

## **STATEMENT OF EMERGENCY**

### **902 KAR 2:240E.**

This emergency administrative regulation is being promulgated to establish the Cabinet for Health and Family Services assists and supports all hospitals, licensed health care providers, jails, prisons, homeless shelters, local health departments, and other entities with COVID-19 test acquisition, and establish a statewide distribution plan. This emergency administrative regulation is needed pursuant to KRS 13A.190(1)(a)1. to protect public health, safety, and welfare, and KRS 13A.190(1)(a)3. as directed by 2021 Extra. Sess. Ky. Acts Ch. 5. This emergency administrative regulation will not be replaced by an ordinary administrative regulation.

*ANDY BESHEAR, Governor*

*ERIC C. FRIEDLANDER, Secretary*

**CABINET FOR HEALTH AND FAMILY SERVICES**  
**Department for Public Health**  
**Division of Epidemiology and Health Planning**  
**(New Emergency Administrative Regulation)**

**902 KAR 2:240E. COVID-19 test acquisition and distribution.**

RELATES TO: KRS 194A.050, 211.180

STATUTORY AUTHORITY: 2021 Extra. Sess. Ky. Acts Ch. 5

NECESSITY, FUNCTION, AND CONFORMITY: 2021 Extra. Sess. Ky. Acts Ch. 5 Section 3 requires the Cabinet for Health and Family Services to assist and support all hospitals, licensed health care providers, jails, prisons, homeless shelters, local health departments, and other entities in acquiring a sufficient number of COVID-19 tests. The cabinet is to develop a plan for the statewide distribution of the COVID-19 tests, and to distribute all COVID-19 tests. 2021 Extra. Sess. Ky. Acts Ch. 5 Section 4 requires the cabinet to promulgate an emergency administrative regulation to implement Section 3. This emergency administrative regulation is in fulfillment of this statutory directive.

**Section 1. COVID-19 Tests Acquisition.**

- (1) The Kentucky Department for Public Health (KDPH) shall coordinate testing operations in accordance with federal and state requirements.
- (2) Federal and state funding shall be made available to support testing operations including the purchase of testing and laboratory supplies.
- (3) Request for COVID-19 testing resources, including personnel, equipment, and supplies, shall be made to the State Emergency Operations Center or the State Health Operation Center.
- (4) KDPH shall distribute any COVID-19 test available upon request from all hospitals, licensed health care providers, jails, prisons, homeless shelters, local health departments, and other entities.

**Section 2. COVID-19 Test Distribution in Support of Vulnerable Populations.**

- (1) In accordance with Ky. Acts Ch. 5 Section 3 the cabinet shall, to the extent supplies and necessary funding is available, and in compliance with existing federal and state statutes and regulations, obtain and distribute BinaxNOW™ antigen test cards to jails, prisons, homeless shelters, local health departments, and other entities serving vulnerable populations;
- (2) A standardized request process describing eligible entities, program requirements, and including a link to an online request survey shall be available at the [kycovid19.ky.gov](http://kycovid19.ky.gov) Web site.

*STEVEN J. STACK, MD, MBA, Commissioner*  
*ERIC C. FRIEDLANDER, Secretary*

APPROVED BY AGENCY: September 27, 2021

FILED WITH LRC: October 1, 2021 at 10:03 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on November 22, 2021, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by November 15, 2021, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given

an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until November 30, 2021. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

**CONTACT PERSON:** Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746; fax 502-564-7091; email [CHFSregs@ky.gov](mailto:CHFSregs@ky.gov).