 2015, a local school district shall initiate the online application process for candidates for an emergency certificate for substitute teaching using the EPSB On-line~~

~~Emergency Substitute Application System in accordance with the On-line Emergency Substitute Application System Implementation Guide for Kentucky School Districts.]~~

~~[(ii)] [Beginning January 1, 2015, a candidate for an emergency certificate for substitute teaching shall complete the Form CA-4 by using the EPSB On-line Emergency Substitute Application System in accordance with the On-line Emergency Substitute Implementation Guide for Kentucky School Districts.]~~

~~[2.] [A local school district shall require candidates for an emergency certificate for substitute teaching for career and technical education or occupation-based emergency positions to complete a Form TC-4VE or Form CA-4VE.]~~

~~[3.] [A local school district shall submit any TC-4VE or Form CA-4VE application on which the candidate has provided an affirmative answer to any question in the application's Section IV, Character and Fitness, to the Education Professional Standards Board for approval prior to employing the candidate in a substitute teaching position.]~~

Section 4. ~~Section 6.~~ [Section 3.] Rank and Salary Provisions.

~~[(4)] The EPSB [Education Professional Standards Board] shall issue the emergency teaching certificate [for full-time or part-time employment] established in Section 2 of this administrative regulation with a rank designation based upon the criteria established in this subsection.~~

~~(1)[(a)] A teacher holding a valid Kentucky teaching certificate shall be issued an emergency certificate for full-time or part-time employment at the rank designated on the teacher's regular certificate.~~

~~[(b)]~~

~~[1.] [A new teacher holding a valid one (1) year provisional certificate issued upon enrollment in the Kentucky Teacher Internship Program established in 16 KAR 7:010 shall be issued an emergency certificate for part-time employment at the rank designated on the teacher's one (1) year provisional certificate.]~~

~~[2.] [The teacher shall maintain a half-time enrollment in the internship as defined in 16 KAR 7:010 to remain eligible for the higher rank established in this paragraph.]~~

~~[3.] [If the teacher terminates or otherwise fails to continue enrollment in the internship prior to its successful completion, the teacher shall be reclassified at Rank IV until the teacher is properly reenrolled in the internship program.]~~

~~[(c)] [A new teacher holding a valid Kentucky Statement of Eligibility shall be issued an emergency certificate for full-time or part-time employment at Rank IV until the teacher:]~~

~~[1.] [Is properly enrolled in the Kentucky Teacher Internship Program on at least a half-time basis as established in 16 KAR 7:010; and]~~

~~[2.] [Possesses the one (1) year provisional certificate referenced in paragraph (b)1 of this subsection.]~~

~~(2)[(d)] An applicant for the emergency certificate for full-time or part-time employment who does not hold a valid Kentucky teaching certificate shall be issued the emergency certificate at Rank IV.~~

~~[(2)] [Local school districts requesting][issuing][the emergency certificate for substitute teaching established in Section 2 of this administrative regulation shall adhere to the rank classifications established in KRS 161.1211.]~~

Section 5. ~~Section 7.~~ [Section 4.] Out-of-field Teaching.

(1) Pursuant to KRS 161.1221(1), out-of-field teaching shall be classified in the following four (4) categories:

- (a) The number of emergency certificates issued by grade range, subject field, and district;
- (b) The number of probationary certificates issued by grade range, subject field, and district;
- (c) The number of temporary provisional certificates issued by grade range, subject field, and district; and
- (d) The number of teachers who do not possess a certificate of legal qualifications for the professional position they hold in the public schools, including a breakout of:
 1. The number of teachers who hold no certificate;
 2. The number of teachers who hold an expired certificate;

3. The number of certified teachers who are teaching outside of the subject field or fields indicated on their certificate who do not hold a credential listed in paragraph (a), (b), or (c) of this subsection; and
 4. The number of certified teachers who are teaching outside the grade range indicated on their certificate who do not hold a credential listed in paragraph (a), (b), or (c) of this subsection.
- (2) If data is available, reports on out-of-field teaching in the four categories established in subsection (1) of this section shall differentiate between teachers who possess the equivalent of a college major, minor, or area of concentration in the subject area they are teaching.

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

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

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

~~[(a)] ["Form CA-4", 08/2014;]~~

~~[(b)] ["Form CA-4F", 08/2014;]~~

~~[(c)] ["Form CA-4VE", 08/2014;]~~

~~[(d)] ["Form TC-4", 10/2009;]~~

~~[(e)] ["Form TC-4F", revised 10/2009;]~~

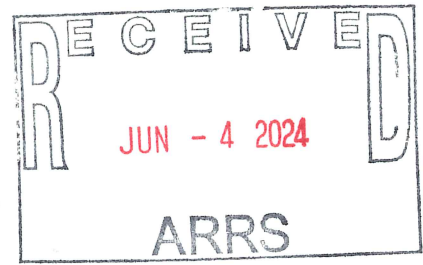
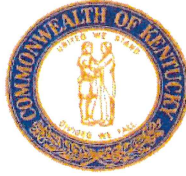
~~[(f)] ["Form TC-4VE", 10/2009;]~~

~~[(g)] ["On-line Emergency Substitute Application Implementation Guide for Kentucky School Districts", August 2014; and]~~

~~[(h)] ["On-line TC-4 Implementation Guide for Kentucky School Districts", May 2012.]~~

~~[(2)] [This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Education Professional Standards Board, 100 Airport Road, 3rd Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.]~~

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



ANDREW G. BESHEAR
GOVERNOR

DEPARTMENT OF VETERANS AFFAIRS

Office of the Commissioner
1111 Louisville Road, Suite B
Frankfort, Kentucky 40601-6123
Phone (502) 564-9203
Fax (502) 564-9240
www.veterans.ky.gov

WHITNEY P. ALLEN, JR.
LIEUTENANT COLONEL (RET)
COMMISSIONER

May 23rd, 2024

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

Re: 17 KAR 6:020. Kentucky Women Veterans Program and coordinating committee. Administrative procedures

Dear Ms. Caudill:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 17 KAR 6:020, the Kentucky Department of Veterans Affairs proposes the attached amendment to 17 KAR 6:020.

Sincerely,

Tamara Reid-McIntosh, Esq.
Director & Counsel
Office of Veteran Legal Services
Kentucky Department of Veterans Affairs
1111 Louisville Road, Suite B
Frankfort, KY 40601

5/8/2024

SUGGESTED SUBSTITUTE

OFFICE OF THE GOVERNOR
Department of Veterans' Affairs
Office of Kentucky Veterans Services

17 KAR 6:020. Kentucky Women Veterans Program and coordinating committee. Administrative procedures.

RELATES TO: KRS 40.310, ~~[40.560,]~~40.600

STATUTORY AUTHORITY: KRS 40.600

NECESSITY, FUNCTION, AND CONFORMITY: KRS 40.600(1) establishes the Kentucky Women Veterans Program. KRS 40.600(5) requires the establishment of a Women Veterans Coordinating Committee. KRS 40.600(6) authorizes the program~~[40.540 requires the department to promulgate administrative regulations required for the effective administration of KRS 40.310 through KRS 40.560. KRS 40.600 authorizes the Kentucky Department of Veterans Affairs]~~ to accept and expend moneys that may be appropriated by the General Assembly; and other monies received from any other source, including donations and grants. KRS 40.600(7) authorizes the Department of Veterans' Affairs to promulgate administrative regulations to implement KRS 40.600. This administrative regulation establishes procedures for expenditures and fundraising by the Kentucky Women Veterans Program. It also establishes reporting requirements for the coordinating committee~~[and other contributions from a government unit and authorizes the department to administer the funds through the use of agency accounts. KRS 40.600 requires the Kentucky Department of Veterans Affairs to manage the funds and authorize expenditures]~~. This administrative regulation also establishes a coordinating committee to make recommendations for fund expenditures and outlines the administrative procedures of the coordinating committee.

Section 1. Definitions.

- (1) ~~["Commissioner" means the Commissioner of the Kentucky Department of Veterans Affairs.~~
- ~~(2)]~~ "Coordinating Committee" means the Women Veterans Program Coordinating Committee.
- (2) "KDVA" means the Kentucky Department of Veterans' Affairs.
- (3) ~~["Fund" means the Kentucky Women Veterans Program Fund.~~
- ~~(4)]~~ "Woman Veteran" means a woman who served in the United States Armed Forces or in forces incorporated as part of the United States Armed Forces, and who was discharged under other than dishonorable conditions.

Section 2. Expenditures and Fundraising.

- (1) In accordance with this subsection and subsection (2) of this section, money appropriated from the fund shall be expended in support of the Women Veterans Program's activities or events that directly benefit women veterans, including the following activities or events:
 - (a) Educational sessions or training seminars focused on eligibility requirements for women veterans seeking federal and state veterans' benefits and services;
 - (b) Research projects focused on collecting and retaining demographic or service-connected disability data for Kentucky's women veterans;
 - (c) Dissemination of benefit information for women veterans through circulars, brochures, social media, and other media outlets;
 - (d) Annual meetings or conferences focused on engagement of Kentucky's women veterans and discussions of issues specific to women veterans;
 - (e) Job fairs, job placement services, other similar programs, or a combination of these focused on employing women veterans;

- (f) Therapeutic opportunities focused on improving the mental and emotional wellbeing of Kentucky's women veterans;
 - (g) Entrepreneurial opportunities for women veterans seeking to establish or expand female veteran-owned businesses;
 - (h) Programs, memorials, monuments, and other projects that bring public recognition and awareness to the sacrifices, needs, and contributions of Kentucky's women veterans.
 - (i) Other services designed to make gaining access to federal and state benefits and services more convenient, efficient, or feasible for Kentucky's women veterans.
 - (j) Costs associated with the above, such as transportation, meals, lodging, and salaries.
- (2) Fundraising. If fundraising on behalf of the Women Veterans Program, the Kentucky Department of Veterans Affairs may accept a gift, donation, or grant from an individual, a corporation, or a government entity, **provided that the funds are not restricted to tax exempt organizations as defined by Title 26, Section 501(c) of the Internal Review Code.**

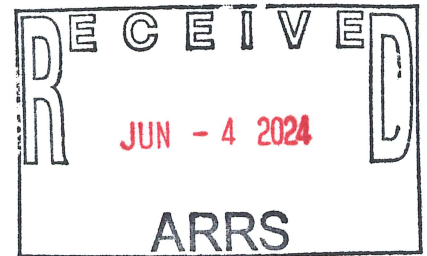
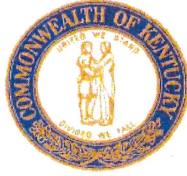
Section 3. Coordinating Committee for the Women Veterans Program.

- (1) The committee shall consist of ten (10) members, including:
 - (a) The commissioner of the Kentucky Department of Veterans Affairs;
 - (b) The women veterans program coordinator of the Kentucky Department of Veterans Affairs;
 - (c) Two (2) members from state government:
 - 1. A Senator appointed by the President of the Kentucky Senate;
 - 2. A Representative appointed by the Speaker of the Kentucky House of Representatives.
 - (d) Two (2) members from public agencies that provide grants, benefits, or services to women veterans.
 - (e) Four (4) members from private organizations that provide grants, benefits, or service to women veterans.
- (2) The commissioner of the Kentucky Department of Veterans Affairs shall appoint the public agencies and private organizations represented on the committee.
 - (a) A public agency and private organization specified in subsection (1)(d) and (e) of this section shall recommend two (2) members of the agency or organization to serve on to the committee.
 - (b) The commissioner of the Kentucky Department of Veterans Affairs shall appoint one (1) member from each agency and each organization from the names submitted by the agencies and organizations.
 - (c) Where possible, at least seven (7) members of the coordinating committee shall be women veterans.
- (3) Terms of members. Except in cases of retirement, resignation, or other inability or unwillingness to serve, the initial appointments to the committee shall be as established in paragraphs (a) and (b) of this subsection.
 - (a) A member appointed pursuant to subsection (1)(c) of this section shall serve for a period of two (2) years.
 - (b) A member appointed pursuant to subsection (1)(d) and (e) of this section shall serve for a period of three (3) years.
- (4) The committee shall:
 - (a) Meet at the call of the commissioner of Kentucky Department of Veterans Affairs, at least once per quarter.
 - (b) Make recommendations for fiscally responsible uses of funds donated, gifted, or designated to the Women Veterans Program, including:
 - 1. Propose, investigate, and approve activities that support Kentucky's women veterans;
 - 2. Establish guidelines for approved activities, including funding parameters.
 - (c) Prepare meeting minutes that summarize each meeting, including recommendations made by the committee;
 - (d) Prepare an annual report that summarizes recommendations made by the committee and financial activities undertaken on behalf of Kentucky's women veterans;

- (e) Submit an annual report by July 20th of each year to be included in the Kentucky Department of Veterans Affairs Annual Report.
- (5) The commissioner shall assign duties as appropriate to the Kentucky Department of Veterans Affairs' staff or members of the coordinating committee to assist with administration of the committee.

Section 4. Coordinating Committee Procedures. Coordinating committee procedures shall be in accordance with the approved by-laws of the Women Veterans Coordinating Committee.

CONTACT PERSON: Juan Renaud, Deputy Commissioner, Office of the Commissioner, 1111 Louisville Rd., Suite B, Frankfort, Kentucky 40601; phone (502) 782-5721; fax (502) 564-9240; email juan.renaud@ky.gov.



ANDREW G. BESHEAR
GOVERNOR

DEPARTMENT OF VETERANS AFFAIRS

Office of the Commissioner
1111 Louisville Road, Suite B
Frankfort, Kentucky 40601-6123
Phone (502) 564-9203
Fax (502) 564-9240
www.veterans.ky.gov

WHITNEY P. ALLEN, JR.
LIEUTENANT COLONEL (RET)
COMMISSIONER

June 3rd, 2024

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

**Re: 17 KAR 6:030. Kentucky Wounded or Disabled Veterans Program.
Administrative Procedures.**

Dear Ms. Caudill:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 17 KAR 6:030, the Kentucky Department of Veterans Affairs proposes the attached amendment to 17 KAR 6:030.

Sincerely,

A handwritten signature in blue ink, appearing to read "T. Reid-McIntosh".

Tamara Reid-McIntosh, Esq.
Director & Counsel
Office of Veteran Legal Services
Kentucky Department of Veterans Affairs
1111 Louisville Road, Suite B
Frankfort, KY 40601

5/30/2024

SUGGESTED SUBSTITUTE

OFFICE OF THE GOVERNOR
Department of Veterans Affairs
Office of Kentucky Veterans Services

17 KAR 6:030. Kentucky Wounded or Disabled Veterans Program. Administrative procedures.

RELATES TO: KRS 40.310, ~~[40.560,]~~40.350

STATUTORY AUTHORITY: KRS 40.350

NECESSITY, FUNCTION, AND CONFORMITY: KRS 40.350(1) establishes the Kentucky Wounded or Disabled Veterans Program. KRS 40.350(7) authorizes the program~~[40.540 requires the department to promulgate administrative regulations required for the effective administration of KRS 40.310 through KRS 40.560. KRS 40.350 authorizes the Kentucky Department of Veterans Affairs]~~ to accept and expend moneys that may be appropriated by the General Assembly; and other monies received from any other source, including donations and grants. KRS 40.350(6) authorizes the Department of Veterans' Affairs to promulgate administrative regulations to implement KRS 40.350. This administrative regulation establishes procedures for expenditures and fundraising by the Kentucky Wounded or Disabled Veterans Program] ~~and other contributions from a government unit and authorizes the department to administer the funds through the use of agency accounts. KRS 40.350 requires the Kentucky Department of Veterans Affairs to manage the funds and authorize expenditures and establish a Program Coordinator to facilitate the administration of the Wounded or Disabled Veterans Program].~~

Section 1. Definitions.

- (1) ~~["Commissioner" means the Commissioner of the Kentucky Department of Veterans Affairs.~~
~~(2) "Coordinator" means the Coordinator of the Wounded or Disabled Veterans Program.~~
~~(3)]~~ "Disabled Veteran" means a veteran who was deemed disabled while serving in the United States Armed Forces, under conditions other than dishonorable, or was deemed disabled by the United States Department of Veterans Affairs after being discharged, under conditions other than dishonorable.
~~(2)]~~~~(4)]~~ "Fund" means the Wounded or Disabled Veterans Program Fund.
~~(3)]~~~~(5)]~~ "Wounded Veteran" means a veteran who was wounded while serving in the United States Armed Forces, who was discharged under conditions other than dishonorable.

Section 2. Expenditures and Fundraising.

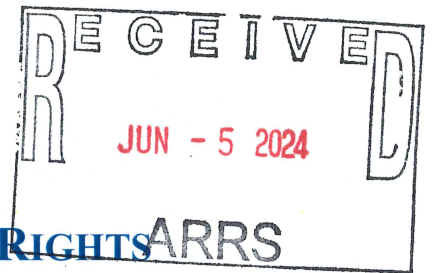
- (1) ~~[In accordance with this section and sections (2)-(4),]~~Money appropriated from the fund shall be expended in support of ~~[the]~~Wounded or Disabled Veterans Program's initiatives as authorized by KRS 40.350~~[that are focused on easing the transition from active service for wounded or disabled veterans or ensuring that wounded or disabled veterans receive the federal, state, and private benefits to which they are entitled].~~
- (2) Wounded or Disabled Veterans Program's initiatives shall focus on at least one (1) of the following:
- (a) Performing outreach to improve wounded or disabled veterans' awareness of eligibility for federal, state, and private wounded or disabled veterans' services and benefits;
 - (b) Supporting legislation and policies on the local, state, and national levels to advocate and bringing public awareness to wounded or disabled issues;
 - (c) Collaborating with federal, state, and private agencies that provide services to wounded or disabled veterans, including entering into data-sharing agreements with the United States Department of Veterans Affairs and the Department of Defense to obtain timely information with regard to the addresses and medical statuses of Kentucky's wounded or disabled veterans;
 - (d) Assessing the needs of wounded or disabled veterans with respect to benefits and services;

- (e) Reviewing programs, research projects, and other initiatives that are designed to address or meet the needs of Kentucky's wounded or disabled veterans;
- (f) Incorporating wounded or disabled veterans' issues in strategic planning concerning benefits and services;
- (g) Monitoring and researching issues relating to wounded or disabled veterans and disseminating information and opportunities throughout the Program's network;
- (h) Providing guidance and direction to wounded or disabled veterans applying for grants, benefits, or services via conferences, seminars, and training workshops with federal, state, and private agencies;
- (i) Promoting events and activities that recognize and honor wounded or disabled veterans;
- (j) Providing facilities, as appropriate, in support of the Program through grants and other sources of funding.

(3) ~~**[Terms of Data-Sharing. With the consent of a wounded or disabled veteran, the Program's coordinator, or his or her designee, may obtain personal information concerning wounded or disabled veterans for the sole purpose of implementing the Program. Under the provisions of KRS 61.878, the information shall not be subject to public disclosure.]**~~

~~(4)~~ Fundraising. If fundraising on behalf of the Wounded or Disabled Veterans Program, the Kentucky Department of Veterans Affairs may accept a gift, donation, or grant from an individual, a corporation, or a government entity, provided that the funds are not restricted to tax exempt organizations as defined by Title 26, Section 501(c) of the Internal Review Code.

CONTACT PERSON: Juan Renaud, Deputy Commissioner, Office of the Commissioner, 1111 Louisville Rd., Suite B, Frankfort, Kentucky 40601; phone (502) 782-5721; fax (502) 564-9240; email juan.renaud@ky.gov.



KENTUCKY COMMISSION ON HUMAN RIGHTS

Andy Beshear
Governor

312 Whittington Parkway, Suite 020
Louisville, Kentucky 40222
(502) 595-4024
(800) 292-5566
(502) 696-5230 - Fax
kchr.ky.gov

Cynthia B. Fox
Executive Director

Raymond M. Burse
Commission Chair

June 3, 2024

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: 104 KAR 1:010. Posting, distribution and availability of notices and pamphlets.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 104 KAR 1:010, the Kentucky Commission on Human Rights proposes the attached amendment to 104 KAR 1:010.

Sincerely,

A handwritten signature in blue ink, appearing to be "CS", written over a horizontal line.

Colt C. Sells
General Counsel/Staff Attorney Manager
KENTUCKY COMMISSION ON HUMAN RIGHTS
(502) 764-2757
colt.sells@ky.gov

Final, 6-4-2024

SUGGESTED SUBSTITUTE

EXECUTIVE CABINET
Kentucky Commission on Human Rights

104 KAR 1:010. Posting, distribution and availability of notices and pamphlets.

RELATES TO: KRS 344.010, 344.030, 344.130, 344.190, 344.367

STATUTORY AUTHORITY: KRS [~~13A.100,~~]344.190(14)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 344.190(14) requires the Kentucky Commission on Human Rights to promulgate administrative regulations to effect the purposes of KRS Chapter 344, including requiring the posting of notices prepared or approved by the commission. This administrative regulation ~~establishes~~[is necessary to establish] requirements for persons defined in KRS 344.010, 344.030, 344.130, and 344.367, to post, distribute, and make available notices and pamphlets.

Section 1. Equal Employment Opportunity Notices.

- (1) An employer, employment agency, licensing agency, and labor organization, shall post and maintain at its establishment equal employment opportunity notices such as the Equal Employment Opportunity Poster.
- (2) Equal employment opportunity notices shall be posted and shall be readily apparent to an employee and applicant for employment. They shall be posted:
 - (a) In easily-accessible and well-lighted places; and
 - (b) At or near each location where the employee's services are performed.
- (3) A Labor organization shall post "equal employment opportunity" notices in easily-accessible and well-lighted places. The notices shall be readily apparent to member and an applicant for membership.

Section 2. Public Accommodations Welcome Notice.

- (1) An owner, lessee, proprietor, or manager of a place of public accommodation, resort, or amusement, shall post and maintain at a place of public accommodation, resort, or amusement welcome notices such as the Public Accommodations Poster.
- (2) Public accommodation welcome notices shall be posted where they may be readily observed by those seeking or granting any of the accommodations, advantages, facilities, or privileges of places of public accommodations, resort, or amusement.

Section 3. Equal Housing Opportunity Notices.

- (1) A person or business entity engaged in a real estate or real estate-related transaction shall post and maintain at each location where services are regularly performed, the equal housing opportunity notices such as the Fair Housing Poster.
- (2) Equal housing opportunity notices shall be posted at each location where services are regularly performed, in an easily-accessible and well-lighted place. The notice shall be readily apparent to a person seeking services.

Section 4. Fair Housing Law Brochure[Pamphlets]. A person or entity engaged in real estate or real estate-related transactions shall provide to owners and customers at the time of sale, purchase, rental, insuring, or financing of real property, a copy of the Fair Housing Brochure.[pamphlet "What Kentucky's Fair Housing Law Means".]

Section 5. Incorporation by Reference.[Material Incorporated by Reference.]

- (1) The following material is incorporated by reference:
 - (a) "Equal Employment Opportunity Poster", **January 2024**[Notice", February, 1993];

- (b) "Public Accommodations Poster", **January 2024**~~["Welcome Notice", February, 1993];~~
(c) "Fair Housing Poster", **January 2024**~~["Equal Housing Opportunity Notice" February, 1993];~~ **and**
(d) "Fair Housing Brochure", **January 2024**~~[Pamphlet: "What Kentucky's Fair Housing Law Means", February, 1993].~~

- (2) This material may be inspected, copied, or obtained, ~~[:] subject to applicable copyright law,~~
~~[(a)] at~~ the Office of the Kentucky Commission on Human Rights, **312 Whittington Parkway, Suite 020**~~["The Heyburn Building, Suite 700, "]~~**[332 West Broadway, Suite 1400]**, Louisville, Kentucky **40222**~~[40202]~~, Monday through Friday, 8:00 a.m. to 4:30 p.m.; or from the Kentucky Commission on Human Rights Web site at <https://kchr.ky.gov/Resources/Pages/Brochures-and-Posters.aspx>.~~[(e)]~~
~~[(b)]~~ ~~[By calling:]~~
[1.] ~~[(502) 595-4024;]~~
[2.] ~~[(800) 292-5566;]~~
[3.] ~~[(502) 595-4084 (TDD), for the hearing impaired;]~~
[4.] ~~[Kentucky Relay Service (800) 648-6056 (TTY/TDD).]~~

CONTACT PERSON: Colt C. Sells, Staff Attorney Manager/Assistant General Counsel, Kentucky Commission on Human Rights, 312 Whittington Parkway, Suite 020, Louisville, Kentucky 40222, phone (502) 595-4024, email colt.sells@ky.gov.

MATERIAL INCORPORATED BY REFERENCE

At the time that it files this staff suggested amendment the agency will need to file one (1) clean copy of the following updated forms with an edition date of January 2024 and that includes the following changes:

Equal Employment Opportunity Poster

- Adds Citations to the Civil Rights Act, including the citation to KRS 344.030 to 344.110
- Updates agency's address and contact information, including to add YouTube information
- Makes the font larger along with other formatting changes
- Adds a reference to 104 KAR 1:010, Section 1

Public Accommodations Poster

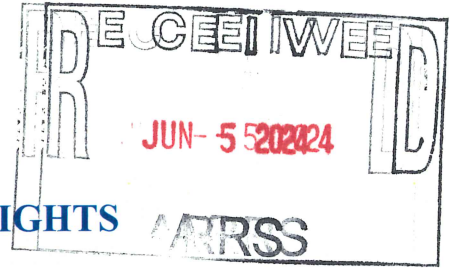
- Adds references to specific KRS citations (KRS 344.120 to 344.145) to help parties seeking assistance
- Updates agency's address and contact information, including to add YouTube information
- Makes the font larger along with other formatting changes
- Adds a reference to 104 KAR 1:010, Section 2

Fair Housing Poster

- Adds statutory citations to the Kentucky Civil Rights Act, KRS 344.360 to 344.500
- Updates agency's address and contact information, including to add YouTube information
- Makes updates needed to meet accessibility standards, including larger font
- Changes "the bases of" to "based on"
- Adds a reference to 104 KAR 1:010, Section 3

Fair Housing Brochure

- Adds relevant statutory citations, including to add a citation to KRS 344.360
- Updates agency's address and contact information, including to add YouTube information
- Updates to use contrasting print for individuals with low vision



KENTUCKY COMMISSION ON HUMAN RIGHTS

Andy Beshear
Governor

312 Whittington Parkway, Suite 020
Louisville, Kentucky 40222
(502) 595-4024
(800) 292-5566
(502) 696-5230 - Fax
kchr.ky.gov

Cynthia B. Fox
Executive Director

Raymond M. Burse
Commission Chair

June 3, 2024

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: 104 KAR 1:040. Guidelines for advertising employment or licensing opportunities.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 104 KAR 1:040, the Kentucky Commission on Human Rights proposes the attached amendment to 104 KAR 1:040.

Sincerely,

Colt C. Sells
General Counsel/Staff Attorney Manager
KENTUCKY COMMISSION ON HUMAN RIGHTS
(502) 764-2757
colt.sells@ky.gov

Final, 5-14-2024

SUGGESTED SUBSTITUTE

EXECUTIVE CABINET
Kentucky Commission on Human Rights

104 KAR 1:040. Guidelines for advertising employment or licensing opportunities.

RELATES TO: KRS 344.040, 344.050, 344.060, 344.070, 29 U.S.C. 623(f), 42 U.S.C. 2000e-2(e)

STATUTORY AUTHORITY: KRS 344.080, 344.190, [~~344.080~~], 29 C.F.R. 1604.5

NECESSITY, FUNCTION, AND CONFORMITY: KRS 344.190(14) requires the Kentucky Commission on Human Rights to promulgate administrative regulations to effect the purposes of KRS Chapter 344, including requiring the posting of notices prepared or approved by the commission. This administrative regulation establishes the procedures to be used by an employer, licensing agency, labor organization, or employment agency in advertising for jobs or licensing opportunities.

Section 1. Definition. "Bona fide occupational qualification" is defined ~~by~~in 42 U.S.C. 2000e-2(e) and 29 U.S.C. 623(f). [~~USC 2000e-2(e) and 29 USC 623(f).~~]

Section 2. Help Wanted Notices or Advertisements.

~~[(1)]~~ An advertisement or notice shall utilize a neutral job qualification, title, term, phrase, or description unless a person's sex, religion, age between forty (40) and seventy (70), or national origin is determined~~deemed~~ by the commission to be a bona fide occupational qualification.

~~[(2)]~~ [Employers shall, if possible, utilize gender neutral position titles and job descriptions selected from the commission's listing of "Gender Neutral Employee Advertisement" or "Gender Neutral Employment Terminology."]

Section 3. Bona-fide Occupational Qualification.

(1) An employer, labor organization, licensing agency, or employment agency shall have the burden of establishing with the commission that either sex, religion, age between forty (40) and seventy (70), or national origin is a bona fide occupational qualification.

(2) A sex or gender-based bona fide occupational qualification shall:

(a) Be necessary for reasons of personal modesty or privacy; and

(b) Comply with EEOC guidelines on "Job opportunities advertising" as found in Part 1604—Guidelines on Discrimination Because of Sex, 29 C.F.R. 1604.5. [~~Guidelines on Job Opportunity Advertising on the Basis of Sex".~~]

Section 4.

(1) A person who intends to publish, print, circulate, or display a job advertisement may request the commission to determine whether sex, religion, age between forty (40) and seventy (70), or national origin is a bona fide occupational qualification for the job to be advertised.

(2)

(a) Within three (3) workdays of receipt of the request, the commission shall:

1. Make a determination in writing; and

2. Forward its written determination.

(b) The determination of the commission shall be based on:

1. The specific job;

2. Whether the qualification is reasonably necessary to the normal operation of the business; and

3. Any other pertinent factors.

Section 5. Newspapers and other publications which print employment advertisements shall be encouraged by the commission to:

- (1) Maintain lists of gender-neutral terms; and
- (2) Instruct their employees to advise advertisers of gender neutral job qualifications, titles, and descriptions.

Section 6.

- (1) In a conciliation agreement or order, the commission may include a provision requiring the respondent to use the term "equal opportunity employer", or a substantially similar term, in a notice or advertisement of employment or licensing opportunity.
- (2) Persons advertising for employment opportunities shall be encouraged by the commission to use the terms specified in subsection (1) of this section in a notice or advertisement.

~~[Section 7.] [Materials Incorporated by Reference.]~~

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

~~[(a)] ["Gender Neutral Employee Advertisement (February, 1993)";]~~

~~[(b)] ["Gender Neutral Employment Terminology (February, 1993)";]~~

~~[(c)] ["EEOC Guidelines on Job Opportunity Advertising on the Basis of Sex: 29 CFR 1604.5—Job Opportunities Advertising".]~~

~~[(2)] [This material may be inspected, copied or obtained:]~~

~~[(a)] [At the offices of the Kentucky Commission on Human Rights, The Heyburn Building, Suite 700, 332 West Broadway, Louisville, Kentucky 40202; or]~~

~~[(b)] [By calling:]~~

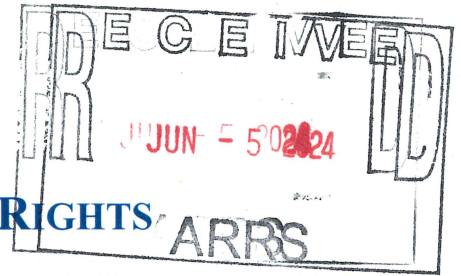
~~[1.] [(502) 595-4024;]~~

~~[2.] [(800) 295-5566;]~~

~~[3.] [(502) 595-4084, (TDD), for the hearing impaired;]~~

~~[4.] [Kentucky Relay Service, (800) 648-6056 (TTY/TDD). This is to certify that the Commissioners of the Kentucky Commission on Human Rights have approved this administrative regulation as amended prior to its filing with the Legislative Research Commission, as required by KRS 344.190(14).]~~

CONTACT PERSON: Colt C. Sells, Staff Attorney Manager/Assistant General Counsel, Kentucky Commission on Human Rights, 312 Whittington Parkway, Suite 020, Louisville, Kentucky 40222, phone (502) 595-4024, email colt.sells@ky.gov.



KENTUCKY COMMISSION ON HUMAN RIGHTS

Andy Beshear
Governor

312 Whittington Parkway, Suite 020
Louisville, Kentucky 40222
(502) 595-4024
(800) 292-5566
(502) 696-5230 - Fax
kchr.ky.gov

Cynthia B. Fox
Executive Director

Raymond M. Burse
Commission Chair

June 3, 2024

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: 104 KAR 1:050. Standards and procedures for providing equal employment opportunities.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 104 KAR 1:050, the Kentucky Commission on Human Rights proposes the attached amendment to 104 KAR 1:050.

Sincerely,

Colt C. Sells
General Counsel/Staff Attorney Manager
KENTUCKY COMMISSION ON HUMAN RIGHTS
(502) 764-2757
colt.sells@ky.gov

Final, 4-30-2024

SUGGESTED SUBSTITUTE

EXECUTIVE CABINET
Kentucky Commission on Human Rights

104 KAR 1:050. Standards and procedures for providing equal employment opportunities.

RELATES TO: KRS 344.010-344.500, 344.990, 29 C.F.R. 1604.1-1604.4, 1604.6-1604.11, 1605.1-1605.3, 1606.1-1606.8, 1607.1-1607.16, 1608, 1625, 1630

STATUTORY AUTHORITY: KRS 344.190, 29 C.F.R. 1604.1-1604.11, 1605, 1606, 1607, 1608, 1630, ~~29 C.F.R. 1606~~

NECESSITY, FUNCTION, AND CONFORMITY: *KRS 344.190(14) requires the Kentucky Commission on Human Rights to promulgate administrative regulations to effect the purposes of KRS Chapter 344, including requiring the posting of notices prepared or approved by the commission.* This administrative regulation establishes employment standards and procedures promulgated by the EEOC and enforced by the Kentucky Commission on Human Rights.

Section 1. Employment Discrimination Guidelines. In the determination of issues prohibiting employment discrimination the commission shall follow and enforce the following guidelines promulgated by the Equal Employment Opportunity Commission: [-]

~~[Section 2.] [Federal Regulations Adopted Without Change.]~~

~~(1) [The following federal regulations are adopted without change:]~~

~~[(a)] Part 1605—Guidelines on Discrimination Because of Religion (and Appendix A to 1605.2 and 1605.3—Background Information); ["EEOC Guidelines on Discrimination Because of Religion (with Appendix A—Background Information);] 29 C.F.R. 1605.1 to 1605.3; [-] 45 Federal Register 72612, October 31, 1980; [-]~~

~~(2)[(b)] Part 1604—Guidelines on Discrimination Because of Sex (and Appendix to Part 1604—Questions and Answers on the Pregnancy Discrimination Act); ["EEOC Guidelines on Sex Discrimination (with Appendix to Part 1604—Questions and Answers on the Pregnancy Discrimination Act);] 29 C.F.R. 1604.1 to 1604.4 and 1604.6 to 1604.11; [-] 37 Federal Register 6836, April 5, 1972; [-] and 44 Federal Register 23805, April 20, 1979; and 64 Federal Register 58333-01, October 29, 1999; [-]~~

~~(3)[(c)] Part 1607—Uniform Guidelines on Employee Selection Procedures (1978); ["EEOC Uniform Guidelines on Employee Selection Procedure,] 29 C.F.R. 1607.1 to 1607.16; [-] 43 Federal Register 38295, August 25, 1978; [-]~~

~~(4)[(d)] Part 1606—Guidelines on Discrimination Because of National Origin; ["EEOC Guidelines on Discrimination Because of National Origin,] 29 C.F.R. 1606.1 to 1606.8; [-] 45 Federal Register 85635, December 29, 1980, and 64 Federal Register 58333-01, October 29, 1999; [-]~~

~~(5)[(e)] Part 1630—Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act (and Appendix to Part 1630—Interpretative Guidance On Title I of the Americans With Disabilities Act); 29 C.F.R. 1630.1 to 1630.16.; 76 Federal Register 16999, March 25, 2011; and 81 Federal Register 31140, May 17, 2016; and ["Equal Employment Opportunity for Individuals with Disabilities" with Interpretive Guidance on Title I of the Americans with Disabilities Act and the Final Rule and Regulations, 29 C.F.R. 1630", 56 Federal Register 35725, July 26, 1992.]~~

~~(6) Part 1625—Age Discrimination in Employment Act; 29 C.F.R. 1625.1 to 1625.32; 46 Federal Register 47726, Sept. 29 1981; 53 Federal Register 5972, Feb. 29, 1988; 72 Federal Register 36875, July 6, 2007; 72 Federal Register 72938-01, Dec. 26, 2007; and 79 Federal Register 13547, March 11, 2014.~~

~~[(2)] [The federal regulations may be inspected, copied or obtained:]~~

~~[(a)] [At the Office of the Kentucky Commission on Human Rights, The Heyburn Building, Suite 700, 332 West Broadway, Louisville, Kentucky 40202; or]~~

~~[(b)] [By calling:]~~

~~[1.] [(502) 595-4024;]~~

~~[2.] [(800) 292-5566;]~~

~~[3.] [(502) 595-4084 (TDD), for the hearing impaired;]~~

~~[4.] [Kentucky Relay Service, (800) 648-6056 (TTY/TDD).]~~

~~[(c)] [The material referred to in subsection (1)(e) of this section is also available in the following alternative formats directly from the office of the Americans with Disabilities Act at (202) 514-0301 (voice), (202) 514-0381 (TDD) or (202) 514-6193 (electronic bulletin board):]~~

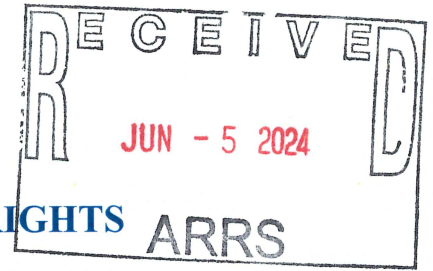
~~[1.] [Large print;]~~

~~[2.] [Braille;]~~

~~[3.] [Electronic file on computer disk;]~~

~~[4.] [Audio tape.]~~

CONTACT PERSON: Colt C. Sells, Staff Attorney Manager/Assistant General Counsel, Kentucky Commission on Human Rights, 312 Whittington Parkway, Suite 020, Louisville, Kentucky 40222, phone (502) 595-4024, email colt.sells@ky.gov.



KENTUCKY COMMISSION ON HUMAN RIGHTS

Andy Beshear
Governor

312 Whittington Parkway, Suite 020
Louisville, Kentucky 40222
(502) 595-4024
(800) 292-5566
(502) 696-5230 - Fax
kchr.ky.gov

Cynthia B. Fox
Executive Director

Raymond M. Burse
Commission Chair

June 3, 2024

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: 104 KAR 1:080. Guidelines on fair housing.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 104 KAR 1:080, the Kentucky Commission on Human Rights proposes the attached amendment to 104 KAR 1:080.

Sincerely,

Colt C. Sells
General Counsel/Staff Attorney Manager
KENTUCKY COMMISSION ON HUMAN RIGHTS
(502) 764-2757
colt.sells@ky.gov

Final, 5-14-2024

SUGGESTED SUBSTITUTE

EXECUTIVE CABINET
Kentucky Commission on Human Rights

104 KAR 1:080. Guidelines on fair housing.

RELATES TO: KRS 344.010, 344.360-344.385, 344.600-344.680, 24 C.F.R. 100.75, 100.80

STATUTORY AUTHORITY: KRS 344.190(14), ~~24 C.F.R. 101.20, 101.25~~

NECESSITY, FUNCTION, AND CONFORMITY: KRS 344.190(14) requires the Kentucky Commission on Human Rights to promulgate administrative regulations to effect the purposes of KRS Chapter 344, including requiring the posting of notices prepared or approved by the commission. This administrative regulation establishes standards and procedures for determining permissible conduct by persons engaged in real estate or real estate-related transactions.

Section 1. Definitions.

(1) "Conduct" means, in addition to practices prohibited by KRS 344.360, any action including statements, words, and utterances.

(2) "Real estate operator" is defined by/in] KRS 344.010(8), and includes, subject to KRS 344.362 and 344.365, any person engaging in housing practices or any real estate or real estate-related transaction and is not limited to those persons regularly engaging in real estate as a business.

~~[(2)] ["Conduct" means in addition to practices prohibited by KRS 344.360 any action including statements, words, and utterances.]~~

Section 2. Discriminatory conduct, notice, statements, and advertisements shall include:

(1) A written or oral notice or statement by a real estate operator; ~~and]~~

(2) Written notice or statement including an application, flyer, brochure, deed, sign, banner, poster, billboard, or a document used with respect to the sale or rental of housing accommodations; ~~and]~~

(3) Notices, statements, and advertisements, including] include the following]:

(a) The use of words, phrases, photographs, illustrations, symbols, or forms which convey that housing accommodations are available or not available to a particular group of persons because of race, color, religion, sex, disability, familial status, or national origin;

(b) Expressing to agents, brokers, employees, prospective sellers, ~~or]~~ renters, or any other persons a preference for or limitation on any purchaser or renter because of race, color, religion, sex, disability, familial status, or national origin of such persons;

(c) Selecting media or locations for advertising the sale or rental of housing accommodations which deny particular segments of the housing market information about housing opportunities because of race, color, religion, sex, disability, familial status, or national origin; and

(d) Refusing to publish advertising for the sale or rental of housing accommodations or requiring different charges or terms for such advertising because of race, color, religion, sex, disability, familial status, or national origin; ~~and]~~

(4) Discriminatory representations on the availability of dwellings, including] shall include] those specified in 24 C.F.R. 100.80(a) and (b);] ["Prohibited words, phrases, symbols and visual aids" shall include those specified in 24 CFR 109.20(a) to (f).]

(5) Use of advertising media that fails to] shall] comply with the provisions of 24 C.F.R. 100.75, 61 Federal Register 5205, February 9, 1996[24 CFR 109.25(a) to (c)]; and].]

(6) Occupancy restrictions because of familial status unless warranted under paragraphs (a) and (b) of this subsection.

(a) Real estate operators may enforce nondiscriminatory policies or standards involving reasonable occupancy restrictions on the basis of familial status.

(b) In reviewing occupancy restrictions, the Kentucky Commission on Human Rights shall consider the:

1. Size of bedrooms and unit;
2. Age of children;
3. Configuration of unit; and
4. Other special circumstances which may warrant occupancy restrictions.

~~[Section 3.] [Material Incorporated by Reference.]~~

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

~~[(a)] ["Use of words, phrases, symbols, and visual aids, 24 CFR 109.20(a) to (f)", (54 Federal Register 3308, January 23, 1989, as amended at 55 FR 53294, December 28, 1990).]~~

~~[(b)] ["Selective Use of Advertising Media or Content, 24 CFR 109.25(a) to (c)", (54 Federal Register 3308, January 23, 1989, as amended at 55 FR 53294, December 28, 1990).]~~

~~[(2)] [This material may be inspected, copied, or obtained:]~~

~~[(a)] [At the offices of the Kentucky Commission on Human Rights, the Heyburn Building, Suite 700, 332 West Broadway, Louisville, Kentucky 40202; or]~~

~~[(b)]~~

~~[1.] [(502) 595-4024;]~~

~~[2.] [(800) 292-5566;]~~

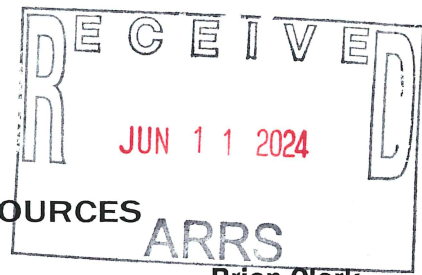
~~[3.] [(502) 595-4084 (TDD), for the hearing impaired;]~~

~~[4.] [Kentucky Relay Service, (800) 648-6056 (TTD/TDD).]~~

CONTACT PERSON: Colt C. Sells, Staff Attorney Manager/Assistant General Counsel, Kentucky Commission on Human Rights, 312 Whittington Parkway, Suite 020, Louisville, Kentucky 40222, phone (502) 595-4024, email colt.sells@ky.gov.



KENTUCKY DEPARTMENT OF FISH & WILDLIFE RESOURCES



Rich Storm
Commissioner

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

Brian Clark
Deputy Commissioner

Gabe Jenkins
Deputy Commissioner

June 11, 2024

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

Re: **301 KAR 5:040 Migratory Bird Harvest Information Program**, 301 KAR 5:210 Special agency fundraising permits.

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 301 KAR 5:040 and 301 KAR 5:210, Kentucky Department of Fish and Wildlife Resources proposes the attached amendment to 301 KAR 5:040 and 5:210.

Sincerely,

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

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

SUGGESTED SUBSTITUTE

TOURISM, ARTS AND HERITAGE CABINET Department of Fish and Wildlife Resources (Amendment)

301 KAR 5:040. Migratory Bird Harvest Information Program.

RELATES TO: KRS 150.235, 150.603(1), (2)

STATUTORY AUTHORITY: KRS 150.195(1), 50 C.F.R. 20.20

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.195(1) authorizes the Kentucky Department of Fish and Wildlife Resources~~[department]~~ to promulgate administrative regulations that provide for the design, issuance, distribution, and other matters relating to all licenses and permits. 50 C.F.R. 20.20 requires that waterfowl or migratory shore and upland game bird hunters participate in a national harvest survey. This administrative regulation establishes the requirements for hunters participating in the Migratory Bird Harvest Information Program.

Section 1. Definition. "The Migratory Bird Harvest Information Program" means an online survey that a person completes prior to legally hunting waterfowl or migratory shore ~~or~~~~[and]~~ upland game birds.

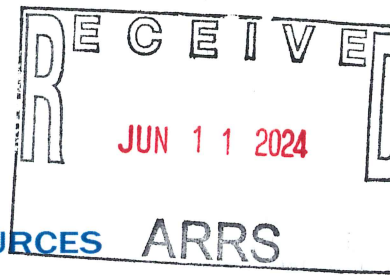
Section 2. (1) Prior to hunting waterfowl or migratory shore ~~or~~~~[and]~~ upland game birds, a person shall obtain a Migratory Bird Harvest Information Program verification number by completing the Migratory Bird Harvest Information Program Survey on the department's Web site at fw.ky.gov.

(2) A person shall possess the survey verification number established in subsection (1) of this section while hunting waterfowl or migratory shore and upland game birds.

Section 3. Incorporation by Reference.

(1) The "Migratory Bird Harvest Information Program Survey" form, 2016 edition, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Fish and Wildlife Resources, #1 Sportsman's Lane, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m., or at app.fw.ky.gov/myprofile/default.aspx?red=HipSurvey.



KENTUCKY DEPARTMENT OF FISH & WILDLIFE RESOURCES

Rich Storm
Commissioner

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

Brian Clark
Deputy Commissioner

Gabe Jenkins
Deputy Commissioner

June 11, 2024

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

Re: 301 KAR 5:040 Migratory Bird Harvest Information Program., 301 KAR 5:210 Special agency fundraising permits.

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 301 KAR 5:040 and 301 KAR 5:210, Kentucky Department of Fish and Wildlife Resources proposes the attached amendment to 301 KAR 5:040 and 5:210.

Sincerely,

A handwritten signature in black ink that reads "Jenny Gilbert".

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

REVISED: 6/10/2024 2:15 PM
SUGGESTED SUBSTITUTE

TOURISM, ARTS AND HERITAGE CABINET
Department of Fish and Wildlife Resources
(New Administrative Regulation)

301 KAR 5:210. Special agency fundraising permits.

RELATES TO: KRS 150.025~~[150.170]~~, 150.175, 150.195

STATUTORY AUTHORITY: KRS 150.025, 150.195

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025 authorizes the ***Department of Fish and Wildlife Resources***~~[department]~~ to promulgate administrative regulations to establish hunting seasons, bag limits, and the methods of taking wildlife. KRS 150.175 ***requires***~~[authorizes]~~ the department to establish game permits to be used in combination with a statewide hunting license or valid youth statewide license, ***as well as requirements on***~~[and]~~ how those permits are to be used. KRS 150.195(1) requires the department to promulgate administrative regulations pertaining to the issuance of, and other matters relating to, licenses and permits issued by the department. This administrative regulation establishes the requirements for the issuance and use of Special Agency Fundraising Permits.

Section 1. Definitions.

(1) "Elk hunt sweepstakes permit" means a permit ***that***~~[, which]~~ allows the holder to harvest one (1) elk of either sex.

(2) "Immediate family" means a person's spouse, mother, father, daughter, brother, sister, grandparent, or son.

(3) "Premium combination big game permit" means a permit that allows the holder to lawfully take during the year of selection, one (1) elk of either sex and, in addition to the statewide harvest limits, the following species: one (1) deer of either sex, one (1) bear of either sex; and in the spring turkey season the year after selection, one (1) legal spring turkey.

(4) "Proceeds" means the amount of money received from the sale of applications for special agency fundraising permits.

(5) "Special Agency Fundraising Permit" means a Kentucky hunting permit subject to a special application and drawing process to select the holder, that includes privileges to take specified big game animals when used in conjunction with a statewide annual hunting license.

(6) "Standard combination big game permit" means a permit that allows the holder to lawfully take, in addition to the statewide harvest limits, the following species: one (1) deer of either sex, one (1) bear of either sex, and one (1) legal spring turkey.

Section 2. Application and Drawing Process.

(1) The application period shall be August 1 of the year preceding through May 30 (midnight eastern time) of the year in which the drawing occurs.

(2) An applicant shall:

(a) Complete the application process on the department's Web site at fw.ky.gov, **in accordance with Section 1 of 301 KAR 5:030**; and

(b) Pay the applicable nonrefundable application **fee[fee(s)]** for the **permit[permit(s)]** desired, as follows:

1. For elk hunt sweepstakes permit and premium combination big game permits:

a. Five (5) dollars for residents and ten (10) dollars for nonresidents for one (1) application;

b. Ten (10) dollars for residents and twenty (20) dollars for nonresidents per bundle of three (3) applications; and

c. Twenty-five (25) dollars for residents and fifty (50) dollars for nonresidents per bundle of ten (10) applications.

2. For standard combination big game permits:

a. Three (3) dollars for residents and six (6) dollars for nonresidents for one (1) application;

b. Eight (8) dollars for residents and sixteen (16) dollars for nonresidents per bundle of three (3) applications; and

c. Twenty (20) dollars for residents and forty (40) dollars for nonresidents per bundle of ten (10) applications.

(3) An applicant may purchase an unlimited number of applications or bundles **of applications[thereof]**.

(4) The number of special agency fundraising permits available per year shall be:

(a) One (1) elk sweepstakes permit **[(f)for a resident or nonresident holder]**;

(b) One (1) premium combination big game permit **[(f)for a resident or nonresident holder]**;

(c) One (1) standard combination big game permit for a resident; and

(d) One (1) standard combination big game permit for a nonresident.

(5) There shall be a random electronic drawing~~[,]~~ conducted subsequent to the general elk hunt drawing each year. **This drawing shall be taken[,]** from among applications in each applicant pool for the corresponding special agency fundraising permits available for that fall's hunting seasons.

(a) Each drawing shall be sequential, **in the following order**:

1.[,with] The elk hunt sweepstakes~~[-drawing-conducted]~~ first;

2.[,-proceeded-by] The premium big game permit~~[-drawing]~~ second~~[,]~~ and

3.[followed-by] The standard combination big game permit~~[-drawings]~~ for selection of resident and nonresident permit holders, **third**.

(b) If an individual applicant is selected for the elk hunt sweepstakes permit or the premium combination big game permit, **[-upon-selection]** that applicant shall be removed

from the other special agency fundraising permits applicant pools prior to the drawings to determine the holders of those other permits.

(6) The commissioner shall extend the application deadline if technical difficulties with the application system prevent applications from being accepted for one (1) or more days during the application period.

(7) An applicant who is selected for a Kentucky elk hunt sweepstakes permit shall be ineligible to receive the elk hunt sweepstakes permit in ***any[a]*** subsequent drawing.

(8) A person subject to a waiting period resulting from being selected in the general Kentucky Elk Hunt Drawing shall be eligible to apply for special agency fundraising permits.

Section 3. Issuance and Use of Permits.

(1) Upon conclusion of the drawing process for special agency fundraising permits, the department shall announce the drawing results on the agency Web site and issue the permits to the recipients, subject to any applicable deferrals or transfers as described in Section 4 of this administrative regulation, prior to the first hunting season for which the permits are applicable.

(2) A permit holder shall only take animals:

(a) Through the use of[with] legal hunting equipment; and

(b) During the normal season dates for which take is otherwise allowed.

(3) A permit holder shall carry proof of purchase of a valid Kentucky hunting license, unless exempted from the requirement to be licensed ***in accordance with[by]*** KRS 150.170.

(4) ***The*** holder of a permit that allows take of an elk shall comply with the statewide bag limit of one (1) elk per hunter per license year and other requirements in 301 KAR 2:132.

(5) The holder of a special agency fundraising permit that includes privileges to take elk may use the permit in any elk hunting unit open to hunting during any open elk hunting season on:

(a) Private land with permission from the landowner; ~~*(i)*~~ or

(b) Lands that are:

1.[on-Department] Owned or managed ***by the department; and***

2.[lands that are] The subject of public access agreements between the landowners and the department.

(6) The permit holder referenced in subsection (5)[, but] shall only use methods allowed during the season segment that is open ***[as established in 301 KAR 2:132]*** while he or she is hunting, ***as established in 301 KAR 2:132.***

Section 4. Deferral or Transfer of Permits.

(1) A recipient of a special agency fundraising permit that includes privileges to take elk in Kentucky may:

(a) Defer use of the elk hunting privilege included in the permit for one (1) year if he or

she has previously obtained an elk permit of any kind for use during the Kentucky elk hunting season to which the special agency fundraising permit pertains; or

(b) Transfer use of the elk hunting privilege included in the permit to one (1) member of his or her immediate family for use during **any[the]** hunting **season[season(s)]** to which the permit pertains.

(2) A holder wishing to transfer or defer use of the elk hunting privilege included in a permit shall contact the office of the commissioner in writing, no later than July 31 of the year in which he or she is selected through the drawing for the permit.

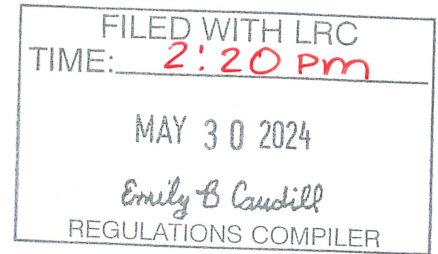
Section 5. Goods or Services May Be Included. The department may obtain goods or services of interest to prospective applicants, through purchase, donation or sponsorship, to incentivize applications for a special agency fundraising permit. The recipient of the permit shall also receive applicable goods or services included in the drawing for a permit, as posted on the agency Web site, except that a recipient may refuse an applicable good or service at his or her choosing.

Section 6. Use of **Fees[Proceeds]**. **Fees[Proceeds]** from the sale of special agency fundraising permits shall be deposited into the department's restricted Fish and Game Fund account and used solely for agency operational expenditures.



COMMONWEALTH OF KENTUCKY
TRANSPORTATION CABINET
transportation.ky.gov

Andy Beshear
GOVERNOR



Jim Gray
SECRETARY

May 30, 2024

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

Dear Co-Chairs:

After consideration of the issues raised by 601 KAR 023:040, the Cabinet proposes the attached staff-suggested amendment to this administrative regulation.

Sincerely,

Jon Johnson

Jon Johnson, Assistant General Counsel
Kentucky Transportation Cabinet
Office of Legal Services
200 Mero Street, 6th Floor
Frankfort, KY 40622
(502) 564-7650
jon.johnson@ky.gov

Staff-suggested Amendment

5/29/2024

**TRANSPORTATION CABINET
Department of Vehicle Regulation
Division of Motor Vehicle Licensing**

601 KAR 23:040. Application form to become Kentucky electronic license title entity; and application form for electronic motor vehicle title application submission.

Page 1

RELATES TO paragraph

Line 7

After "KRS", insert "186A.005".

Page 1

Section 1(1)

Line 16

After "Kentucky", lowercase the words "automobile dealer" and "lienholder".

Page 2

Section 2(2)

Line 12

After "(2)", insert the following:

For the committee to conduct business, there shall be a quorum present.

Page 2

Section 2(2)

Line 14

After "denial of an application.", return and insert the following:

(3) If there is a tie vote, the tie-breaking vote shall be made by the Commissioner of the Department of Vehicle Regulation.

Page 2

Section 3(1)

Lines 18 and 22

After "legal entity", delete "legally".

After "shall submit electronically", insert "its".

Delete "their".

Page 3

Section 3(1)

Line 1

After "county in which", insert "it is".
Delete "they are".

Page 3

Section 3(3)

Line 6

After "good standing with the", delete "Kentucky".

After "Motor Vehicle", delete "Dealer".

Page 3

Section 3(4)

Lines 7 and 8

After "shall not have any open", insert "investigative".

After "Division of Motor Vehicle Licensing", insert the following:

or the Motor Vehicle Commission

Page 3

Section 3(7)

Lines 15 and 16

After "Transportation", insert "Cabinet".

After "KRS 186A.017", insert "(4)".

Delete "(3)".

Page 3

Section 3(8)

Line 18

After "(8)", delete "Possible".

After "new application", insert "shall".

Page 4

Section 3(8)(d)

Line 1

After "crime relating", insert "to an".

Page 4

Section 3(9)

Lines 8 and 10

After "denial in subsection", insert "(8)".
Delete "(7)".

After "letter that", insert "its".
Delete "their".

Page 4

Section 4(1)

Lines 16 and 17

After "decision", insert "in writing".
Delete "by letter".

After "appeal of", insert "the".

After "with a copy of", insert "the".

110 Cleveland Drive
Paris, KY 40361



(800) 782-6823

kyfirecommission.kctcs.edu



June 5, 2024

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

RE: 739 KAR 2:160. Reimbursement for line-of-duty stress injury treatment.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 739 KAR 2:160, the Kentucky Fire Commission proposes the attached suggested amendment to 739 KAR 2:160. The three (3) forms attached hereto are incorporated by reference in 739 KAR 2:160. No amendments are being made to the content of those forms. However, the attached versions have edition dates, which were previously inadvertently omitted.

Sincerely,

Ricky King, Chair
Kentucky Fire Commission
110 Cleveland Drive
Paris, KY 40361



Stress Injury Reimbursement Application

Applicant Name: _____ Date of Birth: _____

Fire Department: _____ Firefighter #: _____

Address: _____

Phone #: _____ E-Mail: _____

Date of Diagnosis: _____

Diagnosing Licensed Mental Health Professional: _____

Address: _____

Phone #: _____

Applicant Signature: _____ Date: _____

Sub W-9 Directions

Directions – Page 1:

- Check **New Vendor**
- Write your **Social Security #** on the Federal Tax ID line and check the **SSN Box**
- Write your **legal name** as recognized by the IRS
- Underneath Type of Business check **Individual**
- Underneath Business Classification Check **None of the Above**
- **Sign and Date**

Directions – Page 2:

- Go to the **remittance** section and provide your **address**
- Fill out the **direct deposit** section
 - Include an **e-mail address** – required for deposit notification
 - *You will receive reimbursement much quicker with direct deposit*
- **Sign and Date**
- **Mail** application to: Kentucky Fire Commission, Attn: Delores Collins, 110 Cleveland Drive, Paris, KY 40361
-or- **e-mail** application to: fcptsd@kctcs.edu



Stress Injury Voucher

Applicant Name: _____ Firefighter #: _____
 Phone #: _____ Email: _____
 Address: _____
 Fire Department: _____

TYPE OF SERVICE

Please select one of the following:

Therapy Medicine In Patient Out Patient Other—Explain

Other Explanation: _____

REIMBURSEMENT REQUEST

Licensed Medical Professional: _____ Date of Visit: _____
 Licensed Medical Professional Phone #: _____
 Licensed Medical Professional Address: _____
 Requested Reimbursement Amount: \$ _____

List itemized receipts and the requested reimbursement amount below
Attach Receipts)

| SERVICE | | | | |
|--------------------------------------|----------|-----------|-----------------|--------------------------------|
| Date | Location | Treatment | Itemized Amount | Reimbursement Amount Requested |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| Total Reimbursement Approved: | | | | |

Applicant Signature: _____ Date: _____



110 Cleveland Drive
Paris, KY 40361
1-800-782-6823
Fax: 859-256-3125

CERTIFICATION OF STRESS INJURY DIAGNOSIS

I, _____, hereby certify that I am a:
Name of Licensed Mental Health Professional

(Select Your Appropriate License(s) or Credential Below)

_____ Licensed Psychiatrist

_____ Licensed Psychologist

_____ Professional Counselor Credentialed under KRS 335.500 to 335.599

I further certify that I diagnosed _____ with one or more of the following
Name of Firefighter

as defined by the most recent edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders:

(Select Your Diagnosis or Diagnoses Below)

_____ Post Traumatic Stress Injury

_____ Post Traumatic Stress Disorder

_____ Acute Stress Disorder

_____ Other Stress Disorder Identify Other Disorder _____

I further certify that the above-named current or former professional or volunteer firefighter's stress injury has been caused by an event or an accumulation of events that occurred in the course and scope of his or her position as a professional or volunteer firefighter in the Commonwealth of Kentucky.

I further certify that I diagnosed the above-named firefighter with the diagnosis or diagnoses

selected above on _____ at _____
Date Name of Provider/Facility/Organization

located at _____, _____, _____
Address City State

ZIP Code

Signature of Mental Health Professional

Date

SUGGESTED SUBSTITUTE

Final Version: 06/05/24 at 8:54 a.m.

**KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM
Kentucky Fire Commission**

739 KAR 2:160. Reimbursement for line-of-duty stress injury treatment.

RELATES TO: KRS 42.190, ~~75.400(3)~~, 95A.200, 95A.210, 95A.220, 95A.240, 136.392, 335.500 - 335.599

STATUTORY AUTHORITY: KRS 95A.220(2), (5), 95A.240

NECESSITY, FUNCTION, AND CONFORMITY: KRS 95A.220(2) ~~authorizes[establishes]~~ the Firefighters Foundation Program fund and appropriates the ~~moneys[monies]~~ in the fund for the purposes provided in KRS 95A.200 ~~through[to]~~ 95A.300. KRS 95A.240 requires the Kentucky Fire Commission to administer the Firefighters Foundation Program fund and authorizes the commission to ~~promulgate administrative[issue such reasonable rules and]~~ regulations ~~to administer[as will facilitate the administration of]~~ the fund and further the purposes of KRS 95A.200 ~~through[to]~~ 95A.300. KRS 95A.220(5) ~~authorizes[requires]~~ the Kentucky Fire Commission to reimburse a qualifying firefighter for his or her out-of-pocket expenses for treatment of a qualifying stress injury. This administrative regulation establishes requirements for obtaining stress injury reimbursement benefits.

Section 1. Definitions.

- (1) "Full-time ~~paid[career]~~ firefighter" ~~is defined by KRS 75.400(3)[means any member of a paid municipal fire department organized under KRS Chapter 95, 67A, or 67C, any member of a fire protection district organized under KRS Chapter 75, any member of a county fire department created pursuant to KRS Chapter 67, or any firefighter employed by an air board created under KRS Chapter 183].~~
- (2) "Fund" is defined by KRS 95A.210(4).
- (3) "Mental health professional" means a psychiatrist, psychologist, or professional counselor credentialed under KRS 335.500 ~~through[to]~~ 335.599.
- (4) "Qualifying firefighter" means an individual who satisfies the requirements of Section 3 of this administrative regulation.
- (5) "Stress injury" is defined by KRS 95A.220(1).
- (6) "Volunteer firefighter" means ~~an individual who receives either no salary or less than \$8,000 annually for firefighting services to a volunteer fire department[any member of a fire department organized under KRS Chapter 273].~~

Section 2. Funding.

- (1) For each fiscal year, \$1,250,000 shall be made available from the fund for a program to reimburse current and former full-time ~~paid[career]~~ firefighters and volunteer firefighters for their out-of-pocket expenses for treatment of stress injuries caused by an event or an accumulation of events occurring in the course and scope of their employment.
- (2) Upon exhaustion or termination of funding, reimbursement benefits pursuant to this administrative regulation shall cease.

Section 3. Eligibility. An individual shall be eligible to receive reimbursement pursuant to Section 4 of this administrative regulation if:

- (1) The individual is currently a full-time **paid[career]** firefighter or volunteer firefighter or was formerly a full-time **paid[career]** firefighter or volunteer firefighter;
- (2) The individual has been diagnosed with a stress injury by a mental health professional;
- (3) The stress injury has been caused by an event or an accumulation of events that have occurred in the course and scope of the individual's employment as a full-time **paid[career]** firefighter or volunteer firefighter; and
- (4) The individual submits to the commission a completed:
 - (a) Stress Injury Reimbursement Application form;
 - (b) Substitute W-9 Form; and
 - (c) Certification of Stress Injury Diagnosis form.

Section 4. Reimbursement.

- (1) After receiving treatment for a stress injury, a qualifying firefighter may submit to the commission, corresponding receipts for the out-of-pocket expenses for **[such]** treatment for reimbursement from the funds allocated for stress injury reimbursement pursuant to Section 1 of this administrative regulation. Reimbursable out-of-pocket expenses for stress injury treatment include expenses paid by a qualifying firefighter for:
 - (a) Initial diagnosis;
 - (b) Counseling or therapy;
 - (c) Medication;
 - (d) Mental health facility expenses;
 - (e) In-patient treatment; or
 - (f) Out-patient treatment.
- (2) A qualifying firefighter shall pay any out-of-pocket expenses for stress injury treatment before submitting receipts for reimbursement.
- (3) After a qualifying firefighter has paid any out-of-pocket expenses for which reimbursement is sought, a qualifying firefighter seeking reimbursement shall submit to the commission:
 - (a) All insurance payment receipts for treatment of the stress injury;
 - (b) A completed Stress Injury Voucher; and
 - (c) All receipts for out-of-pocket expenses for treatment of the stress injury **that[which]** have been paid by the qualifying firefighter and for which reimbursement is sought.

Section 5. Limitations on Reimbursement Benefits. Reimbursement benefits for each qualifying firefighter shall not exceed \$50,000 unless:

- (1) A written request for additional benefits is submitted to the commission by the qualifying firefighter, which shall include the dollar amount of the additional reimbursement benefits requested; and
- (2) The financial department of the commission determines that the requested additional reimbursement benefits are available pursuant to Section 1 of this administrative regulation.

Section 6. Incorporation by Reference.

- (1) The following material is incorporated by reference:
 - (a) "Certification of Stress Injury Diagnosis", **PTSD-3, June 2024[-form]**;
 - (b) "Stress Injury Reimbursement Application", **PTSD-1, June 2024[-form]**;
 - (c) "Stress Injury Voucher", **PTSD-2, June 2024**; and
 - (d) "Substitute W-9 **Form**", **W-9, December 6, 2013[-form]**.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Fire Commission office, 110 Cleveland Drive, Paris, Kentucky 40361, Monday through Friday, 8 a.m. to 4:30 p.m.

(3) This material may also be obtained at: <http://kyfires.acadisonline.com/>.

***General Reviewer's Note:** Please file one (1) revised copy of each of the forms in Section 6(1)(a) through (c) to add the edition dates.



Andy Beshear
Governor

Rebecca W. Goodman
Secretary
Energy and Environment Cabinet

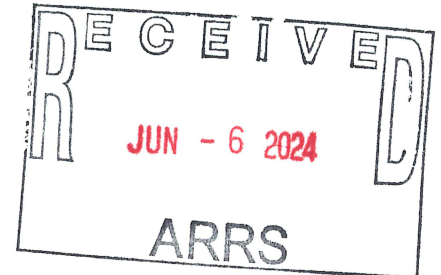
Commonwealth of Kentucky
Public Service Commission
211 Sower Blvd.
P.O. Box 615
Frankfort, Kentucky 40602-0615
Telephone: (502) 564-3940
Fax: (502) 564-3460
psc.ky.gov

Kent A. Chandler
Chairman

Angie Hatton
Vice Chairman

Mary Pat Regan
Commissioner

June 6, 2024



Senator Stephen West
Representative Derek Lewis
Legislative Research Commission
083, Capitol Annex
702 Capitol Avenue
Frankfort, Kentucky 40601

Dear Co-Chairs:

After consideration of the issues raised by 807 KAR 5:078, the Public Service Commission proposes the attached suggested substitute to this regulation.

Sincerely,

John E.B. Pinney, Executive Advisor
Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40601

SUGGESTED SUBSTITUTE

Final Version: 06/05/24 at 2:52 p.m.

**ENERGY AND ENVIRONMENT CABINET
Public Service Commission**

807 KAR 5:078. Alternative rate adjustment for electric cooperatives.

RELATES TO: KRS Chapter 278, **279**

STATUTORY AUTHORITY: KRS **278.030(1), (2)**, 278.040(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 278.040(3) **authorizes~~provides that~~** the Public Service Commission **to~~may~~** promulgate administrative regulations to implement the provisions of KRS Chapter 278. KRS 278.030(1) **requires~~provides that~~** all rates received by an electric utility subject to the jurisdiction of the Public Service Commission **to~~shall~~** be fair, just, and reasonable. KRS 278.030(2) **requires~~provides that~~** every utility **to provide~~shall furnish~~** adequate, efficient, and reasonable service. This administrative regulation establishes a simplified and less expensive procedure for rural electric cooperatives to use to apply to the commission for rate adjustments.

Section 1. Definitions.

- (1) "Annual report" means the financial and statistical report incorporated by reference in 807 KAR 5:006, which requires a utility to file the annual report with the commission.
- (2) "Attorney General" means the Attorney General, Office of Rate Intervention.
- (3) "General rate adjustment" means an adjustment in rates received pursuant to an application filed pursuant to 807 KAR 5:001, Section 16.
- (4) "Base rate adjustment" mean a general rate adjustment or an adjustment in rates received pursuant to an application filed pursuant to Section 2 of this administrative regulation.
- (5) "Cooperative" means any rural electric cooperative corporation formed under KRS Chapter 279 that distributes electricity.
- (6) "OTIER" means the operating times interest earned ratio for the cooperative.
- (7) "Rate" is defined by KRS 278.010(12).
- (8) "TIER" means the times interest earned ratio for the cooperative.

Section 2. Increase in Rates. **~~Cooperatives Permitted to File Application~~**. A cooperative may apply for an adjustment of rates using the procedure established in this administrative regulation if:

- (1) **~~No more than~~** Ten (10) **~~or fewer years have~~~~years has~~** elapsed since the effective date of new rates resulting from a cooperative's most recent base rate adjustment;
- (2) At least twelve (12) months have elapsed since the effective date of the cooperative's most recent base rate adjustment;
- (3) The cooperative requests a rate increase not exceeding one (1) percent per twelve (12) month period since **the cooperative's~~its~~** last base rate adjustment;
- (4) The cooperative requests an increase that does not exceed 1.85 OTIER;
- (5) **~~If~~** Aggregating multiple twelve (12) month periods in the application, the overall cumulative rate increase does not exceed five (5) percent;
- (6) The cooperative's most recent embedded class cost of service study was completed within the five (5) years prior to the submission of the cooperative's application under this section;
- (7) The cooperative's application includes only request for:
 - (a) Adjustments in revenue requirements;

- (b) Changes to rate design; and
- (c) Changes to the cooperative's tariff necessary to reflect changes in rates;
- (8) The proposed rate increase is based upon a historical test year that corresponds with the most recent annual report filed with the commission;
- (9) The cooperative's application is filed electronically pursuant to the requirements of 807 KAR 5:001, Section 8;
- (10) The cooperative has notified the commission in writing of ***the cooperative's[its]*** intent to file a rate application at least thirty (30) days, but not more than sixty (60) days, prior to filing ***an[its]*** application; and
- (11) Upon filing the notice of intent with the commission, the cooperative mailed to the Attorney General a copy of the notice of intent or sent by electronic mail in a portable document format, to rateintervention@ag.ky.gov.

Section 3. An application filed pursuant to ~~[this]~~ Section 2 of this administrative regulation shall include:

- (1) A narrative statement discussing any changes materially affecting the cooperative's rates or service that have occurred since the effective date of its last base rate adjustment and stating the reasons for the proposed adjustment;
- (2) If ~~[more than]~~ five (5) ***or more years have[years has]*** elapsed since the cooperative's most recent general rate adjustment, a detailed explanation of why the cooperative did not seek a general rate adjustment in that period;
- (3) New or revised tariff sheets, if applicable, in a format that complies with 807 KAR 5:011, ***Section 3***, with an effective date not less than thirty (30) days from the date the application is filed;
- (4) New or revised tariff sheets, if applicable, identified in compliance with 807 KAR 5:011, shown either by providing:
 - (a) ***1.*** The present and proposed tariffs in comparative form on the same sheet side by side or on facing sheets side by side; or
 - 2.[(b)]*** A copy of the present tariff indicating proposed additions by italicized inserts or underscoring and striking over proposed deletions; and
 - (b)[(e)]*** A statement that notice has been given in compliance with Section 7 of this administrative regulation with a copy of the notice;
- (5) A general statement identifying any electric property or plant held for future use;
- (6) All current agreements related to vegetation management, as well as a statement identifying any changes that occurred since the cooperative's base rate adjustment to the cooperative's policies on vegetation management, indicating the effective date and reason for these changes;
- (7) A statement identifying any changes that occurred during the test year to the cooperative's written policies on the compensation of its attorneys, auditors, and all other professional service providers, indicating the effective date and reason for these changes;
- (8) A statement explaining whether ***or not*** the depreciation rates reflected in the application are identical to those most recently approved by the commission.
 - (a) If the depreciation rates are identical, the application shall identify the case in which they were approved.
 - (b) If the depreciation rates are different, the application shall include a depreciation study that supports the rates reflected in the application;
- (9) The estimated dates for drawdowns of unadvanced loan funds at test year end and the proposed uses of these funds;
- (10) A schedule of the cooperative's standard directors' fees, per diems, and any other compensation in effect during the test year. The schedule shall:

- (a) Include a description of any changes that occurred during the test year to the cooperative's written policies, ***including[-specifying]*** the compensation of directors; and
 - (b) Indicate the effective date and explanation for any change;
- (11) A schedule reflecting the salaries and other compensation of each executive officer for the test year and two (2) preceding calendar years. The schedule shall include:
- (a) The percentage of annual increase and the effective date of each salary increase;
 - (b) The job title, duty, and responsibility of each officer;
 - (c) The number of employees who report to each executive officer;
 - (d) To whom each executive officer reports; and
 - (e) For employees elected to executive officer status during the test year, the salaries for the test year for those persons whom they replaced;
- (12) The cooperative's TIER, OTIER, and debt service coverage ratio, as calculated by the Rural Utility Service, for the test year and the five (5) most recent calendar years, including the data used to calculate each ratio;
- (13) The cooperative's debt instruments;
- (14) A copy of all exhibits and schedules that were prepared for the rate application in Excel spreadsheet format with all formulas intact and unprotected and with all columns and rows accessible;
- (15) A schedule comparing balances for each balance sheet account or subaccount included in the cooperative's chart of accounts for each month of the test year to the corresponding month of the twelve (12)-month period immediately preceding the test year;
- (16) A schedule comparing each income statement account or subaccount included in the cooperative's chart of accounts for each month of the of the test year to the same month of the twelve (12)-month period immediately preceding the test year. The amounts shall reflect the income or expense activity of each month, and not the cumulative balances at the end of the particular month;
- (17) A schedule showing anticipated and incurred rate case expenses, with supporting documentation, which shall be updated every thirty (30) days during the proceeding.
- (18) A statement estimating the effect that each new rate will have upon the revenues of the utility including, at minimum, the total amount of revenues resulting from the increase or decrease and the percentage of the increase or decrease; ***[-and]***
- (19) A statement of the effect upon the average bill for each customer classification to which the proposed rate change will apply;
- (20) A summary of the cooperative's determination of its revenue requirements based on return on TIER, OTIER, debt service coverage, and any metric required by the cooperative's current debt instruments, with supporting schedules;
- (21) If the cooperative had amounts charged or allocated to it by an affiliate or general or home office or paid monies to an affiliate or general or home office during the test period or during the previous three (3) calendar years ***[-, the cooperative shall file]:***
- (a) A detailed description of the method and amounts allocated or charged to the utility by the affiliate or general or home office for each charge allocation or payment;
 - (b) An explanation of how the allocator for the test period was determined; and
 - (c) All facts relied upon, including other regulatory approval, to demonstrate that each amount charged, allocated, or paid during the test period was reasonable;
- (22) A calculation of the normalized depreciation expense (test-year end plant account balance multiplied by depreciation rate);
- (23) An analysis of FERC Account No. 930, Miscellaneous General Expenses, for the test year. The analysis shall include:

(a) A complete breakdown of this account by the following categories:

1. Industry association dues;
2. Debt-serving expenses;
3. Institutional and conservation advertising;
4. Rate department load studies;
5. Director's fees and expenses;
6. Dues and subscriptions; and
7. Miscellaneous; **and**

(b) Detailed supporting workpapers **that[which]** shall include for amounts over \$100, the date, vendor, reference, dollar amount, and a brief description of each expenditure; ~~;~~

(24) An analysis of FERC Account No. 426, Other Income Deductions, for the test period. The analysis shall include:

(a) A breakdown of this account by the following categories:

1. Donations;
2. Civic activities;
3. Political activities; and
4. Other; **and**

(b) Detailed supporting workpapers **that[which]** shall include for amounts over \$1,000, the date, vendor, reference, dollar amount, and a brief description of each expenditure;

(25) A trial balance as of the last day of the test year showing account number, subaccount number, account title, subaccount title, and amount. The trial balance shall include:

(a) All asset, liability, capital, income, and expense accounts used by the cooperative; and

(b) All income statements accounts **showing[should show]** activity for twelve (12) months that **includes[shows]** the balance in each control account and all underlying subaccounts per the company books;

(26) A schedule showing employee health, dental, vision, and life insurance premium contributions by coverage type, including the cost split of each identified premium between the employee and the cooperative;

(27) A detailed income statement and balance sheet reflecting the impact of all proposed adjustments; and

(28) The number of customers to be added to the test period end level of customers and the related revenue requirements impact for all pro forma adjustments with complete details and supporting work papers.

Section 4. Revenue Neutral Application ~~[Cooperatives Permitted to File Application]~~. A cooperative may apply for a revenue neutral adjustment of rates using the procedure established in this section if:

(1) It has been at least twelve (12) months since the effective date of the cooperative's last base rate adjustment;

(2) The change in rates does not result in an increase in the revenue requirement used to determine the rates in the cooperative's most recent base rate adjustment case;

(3) The cooperative's application includes only requests for:

- (a) Adjustments in revenue allocations;
- (b) Changes to rate design; and
- (c) Changes to the cooperative's tariff necessary to reflect changes in rates;

(4) The cooperative's most recent embedded class cost of service study was completed within the five

(5) years prior to the submission of the cooperative's application under this section;

- (5) The cooperative's application is filed electronically pursuant to the requirements of 807 KAR 5:001, Section 8;
- (6) A cooperative has notified the commission in writing of its intent to file a rate application at least thirty (30) days, but not more than sixty (60) days, prior to filing its application; and
- (7) Upon filing the notice of intent with the commission, the applicant has mailed to the Attorney General Intervention, a copy of the notice of intent or sent by electronic mail in a portable document format, to rateintervention@ag.ky.gov.

Section 5. An application filed pursuant to Section 4 of this administrative regulation shall include:

- (1) A narrative statement discussing any changes that have occurred for the cooperative since the effective date of its last change in rate design or revenue allocation and stating the reasons for the proposed adjustment;
- (2) If more than five (5) years has elapsed since cooperative's most recent general rate adjustment, a detailed explanation of why the cooperative has not sought a general rate adjustment;
- (3) New or revised tariff sheets, if applicable, in a format that complies with 807 KAR 5:011, **Section 3**, with an effective date not less than thirty (30) days from the date the application is filed;
- (4) New or revised tariff sheets, if applicable, identified in compliance with 807 KAR 5:011, shown either by providing:
 - (a) **1.** The present and proposed tariffs in comparative form on the same sheet side by side or on facing sheets side by side; or
 - 2. [(b)]** A copy of the present tariff indicating proposed additions by italicized inserts or underscoring and striking over proposed deletions; and
 - [(b)] [(c)]** A statement that notice has been given in compliance with Section 7 of this administrative regulation with a copy of the notice; **[(c)]**
- (5) A general statement identifying any electric property or plant held for future use;
- (6) All current agreements related to vegetation management, as well as a statement identifying any changes that occurred since the cooperative's most recent base rate adjustment to the **cooperative's [cooperatives]** policies on vegetation management, indicating the effective date and reason for these changes; **and**
- (7) A statement identifying any changes that occurred during the test year to the cooperative's written policies on the compensation of its attorneys, auditors, and all other professional service providers, indicating the effective date and reason for these changes. **[(c)]**

Section 6. Exclusions for Ratemaking Purposes. The following **shall be [are]** excluded for ratemaking purposes and **[shall be excluded]** from the pro forma test year income statement and supporting documentation included in an application made pursuant to Section 2 of this administrative regulation: **[(c)]**

- (1) The contribution made for the least generous plans for employer retirement contributions for employees participating in multiple benefit packages;
- (2) If employee health care insurance premium contribution is zero, **the difference between the amount contributed by the cooperative and the [for ratemaking purposes the pro forma income statement shall reflect]** healthcare insurance premiums **[adjusted for employee]** contributions **by employees** based on the national average for coverage type;
- (3) Life insurance premiums for coverage above an employee's annual salary or \$50,000, whichever is less;
- (4) Advertising expenses prohibited from rate recovery by 807 KAR 5:016, **Section 4**;
- (5) All fuel adjustment clause and environmental surcharge revenues and expenses;
- (6) Charitable and political contribution both in cash and services;

- (7) Salary and all company-paid or reimbursed expenses or allowances for lobbying on the local, state, or national level. If any amounts are allocated, show a calculation of the factor used to allocate each amount;
- (8) Any non-regulated activities;
- (9) All non-utility property and related property taxes; and
- (10) For board of directors:
 - (a) Per diems for attending industry association meetings;
 - (b) Costs of health insurance coverage;
 - (c) Costs of post-retirement benefits;
 - (d) Costs of gifts;
 - (e) Cost of insurance for spouses or dependents of deceased directors; and
 - (f) Any costs for a director's spouse.

Section 7. Notice. Upon filing an application pursuant to this administrative regulation, a cooperative shall provide notice as established in this section.

(1) Public postings.

- (a) A cooperative shall post at ***the cooperative's[its]*** place of business, a copy of the notice required by 807 KAR 5:001, Section 17, no later than the date the application is submitted to the commission.
- (b) Within five (5) business days of the date the application is submitted to the commission, the cooperative shall conspicuously post on ***the cooperative's[its]*** Web sites and social media accounts:
 - 1. A copy of the public notice; and
 - 2. A hyperlink to the commission's Web site where the case documents are available.
- (c) The information required in paragraphs (a) and (b) of this subsection shall not be removed until the commission issues a final decision on the application.

(2) Customer notice. A cooperative shall provide public notice by:

- (a) Including the notice with customer bills mailed no later than the date on which the application is submitted to the commission;
- (b) Mailing a written notice to each customer no later than the date on which the application is submitted to the commission;
- (c) Publishing the notice in a newspaper of general circulation, with the first publication being no later than the date on which the application is submitted to the commission, for ***at least*** three (3) consecutive weeks inclusive of the first publication; or
- (d) Publishing the notice in a trade publication or newsletter received by all cooperative members, delivered no later than the date on which the application is submitted to the commission.

(3) Proof of notice. A cooperative shall file with the commission no later than thirty (30) days from the date the application was initially submitted to the commission:

- (a) If notice is mailed to its customers, an affidavit from an authorized representative of the cooperative verifying:
 - 1.*** The contents of the notice;
 - 2.[;]*** That notice was mailed to all customers;***;*** and
 - 3.*** The date of the mailing;
- (b) If notice is published in a newspaper of general circulation in the cooperative's service area, an affidavit from the publisher verifying:
 - 1.*** The contents of the notice;
 - 2.[;]*** That the notice was published;***;*** and
 - 3.*** The dates of the notice's publication; or

(c) If notice is published in a trade publication or newsletter delivered to all customers, an affidavit from an authorized representative of the cooperative verifying:

1. The contents of the notice;
2. ~~;~~ The mailing of the trade publication or newsletter;
3. ~~;~~ That notice was included in the publication or newsletter; ~~;~~ and
4. The date of mailing.

(4) Notice content.

(a) The notice required by subsection (1) of this section shall include the notice contents required by 807 KAR 5:001, Section 17(4), except for the statement required by 807 KRS 5:001, Section 17(4)(j).

(b) The customer notice required by subsection (2) of this section shall include:

1. The case number for the proceeding;
2. The proposed effective date and the date the proposed rates are expected to be filed with the commission;
3. The present rates and proposed rates for each customer classification to which the proposed rates will apply;
4. The amount of the change requested in both dollar amounts and percentage change for each customer classification to which the proposed rates will apply;
5. The cooperative's business address where a copy of the notice required by subsection (1) of this section may be viewed;
6. A link to Web site notifications where a copy of the notice required by subsection (1) of this section may be viewed;
7. Links or references to social media posts where a copy of the notice required by subsection (1) of this section (or link thereto) may be viewed;
8. A statement that a person may submit a timely written request for intervention to the Public Service Commission, Post Office Box 615, Frankfort, Kentucky 40602, or emailed to PSCED@ky.gov, establishing the grounds for the request including the status and interest of the party;
9. A statement that the commission is required to take action within seventy-five (75) days of the date the application is accepted for filing; **and**
10. A summary of proposed changes to lighting and other miscellaneous rates.

(c) Customer notice required by subsection (2) of this section may omit from the notice any rates under which no customers are receiving service at the time the application is submitted to the commission.

Section 8. Procedure.

(1) Upon submission of the application, the commission shall issue an order that:

- (a) Grants the Attorney General intervention; ~~and;~~
- (b) Allows seven (7) days for the Attorney General to file **a written statement that the Attorney General, or the Attorney General's authorized agent, possesses the facilities to receive electronic transmissions** ~~its statement as required by 807 KAR 5:001, Section 8(9)(b)]~~ or notify the commission in writing that the Attorney General will not participate in the proceeding; ~~;~~ and
- (c) Allows seven (7) days to file comments regarding the cooperative's application and whether **or not** it should be accepted for filing pursuant to this **administrative** regulation or treated as an application file pursuant to 807 KAR 5:001, Section 16.

(2) Within ten (10) business days of the filing of the application, the commission shall complete its initial review of the application and issue an order either accepting or rejecting the application for filing under this administrative regulation.

(3) The commission may only reject an application submitted pursuant to this administrative regulation based on a finding that the:

(a) Application does not comply with the relevant administrative regulations and statutes; **or**

(b)[-

(4) ~~The commission may only reject an application filed pursuant to this administrative regulation based on a finding that the~~ Proposed rates will not provide the cooperative sufficient revenue to provide the service required by KRS 278.030(2).

(4)~~(5)~~ If the commission rejects the application for processing under this administrative regulation, the application **shall**~~will~~ be deemed submitted pursuant to KRS 278.190 and 807 KAR 5:001, Section 16.

(5)~~(6)~~ An order rejecting the application for the processing under this administrative regulation shall, at minimum, include:

(a) Findings explaining the reason the application was not accepted under this administrative regulation;

(b) An opportunity for the cooperative to amend its application if it wants to proceed for a general rate adjustment pursuant to KRS 278.190 and 807 KAR 5:001, Section 16;

(c) A schedule for the processing of the application, including a deadline by which the cooperative **shall**~~may~~ amend its application **if seeking reconsideration**; and

(d) A list of any additional evidence **necessary to support reconsideration** that the cooperative **shall**~~should~~ provide in an amended application.

(6)~~(7)~~ If the commission rejects the cooperative's application for processing under this administrative regulation, the cooperative may, with written notice to the commission, withdraw its application.

(7)~~(8)~~ An order accepting the cooperative's application for processing under this **administrative** regulation shall incorporate into the record the two (2) most recent annual reports of the cooperative on file with the commission.

(8)~~(9)~~ An order accepting the cooperative's application for processing under this regulation shall establish a procedural schedule that includes deadlines for:

(a) Filing of one written set of requests for intervention by parties and commission staff;

(b) Parties' submission of written comments upon the conclusion of the filing of evidence; and

(c) The submission of the case to the commission for a final decision.

(9)~~(10)~~ Commission staff may **issue**~~propound~~ written requests for information at any time.

(10)~~(11)~~ The commission shall notify the cooperative of any deficiencies in the application within fourteen (14) days of the application's submission. An application shall not be accepted for filing until the cooperative has cured all noted deficiencies.

(11)~~(12)~~ The commission shall issue a final order within seventy-five (75) days after an application is filed with the commission, unless it is necessary for good cause to continue the application for longer time than seventy-five (75) days, in which case the order making the continuance shall state fully the facts that make it necessary. Any continuance shall not exceed fourteen (14) days.

Section 9. Communication with Parties.

(1) The cooperative may state in its application that members of commission staff may contact the cooperative's witnesses directly, without counsel present, to seek clarification of certain factual information contained in the application or in responses to requests for information.

(2) Following a communication as **established**~~provided~~ for in subsection **(1)**~~5(a)~~ of this section, commission staff shall file in the record a memorandum detailing the content and subject of the communication.

(3) In cases in which[where] there are intervenors, commission staff shall not have direct communication with the cooperative's witnesses unless the intervenor participates or has waived participation.

Section 10. **Exceptions.**

(1) A utility may submit a written request to the commission to obtain an exception, based on good cause, for a requirement established in this administrative regulation. The utility shall attach supporting evidence of good cause to the written request.

(2) Once the request is received, the commission shall, based on the evidence in the written request and as established in subsection (3) of this section, determine if good cause exists. The commission shall notify the utility, in writing, of:

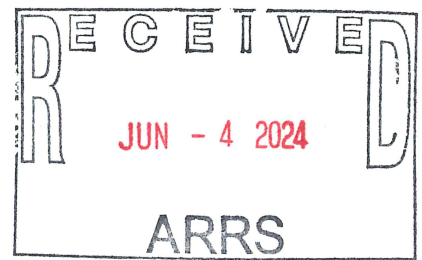
(a) The decision of whether or not good cause is determined to exist; and

(b) If good cause is determined to exist:

1. The scope and duration of any exception granted; and

2. Any conditions that the utility shall meet to maintain the exception.

(3) In determining if good cause exists, the commission shall consider whether or not the evidence shows that compliance with the requirement would be impracticable or contrary to the public interest[Deviations from Rules. In special cases, for good cause shown, the commission may permit deviations from these rules].



Andy Beshear
GOVERNOR

Jacqueline Coleman
LIEUTENANT GOVERNOR

PUBLIC PROTECTION CABINET
Kentucky Horse Racing
Commission

4047 Iron Works Parkway
Lexington, KY 40511
Phone: (859) 246-2040
Fax: (859) 246-2039

Ray A. Perry
SECRETARY

DJ Wasson
DEPUTY SECRETARY

Jamie Eads
EXECUTIVE DIRECTOR

Jonathan Rabinowitz
CHAIRMAN

June 3, 2024

Senator, Stephen West, Co-Chair
Representative, Derek Lewis, Co-Chair
Legislative Research Commission
083, Capitol Annex
702 Capitol Ave.
Frankfort, KY 40601

Re: 810 KAR 7:040 Kentucky Standardbred Development Fund and Kentucky
Standardbred Breeders' Incentive Fund

Dear Co-Chairs:

After consideration of the issues raised by 810 KAR 7:040, the Kentucky Horse Racing Commission proposes the attached suggested amendment to this ordinary regulation.

Sincerely,

Jennifer Wolsing
KHRC General Counsel

SUGGESTED AMENDMENT
Public Protection Cabinet
Kentucky Horse Racing Commission

**810 KAR 7:040. Kentucky Standardbred Development Fund and Kentucky
Standardbred Breeders' Incentive Fund.**

Page 3

Section 2(1)(b)

Line 14

After first occurrence of "Kentucky", insert "shall not be".
Delete "are not".

Line 15

After second occurrence of "Kentucky", insert "shall not be".
Delete "is not".

Page 3

Section 2(1)(c)

Line 19

After "governing agency", insert comma.

Page 5

Section 3(2)

Line 11

After "subsection", insert "shall be".
Delete "are".



Andy Beshear
GOVERNOR

CABINET FOR HEALTH AND FAMILY SERVICES

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

June 10, 2024

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

Re: 902 KAR 20:036

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 902 KAR 20:036, the Cabinet for Health and Family Services proposes the attached amendments to 902 KAR 20:036.

Sincerely,

A handwritten signature in black ink that reads "Lucie Estill".

Lucie Estill
Staff Assistant
Office of Legislative and Regulatory Affairs

Attachments

SUGGESTED SUBSTITUTE

Final Version: 06/06/24 at 8:31 a.m.

CABINET FOR HEALTH AND FAMILY SERVICES Office of Inspector General Division of Health Care

902 KAR 20:036. Operation and services; personal care homes.

RELATES TO: KRS 194A.700(1), (2), (15), (26), 194A.705(2)(c), ~~(9), (11)~~, 202A.011(12), 209.030, 209.032, 216.510 – 216.525, 216.530, 216.532, 216.555 ~~[to 216.567, 216.570]~~ - 216.597, 216.765, 216.785-216.793, ~~[216.597,]~~216A.080, 216B.010, ~~[-216B.130,]~~216B.040, 216B.042, 216B.045-216B.130, 216B.990, 310.021, 310.031, 314.011(3), 21 C.F.R. Part 1317

STATUTORY AUTHORITY: KRS 216B.042, 216.597(7)(a)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.042(1) requires the Cabinet for Health and Family Services to promulgate administrative regulations necessary for the proper administration of the licensure function, which includes establishing licensure standards and procedures to ensure safe, adequate, and efficient health facilities and health services. KRS 216.597(7)(a) requires the cabinet to promulgate administrative regulations related to licensure and relicensure of personal care homes (PCHs) and specialized personal care homes (SPHCs). This administrative regulation establishes minimum licensure requirements for the operation of and services provided by personal care homes, including specialized personal care homes.

Section 1. Definitions.

- (1) "Activities of daily living" or "ADL" is defined by KRS 194A.700(1).
- (2) "Administrator" means an individual who:
 - (a)
 1. Has a license to practice long-term care administration pursuant to KRS 216A.080; or
 2. Has a high school diploma, a general equivalency diploma (GED), or qualifying documentation from a comparable educational entity; and
 - (b) Is age twenty-one (21) or older.
- (3) "Ambulatory" is defined by KRS 216.597(2)(b) as having the same meaning as "ambulatory" as defined **by[in]** KRS 194A.700(2)[means able to walk without assistance].
- (4) "Certified nutritionist" means a health care professional who is certified pursuant to KRS 310.031.
- (5) "Instrumental activities of daily living" or "IADL" is defined by KRS 194A.700(15)(9).
- (6) "Licensed dietician" means a health care professional who is licensed pursuant to KRS 310.021.
- (7) "Mobile nonambulatory" means unable to walk without assistance, but able to move from place to place with the use of a device including walkers, crutches, wheelchairs, or other assistive medical devices[is defined by KRS 194A.700(11)] and includes the ability to:
 - (a) Self exit the building; and
 - (b) Transfer independently or with minimal assistance from bed-to-chair.
- (8) "Nonambulatory" means unable to walk without assistance.
- (9) "Nonmobile" means unable to move from place to place.
- (10) "Nurse" is defined by KRS 314.011(3).
- (11) "Personal care home" or "PCH" is defined by KRS 216.597(1)(b)[means an establishment located in a permanent building that has resident beds and provides:]
 - ~~[(a)] [Supervision of residents;]~~

~~[(b)] [Basic health and health-related services;]~~

~~[(c)] [Personal care services;]~~

~~[(d)] [Residential care services; and]~~

~~[(e)] [Social and recreational activities].]~~

~~(12)[(11)] "Qualified mental health professional" or "QMHP" is defined by KRS 202A.011(12).~~

~~(13)[(12)] "Restraint" means any pharmaceutical agent or physical or mechanical device used to restrict the movement of a portion of a patient's body.~~

~~(14)[(13)] "Serious mental illness" or "SMI" means a mental illness or disorder (but not a primary diagnosis of Alzheimer's disease or dementia), that is described in the Diagnostic and Statistical Manual of Mental Disorders (DSM), 5th Edition, or the DSM currently in use, that impairs or impedes functioning in one (1) or more major areas of living and is unlikely to improve without treatment, services, or supports.~~

~~(15)[(14)] "Specialized personal care home" or "SPCH" is defined by KRS 216.597(1)(c)[means a personal care home that:]~~

~~[(a)] [Participates in the mental illness or intellectual disability supplement program pursuant to 921 KAR 2:015, Section 13; or]~~

~~[(b)] [Serves residents with thirty-five (35) percent or more having an SMI].~~

~~(16) "Temporary condition" is defined by KRS 194A.700(26) in accordance with KRS 216.597(4).~~

~~(17) "PRN" is defined as medications administrated as needed.~~

Section 2. Licensure Application and On-site Visits.

(1) Upon approval of certificate of need followed by approval of plans and specifications submitted in accordance with 902 KAR 20:031, an applicant for a provisional license as a PCH or SPCH shall submit the following to the Office of Inspector General:

(a) A completed Application for License to Operate a Long Term Care Facility incorporated by reference in 902 KAR 20:008, Section 9(1)(f) accompanied by the licensure fee established by 902 KAR 20:008, Section 3(2)(q);

(b) Proof of approval by the State Fire Marshal's office; and

(c) A copy of the applicant's compliance history for any other care facility the applicant operates, including a copy of all enforcement actions issued by the regulatory agency against the care facility, such as violations, fines, or negative action against the facility's license during the seven (7) year period prior to application for a provisional license.

(2) A licensed PCH or SPCH shall comply with the annual renewal process established by 902 KAR 20:008, Section 2(14)(b).

(3) On-site inspections shall be conducted in accordance with the survey intervals established by KRS 216.597(7)(c).

(4) Nothing in this administrative regulation shall prevent the cabinet from:

(a) Conducting an investigation related to a complaint; or

(b) Making an on-site survey of a PCH or SPCH more often, if necessary.

(5) A PCH or SPCH shall comply with the:

(a) Inspection requirements of 902 KAR 20:008, Section 2(12)(b) and (c);

(b) Procedures for correcting violations established by 902 KAR 20:008, Section 2(13); and

(c) Civil monetary penalties established by KRS 216.555 ~~through~~ 216.567.

Section 3. Scope of Operations and Services.

(1) A resident in a PCH or SPCH shall:

(a) Be admitted in accordance with KRS 216.765;

- (b) Be ambulatory or mobile nonambulatory, unless the facility elects to provide services in accordance with KRS 216.597(4) to a resident who is deemed to have a temporary condition;
 - (c) Be able to manage most of the activities of daily living; and
 - (d) Have care needs that do not exceed the capability of the PCH or SPCH.
- (2) An individual who is nonambulatory or nonmobile shall not be eligible for residence in a PCH or SPCH pursuant to KRS 216.597(3).

Section 4.~~[Section 3.]~~ Administration and Operation.

- (1) Licensee. The licensee shall be legally responsible for:
- (a) The operation of the PCH or SPCH;
 - (b) Compliance with federal, state, and local laws and administrative regulations pertaining to the operation of the facility;
 - (c) The development and implementation of policies related to administration and operation of the facility;~~and~~
 - (d) If the licensee is ~~a~~a SPCH, the development and implementation of written transition procedures to ensure cooperation with an individual or entity that assists with transitioning residents with an SMI to community living arrangements; and
 - (e) If the licensee is an SPCH, access to confidential and secure telehealth services unless access is impossible to provide due to a lack of:
 - 1. Broadband service; or
 - 2. An appropriate physical space for residents.
- (2) Administrator.
- (a) The administrator shall:
 - 1. Be responsible for the day-to-day operation of the PCH or SPCH; and
 - 2. Designate one (1) or more staff to act on behalf of the administrator or to perform the administrator's responsibilities in the administrator's absence.
 - (b) Each SPCH shall ensure that the administrator completes the mental illness or intellectual disability training workshop established by 921 KAR 2:015, Section 14, within six (6) months of hire~~[from the most recent effective date of this administrative regulation]~~ and every two (2) years thereafter.
- (3) Admission.
- (a) A PCH or SPCH shall not care **for** or be responsible for the care of more residents than the capacity indicated on the license.
 - (b) Upon admission, a PCH or SPCH shall provide the resident and a responsible member of the resident's family or other designated representative with written information regarding the facility's policies, including:
 - 1. Services offered and charges;
 - 2. The right to arrange for additional services under direct contract or arrangement with an outside party pursuant to KRS 216.597(5) if **allowed**~~[permitted]~~ by the policies of the PCH or SPCH;
 - 3. The right to visitation with family and friends, subject to visiting rules and hours established by the facility; and
 - 4.~~[3.]~~ Meal services.
 - (c) Prior to admission, each resident shall have a complete medical examination in accordance with KRS 216.765.
 - (d) ~~[No later than three (3) months from the most recent effective date of this administrative regulation, a PCH or SPCH shall complete the SMI Screening Form for each current resident.]~~ Upon admission, a PCH or SPCH shall complete the SMI Screening Form for each new or returning resident.

(4) Patient rights. Patient rights shall be provided for pursuant to KRS 216.510 ~~through~~ 216.525.

(5) Adult protection. PCHs and SPCHs shall have written policies that **ensure**~~assure~~ the reporting of allegations of abuse, neglect, or exploitation of adults pursuant to KRS 209.030, including evidence that all allegations of abuse, neglect, or exploitation shall be thoroughly investigated internally to prevent further potential abuse while the investigation is in progress.

(6) Emergency evacuation. Each PCH and SPCH shall have a written policy in accordance with KRS 216.597(6)(c) that describes how priority will be given to assist a resident during an emergency if evacuation of the facility is necessary and the resident requires hands-on assistance from another person to walk, transfer, or move from place to place with or without an assistive device.

(7) Nursing tasks. If nursing tasks are delegated, each PCH or SPCH shall have a written policy regarding the supervision of unlicensed personnel performing delegated tasks, including how the facility ensures compliance with the supervision requirements of 201 KAR 20:400, Section 4.

(8) Transfer and discharge.

(a) PCHs and SPCHs shall:

1. Comply with the requirements of 900 KAR 2:050 upon transferring or discharging a resident; and
2. Have written transfer procedures and agreements for the transfer of residents to a higher intensity level of care, if indicated.

(b) A PCH or SPCH that does not have a transfer agreement in effect, but has attempted in good faith to enter into an agreement shall be considered to be in compliance with the requirements of paragraph (a)2. of this subsection.

(c) The transfer procedures and agreements shall:

1. **State**~~Specify~~ the responsibilities each party assumes in the transfer of residents;
2. Establish responsibility for notifying the other party of an impending transfer; and
3. Arrange for safe transportation and transfer of files.

(d) The administrator shall initiate a transfer through the resident's physician or appropriate agencies if the resident's condition is not within the scope of services of the PCH or SPCH.

(e) PCH or SPCH resident records.

1. If a resident transfers to another health care facility, a current summary of the resident's medical record shall accompany the resident.
2. If a resident transfers to another level of care within the same facility, a copy of the resident's record or current summary of the resident's medical record shall accompany the resident.
3. If a resident transitions into a community living setting, a current summary of, or a copy of the resident's records shall be provided to the resident and the resident's guardian.

(9)~~(7)~~ Tuberculosis Testing.

(a) All employees of a PCH or SPCH shall be screened and tested for tuberculosis in accordance with 902 KAR 20:205.

(b) Residents of a PCH or SPCH shall be screened and tested in accordance with 902 KAR 20:200.

(10)~~(8)~~ Personnel.

(a) In accordance with KRS 216.532, a PCH or SPCH shall not employ or be operated by an individual who is listed on the nurse aide and home health aide abuse registry established by 906 KAR 1:100.

(b) In accordance with KRS 209.032, a PCH or SPCH shall not employ or be operated by an individual who is listed on the caregiver misconduct registry established by 922 KAR 5:120.

(c) A PCH or SPCH shall obtain a criminal record check on each applicant for initial employment in accordance with KRS 216.789 and 216.793.

(d) Current employee records shall be maintained on each staff member and contain:

1. Name and address;

2. Verification of all training and experience, including evidence of current licensure, registration, or certification, if applicable;
 3. Employee health records;
 4. Annual performance evaluations; and
 5. Documentation of compliance with the background check requirements of paragraphs (a) through (c) of this subsection.
- (e) Each employee shall be of an age in conformity with state laws.
- (f) An employee who contracts a communicable or an infectious disease shall:
1. Be immediately excluded from work; and
 2. Remain off work until cleared as noninfectious by a health care practitioner acting within the practitioner's scope of practice.
- (g) Each dietary staff member shall wear a hair net.
- (h) In-service training.
1. Each PCH or SPCH employee shall receive orientation and annual in-service training that corresponds with the staff member's job duties.
 2. Documentation of orientation and in-service training shall be maintained in the employee's record and shall include:
 - a. Name of the individual or individuals who provided the training;
 - b. Date and number of hours the training was given; and
 - c. A summary of the training program's content.
 3. In-service training shall include:
 - a. Policies regarding the responsibilities of specific job duties;
 - b. Services provided by the facility;
 - c. Recordkeeping procedures;
 - d. Procedures for the reporting of cases of adult abuse, neglect, or exploitation pursuant to KRS 209.030;
 - e. Resident rights established by KRS 216.510 **through[to]** 216.525;
 - f. Adult learning principles and methods for assisting residents to achieve maximum abilities in ADLs and IADLs;
 - g. Procedures for the proper application of emergency manual restraints;
 - h. Procedures for maintaining a clean, healthful, and pleasant environment;
 - i. The aging process;
 - j. The emotional problems of illness;
 - k. Use of medication; and
 - l. Therapeutic diets.
 4. Each SPCH shall ensure that at least one (1) direct care staff member in addition to the administrator completes the mental illness or intellectual disability training workshop established by 921 KAR 2:015, Section 14, within six (6) months of hire~~[from the most recent effective date of this administrative regulation]~~ and every two (2) years thereafter. An SPCH shall employ at least one (1) direct care staff member who has received the training.
- (i) Staffing requirements.
1. The number of personnel required shall be based on:
 - a. The number of patients; and
 - b. Amount and kind of personal care, health care, and supervision needed to meet the needs of the residents.
 2. The administrator shall designate one (1) or more staff members to be responsible for:

- a. Recordkeeping;
 - b. Basic health and health related services; and
 - c. Activity services.
3. Each PCH or SPCH shall have a full-time staff member who shall be:
- a. Responsible for the total food service operation of the facility; and
 - b. On duty a minimum of thirty-five (35) hours each week.
4. In accordance with KRS 216.597(6)(a) and (b):
- a. Staffing in a PCH or SPCH shall be sufficient in number and qualifications to meet the twenty-four (24) hour scheduled needs of each resident; and
 - b. At least~~ensure that sufficient staff, but no less than~~ one (1) staff member shall be awake and on-site at all times at each licensed facility~~(on duty on each floor in the facility at all times)~~.

~~(11)~~~~(9)~~ Medical records.

(a) The PCH or SPCH administrator or staff member in charge of medical records shall ***ensure***~~assure~~ that a complete medical record is kept for each resident with all entries current, dated, and signed.

(b) Each record shall include:

- 1. Identification information, including:
 - a. Resident's name;
 - b. Social Security, Medicare, and Medical Assistance identification number (if appropriate);
 - c. Marital status;
 - d. Birthdate;
 - e. Age;
 - f. Sex;
 - g. Home address;
 - h. Religion and personal clergyman, if any (with consent of the resident);
 - i. Attending physician, health care practitioner acting within the practitioner's scope of practice, QMHP, dentist, and podiatrist, if any, and address and phone number for each;
 - j. Next of kin or responsible person, address, and telephone number;
 - k. Date of admission and discharge;
 - l. If the resident is discharged, transferred, or transitioned to a community living arrangement, a copy of the summary of resident's records; and
 - m. Monthly recording of the resident's weight;
- 2. If admitted from another facility, a discharge summary or transfer summary;
- 3. Admitting medical evaluation;
- 4. Report by the physician or health care practitioner acting within the practitioner's scope of practice, documenting completion of an annual medical evaluation of each resident;
- 5. Physician, health care practitioner, or QMHP progress notes indicating any changes in the resident's condition, documented at the time of each visit by the physician, health care practitioner, QMHP, or consultant;
- 6. Orders for medication or therapeutic services;
- 7. Nurses' or staff notes indicating any changes in the resident's condition as changes occur;
- 8. Documentation of any accident, injury, illness, medication error, or drug reaction impacting the resident;
- 9. Documentation of social services, dental, laboratory, x-ray, or reports from consultants or therapists if the resident receives any of these services;

10. Medication and treatment sheets, including all medications, treatments, and special procedures performed for that resident, with the date and time of each service documented and initialed by the individual rendering treatment or administering medication;
11. Documentation of the use of an emergency manual restraint for that resident, including justification for why the procedure was used;
12. Documentation of the resident's discharge, transfer, or transition destination, if applicable;[-and]
13. Copy of a completed SMI Screening Form for each PCH or SPCH resident; and
14. Monthly documentation of ADL and IADL skills instruction provided to, or made available and refused by, the resident if the resident is an SPCH resident who is transitioning to living independently in the community pursuant to 908 KAR 2:065.

(12)[(10)] Retention of records. After death or discharge, the completed medical record shall be placed in an inactive file and retained for at least six (6) years.

Section 5.[~~Section 4.~~] Provision of Services.

(1) Basic health and health related services.

(a) A PCH or SPCH shall provide basic health and health related services, including:

1. Supervision and monitoring of the resident to ensure[~~assure~~] that the resident's health care needs are met;
2. Supervision of self-administration of medications;
3. Storage and control of medications; and
4. Arranging for therapeutic services ordered by the resident's health care practitioner, if the services are not available in the facility.

(b) For a PCH or SPCH, the administrator or staff person designated by the administrator shall, relating to the provision of basic health and health-related services:

1. Be responsible for obtaining medical care promptly in response to an accident, injury, or acute illness of any resident; and
2. Document any accident, injury, illness, incident, medication error, or drug reaction in the resident's medical record.

(c) Medications or therapeutic services shall not be administered or provided to any resident, except on the order of a licensed physician or other health care practitioner as authorized under the practitioner's scope of practice.

(d) If medication administration is delegated in accordance with 201 KAR 20:700, the PCH or SPCH shall have a nurse readily available in person, by telephone, or by other means of live, two-way communication to unlicensed staff at the times the staff is performing delegated nursing tasks.

(e) A PCH or SPCH may allow an unlicensed staff person to administer medication in accordance with KRS 194A.705(2)(c) and 201 KAR 20:700 as follows:

1. Medication administration is delegated to the unlicensed staff person by an available nurse;
2. If administration of oral or topical medication is delegated, the unlicensed staff person shall have a:
 - a. Certified medication aide (CMA) I credential from a training and skills competency evaluation program approved by the Kentucky Board of Nursing (KBN); or
 - b. Kentucky medication aide (KMA) credential from the Kentucky Community and Technical College System (KCTCS); and
3. If administration of a preloaded insulin injection is delegated, the unlicensed staff person shall have a CMA II credential from a training and skills competency evaluation program approved by KBN.

(f)

1. Unlicensed staff who administer oral or topical medications to residents of an SPCH shall comply with the medication aide requirements of paragraph (e) of this subsection no later than upon adoption of increased funding under the Mental Illness or Intellectual Disability (MI/ID) Supplement Program established by 921 KAR 2:015, Section 13.

2. Unlicensed staff shall not administer a preloaded insulin injection under the delegation of a nurse to a PCH or SPCH resident prior to obtaining the CMA II credential.

(g) Administration of all medications and delivery of therapeutic services shall be recorded in the resident's medical record.

(h) ~~(e)~~ If an order is received by telephone, the order shall be:

1. Recorded in the resident's medical record; and
2. Signed by the physician or other health care practitioner as authorized under the practitioner's scope of practice within fourteen (14) days.

(i) ~~(f)~~

1. The administrator or staff person designated by the administrator shall make a written report of any incident or accident involving a:

- a. Resident, including a medication error or drug reaction;
- b. Visitor; or
- c. Staff member.

2. The report shall:

- a. Identify any staff member who might have been witness to the incident; and
- b. Be filed in an incident file.

(j) ~~(g)~~

1. Controlled substances and medication administration. A PCH or SPCH shall not keep any controlled substances or other habit forming drugs, hypodermic needles, or syringes except under the specific direction of a prescribing practitioner.

2. Controlled substances shall be kept under double lock, for example stored in a locked box in a locked cabinet, and keys or access codes to the locked box and locked cabinet shall be accessible to designated staff only.

3. A nurse may delegate administration of a regularly scheduled or PRN controlled substance to a CMA if the medication has been prescribed and labeled in a container for a specific resident.

4. There shall be a controlled substances bound record book with numbered pages that includes:

- a. Name of the resident;
- b. Date, time, kind, dosage, and method of administration of each controlled substance;
- c. Name of the practitioner who prescribed the medications; and
- d. Name of the:

(i) Nurse or CMA who administered the controlled substance; or

(ii) Staff member who provided assistance with or supervised self-administration by a resident whose medical record includes a written determination from a health care practitioner that the resident is able to safely self-administer a controlled substance with assistance or under supervision.

5.[4.] A staff member with access to controlled substances shall be responsible for maintaining a recorded and signed:

- a. Schedule II controlled substances count daily; and
- b. Schedule III, IV, and V controlled substances count at least one (1) time per week.

6.[5.] All expired or unused controlled substances shall be disposed of, or destroyed in accordance with 21 C.F.R. Part 1317 no later than thirty (30) days:

- a. After expiration of the medication; or
- b. From the date the medication was discontinued.

7.~~[6.]~~ If controlled substances are destroyed on-site:

- a. The method of destruction shall render the drug unavailable and unusable;
- b. The administrator or staff person designated by the administrator shall be responsible for destroying the controlled substances with at least one (1) witness present; and
- c. A readily retrievable record of the destroyed controlled substances shall be maintained for a minimum of eighteen (18) months from the date of destruction and contain the:
 - (i) Date of destruction;
 - (ii) Resident name;
 - (iii) Drug name;
 - (iv) Drug strength;
 - (v) Quantity;
 - (vi) Method of destruction;
 - (vii) Name of the person responsible for the destruction; and
 - (viii) Name of the witness.

8.~~[7.]~~ A PCH or SPCH that stores and administers controlled substances in an emergency medication kit (EMK) shall comply with the:

- a. Requirement for licensed personnel established by 201 KAR 2:370, Section 2(4)(i);
- b. Requirements for storage and administration established by 902 KAR 55:070, Section 2(2), (5), and (7) through~~[, (8), and]~~ (9); and
- c. Limitation on the number and quantity of medications established by 902 KAR 55:070, Section 2(6).

(k)~~[(h)]~~ All resident medications shall be plainly labeled with the:

- 1. Resident's name;
- 2. Name of the drug;
- 3. Strength;
- 4. Name of the pharmacy;
- 5. Prescription number;
- 6. Date;
- 7. Prescriber's name; and
- 8. Caution statements and directions for use, unless a modified unit dose drug distribution system is used.

(l)~~[(i)]~~

- 1. All medicines kept by the PCH or SPCH shall be kept in a locked place.
- 2. The nurse or CMA~~administrator or staff person designated by the administrator~~ shall ~~be~~ responsible for administering ~~[or supervising the self-administration of]~~ medication.~~;~~
- 3. The administrator or staff person designated by the administrator shall:
 - a. Be responsible for supervising the self-administration of medication;
 - b. Ensure that all medications requiring refrigeration are kept in a separate locked box in the refrigerator in the medication area; and
 - c. Ensure that drugs for external use are stored separately from those administered by mouth and injection.

(m)~~[(j)]~~

- 1. A PCH or SPCH that stores and administers non-controlled substances in an EMK shall comply with the:

- a. Requirement for licensed personnel established by 201 KAR 2:370, Section 2(4)(i); and
- b. Limitation on the number and quantity of medications established by 201 KAR 2:370, Section 2(4)(b).

2. A PCH or SPCH that stores and administers non-controlled substances from a long-term care facility (LTCF) drug stock shall comply with the limitation on the number and quantity of medications established by 201 KAR 2:370, Section 2(5)(b).

(n)[(k)]

1. If a resident manifests persistent behavior that might require psychiatric treatment, the PCH or SPCH shall notify the resident's physician or health care practitioner acting within the practitioner's scope of practice to evaluate and direct the resident's care.

2. If the resident's condition does not improve, ~~making~~ continued stay in a PCH or SPCH **unfeasible**, the physician or health care practitioner shall initiate transfer of the resident to an appropriate facility as soon as possible.

(o)[(f)] Use of restraints.

1. Chemical and physical restraints shall not be used, except as authorized by KRS 216.515(6).

2. Restraints that require a lock and key shall not be used.

3. Emergency use of a manual restraint shall be applied only by appropriately trained personnel if:

- a. A resident poses an imminent risk of physical harm to self or others; and
- b. The emergency manual restraint is the least restrictive intervention to achieve safety.

4. Restraints shall not be used as:

- a. Punishment;
- b. Discipline;
- c. Convenience for staff; or
- d. Retaliation.

(p)[(m)] Each resident shall have an annual medical evaluation by a physician or health care practitioner acting within the practitioner's scope of practice.[:]

(q)[(n)] Communicable diseases. If a resident or prospective resident is suspected or confirmed as having a communicable disease for which a reasonable probability of disease transmission exists in the PCH or SPCH, the administrator or staff person designated by the administrator shall:

1. Contact a physician; and
2. Ensure that appropriate measures are taken to treat the resident with the communicable disease and prevent the disease from spreading.

(2) Residential care services. A PCH or SPCH shall provide residential care services to all residents, including:

- (a) Room accommodations;
- (b) Housekeeping and maintenance services; and
- (c) Dietary services.

(3) A PCH or SPCH shall meet the following requirements relating to the provisions of residential care services:

(a) Room accommodations.

1. A PCH or SPCH shall provide each resident with:

- a. A bed that is at least thirty-six (36) inches wide;
- b. A clean, comfortable mattress with a support mechanism;
- c. A mattress cover;
- d. Two (2) sheets and a pillow; and
- e. Bed covering to keep the resident comfortable.

2. Each bed shall be placed so that a resident does not experience discomfort because of proximity to a radiator, heat outlet, or exposure to a draft.
3. Except for married couples or domestic partners, there shall be separate sleeping quarters for males and females.
4. A PCH or SPCH shall provide:
 - a. Window coverings;
 - b. Bedside tables with reading lamps, if appropriate;
 - c. Comfortable chairs;
 - d. A chest or dresser with a mirror for each resident; and
 - e. A night light.
5. A resident shall not be housed in a room, detached building, or other enclosure that has not previously been inspected and approved for residential use by the Office of Inspector General and the Department of Housing, Buildings and Construction.
6. Basement rooms shall not be used for sleeping rooms for residents.
7. Residents may have personal items and furniture, if feasible.

(b) Housekeeping and maintenance services.

1. A PCH or SPCH shall:
 - a. Maintain a clean and safe facility free of unpleasant odors; and
 - b. Ensure that odors are eliminated at their source by prompt and thorough cleaning of commodes, urinals, bedpans, and other sources.
2. A PCH or SPCH shall:
 - a. Have available at all times, a quantity of clean linen essential to the proper care and comfort of residents;
 - b. Ensure that soiled clothing and linens receive immediate attention and **shall** not be allowed to accumulate;
 - c. Ensure that clothing or bedding used by one (1) resident shall not be used by another resident unless laundered or dry cleaned;
 - d. Ensure that each resident's personal clothing and bed linens **shall be[are]** laundered as often as is necessary;
 - e. Maintain responsibility for laundering each resident's personal clothing unless the resident or the resident's family accepts this responsibility;
 - f. Provide laundry equipment for each resident who is capable of, and chooses to launder his or her personal clothing; and
 - g. Label or mark each resident's personal clothing if laundered by the facility for return to the correct resident.
3. Safety. The condition of the overall environment shall be maintained **to ensure[in such a manner that]** the safety and well-being of residents, personnel, and visitors **[is assured]**.
4. Maintenance. The premises shall be well kept and in good repair as established in clauses a. through d. of this subparagraph. **[:]**
 - a. The facility shall insure that the grounds are well kept and the exterior of the building, including the sidewalk, steps, porches, ramps, and fences, are in good repair.
 - b. The interior of the building, including walls, ceilings, floors, windows, window coverings, doors, plumbing, and electrical fixtures, shall be in good repair. Windows and doors shall be screened.
 - c. Garbage and trash shall be stored in areas separate from those used for the preparation and storage of food and shall be removed from the premises regularly. Containers shall be cleaned regularly.

d. A pest control program shall be in operation in the facility. Pest control services shall be provided by maintenance personnel of the facility or by contract with a pest control company. Care shall be taken to use the least toxic and least flammable insecticides and rodenticides. The compounds shall be stored under lock if stored by the facility.

(c) Dietary services.

1. Dining area. A dining area shall be available for the residents.

2. Therapeutic diets. If the facility provides therapeutic diets and the staff member responsible for food services is not a licensed[license] dietician or certified nutritionist, the responsible staff person shall consult with a licensed dietician or certified nutritionist.

3. Menu planning.

a. Menus shall be planned in writing and rotated to avoid repetition.

b. A PCH or SPCH shall meet the nutrition needs of residents in accordance with physician's orders.

c. Except as established in clause e. of this subparagraph, meals shall correspond with the posted menu.

d. Menus shall be planned and posted one (1) week in advance.

e. If changes in the menu are necessary:

(i) Substitutions shall provide equal nutritive value;

(ii) The changes shall be recorded on the menu; and

(iii) Menus shall be kept on file for at least thirty (30) days.

4. Food preparation and storage.

a. There shall be at least a three (3) day supply of food to prepare well-balanced, palatable meals.

b. Food shall be prepared with consideration for any individual dietary requirement.

c. Modified diets, nutrient concentrates, and supplements shall be given only on the written order of a physician.

d. At least three (3) meals per day shall be served with not more than a fifteen (15) hour span between the evening meal and breakfast.

e. Between-meal snacks, including an evening snack before bedtime, shall be offered to all residents.

f. Adjustments shall be made if medically contraindicated.

g. Food shall be:

(i) Prepared by methods that conserve nutritive value, flavor, and appearance; and

(ii) Served at the proper temperature and in a form to meet individual needs.

h. A file of tested recipes, adjusted to appropriate yield, shall be maintained.

i. Food shall be cut, chopped, or ground to meet individual needs.

j. If a resident refuses food served, substitutes shall be offered.

k. All opened containers or leftover food items shall be covered and dated when refrigerated.

l. Ice water shall be readily available to the residents at all times.

m. Food services shall be provided in accordance with 902 KAR 45:005.

(4) Personal care services. All PCHs and SPCHs shall provide services to assist residents with activities of daily living to achieve and maintain good personal hygiene, including assistance as needed with:

(a) Bathing. The facility shall provide soap, clean towels, and wash cloths for each resident and ensure that toilet articles such as towels, brushes, and combs are not used in common;

(b) Shaving;

(c) Cleaning and trimming of fingernails and toenails;

(d) Cleaning of the mouth and teeth to maintain good oral hygiene~~[,]~~ and care of the lips to prevent dryness and cracking. The facility shall provide all residents with tooth brushes, a dentifrice, and denture containers, if applicable; and

(e) Washing and grooming.

(5) Activity services.

(a) All PCHs and SPCHs shall provide social and recreational activities to:

1. Stimulate physical and mental abilities to the fullest extent;
2. Encourage and develop a sense of usefulness and self-respect;
3. Prevent, inhibit, or correct the development of symptoms of physical and mental regression; and
4. Provide sufficient variety to meet the needs of each resident.

(b) All PCHs and SPCHs shall meet the requirements established in subparagraphs 1. through 8. of this paragraph relating to the provision of activity services.

1. Staff. The administrator:

- a. Shall designate a staff member to be responsible for the activity program; and
- b. May accept services from a volunteer group to assist with carrying out the activity program.

2. There shall be a planned activity period each day.

3. The schedule shall be current and posted.

4. The activity program shall be planned for group and individual activities, both within and outside of the facility.

5. The staff member responsible for the activity program shall maintain a current list of residents in which precautions are documented regarding if a resident's condition might restrict or modify the resident's participation in the program.

6. A living or recreation room and outdoor recreational space shall be provided for residents and their guests.

7. The facility shall provide supplies and equipment for the activity program.

8. Reading materials, radios, games, and TV sets shall be provided for the residents.

(c) An SPCH shall collaborate with the agency or team that is working with residents transitioning to community living pursuant to 908 KAR 2:065 to offer basic instruction in ADLs and IADLs to each resident who is identified as working to transition to independent community living pursuant to 908 KAR 2:065. ADL and IADL skills training shall include instruction that is integrated into the normal rhythms of life.

(6) For purposes of subsection (5)(c) of this section~~[, the following shall apply]:~~

(a) "Basic instruction" in ADLs and IADLs shall have the same meaning as "assistance with" ADLs and IADLs;

(b) An SPCH shall not be responsible for selecting which residents receive basic instruction in ADLs and IADLs; and

(c) An SPCH shall not be responsible for ensuring that a resident has mastered each task defined as an ADL or IADL.

Section 6. Mental Illness or Intellectual Disability (MI/ID) Supplement Program Certification.

(1) Office of Inspector General staff shall visit a personal care home to certify eligibility to participate in the MI/ID Supplement Program established by 921 KAR 2:015, Section 13.

(2) A personal care home's initial MI/ID Supplement Program certification inspection:

(a) May be separate from an unannounced inspection conducted in accordance with KRS 216.530; and

(b) Shall be in effect until the next licensure survey conducted in accordance with KRS 216.597(7)(c)2.

(3) During an MI/ID Supplement Program inspection, Office of Inspector General staff shall:

- (a) Observe and interview residents and staff; and
- (b) Review records to **ensure that**[**assure**] the facility[~~meets the following criteria~~]:
 - 1. [~~Facility~~]Maintains documentation of staff completion of the training required by 921 KAR 2:015, Section 14(1) through (4); **and**
 - 2. **Complies with clauses a. and b. of this subparagraph.**[~~Facility ensures that:~~]
 - a. The staff person who attended the one (1) day MI/ID training workshop **shall share**[**shares**] information obtained from the workshop with all other direct care staff through annual in-service training or orientation pursuant to Section 4(10)(h)3.f. of this administrative regulation.[~~;~~**and**]
 - b. If medication is administered to residents, administration shall be done by a nurse, CMA, or KMA in which case the nurse, CMA, or KMA shall demonstrate a knowledge of psychotropic drug side effects.
- (4) Office of Inspector General staff shall review the facility's documentation of MI/ID training prior to performing a record review during the MI/ID Supplement Program inspection process.
- (5) If at least thirty-five (35) percent of the resident population meets the criteria established by 921 KAR 2:015, Section 13(1)(c)2. on the day of the visit, a personal care home shall be deemed to have an ongoing qualifying percentage in the MI/ID Supplement Program effective with the month of request for certification in the program.
- (6) Office of Inspector General staff shall provide the Department for Community Based Services with a completed STS-4, Mental Illness or Intellectual Disability (MI/ID) Supplement Certification Survey, incorporated by reference in 921 KAR 2:015, Section 17(1)(d), within fifteen (15) working days of an:
 - (a) Initial survey; or
 - (b) Inspection conducted in accordance with KRS 216.530 and 216.597(7)(c)2.
- (7) The Office of Inspector General shall provide the Department for Community Based Services with a copy of a Type A citation issued to a specialized personal care home that participates in the MI/ID Supplement Program by the fifth working day of month following the month the citation was issued.

Section 7. Denial and Revocation.

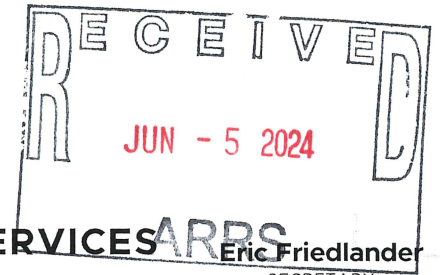
- (1) In addition to the reasons for denial or revocation of a license in accordance with 902 KAR 20:008, Section 8, the cabinet shall deny or revoke a PCH or SPCH license in accordance with KRS 216.597(7)(a) if:
 - (a) There has been a substantial failure by the facility to comply with the provisions of:
 - 1. KRS 216.510 through 216.597, or 216.789; or
 - 2. This administrative regulation;
 - (b) The facility allows, aids, or abets the commission of any illegal act in the provision of services;
 - (c) The facility performs any act detrimental to the health, safety, or welfare of a resident;
 - (d) The facility obtains licensure by fraud or misrepresentation, including a false statement of a material in fact in:
 - 1. The Application for **Licensure**[**License**] to Operate **an Assisted Living Community, incorporated by reference in 902 KAR 20:480[a Long Term Care Facility]**; or
 - 2. Any records required by this administrative regulation;
 - (e) The facility denies a representative of the cabinet access to any part of the facility's books, records, files, employees, or residents;
 - (f) The facility interferes with or impedes the performance of the duties and responsibilities of the long-term care ombudsman;
 - (g) The facility interferes with or impedes a representative of the cabinet in the enforcement of this administrative regulation or fails to fully cooperate with a survey or investigation by the cabinet;

- (h) The facility destroys or makes unavailable any records or other evidence relating to the facility's compliance with this administrative regulation;
- (i) The facility refuses to initiate a background check or otherwise fails to comply with the requirements of KRS 216.789;
- (j) The facility fails to timely pay any fines assessed by the cabinet;
- (k) The facility violates any applicable building or safety codes as determined by the building code or safety code enforcement authority with jurisdiction;
- (l) There have been repeated incidents in the facility of personnel performing services beyond their competency level;
- (m) The facility continues to operate beyond the scope of the facility's license after the timeframe established for correction of the violation; or
- (n) An individual with a significant financial interest in the facility:
 - 1. Is convicted of a felony or gross misdemeanor that relates to the operation of the facility or directly affects resident safety or care; or
 - 2. Had the application returned in accordance with 902 KAR 20:008, Section 2(4)(b).
- (2) The cabinet shall follow the notification requirements of 902 KAR 20:008, Section 8(2) and (3) for denial or revocation.
- (3) In accordance with KRS 216B.105(2), the denial or revocation shall become final and conclusive thirty (30) days after notice is given, unless the applicant or licensee files a request in writing for a hearing with the cabinet within thirty (30) days after the date of the notice.

Section 8. [5]. Material Incorporated by Reference.

- (1) The form, "SMI Screening Form", August 2019, is incorporated by reference.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of Inspector General, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m., or it may be viewed on the Office of Inspector General's website at <https://chfs.ky.gov/agencies/os/oig/dhc/pages/ltc.aspx>.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; Phone: 502-564-7476; Fax: 502-564-7091; CHFSregs@ky.gov.



Andy Beshear
GOVERNOR

CABINET FOR HEALTH AND FAMILY SERVICES

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

Eric Friedlander
SECRETARY

May 24, 2024

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

Re: 921 KAR 2:015 suggested substitute

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of issues raised by 921 KAR 2:015, the Department for Community Based Services proposes the attached LRC staff suggested substitute. If you have any questions, please feel free to contact Laura Begin at Laura.Begin@ky.gov.

Sincerely,

Stacy Carey
Executive Staff Advisor
Office of Legislative and Regulatory Affairs

SUGGESTED SUBSTITUTE

Final Version: 05/23/24 at 10:46 a.m.

**CABINET FOR HEALTH AND FAMILY SERVICES
Department for Community Based Services
Division of Family Support**

921 KAR 2:015. Supplemental programs for persons who are aged, blind, or have a disability.

RELATES TO: KRS Chapter 194A, 202A.011(12), 205.245, 209.020(4), [~~216.530, 216.557(1),~~]216.765(2), Chapter 216B, Chapter 514, 20 C.F.R. Part 416[~~416.120, 416.212, 416.2030, 416.2095, 416.2096, 416.2099, 8 U.S.C. 1621, 1641~~], 42 U.S.C. 415(i), 1381 - 1383

STATUTORY AUTHORITY: KRS 194A.050(1), 205.245, 42 U.S.C. 1382e-g

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the secretary to promulgate administrative regulations necessary under applicable state laws to protect, develop, and maintain the health, personal dignity, integrity, and sufficiency of the citizens of the Commonwealth[~~Commonwealth~~] and to operate the programs and fulfill the responsibilities of the cabinet. 42 U.S.C. 1382 authorizes the cabinet to administer a state funded program of supplementation to all former recipients of the Aid to the Aged, Blind, and Disabled Program as of December 13, 1973, and who were disadvantaged by the implementation of the Supplemental Security Income Program. KRS 205.245 ***requires***[~~*establishes*~~] the mandatory supplementation program and the supplementation to other needy persons who are aged, blind, or have a disability. In addition, any state that makes supplementary payments on or after June 30, 1977, and does not have a pass-along agreement in effect with the Commissioner of the Social Security Administration, formerly a part of the U.S. Department of Health, Education, and Welfare, shall be determined by the commissioner to be ineligible for payments under Title XIX of the Social Security Act in accordance with 20 C.F.R. 416.2099. This administrative regulation establishes the provisions of the supplementation program.

Section 1. Definitions.

- (1) "Activities of daily living" is defined by KRS 194A.700(1).
- (2) "Adult" is defined by KRS 209.020(4).
- (3) "Aid to the Aged, Blind and Disabled Program" means the former state-funded program for an individual who was aged, blind, or had a disability.
- (4) "Care coordinator" means an individual designated by a community integration supplementation applicant or recipient to fulfill responsibilities ***established***[~~*specified*~~] in Section 6(2) of this administrative regulation.
- (5) "Department" means the Department for Community Based Services or its designee.
- (6) "Full-time living arrangement" means a residential living status that is seven (7) days a week, not part time.
- (7) "Instrumental activities of daily living" is defined by KRS 194A.700[~~(15)~~][~~(9)~~].
- (8) "Private residence" means a dwelling that meets requirements of Section 4(2)(d) of this administrative regulation.
- (9) "Qualified immigrant " means an immigrant who, at the time the person applies for, receives, or attempts to receive state supplementation, meets the U.S. citizenship requirements ***for "valid immigrant status", as defined by***[~~*ef*~~] 907 KAR 20:001, ***Section 1(118)***.
- (10) "Qualified mental health professional" is defined by KRS 202A.011(12).

(11) "Serious mental illness" or "SMI" means a mental illness or disorder in accordance with Section 6(1) of this administrative regulation.

(12) "Supplemental security income" or "SSI" means a monthly cash payment made pursuant to 42 U.S.C. 1381 ~~through~~ 1383f to the aged, blind, or disabled.

Section 2. Mandatory State Supplementation.

(1) A recipient for mandatory state supplementation shall include a former Aid to the Aged, Blind and Disabled Program recipient who became ineligible for SSI due to income but whose special needs entitled the recipient to an Aid to the Aged, Blind and Disabled Program payment as of December 1973.

(2) A mandatory state supplementation recipient shall **comply with**~~be subject to~~ the same payment requirements as **established**~~specified~~ in Section 4 of this administrative regulation.

(3) A mandatory state supplementation payment shall be equal to the difference between:

(a) The Aid to the Aged, Blind and Disabled Program payment for the month of December 1973; and

(b)

1. The total of the SSI payment; or

2. The total of the SSI payment and other income for the current month.

(4) A mandatory payment shall discontinue if:

(a) The needs of the recipient as recognized in December 1973 have decreased; or

(b) Income has increased to the December 1973 level.

(5) The mandatory payment shall not be increased unless:

(a) Income as recognized in December 1973 decreases;

(b) The SSI payment is reduced, but the recipient's circumstances are unchanged; or

(c) The standard of need as **established**~~specified~~ in Section 9 of this administrative regulation for a class of recipients is increased.

(6) If a husband and wife are living together, an income change after September 1974 shall not result in an increased mandatory payment unless total income of the couple is less than December 1973 total income.

Section 3. Optional State Supplementation Program.

(1) Except as established in Sections 7, 8, and 9 of this administrative regulation, optional state supplementation shall be available to a person who meets technical requirements and resource limitations of the medically needy program for a person who is aged, blind, or has a disability in accordance with:

(a) 907 KAR 20:001;

(b) 907 KAR 20:005, Sections 5(2), (3), (4), (7), 10, and 12;

(c) 907 KAR 20:020, Section 2(4)(a);

(d) 907 KAR 20:025; or

(e) 907 KAR 20:040, Section 1.

(2) A person shall apply or reapply for the state supplementation program in accordance with 921 KAR 2:035 and shall be required to:

(a) **Submit**~~Furnish~~ a Social Security number; or

(b) Apply for a Social Security number, if a Social Security number has not been issued.

(3) If potential eligibility exists for SSI, an application for SSI shall be mandatory.

(4) The effective date for state supplementation program approval shall be in accordance with 921 KAR 2:050.

Section 4. Optional State Supplementation Payment.

(1) An optional supplementation payment shall be issued in accordance with 921 KAR 2:050 for an eligible individual who:

- (a) Requires a full-time living arrangement;
- (b) Has insufficient income to meet the payment standards ***established[specified]*** in Section 9 of this administrative regulation; and

(c)

- 1. Resides in a personal care home and is eighteen (18) years of age or older in accordance with KRS 216.765(2);
- 2. Resides in a family care home and is at least eighteen (18) years of age in accordance with 902 KAR 20:041, Section 3(14);
- 3. Receives caretaker services and is at least eighteen (18) years of age; or
- 4.
 - a. Resides in a private residence;
 - b. Is at least eighteen (18) years of age; and
 - c. Has SMI.

(2) A full-time living arrangement shall include:

(a) Residence in a personal care home that:

- 1. Meets the requirements and provides services established in 902 KAR 20:036; and
- 2. Is licensed under KRS 216B.010 ***through[to]*** 216B.131;

(b) Residence in a family care home that:

- 1. Meets the requirements and provides services established in 902 KAR 20:041; and
- 2. Is licensed under KRS 216B.010 ***through[to]*** 216B.131;

(c) A situation in which a caretaker is required to be hired to provide care other than room and board; or

(d) A private residence, which shall:

- 1. Be permanent housing with:
 - a. Tenancy rights; and
 - b. Preference given to single occupancy; and
- 2. Afford an individual with SMI choice in activities of daily living, social interaction, and access to the community.

(3) A guardian or other payee who receives a state supplementation check for a state supplementation recipient shall:

(a) Return the check to the Kentucky State Treasurer, the month after the month of:

- 1. Discharge to a:
 - a. Nursing facility, unless the admission is for temporary medical care as specified in Section 10 of this administrative regulation; or
 - b. Residence other than a private residence pursuant to subsection (2)(d) of this section; or
- 2. Death of the state supplementation recipient; and

(b) Notify a local county department within five (5) working days of the death or discharge of the state supplementation recipient.

(4) Failure to comply with subsection (3)(a) of this section may result in prosecution. ***Prosecution shall be*** in accordance with KRS Chapter 514.

(5) If there is no guardian or other payee, a personal care or family care home that receives a state supplementation check for a state supplementation recipient shall:

(a) Return the check to the Kentucky State Treasurer, the month after the month of:

- 1. Discharge to a:

- a. Nursing facility, unless the admission is for temporary medical care as **established[specified]** in Section 10 of this administrative regulation;
 - b. Another personal care or family care home; or
 - c. Residence other than a private residence pursuant to subsection (2)(d) of this section; or
2. Death of the state supplementation recipient; and
- (b) Notify a local county department within five (5) working days of the:
1. Death or discharge of the state supplementation recipient; or
 2. Voluntary relinquishment of a license to the Office of the Inspector General.
- (6) If a personal care or family care home receives a state supplementation check after voluntary relinquishment of a license, as **established[specified]** in subsection (5)(b)2. of this section, the personal care or family care home shall return the check to the Kentucky State Treasurer.
- (7) Failure to comply with subsections (5)(a) or (6) of this section may result in prosecution. **Prosecution shall be** in accordance with KRS Chapter 514.

Section 5. Eligibility for Caretaker Services.

- (1) Service by a caretaker shall be provided to enable an adult to:
- (a) Remain safely and adequately:
 1. At home;
 2. In another family setting; or
 3. In a room and board situation; and
 - (b) Prevent institutionalization.
- (2) Service by a caretaker shall be provided at regular intervals by:
- (a) A live-in attendant; or
 - (b) One (1) or more persons hired to come to the home.
- (3) Eligibility for caretaker supplementation shall be verified annually by the cabinet with the caretaker to establish how:
- (a) Often the service is provided;
 - (b) The service prevents institutionalization; and
 - (c) Payment is made for the service.
- (4) A supplemental payment shall not be made to or on behalf of an otherwise eligible individual if the:
- (a) Client is taken daily or periodically to the home of the caretaker; or
 - (b) Caretaker service is provided by the following persons living with the applicant:
 1. The spouse;
 2. Parent of an adult or minor child who has a disability; or
 3. Adult child of a parent who is aged, blind, or has a disability.

Section 6. Eligibility for Community Integration Supplementation.

- (1) Eligibility for the community integration supplementation shall be based upon a diagnosis of SMI by a qualified mental health professional. SMI shall:
- (a) Not include a primary diagnosis of Alzheimer's disease or dementia;
 - (b) Be described in the current edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM);
 - (c) Impair or impede the individual's functioning in at least one (1) major area of living, such as inability to care for or support self, communicate, or make and maintain interpersonal relationships; and
 - (d) Be unlikely to improve without treatment, services, or supports.
- (2) Eligibility for the community integration supplementation shall be verified annually by the cabinet with the applicant, recipient, or care coordinator to establish how:

- (a) Often services, including those that address subsection (1)(c) of this section, are provided;
 - (b) The services prevent institutionalization and support private residence in accordance with Section 4(2)(d) of this administrative regulation; and
 - (c) Payment is made for the services.
- (3) Unless criteria in Section 10 of this administrative regulation are met by the applicant or recipient, SMI supplementation shall not be available to a resident of a home, facility, institution, lodging, or other establishment:
- (a) Licensed or registered in accordance with KRS Chapter 216B; or
 - (b) Certified in accordance with KRS Chapter 194A.

Section 7. Resource Consideration.

- (1) Except as ***established[provided]*** in subsection (2) of this section, countable resources shall be determined according to policies for the medically needy in accordance with:
- (a) 907 KAR 20:001;
 - (b) 907 KAR 20:020, Section 2(4)(a);
 - (c) 907 KAR 20:025; and
 - (d) 907 KAR 20:040, Section 1.
- (2) An individual or couple shall not be eligible if countable resources exceed the limit of:
- (a) \$2,000 for an individual; or
 - (b) \$3,000 for a couple.

Section 8. Income Considerations.

- (1) Except as ***established[provided]*** in subsections (2) through (8) of this section, income and earned income deductions shall be considered according to the policy for the medically needy in accordance with:
- (a) 907 KAR 20:001;
 - (b) 907 KAR 20:020, Section 2(4)(a);
 - (c) 907 KAR 20:025; and
 - (d) 907 KAR 20:040, Section 1.
- (2) The optional supplementation payment shall be determined by:
- (a) Adding:
 - 1. Total countable income of the applicant or recipient, or applicant or recipient and spouse; and
 - 2. A payment made to a third party on behalf of an applicant or recipient; and
 - (b) Subtracting the total of paragraph (a)1. and 2. of this subsection from the standard of need in Section 9 of this administrative regulation.
- (3) Income of an ineligible spouse shall be:
- (a) Adjusted by deducting sixty-five (65) dollars and one-half (1/2) of the remainder from the monthly earnings; and
 - (b) Conserved in the amount of one-half (1/2) of the SSI standard for an individual for:
 - 1. The applicant or recipient; and
 - 2. Each minor dependent child.
- (4) Income of an eligible individual shall not be conserved for the needs of the ineligible spouse or minor dependent child.
- (5) Income of a child shall be considered if conserving for the needs of the minor dependent child so the amount conserved does not exceed the allowable amount.
- (6) The earnings of the eligible individual and ineligible spouse shall be combined prior to the application of the earnings disregard of sixty-five (65) dollars and one-half (1/2) of the remainder.

(7) If treating a husband and wife who reside in the same personal care or family care home as living apart prevents them from receiving state supplementation, the husband and wife may be considered to be living with each other.

(8) The SSI twenty (20) dollar general exclusion shall not be an allowable deduction from income.

Section 9. Standard of Need.

(1) To the extent funds are available, the standard of need shall be the amount listed in this subsection in addition to all cost of living adjustments determined by the Social Security Administration that have taken place since 2021 pursuant to 42 U.S.C. 415(i) and published at <https://www.ssa.gov/cola/>:

(a) For a resident of a personal care home, \$1,409;

(b) For a resident of a family care home, \$965;

(c) For an individual who receives caretaker services:

1. A single individual, or an eligible individual with an ineligible spouse who is not aged, blind, or has a disability, \$855;

2. An eligible couple, both aged, blind, or having a disability and one (1) requiring care, \$1,251; or

3. An eligible couple, both aged, blind, or having a disability and both requiring care, \$1,305; or

(d) For an individual who resides in a private residence and has SMI, \$1,313.

(2)

(a) In a couple case, if both are eligible, the couple's income shall be combined prior to comparison with the standard of need.

(b) One-half (1/2) of the deficit shall be payable to each.

(3) A personal care home shall accept as full payment for cost of care, the amount of the standard, based on the living arrangement, minus a sixty (60) dollar personal needs allowance that shall be retained by the client.

(4) A family care home shall accept as full payment for cost of care, the amount of the standard, based on the living arrangement, minus a forty (40) dollar personal needs allowance that shall be retained by the client.

Section 10. Temporary Stay in a Medical Facility.

(1) An SSI recipient who receives optional or mandatory state supplementation shall have continuation of state supplementation benefits without interruption for the first three (3) full months of medical care in a health care facility if the:

(a) SSI recipient meets eligibility for medical confinement established by 20 C.F.R. 416.212;

(b) Social Security Administration notifies the department that the admission shall be temporary; and

(c) Purpose shall be to maintain the recipient's home or other living arrangement during a temporary admission to a health care facility.

(2) A non-SSI recipient who receives mandatory or optional state supplementation shall have continuation of state supplementation benefits without interruption for the first three (3) full months of medical care in a health care facility if:

(a) The non-SSI recipient meets the requirements of subsection (1)(c) of this section;

(b) A physician certifies, in writing, that the non-SSI recipient is not likely to be confined for longer than ninety (90) full consecutive days; and

(c) A guardian or other payee, personal care home, or family care home, receiving a state supplementation check for the state supplementation recipient, provides a local county department office with:

1. Notification of the temporary admission; and

2. The physician statement ***established[specified]*** in paragraph (b) of this subsection.

(3) A temporary admission shall be limited to the following health care facilities:

- (a) Hospital;
- (b) Psychiatric hospital; or
- (c) Nursing facility.

(4) If a state supplementation recipient is discharged in the month following the last month of continued benefits, the temporary absence shall continue through the date of discharge.

Section 11. Citizenship requirements. An applicant or recipient shall be a:

- (1) Citizen of the United States; or
- (2) Qualified immigrant.

Section 12. Requirement for Residency. An applicant or recipient shall reside in Kentucky.

Section 13. Mental Illness or Intellectual Disability (MI/ID) Supplement Program.

(1) A personal care home:

(a) May qualify, to the extent funds are available, for a quarterly supplement payment of ~~\$25,000~~~~[fifty (50) cents per diem for a state supplementation recipient in the personal care home's care as of the first calendar day of a qualifying month];~~

(b) Shall not be eligible for a payment for a Type A Citation that is not abated; and

(c) Shall meet the following certification criteria for eligibility to participate in the MI/ID Supplement Program:

1. Be licensed in accordance with KRS 216B.010 ~~through~~~~[to]~~ 216B.131;

2. Care for a population that is at least thirty-five (35) percent mental illness or intellectual disability clients in all of its occupied licensed personal care home beds and who have a:

- a. Primary or secondary diagnosis of intellectual disability including mild or moderate, or other ranges of intellectual disability whose needs can be met in a personal care home;
- b. Primary or secondary diagnosis of mental illness excluding organic brain syndrome, senility, chronic brain syndrome, Alzheimer's, and similar diagnoses; or
- c. Medical history that includes a previous hospitalization in a psychiatric facility, regardless of present diagnosis;

3. Have a licensed nurse or an individual who has received and successfully completed certified medication technician or Kentucky medication aide training on duty for at least four (4) hours during the first or second shift each day;

4. Not decrease staffing hours of the licensed nurse or individual who has successfully completed certified medication technician training in effect prior to July 1990, as a result of this minimum requirement;

5. Be verified by the Office of the Inspector General in accordance with ~~[Section 6 of]~~ 902 KAR 20:036, **Section 6** ~~[15(2) through (4) of this administrative regulation];~~ and

6. File an STS-1, Mental Illness or Intellectual Disability (MI/ID) Supplement Program Application for Benefits, with the department by the tenth working day of the first month of the calendar quarter to be eligible for payment in that quarter.

a. Quarters shall begin in January, April, July, and October.

b. Unless mental illness or intellectual disability supplement eligibility is discontinued, a new application for the purpose of program certification shall not be required.

(2) A personal care home shall provide the department with its tax identification number, ~~and~~ address, and staff information as part of the application process.

- (3) The department shall provide an STS-2, Mental Illness or Intellectual Disability (MI/ID) Supplement Program Notice of Decision to Personal Care Home, to a personal care home following:
- (a) Receipt of verification from the Office of the Inspector General as ***established in [specified in Section 6 of] 902 KAR 20:036, Section 6***~~[45(6) of this administrative regulation]~~; and
 - (b) Approval or denial of an application.
- (4) A personal care home shall:
- (a) Provide the department with an STS-3, Mental Illness or Intellectual Disability (MI/ID) Supplement Program Monthly Report Form, that:
 1. Lists every resident of the personal care home who was a resident on the first day of the month;
 2. Lists the last four (4) digits only of the resident's Social Security Number;
 3. Lists the resident's date of birth; and
 4. Is marked appropriately for each resident to indicate the resident:
 - a. Has a mental illness diagnosis;
 - b. Has an intellectual disability diagnosis; or
 - c. Receives state supplementation; and
 - (b) Submit the STS-3 to the department on or postmarked by the fifth working day of the month by:
 1. Mail;
 2. Fax; or
 3. Electronically.
- (5) The monthly report shall be used by the department for:
- (a) Verification as ***established [specified]*** in subsection (4)(a) of this section;
 - (b) Payment; and
 - (c) Audit purposes.
- (6)
- (a) A personal care home shall notify the department within ten (10) working days if its mental illness or intellectual disability percentage goes below thirty-five (35) percent for all personal care residents.
 - (b) A personal care home may be randomly audited by the department to verify percentages and payment accuracy.
- (7) If a Type A Citation is received, the personal care home shall receive a reduced payment for the number of days the Type A Citation occurred on the first administratively feasible quarter following notification by the Office of the Inspector General, in accordance with 921 KAR 2:050.
- (8) If a criterion for certification is not met, the department shall issue an STS-2 to a personal care home following receipt of the survey by the Office of the Inspector General as ***established [specified]*** in ***902 KAR 20:036, Section 6(6) [subsection (6) of this section]***.
- (9) The personal care home shall provide the department with the information requested on the STS-2:
- (a) Relevant to unmet certification criteria ***included [specified]*** on the STS-4, ***Mental Illness or Intellectual Disability (MI/ID) Supplement Certification Survey***; and
 - (b) Within ten (10) working days after the STS-2 is issued.
- (10) If a personal care home fails to provide the department with the requested information ***established [specified]*** in subsection ***(9) [(10)]*** of this section, assistance shall be discontinued or decreased, pursuant to 921 KAR 2:046.
- (11) If a personal care home is discontinued from the MI/ID Supplement Program, the personal care home may reapply for certification, by filing an STS-1 in accordance with subsection (1)(c)6, of this section, for the next following quarter.

Section 14. Mental Illness or Intellectual Disability (MI/ID) Training.

(1)

(a) A personal care home's licensed nurse or individual who has successfully completed certified medication technician or Kentucky medication aide training shall complete the personal care home mental illness or intellectual disability training workshop provided through the Department for Behavioral Health, Developmental and Intellectual Disabilities, once every two (2) years.

(b) Other staff may complete the training workshop in order to **ensure[assure]** the personal care home always has at least one (1) certified staff employed for certification purposes.

(2) The personal care home mental illness or intellectual disability training shall be provided through a one (1) day workshop. The following topics shall be covered:

(a) Importance of proper medication administration;

(b) Side effects and adverse medication reactions with special attention to psychotropics;

(c) Signs and symptoms of an acute onset of a psychiatric episode;

(d) SMI;

(e) SMI recovery;

(f) Characteristics of each major diagnosis, for example, paranoia, schizophrenia, bipolar disorder, or intellectual disability;

(g) Guidance in the area of supervision versus patient rights for the population with a diagnosis of mental illness or intellectual disability;

(h) Instruction in providing a necessary activity to meet the needs of a resident who has a diagnosis of mental illness or intellectual disability;

(i) Activities of daily living and instrumental activities of daily living;

(j) Adult learning principles; and

(k) Information about 908 KAR 2:065 and the process for community transition for individuals with SMI.

(3) Initial training shall:

(a) Include the licensed nurse or the individual who has successfully completed certified medication technician or Kentucky medication aide training, **as established in 201 KAR 20:700**, and may include the owner or operator; and

(b) Be in the quarter during which the STS-1 is filed with the department.

(4)

(a) A personal care home shall have at least one (1) direct care staff member who has received training.

(b) A personal care home shall have on staff a licensed nurse or individual who:

1. Has successfully completed certified medication technician or Kentucky medication aide training; and

2.

a. Has received mental illness or intellectual disability training; or

b. Is enrolled in the next scheduled mental illness or intellectual disability training workshop.

(5) The Department for Behavioral Health, Developmental and Intellectual Disabilities shall provide within five (5) working days a:

(a) Certificate to direct care staff who complete the training workshop; and

(b) Listing to the department of staff who completed the training workshop.

(6) The department shall pay twenty-five (25) dollars, to the extent funds are available, to a personal care home:

(a) That has applied for the MI/ID Supplement Program; and

(b) For each staff member receiving training up to a maximum of five (5) staff per year.

Section 15. ~~[MI/ID Supplement Program Certification.]~~

~~[(1)] [The Office of the Inspector General shall visit a personal care home to certify eligibility to participate in the MI/ID Supplement Program.]~~

~~[(a)] [The personal care home's initial MI/ID Supplement Program Certification Survey:]~~

~~[1.] [May be separate from an inspection conducted in accordance with KRS 216.530; and]~~

~~[2.] [Shall be in effect until the next licensure survey.]~~

~~[(b)] [After a personal care home's initial MI/ID Supplement Program Certification Survey is completed, the personal care home may complete any subsequent certification survey during the licensure survey as specified in paragraph (a)2. of this subsection.]~~

~~[(c)] [The department shall notify the Office of the Inspector General that the personal care home is ready for an inspection for eligibility.]~~

~~[(2)] [During the eligibility inspection, the Office of the Inspector General shall:]~~

~~[(a)] [Observe and interview residents and staff; and]~~

~~[(b)] [Review records to assure the following criteria are met:]~~

~~[1.] [Certification is on file at the personal care home to verify staff's completion of training, as specified in Section 14(1) through (4) of this administrative regulation;]~~

~~[2.] [The personal care home:]~~

~~[a.] [Has certified staff training all other direct care staff through in-service training or orientation regarding the information obtained at the mental illness or intellectual disability training workshop; and]~~

~~[b.] [Maintains documentation of completion at the in-service training for all direct care staff;]~~

~~[3.] [Medication administration meets licensure requirements and a licensed nurse or individual who has successfully completed certified medication technician or Kentucky medication aide training;]~~

~~[a.] [Demonstrates a knowledge of psychotropic drug side effects; and]~~

~~[b.] [Is on duty as specified in Section 13(1)(c)3. of this administrative regulation; and]~~

~~[4.] [An activity is being regularly provided that meets the needs of a resident.]~~

~~[a.] [If a resident does not attend a group activity, an activity shall be designed to meet the needs of the individual resident, for example, reading or other activity that may be provided on an individual basis.]~~

~~[b.] [An individualized care plan shall not be required for the criteria in clause a. of this subparagraph.]~~

~~[(3)] [The Office of the Inspector General shall review the personal care home copy of the training certification prior to performing a record review during the MI/ID Supplement Program Certification Survey process.]~~

~~[(4)] [If at least thirty-five (35) percent of the population is mental illness or intellectual disability clients, as specified in Section 13(1)(c)2. of this administrative regulation, on the day of the visit, a personal care home shall be deemed to have an ongoing qualifying percentage effective with the month of request for certification as specified in subsection (1)(c) of this section.]~~

~~[(5)] [If the mental illness or intellectual disability population goes below thirty-five (35) percent of all occupied personal care beds in the facility, the personal care home shall notify the department as specified in Section 13(6)(a) of this administrative regulation.]~~

~~[(6)] [The Office of the Inspector General shall provide the department with a completed STS-4, Mental Illness or Intellectual Disability (MI/ID) Supplement Certification Survey, within fifteen (15) working days of an:]~~

~~[(a)] [Initial survey; or]~~

~~[(b)] [Inspection in accordance with KRS 216.530.]~~

~~[(7)] [The Office of the Inspector General shall provide a copy of a Type A Citation issued to a personal care home to the department by the fifth working day of each month for the prior month.]~~

~~[(8)] [The personal care home shall receive a reduced payment for the number of days the Type A Citation occurred on the first administratively feasible quarter following notification by the Office of the Inspector General, in accordance with 921 KAR 2:050.]~~

~~[(9)] [If a criterion for certification is not met, the department shall issue an STS-2 to a personal care home following receipt of the survey by the Office of the Inspector General as specified in subsection (6) of this section.]~~

~~[(10)] [The personal care home shall provide the department with the information requested on the STS-2:]~~

~~[(a)] [Relevant to unmet certification criteria specified on the STS-4; and]~~

~~[(b)] [Within ten (10) working days after the STS-2 is issued.]~~

~~[(11)] [If a personal care home fails to provide the department with the requested information specified in subsection (10) of this section, assistance shall be discontinued or decreased, pursuant to 921 KAR 2:046.]~~

~~[(12)] [If a personal care home is discontinued from the MI/ID Supplement Program, the personal care home may reapply for certification, by filing an STS-1 in accordance with Section 13(1)(c)6. of this administrative regulation, for the next following quarter.]~~

~~[Section 16.]~~ Hearings and Appeals. An applicant or recipient of benefits under a program ***established[described]*** in this administrative regulation who is dissatisfied with an action or inaction on the part of the cabinet shall have the right to a hearing under 921 KAR 2:055.

Section 16.~~[Section 17.]~~ Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "STS-1, Mental Illness or Intellectual Disability (MI/ID) Supplement Program Application for Benefits", 12/23~~[01/15]~~;

(b) "STS-2, Mental Illness or Intellectual Disability (MI/ID) Supplement Program Notice of Decision to Personal Care Home", 01/15;

(c) "STS-3, Mental Illness or Intellectual Disability (MI/ID) Supplement Program Monthly Report Form", 01/19; and

(d) "STS-4, Mental Illness or Intellectual Disability (MI/ID) Supplement Certification Survey", 01/19.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Cabinet for Health and Family 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 department's Web site at: <https://chfs.ky.gov/agencies/dcbs/Pages/default.aspx>.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; Phone: 502-564-7476; Fax: 502-564-7091; CHFSregs@ky.gov.