

CABINET FOR HEALTH AND FAMILY SERVICES

Office of Inspector General

Division of Health Care

(Amended at ARRS Committee)

906 KAR 1:210. Health care services agencies.

RELATES TO: KRS 216.718 – 216.728, 216.785 – 216.793

STATUTORY AUTHORITY: KRS 216.720(2), 216.728(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216.720(2) requires the cabinet to promulgate administrative regulations in accordance with KRS Chapter 13A to establish the application process for registration of health care services agencies. KRS 216.728(2) requires the cabinet to promulgate administrative regulations in accordance with KRS Chapter 13A to establish requirements for health care services agencies to submit quarterly reports. This administrative regulation establishes requirements for health care services agency registration and quarterly reporting.

Section 1. Definitions.

- (1) "Assisted-living community" is defined by KRS 216.718(1).
- (2) "Cabinet" is defined by KRS 216.718(2).
- (3) "Controlling person" is defined by KRS 216.718(3).
- (4) "Direct care service" is defined by KRS 216.718(4).
- (5) "Direct care staff" is defined by KRS 216.718(5).
- (6) "Health care services agency" is defined by KRS 216.718.
- (7) "Hospital" is defined by KRS 216.718(7).
- (8) "Long-term care facilities" is defined by KRS 216.718(8).

Section 2. Registration. A health care services agency that refers direct care staff to assisted-living communities, long-term care facilities, or hospitals in Kentucky shall register with the cabinet as required by KRS 216.720(1).

Section 3. Application and Fees.

- (1) An applicant for initial registration or annual renewal as a health care services agency shall submit to the Office of Inspector General:
 - (a) A completed Application for Registration to Operate a Health Care Services Agency; and
 - (b) In accordance with KRS 216.720(2)(f), an accompanying fee in the amount of \$3,000, made payable to the Kentucky State Treasurer.
- (2) As a condition of annual renewal, the application required by subsection (1) of this section shall be submitted to the cabinet at least sixty (60) days prior to the date of expiration of the agency's registration.
- (3) In accordance with KRS 216.720(1), each separate location of a health care services agency shall register and obtain a separate registration.
- (4)
 - (a) Name change. A health care services agency shall:
 1. Notify the Office of Inspector General in writing within ten (10) calendar days of the effective date of a change in the agency's name; and
 2. Submit a processing fee of twenty-five (25) dollars.
 - (b) Change of location. A health care services agency shall not change the location where a facility is operated until an Application for Registration to Operate a Health Care Services Agency accompanied by a fee of ~~\$100~~one hundred (100) dollars is filed with the Office of Inspector General.
 - (c) Change of ownership.

1. In accordance with KRS 216.720(4), if a controlling person changes, the health care services agency is sold, or the management is transferred, the agency shall submit to the Office of Inspector General a completed Application for Registration to Operate a Health Care Services Agency accompanied by a fee of \$3,000 no later than thirty (30) calendar days from the effective date of the change.

2. A change of ownership shall be deemed to occur if more than twenty-five (25) percent of an existing health care services agency or capital stock or voting rights of the corporation is purchased, leased, or otherwise acquired by one (1) person from another.

Section 4. Scope of Operations.

(1) ~~{In accordance with KRS 216.722(1),}~~ A health care services agency shall meet all of the minimum requirements as established in KRS 216.722(1)(a) through (f) relating to documentation, health and qualifications of personnel, professional and general liability insurance, an employee dishonesty bond, worker's compensation, and record retention~~;~~

~~{(a)} {Retain documentation that each direct care staff contracted with or employed by the agency meets the minimum licensing, certification, training, and continuing education standards for his or her position;}~~

~~{(b)} {Comply with all pertinent requirements relating to the health and other qualifications of personnel employed in:}~~

~~{1.} {An assisted-living community;}~~

~~{2.} {A long-term care facility; or}~~

~~{3.} {A hospital;}~~

~~{(c)} {Carry all professional and general liability insurance coverage to insure against loss, damage, or expense incident to a claim arising out of the death or injury of any person as the result of negligence or malpractice in the provision of direct care services by the health care services agency or any direct care staff;}~~

~~{(d)} {Carry an employee dishonesty bond in the amount of \$10,000;}~~

~~{(e)} {Maintain coverage for workers' compensation for all direct care staff; and}~~

~~{(f)} {Retain all records for five (5) calendar years and make all records immediately available to the cabinet upon request}.~~

(2) A health care services agency shall demonstrate compliance with:

(a) KRS 216.724;

(b) KRS 216.789; and

(c) KRS 216.793.

Section 5. Quarterly Reports.

(1) In accordance with KRS 216.728, a health care services agency shall submit quarterly reports to the cabinet on the Quarterly Report form that ~~includes~~include the following information:

(a) The name, professional licensure or certification, and assigned location for each direct care staff;

(b) The length of time the direct care staff person has been assigned to the assisted-living community, long-term care facility, or hospital and the total hours worked; and

(c) For all long-term care facilities or hospitals that participate in the Medicare and Medicaid programs:

1. Copies of all invoices submitted to the long-term care facility or hospital; and

2. Proof of payment by the long-term care facility or hospital.

(2) The quarterly reports shall be submitted to the cabinet for the preceding calendar quarter by February 1, May 1, August 1, and November 1 of each year.

Section 6. Complaints. In accordance with KRS 216.726, a complaint relating to a health care services agency or direct care staff may be made in accordance with the instructions provided in the complaint information document available for download from the Office of Inspector General's Web site: <https://chfs.ky.gov/agencies/os/oig/dhc/Pages/default.aspx>.

Section 7. Denial, Expiration, Revocation, and Fines.

(1) The cabinet shall deny an Application for Registration to Operate a Health Care Services Agency if:

- (a) The applicant or existing agency knowingly misrepresents or submits false information on the application;
- (b) The applicant or existing agency fails to provide the information and fee required by Section 3(1) of this administrative regulation;
- (c) The applicant or existing agency fails to comply with Section 4(1) of this administrative regulation; or
- (d) A controlling person in the entity applying for registration was a controlling person in a previously registered health care services agency that had its registration revoked for noncompliance during the five (5) year period immediately preceding the filing of the application.

(2)

(a) In accordance with KRS 216.720(4), a health care services agency's registration shall expire one (1) year from the date of issuance.

(b) If the health care services agency fails to renew its registration pursuant to Section 3(2) of this administrative regulation:

1. Its registration shall be cancelled effective one (1) day after the expiration date;
2. The Office of Inspector General shall document the agency's registration as inactive; and
3. The agency shall not continue to refer staff to an assisted-living community, long-term care facility, or hospital in Kentucky until its registration is renewed.

(3) Failure to comply with Section 4(1) of this administrative regulation shall result in the penalties as established in KRS 216.722(2)~~iff~~

~~iff~~ ~~(a) [Revocation of registration; and]~~

~~(b) [A monetary penalty in the amount of \$25,000].~~

(4) The cabinet shall revoke registration ~~iff~~:

(a) In accordance with KRS 216.722(3)~~iff~~, ~~the cabinet determines that a health care services agency knowingly provided to an assisted-living community, a long-term care facility, or a hospital direct care staff who have illegally or fraudulently obtained or been issued a diploma, registration, license, certification, or criminal background check~~; or

(b) ~~If~~ the cabinet determines that there has been substantial failure by the health care services agency to comply with the provisions of this administrative regulation or KRS 216.718 – 216.728.

Section 8. Notice of Adverse Action.

(1) Except for a violation of KRS 216.722(3), OIG shall provide written notice of adverse action at least thirty (30) calendar days prior to the effective date of the denial or revocation.

(2) ~~In accordance with KRS 216.722(3),~~ The cabinet shall immediately notify a health care services agency that its registration will be revoked in fifteen (15) days if the cabinet determines an~~that the~~ agency has knowingly engaged in the conduct described in KRS 216.722(3)~~provided to an assisted-living community, long-term care facility, or a hospital direct care staff who have illegally or fraudulently obtained or been issued a:~~

~~(a) [Diploma, registration, license, or certification; or]~~

~~(b) [Criminal background check].~~

(3) A notice of adverse action issued in accordance with subsection (1) or (2) of this section shall:

- (a) Explain the reason for the denial or revocation, and monetary penalty if applicable;
- (b) Advise the health care services agency of the right to request an appeal prior to the effective date of the denial or revocation, and monetary penalty if applicable; and
- (c) Specify that the adverse action shall be stayed if an appeal is requested.

Section 9. Closure of a Health Care Services Agency. If a health care services agency closes voluntarily or as the result of denial or revocation of the registration, the agency shall relinquish to the cabinet its registration to operate as a health care services agency immediately after the effective date of the closure.

Section 10. Appeals. A health care services agency that submits a written request for appeal within thirty (30) calendar days of the date the agency receives a notice of adverse action, including revocation pursuant to KRS 216.722(3), shall be afforded a hearing in accordance with KRS Chapter 13B.

Section 11. Incorporation by Reference.

(1) The following material is incorporated by reference:

- (a) Form OIG 1:210, "Application for Registration to Operate a Health Care Services Agency", August 2022 edition; and
- (b) Form OIG 1:210-A, "Quarterly Report", August 2022 edition.

(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. This material may also be viewed on the Office of Inspector General's Web site at: <https://chfs.ky.gov/agencies/os/oig/dhc/Pages/ltcapplications.aspx>.

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