

**CABINET FOR HEALTH AND FAMILY SERVICES**  
**Office of Inspector General**  
**Division of Health Care**  
**(Amendment)**

**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) "Permanent direct care staff" is defined by KRS 216.718(5).
- (6) "Health care services agency" is defined by KRS 216.718(~~6~~).
- (7) "Hospital" is defined by KRS 216.718(7).
- (8) "Long-term care facilities" is defined by KRS 216.718(8).
- (9) "Temporary direct care staff" is defined by KRS 216.718(9).

**Section 2. Registration.**

- (~~1~~) A health care services agency that refers temporary 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).
- (~~2~~) In accordance with 2023 Ky. Acts ch. 61, sec. 6 (KRS 216.725), the requirements of this administrative regulation shall not apply to the placement of permanent direct care staff.

**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 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) 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.

(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 the following information:

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

(b) The length of time the temporary 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 temporary 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).
  - (4) The cabinet shall revoke registration:
    - (a) In accordance with KRS 216.722(3); 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) 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 agency has knowingly engaged in the conduct described in KRS 216.722(3).
- (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", May 2023~~[August 2022]~~ edition; and
  - (b) Form OIG 1:210-A, "Quarterly Report", May 2023~~[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/lcapplications.aspx>.

*ADAM MATHER, Inspector General*  
*ERIC C. FRIEDLANDER, Secretary*

APPROVED BY AGENCY: May 4, 2023

FILED WITH LRC: May 11, 2023 at 8:00 a.m.

**PUBLIC HEARING AND COMMENT PERIOD:** A public hearing on this administrative regulation shall, if requested, be held on July 24, 2023, 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 July 17, 2023, 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 July 31, 2023. 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; [CHFSregs@ky.gov](mailto:CHFSregs@ky.gov).

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person:s: Kara Daniel; Stephanie Brammer-Barnes, Krista Quarles

**(1) Provide a brief summary of:**

**(a) What this administrative regulation does:**

This administrative regulation establishes requirements for health care services agency registration.

**(b) The necessity of this administrative regulation:**

This administrative regulation is necessary to comply with KRS 216.718-216.728.

**(c) How this administrative regulation conforms to the content of the authorizing statutes:**

This administrative regulation conforms to the content of KRS 216.718 – 216.728 by establishing requirements for health care services agency registration.

**(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:**

This administrative regulation assists in the effective administration of the statutes by establishing requirements for the registration of health care services agencies as required by HB 282 enacted by the 2022 General Assembly and HB 502, clean-up legislation passed during the 2023 legislative session.

**(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:**

**(a) How the amendment will change this existing administrative regulation:**

In accordance with the passage of HB 502, this amendment: 1. Adds definitions for "permanent direct care staff" and "temporary direct care staff" and makes conforming changes throughout the body of the regulation; and 2. Exempts the placement of permanent direct care staff from the requirements of this administrative regulation. It is important to note that HB 502 was clean-up legislation intended to exclude health care workers such as international travel nurses whose assignments are generally twenty-four (24) months or longer from the requirements of KRS 216.718-216.728.

**(b) The necessity of the amendment to this administrative regulation:**

This amendment is necessary to align with the 2023 passage of HB 502.

**(c) How the amendment conforms to the content of the authorizing statutes:**

This amendment conforms to the content of KRS 216.718-216.728 and HB 502.

**(d) How the amendment will assist in the effective administration of the statutes:**

This amendment assists in the effective administration of the statutes by aligning with the changes made by HB 502 to KRS 216.718, 216.722, 216.724, 216.726, and 216.728 as well as a new statute (KRS 216.725).

**(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:**

This amendment affects health care services agencies. The original version of this administrative regulation was adopted on January 12, 2023. Because the program is relatively new, there are currently 10 applications for registration pending approval.

**(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the**

**change, if it is an amendment, including:**

**(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:**

Entities seeking registration as a health care services agency will be required to submit an initial and annual renewal application to the cabinet. The requirements for registration and quarterly reporting are established in KRS 216.720 and 216.722, and Sections 3 through 5 of this administrative regulation.

**(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):**

This amendment does not impose additional costs on health care services agencies.

**(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):**

Entities seeking registration as a health care services agency must demonstrate compliance with this administrative regulation and KRS 216.718 – 216.728.

**(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:**

**(a) Initially:**

There are no additional costs to the Office of Inspector General for implementation of this amendment.

**(b) On a continuing basis:**

There are no additional costs to the Office of Inspector General for implementation of this amendment on a continuing basis.

**(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:**

State general funds and agency monies will be used to implement and enforce this administrative regulation.

**(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:**

No increase in fees or funding is necessary to implement this amendment.

**(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:**

The existing language of this regulation establishes an initial and annual registration fee of \$3,000 in accordance with KRS 216.720(2)(f). The existing language of this regulation also establishes a processing fee of \$25 for a change of name and a processing fee of \$100 for a change of location. This amendment does not make any changes to the fees.

**(9) TIERING: Is tiering applied?**

Tiering is not applicable as compliance with this administrative regulation applies equally to all entities regulated by it.

## FISCAL NOTE

**(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?**

This administrative regulation impacts health care services agencies and the Cabinet for Health and Family Services, Office of Inspector General.

**(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.**

KRS 216.720(2), 216.728(2)

**(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.**

**(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?**

KRS 216.720(2)(f) establishes an initial and annual registration fee of \$3,000. KRS 216.722(2) authorizes the cabinet to impose a fine of \$25,000 for noncompliance. In addition, this administrative regulation establishes a processing fee of \$25 for a change of name and a processing fee of \$100 for a change of location. However, this amendment will not generate additional revenue.

**(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?**

This amendment will not generate additional revenue in subsequent years.

**(c) How much will it cost to administer this program for the first year?**

There are no additional costs to the Office of Inspector General for implementation of this amendment.

**(d) How much will it cost to administer this program for subsequent years?**

There are no additional costs to the Office of Inspector General for implementation of this amendment during subsequent years.

**Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.**

**Revenues (+/-):**

**Expenditures (+/-):**

**Other Explanation:**

**(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.**

No answer provided.

**(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year?**

This administrative regulation will not generate cost savings for regulated entities during the first year.

**(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years?**

This administrative regulation will not generate cost savings for regulated entities during subsequent years.

**(c) How much will it cost the regulated entities for the first year?**

In accordance with KRS 216.722(2), this administrative regulation will cost regulated entities a fee of \$3,000 during the first year of registration. In accordance with KRS 216.722(1), regulated entities must carry all professional and general liability insurance and carry an employee dishonesty bond of \$10,000.

**(d) How much will it cost the regulated entities for subsequent years?**

In accordance with KRS 216.722(2), this administrative regulation will cost regulated entities a fee of \$3,000 for annual renewal during subsequent years. In accordance with KRS 216.722(1), regulated entities must carry all professional and general liability insurance and carry an employee dishonesty bond of \$10,000.

**Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.**

**Cost Savings (+/-):**

**Expenditures (+/-):**

**Other Explanation:**

**(5) Explain whether this administrative regulation will have a major economic impact, as defined below.**

"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)] This amendment will not have a major economic impact on the regulated entities.