

BOARDS AND COMMISSIONS

Board of Veterinary Examiners

(Amendment)

201 KAR 16:550. Authorization for animal control agencies to apply for a restricted controlled substances certificate from DEA.

RELATES TO: KRS 217.177(1), (4), Chapter 258, Chapter 301, 321.207, 321.351

STATUTORY AUTHORITY: KRS 321.207(1) – (3),(5)-(8), 321.235(1)(a), (b), (2)(b)3

NECESSITY, FUNCTION, AND CONFORMITY: KRS 321.207(1) permits the Kentucky Board of Veterinary Examiners to authorize an animal control agency to apply for a registration certificate by the United States Drug Enforcement Administration (DEA) to euthanize animals. KRS 321.207(2) requires the applicant agency to comply with administrative regulations that establish standards for the proper storage and handling of the drugs the board has authorized for use, and other provisions that may be necessary to ensure that the drugs are used safely and solely for the purpose of euthanizing animals. KRS 321.235(1)(a), (b), and (2)(b)3 authorize the board to promulgate administrative regulations to implement KRS Chapter 321. This administrative regulation establishes the application, renewal, and reinstatement requirements for certification of an animal shelter as an animal control agency, and the requirements for board inspections at certified animal control agencies.

Section 1. Definitions.

(1) "Animal Control Agency" means an animal shelter fulfilling the duties required pursuant to KRS Chapter 258, and the animal shelter is either owned, contracted with, or in service on behalf of a county or municipality.

(2)

(a) "Animal shelter" means a public agency or private humane society, society for the prevention of cruelty to animals, animal protection shelter or control agency, or other facility that provides shelter and care for homeless, stray, unwanted, or injured animals.

(b) An "animal shelter" shall not include:

1. Shelter or care of wildlife; or
2. Premises of a Kentucky Department of Fish and Wildlife Resources credentialed:
 - a. Certified wildlife rehabilitator (301 KAR 2:075);
 - b. Commercial nuisance wildlife control operator (301 KAR 3:120);
 - c. Captive wildlife holder (301 KAR 2:081);
 - d. Wildlife transporter (301 KAR 2:082).

(3) "Certified Animal Control Agency" means an animal shelter that is certified under the provisions of KRS Chapter 321 and 201 KAR Chapter 16.

(4) "Designated On-site Manager" means a person who registers with the board to assume responsibility for the ordering, management, use, and disposal of controlled substances at a board-certified animal control agency.

Section 2. Application and Renewal Requirements.

(1) The applicant animal shelter shall apply to the board for authorization to operate as a certified animal control agency and to apply to the federal Drug Enforcement Administration (DEA) for a Controlled Substance Registration as established by KRS 321.207.

(2) A complete application to the board shall include the following:

- (a) A completed Application for Certification as an Animal Control Agency form or online equivalent form, including all required attachments;
- (b) Identification of the agency designated on-site manager;

- (c) A complete and current list of all individuals performing euthanasia or related activities at the animal shelter, whether or not each individual holds a credential from the board;
 - (d) An animal control agency verification letter signed by the governing body within the county or municipality, including a statement about the animal shelter's role as an animal control agency or contractor pursuant to KRS 258.195;
 - (e) A list of all Kentucky counties which are provided service by the animal shelter; and
 - (f) Payment of the fee in accordance with 201 KAR 16:514.
- (3) Prior to the board's issuance of the animal control agency certificate, the applicant shall undergo an inspection of the facility by the board, its inspector, or other designee of the board in accordance with Section 5 of this administrative regulation.
- (4) Following board application approval, the applicant shall apply to DEA for registration as a practitioner and designate "animal shelter" on the appropriate DEA application form.
- (5) A certified animal control agency shall submit to inspection by a board representative at any time, with or without advanced notice.
- (6) A certified animal control agency shall identify a designated on-site manager in accordance with 201 KAR 16:552.
- (a) The agency shall notify the board in writing within ten (10) days of any change in the designated on-site manager of the certified animal control agency by submitting a completed Request for a New Designated On-site Manager form or online equivalent form, including all required attachments.
 - (b) The designated on-site manager shall be responsible for complying with all state and federal laws related to the ordering, purchase, storage, tracking, management, and disposal of the drugs obtained under the DEA controlled substances registration.
- (7) Background checks. The board may:
- (a) Conduct a national or jurisdictional level background check on each designated on-site manager. The check shall be processed by a board approved background check provider, and may include a copy of the designated on-site manager's fingerprints captured at a board approved location;
 - (b) Accept the results of a state-wide employment background check in lieu of a state or federal background check if the background check results are not more than six (6) months old from the date of application;
 - (c) Reject background checks that do not have an official seal or watermark, or that are more than ninety (90) days old; and
 - (d) Impose additional administrative or safety requirements as a condition of certification for the animal control agency or deny certification following the board's review of findings from a background check.

Section 3. Renewal Requirements for a Certified Animal Control Agency.

- (1) A board-certified animal control agency shall renew the board certification annually in accordance with 201 KAR 16:572.
- (2) Failure to renew the certificate for an animal control agency shall result in the following actions by the board:
 - (a) The animal control agency certificate shall be moved to expired status;
 - (b) Each "active" status certified animal euthanasia specialist under the employment of the expired certified animal control agency shall be moved to "inactive" status;
 - (c) The DEA shall be notified of the lapse in certification; and
 - (d) The board shall conduct a closeout inspection within six (6) months of the date of expiration of the certificate to ensure that the controlled substances and other drugs on-site are properly disposed of. An animal shelter with an expired certificate shall

continue to maintain the drugs in accordance with 201 KAR 16:552, and the Kentucky Veterinary Medicine Practice Act (KRS Chapter 321), and 201 KAR Chapter 16, until the drugs are transferred in accordance with state and federal laws, or disposed of in accordance with 201 KAR 16:552, Section 7.

Section 4. Reinstatement Requirements for Certified Animal Control Agencies.

- (1) An animal control agency with an expired certificate shall have five (5) years to reinstate their certificate by submitting a completed Reinstatement Application for Animal Control Agencies form or online equivalent form, including all required attachments and payment of the reinstatement application fee pursuant to 201 KAR 16:514.
- (2) The animal control agency shall undergo inspection by an authorized representative of the board in accordance with Section 5(3) of this administrative regulation prior to the reinstatement of a certificate.
- (3) After five (5) years of the date of the expiration of the certificate, the agency shall not reinstate the certificate and the animal control agency shall be required to apply for a new certificate in accordance with 201 KAR Chapter 16.

Section 5. Inspection Requirements.

- (1) A certified animal control agency shall be subject to inspection by the board, its investigator, or a board representative.
- (2) An inspection may occur at any time, with or without advance notice. The designated on-site manager shall make themselves available to provide access and information during the inspection.
- (3) An inspection shall be required:
 - (a) Prior to the approval of a new Application for Certification as an Animal Control Agency;
 - (b) Prior to the approval of a Reinstatement Application for Animal Control Agencies, if the last inspection was completed more than twelve (12) months prior to the date of the application;
 - (c) Periodically on a schedule set by the board, not more routinely than every ten (10) months, and at least once every two (2) years;
 - (d) As needed due to staff turnover at the animal control agency;
 - (e) Under suspicion of probable cause for violation of KRS Chapter 321 or 201 KAR Chapter 16; and
 - (f) Following the expiration, termination, suspension, or surrender of the certificate in accordance with Section 3(2)(d) of this administrative regulation.

Section 6. Incorporation by Reference.

- (1) The following material is incorporated by reference:
 - (a) "Application for Certification as an Animal Control Agency", 7/2023;
 - (b) "Reinstatement Application for Animal Control Agencies", 7/2023; and
 - (c) "Request for a New Designated On-site Manager", 7/2023.
- (2) This material may be inspected, copied, or obtained, subjected to applicable copyright law, at the Kentucky Board of Veterinary Examiners, 107 Corporate Drive, Frankfort, Kentucky 40601, Monday through Friday, 8:30 a.m. to 4:30 p.m. This material may also be obtained at www.kybve.com.

MICHELLE M. SHANE, Executive Director

APPROVED BY AGENCY: July 12, 2023
FILED WITH LRC: July 12, 2023 at 1:00 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on September 25, 2023 at 1:00 p.m., at the Kentucky Department of Agriculture, Office of the State Veterinarian, 109 Corporate Drive, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made prior to the end of the hearing. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through September 30, 2023. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Michelle Shane, Executive Director, Kentucky Board of Veterinary Examiners, 107 Corporate Drive, Second Floor, Frankfort, Kentucky 40601, phone (502) 782-0273, fax (502) 695-5887, email michelle.shane@ky.gov.