

900 KAR 6:105. Certificate of Need advisory opinions.

RELATES TO: KRS 216B.015, 216B.020, 216B.061, 216B.990

STATUTORY AUTHORITY: KRS 194A.030(1)(c)4., 216B.040(2)(a)1

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.040(2)(a)1 requires the Cabinet for Health and Family Services to administer Kentucky's Certificate of Need Program and to promulgate administrative regulations as necessary for the program. This administrative regulation establishes the policies for issuance of advisory opinions necessary for the orderly administration of the Certificate of Need Program.

Section 1. Definitions.

- (1) "Cabinet" is defined by KRS 216B.015(6).
- (2) "Certificate of Need Newsletter" means the monthly newsletter that is published by the cabinet regarding certificate of need matters and is available on the Office of Inspector General, Division of Certificate of Need Web site at <https://chfs.ky.gov/agencies/os/oig/dcn>.
- (3) "Days" means calendar days, unless otherwise specified.
- (4) "Public notice" means notice given through:
 - (a) The Web site of the Office of Inspector General, Division of Certificate of Need at <https://chfs.ky.gov/agencies/os/oig/dcn>; or
 - (b) The cabinet's Certificate of Need Newsletter.

Section 2. Advisory Opinions.

- (1) The cabinet shall issue advisory opinions regarding matters related to certificate of need on its own initiative or upon request from any person.
 - (2) A request for an advisory opinion shall be filed with the cabinet on CON – Form 7, Request for Advisory Opinion, as incorporated by reference in 900 KAR 6:055.
 - (3) The cabinet may require verification of information and request additional documentation at its discretion prior to issuing an advisory opinion.
 - (4) The cabinet shall issue a written advisory opinion within thirty (30) days of receipt of a completed request for an advisory opinion or of receipt of additional information, if applicable.
 - (5) Public notice of the advisory opinion shall be published in the monthly Certificate of Need Newsletter following the issuance of the advisory opinion.
 - (6) An affected person may request a public hearing regarding an advisory opinion in writing within thirty (30) days of the public notice of the advisory opinion.
 - (7) The public hearing shall be held within forty-five (45) days of the date of the filing of the request and shall be conducted in accordance with the provisions of 900 KAR 6:090.
 - (8) The cabinet shall enter a final decision regarding the advisory opinion within forty-five (45) days of the completion of the public hearing.
 - (9) If a public hearing is not requested, the advisory opinion shall be the final action of the cabinet.
- (36 Ky.R. 252; 816; eff. 10-21-2009; Crt eff. 5-7-2019; 47 Ky.R. 1701; eff. 6-16-2021.)