

CABINET FOR HEALTH AND FAMILY SERVICES

Office of the Secretary (Amended After Comments)

915 KAR 2:010. Procedures for registry identification cards.

RELATES TO: KRS Chapter 13B, Chapter 218B, Chapter 387

STATUTORY AUTHORITY: KRS 218B.140

NECESSITY, FUNCTION, AND CONFORMITY: KRS 218B.140 requires the Cabinet for Health and Family Services to promulgate administrative regulations establishing procedures for the issuance, renewal, suspension, and revocation of registry identification cards, including the creation of an application form. This administrative regulation establishes those procedures.

Section 1. Patient and Caregiver Registry.

(1) Except for persons who possess valid out-of-state registry identification cards and documentation of having been diagnosed with a qualifying medical condition as defined by KRS 218B.010(26), no person shall possess, purchase, acquire, or otherwise engage in the use of medicinal cannabis in Kentucky without first applying for and receiving a registry identification card issued by the cabinet.

(2) The eligibility requirements for qualified patients, designated caregivers, and visiting qualified patients to receive a registry identification card from the cabinet are contained in KRS 218B.055, including not being convicted of a disqualifying felony offense. The qualifications that a patient or caregiver shall meet to receive a registry identification card are continuing qualifications.

(3) The cabinet shall maintain a patient and caregiver registry for the Kentucky Medical Cannabis Program as part of the state's designated electronic monitoring system. To receive a registry identification card, qualified patients, visiting qualified patients, and designated caregivers shall complete an application in accordance with written instructions provided by the cabinet.

(4) The cabinet shall adhere to the confidentiality requirements for cardholders and information provided by qualified patients, visiting qualified patients, and designated caregivers contained in KRS 218B.135.

(5) Except as provided in KRS 218B.060(3)(b), the expiration date for registry identification cards shall be one (1) year after the date of issuance. A registry identification card shall not be valid beyond the expiration date.

Section 2. Application for a Registry Identification Card.

(1) An applicant shall only use the applicable registry identification card application form prescribed by the cabinet and made available through the Web site for the Kentucky Medical Cannabis Program, <https://kymedcan.ky.gov>.

(2) An applicant shall submit a registry identification card application to the cabinet in the manner prescribed by the application instructions.

(3) Pursuant to KRS 218B.055(6), a registry identification card application submitted by or on behalf of qualified patients shall include:

(a) The full name, address, telephone number, email address, date of birth, Social Security number, and driver's license number of the qualified patient, except that if the applicant is homeless an address where the applicant may be reached shall be provided to the cabinet;

(b) A written certification issued to the qualified patient by a medicinal cannabis practitioner;

(c) The name, address, and telephone number of the qualified patient's medicinal cannabis practitioner;

- (d) The full name, address, telephone number, email address, and date of birth of not more than two (2) individuals chosen by the qualified patient to be designated as a caregiver if the qualified patient chooses to designate a caregiver, except that if an individual has been appointed as a guardian, limited guardian, conservator, or limited conservator under KRS Chapter 387, the qualified patient shall choose that individual as a designated caregiver;
 - (e) The application fee for a qualified patient;
 - (f) A question asking whether the qualified patient wants to receive notifications from the cabinet of any clinical studies needing human subjects for research on the use of medicinal cannabis in accordance with KRS 218B.055(9);
 - (g) An attestation that:
 - 1. The qualified patient authorizes the cabinet to share cardholder information with licensed dispensaries for the purpose of sales and validating registry identification cards; and
 - 2. The qualified patient authorizes the cabinet to share cardholder information with law enforcement for the purpose of validating registry identification cards; and
 - (h) A notarized signature page signed by the qualified patient attesting that:
 - 1. The qualified patient verifies and affirms that all of the information provided in and with his or her application is true and accurate;
 - 2. The qualified patient understands that if the cabinet later determines any of the information provided in his or her application to be false, misleading, or inaccurate, the cabinet may suspend or revoke any registry identification card issued to the qualified patient and any caregiver designated by the qualified patient; and
 - 3. The qualified patient shall not divert medicinal cannabis to anyone who is not permitted to possess medicinal cannabis pursuant to KRS Chapter 218B and understands the potential penalties for doing so, including criminal prosecution and revocation of any registry identification card issued to the qualified patient by the cabinet.
- (4) Pursuant to KRS 218B.055(7), a registry identification card application submitted by or on behalf of qualified patients under the age of eighteen (18) shall, in addition to the information required under subsection (3) of this section, submit:
- (a) Documentation of diagnosis of a qualifying medical condition by a practitioner other than the medicinal cannabis practitioner who provided the written certification for the use of medicinal cannabis; and
 - (b) A statement signed by the custodial parent or legal guardian with responsibility for health care decisions for the minor qualified patient stating that the custodial parent or legal guardian agrees to:
 - 1. Allow the minor qualified patient to use medicinal cannabis;
 - 2. Serve as the minor qualified patient's designated caregiver; and
 - 3. Control the acquisition, possession, dosage, and frequency of use of medicinal cannabis by the minor qualified patient.
- (5) Except as provided in Section 5(4) of this administrative regulation, a caregiver may submit a registry identification card application following issuance of a registry identification card to the qualified patient who designated the caregiver in his or her registry identification card application. A caregiver shall submit a registry identification card application for each registered qualified patient that designated the caregiver in his or her application. Except as provided in KRS 218B.055(3)(b), a caregiver shall assist no more than three (3) registered qualified patients with the use of medicinal cannabis at any given time.
- (6) A registry identification card application submitted by a caregiver shall include:
- (a) The full name, address, telephone number, email address, date of birth, Social Security number, and driver's license number of the caregiver;

- (b) The full name and registry identification card number of the qualified patient who designated the applicant to be his or her caregiver;
 - (c) The application fee for a designated caregiver;
 - (d) An attestation that:
 - 1. The caregiver authorizes the cabinet to share cardholder information with licensed dispensaries for the purpose of sales and validating registry identification cards; and
 - 2. The caregiver authorizes the cabinet to share cardholder information with law enforcement for the purpose of validating registry identification cards; and
 - (e) A notarized signature page signed by the caregiver attesting that:
 - 1. The caregiver verifies and affirms that all of the information provided in and with his or her application is true and accurate;
 - 2. The caregiver understands that if the cabinet later determines any of the information provided in his or her application to be false, misleading, or inaccurate, the cabinet may suspend or revoke any registry identification card issued to the caregiver by the cabinet;
 - 3. The caregiver agrees to be designated as the caregiver for the registered qualified patient identified in his or her application; and
 - 4. The caregiver shall not divert medicinal cannabis to anyone other than the registered qualified patient to whom he or she is connected through the cabinet's registration process and understands the potential penalties for unlawfully diverting medicinal cannabis, including criminal prosecution and revocation of any registry identification card issued to the caregiver by the cabinet.
- (7) Pursuant to KRS 218B.055(8), a registry identification card application submitted by or on behalf of visiting qualified patients shall include:
- (a) The full name, address, telephone number, email address, date of birth, Social Security number, and driver's license number of the applicant, except that if the applicant is homeless an address where the applicant may be reached shall be provided to the cabinet;
 - (b) A copy of his or her valid out-of-state registry identification card;
 - (c) Documentation that he or she has been diagnosed with a qualifying medical condition as defined by KRS 218B.010(26), which shall consist of one (1) or more medical records containing an express statement of diagnosis from a physician or advanced practice registered nurse;
 - (d) The application fee for a visiting qualified patient;
 - (e) An attestation that:
 - 1. The visiting qualified patient authorizes the cabinet to share cardholder information with licensed dispensaries for the purpose of sales and validating registry identification cards; and
 - 2. The visiting qualified patient authorizes the cabinet to share cardholder information with law enforcement for the purpose of validating registry identification cards; and
 - (f) A notarized signature page signed by the visiting qualified patient attesting that:
 - 1. The visiting qualified patient verifies and affirms that all of the information provided in and with his or her application is true and accurate;
 - 2. The visiting qualified patient understands that if the cabinet later determines any of the information provided in his or her application to be false, misleading, or inaccurate, the cabinet may suspend or revoke any registry identification card issued to the visiting qualified patient; and
 - 3. The visiting qualified patient shall not divert medicinal cannabis to anyone who is not permitted to possess medicinal cannabis pursuant to KRS Chapter 218B and understands the potential penalties for doing so, including criminal prosecution and

revocation of any registry identification card issued to the visiting qualified patient by the cabinet.

Section 3. Renewing Registry Identification Cards.

(1) To renew a registry identification card, an applicant shall use the registry identification card renewal application form prescribed by the cabinet that contains the items required by Section 2 of this administrative regulation. The renewal application shall be made available through the Web site for the Kentucky Medical Cannabis Program, <https://kymedcan.ky.gov>. An applicant shall submit a registry identification card renewal application to the cabinet in the manner prescribed by the application instructions.

(2) A registered qualified patient applying to renew a registry identification card shall submit to the cabinet a written certification issued by a medicinal cannabis practitioner to the patient within ~~sixty (60)~~~~ninety (90)~~ calendar days immediately preceding the date of the renewal application submission.

(3) A registered qualified patient shall submit a registry identification card renewal application to the cabinet no later than thirty (30) calendar days prior to the expiration date on the card.

(4) Except as provided in Section 5(4) of this administrative regulation, a designated caregiver may submit a registry identification card renewal application following issuance of a registry identification card to the registered qualified patient who designated the caregiver in his or her renewal application. A designated caregiver shall submit a registry identification card renewal application for each registered qualified patient that designated the caregiver in his or her renewal application.

Section 4. Fees.

(1) To apply for or renew a registry identification card, the application fees are:

- (a) Twenty-five (25) dollars for qualified patients;
- (b) Twenty-five (25) dollars for visiting qualified patients; and
- (c) Twenty-five (25) dollars for designated caregivers.

(2) The fees established by this section shall be paid by credit card or automated clearing house (ACH) transfer at the time of application submission to the cabinet. **If the applicant is submitting a paper application to the cabinet instead of an electronic application, the fees established by this section shall be paid by inclusion of a check with the application submission or another form of payment as determined by the cabinet and stated in the paper application instructions.** All fees to apply for a registry identification card are nonrefundable.

Section 5. Cabinet Action on Applications; Application Denial.

(1) The cabinet shall acknowledge receipt of an initial or renewal application for a registry identification card within fifteen (15) calendar days of receipt. The cabinet shall review each application to determine whether the application is complete.

(2) The cabinet shall provide notification to applicants as to whether an initial or renewal application for a registry identification card has been approved or denied within thirty (30) calendar days of receiving an application and determining it is complete. Any application denials shall be done in accordance with KRS 218B.065(2), (3), (4), (5), (7), and (8), including:

- (a) Providing written notice of the denial and the reason(s) to the applicant; and
- (b) Providing written notice that the applicant may, within thirty (30) calendar days after the date of the mailing of the cabinet's notice, file a written request for an administrative hearing on the application. Any hearing resulting from the applicant's written request shall be conducted in accordance with KRS Chapter 13B.

(3) Except as provided in subsection (4) of this section, the cabinet shall issue registry identification cards to qualified patients, designated caregivers, or visiting qualified patients within five (5) calendar days of approving their initial or renewal applications. An individual designated as a caregiver shall be issued a registry identification card for each registered qualified patient to whom he or she is connected through the cabinet's registration process.

(4) Pursuant to KRS 218B.065(2)(b), the cabinet shall not issue a valid registry identification card to a qualified patient who is younger than eighteen (18) years of age unless the designated caregiver application for the custodial parent or legal guardian with responsibility for health care decisions for the qualified patient is approved.

(5) Registry identification cards issued by the cabinet shall include the items required by KRS 218B.060(2).

Section 6. Cardholder Responsibilities.

(1) A cardholder shall adhere to and comply with the notification requirements to the cabinet contained in KRS 218B.070(1)(a) through (e) and comply with the requirements for returning or disposing of medicinal cannabis contained in KRS 218B.070(2) and (5). A cardholder shall provide any required notifications to the cabinet via electronic mail to kymedcancards@ky.gov **or through the patient and caregiver registry portal.**

(2) During the application process, an applicant for a registry identification card shall, upon discovery of any change in facts or circumstances reflected in the application submitted to the cabinet, notify the cabinet in writing of the change or any newly discovered fact or circumstance that would have been included in the application if known at the time the application was submitted. The notification required under this section shall be sent via electronic mail to kymedcancards@ky.gov within twenty-four (24) hours of discovery. Failure to timely notify the cabinet of a change or newly discovered facts or circumstances may result in denial of the application.

(3) A cardholder shall obtain medicinal cannabis and medicinal cannabis products in the commonwealth from a dispensary licensed by the cabinet.

(4) The cabinet shall conduct cardholder surveys to request information regarding their ability to obtain timely affordable access to medicinal cannabis in their area and other items relevant to the Kentucky Medical Cannabis Program.

Section 7. Revocation or Suspension of a Registry Identification Card.

(1) Pursuant to KRS 218B.075(1), any cardholder who sells, distributes, or dispenses medicinal cannabis to a person who is not permitted to possess or use medicinal cannabis under KRS Chapter 218B shall have his or her registry identification card revoked and shall be subject to other penalties including criminal prosecution.

(2) The cabinet may revoke or suspend a cardholder's registry identification card if the cardholder knowingly commits multiple violations or a serious violation of KRS Chapter 218B or 915 KAR Chapter 2.

(3) The cabinet shall provide written notice via certified mail to the cardholder of any suspension or revocation of his or her registry identification card. The cardholder may, within thirty (30) days after the date of the mailing of the cabinet's notice, file a written request with the cabinet for an administrative hearing regarding the revocation or suspension. The hearing shall be conducted in compliance with the requirements of KRS Chapter 13B.

~~{Section 8.} {Provisional Registration Receipt System.}~~

~~{(1)} {Pursuant to KRS 218B.060(5), the cabinet shall operate a provisional registration receipt system for registered qualified patients, designated caregivers, and visiting qualified patients. A valid provisional registration receipt shall be accepted by licensed dispensaries in place of a registry identification card.}~~

~~{(2)} [A provisional registration receipt provided by the cabinet shall include the items required by KRS 218B.060(5)(a).]~~

~~{(3)} [A provisional registration receipt shall be provided by the cabinet via electronic mail to the applicant upon submission of an apparently complete application that contains all of the applicable information and documentation required by Section 2 of this administrative regulation. A provisional registration receipt shall be valid for forty-five (45) days from the date of issuance, or until:]~~

~~{(a)} [The cabinet issues a permanent registry identification card to the applicant; or]~~

~~{(b)} [The cabinet denies the applicant's application.]~~

~~{(4)} [If an applicant for a registry identification card is ultimately denied, the applicant shall immediately destroy the provisional registration receipt provided to him or her and return any unused medicinal cannabis products to a licensed dispensary for destruction.]~~

~~{(5)} [A registered qualified patient or designated caregiver shall only use a provisional registration receipt issued under this section to purchase medicinal cannabis in accordance with any recommendation or limitation as to the form and dosage contained in the written certification provided to the registered qualified patient by a medicinal cannabis practitioner.]~~

SAM FLYNN, Executive Director
ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: June 3, 2024

FILED WITH LRC: June 10, 2024 at noon

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REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Krista Quarles and Oran S. McFarlan, III

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation establishes procedures for the issuance, renewal, suspension, and revocation of registry identification cards, including the creation of an application form. The Amended After Comments version of the administrative regulation amends the language of Section 3(2), Section 4(2), Section 6(1), and Section 8 to reflect the changes necessitated by 2024 House Bill 829 and otherwise provide clarification.

(b) The necessity of this administrative regulation:

This administrative regulation is necessary to carry out the requirements of KRS Chapter 218B, specifically KRS 218B.140(1)(c)(1).

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

KRS 218B.140 requires the Cabinet for Health and Family Services to promulgate administrative regulations establishing procedures for the issuance, renewal, suspension, and revocation of registry identification cards, including the creation of an application form. This administrative regulation establishes those procedures.

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

This administrative regulation provides the procedures for the issuance, renewal, suspension, and revocation of registry identification cards.

(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:

Not applicable. This is a new administrative regulation.

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

Not applicable. This is a new administrative regulation.

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

Not applicable. This is a new administrative regulation.

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

Not applicable. This is a new administrative regulation.

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

This administrative regulation affects individuals that desire to apply for and subsequently renew registry identification cards for the Kentucky Medical Cannabis program.

(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:

Individuals that desire to obtain registry identification cards to participate in the Kentucky Medical Cannabis Program must follow the initial and renewal application procedures and requirements identified in this administrative regulation in order to be eligible to receive a registry identification card.

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

The annual fee to apply for a registry identification card for a qualified patient, visiting qualified patient, or designated caregiver is \$25.

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

The individuals that receive registry identification cards from the Cabinet for Health and Family Services are authorized to participate in the Kentucky Medical Cannabis Program through the expiration date of their cards.

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

(a) Initially:

The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398. A significant portion of those funds will go toward approving cardholders as well implementation and continued operation of the electronic monitoring system required by KRS 218B.140, including the patient and caregiver registry.

(b) On a continuing basis:

The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398. A significant portion of those funds will go toward approving cardholders as well implementation and continued operation of the electronic monitoring system required by KRS 218B.140, including the patient and caregiver registry.

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

State general funds provided by the commonwealth.

(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:

It is anticipated that an increase in funding will be necessary to implement this regulation as additional staff and resources are necessary to administer the patient and caregiver registry.

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

Yes, this administrative regulation establishes initial application fees and renewal fees for registry identification cards (\$25 per application submitted by a qualified patient, visiting qualified patient, or designated caregiver).

(9) TIERING: Is tiering applied?

Tiering is not applied. All individuals applying for or seeking to renew registry identification cards will be treated equally.

FISCAL IMPACT STATEMENT

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

KRS Chapter 218B, specifically KRS 218B.140(1)(c)(1).

(2) Identify the promulgating agency and any other affected state units, parts, or divisions:

This administrative regulation is promulgated by the Kentucky Medical Cannabis Program within the Cabinet for Health and Family Services.

(a) Estimate the following for the first year:

Expenditures:The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398. A significant portion of those funds will go toward approving cardholders as well implementation and continued operation of the electronic monitoring system required by KRS 218B.140, including the patient and caregiver registry.

Revenues:The commonwealth will receive initial application fees paid by individuals seeking registry identification cards during the first year (\$25 per applicant). At this time, it is not known how many individuals will apply for registry identification cards and pay the attendant fee.

Cost Savings:The cabinet does not anticipate any cost savings in the first year.

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398. The commonwealth will receive annual renewal application fees from cardholders that desire to continue participating in the program. The commonwealth will also continue to receive additional initial application fees for registry identification cards. The annual renewal application fee for a registry identification card is \$25. The cabinet does not anticipate any cost savings in subsequent years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts):

Except for visiting qualified patients, cardholders will reside within a city or county in the commonwealth.

(a) Estimate the following for the first year:

Expenditures:It is not anticipated that affected local entities will have significant expenditures arising out of cardholders residing in their respective county or city.

Revenues:Unknown at this time. This response will depend on the number of licensed cannabis businesses located in a respective city or county, any ordinances and fees established by local authorities regulating licensed cannabis businesses in their jurisdiction as allowed by KRS 218B.130, and the number of cardholders in their area.

Cost Savings:The cabinet does not anticipate any cost savings in the first year.

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

It is not anticipated that affected local entities will have significant expenditures arising out of cardholders residing in their respective county or city. Regarding

revenues, this response will depend on the number of licensed cannabis businesses located in a respective city or county, any ordinances and fees established by local authorities regulating licensed cannabis businesses in their jurisdiction as allowed by KRS 218B.130, and the number of cardholders in their area. The cabinet does not anticipate any cost savings in subsequent years.

(4) Identify additional regulated entities not listed in questions (2) or (3):

Registered cardholders.

(a) Estimate the following for the first year:

Expenditures:An individual applying for a registry identification card is required to pay an initial application fee at the time of initial application submission (\$25). Individuals seeking to renew their registry identification cards are required to pay an annual renewal fee at the time of renewal application submission (\$25).

Revenues:No revenues are expected.

Cost Savings:The cabinet does not anticipate any cost savings in the first year.

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

The commonwealth will receive annual renewal application fees from cardholders that desire to continue participating in the program. The commonwealth will also continue to receive additional initial application fees for registry identification cards. The initial and renewal application fee for a registry identification card is \$25. The cabinet does not anticipate any cost savings in subsequent years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation:

The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398. A significant portion of those funds will go toward approving cardholders as well implementation and continued operation of the electronic monitoring system required by KRS 218B.140, including the patient and caregiver registry. It is anticipated that an increase in funding will be necessary to administer all of the administrative regulations contained in 915 KAR Chapter 2.

(b) Methodology and resources used to determine the fiscal impact:

As part of its Biennial Budget Request, the Cabinet for Health and Family Services analyzed the cost to administer all aspects of the Kentucky Medical Cannabis Program, including estimated costs for staffing and implementation and ongoing maintenance and operations costs for the electronic monitoring system and seed to sale tracking system required by KRS 218B.140.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate)

. The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398. A significant portion of those funds will go toward approving cardholders as well implementation and continued operation of the electronic monitoring system required by KRS 218B.140, including the patient and caregiver registry. The Kentucky Medical Cannabis Program will have a major economic impact on the Cabinet for Health and Family Services, and it is anticipated that an increase in funding will be necessary to administer all of the administrative regulations contained in 915 KAR Chapter 2.

(b) The methodology and resources used to reach this conclusion:

As part of its Biennial Budget Request, the Cabinet for Health and Family Services analyzed the cost to administer all aspects of the Kentucky Medical Cannabis Program, including estimated costs for staffing and implementation and ongoing maintenance and operations costs for the electronic monitoring system required by KRS 218B.140.