

Andy Beshear
GOVERNOR

JUSTICE AND PUBLIC SAFETY CABINET

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November 5, 2025

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: 503 KAR 5:140. Law Enforcement Professional Development and Wellness Program.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 503 KAR 5:140. Law Enforcement Professional Development and Wellness Program, the Justice and Public Safety Cabinet, Department of Criminal Justice Training proposes the attached substitute to 503 KAR 5:140. Law Enforcement Professional Development and Wellness Program.

Sincerely,

Nathan Goens, Attorney
Justice and Public Safety Cabinet
125 Holmes Street, 2nd Floor
Frankfort, Kentucky 40601

enclosure

Subcommittee Substitute

**JUSTICE AND PUBLIC SAFETY CABINET
Department of Criminal Justice Training**

503 KAR 5:140. Law Enforcement Professional Development and Wellness Program.

RELATES TO: KRS 15.310, 15.518, 65.1591, 202A.011

STATUTORY AUTHORITY: KRS 15.518(6)

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15.518(6) requires the Department of Criminal Justice Training to promulgate administrative regulations to address the minimum qualifications and duties of any person who administers the Law Enforcement Professional Development and Wellness Program; the curriculum, programming, seminar type, and treatment modalities used in the program; the extent to which a participant's relatives or friends may participate in seminars; the standards by which officers from other states may be accepted into the program by the commissioner; and a protocol for establishing reciprocity for interagency assistance with other state, federal, and tribal law enforcement agencies and officers in administering the program. This administrative regulation establishes the standards and procedures for the Law Enforcement Professional Development and Wellness Program.

Section 1. Definitions.

- (1) "Critical incident" is defined by KRS 15.518(9)(a).
- (2) "Culmination of events" means repeated exposure to critical incidents or other traumatic events.
- (3) "EMDR" means eye movement desensitization and reprocessing.
- (4) "KYPCIS" means a post-critical incident seminar offered as required by KRS 15.518 by the department Law Enforcement Professional Development and Wellness Program structured to provide officer or telecommunicator personnel the knowledge and support to mitigate exposure to stress, promote recovery, and build resilience following exposure to a critical incident or culmination of events.
- (5) "KYPCIS peer" means a current or former officer or telecommunicator that meets the requirements contained in Section 3 of this administrative regulation.
- (6) "Law enforcement officer" or "officer" is defined by KRS 15.310(9).
- (7) "Spouse" or "significant other" means a:
 - (a) Person legally married to the officer or telecommunicator KYPCIS participant;
 - (b) Person engaged to marry the officer or telecommunicator KYPCIS participant;
 - (c) Person who lives with the officer or telecommunicator KYPCIS participant; or
 - (d) Relative or friend of the officer or telecommunicator KYPCIS participant as designated by the KYPCIS participant.
- (8) "Telecommunicator" is defined by KRS 15.530~~(4)~~~~[(3) and (5)]~~.

Section 2. Qualifications and Duties of the Clinical Program Director.

(1) The Law Enforcement Professional Development and Wellness Program shall be administered by a mental health professional with the following minimum qualifications:

(a) Master's degree in:

1. Mental health counseling;
2. Marriage and family therapy;
3. Psychology; or
4. Social work;

(b) Be an advanced practice registered nurse certified in a psychiatric mental health population focus; or

(c) Be a qualified mental health professional as defined by KRS 202A.011(13):

1. Except the mental health professional shall not be required to be currently employed by a hospital as required by **KRS 202A.011(13)**~~[KRS 202A.011(12)]~~ (d), (f), or (g); and
2. Excluding KRS 202A.011(13) (a), (b), (d), and (h); **[and]**

(d) A minimum of three (3) years of professional experience in their field:

1. Diagnosing mental health issues;
2. Providing mental health counseling for individuals or groups; or
3. Developing, researching, planning, teaching, or analyzing mental health issues;

(e) Trained in EMDR therapy by an Eye Movement Desensitization and Reprocessing International Association (EMDRIA) approved trainer;

(f) A minimum of three **(3)** years of EMDR use in client therapy;

(g) Licensed in Kentucky in their field within ninety (90) days of appointment as the clinical program director;

(h) Become certified as an instructor or receive a waiver from the Kentucky Law Enforcement Council pursuant to 503 KAR 1:100 within twelve (12) months of employment as the clinical program director; and

(i) Maintain any required license, certification, liability insurance, or other credential for the length of employment as the clinical program director.

(2) Duties of clinical program director include:

(a) Develop strategies to assist department executive staff in implementing changes in training and policy;

(b) Conduct, supervise, and analyze research for policy development from within state government and national sources;

(c) Advise department executive staff on mental health policy issues that may impact Kentucky Law Enforcement;

(d) Serve as point of contact and initiate and direct research and analysis performed by outside consultants, universities, and other data sources;

(e) Evaluate print and electronic media for applicable information from which department planning and training is based;

(f) Serve as a resource for updating current trends and actions by other governmental and law enforcement agencies relating to mental health and professional development;

(g) Attend meetings with department executive staff and outside organizations as a representative of the department;

- (h) Work with individuals, families, or groups to assist in the diagnosis, treatment, and management of mental health problems such as post-traumatic stress disorder, depression, grief, and anxiety;
- (i) Identify mental health professionals, maintain an active directory for referral, and provide training to mental health professionals for work with officers and telecommunicators; and
- (j) Other duties as assigned.

Section 3. A KYPCIS peer shall meet the following requirements:

- (1) Attend to completion at least one (1) KYPCIS as a participant;
- (2) Complete stress management peer support training offered by the department;
- (3) Attend to completion at least two (2) KYPCISs as a peer-in-training; and
- (4) Have experience as an officer, telecommunicator, or spouse of an officer or telecommunicator.

Section 4. KYPCIS Curriculum, Programming, Seminar Type, and Treatment Modalities.

- (1) A KYPCIS shall last a minimum of twenty-four (24) hours, conducted over more than one (1) day, and offer participant training including:
 - (a) Stress and trauma;
 - (b) Coping;
 - (c) Resiliency; and
 - (d) Building and maintaining healthy relationships.
- (2) Treatment modalities may include:
 - (a) Group discussions guided by a mental health professional;
 - (b) Small group discussions facilitated by KYPCIS peers; and
 - (c) One-on-one sessions conducted by a mental health professional with a KYPCIS participant to discuss individual needs and determine if the participant is a candidate for specific therapies.
- (3) Discussions may include:
 - (a) The body's response to stress;
 - (b) Grief;
 - (c) Relationships;
 - (d) Medications; and
 - (e) Stress management.

Section 5. Program Participation and Eligibility Requirements.

- (1) An officer or telecommunicator in Kentucky may be considered for participation in a KYPCIS if the individual has experienced a critical incident or culmination of events.
- (2) Consideration shall be given to the following factors in determining an officer or telecommunicator's eligibility to participate in a KYPCIS:
 - (a) KYPCIS capacity;
 - (b) Symptom presentation of the applicant officer or telecommunicator resulting from a critical incident or culmination of events; and
 - (c) Any additional traumatic event experienced by the officer or telecommunicator.
- (3) A spouse or significant other of an officer or telecommunicator KYPCIS participant may be considered for participation in a KYPCIS as capacity allows.

(4) An officer or telecommunicator or the spouse or significant other of an officer or telecommunicator may apply to attend a KYPCIS. An applicant shall complete the application available on the KYPCIS website at <https://www.kypcis.com/>, which shall include the following:

(a) Applicant's name;

(b) The officer or telecommunicator's:

1. Name, if the applicant is a spouse or significant other of the officer or telecommunicator;

2. Employing law enforcement agency;

3. Work and home address;

4. Email address;

5. Telephone number;

6. Critical incident experienced including:

a. Line of duty death;

b. Event involving a juvenile;

c. Culmination of events;

d. Officer involved shooting; and

e. Other;

7. Requested KYPCIS date;

8. Status as one **(1)** of the following:

a. Current officer;

b. Retired officer;

c. Current telecommunicator; or

d. Retired telecommunicator; and

(c) If a spouse or significant other will be attending the KYPCIS:

1. The name of the officer or telecommunicator with whom the spouse or significant other will be attending; and

2. The spouse or significant other's:

a. Name;

b. Work and home address;

c. Email address; and

d. Telephone number.

Section 6. KYPCIS Attendance by Officers or Telecommunicators from Other States. Eligibility for KYPCIS attendance by an out-of-state officer or telecommunicators shall be:

(1) Considered based on the eligibility factors in Section 5 of this administrative regulation; and

(2) Based on KYPCIS capacity as set forth by KRS 15.518(5).

Section 7. Reciprocity for Interagency Assistance with Other State, Federal, and Tribal Law Enforcement Agencies and Officers in Administering the Law Enforcement Professional Development and Wellness Program. The department may assist other agencies in the development of a post-critical incident seminar program or accept assistance from other agencies in the development or completion of a KYPCIS upon prior approval from the commissioner or designee.

Section 8. Confidentiality. Information, including any peer support communication as defined in KRS 65.1591(1)(a), disclosed during a KYPCIS shall remain confidential and privileged as set out by KRS 15.518(7) and 65.1591.

CONTACT PERSON: Nathan Goens, Assistant General Counsel, Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, KY 40601, Justice.RegContact@ky.gov, telephone number (502) 564-8216, facsimile number (502) 564-6686.

COMPILER'S NOTE: 2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency.

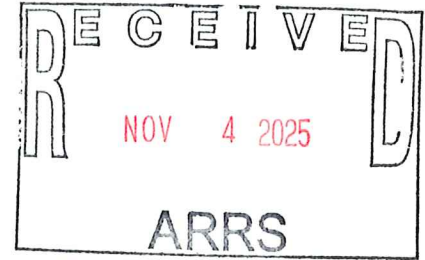
Andy Beshear
Governor



Jamie Link
Secretary, Education and
Labor Cabinet

Dr. Robbie Fletcher
Commissioner of Education

KENTUCKY DEPARTMENT OF EDUCATION
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November 3, 2025

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

Re: 704 KAR 3:440. Primary school program guidelines.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 704 KAR 3:440, the Kentucky Board of Education proposes the attached amendment to 704 KAR 3:440.

Sincerely,

Todd G. Allen
Deputy Commissioner and General Counsel

attachment

Subcommittee Substitute
EDUCATION AND LABOR CABINET
Kentucky Board of Education
Department of Education
(Amendment)

704 KAR 3:440. Primary school program guidelines.

RELATES TO: KRS 156.070, 156.160(1)(a), 158.030(2), 158.031, 158.305, 158.791, 158.6451, 158.840, 158.8402

STATUTORY AUTHORITY: KRS 156.070, 156.160(1)(a), 158.031(2), ~~158.030(1)~~

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.070(1) requires the Kentucky Board of Education to manage and control the common schools and all programs operated in the schools. KRS 156.160(1)(a) requires the Kentucky Board of Education~~[State Board for Elementary and Secondary Education]~~ to establish by administrative regulation the standards that school districts shall meet in student, program service, and operational performance. KRS 158.030(2) establishes the age requirements for students who may enter the primary school program. KRS 158.031(2)~~[KRS 158.030 establishes the primary school program and]~~ requires the promulgation of administrative regulations to address methods for verifying successful completion of the primary school program in carrying out the goals of education as described in KRS 158.6451.

Section 1. Definitions.

(1) "Authentic assessment" means assessment that occurs continually in the context of the learning environment and reflects actual learning experiences that can be documented through observation, anecdotal records, journals, logs, actual work samples, conferences, and other methods.~~[The following definitions shall apply to this administrative regulation:]~~

~~[(1)] ["Developmentally appropriate practices" means instructional practices that address the physical, aesthetic, cognitive, emotional and social domains of children and that permit them to progress through an integrated curriculum according to their unique learning needs.]~~

~~[(2)] ["Multiage and multiability classrooms" means flexible grouping and regrouping of children of different age, sex and ability who may be assigned to the same teacher(s) for more than one (1) year.]~~

~~(2)~~~~[(3)]~~ "Continuous progress" means a student's unique progression through the primary school program at his own rate without comparison to the rate of others or consideration of the number of years in school. Retention and promotion with the primary school program are not compatible with continuous progress.

(3) "Developmentally appropriate practices" means instructional practices that address the academic, physical, aesthetic, cognitive, emotional and social domains of children and that permit them to progress through an integrated curriculum according to their unique learning needs.

~~[(4)] ["Authentic assessment" means assessment that occurs continually in the context of the learning environment and reflects actual learning experiences that can be documented through~~

observation, anecdotal records, journals, logs, actual work samples, conferences and other methods.]

(4) "Evidence-based" has the same meaning as 20 U.S.C. section 7801(21).

(5) "Multiage and multiability classrooms" means flexible grouping and regrouping of children of different age, sex and ability who may be assigned to the same teacher(s) for more than one (1) year.

~~[(5)]~~ "Qualitative reporting methods" means progress is communicated through a variety of home-school communiques, which address the growth and development of the whole child as he progresses through the primary school program.]

~~[(6)]~~ "Professional teamwork" means all professional staff in the primary school program communicate and plan on a regular basis and use a variety of instructional delivery systems such as team teaching and collaborative teaching.]

~~[(6)]~~~~(7)~~ "Positive parent involvement" means the establishment of productive relationships between the school and the home, individuals, or groups that[than] enhance communication, promote understanding and increase opportunities for children to experience success in the primary school program.

(7) "Primary school program" has the same meaning as KRS 158.031(1).

(8) "Professional teamwork" means all professional staff in the primary school program communicate and plan on a regular basis and use a variety of instructional delivery systems such as team teaching and collaborative teaching.

(9) "Qualitative reporting methods" means progress is communicated through a variety of qualitative methods which address the growth and development of the whole child as the student progresses through the primary school program.

Section 2. Primary School Program Attributes. Each primary school program shall include all the following attributes:

- (1) Developmentally appropriate educational practices;
- (2) Multiage and multiability classrooms;
- (3) Continuous progress;
- (4) Authentic assessment;
- (5) Qualitative reporting methods;
- (6) Professional teamwork; and
- (7) Positive parent involvement.

Section 3. Students in the Primary School Program.

(1) Eligible children~~[, as defined in KRS 158.031(1),]~~~~[Children]~~ who attend the primary school program may advance through the program without regard to age or~~[shall not be described as enrolled in]~~ a specific grade level. Students who transfer from a school system that uses grade levels of kindergarten through third grade shall be enrolled in the primary school program and placed according to their developmental needs.

(2) Each elementary school shall design the primary school program to address the learning needs of all children who meet the entry age for the primary school program and who are not ready to enter the fourth grade. Individual placement decisions for children who are eligible for

special education and related services shall be determined by the appropriate admissions and release committee, pursuant to 707 KAR 1:320~~[707 KAR 1:051]~~.

Section 4. Curriculum.

(1) The curriculum of the primary school program shall address the goals of education and the model curriculum framework set forth in KRS 158.6451, meet the requirements set forth in KRS 158.791, and include evidence-based high-quality instructional resources for mathematics and reading that is determined by the Kentucky Department of Education to be reliable, valid, and aligned to the Kentucky academic standards as provided in 704 KAR Chapter 8 and required in KRS 158.305 and 158.8402.

(2) Instructional practices in the primary school program shall motivate and nurture children of diverse cultures; shall address the academic, social, emotional, physical, aesthetic and cognitive needs of children; and shall be based upon evidence-based instruction, intervention, and supports and the following principles of how young children learn:

(a) Young children learn at different rates and through different styles;[.]

(b) Young children learn as they develop a sense of self-confidence in a positive learning environment;[.]

(c) Young children learn best with "hands on" experiences where they are encouraged to question, explore and discover;[.]

(d) Young children learn best through an integrated curriculum by engaging in real-life activities and learning centers; and[.]

(e) Young children learn best in a social environment where they can converse with others to expand their language and their thinking.

(3) Students enrolled in the primary school program shall progress through the curriculum at their individual learning rates.

(4) Methods for verifying successful completion of the primary school program shall be determined by using strategic data-based decision making within a comprehensive screening and assessment system.

~~(5)[(4)]~~ Parents and legal guardians of children enrolled in the primary school program shall receive regular reports at a minimum of four (4) times per year regarding the children's individual progress in meeting the goals of education set forth in KRS 158.6451(1) and successful completion of the primary school program.

~~[Section 5.] [Implementation.]~~

~~[(1)] [By June 15, 1992, each elementary school shall submit an action plan to the Department of Education describing the steps to be taken for beginning implementation in 1992-93 and full implementation by 1993-94 in order to implement the primary school program as described in this administrative regulation. The procedures and instructions for the plan are contained in "Procedures for Developing the Primary Program Action Plan," effective date of April 1992, which is hereby incorporated by reference. This document may be inspected, copied, and obtained at the Kentucky Department of Education, Division of Early Childhood, 21st Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky 40601, Monday - Friday, 8 a.m. - 4:30 p.m.]~~

~~[(2)] [Beginning June 1, 1993, each elementary school shall submit an annual evaluation report to the Department of Education describing the steps to be taken to improve the quality of the~~

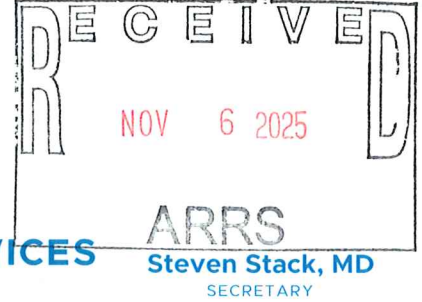
primary school program. The evaluation report shall follow the format contained in "Procedures for Developing the Primary Program Action Plan" document cited in subsection (1) of this section.]

~~[(3)] [The action plan and subsequent evaluation reports shall include input from parents, teachers and support staff of children enrolled in the primary school program. The action plan and subsequent evaluation reports shall be adopted by the school-based decision making council if one exists, or by the local district superintendent if the school does not have a council.]~~

~~[(4)] [Each elementary school shall make the action plan and subsequent evaluation reports available for public inspection. A copy of the action plan and subsequent evaluation reports shall be kept on file by the local school district superintendent.]~~

This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the Kentucky Board of Education, as required by KRS 156.070(5).

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



Andy Beshear
GOVERNOR

CABINET FOR HEALTH AND FAMILY SERVICES

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November 6, 2025

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: 900 KAR 6:075. Certificate of need nonsubstantive review.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 900 KAR 6:075, the Cabinet for Health and Family Services proposes the attached amendments to 900 KAR 6:075.

Sincerely,

Lucie Estill
Staff Assistant
Office of Legislative and Regulatory Affairs

Attachment

CABINET FOR HEALTH AND FAMILY SERVICES
Office of Inspector General
Division of Certificate of Need
(Amended After Comments)

900 KAR 6:075. Certificate of need nonsubstantive review.

RELATES TO: KRS 216B.010, 216B.015, 216B.020, 216B.040, 216B.062, 216B.090, 216B.095, 216B.115, 216B.450(5), 216B.455, 216B.990, 311A.025(4)

STATUTORY AUTHORITY: KRS 216B.040(2)(a)1., 216B.095

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.040(2)(a)1. requires the Cabinet for Health and Family Services to administer Kentucky's Certificate of Need Program and to promulgate administrative regulations as necessary for the program. KRS 216B.095 authorizes the review of certificate of need applications that are granted nonsubstantive status. This administrative regulation establishes the requirements necessary for consideration for nonsubstantive review of applications for the orderly administration of the Certificate of Need Program.

Section 1. Definitions.

- (1) "Ambulatory surgical center" is defined by KRS 216B.015(4).
- (2) "Cabinet" is defined by KRS 216B.015(6).
- (3) "Certificate of Need Newsletter" means the monthly newsletter that is published by the cabinet regarding certificate of need matters and is available on the Certificate of Need Web site at <https://chfs.ky.gov/agencies/os/oig/dcn/Pages/cn.aspx>.
- (4) "Days" means calendar days, unless otherwise specified.
- (5) "Formal review" means the review of an application for certificate of need that is reviewed within ninety (90) days from the commencement of the review as provided by KRS 216B.062(1) and that is reviewed for compliance with the review criteria **established in[set forth at]** KRS 216B.040 and 900 KAR 6:070.
- (6) "Nonsubstantive review" is defined by KRS 216B.015(18).
- (7) "Public notice" means notice given through the cabinet's Certificate of Need Newsletter.
- (8) "Psychiatric residential treatment facility" or "PRTF" is defined in KRS 216B.450(5) as a Level I facility or a Level II facility.

Section 2. Nonsubstantive Review.

- (1) The cabinet shall grant nonsubstantive review status to an application to change the location of a proposed health facility or to relocate a licensed health facility only if:
 - (a) There is no substantial change in health services or bed capacity; and
 - (b)
 1. The change of location or relocation is within the same county; or
 2. The change of location or relocation is for a psychiatric residential treatment facility.
- (2) The cabinet shall grant nonsubstantive review status to an application that proposes to establish an ambulatory surgical center pursuant to the conditions specified in KRS 216B.095(7).

(3) In addition to the projects specified in KRS 216B.095(3)(a) through (e), pursuant to KRS 216B.095(3)(~~f~~), the Office of Inspector General shall grant nonsubstantive review status to an application for which a certificate of need is required if:

(a) The proposal involves the establishment or expansion of a health facility or health service for which there is not a component in the State Health Plan;

(b) The proposal involves an application to re-establish a licensed healthcare facility or service that was provided at a hospital and was voluntarily discontinued by the applicant under the following circumstances:

1. The termination or voluntary closure of the hospital:

a. Was not the result of an order or directive by the cabinet, governmental agency, judicial body, or other regulatory authority;

b. Did not occur during or after an investigation by the cabinet, governmental agency, or other regulatory authority;

c. Did occur while the facility was in substantial compliance with applicable administrative regulations and was otherwise eligible for re-licensure; and

d. Was not an express condition of any subsequent certificate of need approval;

2. The application to re-establish the healthcare facility or service that was voluntarily discontinued is filed no more than one (1) year from the date the hospital last provided the service that the applicant is seeking to re-establish;

3. A proposed healthcare facility shall be located within the same county as the former healthcare facility and at a single location; and

4. The application shall not seek to re-establish any type of bed utilized in the care and treatment of patients for more than twenty-three (23) consecutive hours;

(c)

1. The proposal involves an application to establish an ambulatory surgical center that does not charge its patients and does not seek or accept commercial insurance, Medicare, Medicaid, or other financial support from the federal government; and

2. The proposed ambulatory surgical center shall utilize the surgical facilities of an existing licensed ambulatory surgical center during times the host ambulatory surgical center is not in operation;

(d) The proposal involves an application to establish an industrial ambulance service;

(e) **[Prior to July 1, 2026]** The proposal involves an application by:

1. An ambulance service that is owned by a city or county government seeking to provide ambulance transport services pursuant to KRS 216B.020(9)(a)1. or 2.; or

2. A licensed hospital seeking to provide transport from a location that is not a healthcare~~[health care]~~ facility pursuant to KRS 216B.020(9)(a)3. and (b);

(f) The proposal involves an application to transfer acute care beds from one (1) or more existing Kentucky-licensed hospitals to establish a new hospital under the following circumstances:

1. The existing hospital and new facility shall be under common ownership and located in the same county;

2. No more than fifty (50) percent of the existing hospital's acute care beds shall be transferred to the new facility; and

3.

a. If the existing hospital is a state university teaching hospital, the existing hospital exceeded, by at least one (1), the minimum number of quality measures required to receive supplemental university directed payments from Kentucky Medicaid for the state fiscal year preceding the date the application was filed; or

b. If the existing hospital is not a state university teaching hospital, the existing hospital's overall rating by the Centers for Medicare and Medicaid Services Hospital Compare was three (3) stars or higher on the most recent annual update to the overall star ratings preceding the date the application was filed;

(g)

1. The proposal involves an application from a Program of All-Inclusive Care for the Elderly (PACE) program that:

a. Has met the requirements of the State Readiness Review (SRR) according to a report submitted by the Department for Medicaid Services (DMS) to the Centers for Medicare and Medicaid Services (CMS);

b. Seeks to provide, directly to its members, a health service that is not exempt from certificate of need (CON) **pursuant to**~~[under]~~ KRS 216B.020(1); and

c. Ensures that all services authorized under the PACE agreement are provided exclusively to its members who reside within the service area. The service area shall be:

(i) Located within the Commonwealth of Kentucky; and

(ii) Approved by both CMS and DMS.

2. Only an approved PACE program operating within the applicant's service area shall qualify as an affected person for the purpose of opposing a PACE program application.

3. A PACE program shall not be required to obtain certificate of need (CON) approval if the program:

a. Provides direct patient health services that are exempt from CON under KRS 216B.020(1) and provides other services subject to CON approval through contracts with licensed providers; or

b. Has already obtained CON approval within the approved PACE service area to provide a health service that is not exempt from CON;

(h) The proposal involves an application to establish an inpatient psychiatric unit in an existing licensed acute care hospital under the following conditions:

1. The hospital is located in a county that has no existing, freestanding psychiatric hospital;

2. The occupancy of acute care beds in the applicant's facility is less than seventy (70) percent according to the most recent edition of the Kentucky Annual Hospital Utilization and Services Report;

3.

a. All of the proposed psychiatric beds are being converted from licensed acute care beds; and

b. No more than twenty (20) percent of the facility's acute care beds up to a maximum of twenty-five (25) beds will be converted to psychiatric beds;

4. All of the psychiatric beds will be implemented **onsite**~~[on-site]~~ at the applicant's existing licensed facility; and

5. All of the psychiatric beds shall be dedicated exclusively to the treatment of adult patients, aged eighteen (18) to sixty-four (64);

(i) The proposal involves an application by a Kentucky-licensed acute care hospital, critical access hospital, or nursing facility proposing to expand a home health service to provide services exclusively to patients discharged from its facility who require home health services at the time of discharge and no existing, licensed home health agency is available and willing to accept the referral. The hospital or nursing facility shall document its efforts to find a Home Health Agency. A license issued under this subsection shall contain the limitation **established**~~[set forth]~~ herein;[.]

(j) **The proposal involves an application for a Level II PRTF**~~[Level II PRTFs shall be subject to the nonsubstantive review process]~~;[.]

(k) The proposal involves an application to establish a new pediatric teaching hospital under the following circumstances:

1. No less than one hundred fifty (150) pediatric acute care beds of the new pediatric teaching hospital are transferred from an existing pediatric teaching hospital that is a Kentucky-licensed hospital;
2. The existing pediatric teaching hospital is under common ownership with the new pediatric teaching hospital;
3. The existing pediatric teaching hospital is located within the same county as the new pediatric teaching hospital;
4. The new pediatric teaching hospital may include the same types of pediatric services and diagnostic equipment as currently provided at the existing pediatric teaching hospital, including pediatric acute care, Level II, III, and IV special **care** neonatal beds, pediatric open heart surgery and cardiac catheterization, pediatric organ and tissue transplant program, pediatric psychiatric beds, and pediatric megavoltage radiation, positron emission tomography, and magnetic resonance imaging equipment, with no additional certificate of need application required for establishing any of these specific pediatric services and diagnostic equipment at the new pediatric teaching hospital;
5. The total number of pediatric acute care beds at the new pediatric teaching hospital shall not exceed 140% of the total number of pediatric beds at the existing pediatric teaching hospital at the time of application, and the pediatric acute care beds remaining at the existing pediatric teaching hospital shall not be designated as adult beds; and
6. The applicant certifies that the new pediatric teaching hospital **shall[will]** continuously operate as a pediatric teaching hospital, as that term is currently defined; **or**

~~[(l)] [The proposal involves an application by an existing provider of a Level II service within the same area development district to establish a Level II program with four (4) Level II Special Care Neonatal beds consistent with this plan if the applicant is under common ownership; or]~~

~~[(l)](m)]~~ The proposal involves an application to establish a comprehensive (diagnostic and therapeutic) cardiac catheterization service, and the applicant is under common ownership with an existing provider of comprehensive (diagnostic and therapeutic) cardiac catheterization within the same county.

- (4) A certificate of need approved for an application submitted under subsection (3)(c) of this section shall state the limitations specified under subsection (3)(c)1. and 2. of this section.
- (5) If an application is denied nonsubstantive review status by the Office of Inspector General, the application shall automatically be placed in the formal review process.
- (6) If an application is granted nonsubstantive review status by the Office of Inspector General, notice of the decision to grant nonsubstantive review status shall be given to the applicant and all known affected persons.
- (7)
 - (a) If an application is granted nonsubstantive review status by the Office of Inspector General, any affected person who believes that the application is not entitled to nonsubstantive review status or who believes that the application should not be approved may request a hearing by filing a request for a hearing within ten (10) days of the notice of the decision to conduct nonsubstantive review.
 - (b) The provisions of 900 KAR 6:090 shall govern the conduct of all nonsubstantive review hearings.
 - (c)
 1. Except as provided in subparagraph 2. of this paragraph, nonsubstantive review applications shall not be comparatively reviewed.
 2. If the capital expenditure proposed involves the establishment or expansion of a health facility or health service for which there is a component in the State Health Plan, the nonsubstantive review applications shall be comparatively reviewed.

- (d) Nonsubstantive review applications may be consolidated for hearing purposes.
- (8) If an application for certificate of need is granted nonsubstantive review status by the Office of Inspector General, there shall be a presumption that the facility or service is needed and a presumption that the facility or service is consistent with the State Health Plan.
- (9) If each applicable review criterion in the State Health Plan has been met, there shall be a presumption that the facility or service is needed unless the presumption of need has been rebutted by clear and convincing evidence by an affected party.
- (10) Unless a hearing is requested pursuant to 900 KAR 6:090, the Office of Inspector General shall approve each application for a certificate of need that has been granted nonsubstantive review status if the exception established in subsection (11)(a) of this section does not apply.
- (11) The cabinet shall disapprove an application for a certificate of need that has been granted nonsubstantive review if the cabinet finds that the:
- (a) Application is not entitled to nonsubstantive review status; or
 - (b) Presumption of need or presumption that the facility or service is consistent with the State Health Plan provided for in subsection (8) of this section has been rebutted by clear and convincing evidence by an affected party.
- (12) In determining whether an application is consistent with the State Health Plan, the cabinet, in making a final decision on an application, shall apply the latest criteria, inventories, and need analysis figures maintained by the cabinet and the version of the State Health Plan in effect at the time of the public notice of the application.
- (13) In determining whether an application is consistent with the State Health Plan following a reconsideration hearing pursuant to KRS 216B.090 or a reconsideration hearing that is held by virtue of a court ruling, the cabinet shall apply the latest criteria, inventories, and need analysis figures maintained by the cabinet and the version of the State Health Plan in effect at the time of the reconsideration decision or decision following a court ruling.
- (14) A decision to approve or disapprove an application that has been granted nonsubstantive review status shall be rendered within thirty-five (35) days of the date that nonsubstantive review status has been granted, as required by KRS 216B.095(1). A hearing officer shall prioritize rendering decisions regarding applications granted nonsubstantive review status pursuant to Section 2(3)(g) of this administrative regulation.
- (15) If a certificate of need is disapproved following nonsubstantive review, the applicant may:
- (a) Request that the cabinet reconsider its decision pursuant to KRS 216B.090 and 900 KAR 6:065;
 - (b) Request that the application be placed in the next cycle of the formal review process; or
 - (c) Seek judicial review pursuant to KRS 216B.115.

Section 3. Exemption from Certificate of Need.

- (1) A city or county government-owned ambulance service that meets the criteria established by KRS 216B.020(8) shall not be required to obtain a certificate of need to provide emergency ambulance transport services.
- (2) A hospital-owned ambulance service shall not be required to obtain a certificate of need to provide non-emergency or emergency transport that originates from its hospital pursuant to KRS 216B.020(7).
- (3)
- (a) If a hospital-owned ambulance service has certificate of need approval prior to the most recent effective date of this administrative regulation to provide transport services from another health facility to its hospital, the service shall not be required to obtain authorization in accordance with paragraph (b) of this subsection.

(b) A hospital-owned ambulance service that is exempt from certificate of need under KRS 216B.020(7) may provide transport services from another health facility to its hospital if authorized as ~~established~~set out in KRS 311A.025(4).

(c)

1. As used in paragraph (b) of this subsection, a hospital is authorized to provide inter-facility transport of a patient if:

a. The hospital contacts by phone at least one (1) ground ambulance provider with jurisdiction in the territory in which the other health facility is located, using contact information from the most recent edition of the agency directory maintained by the Kentucky Board of Emergency Medical Services at the following link (<https://kbems.ky.gov/Legal/Pages/EMS-Directory.aspx>); (~~<https://kbems.ketcs.edu/legal/EMS%20Directory.aspx>~~) and

b. The ground ambulance provider:

(i) Declines the hospital's request for patient transport; or

(ii) Is not able to initiate the patient's transport within four (4) hours of receiving the hospital's request.

2. For purposes of this paragraph, a provider initiates transport when it arrives at the hospital to transport the patient.

3. The hospital shall document the ambulance service contacted and the reason for authorization to provide transport from another health facility to its hospital.

~~[(4)]~~

~~[(a)] [In accordance with KRS 216B.020(12)(a), the provisions of this section and Section 2(3)(e) of this administrative regulation shall expire on July 1, 2026.]~~

~~[(b)] [In accordance with KRS 216B.020(12)(b), a certificate of need exemption granted to an ambulance service under this section of this administrative regulation shall remain in effect on and after July 1, 2026.]~~