

CABINET FOR HEALTH AND FAMILY SERVICES

Office of Inspector General

Division of Certificate of Need

(Amended After Comments)

900 KAR 5:020. State Health Plan for facilities and services.

RELATES TO: KRS 216B.010-216B.130, 216B.178

STATUTORY AUTHORITY: KRS 194A.030, 194A.050(1), 216B.010, 216B.015(28), 216B.040(2)(a)2.a

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.040(2)(a)2.a requires the cabinet to promulgate an administrative regulation, updated annually, to establish the State Health Plan. The State Health Plan is a critical element of the certificate of need process for which the cabinet is given responsibility in KRS Chapter 216B. This administrative regulation establishes the State Health Plan for facilities and services.

Section 1. The State Health Plan shall be used to:

- (1) Review a certificate of need application pursuant to KRS 216B.040; and
- (2) Determine whether a substantial change to a health service has occurred pursuant to KRS 216B.015(29)(a) and 216B.061(1)(d).

Section 2. Incorporation by Reference.

(1) The "~~2025~~~~[2023]~~ Update to the State Health Plan", ~~October 2025~~~~[June 2025]~~, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of Inspector General, Division of Certificate of Need, 275 East Main Street, 5E-A, 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/dcn/Pages/cn.aspx>.

COMPILER'S NOTE: 2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency.

TRICIA STEWARD, Inspector General

STEVEN J. STACK, MD, MBA, Secretary

APPROVED BY AGENCY: October 10, 2025

FILED WITH LRC: October 14, 2025 at 10:40 a.m.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Valerie Moore and Krista Quarles

Subject Headings:

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation incorporates by reference the current State Health Plan as defined by KRS 216B.015(28) and as required by KRS 216B.040(2)(a).

(b) The necessity of this administrative regulation:

This administrative regulation is necessary to comply with the content of the authorizing statutes, specifically KRS 216B.010, 216B.015(28), and 216B.040(2)(a)2.a.

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

This administrative regulation conforms to the content of the authorizing statutes, KRS 216B.010, 216B.015(28), and 216B.040(2)(a)2.a., by establishing the State Health Plan's review criteria used for determinations regarding the issuance and denial of certificates of need.

(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 the review criteria for certificate of need determinations.

(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 response to suggestions and comments submitted to the cabinet by interested groups, the amendment to this administrative regulation makes the following changes to the State Health Plan (SHP): Updates the title and edition date of the SHP on page i of the Plan; Updates page numbers on Table of Contents section on page ii; Updates the title of the SHP on page iii of the Plan under the heading "Purpose"; Adds new definition under Section A: Acute Care Hospital for "Pediatric Teaching Hospital"; Adds new language on page 3 to establish criteria for new "acute care hospitals" that are "pediatric teaching hospitals"; Establishes that a "pediatric teaching hospital" shall not be considered a "specialized hospital"; Adds language to permit a Level II PRTF with four (4) Level II Special Care Neonatal beds; Makes changes to Ambulatory Surgical Centers in regards to ownership of Ambulatory Surgical Centers that perform "cornea transplants" and "glaucoma fistulizing surgery"; Makes changes to Cardiac Catheterizations to establish a comprehensive (diagnostic and therapeutic) cardiac catheterization service if applicant is under same ownership in the same county. These changes align with the proposed amendment of 900 KAR 6:075 and 900 KAR 6:075E, Section 2(3)(k)-(l), filed concurrently with this administrative regulation to grant nonsubstantive review status to certificate of need applications for acute care hospitals that wish to convert existing acute care beds to pediatric psychiatric beds at pediatric teaching hospitals as described above. The amended after comments document makes the following changes: In the Acute Care Hospital section of the State Health Plan adding language to allow hospitals in contiguous counties to a new acute care hospital if the

county doesn't have a hospital or if the existing hospital has owned and operated a full service emergency department in the contiguous county for over 5 years or longer with a minimum of 15,000 emergency room visits in the most recent year of existence and the transfer of the acute care beds does not result in the need for additional acute care beds in the county of the transferring facility using the SHP methodology for the net county acute care bed need. Adds language to Section D. Special Care Neonatal Beds 6.b.to read as follows: Detailed policies and procedures from the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists described in the Guidelines for Perinatal Care and the Standards for Levels of Neonatal Care: II, III, and IV for the availability of appropriately trained personnel and providers for the availability of obstetrics and neonatologists who are continuously available on site or able to be present within 30 minutes; appropriate equipment; appropriately trained personnel; and transfer agreements and procedures for infants born at < thirty-two (32) weeks gestation or who weigh < 1,500 grams at birth or when needed for pediatric surgical or medical subspecialty intervention; Corrects numbering in the same section from 4.to 9. Makes a correction to language within regards to ICF/IID (Section E) to align with statute. Adds the words"; or more recent verifiable external or applicant's internal data source." To the Megavoltage Radiation Equipment review criteria number 1. Also adds the words "an existing Kentucky" to criteria 4. Under Section V. Miscellaneous Services, A. Ambulance Service, add "or" before III and delete "or IV"

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

This amendment is needed to expand inpatient pediatric behavioral health services throughout the state, including rural areas, to enhance immediate access to resources for at-risk pediatric mental health patients of such acuity that they need inpatient services and stabilization.

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

This amendment conforms to the content of the authorizing statutes because it incorporates by reference the State Health Plan.

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

This amendment assists in the effective administration of the statutes by establishing the review criteria for certificate of need determinations.

(3) Does this administrative regulation or amendment implement legislation from the previous five years? {If yes, provide the year of the legislation and either the bill number or Ky Acts chapter number being implemented.} Yes, 2022 HB 777 & 2025 HB 305 for changes in ambulance services, and 2023 HB 334 for ICF/IID changes,

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

This administrative regulation affects entities that submit certificate of need applications and affected persons as defined by KRS 216B.015(3). A total of 60 certificate of need applications were submitted to the cabinet in calendar year 2020; 70 certificate of need applications were submitted in calendar year 2021; 81 applications submitted in calendar year 2022; 60 applications submitted in calendar year 2023; and 67 applications submitted in calendar year 2024.

(5) Provide an analysis of how the entities identified in question (4) 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 (4) will have to take to comply with this administrative regulation or amendment:

Entities that submit a certificate of need application are subject to the criteria set forth in the State Health Plan.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4):

The certificate of need application filing fee for nonsubstantive review and formal review is established in a separate administrative regulation, 900 KAR 6:020.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (4):

Entities subject to certificate of need approval must demonstrate that their proposal is consistent with the State Health Plan pursuant to KRS 216B.040(2)(a)2.a.

(6) 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.

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

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

(8) 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.

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

This amendment does not establish or increase any fees.

(10) TIERING: Is tiering applied?

Yes, tiering is used as there are different certificate of need review criteria for each licensure category addressed in the State Health Plan.

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 216B.010, 216B.015(28), and 216B.040(2)(a)2.a.

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

This administrative regulation impacts the Cabinet for Health and Family Services, Office of Inspector General, and may impact any government owned or controlled health care facility.

(a) Estimate the following for the first year:

Expenditures:This amendment will not cause additional expenditures.

Revenues:This amendment will not generate additional revenue.

Cost Savings:This amendment will not generate any cost savings. **(b) How will expenditures, revenue, or cost savings differ in subsequent years? This amendment will not generate additional expenditures, revenue or cost savings for state or local government during subsequent years.**

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

No additional budgetary impact is expected as a result of this amendment in subsequent years.

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

This amendment should have no additional effect on local entities.

(a) Estimate the following for the first year:

Expenditures:No additional expenditures are expected from this amendment.

Revenues:No additional revenues are expected as a result of this amendment.

Cost Savings:No additional cost savings is expected as a result of this amendment.

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

No additional budgetary impact is expected as a result of this amendment in subsequent years.

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

All affected entities are listed in questions (2) and (3).

(a) Estimate the following for the first year:

Expenditures:No additional expenditures are expected from this amendment.

Revenues:No additional revenues are expected as a result of this amendment.

Cost Savings:No additional cost savings are expected as a result of this amendment.

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

No additional cost savings are expected as a result of this amendment.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation:

There is no anticipated fiscal impact as a result of the amendment to this regulation.

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

No money spent; no money gained equals no fiscal impact.

(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)

This administrative regulation is not expected to have a major economic impact on the regulated entities.

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

No money spent; no money gained equals no fiscal impact.