

## BOARDS AND COMMISSIONS

### Board of Veterinary Examiners

#### (Amended After Comments)

#### 201 KAR 16:552. Responsibilities for certified animal control agencies; limitations on drugs.

RELATES TO: KRS 321.181, 321.207, ~~321.235~~~~[321.235(7)]~~, 321.351

STATUTORY AUTHORITY: KRS ~~321.207(1) – (3), (5)-(8), 321.235(1)(a), (b), (2), (b)3~~~~[(1), (2), 321.235(3), 321.240(5)]~~

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 ~~procure, manage, and dispose of~~~~order, purchase, manage, and store~~ controlled substances which are authorized by the board for use in animal sedation and euthanasia. 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), (2), (b)3. authorizes~~~~[KRS 321.235(3) and 321.240(5) authorize]~~ the board to promulgate administrative regulations to implement KRS Chapter 321. This administrative regulation establishes the duties for the animal control agency designated on-site manager, standards for proper drug storage, and drugs that may be used by certified animal control agencies and the certified animal euthanasia specialists they employ.

#### Section 1. Definitions.

- (1) "Dispose" in relation to drugs means to destroy or transfer.
- (2) "Manage" in relation to drugs means to administer, dispense, or inventory.
- (3) "Procure" in relation to drugs means to order, purchase, or receive.

#### Section 2. Responsibilities of a Certified Animal Control Agency. A certified animal control agency shall:

- (1) Ensure ~~{A certified animal control agency and}~~ staff shall comply with all requirements of KRS Chapter 321 and 201 KAR Chapter 16.
- (2) Identify ~~{A certified animal control agency shall identify}~~ an agency designated on-site manager and ensure the person complies with the requirements in Section 2 of this administrative regulation.
- (3) Report any ~~{Any}~~ change to the designated on-site manager ~~{shall be reported}~~ in writing to the board within ten (10) business days by submitting a completed Request for a New Designated On-site Manager form or online equivalent form, including all required attachments.
- (4) Notify the board in writing within ten (10) business days following the termination or severance of employment of a certified animal euthanasia specialist in order that the certificate of the animal euthanasia specialist may be moved to inactive status.
- (5) Ensure ~~{A certified animal control agency shall ensure}~~ that the United States Drug Enforcement Administration (DEA) Controlled Substances Registration is kept in active status if there are controlled substances in the possession of the animal control agency.
- (6) ~~{(5)}~~ Submit ~~{A certified animal control agency shall submit}~~ to inspection by a board representative at any time, with or without advanced notice in accordance with 201 KAR 16:550, Section 5.

**(7) Report to the board and to DEA within twenty-four (24) hours any suspected diversion of controlled substances or theft of controlled substances.**

**Section 3. ~~Section 2.~~ Responsibilities of a Designated On-site Manager.**

(1) The designated on-site manager shall be responsible for reviewing educational materials provided by the board and submitting a responsive answer sheet for review by the board. A board inspector or representative shall periodically review educational materials with the designated on-site manager.

(2) The designated on-site manager shall:

(a) Ensure proper controls are in place in accordance with all state and federal laws for all controlled substances and other drugs at the animal control agency;

(b) Ensure drugs for euthanasia and drugs used for sedation prior to euthanasia shall be limited to the substances identified in Section 3 of this administrative regulation;

(c) Ensure all employees authorized to conduct animal euthanasia at the certified animal control agency are trained and certified in accordance with the requirements of 201 KAR 16:560 and 16:562, unless the employee is a board-licensed veterinarian or board-licensed veterinary technician;

(d) Ensure all animal euthanasia specialists who conduct euthanasia at the certified animal control agency maintain an active certificate with the board;

(e) Notify the board in writing within ten (10) business days following the termination of a certified animal euthanasia specialist so the certificate of the animal euthanasia specialist may be taken out of "active" status;

(f) **Develop ~~Shall develop~~** and maintain standard operating procedures in writing for carcass disposal in accordance with all state and local laws and ordinances; ~~and~~

(g) **Ensure that a designated area is provided for animal euthanasia activities, and that the area is kept clean and orderly, and is maintained as a safe workspace;**

(h) **Ensure that drugs ordered under DEA Registration held by any person or entity other than the certified animal control agency are kept in separate secure storage pursuant to KRS 321.207(8); and**

(i) **Be ~~Shall be~~** responsive and cooperative to the board's request for access and information to the certified animal control agency.

(3) The designated on-site manager shall ensure that the animal euthanasia process shall be conducted within the restrictions set forth in this subsection.

(a) Euthanasia shall only be conducted upon animals owned by the certified animal control agency, except in cases of emergency care as defined by KRS 321.181(33) ~~[KRS 321.181(10)]~~.

1. Transfer of ownership or a temporary contract shall not be used for the purpose of circumventing this subsection; and

2. Wildlife shall be redirected to one (1) of the following:

a. A ~~an~~ board-licensed veterinarian;

b. A Certified Wildlife Rehabilitator authorized to operate pursuant to 301 KAR 2:075; ~~or~~

c. A Commercial ~~to a~~ Nuisance Wildlife Control Operator authorized to operate pursuant to 301 KAR 3:120;

d. A Captive Wildlife Holder authorized to operate pursuant to 301 KAR 2:081; ~~or~~

e. A Wildlife Transporter authorized to operate pursuant to 301 KAR 2:082 ;

f. **KDFWR wildlife biologist; or**

g. **KDFWR conservation officer.**

(b) Euthanasia shall only be conducted upon the premises of the certified animal control agency, except in cases of emergency care as defined by KRS 321.181(33) ~~[KRS 321.181(10)]~~; and

(c) All euthanized animals shall be disposed of in accordance with the certified animal control agency's standard operating procedures for carcass disposal.

**Section 4. ~~Section 3.~~ Authorized ~~Approved~~ Drugs for Animal Euthanasia and Anesthesia or Sedation of Animals Prior to Euthanasia.**

(1) A certified animal control agency shall be restricted to the purchase of only sodium pentobarbital~~[the following board-approved]~~ ~~specific drugs~~ for the purpose of animal euthanasia. ~~[The drugs approved by the board for euthanasia are:]~~

~~[(a)] Sodium pentobarbital; and~~

~~[(b)] Sodium pentobarbital with lidocaine.]~~

(2) A certified animal control agency shall be restricted to the purchase of only the following board-authorized~~[board-approved]~~ specific drugs, or any combination thereof, for the purpose of animal anesthesia or sedation prior to euthanasia.~~[The drugs approved by the board for animal anesthesia or sedation prior to euthanasia are, or any combination thereof:]~~

(a) Acepromazine;

(b) Dexmedetomidine;

(c) Ketamine~~[(30-day supply or less)]~~; and

(d) Xylazine.

(3) Scheduled drugs (controlled substances) shall be limited to a thirty (30) day supply, or the smallest quantity available for purchase if that quantity is greater than a thirty (30) day supply.

(4) DEA's Schedule II order forms (titled "DEA-222") shall be used for each purchase or transfer of board authorized~~[approved]~~ controlled substances.

~~(5) [(4)]~~ Expired drugs.

(a) Expired drugs shall not be used.

(b) Expired drugs shall be properly disposed of in accordance with Section 7 of this administrative regulation.

**Section 5. ~~Section 4.~~ Storage.**

(1) Board authorized~~[approved]~~ euthanasia and sedation drugs shall be stored at the DEA address of record for the certified animal control agency in a secure steel safe or securely locked steel cabinet within:

(a) A ~~[a]~~ locked storage room;~~;~~ or

(b) Other locked ~~[other]~~ enclosure; and~~[at the DEA address of record for the certified animal control agency.]~~

(c) If the cabinet weighs less than 750 lbs, the ~~[The]~~ cabinet shall be bolted securely to the floor or wall.

(2) DEA Controlled Substance Schedule II order forms shall be maintained at the DEA address of record for the certified animal control agency~~[stored]~~ in a securely locked cabinet that is~~;~~

(a) Separate ~~[separate]~~ from the storage location of the drugs;~~;~~

(b) Within ~~[within]~~ a locked storage room; or

(c) Other locked ~~[other]~~ enclosure~~[ at the DEA address of record for the certified animal control agency].~~

**Section 6. ~~Section 5.~~ Disposal of Needles and Medical Waste.**

(1) All needles in an animal control agency shall:

(a) Not be accessible to the public;

(b) After one (1) use, be rendered incapable of re-use~~[use]~~; and

(c) Be disposed of in an approved biohazard or sharps container.

(2) All syringes used in the process of euthanasia shall be disposed of in an approved biohazard or sharps container.

**Section 7. ~~Section 6.~~** Records.

- (1) A certified animal control agency shall maintain records of **procurement, management, and disposal** ~~purchases, administration~~ of **board authorized** ~~board approved~~ euthanasia drugs and sedation drugs as listed in Section 3 of this administrative regulation~~, transfer, and destruction of drugs~~ for a minimum of two (2) years.
- (2) Records of administration shall include, at a minimum, the following ~~information~~:
  - (a) The date of use;
  - (b) Identification of the animal;
  - (c) The amount of the drug used;
  - (d) Any amount wasted;
  - (e) The signature of the person administering the drug;
  - (f) The signature of the designated on-site manager certifying the accuracy of the administration of board **authorized** ~~approved~~ euthanasia drugs and sedation drugs not less than once per month; and
  - (g) The signature of the designated on-site manager certifying to the accuracy of the records not less than once per month, as well as on the annual inventory.
- (3) Records of **procurement** ~~purchase~~ and destruction of board **authorized** ~~approved~~ euthanasia drugs and sedation drugs shall be maintained in a separate file from the records of administration of those substances.
- (4) The records of **procurement, management, and disposal** ~~purchase, destruction, and administration~~ may be audited by representatives of the DEA or authorized designees of the board to determine adequacy, accuracy, and validity of the recordkeeping. The board may impose restrictions and administrative penalties on certificate holders or designated on-site managers as a result of substandard controls or records of the drugs.
- (5) The records of purchase, administration, transfer, and destruction of euthanasia and sedation drugs, shall be maintained at the DEA address of record for the certified animal control agency.

**Section 8. ~~Section 7.~~** Destruction or Disposal of Drugs. Drugs at an animal control agency that require disposal shall be disposed of in accordance with one (1) of the methods set forth in this section. A written receipt with appropriate signatures shall be obtained for the methods in subsections (1) through (3) of this section, and a record of the action taken shall be made for the method in subsection (4) of this section. The record shall be maintained with the drug logs at the animal control agency.

- (1) Transfer non-expired, non-controlled drugs to a licensed veterinarian.
- (2) Transfer non-expired, controlled drugs to a DEA registered, board-licensed veterinarian using DEA Form 222. Copies of the DEA Form 222 shall be distributed per federal law.
- (3) Surrender expired or non-expired drugs to local law enforcement for destruction.
- (4) Inject expired or non-expired drugs into and incinerate an animal carcass in accordance with state and local rules on incineration. Written documentation shall describe the amounts disposed of, type of carcass, date of injection and incineration, witnesses, and any other pertinent details.

**Section 9. ~~Section 8.~~** Disciplinary Action. An animal control agency, designated on-site manager, and ~~credentialed~~ animal euthanasia specialists shall be subject to disciplinary action pursuant to KRS 321.235 and 321.351 for a violation of state or federal statutes or administrative regulations.

**Section 10. ~~Section 9.~~** Incorporation by Reference.

(1) "Request for a New Designated On-site Manager", 07/2023~~[12/2022]~~, is incorporated by reference.

(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](http://www.kybve.com).

*MICHELLE M. SHANE, Executive Director  
For JOHN C. PARK, DVM, Board Chair*

APPROVED BY AGENCY: November 13, 2023

FILED WITH LRC: November 13, 2023 at 11:30 a.m.

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## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

**Contact Person:Michelle Shane**

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

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

This administrative regulation establishes, for Board-certified animal control agencies, the standards for proper drug storage, limitations on the drugs that may be used by the agencies and the certified animal euthanasia specialists they employ, limitations on the animals on which the drugs may be used so that the specialists do not practice veterinary medicine outside the scope allowable by the General Assembly. In addition, this regulation outlines the responsibilities of the agency's Designated On-site Manager, who is in charge of controlled substances, including drug storage requirements, record keeping requirements, and limitations on options for the methods used for the destruction of drugs and sharps.

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

As mandated by the General Assembly in KRS 321.207, this administrative regulation is necessary to establish the drugs that may be used by certified animal control agencies and the certified animal euthanasia specialists they employ, and standards for proper drug storage and handling.

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

KRS 321.207 specifically requires the board to promulgate administrative regulations for board-certified animal control agencies limiting the type of drugs allowable for use by certified animal control agencies and the certified animal euthanasia specialists they employ, and establishing standards for proper drug storage and handling.

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

This administrative regulation will assist in effective administration by clearly detailing limitations on the operations of certified animal control agencies so that they do not exceed their operating scope as authorized by the General Assembly.

**(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:**

Updating statutory references to conform with the new Kentucky Veterinary Medicine Practice Act, KRS Chapter 312; adding additional options for the redirection of wildlife; adding limitations on the office stock for all controlled substances; and formatting the requirements so they are easier for constituents to understand.

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

Changes are necessary to conform with the new Kentucky Veterinary Medicine Practice Act, KRS Chapter 312. The Kentucky Board of Veterinary Examiners has determined this amendment is necessary to place strict limits on the supply of controlled substances in a certified animal control agency, and provide additional options to redirect wildlife.

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

KRS 321.207 specifically requires the board to promulgate administrative regulations related to board-certified animal control agencies, including requirements for storage and limitations on drugs.

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

This amendment shall ensure transparency about the requirements for allowable drugs, as well as their storage, maintenance, and use.

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

50 board-certified animal control agencies and 232 animal euthanasia specialists, and future applicants.

**(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:**

All board-certified animal control agencies shall be required to ensure adequate locked and secure storage for the management of controlled substances onsite, and limit their supply of controlled drugs to those listed by board in 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):**

Board-certified animal control agencies should already be properly ordering, storing, and managing controlled drugs as a part of requirements established by the Drug Enforcement Administration (DEA), so there should not be any additional costs.

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

By complying with this administrative regulation, entities should reduce break-ins and thefts of controlled substances, as well as be able to more easily comply with DEA Requirements related to drug record keeping. Animal Control Agencies should also reduce their liability to the public by limiting their scope of practice for board-certified euthanasia specialists, ensuring sharps are properly disposed of, and ensuring proper carcass disposal in compliance with local laws.

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

**(a) Initially:**

No costs are anticipated.

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

No costs are anticipated.

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

This administrative regulation does not establish fees. Funding for the KBVE comes from licensure and certification fees.

**(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:**

There is no anticipation of an increase in fees or needed funding to implement this administrative regulation, as the KBVE is already running an administrative program

to process applications and an inspection program to ensure compliance.

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

No fees are established or increased by this administrative regulation.

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

No. All regulated entities have the same requirements.

## 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?**

The Kentucky Board of Veterinary Examiners and board-certified animal control agencies.

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

KRS 321.207(1) – (3), (5)-(8), 321.235(1)(a), (b), (2)(b)3.

**(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?**

No revenue will be generated from this filing. An animal control agency may need to expend monies to ensure adequate storage for controlled substances management.

**(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?**

No revenue will be generated from this filing.

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

This is not a new program. Staff time will be required for record keeping.

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

Staff time will be required for record keeping. Costs will be very minimal.

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

**Revenues (+/-):**None.

**Expenditures (+/-):**None or negligible.

**Other Explanation:**

n/a

**(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.**

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

There will be no cost savings; this administrative regulation simply codifies the requirements of drug management and establishes limitations on drug administration, making them easily accessible for regulated entities.

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

There will be no cost savings.

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

An animal control agency may need to expend monies to ensure adequate storage for controlled substances management. There will be no additional costs involved.

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

There will be no additional costs involved.

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

**Cost Savings (+/-):**None.

**Expenditures (+/-):**None or negligible.

**Other Explanation:**

n/a

**(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 shall not have a "major economic impact", as defined in KRS 13A.010(13).