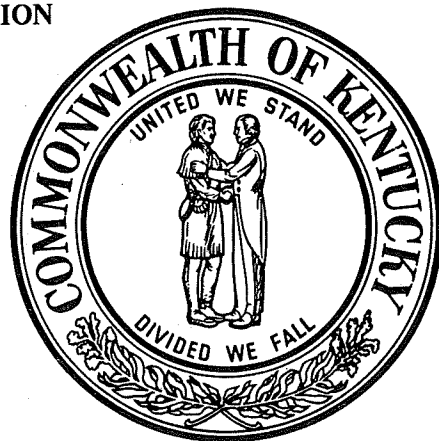


LEGISLATIVE RESEARCH COMMISSION  
FRANKFORT, KENTUCKY

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This is an official publication of the Commonwealth of Kentucky, Legislative Research Commission, giving public notice of all proposed regulations filed by administrative agencies of the Commonwealth pursuant to the authority of Kentucky Revised Statutes Chapter 13.

Persons having an interest in the subject matter of a proposed regulation published herein may request a public hearing or submit comments within 30 days of the date of this issue to the official designated at the end of each proposed regulation.

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**KENTUCKY ADMINISTRATIVE REGULATIONS** are codified according to the following system and are to be cited by Title, Chapter and Regulation number, as follows:

Title	Chapter	Regulation
806 KAR	50	: 155
Cabinet, Department, Board or Agency	Bureau, Division or Major Function	Specific Area of Regulation

## *Administrative Register of Kentucky*

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## Emergency Regulations Now In Effect

**JULIAN M. CARROLL, GOVERNOR**  
**Executive Order 77-148**  
**February 10, 1977**

### **EMERGENCY REGULATION** **Department of Transportation**

WHEREAS, House Bill 30 of the 1976 Special Session of the Kentucky General Assembly directed the Department of Transportation to promulgate rules and regulations establishing the guidelines to be followed in administering a Mass Transportation Operating Loan Fund; and

WHEREAS, the Department of Transportation has determined that the immediate implementation of House Bill 30 by the promulgation of a regulation to become effective immediately is necessary inasmuch as a mass transportation system serving a large area of Kentucky requires immediate financial assistance:

NOW, THEREFORE, I, JULIAN M. CARROLL, Governor of the Commonwealth of Kentucky, by the authority vested in me by Section 13.085(2) of the Kentucky Revised Statutes, hereby acknowledge the finding of the Department of Transportation that an emergency exists and direct that the attached regulation become effective immediately upon being filed in the Office of the Legislative Research Commission.

**JULIAN M. CARROLL, Governor**  
**DREXELL R. DAVIS, Secretary of State**

### **DEPARTMENT OF TRANSPORTATION** **Office of Transportation Planning**

#### **604 KAR 1:010E. Loans.**

RELATES TO: KRS Chapter 96A  
 PURSUANT TO: KRS 13.082, 67.080, 67.083,  
 96A.095(3), 96A.120(1)(a)

EFFECTIVE: February 15, 1977

EXPIRES: June 15, 1977

NECESSITY AND FUNCTION: The purpose of this regulation is to establish guidelines for administering the Mass Transportation Operating Loan Fund.

Section 1. "Mass Transportation Operating Loan Fund" is an appropriation to the Department of Transportation for the purpose of making loans to mass transportation authorities through public bodies to assist the mass transportation authorities in financing the operation of mass transportation systems.

Section 2. "Public Body" means as defined in KRS 96A.010(6).

Section 3. The Department of Transportation shall make loans from the mass transportation operating loan fund to mass transportation authorities through public bodies based upon the hereinafter set forth application being made to the Secretary of the Department of Transportation.

Section 4. The following information shall be included in the application:

- (1) Name and address of the applicant;
- (2) Amount of loan funds requested;
- (3) Purpose for which the loan is to be utilized;
- (4) A financial plan documenting the request;
- (5) Provisions for loan security and repayment schedule.

Section 5. The rate of interest to be charged on a mass transportation operating fund loan shall be fixed by the Secretary of the Department of Transportation.

Section 6. (1) An agreement shall be entered into between the Department of Transportation, the mass transportation authority and the public body or bodies which shall set forth and contain the following terms and conditions:

- (a) The amount of the loan;
- (b) Provisions for repayment of the principal of the loan and interest thereon to the Department of Transportation;
- (c) Provisions for loan security;
- (d) Provisions that the loan shall be used by the mass transportation authority and the public bodies solely for the purpose stated in the application.

(2) The agreement may contain such other terms and conditions agreed upon between the department, the mass transportation authority and the public body or public bodies.

C. G. GRAYSON, Planning Engineer

ADOPTED: February 9, 1977

APPROVED: JOHN C. ROBERTS, Secretary

RECEIVED BY LRC: February 15, 1977 at 3 p.m.

**JULIAN M. CARROLL, GOVERNOR**  
 Executive Order 77-123  
 February 10, 1977

**EMERGENCY REGULATION**  
 Department of Education  
 Bureau of Pupil Personnel Services

WHEREAS, expeditious action is required so that the school crisis caused by this winter's unprecedented cold weather can be dealt with; and

WHEREAS, the Department of Education has determined and finds that an emergency exists and that there is an immediate necessity to adopt a regulation to maximize the availability of classroom work notwithstanding the necessity of closing schools because of the weather and fuel shortages; and

WHEREAS, the State Board of Education, in conjunction with the Superintendent of Public Instruction, pursuant to Kentucky Revised Statutes 13.082 and 156.070, et seq., has promulgated the regulation hereinabove referenced:

NOW, THEREFORE, I, JULIAN M. CARROLL, Governor of the Commonwealth of Kentucky, by virtue of the authority vested in me by Section 13.085 (2) of the Kentucky Revised Statutes, hereby acknowledge the finding of the State Board of Education and the Superintendent of Public Instruction that an emergency exists and direct that the attached regulation become effective immediately upon being filed in the Office of the Legislative Research Commission.

JULIAN M. CARROLL, Governor  
 DREXELL R. DAVIS, Secretary of State

**EDUCATION AND ARTS CABINET**  
 Department of Education  
 Bureau of Pupil Personnel Services

**702 KAR 3:061E. Temporary provision for teachers' salaries.**

RELATES TO: KRS 158.060, 158.070, 157.420(1)(2)  
 PURSUANT TO: KRS 13.082 et seq., 156.070, 156.130  
 EFFECTIVE: February 10, 1977  
 EXPIRES: June 10, 1977

**NECESSITY AND FUNCTION:** To authorize local boards of education to implement the emergency measure taken by the Governor of the Commonwealth of Kentucky and the State Board of Education for the school year 1977 to maximize the availability of classroom work notwithstanding the necessity of closing schools because of the inclement weather and the fuel shortages.

Section 1. Notwithstanding any other regulations of the State Board of Education, the following procedures are permissible for the fiscal year 1977:

(1) The Superintendent of Public Instruction is hereby authorized to approve teaching on Saturdays to make up days that schools have been closed because of inclement weather or fuel shortages.

(2) Local school districts are authorized to increase actual school work from a minimum of six (6) hours per day to a minimum of seven (7) hours and twelve (12) minutes provided that the daily session, including recesses and intermissions shall not thereby exceed nine (9) hours. Five

days of such increases shall constitute one (1) make-up day.

(3) The Superintendent of Public Instruction is hereby authorized to approve on behalf the State Board of Education up to five (5) disaster days in each local school district when so designated by the local board.

(4) The five (5) disaster days declared by the Governor and any local disaster days approved by the Superintendent of Public Instruction, upon request of the local boards, may be treated as days in which services were rendered for the purpose of calculating school months and the payment of teacher's salaries.

(5) The Superintendent of Public Instruction is hereby authorized to approve school calendar amendments in conformity with this regulation.

(6) In addition to the statutory method of calculating average daily attendance, attendance for each make-up day shall be computed upon the percent of attendance for the first two (2) months of the current school year in order to assure that no district loses funds as a result of the emergency.

(7) So much of Section 1 of 702 KAR 3:060 as provides . . . "In no case shall salaries be paid until after service has been rendered." is hereby rescinded for the fiscal year 1977.

JAMES B. GRAHAM, Superintendent  
 ADOPTED: February 1, 1977  
 RECEIVED BY LRC: February 10, 1977 at 3 p.m.



## Amended Regulations Now In Effect

**EXECUTIVE DEPARTMENT FOR  
FINANCE AND ADMINISTRATION**  
Division of Occupations  
and Professions  
Board of Accountancy  
As Amended

**201 KAR 1:045. Subjects of examination; grading, re-examination.**

RELATES TO: KRS 325.265, 325.270  
PURSUANT TO: KRS 325.240, 325.270  
EFFECTIVE: February 2, 1977

**NECESSITY AND FUNCTION:** To amend [repromulgate] administrative regulations of the State Board of Accountancy of Kentucky. *This regulation relates to the subjects of examination, grading and re-examination.*

Section 1. Examinations will include questions or problems on the following subjects:

- (1) Accounting Practice;
- (2) Theory of Accounts;
- (3) Auditing;
- (4) Business [Commercial] Law.

Section 2. The candidate will be required to make a grade of not less than seventy-five (75) percent in each subject before he will be declared to have passed the examination.

Section 3. A candidate who [has earned no conditional credit, who] fails to receive a conditional credit or credits in any examination shall have the right to re-examination. [Should such candidate fail to pass the examination or to obtain a conditional credit as hereinafter provided, after taking three (3) consecutive examinations, he shall be considered to have failed the examination. Such candidate may, however, thereafter make a new application, which shall be reviewed by the board as in the case of any new applicant.]

Section 4. A candidate who fails to pass all subjects, but who receives a passing grade in two (2) [one (1)] or more subjects, *or accounting practice alone*, shall receive a conditional credit for such subject or subjects provided such candidate averages fifty (50) percent or more on the parts failed. *This minimum average grade requirement is waived if three (3) parts are passed at a single sitting.* [A candidate who receives such conditional credit or credits must pass the remaining subjects at any three (3) of the four (4) examinations next succeeding the examination at which the first conditional credit was earned. In the event of his failure thus to pass the examination within the above prescribed period, he will be considered to have failed the examination. Such a candidate may, however, thereafter make a new application which shall be reviewed by the board as in the case of any new applicant.]

*Section 5. To add to conditioned status, the candidate must obtain a grade of seventy-five (75) or more and an average grade of fifty (50) in all parts not passed. While an average grade of less than fifty (50) prevents the candidate from adding to his conditioned status, it alone does not remove or cancel conditioned status previously attained.*

*Section 6. A candidate who receives such conditional credit or credits must pass the remaining subjects at any three (3) of the four (4) [six (6)] examinations next succeeding the examination at which the first conditional credit was earned. In the event of his failure thus to pass the examination within the above prescribed period, he will be considered to have failed the examination. Such a candidate may, however, thereafter make a new application, which shall be reviewed by the board as in the case of any new applicant.*

Section 7. [Section 5.] Every candidate must sit for every examination for which he is eligible unless excused for a cause acceptable to the board. [for which he is eligible to be examined.] *At any sitting, the candidate must sit for all parts for which he has not yet received a passing grade.* Failure to sit, if not excused, will void the application and failure of the candidate to so submit any such paper may, in the discretion of the board, result in the disqualification of all papers submitted by such candidate in said examination.

Section 8. [Section 6.] Any person licensed to practice law in this state need not be examined in the subject of *business* [Commercial] law. An applicant claiming waiver of the examination in *business* [Commercial] law by virtue of this section must include with his application a certification from the Kentucky State Bar Association to the effect that such candidate is duly licensed to practice law in this state and is in good standing as provided in KRS 30.170.

Section 9. [Section 7.] A candidate for the certificate of Certified Public Accountant who has written the uniform examination under the jurisdiction of another state and has failed to receive a passing grade in all subjects, but has passed two (2) [one (1)] or more subjects, *or accounting practice alone*, [as determined by the Advisory Grading Service,] may in the discretion of the board be given conditional credit for parts passed, provided that the applicant met all requirements of the Kentucky law and regulations, except for residence, at the time of writing the examination.

BERNARD W. GRATZER,  
Executive Secretary

ADOPTED: December 15, 1976

APPROVED: RUSSELL McCLURE, Secretary

RECEIVED BY LRC: January 13, 1977 at 2 p.m.

**EXECUTIVE DEPARTMENT FOR  
FINANCE AND ADMINISTRATION**  
Division of Occupations and Professions  
State Board of Accountancy  
As Amended

**201 KAR 1:075. Registration of partnerships and corporations.**

RELATES TO: KRS 325.300, 325.320, 325.330

PURSUANT TO: KRS 325.240

EFFECTIVE: February 2, 1977

**NECESSITY AND FUNCTION:** To *amend* [repromulgate] administrative regulations of the State Board of Accountancy of Kentucky. *This regulation pertains to registration of partnerships and corporations.*

Section 1. Under the provisions of KRS 325.300 and 325.320, bona fide partnerships and corporations practicing accountancy in Kentucky *shall* [are permitted and required to] register [annually] with the State Board of Accountancy. Information and application blanks will be furnished upon request. One (1) partner or shareholder shall execute the affidavit [of general partner on page two (2) of] *contained within the application for registration of partnership or corporation.* All other partners or shareholders practicing within this state [must sign on the line opposite their listed name on the form.] *shall execute supplementary affidavits furnished by the board.* In case of admission to a partnership or corporation, a supplementary affidavit properly executed by the new partner or shareholder shall accompany the notice of admission submitted to the board. Notice of admission of a partner or shareholder to, or his withdrawal from, a partnership or corporation must be given to the board within one (1) month where no change of partnership or corporation name is involved. If admission or withdrawal of a partner or shareholder is accompanied by a change in the partnership or corporation name, initial registration of the new partnership or corporation as such is required.

Section 2. *A licensee operating more than one (1) office for the practice of public accounting within this state shall register each office with the board on a form and in a manner prescribed by the board.*

BERNARD W. GRATZER,  
Executive Secretary

ADOPTED: December 15, 1976

APPROVED: RUSSELL McCLURE,  
Secretary

RECEIVED BY LRC: January 12, 1977 at 3 p.m.

**EXECUTIVE DEPARTMENT FOR  
FINANCE AND ADMINISTRATION**  
Division of Occupations and Professions  
Board of Accountancy  
As Amended

**201 KAR 1:090. Practice by non-residents.**

RELATES TO: KRS 325.390

PURSUANT TO: KRS 325.240

EFFECTIVE: February 2, 1977

**NECESSITY AND FUNCTION:** To *amend* [repromulgate] administrative regulations of the State

Board of Accountancy of Kentucky. *This regulation pertains to practice by non-residents.*

Section 1. *Application for temporary permits as required by KRS 325.390(2) shall be submitted on a form as prescribed by the board.* [A certified public accountant or registered public accountant holding a certificate, degree or license issued by the accountancy board or commission of another state may temporarily practice in this state on professional business incident to his regular practice; provided, however, that he shall in such practice be governed by regulations and rules of professional conduct promulgated by the Board of Accountancy of Kentucky. Evidence of a violation of any such regulation or rule of professional conduct shall first be submitted to the accountancy board or commission of the state from which the certified public accountant or registered public accountant holds his certificate, degree or license, and proceedings shall be instituted by this board only in the event that such board or commission fails or is unable to take appropriate action.]

Section 2. *Included in the application shall be a statement of the applicant, or if it is a partnership or corporation, by a partner or shareholder of the applicants, specifying the specific engagement or engagements to be performed during the period for which the temporary permit is requested. A resident of Kentucky may not obtain a permit to practice under these regulations. Such statement shall also certify that such engagements were obtained and shall be conducted in compliance with the rules of professional conduct promulgated by the board.*

Section 3. *The fee for submitting an application for a temporary permit shall be fifty dollars (\$50).* [which fee shall be non-refundable in the event the temporary permit is denied.]

BERNARD W. GRATZER,  
Executive Secretary

ADOPTED: January 5, 1977

APPROVED: RUSSELL McCLURE, Secretary

RECEIVED BY LRC: February 2, 1977 at 8 a.m.

**EXECUTIVE DEPARTMENT FOR  
FINANCE AND ADMINISTRATION**  
Board of Registration for  
Professional Engineers and Land Surveyors  
As Amended

**201 KAR 18:040. Fees.**

RELATES TO: KRS 322.040, 322.290, 322.100, 322.110, 322.120, 322.140, 322.150, 322.160, 322.420

PURSUANT TO: KRS 13.082, 322.090, 322.100, 322.140, 322.190, 322.420

EFFECTIVE: February 2, 1977

**NECESSITY AND FUNCTION:** KRS Chapter 322 gives the board certain authority to fix fees, and this is intended to outline fees covering various steps of application, examination, certification, registration and/or renewal fees.

Section 1. Fees. (1) *The license fee[s] under KRS 322.040 shall be fifty dollars (\$50), [forty dollars (\$40)]*

of which twenty-five dollars (\$25) is payable on application. [and under] The license fee under KRS 322.120[, the fee] shall be thirty-five (\$35), all of which is payable on application. [The fee for in-training certification shall be fifteen dollars (\$15). Application fees should accompany all applications] The amounts specified as application fees should accompany each application and shall be transmitted by check or money order made payable to "Kentucky State Registration Board."

(2) [Applications for licensing under KRS 322.040 shall be accompanied by an initial fee of twenty-five dollars (\$25) and under KRS 322.120 by the total fee of thirty-five dollars (\$35).] These fees will be retained by the board as non-refundable application fees, the same to be credited to the applicant when and if a license is granted.

(3) If approved under KRS 322.120 the license certificate will be issued without further fee and if under KRS 322.040 it will be issued upon receipt by the board of the final payment of twenty-five dollars (\$25) [fifteen dollars (\$15)], representing the balance of the total licensing fee of fifty dollars (\$50) [forty dollars (\$40)].

(4) Only one (1) complete application form is required for a license in any one or more branches of engineering or land surveying. However, an updating of the application and an additional application fee of twenty-five dollars (\$25) and an additional twenty-five dollar (\$25) final fee is required for each additional branch of engineering or section of the law under which the applicant subsequently applies for licensing. The update must stress the work experience the applicant has had in the branch he wishes to add.

(5) Candidates who pass the fundamentals of engineering examination the first of the two (2) required professional examinations under KRS 322.040 will be designated as engineers-in-training and will be issued a certificate to that effect. [Applications for certification as engineer-in-training and land surveyor-in-training shall be accompanied by a fee of fifteen dollars (\$15). If approved, a certificate will be issued without a further fee.]

(6) The fees accompanying applications for licensing and in-training certification shall entitle the applicants to one (1) examination and one (1) re-examination if required. Application for the second re-examination must be accompanied by a fee of twenty-five dollars (\$25). [forty dollars (\$40) for licensing and fifteen dollars (\$15) for in-training certification.]

GEORGE W. VAUGHN, Secretary-Treasurer  
ADOPTED: July 26, 1976  
APPROVED: RUSSELL McCLURE, Secretary  
RECEIVED BY LRC: February 1, 1977 at 11 a.m.

DEPARTMENT OF TRANSPORTATION  
Bureau of Highways  
As Amended

603 KAR 3:010. Advertising devices on interstates.

RELATES TO: KRS 177.830 to 177.890

PURSUANT TO: KRS 13.082, 174.050, 177.830, 177.890

EFFECTIVE: February 2, 1977

NECESSITY AND FUNCTION: KRS 177.830 to 177.890 authorizes the Bureau of Highways to establish regulations for the control of advertising devices on interstate [, turnpike, or fully controlled access] highways.

Section 1. (1) Except as provided for in this regulation, no person shall erect or maintain any advertising device within any protected area if such device is legible or identifiable from the main traveled way of any interstate[, turnpike, or fully controlled access] highway[s].

(2) The erection or maintenance of any advertising device located outside of "urban areas" and beyond 660 feet of the right of way which is legible and/or identifiable from the main traveled way of any interstate highway is prohibited with the exception of:

- (a) Directional and official signs and notices;
- (b) Signs advertising the sale or lease of property upon which they are located; or
- (c) Signs advertising activities conducted on the property on which they are located.

Section 2. Definitions. The following terms when used in this regulation shall have the following meanings:

(1) "Advertising device" means any billboard, sign, notice, poster, display or other device intended to attract the attention of operators of motor vehicles on the highway, and shall include a structure erected or used in connection with the display of any such device and all lighting or other attachments used in connection therewith. However, it does not include directional or other official signs or signals erected by the state or other public agency having jurisdiction.

(2) "Billboard" advertising devices are those devices that contain a message relating to an activity or product that is foreign to the site on which the device and message is located or is an advertising device erected by a company or individual for the purpose of selling advertising messages for profit.

(3) "On-premise" advertising devices are those devices that contain a message relating to an activity or the sale of a product on the property on which they are located.

(4) "Center line of the highway" means a line equidistant from the edges of the median separating the main traveled ways of a divided highway, or the center line of the main traveled way of a non-divided highway.

(5) "Erect" means to construct, build, raise, assemble, place, affix, attach, create, paint, draw or in any way bring into being or establish.

(6) "Legible" means capable of being read without visual aid by a person of normal visual acuity, or capable of conveying an advertising message to a person of normal visual acuity.

(7) "Main traveled way" means the traveled way of a highway on which through traffic is carried. In the case of a divided highway, the traveled way of a separated roadway for traffic in opposite directions is a main traveled way. It does not include such facilities as frontage roads, turning roadways, or parking area.

(8) "Protected areas" means all areas within the boundaries of this Commonwealth which are adjacent to and within 660 feet of the edge of the right-of-way of all interstate highways [, fully controlled access highways and turnpikes] within the Commonwealth. Where these highways terminate at a state boundary which is not perpendicular or normal to the center line of the highways, "protected areas" also means all areas inside the boundaries of the Commonwealth which are within 660 feet of the edge of the right-of-way of an interstate[, turnpike or fully controlled] highway in an adjoining state.

[(9) "Fully controlled access" as used in this regulation means highways which give preference to through traffic and which shall have access only at selected public roads or

streets, and which shall have no highway grade crossing or intersection. Such term includes, but is not limited to, interstate highways and toll roads.]

(9) "Identifiable" means capable of being related to a particular product, service, business or other activity even though there is no written message to aid in establishing such relationship.

(10) "Traveled way" means the portion of a roadway for the movement of vehicles, exclusive of shoulders.

(11) "Turning roadway" means a connecting roadway for traffic turning between two (2) intersecting legs of an interchange.

(12) "Visible" means capable of being seen (whether or not legible) without visual aid by a person of normal visual acuity.

(13) "Permitted" as used in this regulation means to exist only by permit from the Department of Transportation, Bureau of Highways.

(14) "Allowed" as used in this regulation means to exist without a permit from the Department of Transportation, Bureau of Highways.

(15) "Commercial or industrial area" means:

(a) The land use for the area as of September 21, 1959, was clearly established by state law as industrial or commercial and is zoned commercial or industrial at the time of the application, or

(b) The land use for such area was within an incorporated municipality as such boundaries existed on September 21, 1959, and is zoned for commercial and industrial use.

(16) "Commercial or industrial activities" means those activities generally recognized as commercial or industrial by zoning authorities in this state, except that none of the following activities shall be considered commercial or industrial:

(a) Outdoor advertising structures.

(b) Hospitals, nursing homes, cemeteries, funeral homes, etc. professional office buildings[,] and roadside markets not open over three (3) months a year.

(c) Agricultural, forestry, ranching, grazing, farming and related activities.

(d) Activities conducted in a building principally used as a residence.

(e) Railroad tracks and minor sidings.

(f) The sale or leasing of property.

[(17) "Grandfather restrictions" for "billboard" advertising devices. "Billboard" advertising devices that were legally erected may remain in place if they meet all criteria except spacing. Only routine maintenance may be performed on the sign and its structure until such time as proper spacing as described in this regulation is attained.]

(17) "Urban area" means an urbanized area or, in the case of an urbanized area encompassing more than one state, that part of the urbanized areas in each such state or an urban place as designated by the Bureau of the Census having a population of 5,000 or more and not within any urbanized area, within boundaries to be fixed by responsible state and local officials in cooperation with each other, subject to approval by the Secretary of the United States Department of Transportation. Such boundaries shall, as a minimum, encompass the entire urban place designated by the Bureau of the Census. Such urban areas shall be designated by official order of the Kentucky Secretary of Transportation.

(18) "Routine maintenance" means that maintenance [as it relates to grandfather restrictions] is limited to replacement of nuts and bolts, nailing, riveting, or welding,

cleaning and painting or manipulating to level or plumb the device but not to the extent of adding guys or struts for the stabilization of the sign or structure [and] or substantially changing the sign. [no] Replacement of new or additional panels or facing shall not constitute routine maintenance [will be tolerated]. The routine changing of messages is considered to be routine maintenance. [not affected by this regulation.] Routine maintenance includes laminating or preparing panels in a plant or factory for the changing of messages.

(19) "Activity boundary line" means regularly used buildings, parking lots, storage and process areas which are an integral part of and contiguous to the activity.

(20) "Abandoned or discontinued" means that for a period of one (1) year or more that the sign:

(a) Has not displayed any advertising matter; or

(b) Has displayed obsolete advertising matter; or

(c) Has needed substantial repairs.

(21) "Non-conforming sign" means a sign which was lawfully erected but does not comply with the provisions of state law or regulations passed at a later date or later fails to comply with state law or regulations due to changed conditions, such as but not limited to, zoning change, highway relocation or reclassification, size, spacing or distance restrictions. Performance of other than routine maintenance shall cause a non-conforming sign to lose its status and to become an illegal sign.

(22) "Destroyed" means that the sign has sustained damage by any means in excess of sixty (60) percent of the structure and facing or sixty (60) percent of the replacement value of such sign.

Section 3. General Provisions. (1) Erection or existence of the following advertising devices may not be permitted or allowed in protected areas:

(a) Advertising devices advertising an activity that is illegal under state or federal law.

(b) Obsolete advertising devices.

(c) Advertising devices that are not clean and in good repair.

(d) Advertising devices that are not securely affixed to a substantial structure.

(e) Advertising devices illuminated by other than white lights.

(f) Advertising devices which attempt or appear to attempt to direct the movement of traffic or which interfere with, imitate or resemble any official traffic sign, signal or device.

(g) Advertising devices which prevent the driver of a vehicle from having a clear and unobstructed view of official signs and approaching or merging traffic.

(h) Signs which contain, include, or are illuminated by any flashing, intermittent or moving lights, except those giving such public service information as time, date, temperature or weather and limited to two (2) displays per cycle. They may contain no commercial message.

(i) Advertising devices which use lighting in any way unless it is so effectively shielded as to prevent beams or rays of light from being directed at any portion of the main traveled way of a highway or unless it is of such low intensity or brilliance as not to cause glare or to impair the vision of the driver of any motor vehicle, or to otherwise interfere with any driver's operation of a motor vehicle.

(j) Advertising devices which move or have any animated or moving parts.

(k) Advertising devices erected or maintained upon trees

or painted or drawn upon rocks or other natural features.

(l) Advertising devices exceeding 1,250 square feet in area, including border and trim, but excluding supports.

(m) Advertising devices closer than fifty (50) feet to the edge of the main traveled way of any interstate [or fully controlled access] highway [or turnpike].

(2) An advertising device which is not visible from the main traveled way of the highway may be allowed in protected areas.

(3) Any advertising device which is legible from the main traveled way of any interstate [fully controlled] highway must have an approved permit from the Department of Transportation, Bureau of Highways to be a legal advertising device.

(4) If the advertising device is legible from more than one (1) highway on which control is exercised, the appropriate criteria applies to all of these highways. (See also: 603 KAR 3:020.)

(5) *A non-conforming sign may continue to exist until just compensation has been paid to the owner, only so long as it is:*

- (a) *Not destroyed, abandoned or discontinued; and*
- (b) *Subjected to only routine maintenance; [or] and*
- (c) *A sign conforming to local zoning or sign or building restrictions.*

Section 4. Measurements of Distance. (1) In determining protected areas, distances from the edge of a right-of-way shall be measured horizontally along a line at the same elevation and at a right angle to the center line of a highway for a distance of 660 feet.

(2) In measuring distances for determination of spacing for advertising devices, two (2) lines shall be drawn perpendicular to the center line of the main traveled way, so as to cause the two (2) lines to embrace the greatest longitude along the center line of said highway.

(3) V-shaped or back-to-back type billboard advertising devices shall have no greater distance than fifteen (15) feet apart at the nearest point and must be connected by bracing or maintenance walkway.

(4) The 100 foot spacing for billboard advertising devices as described in Section 5, subsection (4) shall be measured from the nearest point between each device.

Section 5. "Billboard" advertising device provisions. (1) "Billboard" advertising devices may be constructed and maintained in protected areas which are zoned commercial or industrial as defined in Section 2, subsection (15) of this regulation and comply with the provisions of this regulation for this type advertising device and other applicable state, county or city zoning ordinances or regulations. Limited to a maximum of 1,250 square feet subject to other provisions of this regulation.

(2) V-shaped or back-to-back "billboard" advertising devices will be considered as one (1) advertising device structure and must meet specifications as described in Section 4, subsection (3).

(3) "Billboard" advertising devices may contain two (2) messages per facing not to exceed the maximum sized area as set forth in Section 3, subsection (1), paragraph (l).

(4) No "billboard" advertising device structure [designed to be primarily viewed from any highway within the scope of these regulations] shall be erected within 100 feet of any other such advertising device structure on the same side of the highway, unless separated by a building, natural obstruction or roadway in such manner that only

one (1) sign located within the required spacing distance is visible from the highway at any one time. (See Measurement of spacing, Section 4, subsection (4).) This spacing shall not apply to on-premise advertising devices nor will on-premise advertising devices affect the spacing of other advertising structures.

(5) *"Billboard" advertising devices that were legally erected may remain in place if they meet all criteria except spacing. Only routine maintenance may be performed on the sign and its structure until such time as proper spacing as described in this regulation is attained.*

[(5) Spacing requirements for "billboard" advertising devices may be waived for signs legally erected in conforming areas under grandfather restrictions as described in Section 2, subsections (17) and (18).]

(6) Spacing rights will be issued on a "first come, first served" basis. Proof of lease of a site must accompany the application. Updating of proof of lease and application will be required annually until a sign has been erected.

Section 6. "On-premise" advertising devices. (1) "On-premise" advertising devices may have a maximum of 1,250 square feet in area if they qualify as commercial or industrial activities as set forth in Section 2, subsection (16) of this regulation, or are on or within fifty (50) feet of the advertised activity and are within the property boundary lines of such activity.

(2) To qualify as an "on-premise" advertising device, the device must be within the property boundary lines of the advertised activity.

(3) No "on-premise" advertising device may exceed twenty (20) feet in length, width or height or 150 square feet in area, including border and trim but excluding supports, if it is farther than fifty (50) feet from the activity boundary lines (not the property boundary lines).

(4) No "on-premise" advertising device advertising a commercial or industrial activity as set forth in Section 2, subsection (16) of this regulation shall be located more than 400 feet, measured within the property boundary, from the advertised activity. In using a corridor to reach the location of the device, the corridor must be no less than 100 feet in width and must be an integral part of the property on which the advertised activity is located. No other [business] activity which is in any manner foreign to the advertised activity may be located on or have use of said corridor between the advertised activity and the location of the device. No activity incidental to the primary activity advertised will be considered in taking measurements.

(5) Only one (1) "on-premise" advertising device which is listed as an exception in Section 2, subsection (16), may be located in such a manner that it is legible from the main traveled way.

(6) Only one (1) of the following "on-premise" advertising devices may be located in such a manner that it is legible from the main traveled way.

(a) The setting forth or indicating the name and address of the owner, lessee or occupant of the property on which the advertising device is located; or

(b) The name or type of business or profession conducted on the property on which the advertising device is located; or

(c) Information required or authorized by law to be posted or displayed on such property; or

(d) The sale or leasing of the property upon which the advertising device is located.

1. Advertising devices which are for the purpose of sale

or leasing of property by a real estate company or individual will be limited to a six (6) month permit. After the six (6) months, the real estate name must be removed and the message advertising the sale or lease of the property along with the telephone number of the real estate company is all that may remain. This will be a condition of the permit.

2. If the property is for sale by the owner and the owner is other than a real estate company, the message stating the leasing or sale of the property may list the name of the owner (letters of owners name may be no larger than one-half (½) the size of the letters in the basic message), and the telephone number and will not be restricted to the six (6) month permit.

(e) Advertising customarily used at similar places of business that are not legible from the main traveled way of the highway; or

(f) The advertisement or control of an activity or sale of products on the property where the advertising device is located.

(7) No advertising device referred to in subsections (5) and (6) of this section may exceed twenty (20) feet in length, width or height or 150 square feet in area including border and trim but excluding supports. Nor will these advertising devices be subject to restrictions as set forth in subsection (4) of this section of this regulation.

(8) Brand name "on-premise" advertising devices may advertise only the activities conducted upon the property on which they are located with exceptions as to type as follows:

(a) "Ford," "Chevrolet," "Pontiac," etc.

(b) "A&P," "Kroger," etc.

(c) "Kentucky Fried Chicken," "Bob Evans Restaurants," "Stuckeys," etc.

(9) Brand names such as the following may not be advertised because they are incidental to the primary activity:

(a) "Auto Light," "Delco," etc.

(b) "8 o'clock coffee," "Armour Meats," "Clabber Girl Baking Powder," etc.

(c) "Coca-Cola," "Pepsi," "Winstons," etc.

(10) Application for advertising device permits for on-premise signs must give a detailed description of the exact wording of the message to be conveyed on the advertising device. This information may be furnished by either a photograph or a drawing, and may be changed only upon the approval of the Bureau of Highways of a new application submitted by the permit holder which shows the proposed change in the message.

(11) An exception to subsection (10) is that a marquee type on-premise advertising device, such as a typical theatre or cinema advertising device, may change messages without a new application. This message change may be from one (1) legitimate on-premise activity to another.

JOHN C. ROBERTS, Secretary

ADOPTED: October 11, 1976

RECEIVED BY LRC: December 15, 1976 at 10 a.m.

DEPARTMENT OF TRANSPORTATION  
Bureau of Highways  
As Amended

603 KAR 3:020. Advertising devices on federal aid primary system.

RELATES TO: KRS 177.830 to 177.890

PURSUANT TO: KRS 13.082, 174.050, 177.830 to 177.890

EFFECTIVE: February 2, 1977.

NECESSITY AND FUNCTION: KRS 177.830 to 177.890 authorizes the Bureau of Highways to establish regulations for the control of advertising devices on Federal Aid Primary System [and those highways with partially controlled access].

Section 1. (1) Except as provided [for] in this regulation no person shall erect or maintain any advertising device within any protected area if such device is legible or identifiable from the main traveled way of any federal aid primary [or partially controlled access] highway.

(2) *The erection or maintenance of any advertising device located outside of urban areas and beyond 660 feet of the right of way which is legible and/or identifiable from the main traveled way of any federal aid primary highway is prohibited with the exception of:*

(a) *Directional and official signs and notices;*

(b) *Signs advertising the sale or lease of property upon which they are located; or*

(c) *Signs advertising activities conducted on the property on which they are located.*

Section 2. Definitions. (1) "Advertising device" means any billboard, sign, notice, poster, display, or other device intended to attract the attention of operators of motor vehicles on the highway, and shall include a structure erected or used in connection with the display of any such device and all lighting or other attachments used in connection therewith. However, it does not include directional or other official signs or signals erected by the state or other public agency having jurisdiction.

(2) "Billboard" advertising devices are those devices that contain a message relating to an activity or product that is foreign to the site on which the device and message is located or is an advertising device erected by a company or individual for the purpose of selling advertising messages for profit.

(3) "On-premise" advertising devices are those devices that contain a message relating to an activity or the sale of a product on the property on which they are located.

(4) "Center line of the highway" means a line equidistant from the edges of the median separating the main traveled ways of a divided highway, or the center line of the main traveled ways of a non-divided highway.

(5) "Erect" means to construct, build, raise, assemble, place, affix, create, paint, draw or in any way bring into being or establish.

(6) "Legible" means capable of being read without visual aid by a person of normal visual acuity, or capable of conveying an advertising message to a person of normal visual acuity.

(7) "Main traveled way" means the traveled way of a highway on which through traffic is carried. In the case of a divided highway, the traveled way of a separated roadway for traffic in opposite directions is a main traveled way. It does not include such facilities as frontage roads, turning roadways, or parking area.



(8) "Traveled way" means the portion of a roadway for the movement of vehicles, exclusive of shoulders.

(9) "Protected areas" means all areas within the boundaries of this Commonwealth which are adjacent to and within 660 feet of the edge of the right-of-way of all federal aid primary [and partially controlled access] highways within the Commonwealth. Where these highways terminate at a state boundary which is not perpendicular or normal to the center line of the highway, "protected areas" [also] means all areas inside the boundaries of the Commonwealth which are within 660 feet of the edge of the right-of-way of a federal aid primary [or partially controlled access] highway in an adjoining state.

(10) "Federal aid primary highway" means any highway, road, street, appurtenant facility, bridge or overpass including a turnpike or limited access highway which is designated a portion of federal aid primary highway system as may be established by law or as may be so designated by the Bureau of Highways and the United States Department of Transportation.

(11) "Identifiable" means capable of being related to a particular product, service, business or other activity even though there is no written message to aid in establishing such relationship.

[(11) "Partially controlled access highway" means highways where access was provided for at the time of design and construction, but no additional access will be permitted.]

(12) "Turning roadway" means a connecting roadway for traffic turning between two (2) intersecting legs of an interchange.

(13) "Visible" means capable of being seen (whether or not legible) without visual aid by a person of normal visual acuity.

(14) "Permitted" as used in this regulation means to exist only by permit from the Department of Transportation, Bureau of Highways.

(15) "Allowed" as used in this regulation means to exist without a permit from the Department of Transportation, Bureau of Highways.

(16) "Commercial or industrial zone" means an area zoned for business, commerce or trade pursuant to state or local law, regulation or ordinance. To be zoned commercial or industrial, the entire city or county must be "comprehensively" zoned.

(17) "Comprehensively zoned" means that each parcel of land under the jurisdiction of the zoning authority has been placed in some zoning classification.

(18) "Unzoned commercial or industrial area" means an area which is not zoned by state or local law, regulation or ordinance and on which a commercial or industrial activity is located, together with an area extending along the highway for a distance of 700 feet on each side of the activity boundary line and on the same side of the road. Each side of the highway where a commercial or industrial activity is located will be considered separately in applying this definition. All measurements shall be from outer edges of the regularly used building, parking lots, storage or process areas of the activities and not, from the property boundary lines.

(19) "Commercial or industrial activities" means those activities generally recognized as commercial or industrial by zoning authorities in this state, except that none of the following activities shall be considered commercial or industrial:

- (a) Outdoor advertising structures.
- (b) Hospitals, nursing homes, cemeteries, funeral homes,

etc; professional office buildings; and roadside markets not open over three (3) months a year.

(c) Agricultural, forestry, ranching, grazing, farming, and related activities, including, but not limited to, wayside fresh produce stands.

(d) Activities normally or regularly in operation less than three (3) months of the year.

(e) Transient or temporary activities.

(f) Activities not visible from the main traveled way.

(g) Activities more than 300 feet from the nearest edge of the right-of-way.

(h) Activities conducted in a building principally used as a residence.

(i) Railroad tracks and minor sidings.

(j) The sale or leasing of property.

(20) "Urban area" means an urbanized area or, in the case of an urbanized area encompassing more than one (1) state, that part of the urbanized areas in each such state or an urban place as designated by the Bureau of the Census having a population of 5,000 or more and not within any urbanized area, within boundaries to be fixed by responsible state and local officials in cooperation with each other, subject to approval by the Secretary of the United States Department of Transportation. Such boundaries shall, as a minimum, encompass the entire urban place designated by the Bureau of the Census. Such urban areas shall be designated by official order of the Kentucky Secretary of Transportation.

[(20) "Grandfather restrictions" for "billboard" advertising devices. "Billboard" advertising devices that were legally erected may remain in place if they meet all criteria except spacing. Only routine maintenance may be performed on the sign and its structure until such time as proper spacing as described in this regulation is attained.]

(21) ["Routine Maintenance."] "Routine maintenance" means that maintenance [as it relates to grandfather restrictions] is limited to replacement of nuts and bolts, nailing, riveting or welding, cleaning and painting or manipulating to level or plumb the device but not to the extent of adding guys or struts for the stabilization of the sign or structure [and] or substantially changing the sign. [no] Replacement of new or additional panels or facing shall not constitute routine maintenance [will be tolerated]. The routine changing of messages is considered to be routine maintenance [not affected by this regulation]. Routine maintenance includes laminating or preparing panels in a plant or factory for the changing of message.

(22) "Activity boundary line" means regularly used buildings, parking lots, storage and process areas which are an integral part of and contiguous to the activity.

(23) "Abandoned or discontinued" means that for a period of one (1) year or more that the sign:

- (a) Has not displayed any advertising matter; or
- (b) Has displayed obsolete advertising matter; or
- (c) Has needed substantial repairs.

(24) "Non-conforming Sign" means a sign which was lawfully erected but does not comply with the provisions of state law or regulations passed at a later date or later fails to comply with state law or regulations due to changed conditions, such as but not limited to, zoning change, highway relocation or reclassification, size, spacing or distance restrictions. Performance of other than routine maintenance shall cause a non-conforming sign to lose its status and to become an illegal sign.

(25) "Destroyed" means that the sign has sustained damage by any means in excess of sixty (60) percent of the

structure and facing or sixty (60) percent of the replacement value of such sign.

[(22) "Legal sign" means signs that meet one (1) of the following criteria:]

[(a) Signs which were lawfully in existence on October 22, 1965;]

[(b) Signs which were lawfully erected on any highway made a part of the system on or after October 22, 1965, and before January 1, 1968;]

[(c) Signs lawfully erected after January 1, 1968, in accordance with the criteria in the Highway Beautification Act of 1965;]

[(d) Signs which by virtue of system or control of access change come under the influence of this regulation.]

[(23) "Illegal sign" means any sign that conflicts with the definition of a legal sign or one which was erected after August 1, 1972, and which does not conform to the criteria established by law and regulation for the area in which the sign is located.]

[(24) "Conforming sign" means a sign that contains a message consistent with criteria established by law and regulation for the area on which the sign is located.]

[(25) "Non-conforming sign" means a sign that contains a message that is not consistent with criteria established by law and regulation for the area on which it is located.]

[(26) "Designed to be primarily viewed" as used in this regulation shall mean any sign whose advertising content may be identified from the main traveled way of a highway under normal driving conditions.]

Section 3. General Provisions. (1) Erection or existence of the following advertising devices may not be permitted or allowed in protected areas:

(a) Advertising devices advertising an activity that is illegal under state or federal law.

(b) Obsolete advertising devices.

(c) Advertising devices that are not clean and in good repair.

(d) Advertising devices that are not securely affixed to a substantial structure.

(e) Advertising devices which attempt or appear to attempt to direct the movement of traffic or which interfere with, imitate or resemble any official traffic sign, signal or device.

(f) Advertising devices which prevent the driver of a vehicle from having a clear and unobstructed view of official signs and approaching or merging traffic.

(g) Signs which contain, include, or are illuminated by any flashing, intermittent or moving lights, except those giving such public service information as time, date, temperature or weather and limited to two(2) displays per cycle. They may contain no commercial message.

(h) Advertising devices which use lighting in any way unless it is so effectively shielded as to prevent beams or rays of light from being directed at any portion of the main traveled way of a highway, or unless it is of such low intensity or brilliance as not to cause glare or to impair the vision of the driver of any motor vehicle, or to otherwise interfere with any driver's operation of a motor vehicle.

(i) Advertising devices which move or have any animated or moving parts, unless they are "on-premise" advertising devices and are located in commercially or industrially zoned areas.

(j) Advertising devices erected or maintained upon trees or painted or drawn upon rocks or other natural features.

(k) Advertising devices erected upon or overhanging the right-of-way.

(l) Advertising devices exceeding 1,250 square feet in area, including border and trim, but excluding supports.

(2) An advertising device which is not visible from the main traveled way of the highway may be allowed in protected areas.

(3) If the advertising device is legible from more than one (1) highway on which control is exercised, the appropriate criteria applies to all of these highways. (See also: 603 KAR 3:010.)

(4) No advertising device may be erected or maintained within the state right-of-way except directional or other official signs or signals erected by the state or other public agency having jurisdiction.

(5) Directional and other official signs, including signs placed by the bureau, signs denoting the location of underground utilities (limited to two (2) square feet), signs erected by federal, state and local governments to delineate boundaries of reservations, parks or districts (limited to 150 square feet), civic and church signs giving meetings, time and place (limited to eight (8) square feet and limited to locations specifically permitted by the bureau), and signs such as "posted," "no fishing," "no hunting," etc. placed by property owners to discourage trespassing (limited to two (2) square feet).

(6) No on-premise advertising device, in zoned or unzoned commercial or industrial

(7) A permit will be required from the Department of Transportation, Bureau of Highways for any billboard advertising device. On-premise advertising devices will be allowed and controlled by surveillance.

(8) A non-conforming sign may continue to exist until just compensation has been paid to the owner, only so long as it is:

(a) Not destroyed, abandoned or discontinued; and

(b) Subjected to only routine maintenance; [or] and

(c) A sign conforming to local zoning or sign or building restrictions.

Section 4. Measurements of Distance. (1) In determining protected areas, distances from the edge of a right-of-way shall be measured horizontally along a line at the same elevation and at a right angle to the center line of a highway for a distance of 660 feet.

(2) In measuring distances for determination of spacing for billboard advertising devices, two (2) lines shall be drawn perpendicular to the center line of the main traveled way, so as to cause the two (2) lines to embrace the greatest longitude along the center line of said highway.

(3) V-shaped or back to back type billboard advertising devices shall have no greater distance than fifteen (15) feet apart at the nearest point and must be connected by bracing or maintenance walkway.

(4) The spacing for billboard advertising devices as described in Section 5, subsections (12) and (13) shall be measured from the nearest point between each device.

(5) In measuring distances for the determination of an unzoned commercial or industrial area, two (2) lines shall be drawn perpendicular to the center line of the main traveled way to encompass the greatest longitudinal distance along the center line of the highway. All areas within the confines of these lines shall be considered a part of the unzoned commercial or industrial area. Measurements for these areas shall begin at the outside edge of the activity boundary lines and shall be measured 700 feet in each direction.



Section 5. "Billboard" advertising device provisions. (1) "Billboard" advertising devices may be constructed and maintained in protected areas which are zoned or unzoned commercial or industrial as defined in Section 2, subsections (16) and (18) of this regulation and comply with the provisions of this regulation for this type advertising device and other applicable state, county or city zoning ordinances or regulations[.] *and shall be limited to a maximum of 1,250 square feet subject to other provisions of this regulation.*

(2) V-shaped or back to back "billboard" advertising devices will be considered as one (1) advertising device structure and must meet specifications as described in Section 4, subsection (3).

(3) "Billboard" advertising devices may contain two (2) messages per facing not to exceed the maximum sized area as set forth in Section 3, subsection (1)(1).

(4) V-shaped or back to back structures will be allowed the maximum 1,250 square feet per facing.

(5) "Billboard" advertising devices that were legally erected may remain in place if they meet all criteria except spacing. *Only routine maintenance may be performed on the sign and its structure until such time as proper spacing as described in this regulation is attained.*

(5) Spacing requirements for "billboard" advertising devices may be waived for signs legally erected in conforming areas under grandfather restrictions as described in Section 2, subsections (20) and (21).]

(6) Spacing rights will be issued on a "first come, first served" basis. Proof of lease of a site must accompany the application. Updating of proof of lease and application will be required annually until a sign has been erected.

(7) Billboard advertising devices may be permitted in zoned or unzoned commercial or industrial areas subject to other provisions of this regulation.

(8) Billboard advertising devices constructed in unzoned commercial and industrial areas will be permitted to exist as long as there is a commercial or industrial operated business. Upon the termination or abandonment of a business or industry for which the unzoned commercial or industrial area was created, the billboard advertising devices may remain in existence for one (1) year. [At the end of that time, the permit will be revoked and the advertising devices whose existence depended upon the commercial or industrial activity will be required to be removed.]

(9) No billboard advertising device may be illuminated by other than white lights.

(10) Any billboard advertising device which is legible or identifiable from the main traveled way must have an approved permit from the Department of Transportation, Bureau of Highways[.] [to be a legal advertising device].

(11) No unzoned commercial or industrial area may be created when a commercial or industrial activity is more than 300 feet from the right-of-way.

(12) Spacing for billboard advertising device structures in unzoned commercial or industrial areas as described in Section 4, subsections (4) and (5) will be 300 feet measured from the nearest point between each advertising device, unless separated by a building, roadway, or natural obstruction, in such a manner that only one (1) sign located within the required spacing is visible from the highway at any time. This spacing will be reduced to 100 feet within incorporated municipalities which do not have comprehensive zoning.

(13) Spacing for billboard advertising device structures in any comprehensively zoned commercial or industrial area will be 100 feet, *unless separated by a building, roadway, or*

*natural obstruction, in such a manner that only one (1) sign located within the required spacing is visible from the highway at any time.*

Section 6. "On-premise" advertising devices. (1) "On-premise" advertising devices may have a maximum of 1,250 square feet in area if they qualify as commercial or industrial activities as set forth in Section 2, subsection (19) of this regulation, and are on or within fifty (50) feet of the advertised activity and are within the property boundary lines of such activity.

(2) Only one (1) "on-premise" advertising device advertising a commercial or industrial activity as described in Section 2, subsection (19), may be located at a distance greater than fifty (50) feet from the activity boundary line. This advertising device will be limited in size as set forth in subsection (4) of the section. All other advertising devices must be within fifty (50) feet of the advertised activity.

(3) To qualify as an "on-premise" advertising device, the device must be within the property boundary lines of the advertised activity.

(4) No "on-premise" advertising device may exceed twenty (20) feet in length, width or height or 150 square feet in area including border and trim, but excluding supports, if it is farther than fifty (50) feet from the activity boundary lines (not the property boundary lines).

(5) Only one (1) "on-premise" advertising device which is listed as an exception in Section 2, subsection (19) may be located in such a manner that it is legible or identifiable from the main traveled way.

(6) Only one (1) of the following "on-premise" advertising devices may be located in such a manner that it is legible or identifiable from the main traveled way.

(a) The setting forth or indicating the name and address of the owner, lessee or occupant of the property on which the advertising device is located; or

(b) The name or type of business or profession conducted on the property on which the advertising device is located; or

(c) Information required or authorized by law to be posted or displayed on such property; or

(d) The sale or leasing of the property upon which the advertising device is located.

1. Advertising devices which are for the purpose of sale or leasing of property by a real estate company or agency [individual] will be limited to a six (6) month permit. After the six (6) months, the real estate company or agency name must be removed and the message advertising the sale or lease of the property along with the telephone number of the real estate company or agency is all that may remain. This will be a condition of the permit.

2. If the property is for sale by the owner and the owner is other than a real estate company, or agency the message stating the leasing or sale of the property may list the name of the owner (letters of owners name may be no larger than one-half (½) the size of the letters in the basic message), and the telephone number and will not be restricted to the six (6) month permit.

(e) Advertising customarily used at similar places of business that are not legible or identifiable from the main traveled way of the highway; or

(f) The advertisement or control of an activity or sale of products on the property where the advertising device is located.

(7) No advertising device referred to in subsections (5) and (6) of this section may exceed twenty(20) feet in length, width or height or 150 square feet in area including

border and trim but excluding supports.

(8) Each business is permitted as many [custom built] signs, stating *only* the name of the business, as they desire. In the absence of such [custom built] signs, the owner may have one (1) sign giving the name of the business and a particular brand name product. The sign may not contain more than two-thirds (2/3) of the size for the brand name.

(9) The fact that a particular product is sold at a business will not be construed to mean that this is an activity.

(10) Brand name. "On-premise" advertising devices may advertise only the activities conducted upon the property on which they are located with exceptions as to type as follows:

(a) "Ford," "Chevrolet," "Pontiac," etc.

(b) "A&P," "Kroger," etc.

(c) "Kentucky Fried Chicken," "Bob Evans Restaurants," "Stuckeys," etc.

(11) Brand names such as the following may not be advertised because they are incidental to the primary activity:

(b) "8 O'clock coffee," "Armour meats," "Clabber Girl Baking Powder," etc.

(c) "Coca-Cola," "Pepsi," "Winstons," etc.

**Section 7. "Grandfather Restrictions;" on-premise advertising devices in incorporated municipalities and urban areas. Grandfather restrictions as described in this section shall apply to the following advertising devices only:**

(1) Only one (1) "on-premise" advertising device will be "permitted" to overhang the state right-of-way, advertising any one (1) business. This refers to only those advertising devices in existence at the time of the adoption of this regulation and where there is not space off the right-of-way to accommodate an advertising device.

(2) Any new building or structure which comes into being after the adoption of this regulation, which abuts or is upon the state right-of-way, in which a business or activity is to be located, and such business or activity requires an advertising device, such new device must meet the conditions set forth in subsection (4)(a) of this section in addition to other provisions of this section and other sections of this regulation.

(3) Only "routine maintenance" as described in this regulation will be "permitted" on any "on-premise" advertising device under grandfather restrictions in this section.

(4) Any time an existing "permitted" advertising device is replaced, it must comply with the following criteria:

(a) No advertising device or portion of an advertising device may be erected that extends more than two (2) feet beyond the face of the building, if the building is abutting or within the state right-of-way. This condition does not apply to advertising devices when the building or structure has a setback of more than two (2) feet from the state right-of-way. Any building with a setback from the right-of-way must reduce the overhang of the advertising device by the number of inches of the setback. No advertising device may be erected which has a base or any part of a base on the state right-of-way.

(5) Any advertising device with a base or any portion of a base which is located on the state right-of-way must be relocated off the right-of-way where there is sufficient space. If space is not available to relocate the existing advertising device off the right-of-way, relocation of the device must comply with restrictions as contained in

subsection (4) of this section.

(a) Where there is space off the right-of-way to relocate an existing advertising device, the owner shall be notified and be allowed a reasonable amount of time to accomplish the relocation.

(b) In no instance shall the time allowed to relocate an advertising device, whose base is on the state right-of-way, exceed a five (5) year period. No permit shall be issued for this type advertising device.

(6) Any "on-premise" advertising device "permitted" under grandfather restrictions, or any new advertising device, which is "permitted" to be erected under the provisions of subsection (4) of this section, must have an approved permit from the Department of Transportation, Bureau of Highways, to be a legal advertising device.

(7) No advertising device will be "permitted" under this section which interferes with any official sign, signal, or device.

(8) Any advertising device "permitted" under this section must meet the requirements for an "on-premise" advertising device as set forth in this regulation.

[Section 7. Compensation for Sign Removal. (1) Compensation shall be paid to those persons or companies who own legal outdoor advertising devices erected in areas which do not conform with the law. Compensation will be paid for the following:]

[(a) The taking from the owner of such outdoor advertising device of all right, title, leasehold, and interest in the advertising device.]

[(b) The taking from the owner of the real property on which the outdoor advertising device is located the right to erect and maintain such outdoor advertising device.]

[(2) Payment of just compensation shall be determined by the use of fixed rate schedules which are developed for the particular type advertising device or interest held by the property owner. An appraisal or value finding will be made for each advertising device or interest therein using the date from the fixed rate schedules.]

JOHN C. ROBERTS, Secretary

ADOPTED: October 11, 1976

RECEIVED BY LRC: December 15, 1976 at 10 a.m.

**EDUCATION AND ARTS CABINET  
Department of Education  
Bureau of Administration and Finance  
As Amended**

**702 KAR 1:100. Merger of independent and county school districts.**

RELATES TO: KRS 160.041

PURSUANT TO: KRS 13.082, 156.070, 156.130, 156.160

EFFECTIVE: February 2, 1977

NECESSITY AND FUNCTION: To provide an orderly procedure for merger of independent and county school districts.

Section 1. In the event a county board of education refuses an independent school district board of education's request for merger pursuant to KRS 160.041, each board of education shall, by resolution not later than fifty-five (55) days prior to the next regular election, request the

County Board of Elections to submit the question of merger of the two school districts to the qualified voters of the two school districts at the next regular election. The question shall be so framed that the voter may by his vote answer "For" or "Against," and shall state: "Are you for or against the merger of \_\_\_\_\_ Independent School District with the \_\_\_\_\_ County School District."

Section 2. In the event merger is not consummated under the provision of Section 1 above, and the independent board of education appeals to the Superintendent of Public Instruction citing financial inability to operate, the Superintendent of Public Instruction shall investigate the financial conditions of the independent school district and report his findings and his recommendations with respect to merger to the State Board of Education within ninety (90) days of receipt of such an appeal. Merger action shall be taken by the State Board of Education within ninety (90) days following receipt of the report of findings and recommendations of the Superintendent of Public Instruction.

Section 3. If the State Board of Education determines the independent school district should be merged *in accordance with Section 2* with the county school district, it shall merge the districts stating the terms, conditions, and effective date.

JAMES B. GRAHAM,

Superintendent of Public Instruction

ADOPTED: September 15, 1976

RECEIVED BY LRC: October 25, 1976 at 11:05 a.m.

## **PUBLIC PROTECTION AND REGULATION CABINET**

Public Service Commission  
As Amended

### **807 KAR 2:061. Electrical inspectors' certification.**

RELATES TO: KRS Chapters 227, 278

PURSUANT TO: KRS 278.045

EFFECTIVE: February 2, 1977

NECESSITY AND FUNCTION: KRS 278.045 transfers and vests in the Public Service Commission all functions, powers and duties, funds, personnel, equipment and supplies relating to electrical inspection (KRS 227.450 to 227.500).

Section 1. Responsibilities of the Public Service Commission. (1) The Public Service Commission shall require inspectors to be certified. Examinations shall be based on the National Electrical Code.

(2) The Public Service commission shall establish qualification requirements for electrical inspectors, and schedule examinations at regular intervals.

(3) It shall be the duty of the Public Service Commission to investigate alleged misconduct of any electrical inspector as certified under this act when, in the opinion of the commission, there is sufficient evidence to suggest that such misconduct exists. Any party may seek redress from the Public Service Commission when alleged misconduct of an electrical inspector is deemed to have worked an undue hardship on the party.

(4) The Public Service Commission shall review the conduct of any electrical inspector who shall have attempted to

supplant, overrule or otherwise invalidate the judgment of another electrical inspector without first obtaining express written consent from [the city or county official employing] the original inspector.

(5) Upon a finding by the commission that such an action has occurred the commission may suspend the certificate of the offending inspector for a period not to exceed one (1) year from the date of the commission's ruling.

(6) The commission may take other appropriate action as may be warranted by any given offense.

[(7) The fact that an electrical inspector has been examined and certified by the Public Service Commission as being competent to perform electrical inspections does not authorize that individual to make inspections in the Commonwealth of Kentucky unless he has been hired by a specific city and/or county government within whose jurisdiction he will perform inspections.]

Section 2. Applicability. These regulations shall apply to all electrical inspectors [in the employ of any and all cities and/or counties] in the Commonwealth of Kentucky, and to applicants for certification as electrical inspectors.

Section 3. Definitions. The following words and terms, when used in these regulations shall have the meanings indicated:

(1) "Applicant" means the person seeking to be certified as an electrical inspector.

(2) "Commission" means the Public Service Commission of Kentucky.

(3) "Certified electrical inspector" means an applicant who has met the criteria established by the commission for examination, has satisfactorily passed that examination, and has received a certificate attesting thereto.

(4) "Employee" means one who is employed on a full-time, part-time, or contractual basis. [By a city or county.]

(5) "Electrical" pertains to the installation of wires and conduits for the purpose of transmitting electricity, and the installation of fixtures and equipment in connection therewith.

(6) "Electrical industry" pertains to those engaged in the generation, transmission and distribution of electricity; the design, manufacture, construction, installation, alteration or repair of electrical wiring facilities and apparatus for the utilization of electricity.

Section 4. Qualifications for Electrical Inspectors. Prior to being examined by the commission the applicant must meet the following requirements:

(1) (a) Applicant shall have had not less than three (3) years of experience in the field of electrical inspection of all types of residential, commercial, and industrial electrical light and power wiring systems, installed in accordance with the National Code; or,

(b) Applicant shall have had not less than five (5) years of experience in the installation and/or design, of all types of residential, commercial, and industrial electrical light and power wiring systems, installed in accordance with the National Electrical Code; or,

(c) Applicant shall be a registered professional electrical engineer, and shall have been registered and engaged in the practice of his profession for not less than three (3) years.

(2) Applicant shall possess the ability to speak, read, and write the English language and possess a general educational level satisfactory to perform his duties.

(3) Applicant shall not be engaged in any other activity in the electrical industry or have *pecuniary or associational interests therein* which might in any way constitute a con-

flict of interest. Electrical contractors, or any person employed by an electrical contractor, and electricians, [and employees of electric utilities] are expressly prohibited from being certified[.] while actively engaged in these activities.

(4) Applicant shall submit a duly notarized application, which shall be supplied by the commission upon request, wherein all pertinent personal information and experience shall be stated. Application must be received by the commission at least thirty (30) days prior to the desired examination date.

(5) A fee of ten dollars (\$10) shall accompany the application, consisting of a check or money order made payable to the Treasurer, Commonwealth of Kentucky.

**Section 5. Examinations.** (1) Examinations for qualified applicants shall be administered beginning at 1 p.m. on the first Tuesday of the months of February, May, August, and November unless otherwise scheduled by the commission.

(2) Examinations will be administered at the commission's offices, 24th Floor, Capital Plaza Tower, Frankfort, Kentucky, unless another location is specifically designated.

(3) Examination will be based on the National Electrical Code and will be open book. The code book and all necessary supplies will be provided by the commission.

(4) A grade of seventy (70) percent shall be considered passing. An applicant, otherwise qualified, who fails to make a passing score shall, upon request, be scheduled for re-examination at the next examination date without the paying of additional fees.

(5) [No applicant shall be certified without successfully passing the examination.] *Those persons who were previously certified as electrical inspectors and/or those persons who have been engaged in the inspection of electrical light and power wiring installations, based on the requirements of the National Electrical Code for three (3) or more years may be certified without examination. An applicant shall so state on his application form if he claims entitlement to and desires to be certified without examination, and shall submit proof of prior certification or of meeting the experience requirements. This provision will be in effect for applications received until December 31, 1977. After this date all applicants will be required to take the examination prior to certification.*

**Section 6. Certification.** (1) Certificates will be issued to individuals and not to corporations, partnerships, companies or any other entities and will be valid for a period of two (2) years from the date of issuance.

(2) Certificates will be reissued upon request prior to expiration. The fee for renewal shall be two dollars (\$2), payable to the Treasurer, Commonwealth of Kentucky.

**Section 7. Revocation of Certificates.** The commission may revoke, suspend or refuse to renew the certificate of an electrical inspector who is determined by the commission to be guilty of:

(1) Fraud, deceit or misrepresentation in obtaining certification.

(2) Negligence, incompetence or misconduct in the field of electrical inspection.

(3) Affixing or causing to be affixed to any electrical installation subject to his inspection a seal of approval, where he has not personally inspected such installation and found it to be satisfactory.

(4) Operating as an electrical inspector in localities or

jurisdictions [without having an employment arrangement with the appropriate unit of local government.] *in conflict with state or local laws, ordinances, or regulations.*

(5) Improperly overruling the findings of another electrical inspector.

[Section 8. Establishment of Fees. The responsibility for the establishment of fees or other compensation of electrical inspectors rests with the employing unit of local government.]

**Section 8. [9.] Complaints and Grievances.** (1) Any person who believes that any act or omission of any electrical inspector certified by the commission has worked an undue hardship on him, or who believes that an electrical inspector is guilty of misconduct in the performance of his duties, may seek redress from the commission.

(2) Any complaints or allegations of misconduct should be submitted in writing to the Secretary, Public Service Commission, and should set forth the nature of the complaint or alleged misconduct and the action desired on the part of the commission to alleviate same.

(3) After investigation the commission may, at its discretion, cause the matter to be set for public hearing or take any other appropriate action to resolve or correct the matter complained of.

**Section 9. [10.] Retention of Records.** (1) Each electrical inspector shall make and retain for a minimum time of three (3) years a complete record of each inspection. Such record shall contain, as a minimum, sufficient information to identify the location of the structure inspected, the date of the inspection, the type of structure, whether residential, commercial, industrial or other, the designation of any required permits and the agency(s) granting same, the size and complexity of the structure, any deficiencies in meeting code requirements and action required to comply, and any other pertinent information considered necessary to allow for a review of the inspection.

(2) Such records shall be available for examination by an authorized representative of the commission upon request.

**Section 10. [11.]** 807 KAR 2:060 is hereby repealed.

JAMES E. GRAY, Secretary

ADOPTED: December 21, 1976

RECEIVED BY LRC: January 4, 1977 at 3 p.m.

**DEPARTMENT FOR HUMAN RESOURCES**  
Bureau for Health Services  
As Amended

**902 KAR 6:010. Local board authority.**

RELATES TO: KRS 210.440, 210.450

PURSUANT TO: KRS 13.082, 210.450

EFFECTIVE: February 2, 1977

NECESSITY AND FUNCTION: KRS 210.440 and 210.450 authorized the Department for Human Resources to establish *Regional* [Local] Mental Health-Mental Retardation [District] Boards to act as the authority for planning and administration of grants for all local programs relating to mental health, mental retardation, alcohol and drugs. *The purpose of this regulation is to provide for*

*recognition of Regional Mental Health-Mental Retardation Boards as the local authority for carrying out delegated responsibilities and to insure compliance with applicable policies issued by the Department for Human Resources.*

Section 1. *Grants.* All grants for local programs in mental health and mental retardation carried on under the auspices of the Department for Human Resources shall be directed to those *regional* [district] mental health-mental retardation boards recognized as such by the Department for Human Resources, Bureau for Health Services. For purposes of carrying on the delegated *regional* [district] responsibilities of the Department for Human Resources, Bureau for Health Services, these *regional* [district] mental health-mental retardation boards become the local authority. *Recognition as such will be renewed annually provided the board is in compliance with current laws, rules, regulations and policies relating to mental health-mental retardation boards.* [Recognition as such may be renewed annually.]

[Section 2. Annual Recognition of Boards. The recognition of a regional mental health-mental retardation board as the local authority for carrying out delegated responsibilities shall be contingent upon the approval of its annual plan and budget by the secretary.]

*Section 2. [Section 3. ] Policies. All regional mental health-mental retardation boards shall comply with the policies issued by the department to insure compliance with applicable federal and state laws and regulations. Such policies shall include but shall not be limited to planning, budgeting, reporting, operating procedures and other administrative functions.*

WILLIAM P. McELWAIN M.D., Commissioner

ADOPTED: June 21, 1976

APPROVED: C. LESLIE DAWSON, Secretary

RECEIVED BY LRC: January 12, 1977 at 3 p.m.

**DEPARTMENT FOR HUMAN RESOURCES**  
Bureau for Health Services  
As Amended

**902 KAR 6:030. Board structure and operation; eligibility for state grants.**

RELATES TO: KRS 210.400, 210.410, 210.450

PURSUANT TO: KRS 13.082, 210.450

EFFECTIVE: February 2, 1977

NECESSITY AND FUNCTION: KRS 210.450 empowers the Secretary of the Department for Human Resources to promulgate rules and regulations governing eligibility of community mental health boards to receive state grants. Consistent with this authority, this regulation establishes the minimum eligibility requirements for receipt of state grants for community mental health programs.

Section 1. Application by *recognized mental health-mental retardation boards* [non-profit corporations]. Definitions. As used herein, unless the context otherwise requires, the term:

(1) "Board of directors" or "board" means the group of persons vested with the management of the affairs of the corporation irrespective of the name by which group is designated.

(2) "Director" means a member of the "board of directors."

(3) "Articles of incorporation" means the original or restated articles of incorporation or articles of consolidation and all amendments thereto, including articles of merger.

(4) "Bylaws" means the code or codes or rules adopted for the regulation or management of the affairs of the corporation irrespective of the name or names by which such rules are designated.

Section 2. *Requirements for Recognition.* A non-profit corporation requesting recognition from the Secretary of the Department for Human Resources as a district mental health-mental retardation board for the purpose of obtaining state grant funds, shall annually submit to the secretary, not later than the first day of April of the year preceding the fiscal year for which applicant requests recognition and application approved by its board of directors, which contains documentation and agreements satisfying the following requirements:

(1) Articles of incorporation as a non-profit corporation in compliance with Kentucky statutes.

(2) Written statement by the applicant that it will provide at least four (4) of the service prerequisites set forth in KRS 210.410, and that such services will be provided in each of the geographic catchment areas, as established by the Department for Human Resources plan, in which the board proposed to provide service.

(3) Written agreements to operate in accordance with the regulations of the Department for Human Resources and regulations and statutes of the Commonwealth of Kentucky affecting operations, and to comply with Title VI of the 1964 [1968] Federal Civil Rights Law.

(4) Articles of incorporation or corporate bylaws which meet the requirements of this regulation as set forth in this subsection:

(a) A provision establishing the location of a principal office of business of the organization.

(b) A provision declaring the purposes of organization to include concern for mental illness, mental health, mental retardation, alcoholism and drug abuse addiction, and the carrying out of all functions set forth in KRS 210.400 (including that the board will act as administrator of the program).

(c) A provision setting forth the organization, duties and powers of the board of directors.

[(d) A provision establishing membership criteria for the board of directors of at least the following:]

[1. Not less than twenty-one (21) nor more than thirty-five (35) board members (except in the case of multiple catchment area boards; see subparagraph 3. below) who shall have demonstrated interest in mental health, mental illness, mental retardation, developmental disabilities, alcoholism and/or drug abuse addiction. At least one-fourth (¼) of such members shall have indicated their primary interest as mental retardation and/or developmental disabilities.]

[2. All directors shall reside within the geographic catchment area; directors shall be so selected as to provide at least one (1) representative from each county encompassed in the region to be served.]

[3. When applicant proposes to serve a district containing multiple catchment or grant areas, the membership requirement of the board of directors set forth above shall be modified as follows:]

[a. Not less than twenty-five (25) nor more than thirty-five (35) members;]

[b. All directors selected shall have residential addresses in the respective geographic catchment areas as indicated below:]

[(i) When applicant services two (2) catchment areas, one (1) catchment area may have a majority of one (1) member.]

[(ii) When applicant serves three (3) catchment areas, a minimum of eleven (11) members shall reside in each catchment area.]

[(iii) When applicant serves four (4) catchment areas, a minimum of eight (8) members shall reside in each catchment area.]

[(iv) The board of directors shall contain at least one (1) director from each county in each catchment area.]

[4. One-third (1/3) of the membership of the board of directors shall be elected annually. A maximum of two (2) consecutive three (3) year terms may be served by any director.]

[5. No person occupying a remunerated position who would have authority to pass upon the levy or disbursement of tax funds or approval of governmental grants for financial support of the applicant's program shall be a member of the board of directors of the applicant.]

[6. The regional board shall solicit assurances from individual board members satisfying itself that no position of employment, appointment or elected office held by any board member in any other organization would necessarily require the member to reflect that organization's viewpoint in matters of business coming before the district board.]

[7. No member of the immediate family of a board member shall be employed in a service funded by the board unless prior approval of majority of the entire board. Immediate family shall be construed to include a spouse, sons, daughters, mother, father, brothers, sisters and grandparents. This provision shall not apply retroactively to the effective date of this regulation.]

[(e) A provision establishing procedures governing the conduct of the board of directors which shall include the following requirements.]

[1. Schedules of meetings of the board of directors; the board shall meet at least six (6) times per year. An annual meeting date for election of officers shall be specified.]

[2. Quorum requirements for meetings of the board of directors.]

[3. Restrictions on compensation of members of the board of directors including the prohibition against any member of the board contracting with the board to perform personal services.]

[4. Procedures for removal of directors who are excessively absent from board meetings.]

[5. Procedures for filling of vacancies at times other than annual meetings including the role of the nominating committee shall be specified.]

[(f) A provision regarding the selection and functioning of officers of the applicant including the following:]

[1. Designation of the officers of the applicant.]

[2. Specifications of the duties and terms of officers.]

[3. Specifications of the method by which officers shall be selected, including a requirement that all officers shall be elected from the membership of the board of directors.]

[4. Designation of dates for the assumption of duties by officers.]

[5. A restriction prohibiting officers from also serving as chairmen of the standing committees of the applicant's

board of directors; except that the president shall be permitted to serve as chairman of the executive committee.]

[(g) A provision establishing the following standing committees (as a minimum) and including a description of their functions and responsibilities, meeting schedules, and the procedures for designating their members;]

[1. Executive committee: composed of at least twenty-five (25) percent of the membership of the board of directors and shall include all officers and chairmen of standing committees of the board.]

[2. Finance committee; composed of at least the treasurer and three (3) other members of the board.]

[3. Personnel committee: composed of at least twenty (20) percent of the membership of the board. When a board operates multiple catchment area programs, the personnel committee membership shall reflect as equal a representation of the catchment areas as is mathematically possible.]

[4. Nominating committee: composed of not less than six (6) persons. The function and responsibility of this committee shall include ensuring public advertisement of the eligibility criteria and procedures for nomination for election to the board and the setting of time schedules for such public announcement. The committee shall present nominations for one-third (1/3) membership of the board annually, shall present a slate of officers according to specifications (annually or biennially) and shall present nominations to fill vacancies as they occur. In addition to general nominating procedures and public advertising the nominating committee shall establish procedures providing for nominations by petition. Any person not placed in nomination by the committee but who is qualified, may have his name placed on the list of nominees by presenting a petition for nomination signed by twenty-five (25) registered voters of the region. Applicants shall be allowed sufficient time to prepare and execute such petitions prior to the date of the election and after initial public advertising has been placed. The board must vote on a petitioning nominee as well as on the slate placed in nomination by the committee.]

[5. Staff development and training committee: composed of not less than two (2) nor more than twelve (12) members, not more than one-half (1/2) of whom shall be professionals in the disciplines of psychiatry, psychology, special education, nursing, social work, and other staff disciplines. This committee shall relate to applicant's staff to assure implementation and development of individual and team in-service training in mental health, mental retardation, alcoholism and drug addiction-related disciplinary skills.]

[6. Catchment area committee (applies to applicants administering programs in more than one (1) catchment area only): When more than one (1) catchment area program is to be administered by a single board of directors there shall be provision for one (1) standing committee for each geographic catchment area served. Each committee shall be composed of a minimum of seven (7) members from the board of directors, not less than four (4) of whom shall be residents of the catchment area served by the committee. In addition, each committee shall have at least one (1) member from the board of directors who resides in each of the other catchment areas. The chairmen of each catchment area committee must reside within the geographical area served by the committee. The function of the catchment area committees shall be to provide contact,



knowledge and concern for the service and progress of the specific catchment area program, and to report regularly to the executive committee, program and evaluation committee and board of directors as to the status of the catchment area program.]

[7. Program planning and evaluation committee: composed of the chairmen of the catchment area standing committees (when multiple catchment areas are served) and at least four (4) other members of the board of directors. This committee shall function as the over-all committee concerned with the efficacy of the existing program and the future service needs of the regional programs in mental health, mental retardation, alcoholism and drug abuse education and treatment, as well as the relationship of the regional program to the regional community.]

[(h) A provision establishing the following special committees and including a description of their functions and responsibilities, meeting schedules and procedures for designation of their members:]

[1. Affiliate liaison committee: When an affiliate agency (or agencies) of the district board operate(s) all or a part of any element(s) of service and when said affiliate(s) maintain(s) a board of its own, advisory or otherwise, there shall be appointed a special committee called the "Affiliate Liaison Committee" which shall include membership from the district board and from the affiliated agency (agencies). The affiliate liaison committee may serve for more than one (1) affiliate agency. The function of the affiliate liaison committee shall be to provide contact, knowledge and concern for the merit and progress of the specific program element(s) provided by the affiliate(s); the affiliate liaison committee will report regularly to the board of directors on matters of program need, referral procedures, personnel funding, etc. The appointment of members to the affiliate liaison committee shall be from the district board of directors and from each affiliate agency board, in such numbers and for such terms of membership as shall be determined by the district board of directors.]

[2. Sheltered workshop special committee: Those district boards directly operating sheltered workshop(s) shall designate a special committee of the board of directors called the "Sheltered Workshop Special Committee." The function of this committee shall be to provide contact, knowledge, and concern for the progress of this specific element of program, and to report regularly to the board on matters of program need, personnel, funding, etc. The appointment of members to the sheltered workshop special committee shall be from the district board in such numbers and for such terms of membership as shall be determined by the district board of directors.]

[3. Professional advisory council: The regional board of directors shall provide for the establishment of a professional advisory council composed of representatives of professional groups included in, but not limited to, the fields of health, welfare and education. The chairman of the professional advisory council, or his designee, shall be invited to be an ex-officio (non-voting) member of all meetings of standing committees of the board of directors. The council will have a two-fold purpose. First, it will provide for the district board of directors a specific background of professional skills and knowledge which can be utilized by the board in arriving at decisions concerning programs, expenditures and policies relating to professional practices. Secondly, it will afford professionals and their organizations and agencies an opportunity to become knowledgeable about district board programs.]

[4. Governmental advisory council: The regional board shall provide for the establishment of a governmental advisory council composed of the county judge of each county in the region (or his designee), the chief executive officer from the largest town or city and/or the county seat of each county in the district (or his designee). This council will provide the regional board with background, opinions and advice concerning the local governments of the regions. This will also enable the local governmental agencies to become knowledgeable about the district board programs. The chairman of the governmental advisory committee (or his designee) shall be invited to be an ex-officio (non-voting) member of all meetings of standing committees of the regional board of directors.]

(5) [Section 3. ] In the interim period between annual requests for recognition from the Department for Human Resources, the board shall submit, within ten (10) days after adoption, any and all additions, deletions and changes in their articles of incorporation or corporate bylaws.

(6) [Section 4. ] Following the election of any officer(s) of the board and/or selection of any new directors the board shall submit to the Secretary of the Department for Human Resources within ten (10) days the names and addresses of the above, whenever it shall occur.

(7) [Section 5. ] In the event that an applicant is not in conformity with these requirements, the applicant may be authorized to receive state grants for a probationary period upon assurance of the applicant that it will bring its operations, bylaws and articles of incorporation into compliance with the required standards. The duration of such probationary period will be set by the Secretary of the Department for Human Resources.

*Section 3. Membership Criteria for the Board. A provision establishing membership criteria for the board of directors of at least the following:*

*(1) Membership on regional mental health-mental retardation boards shall be representative of the elected chief executives of county government. This requirement shall be implemented by each board soliciting the chief executive of each county that comprises the region for an appointment to the membership of the board.*

*(a) In the event that insufficient positions on a board are vacant on the effective date of this regulation, which would preclude the board's membership from being representative of elected chief executives of county government, the board, as vacancies do occur, shall solicit the chief executives for board membership.*

*(b) No board membership shall be composed of more than ten (10) elected chief executives of county government.*

*(2) At least one (1) director per 5,000 residents in the catchment area, except that the board shall number not less than fifteen (15) nor more than forty (40) members (except in the case of multiple catchment area boards; (see subsection (4) below) who shall have demonstrated interest in mental health, mental illness, mental retardation, developmental disabilities, alcoholism and/or drug abuse addiction. At least one-fourth (¼) of such members shall have indicated their primary interest as mental retardation and/or developmental disabilities.*

*(3) All directors shall reside within the geographic catchment areas; directors shall be so selected as to provide*

at least one (1) representative from each county encompassed.

(4) When applicant proposes to serve a district containing multiple catchment or grant areas, the membership requirement of the board of directors set forth above shall be modified as follows:

(a) Not less than twenty-five (25) nor more than forty (40) members;

(b) All directors selected shall reside within and represent the respective geographic catchment areas and the board of directors shall contain at least one (1) director from each county in each catchment area.

(5) One-fourth ( $\frac{1}{4}$ ) of the membership of the board of directors shall be elected annually. A maximum of two (2) consecutive four (4) year terms may be served by any director.

(6) No member of the immediate family of a board member shall be employed in a service funded by the board. Immediate family shall be construed to include a spouse, sons, daughters, mother, father, brothers, sisters and grandparents. This provision shall not apply retroactively to the effective date of this regulation, nor to any person so employed prior to the board member's appointment.

**Section 4. Conduct of the Board.** A provision establishing procedures governing the conduct of the board of directors which shall include the following requirements:

(1) **Schedule of meetings of the board of directors:** The board shall meet at least twelve (12) times per year. An annual meeting date for election of officers shall be specified.

(2) **Quorum requirements for meeting of the board of directors.**

(3) **Restrictions on compensation of members of the board of directors** including the prohibition against any member of board contracting with the board to perform personal services.

(4) **Procedures for removal of directors** who are excessively absent from board meetings.

(5) **Procedures for filling of vacancies** at times other than annual meetings including the role of the nominating committee shall be specified.

**Section 5. Election and Functioning of Officers.** A provision regarding the selection and functioning of officers of the applicant including the following:

(1) **Designation of the officers of the applicant.**

(2) **Specifications of the duties and terms of officers.**

(3) **Specifications of the method by which officers shall be selected**, including a requirement that all officers be elected from the membership of the board of directors.

(4) **Designation of dates for the assumption of duties by officers.**

(5) A restriction prohibiting officers from also serving as chairmen of the standing committees of the applicant's board of directors; except that the president shall be permitted to serve as chairman of the executive committee.

**Section 6. Standing Committees.** A provision establishing the following standing committees (as a minimum) and including a description of their functions and responsibilities, meeting schedules, and the procedures for designating their members:

(1) **Executive committee:** Composed of at least twenty-five (25) percent of the membership of the board of

directors and shall include all officers and chairmen of standing committees of the board.

(2) **Finance committee:** Composed of at least the treasurer and three (3) other members of the board.

(3) **Personnel committee:** Composed of at least twenty (20) percent of the membership of the board. When a board operates multiple catchment area programs, the personnel committee membership shall reflect as equal a representation of the catchment areas as is mathematically possible.

(4) **Nominating committee:** Composed of not less than six (6) persons. The function and responsibility of this committee shall include ensuring public advertisement of the eligibility criteria and procedures for nomination for election to the board and the setting of time schedules for such public announcement. The committee shall present nominations for one-fourth ( $\frac{1}{4}$ ) membership of the board annually, shall present a slate of officers according to specifications (annually or biennially) and shall present nominations to fill vacancies as they occur. In addition to general nominating procedures and public advertising the nominating committee shall establish procedures providing for nominations by petition. Any person not placed in nomination by the committee but who is qualified, may have his name placed on the list of nominees by presenting a petition for nomination signed by twenty-five (25) registered voters of the region. Applicants shall be allowed sufficient time to prepare and execute such petitions prior to the date of the election and after initial public advertising has been placed. The board must vote on a petitioning nominee as well as on the slate placed in nomination by the committee.

(5) **Staff development and training committee:** Composed of not less than two (2) nor more than twelve (12) members, not more than one-half ( $\frac{1}{2}$ ) of whom shall be professionals in the disciplines of psychiatry, psychology, special education, nursing, social work, and other staff disciplines. This committee shall relate to applicant's staff to assure implementation and development of individual and team in-service training in mental health, mental retardation, alcoholism and drug addiction-related disciplinary skills.

(6) **Program planning and evaluation committee:** Composed of the chairmen of the catchment area boards (when multiple catchment area are served) and at least four (4) other members of the board of directors. This committee shall function as the overall committee concerned with the efficacy of the existing program and the future service needs of the regional programs in mental health, mental retardation, alcoholism and drug abuse education and treatment, as well as the relationship of the regional program to the regional community.

**Section 7. Special Committees.** A provision establishing the following special committees and including a description of their functions and responsibilities, meeting schedules and procedures for designation of their members.

(1) **Affiliate liaison committee:** When an affiliate agency (or agencies) of the district board operate(s) all or a part of a board of its own, advisory or otherwise, there shall be appointed a special committee called the "Affiliate Liaison Committee" which shall include membership from the district board and from the affiliated agency (agencies). The affiliate liaison committee may serve for more than one (1) affiliate agency. The function of the affiliate liaison



committee shall be to provide contact, knowledge and concern for the merit and progress of the specific program element(s) provided by the affiliate(s); the affiliate liaison committee will report regularly to the board of directors on matters of program need, referral procedures, personnel funding, etc. The appointment of members to the affiliate liaison committee shall be from the district board of directors and from each affiliate agency board, in such numbers and for such terms of membership as shall be determined by the district board of directors.

(2) Sheltered workshop special committee: Those district boards directly operating sheltered workshop(s) shall designate a special committee of the board of directors called the "Sheltered Workshop Special Committee." The function of this committee shall be to provide contact, knowledge, and concern for the progress of this specific element of program, and to report regularly to the board on matters of program need, personnel, funding, etc. The appointment of members to the sheltered workshop special committee shall be from the district board in such numbers and for terms of membership as shall be determined by the district board of directors.

(3) Professional advisory council: The regional board of directors shall provide for the establishment of a professional advisory council composed of the center's professional staff and representatives of professional groups included in, but not limited to, the fields of health, welfare and education. The chairman of the professional advisory council, or his designee, shall be invited to be an ex-officio (non-voting) member of all meetings of standing committees of the board of directors. The council will have a two-fold purpose. First, it will provide for the district board of directors a specific background of professional skills and knowledge which can be utilized by the board in arriving at decisions concerning programs, expenditures and policies relating to professional practices. Secondly, it will afford professionals and their organizations and agencies an opportunity to become knowledgeable about district programs.

(4) Governmental advisory council: The regional board shall provide for the establishment of a governmental advisory council composed of county judges or their designees not otherwise represented on the board and executives of municipal governments. This council will provide the regional board with background, opinions and advice concerning the local governments of the regions. This will also enable the local government agencies to become knowledgeable about the district board programs. The chairman of the governmental advisory council (or his designee) shall be invited to be an ex-officio (non-voting) member of all meetings of standing committees of the regional board of directors.

**Section 8. Catchment Area Boards.** When more than one (1) catchment area program is to be administered by a single board of directors, this board may provide for one (1) catchment area board for each geographic catchment area served. Upon provision for catchment area boards, the single board shall designate itself as the regional mental health-mental retardation board and shall appoint an equal number of its members to each separate catchment area board. No more than twenty-five (25) percent of regional board members appointed to a catchment area board may reside outside of the catchment area. Each catchment area board shall, otherwise, be representative of the individuals who reside in the catchment area, and at least fifty (50)

percent of the catchment area board members shall not be providers of health care. The catchment area board shall be responsible for establishing general policies for the catchment area program, approving the budget and expenditure of funds and approving the selection of the center director. The regional mental health-mental retardation board shall, in a superordinate position, be responsible for reviewing and approving the annual plan and budget prepared by a catchment area board and shall be responsible for all personnel policies, contractual obligations and insurance of the quality of direct patient services for the entire region. The catchment area board shall have such authority and responsibility as may be delegated to it by the superordinate board. Such authority and responsibility may include, but not necessarily be limited to, the following:

(1) The general and specific functions and responsibilities of the catchment area board.

(2) The process by which a representative catchment area board will be selected and maintained.

(3) The process by which appropriate training will be made available to catchment area board members so as to enhance their effectiveness.

(4) The organizational and administrative relationships between the catchment area board and the center director, the professional advisory council and any superordinate governing structure.

(5) The procedures the catchment area board will utilize to review the center program, the quality of its services and the results of center evaluation data.

(6) The procedures the catchment area board will utilize in reporting and disseminating to the public information on the center's programs and services.

(7) The procedures the catchment area board will utilize to ensure that the governing body will have adequate administrative support and capacity to carry out its functions.

WILLIAM P. McELWAIN, M.D., Commissioner

ADOPTED: June 26, 1976

APPROVED: C. LESLIE DAWSON, Secretary

RECEIVED BY LRC: January 21, 1977 at 4 p.m.

## Proposed Amendments

4-6-77

### EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION Board of Dentistry (Proposed Amendment)

201 KAR 8:185. Written examination grade requirements.

RELATES TO: KRS 313.050

PURSUANT TO: KRS 313.220

NECESSITY AND FUNCTION: Sets forth requirements and qualifications for the written examination prior to the candidates' participation in the clinical examination.

Section 1. (1) Written examination: To successfully complete the written portion of the Kentucky Board of Dentistry's licensure examination, all applicants must have achieved *a grade of at least seventy-five percent (75%) on each section of* [an overall average of at least seventy-five percent (75%) on] the examination conducted by the Council of National Board of Dental Examiners.

(2) This requirement must be satisfied prior to admission to the clinical portion of the Kentucky Board of Dentistry's licensure examination.

JAMES W. HOLLADAY, D.M.D., Secretary-Treasurer

ADOPTED: January 22, 1977

APPROVED: RUSSELL McCLURE, Secretary

RECEIVED BY LRC: February 15, 1977 at 1 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Secretary-Treasurer, Kentucky Board of Dentistry, 2106 Bardstown Road, Louisville, Kentucky 40205.

4-6-77

### EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION Board of Dentistry (Proposed Amendment)

201 KAR 8:277. Written and clinical application grade requirements.

RELATES TO: KRS 313.270

PURSUANT TO: KRS 313.270

NECESSITY AND FUNCTION: Sets forth requirements and qualifications for the written examination prior to the candidates' participation in the clinical examination.

Section 1. The provisions of 201 KAR 8:180, 201 KAR 8:185 and 201 KAR 8:190 shall be applicable to dental hygienists for the purpose of establishing the time of examination, and the grading of the examinations of all applicants for a license to practice dental hygiene, and such other provisions of these rules as pertain to the procedures and conducting of examination.

Section 2. (1) Written examination: To successfully

complete the written portion of the Kentucky Board of Dentistry's licensure examination, all applicants must have achieved *a grade of at least seventy-five percent (75%) on each section of* [an overall average of at least seventy-five percent (75%) on] the examination conducted by the Council of National Board of Dental Examiners.

(2) This requirement must be satisfied prior to admission to the clinical portion of the Kentucky Board of Dentistry's licensure examination.

Section 3. Clinical examination: An overall average of at least seventy-five percent (75%) is required for successful completion of the clinical section of the Kentucky Board of Dentistry's licensure examination. No license may be issued unless this requirement is met.

JAMES W. HOLLADAY, D.M.D., Secretary-Treasurer

ADOPTED: January 22, 1977

APPROVED: RUSSELL McCLURE, Secretary

RECEIVED BY LRC: February 15, 1977 at 1 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Secretary-Treasurer, Kentucky Board of Dentistry, 2106 Bardstown Road, Louisville, Kentucky 40205.

### CABINET FOR DEVELOPMENT Department of Fish and Wildlife Resources (Proposed Amendment)

301 KAR 2:055. Pits and blinds; restrictions.

RELATES TO: KRS 150.025, 150.600

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: This regulation pertains to the establishment of pits and blinds on Ballard Wildlife Management Area, Peal Wildlife Management Area and commercial waterfowl shooting areas in a portion of Ballard County. This regulation is necessary for the continued protection and conservation of migratory waterfowl and to insure a permanent and continued supply of this wildlife resource for the purpose of furnishing sport and recreation for present and future residents of the state. The function of this regulation is to provide for the prudent taking of migratory waterfowl within reasonable limits based upon an adequate supply and to insure some uniformity of commercial waterfowl shooting area operating and reporting procedures. It has become necessary to amend this regulation in order to *apply the pit or blind setback provision equally and fairly to private property and commercial waterfowl shooting areas and to further regulate harvest.* [define the word commercial and obtain waterfowl harvest data weekly instead of monthly.]

Section 1. It is unlawful for any person or persons to establish or use any commercial blind or pit for the purpose of taking waterfowl on commercial waterfowl

shooting areas, the Ballard Wildlife Management Area and the Peal Wildlife Management Area within the area described herein, unless they conform with this regulation, except for the exemptions listed. A commercial waterfowl shooting area is any area of land and/or water, used in whole or part for the taking, attempted taking, or the privilege of taking migratory waterfowl where a daily monetary charge is made. This regulation deals with commercial waterfowl hunting; non-commercial hunting is covered by another regulation.

**Section 2. Designated Area Covered By This Regulation.** This regulation applies only to the area described as follows: starting at the northwest city limits of the town of Wickliffe in Ballard County to the middle of the Mississippi River, and thence north along the Mississippi to the low water mark of the Ohio River along the Illinois shore to the Ballard-McCracken County line; thence along the county line south to state road 358; thence south along state road 358 to its junction with U.S. Highway 60 at LaCenter; thence following U.S. 60 southwest to the northeast city limits of Wickliffe.

**Section 3. Required Permit.** A commercial waterfowl permit issued by the Department of Fish and Wildlife Resources, Capital Plaza Tower, Frankfort, Kentucky 40601, must be obtained by any person or persons operating a commercial waterfowl shooting area, as defined in Section 1. Any person or persons operating more than one (1) commercial waterfowl shooting area must obtain a permit for each individual area. A land holding divided by a public road may be operated as a commercial waterfowl shooting area under one (1) permit. Whenever a farm unit is divided by land owned by others, a separate permit is required for each tract of land operated as a commercial waterfowl shooting area. An annual fee of twenty-five dollars (\$25) will be charged for each commercial waterfowl permit.

**Section 4. Record Keeping, Reporting and Violations.** The holder of a commercial waterfowl permit shall:

(1) Maintain and keep an accurate and complete daily hunter register and waterfowl kill record in duplicate on the hunting area on forms provided by the department. The original copy of said forms for the period Monday through Sunday must be mailed or taken to the Ballard Wildlife Management Area, Route 1, LaCenter, Kentucky 42056, at the close of shooting hours each Sunday during the waterfowl season, and must be postmarked no later than the following Monday or the day following the last day of the waterfowl season. Duplicate copies of these forms must be held at the place of registration. This daily register and kill record shall be exhibited to, and open to inspection by conservation officers and other authorized employees of the Department of Fish and Wildlife Resources and the United States Fish and Wildlife Service;

(2) Be responsible for any violation pertaining to his permit, or any other type of violation being committed on his premises that is under the permit, unless he reports immediately the violation to a conservation officer.

**Section 5. Rules of Compliance for Commercial Waterfowl Shooting Areas.**

(1) It is unlawful for any person or persons to shoot, take, or attempt to take, any waterfowl except from a blind or pit (see Section 10 for exemptions).

(2) It is unlawful for any person or persons to establish or use any blind or pit for the taking of waterfowl within 100 yards of any other blind or pit.

(3) It is unlawful for any person or persons with commercial intentions to establish or locate any blind or pit within 200 yards of any state waterfowl refuge, or within 100 yards of any state owned public shooting area or within *fifty (50)* [100] yards of any [private] property line. Blinds or pits on state property shall conform to boundary regulations.

(4) It is unlawful for more than four (4) persons, *each having one (1) shotgun*, plus one (1) caller who shall not shoot, to occupy a single blind or pit at the same time.

(5) No waterfowl hunting will be permitted along or on the Ohio River from a point 100 yards upstream from Dam 53, downstream to a point 100 yards below the downstream boundary of the Ballard County Wildlife Management Area (the downstream boundary being approximately one and one-half (1½) miles below the mouth of Humphrey Creek). Waterfowl hunting is allowed on or along the remainder of the Ohio and Mississippi Rivers as described in Section 2.

(6) No person or persons shall hunt, in any manner, or carry a gun on any licensed commercial waterfowl shooting area without first registering and checking in with the owner, operator or keeper of the shooting area.

(7) No shot larger than No. 2 will be allowed for hunting waterfowl. This rule applies statewide; including all of the department's wildlife management areas.

**Section 6. Marking of Harvested Waterfowl.** All persons engaged in any type of commercial enterprise where waterfowl, or other game must be harbored, or stored for a period of time, or temporarily, must identify each bird with a tag, giving the name and address of the owner and his license number.

**Section 7. Revocation of Permit.** Failure to comply with any part of this regulation shall constitute a violation by the holder of a commercial waterfowl permit, and shall constitute grounds for the revocation of his or her permit.

**Section 8. Rules Applying Only to the Ballard Wildlife Management Area Located in Ballard County:** (1) Not more than three (3) persons are allowed to occupy a single blind or pit at the same time.

(2) Only geese may be taken by hunters occupying a blind or pit in areas designated for goose hunting. Shooting, taking or attempting to take ducks from a pit or blind in designated goose hunting areas, will constitute a violation of this regulation.

(3) Only ducks may be taken by hunters occupying a blind or pit in areas designated for duck hunting. Shooting, taking, or attempting to take geese from a pit or blind in designated duck hunting areas, will constitute a violation of this regulation.

(4) No shot larger than No. 2 will be allowed for hunting waterfowl.



Section 9. Rules Applying Only to the Peal Wildlife Management Area Located near Wickliffe in Ballard County: (1) Not more than three (3) persons are allowed to occupy a single blind or pit at the same time.

(2) Both ducks and geese may be taken by hunters occupying a pit or blind.

(3) Hunters may erect only temporary pits or blinds as long as they comply with the set back provisions and distances between blinds as provided in Section 5, Subsection (2), of this regulation.

(4) Any hunter may occupy a privately erected temporary, or state erected permanent blind or pit on a first come first serve basis.

(5) No shot larger than No. 2 (&2) will be allowed for hunting waterfowl.

Section 10. Conditions and Locations Where Boat Is Considered A Blind. For purposes of this regulation, an anchored, stationary or drifting boat from which waterfowl are hunted, is considered to be a blind except for the area closed to waterfowl hunting as described in Section 5, Subsection (5).

ARNOLD L. MITCHELL, Commissioner  
DR. ROBERT C. WEBB, Chairman  
Department of Fish and  
Wildlife Resources Commission

ADOPTED: December 12, 1976

APPROVED: WILLIAM L. SHORT, Secretary

RECEIVED BY LRC: February 14, 1977 at 2 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: The Commissioner, Department of Fish and Wildlife  
Resources, Capital Plaza Tower, Frankfort, Kentucky  
40601.

**CABINET FOR DEVELOPMENT**  
Department of Fish and Wildlife Resources  
(Proposed Amendment)

301 KAR 3:070. Goose harvest reporting.

RELATES TO: KRS 150.025, 150.600

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: This regulation pertains to the rules, registration and reporting of the goose harvest in a designated portion of Ballard County. This regulation is necessary to determine the number of geese harvested in Ballard County as mandated by the Mississippi Flyway Council. The harvest data are to be utilized in determining the size of a future goose harvest quota. The function of this regulation is to provide accurate goose harvest data to serve as a basis for a forthcoming mandatory harvest quota.

Section 1. It is unlawful for any person or persons to shoot, take, or attempt to take any waterfowl on non-commercial lands and/or waters within the area described herein, unless they conform with this regulation. A non-commercial waterfowl shooting area is any area or land and/or water, used in whole or in part for the taking, at-

tempted taking, or the privilege of taking migratory waterfowl where no daily monetary charge is made.

Section 2. Designated Area Covered By This Regulation. This regulation applies only to the area described as follows: starting at the northwest city limits of the town of Wickliffe in Ballard County to the middle of the Mississippi River, and thence north along the Mississippi to the low water mark of the Ohio River along the Illinois shore to the Ballard-McCracken County line; thence along the county line south to state road 358; thence south along state road 358 to its junction with U. S. Highway 60 at LaCenter; thence following U. S. 60 southwest to the northeast city limits of Wickliffe.

Section 3. General Rules Concerning Waterfowl Hunting and Spacing of Pits or Blinds on Non-commercial Waterfowl Shooting Areas.

(1) It is unlawful for any person or persons to shoot, take, or attempt to take, any waterfowl except from a blind or pit. For purposes of this regulation, an anchored, stationary or drifting boat from which waterfowl are hunted, is considered to be a blind, except for the area closed to waterfowl hunting as described in subsection (5) of this section.

(2) It is unlawful for any person or persons to establish or use any blind or pit for the taking of waterfowl within 100 yards of any other blind or pit.

(3) It is unlawful for any person to establish or locate any blind or pit within 200 yards of any state waterfowl refuge, or within 100 yards of any state owned public shooting area[.] or within fifty (50) yards of any property line.

(4) It is unlawful for more than four (4) persons, each having one (1) shotgun, plus one (1) caller who shall not shoot, to occupy a single blind or pit at the same time.

(5) No waterfowl hunting will be permitted along or on the Ohio River from a point 100 yards upstream from Dam 53, downstream to a point 100 yards below the downstream boundary of the Ballard County Wildlife Management Area (the downstream boundary being approximately one and one-half (1½) miles below the mouth of Humphrey Creek). Waterfowl hunting is allowed on or along the remainder of the Ohio and Mississippi Rivers as described in Section 2 of this regulation.

Section 4. Free Permit and Rules for Persons Controlling Land and/or Water, and/or Waterfowl Hunting Rights and Privileges Pertaining to Said Land and/or Water Used, or Intended to be Used, for Hunting of Geese on a Non-commercial Basis.

(1) Any person or persons controlling land and/or water and/or the waterfowl hunting rights and privileges pertaining to said land and/or water, within the designated area covered by this regulation, used or intended to be used, in whole or in part, for the taking of geese on a non-commercial basis must apply to the Ballard County Wildlife Management Area, Route 1, LaCenter, Kentucky 42056, for a free Migratory Goose Hunting Area permit.

(2) The holder of a free Migratory Goose Hunting Area permit may be:

(a) The landowner, his tenant or any designated representative, who controls the land and/or water and/or the waterfowl hunting rights and privileges pertaining to said land and/or water upon which goose hunting is permitted;

(b) Any other person to whom individuals as defined in paragraph (a) of this subsection, have assigned exclusive

goose hunting rights or privileges, in writing, on forms provided by the department.

(3) The free Migratory Goose Hunting Area permit shall:

(a) Be displayed openly on the property for which it was issued;

(b) Be open for inspection by conservation officers or other authorized employees of the Department of Fish and Wildlife Resources and members of the U. S. Fish and Wildlife Service;

(c) Expire each year on the day after the end of the waterfowl season.

(4) The holder of a free Migratory Goose Hunting Area permit shall:

(a) Make available and maintain at all times during the waterfowl season, the daily hunter register forms in duplicate provided by the department on the area for which the permit is issued;

(b) Require all waterfowl hunters to register each time they hunt on the daily register forms provided by the department prior to hunting on any permit area;

(c) Require all waterfowl hunters to record the numbers and kinds of geese taken on the permit area immediately before leaving the hunting area;

(d) Mail or take the original daily register form for the period Monday through Sunday to the Ballard Wildlife Management Area, Route 1, LaCenter, Kentucky 42056, at the close of shooting hours each Sunday during the waterfowl season, and it must be postmarked no later than the following Monday or the day following the last day of the waterfowl season, even if no geese were killed or hunted;

(e) Hold duplicate forms from past weeks for a period of two (2) months after the end of the waterfowl season;

(f) Exhibit to, and allow inspection of, the daily register by conservation officers and other authorized employees of the Department of Fish and Wildlife Resources and the U. S. Fish and Wildlife Service.

Section 5. Any person hunting, taking or attempting to take geese within the area designated by this regulation shall:

(1) Write on a daily register form the date, and their name and address before entering any land and/or waters to hunt geese;

(2) Immediately upon returning from any land and/or waters, register the numbers and kinds of geese taken, including a negative or zero report if failing to kill any geese.

Section 6. Ohio and Mississippi River Waterfowl Hunters. Persons hunting or taking geese on the Ohio and Mississippi Rivers and their overflow areas within the designated area covered by this regulation shall apply for a season's supply of daily register forms at the Ballard Wildlife Management Area, Route 1, LaCenter, Kentucky 42056.

(1) A daily register form must be carried on the person of each goose hunter if hunting alone, or by one hunter in a party while hunting, taking or attempting to take geese on these two (2) rivers and their overflow areas. The form must be filled out during each hunt in the same manner as described in Section 5. When hunting in a party where only one person possesses a daily register form, all members of the hunting party may register on that person's daily register.

(2) The original copy of the daily register form must be mailed or taken to the Ballard Wildlife Management Area as described in Section 4, subsection (4)(d).

(3) The duplicate daily register form must be held as

described in Section 4, subsection (4)(e).

(4) The daily register form must be exhibited and allowed to be inspected as described in Section 4, subsection (4)(f).

DR. ROBERT C. WEBB, Chairman

Department of Fish and Wildlife Resources Commission

ARNOLD L. MITCHELL, Commissioner

ADOPTED: December 12, 1976

APPROVED: WILLIAM L. SHORT, Secretary

RECEIVED BY LRC: February 14, 1977 at 2 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: The Commissioner, Department of Fish and Wildlife Resources, Capital Plaza Tower, Frankfort, Kentucky 40601.

### DEPARTMENT OF TRANSPORTATION Bureau of Vehicle Regulation (Proposed Amendment)

601 KAR 13:020. Point system.

RELATES TO: KRS 186.570, 186.572

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: This regulation is the so-called "point system" whereby each traffic violation conviction is assigned a certain number of points, according to the seriousness of the offense, as determined by accident-cause statistics. Certain offenses have proven so dangerous that they, along with certain license violations, are made cause for suspension periods rather than point accumulation. The purpose of this is to establish a criterion whereby the discretion allowed in determining the "habitually reckless or negligent driver" or the serious "violation" will not be exercised arbitrarily and capriciously, but each license holder will be treated like every other one, and each will know or can determine his "point" status at any given time.

Section 1. To assist the Department of Transportation in making a determination that a person is an habitually reckless or negligent driver of a motor vehicle or has committed a serious violation of the motor vehicle laws for the purpose of denying, suspending, or revoking that person's license in accordance with KRS 186.570 a schedule of penalty points shall govern. Value points for the different classifications of moving hazardous violations, or a suspension period for certain named violations, shall be assessed as set out in Sections 2 and 3 of this regulation for all drivers. Points shall be assessed or suspensions invoked for convictions, forfeiture of bail, or payment of fines, with or without a court appearance, for the enumerated offenses regardless of whether the conviction is received from a court of competent jurisdiction within the Commonwealth of Kentucky or any other jurisdiction (except for out-of-state speeding offenses). Information regarding convictions may be secured from any official sources or records available to public or departmental inspection. Complete records of suspensions and point system assessments shall be maintained in the Department of Transportation.

Section 2. Conviction for any one of the following serious violations of the motor vehicle laws shall be cause

for suspension for the period of time indicated:

Racing.....	90 days
Speeding 26 MPH or more over limit .....	90 days
Attempting to Elude Law Enforcement	
Officer by use of Motor Vehicle.....	90 days

Section 3. Conviction for any one of the following moving hazardous violations shall be cause for assessment of the penalty points indicated:

Speeding 15 MPH or less over the limit .....	3
<i>(Except where the moving hazardous violation occurred on a limited access highway or a limited access highway of four (4) or more lanes in Kentucky on which the speed limit is 55 MPH or higher. In such case no penalty points shall be assessed for a speeding conviction of 15 MPH or less over the limit.)</i>	
Speeding 16 MPH or more, but less than 26 MPH, over the limit .....	6
Improper passing .....	5
Reckless Driving .....	4
Driving on Wrong Side of Road .....	4
Following Too Close .....	4
Failure to Yield to Emergency Vehicle .....	4
Changing Drivers in a Moving Vehicle .....	4
Vehicle Not Under Control .....	4
Stop Violation (electric signal, railroad crossing, stop sign) .....	3
Failure to Yield .....	3
Wrong Way on One-Way Street .....	3
Too Fast for Conditions .....	3
Too Slow for Conditions .....	3
Improper Start .....	3
Improper Driving .....	3
Careless Driving .....	3
Improper Lane Usage .....	3
Failure to Illuminate Headlights .....	3
Failure to Dim Headlights .....	3
Any Other Moving Hazardous Violations .....	3
Commission of a Moving Hazardous Violation which involves an Accident .....	6
Combination of Two or More Moving Hazardous Violations in any one occurrence .....	6

Section 4. (1) On the accumulation of six (6) or more points against any driver, the Department of Transportation may send a letter to the address shown on his driver license record that will require said driver to be interviewed by a driver improvement officer for the purpose of seeking a solution to his errant driving behavior. Failure to report for the interview *may* [shall] be cause for the department to suspend the person's driving rights for a period of not less than thirty (30) days.

(2) After this interview, the department may require the driver to attend a driver improvement clinic approved by the Department of Transportation. *Failure to successfully complete the driver improvement clinic may be cause for the department to suspend the person's driving rights for a period of not less than thirty (30) days.*

(3) Upon evidence to the department that a valid license holder has successfully completed this clinic, a four (4) point credit shall be given on the driver record of those who voluntarily complete the driver improvement clinic after the effective date of this regulation. This subsection shall not apply when a driver is required to attend the driver improvement clinic as a condition of his probation.

(4) No driver shall be permitted to attend this clinic until two (2) years have elapsed following the date of completion

of a previous clinic for the reduction of points or reduction of a suspension period.

Section 5. (1) Upon the accumulation of twelve (12) points by any driver within a period of two (2) years, the department may suspend the operating right of such driver for a period of six (6) months for the first such accumulation of twelve (12) points, one (1) year for the second such accumulation of twelve (12) points, and two (2) years for any subsequent accumulation of twelve (12) points within the two (2) year period.

(2) For any violation for which the suspension of the driving privilege is six (6) months or less for the first offense, the second conviction of a similar offense shall result in a suspension period of not less than one (1) year, and any subsequent conviction for any similar offense not less than two (2) years.

(3) Provided the driver is eligible for "probation," the department may waive the remainder of a driver's suspension period after he has served one-half ( $\frac{1}{2}$ ) of it. Upon this waiver, the department shall place the driver on "probation" as outlined in Section 6(2) of this regulation, for two (2) times the amount of time remaining on the suspension period.

Section 6. (1) Any driver who accumulates twelve (12) points or more within a period of two (2) years, or who is convicted of any offense that could result in a discretionary suspension, may be placed on "probation" in lieu of suspension.

(2) A driver receiving a conviction from a moving hazardous violation from any court outside the boundaries of Kentucky which may result in a suspension shall be offered a hearing prior to any suspension of his driving right.

(3) "Probation" for the purpose of this regulation means that upon any additional future conviction for a moving violation with or without court appearance, or upon failure to successfully complete the driver improvement clinic, the driver shall have his driving right in Kentucky suspended for the period of time outlined in Section 5(1) and (2). In the situation where a driver has been convicted of driving under the influence of intoxicants in a foreign jurisdiction, probation may include successful completion of the alcohol driver education course in lieu of terms previously stated.

(4) Once a driver has been placed on "probation" by the department, he shall not be considered for probation again until a lapse of two (2) years from the ending date of any previous probation period granted, whether served or not.

Section 7. Any driver who holds a valid driver's license from another licensing jurisdiction and desires to become a valid license holder in Kentucky, upon establishing residency in this state, but has a driving record of *one* (1) [two (2)] or more convictions for moving violations within the preceding two (2) years, may be considered for an operator's license in Kentucky. However, such person must not be under suspension or revocation by any state at any time of his application in Kentucky. This driver applicant may be required to appear for an interview, as outlined in Section 4(1), and may be required by the department to successfully complete a driver improvement clinic, as outlined in Section 4(2), as a prerequisite to obtaining a permanent Kentucky operator's license.

Section 8. Whenever a conviction report is used for a suspension or probation, it shall never be used for an addi-

tional suspension. It may be used to show that the driver has previously been suspended on his record.

Section 9. No person's driving right will be suspended under any section of this regulation without his first being offered a hearing, *unless such hearing offer has been waived.*

O. B. ARNOLD, Commissioner  
ADOPTED: January 20, 1977  
APPROVED: JOHN C. ROBERTS, Secretary  
RECEIVED BY LRC: February 3, 1977 at 2 p.m.  
SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Commissioner, Bureau of Vehicle Regulation,  
Department of Transportation, State Office Building,  
Frankfort, Kentucky 40601.

**DEPARTMENT OF TRANSPORTATION**  
**Bureau of Vehicle Regulation**  
**(Proposed Amendment)**

**601 KAR 25:030. Registration decal.**

RELATES TO: KRS 235.040, 235.050, 235.150  
PURSUANT TO: KRS 13.082, 174.080, 235.320

NECESSITY AND FUNCTION: KRS 235.040 requires that all motorboats be registered and numbered; KRS 235.050 requires that they be registered annually; and KRS 235.150 directs the Division of *Driver Licensing* [Water Enforcement] to attempt to assign the same number to a boat upon subsequent registrations. This regulation provides for a current-year decal to be issued upon registration to be displayed on a boat as a validation sticker in order to clearly show that the boat is currently and properly registered; the decal is, of course, necessary since the number in most cases will remain the same from year to year.

Section 1. A current-year validation decal issued to a motorboat registered in Kentucky shall be displayed *within six (6) inches behind (aft) and in line with the certificate of number on the starboard (right hand side) bow of the vessel.* [in a clearly visible location on the vessel, and if the boat has a windshield, the decal shall be displayed thereon.]

[Section 2. After January 1, 1976, current-year validation decals must be displayed within six (6) inches behind and in line with the certificate of number on the starboard (right hand side) bow of the vessel.]

O. B. ARNOLD, Commissioner  
ADOPTED: February 1, 1977  
APPROVED: JOHN C. ROBERTS, Secretary  
RECEIVED BY LRC: February 7, 1977 at 2 p.m.  
SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Deputy Secretary for Legal Affairs, Department of Transportation, State Office Building, Frankfort, Kentucky 40601.

**DEPARTMENT OF TRANSPORTATION**  
**Bureau of Vehicle Regulation**  
**(Proposed Amendment)**

**601 KAR 25:050. Safety equipment required.**

RELATES TO: KRS 235.200, 235.280  
PURSUANT TO: KRS 13.082, 174.080, 235.200, 235.280, 235.320

NECESSITY AND FUNCTION: KRS 235.200 authorizes the Division of Water Enforcement to promulgate regulations requiring equipment not specifically designated in that state to be on board vessels if the division finds such a requirement to be appropriate to promote the safety of navigation and of persons, and KRS 235.280 directs the division to promulgate water safety regulations. This regulation specifies various required safety equipment and conditions to be maintained on particular vessels.

Section 1. Carburetors on all engines on motorboats other than those propelled by an outboard motor (*engine*) must be fitted with an effective flame arrestor that is approved by the United States Coast Guard.

Section 2. All vessels shall be so constructed as to provide for adequate ventilation of the bilge and other enclosures.

Section 3. All boats requiring a carburetor drip pan shall be equipped with same, and it shall be maintained in a satisfactory condition.

Section 4. All vessels shall maintain the bilges clean and free from oil and grease.

[Section 5. All Class A motorboats shall have a paddle or oar on board at all times.]

[Section 6. All motorboats shall be equipped with a suitable bailer or pump, depending on the type and construction of the vessel.]

[Section 7. All motoboats shall be equipped with a suitable anchor and line.]

O. B. ARNOLD, Commissioner  
ADOPTED: February 1, 1977  
APPROVED: JOHN C. ROBERTS, Secretary  
RECEIVED BY LRC: February 7, 1977 at 2 p.m.  
SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Deputy Secretary for Legal Affairs, Department of Transportation, State Office Building, Frankfort, Kentucky 40601.

**DEPARTMENT OF TRANSPORTATION**  
**Bureau of Vehicle Regulation**  
**(Proposed Amendment)**

**601 KAR 25:090. Fire extinguisher equipment.**

RELATES TO: KRS 235.200

PURSUANT TO: KRS 13.082, 174.080, 235.200, 235.320

**NECESSITY AND FUNCTION:** KRS 235.200 authorizes the Division of Water Enforcement to promulgate regulations requiring equipment not specifically designated in that statute to be on board vessels if the division finds such a requirement to be appropriate to promote the safety of navigation and of persons. This regulation recognizes fire extinguisher equipment as necessary to promote such safety.

Section 1. All vessels as hereinafter designated shall be equipped with fire extinguisher equipment which shall be kept in such a workable condition and location as to make it available for immediate and effective use when the vessel is occupied.

(1) All inboard motor vessels, regardless of size, and all outboard motor vessels which have enclosed or semi-enclosed bilges shall have a hand-portable fire extinguisher or semi-portable fire extinguisher using carbon dioxide (CO<sub>2</sub>), foam or other chemical ingredient such as commonly used for extinguishing gasoline fires or petroleum product fires. Such a fire extinguisher shall be of a type approved by the United States Coast Guard.

(2) All vessels equipped with any butane gas, propane gas, kerosene, gasoline or petroleum product consuming device, except outboard motors, shall have a hand-portable fire extinguisher or semi-portable fire extinguisher, as required and enumerated in subsection (1) above.

(3) All motor vessels having closed or semi-enclosed cabins and any vessel with sleeping accommodations shall have a hand-portable fire extinguisher or semi-portable fire extinguisher, as required and enumerated in subsection (1) above.

(4) All boats with double bottom not sealed to the hull or which are not completely filled with flotation material, or closed storage compartments in which combustible flammable materials are stored or permanently installed fuel tanks shall have a hand-portable fire extinguisher or semi-portable fire extinguisher, as required and enumerated in subsection (1) above.

(5) All open-type boats with decks at the bow thirty (30) inches long or longer, shall carry aboard one (1) portable Coast Guard-approved fire extinguisher.

(6) *On those vessels requiring fire extinguishers, the following are minimum of both quantity and size:*

(a) *Class A Boats; One (1) B-1 for inboards on open boats in which flammable gases may accumulate.*

(b) *Class 1 Boats; One (1) B-1.*

(c) *Class 2 Boats; Fixed systems plus one (1) B-1. No fixed systems, two (2) B-1's.*

(d) *Class 3 Boats; Fixed system plus two (2) B-1's or, in lieu of two (2) B-1's, one (1) B-2. No fixed system, three (3) B-1's, or one (1) B-1 plus one (1) B-2.*

Section 2. The following conditions do not, in and of themselves, require that fire extinguishers be carried:

- (1) Bait wells;
- (2) Glove compartments;
- (3) Bouyant flotation material;

- (4) Open slatted flooring;
- (5) Ice chests.

Section 3. Whereas on all other boats it is not mandatory that they be equipped with fire extinguishers, the division recommends that all boats carry one, at least as a measure of safety.

O.B. ARNOLD, Commissioner

ADOPTED: February 1, 1977

APPROVED: JOHN C. ROBERTS, Secretary

RECEIVED BY LRC: February 7, 1977 at 2 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Deputy Secretary for Legal Affairs, Department of Transportation, State Office Building, Frankfort, Kentucky 40601.

**DEPARTMENT OF TRANSPORTATION**  
**Bureau of Vehicle Regulation**  
**(Proposed Amendment)**

**601 KAR 25:150. Passengers riding in dangerous positions prohibited.**

RELATES TO: KRS 235.280

PURSUANT TO: KRS 13.082, 174.080, 235.280, 235.320

**NECESSITY AND FUNCTION:** KRS 235.280 directs the Division of Water Enforcement to promulgate rules and regulations to govern the safe use of the state's waters. This regulation is designed to promote such safety considerations by prohibiting a boat's passengers from riding in dangerous positions.

Section 1. No person shall ride on the bow, gunwale, or transom of a motorboat while under way when such a position is not protected by railing or other reasonable deterrent to falling overboard, nor shall any person ride in a position (back of seat) or manner which is obviously dangerous. These provisions shall not apply to a vessel's crewmen in the act of anchoring or the necessary management of sail.

*Section 2. No person shall ride in a high rise or "bass seat" while underway and the vessel is at a speed greater than "idle speed," as defined in 601 KAR 25:130. Any seat which exceeds six (6) inches above the plane of the gunwales shall be considered a high rise seat.*

O. B. ARNOLD, Commissioner

ADOPTED: February 1, 1977

APPROVED: JOHN C. ROBERTS, Secretary

RECEIVED BY LRC: February 7, 1977 at 2 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Deputy Secretary for Legal Affairs, Department of Transportation, State Office Building, Frankfort, Kentucky 40601.



**DEPARTMENT FOR HUMAN RESOURCES**  
**Bureau for Health Services**  
**Certificate of Need and Licensure Board**  
**(Proposed Amendment)**

**902 KAR 20:059. Primary care center services.**

RELATES TO: KRS 216.405 to 216.485, 216.990(2)  
 PURSUANT TO: KRS 13.082, 216.425

NECESSITY AND FUNCTION: This regulation which relates to the operations and services of Primary Care Center Services, is being promulgated pursuant to the mandate of KRS 216.425(3) that the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board regulate health facilities and health services.

Section 1. Definition. A primary care center is a public or private community-oriented organization with permanent facilities that provide the entry point into the health care delivery system to primarily ambulant patients of all ages. A primary care center provides a variety of preventive, diagnostic, and therapeutic services administered by appropriately licensed or certified members of the health professions to meet usual health care needs in a manner that ensures the continuity of care. All primary care centers shall be characterized as follows. They shall:

- (1) Anticipate health care needs of the population they serve;
- (2) Facilitate access to diagnosis and treatment in the center and through referral to other health care providers;
- (3) Manage those conditions which have been diagnosed and/or treated by the center or other health care providers;
- (4) Provide diagnostic and treatment services for all age patients who do not currently require inpatient care, and who may have a variety of medical conditions;
- (5) Serve a defined geographic service area which is sixty (60) minutes or less travel time under normal conditions from the primary care center which is accessible by usual transportation and is visible in the community;
- (6) Emphasize services for the prevention of illness and improvement of health status;
- (7) Have a governing authority legally responsible for the conduct of the operations of the center;
- (8) Have linkages with other levels of care;
- (9) Assure continuity of care through a health record system;
- (10) Provide for two (2) full-time physicians or one or more full-time physicians and one or more full-time *registered nurses as defined in Section 6(2) [mid-level practitioners]* on the staff of the center;
- (11) Provide for twenty-four (24) hour emergency medical services seven (7) days a week.

Section 2. Licensure and Certificate of Need. (1) A primary care center, as herein defined, shall not operate without having first obtained a certificate of need from the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board unless it was in operation prior to the effective date of this regulation.

(2) A certificate of need will be required for the addition or discontinuance of each extension service, as defined in this regulation, unless such extension services existed prior to the effective date of this regulation.

(3) The licensee of primary care centers may or may not serve in the capacity of administrator but shall be responsible for satisfactory compliance with Kentucky laws, regulations, and rules pertaining to the total operation of the designated facility.

(4) The license shall be posted in a public area of the facility in plain view of visitors.

Section 3. Organization and Administration. (1) Governing authority: The center shall have a legally established governing authority fully responsible for the overall operation and performance of the center.

(a) The governing authority shall adopt bylaws in accordance with legal requirements and with its community responsibility, identifying the purposes of the center and the means of fulfilling them.

(b) There shall be full disclosure of the center's ownership.

(c) The governing authority shall appoint an administrator who will be a full-time staff member responsible for the twenty-four (24) hour daily operation of the center according to established policies, and for delegating that authority to another full-time staff member during his absence.

(d) The governing authority shall have responsibility for assuring the quality of care rendered in the center, shall provide the appropriate physical resources and personnel required to meet the needs of the patients, shall provide for the control and use of the physical and financial resources of the center, shall participate in planning to meet the health needs of the community, and shall conform to federal and state rules and regulations when applicable.

(e) The governing authority shall establish effective mechanisms to ensure the accountability of the center's medical staff and other personnel to the governing authority, and of the governing authority to the population served by the center.

(2) Advisory body: If the governing authority's sole purpose is not the delivery of primary care services and it is not a body consisting of persons widely representative of the community served (a representative governing authority consists of a majority of members who receive no monies from the center, who reside in the geographic service area and are consumers of the center's services), a representative advisory body to the governing authority shall be established and actively maintained (meeting at least quarterly), for the purpose of effective communication from and to the community at large.

(a) The advisory body shall at least annually review the policy, goals, and objectives of the center, as well as plans for future programs to determine if they are in accord with community health needs. It will make recommendations for changes deemed necessary because of deficiencies either discovered in periodic review or brought to the advisory body's attention by consumers, providers or community groups.

(b) If an advisory body exists, the center will make such known to the community it serves.

(3) Administrative policies: The center shall develop, and maintain on a current basis, written administrative policies covering all aspects of the center's operation, including financial accountability, staffing, assignment of responsibilities, and current operational plan. Such policies shall include:

(a) A description of organizational structure and allocation of responsibility and accountability;

(b) A description of referral linkages with inpatient facilities and other providers;

(c) Policies and procedures for the guidance and control of personnel performances;

(d) Description of services included in the center's program;

(e) A description of the administrative and patient care records and reports.

(4) Financial accountability: Included in the administrative policies required for primary care centers are the following:

(a) An expense and revenue accounting system following generally accepted accounting procedures with at least bi-monthly reports submitted to the governing authority.

(b) An annual audit conducted by a certified public accountant selected by the governing authority.

Section 4. Patient Care Policies. (1) The center shall develop and maintain written patient care policies and procedures governing all medical aspects of the center's program.

(a) The patient care policies shall be developed by the staff physician(s) and other professional staff of the center, and shall be approved by the governing authority.

(b) The center shall develop, and maintain a written protocol(s) applying to service provided by the center both for preventive health services as well as for illness and injury. Written protocols (i.e. standing orders, rules of practice, medical directives) are medical guidelines which explicitly direct the step-by-step collection of subjective and objective data from the patient. The protocols further direct data analysis and recommend explicit medical action depending upon the data collected and also include rationale for each decision made. The protocols are acceptable only when signed by the duly licensed staff physician of the center.

(c) A system will be established, such that, when appropriate, the patient is always cared for by the same health professional or health team, on both an inpatient and an ambulatory basis, to assure continuity of care.

(2) Patient bill of rights: The center shall adopt written policies regarding the rights and responsibilities of patients. These patients' rights policies shall assure that each patient:

(a) Is informed of these rights and of all rules and regulations governing patient conduct and responsibilities, including a procedure for handling patient grievances.

(b) Is informed of services available at the center and of related charges including any charges not covered under Medicare, Medicaid, or other third-party payor arrangements.

(c) Is informed of his medical condition, unless medically contraindicated (as documented in his medical

record), and is afforded the opportunity to participate in the planning of his medical treatment and to refuse to participate in experimental research.

(d) Is encouraged and assisted to understand and exercise his patient rights; to this end he may voice grievances and recommend changes in policies and services. The grievances and recommendations will be conveyed, within a reasonable time, to an appropriate decision making level within the organization which has authority to take corrective action, or to the advisory body if it exists (at the option of the patient).

(e) Is assured confidential treatment of his records and disclosures of them, and is afforded the opportunity to approve or refuse their release to any individual not involved in his care except as required by Kentucky law or third-party payment contract.

(f) Is treated with consideration, respect, and full recognition of his dignity and individuality, including privacy in treatment and in the care of his personal health needs.

Section 5. Services Provided. (1) Basic services: The center shall provide directly (except as noted) at least the following services:

(a) Medical diagnostic and treatment services of sufficiently broad scope to accommodate the basic health needs (including prenatal and postnatal care) of all age groups.

(b) Emergency services in accordance with Section 7:  
1. Minor trauma management; services provided to treat lacerations, abrasions, sprains, strains, foreign bodies and other non-life supportive threatening injuries.

2. Acute illness.

(c) Preventive health services of sufficiently broad scope to provide for the usual and expected health needs of persons in all age groups.

(d) Education in the appropriate use of health services and in the contribution each individual can make to the maintenance of his own health.

(e) Chronic illness management. Includes any condition likely to require visits for services for many years.

(f) Laboratory, X-ray and treatment services shall be provided and these services may be arranged through other providers (need not be directly provided by the center).

(2) Supplemental services: The center shall provide additional professional services to complement the basic services provided in the program of the center. At least three (3) of the following services will be provided directly by the center during the scheduled hours of operation. The center shall establish linkages with those supplemental services which currently exist in the service area and which are not provided directly by the center.

(a) Pharmacy: licensed pharmacist;

(b) Dentistry: Licensed dentist;

(c) Optometry: licensed optometrist or ophthalmologist;

(d) Midwifery services;

(e) Family planning;

(f) Nutrition; and

(g) Social service counseling.

(3) Extension services: The center may provide primary care services on a temporary or regular basis in a

location(s) separate from its permanent facility, provided any extension services are set forth in the licensure application and meet Kentucky Certificate of Need law requirements (KRS 216.405 to 216.485).

(a) The center shall have written policies and procedures pertaining to all aspects of the extension service, to include but not be limited to patient care (including protocol) and rights, services, medical records, linkage agreements, hours of operation and staffing.

(b) The extension service shall be located within the primary care center's service area.

(c) The governing authority of the center shall be responsible for all aspects of any extension services.

(d) The center's utilization review program shall include any extension services.

(e) A certificate of need will be required for the addition, reduction or relocation of each extension service provided by the primary care center.

(f) Failure of any extension service to meet the requirements of subsection (3) of this section which apply to it will jeopardize the licensure status of the primary care center.

(4) Holding observation accommodations: Utilization of holding-observation accommodations maintained by the center will be allowed within the limitations outlined below:

(a) Utilization of these accommodations will be limited to brief (but not to exceed twenty-four (24) hours) medical observation and/or recuperation in anticipation of transfer to an inpatient facility or to the patient's home.

(b) Decision to hold a patient shall be the responsibility of a physician(s) on the medical staff of the center.

(c) A licensed nurse shall be on duty at the center when a patient is held in the center's accommodations beyond regular scheduled hours.

(d) All procedures relating to the retention of, and the provision of health services to, patients held in the center's accommodations shall be set forth in the center's patient care policies.

Section 6. Primary Care Provider Team. The center shall have at least the following staff of two (2) full-time physicians or one or more full-time physicians and one or more full-time *registered nurses* [mid-level practitioners] as defined in Section 6(2):

(1) Physician: The center shall have a duly-licensed, full-time physician, in active practice, who shall be responsible for all medical aspects of the center, and who shall perform direct medical services as indicated. If the center has only one (1) full-time physician, it shall have a formal written agreement with another duly-licensed physician(s), engaged in practice within, or reasonably near the locale of the center, who shall be available to perform direct medical services as specified in the agreement. Such physician(s) should be considered as a member(s) of the medical staff of the center.

(a) Physicians employed by or having an agreement with the center to perform direct medical services should be qualified to practice general family medicine. They might include general practitioners, family practitioners, obstetrician/gynecologists, pediatricians, and internists.

(b) Physicians employed by or having an agreement with the center to perform direct medical services should

be members of the medical staff of, or hold at least courtesy staff privileges at, one or more hospitals with which the center has a formal transfer agreement.

[(2) Mid-level practitioner. A category of health professionals which includes licensed registered nurses who have completed at least formal nurse practitioner training and/or who has completed an approved clinical specialist nurse training (the licensed nurse or the clinical specialist must have completed an approved nurse practitioner program by the first license renewal period), and/or a person who has been certified by the National Board of Medical Examiners for primary care. The mid-level practitioner works under the supervision of a licensed physician and provides services according to established protocol. (Section 4(1)(b)).]

[(a) Mid-level practitioner. The mid-level practitioner shall perform direct health services in accordance with applicable Kentucky laws within the framework of a written protocol and under the ongoing supervision of a staff physician.]

(2) [(b)] Nurse. The center shall have at least one (1) registered [licensed professional] nurse[, unless the mid-level practitioner is a registered professional nurse.] *who works under the supervision of a licensed physician and provides services according to established protocol. (Section 4(1)(b).) This registered nurse shall have completed at least formal nurse practitioner training and/or have completed an approved clinical specialist nurse training (the licensed nurse or the clinical specialist must have completed an approved nurse practitioner program by the first license renewal period).*

Section 7. Hours of Operation and Coverage. (1) Scheduled hours of the center's operation shall reasonably accommodate the various segments of the population served. Some provision shall be made for scheduled evening hours and/or weekend hours.

(2) The center shall make emergency services available twenty-four (24) hours per day, seven (7) days per week, either directly or through an alternate service.

(3) A physician shall be on call twenty-four (24) hours per day and available to supportive personnel.

(4) During all hours outside the center's regular scheduled hours, an appropriate qualified person shall be on duty in the center. If the center has a written working agreement with a local hospital emergency room or another primary care center, after-hours staffing will not be required, provided:

(a) The alternate service is located within thirty (30) minutes, under normal conditions, travel time from the center;

(b) The alternate service is adequately staffed;

(c) The alternate service has a physician on call twenty-four (24) hours per day;

(d) The center maintains at least telephone screening, triage, and referral services for prospective patients to the alternate service during non-scheduled hours.

Section 8. Plan of Care and Medical Records. (1) The center shall establish and periodically update a comprehensive, written plan of care for all patients and/or family units, reflecting staff discussion of all medical and social information obtained relative to the patient and his family.

(2) The center shall maintain a type of family-centered medical records in identifying all family mem-

bers (a single patient may be considered a family unit). Medical records shall contain but not be limited to the following:

(a) Medical and social history, including data obtainable from other providers;

(b) Description of each visit and/or contract, to include condition and/or reason necessitating visit and/or contact, assessment, diagnosis, services provided, medications and treatments prescribed, and disposition made;

(c) Reports of all laboratory, X-ray, and other test findings;

(d) Documentation of all referrals made, to include reason for referral, to whom patient was referred, and any information obtained from referral source.

(3) Confidentiality of all patient records shall be maintained at all times.

(4) The center shall have policies providing for the retention and safekeeping of patients' medical records as required by Kentucky law.

(5) The center shall establish systematic procedures to assist in continuity of care where the patient moves to another area, or is referred, or transfers to another source of care, and the center shall, upon proper release, transfer medical records or an abstract thereof.

**Section 9. Appointments, Scheduling and Altering System.** The appointment and scheduling system will include an altering system which will guarantee the scheduling of all necessary or recommended diagnostic, therapeutic, or preventive procedures and services that the patient shall have. This will take place in such a way as to allow the appropriate staff members and the patient to be automatically notified. Altering will take place for any missed appointments, necessary procedure or service, preventive care and follow-up of any positive findings or for any positive diagnostic test. The record will be reviewed immediately for necessary action if the patient does not appear.

**Section 10. Linkage Agreements.** (1) The center shall have appropriate linkages through written agreements with providers of other levels of care which may be medically indicated to supplement the services available in the center. This includes linkages in each of the following categories:

(a) Various levels of inpatient services, specifically hospitals, skilled nursing facilities, intermediate care facilities, and personal care facilities;

(b) Other specialized services available in the service area not directly provided as a supplemental service in the center; (See Section 5(3).)

(c) Emergency medical transportation services in the service area;

(d) The mental health/mental retardation program in the service area.

(e) Home health services provided in the service area.

(2) Linkage agreements with inpatient care facilities shall incorporate provisions for appropriate referral and acceptance of patients from the center, provisions for appropriate coordination of discharge planning with center staff, and provisions for the center to receive a copy of the discharge summary for each admission of a center patient.

(3) The written transfer agreements include designation of:

(a) Responsibility for transfer of information;

(b) Responsibility for provision of transportation;

(c) Responsibility for sharing of services, equipment, and personnel;

(d) Responsibility for provision of total care or portions thereof in relation to facility and agency capability.

(4) These linkage requirements shall not be construed as criteria for determining financial liability in the case of provision of services by the center through linkage agreements.

(5) Any center which does not have a linkage agreement with a required health service but which is found by the survey agency to have attempted in good faith to enter into such a linkage agreement, shall be exempt from the linkage agreement requirement if and for so long as the survey agency finds that it is in the public interest.

(6) The center shall be responsible for necessary follow-up services for patients referred to other levels of care.

**Section 11. Outreach Program.** In order to anticipate the health needs of the center's service area there shall be an ongoing outreach program which shall be described in writing and shall include:

(1) Methods by which the health needs in the service area are determined.

(2) Methods of evaluating whether health needs are being met.

(3) Projected goals of the center in fulfilling the health needs of the service area.

**Section 12. Utilization Review and Medical Audit.** In order to determine the appropriateness of the services delivered, the center shall establish medical audit and utilization review of services provided in the center. The center may use professional capabilities and assistance obtainable from other agencies and sources. There will be a written plan for utilization review developed by the center including frequency of reviews and composition of the body conducting the review.

**Section 13. Continuing Education.** All center personnel shall participate in ongoing educational programs relating to their activities. These programs shall include thorough job orientation for new personnel, regular in-service training programs, emphasizing professional competence and the human relationship necessary for effective health care. Arrangements shall be made for professionals to attend appropriate educational workshops, institutes and seminars as often as possible.

**Section 14. Fire and Disaster Plans.** The center shall post and make available to all personnel a plan specifying procedures to be followed in case of fire, disaster, or other emergency.

(1) Fire and disaster drills shall be conducted at least twice a year and the results documented.

(2) There is an ongoing inservice training program for all personnel covering aspects of fire safety and the disaster plan.

Section 15. Reports. Each center shall furnish an annual report to the Department for Human Resources which shall consist of statistical data on utilization of services, plus other information as requested by the Department for Human Resources on forms supplied by the department.

Section 16. Separability. If any clause, sentence, paragraph, section or part of these regulations shall be adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which the judgment was rendered.

MASON RUDD, Chairman

ADOPTED: February 8, 1977

RECEIVED BY LRC: February 14, 1977 at 2:45 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Mason C. Rudd, Chairman, Kentucky Health Facilities and Health Services, Certificate of Need and Licensure Board, 275 East Main Street, Frankfort, Kentucky 40601.

The following regulation, as initially proposed to be amended, was published in the January issue [3 Ky.R. 518], and awaits approval of the Administrative Regulation Review Subcommittee at its March 2 meeting. Meantime, the issuing agency has proposed additional amendments. In order to show the effect of these newest changes, the regulation is printed below with all of the initial amendments incorporated therein, and the latest proposed changes shown in italics.

DEPARTMENT FOR HUMAN RESOURCES  
Bureau for Health Services  
Certificate of Need and Licensure Board  
(Proposed Amendment)

902 KAR 20:105. Ambulatory surgical center services.

RELATES TO: KRS 216.405 to 216.485, 216.990 (2)

PURSUANT TO: KRS 13.082, 216.425

NECESSITY AND FUNCTION: This regulation, which relates to the operations and services of Ambulatory Surgical Center Services, is being promulgated pursuant to the mandate of KRS 216.425(3) that the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board regulate health facilities and health services.

Section 1. Definition: Ambulatory Surgical Center Services, General: An ambulatory surgical center means a public or private institution with an organized medical staff that is established, equipped and operated primarily

for the purpose of treatment of patients by surgery, whose recovery in the concurring opinions of the surgeon and/or the physician anesthesiologist or physician anesthetist or dentist anesthetist will not require inpatient care.

Section 2. Essential Characteristics of Ambulatory Surgical Center Services: The essential characteristics of ambulatory surgical centers are as follows:

(1) Is operated under the supervision of a staff of physicians.

(2) Surgical procedures shall be permitted to be performed by physicians, dentists, or podiatrists, who at the time, are legally authorized to perform such procedures and are privileged to perform such procedures in at least one (1) hospital in the area.

(3) Requires (in all cases other than those requiring only local infiltration anesthetics) that a qualified physician anesthesiologist or physician anesthetist or dentist anesthetist (or a registered nurse anesthetist acting under the direction of the operating surgeon) administer the anesthetics and remain present during the surgical procedure and until the patient is fully recovered from the anesthetics.

(4) Provides at least two (2) operating rooms and at least one (1) post-anesthesia recovery room.

(5) Is equipped to perform diagnostic x-ray and laboratory examinations for diagnostic purposes, or has an agreement with a licensed hospital, a licensed radiologist, or a licensed pathologist to provide these services.

(6) Does not provide accommodations for overnight stays.

(7) Provides the full-time services of registered professional nurses for patient care in the operating and postanesthesia recovery room. A physician is required to be present in the center until all patients have been discharged and have left the center.

(8) Has available the necessary equipment and personnel to handle foreseeable emergencies (including defibrillator for cardiac arrest, a tracheotomy set for airway obstructions, and a blood or blood component supply to maintain blood volume).

(9) Maintains a written agreement with one or more licensed hospitals in close proximity for immediate acceptance of patients who develop complications or require postoperative confinement.

(10) Provides for the periodic review of the center and its operations by a utilization review committee or other committee composed as a medical audit team of physicians and/or dentists and podiatrists having no financial interest in the surgical center.

(11) Maintains adequate medical records for each patient.

(12) Provision shall not be made for any obstetrical deliveries.

Section 3. Licensure and Certificate of Need. (1) An ambulatory surgical center, as herein defined, shall not operate without having first obtained a certificate of need from the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board unless it was in operation prior to the effective date of these regulations on January 1, 1973.

(2) Upon submission of a properly completed license application form together with the prescribed fee an ambulatory surgical center that has been determined through a site inspection to be in compliance with the standards listed herein, may be issued a license by the Certificate of Need and Licensure Board.

(3) The license shall be posted in a public area of the facility in plain view of visitors.

Section 4. Minimum Standards for Operation. The following minimum standards of operation as set forth in this regulation shall apply to all ambulatory surgical centers:

(1) Disclosure of ownership. The ownership of the ambulatory surgical center shall be fully disclosed to the licensure board. This disclosure shall apply equally to individuals, partnerships, the officers and the board of directors of a corporation.

(2) State and local laws. The ambulatory surgical center shall be in compliance with all applicable state and local laws.

(3) Governing body and management. There shall be an organized governing body, or designated persons so functioning, that have overall legal responsibility for the conduct of the surgical center.

(a) Bylaws. Bylaws shall be adopted in accordance with legal requirements. These bylaws shall include but not be limited to:

1. Description of the organization including selection of officers.

2. Committee structures and their responsibilities.

3. Appointment of physician, dentist and podiatrist members and approval of their bylaws, rules and regulations.

4. Responsibilities for providing and maintaining the physical plant.

5. Provision for liaison between the governing body and the medical staff.

6. Frequency of meetings and the maintenance of written minutes of the governing body meetings.

(b) General administration:

1. The governing body shall appoint an administrator whose qualifications, authority and duties shall be defined in writing and adopted by the governing body.

2. The administrator shall act as the executive officer of the governing body and shall provide liaison between the governing body and medical staff, nursing department and other departments of the center.

3. He shall organize day to day operations of the center through appropriate departmentalization and delegation of duties.

4. A qualified individual shall be designated and authorized to act in the absence of the administrator.

(c) Personnel administration:

1. Written personnel policies, practices and procedures shall be developed and be available to all personnel.

2. Job descriptions shall be developed for each level of personnel and shall include the responsibilities and actual work to be performed in each classification.

3. Current employees records shall be maintained and include a resume of each employee's training and experience, evidence of current licensure or registration where required, records of health supervision and reports of all accidents occurring on duty.

Section 5. Medical Staff. There shall be a medical staff organized under bylaws approved by the governing body which shall be responsible for the quality of all medical care provided patients in the surgical center and for the ethical and professional practices of its members. It shall include physicians and may include dentists and podiatrists. Bylaws shall be adopted to govern and enable

the medical staff to carry out its responsibilities. The medical staff bylaws, rules and regulations shall include, but not be limited to the following areas:

(1) Description of the medical staff organization including selection of officers, committee structures and responsibilities.

(2) State the necessary qualifications for staff membership.

(3) Procedures for granting and withdrawing staff privileges.

(4) Provision that surgical privileges will be granted only to physicians, dentists and podiatrists who are privileged to perform such procedures in at least one (1) hospital in the area. It is necessary:

(a) That the medical staff's bylaws, rules and regulations contain specific references governing medical, dental and podiatric services.

(b) That patient's basic medical appraisal must be performed and entered into the medical record by a physician prior to the surgical procedure.

(c) That surgical procedures permitted must be specifically defined.

(d) That surgical procedures permitted must be under the overall supervision of the center's medical audit team.

(e) That a designated physician must be responsible for all non-dental and non-podiatric medical problems.

(5) Mechanism for appeal of adverse decision regarding medical staff membership and privileges.

(6) State specifically those cases or instances in which consultations with other physicians, dentists and podiatrists are required.

(7) Provision for examination of all patients either prior to or upon admission and recording a preoperative diagnosis prior to surgery.

(8) Provision that at least a complete blood count and urinalysis be performed on all patients within forty-eight (48) hours prior to surgery and the results made available to the attending physician, dentist or podiatrist.

(9) Policy permitting a surgical operation only upon written informed consent of the patient or his legal representative.

(10) Provide that the physician, dentist or podiatrist in charge of the patient be responsible for seeing that all tissue removed during surgery is delivered to the center's pathologist and that an examination and report is made of such tissue.

(11) A statement that the physicians', dentists' or podiatrists' orders must be in writing and signed by the physician, dentist or podiatrist.

(12) Provision for keeping accurate and complete medical records.

(13) Provision for staff meetings for the purpose of reviewing clinical work performed in the center.

[(14) In ambulatory surgical centers providing for voluntary interruption of pregnancies the following shall apply: Where, in the opinion of the attending physician, the pregnancy is approximately three (3) months or less, there shall be a verified pregnancy test prior to surgery; there shall be provision for pre-and post-operative counseling; there shall be a Papanicolaou (PAP) unless the patient has had a PAP smear within the past six (6) months and venereal disease (VD) test prior to surgery; and all patients shall have testing for blood type and Rh factor determination and antibody screening prior to surgery; crossmatch of Rhogam for Rh negative patients shall be performed prior to surgery and Rhogam therapy provided when indicated.]



**Section 6. Sanitary Environment.** The surgical center shall provide a sanitary environment to avoid sources and transmission of infections.

(1) An infection committee composed of members of the medical and nursing staffs shall be established and responsible for controlling and preventing infections within the center.

(2) Written infection control measures shall be established. There shall be written procedures which govern the use of aseptic techniques and procedures in all areas of the center.

(3) All employees shall have a VDRL and chest x-ray or tuberculin skin test prior to employment and at least annually thereafter.

(4) To insure that cleaning procedures are effective, there shall be bacterial colony counts taken periodically in at least the operating rooms and any other high risk areas.

(5) There shall be a method of control used in relation to the sterilization of supplies and water and a written policy requiring nondisposable sterile supplies to be reprocessed no later than every thirty (30) days.

(6) There shall be rigidly enforced policies regarding the disposal of patient waste and any other potentially infectious materials.

(7) There shall be continuing education to all surgical center personnel on the cause, effect, transmission, prevention and elimination of infections.

**Section 7. Surgery Department.** (1) The operating rooms shall be supervised by a registered nurse.

(2) The operating room supervisor shall have on file a list of all physicians, dentists and podiatrists with surgical privileges at the center and the privileges assigned to each by the medical staff.

(3) The medical staff shall designate which surgical procedures, if any, that will require the presence of two (2) scrubbed physicians. Assistants at lesser operations may be nurses or technicians designated by the medical staff as having sufficient training to assist in such procedures. A registered nurse shall be available to circulate.

(4) The operating room register shall be complete and up-to-date.

(5) The following equipment shall be available in the operating rooms: cardiac monitor, resuscitator, defibrillator, aspirator, thoracotomy and tracheotomy sets.

(6) There shall be effective policies regarding staff privileges for the administration of anesthetics. A postanesthetic followup note on patients receiving general anesthetics shall be recorded two (2) to six (6) hours following surgery by the anesthetist or surgeon, noting post-operative abnormalities or complications, stating the pulse, respiration, blood pressure, presence or absence of swallowing reflex and cyanosis and general condition of the patient.

(7) Rules and regulations governing the use of the operating rooms shall be posted.

**Section 8. Recovery Room.** (1) There shall be adequate staff available in the recovery room so that no patient is left alone at any time.

(2) A registered nurse shall be available to the recovery room at all times.

(3) The person(s) staffing this area shall be adequately trained in all aspects of postoperative and postanesthetic care.

(4) Equipment available for emergencies shall include,

but not be limited to: suction machine, stethoscope, sphygmomanometer, emergency cart and necessary drugs.

**Section 9. Patient Accommodations in Recovery Room(s).** (1) The surgical center shall provide suitable accommodations for all its patients. There shall be adequate floor space, furnishings, bed linens, and such other utensils, equipment and supplies as is reasonably required for the proper care of the patients accommodated. There shall be provision for the proper sterilization of supplies, utensils and equipment and for storing them in a clean, convenient and orderly manner. An adequate system for patients to use in calling nurses and attendants shall be maintained.

(2) Bedrails shall be available for any patient when required.

(3) A satisfactory bed and mattress and one or more pillows of at least fifteen (15) inches by twenty (20) inches shall be provided for each patient. There shall be at least one (1) chair per patient.

**Section 10. Informed Consent.** All surgical operations shall require that the patient or the patient's legal representative sign a written informed consent prior to the surgical operation.

(1) A twenty-four (24) hour waiting period shall be required between the signing of an informed consent and the performance of a voluntary interruption of pregnancy in an ambulatory surgical center, unless an emergency situation presents imminent peril substantially endangering the life of the woman.

(2) An ambulatory surgical center shall comply with the applicable Kentucky statutes concerning the voluntary interruption of pregnancies, including but not limited to KRS 311.710 to 311.990 and any regulations passed pursuant to those statutes.

**Section 11. Voluntary Interruption of Pregnancies.** Second and third trimester voluntary interruption of pregnancies shall not be performed in an ambulatory surgical center.

**Section 12. [10.] Pharmaceutical Services.** (1) The surgical center may have a licensed pharmacy. If the center does not have a licensed pharmacy, it shall have provision for promptly and conveniently obtaining prescribed drugs and biologicals from licensed community or institutional pharmacies.

(2) The center shall provide appropriate methods and procedures for storage, control and administering of drugs and biologicals, developed with the advice of a staff pharmacist, either full-time, part-time, or on a regular consultative basis. Drugs shall be properly labeled by the pharmacist for individual patients. The pharmacist shall have overall control of drugs at the center.

(3) All medications shall be administered by licensed medical or nursing personnel in accordance with the Medical and Nurse Practice Acts. Each dose administered shall be properly recorded in the medical record.

(4) An emergency medication kit approved by the medical staff shall be readily available and maintained and replacements made by the pharmacist on a regular basis.

(5) Security and storage of all controlled substances shall be in accordance with the Kentucky Controlled Substances Act (KRS Chapter 218A).

(6) A record shall be maintained which lists on separate sheets for each type and strength of controlled substance the following information: date, time administered, name of patient, dose, physician's or dentist's name, signature of

person administering dose, and balance. An audit shall be conducted by the pharmacist and a member of the nursing staff weekly.

**Section 13. [11.] Laboratory Services.** A surgical center may have an agreement with a licensed hospital located in close proximity to provide laboratory services; however, if the center provides their own laboratory services, the following regulations shall apply:

(1) There shall be necessary space, facilities and equipment to perform those diagnostic procedures commensurate with the center's needs for its patients.

(2) The laboratory in the surgical center or the contracted laboratory services shall be directed by a pathologist either on a full-time, part-time or regular consultative basis.

(3) There shall be a sufficient number of medical technologists to promptly and proficiently perform the tests in the laboratory.

(4) All equipment shall be in good working order, routinely checked and precise in terms of calibration.

(5) There shall be ongoing quality control programs, including the use of standards, control sera, reference samples, and periodic recalibration of instruments to insure accuracy of laboratory results.

(6) Laboratory examinations shall be made only upon the request of a physician, dentist or podiatrist.

(7) Provision shall be made for tissue pathology and diagnostic cytology examinations in the center's own laboratory or through arrangements with the pathologist director.

(8) All tissue removed from patients at surgery shall be macroscopically and, if necessary, microscopically examined by the center's pathologist.

(9) All laboratory and tissue pathology reports shall be signed and entered into the medical record.

**Section 14. [12.] Radiology Services.** The surgical center may have an agreement with a licensed hospital located in close proximity to provide radiology services; however, if the center provides their own radiology services, the following regulations shall apply:

(1) The surgical center shall maintain or have available, radiology services according to the needs of the center.

(2) The department shall be free of hazards for patients and personnel. Proper safety precautions shall be maintained against fire and explosion hazards, electrical hazards and radiation hazards.

(3) Periodic inspection shall be made by state authorities and hazards so identified shall be corrected.

(4) Radiology personnel shall be checked periodically for amount of radiation exposure by the use of exposure meters or badge tests.

(5) The center shall have a qualified radiologist, either full-time, part-time, or on a consultative basis to supervise the department and to interpret films that require specialized knowledge for accurate reading.

(6) The amount of radiologist and technologist time shall be sufficient to meet the requirements or demands that the medical staff places upon the department.

(7) The use of all x-ray apparatus shall be limited to personnel designated as qualified by the radiologist or by an appropriate committee of the medical staff.

(8) Signed reports shall be promptly entered into the medical record and duplicate copies kept in the department.

(9) X-ray examinations shall be made only upon the request of a physician, dentist or podiatrist.

**Section 15. [13.] Reports.** Each surgical center shall furnish an annual report to the Department for Human Resources on forms supplied by the department for this purpose. This report shall consist of the total number of operations per year, number of operations by clinical category, and such other statistical information that is requested.

**Section 16. [14.] Medical Records.** (1) **Organization:** The responsibility for supervision, filing and indexing of medical records shall be delegated to a responsible employee of the surgical center.

(2) **Indexing:** Medical records shall be properly indexed and systematically filed for ready access to properly authorized personnel.

(3) **Ownership:** Records of patients are the property of the surgical center and shall not be removed from the center's jurisdiction and safekeeping except in accordance with a court order or subpoena. Medical records shall be made available, when requested for inspection by duly authorized representatives of the licensure board.

(4) **Content:** Adequate and complete medical records shall be prepared for all patients admitted to the surgical center. All notes shall be legibly written or typed and signed. A minimum medical record shall include, but not be limited to the following information:

(a) Name and address of person or agency responsible for patient;

(b) Identification data (name, address, age, sex, marital status);

(c) Date of admission and discharge;

(d) Referring and attending physicians', dentists' and podiatrists names;

(e) History and physical examination record prior to surgery;

(f) Operative consent form signed by patient or his legal representative;

(g) Special examinations, such as consultations, clinical, laboratory, x-ray;

(h) Doctor's orders, dated and signed by the physician, dentist or podiatrist;

(i) Nurses' notes;

(j) Complete medical record signed by the operating surgeon, including anesthesia record, preoperative diagnosis, operative procedures and findings, postoperative diagnosis and tissue diagnosis by a qualified pathologist on all specimens surgically removed, and postanesthesia follow-up note;

(k) Temperature chart including pulse, respiration and blood pressure;

(l) Discharge note to include condition on discharge and post-operative instructions to patient.

(5) **Physician's, dentist's or podiatrist's responsibility:** It shall be the responsibility of each attending physician, dentist or podiatrist to complete and sign the medical record of each patient as soon as practicable after discharge, but not to exceed ten (10) days.

(6) **Orders for medication:** All medical records shall contain the orders for medication and treatment written in ink and signed by the prescribing physician, dentist, or podiatrist and if given verbally, countersigned by him within forty-eight (48) hours except that all records for Schedule II drugs shall be signed immediately. A record of medication administered to the patient shall be included in the record and signed by the person administering the medication.

(7) **Retention of records:** All medical records shall be retained for a minimum of five (5) years and for such addi-



tional time as deemed necessary by the governing body of the facility based upon all relevant factors.

Section 17. [15.] Transfer Agreement. (1) Each surgical center shall have a written agreement with one or more licensed hospitals located in close proximity to the center, for the immediate acceptance of patients who develop complications or require postoperative confinement.

(2) It shall be the responsibility of the surgical center to arrange for transportation of patients who require hospital care and to arrange for their admission.

Section 18. [16.] Utilization Review. (1) Each surgical center shall have in effect a plan for utilization review of their services on at least a quarterly basis by a committee of physicians and/or dentists and podiatrists which have no financial interest in the center.

(2) Reviews shall be made of admissions and professional services furnished including utilization of surgical services and tissue reports.

Section 19. [17.] Fire Control or Disaster Plan. The surgical center shall have a written procedure to be followed in case of fire, explosion or other emergency. It shall specify persons to be notified, locations of alarm signals and fire extinguishers, evacuation routes, procedures for

evacuating patients, frequency of fire drills and assignment of specific tasks and responsibilities to the personnel.

(1) The plan shall be developed with the assistance of qualified fire and safety experts.

(2) All personnel shall be trained to perform assigned tasks.

(3) Simulated drills testing the effectiveness of the plan shall be conducted at least three (3) times a year.

(4) The plan shall be posted throughout the facility.

Section 20. [18.] If any clause, sentence, paragraph, section, or part of these regulations shall be adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof, directly involved in the controversy in which the judgment was rendered.

MASON C. RUDD, Chairman

ADOPTED: February 8, 1977

RECEIVED BY LRC: February 14, 1977 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Mason C. Rudd, Chairman, Kentucky Health Facilities and Health Services, Certificate of Need and Licensure Board, 275 East Main Street, Frankfort, Kentucky 40601.

## Proposed Regulations

### COUNCIL ON PUBLIC HIGHER EDUCATION

#### 13 KAR 1:015. Licensing of private colleges.

RELATES TO: KRS 164.945 to 164.947(4)

PURSUANT TO: KRS 13.082, 164.947

NECESSITY AND FUNCTION: This regulation is promulgated pursuant to the mandate of KRS 164.945 to 164.947 which requires that the Council on Public Higher Education license nonpublic institutions to protect bona fide institutions and to protect citizens of the Commonwealth from fraudulent practices, unfair competition or substandard educational programs.

Section 1. General Requirements. Except as hereinafter provided, all colleges, institutions or other agencies which award degrees, diplomas, or other statements of recognition, purporting to indicate a level of collegiate attainment beyond the completion of secondary school, including all colleges, institutions, or other educational agencies which are chartered, organized, or have their principal locations outside Kentucky, and which desire to offer courses or conduct academic programs in Kentucky, shall be required to have a license issued by the Council on Public Higher Education:

(1) The exclusion from the provisions of KRS 164.945 to 164.947 of those colleges which operate under the provisions of KRS 165A.310, 317.430, 314.121 and KRS Chapter 317A is acknowledged. Such statutes, however, do not authorize the awarding of degrees beyond the associate level. Therefore, any college which awards a higher degree shall be subject to this regulation if it awards any bachelor's

degree, master's degree, or any doctorate or other degree, whether such degree be earned or honorary. In the event that licensing or approval of a college is also required by another agency in the state, the council shall attempt to work closely with such agency in performing its licensing functions.

(2) Application for licensure shall be in the form and manner prescribed by the Council on Public Higher Education, pursuant to KRS 164.947 and shall be submitted to the Council on Public Higher Education within sixty (60) days from the effective date of this regulation. Providing false or misleading information on any application may be deemed as sufficient grounds for denying licensure.

(3) No new college, division, or branch, which is created after the effective date of this regulation, shall offer instruction until a license has been granted by the Council on Public Higher Education.

(4) A college which is licensed under the provisions of KRS 164.945 to 164.947 is prohibited from offering any degrees other than those which are specifically authorized in the license, including honorary degrees.

(5) The instructional program of a college which is licensed under the provisions of KRS 164.945 to 164.947 shall be restricted to those degree programs or majors, and other concentrations and specialties, which are specifically authorized in the license. The Council on Public Higher Education shall be notified in writing at least sixty (60) days prior to the date that additions or deletions of such degree programs or majors, and other concentrations and specialties are planned. The council may determine that such proposed actions necessitate a supplementary

application, in which case the council shall indicate the form and manner of such supplementary application and shall take whatever action it deems appropriate on the basis of the supplementary application. In no case shall such college offer instruction in a new degree program or major, or other concentration or specialty, without prior written approval from the Council on Public Higher Education.

(6) The use of the title "college" or "university" shall be restricted to institutions which offer degrees and which are licensed under the provisions of KRS 164.945 to 164.947, or to institutions which were in operation on March 25, 1972, and which contained the designation "college" or "university" in their title on such date.

Section 2. Exceptions to General Requirements. Notwithstanding the provisions of Section 1, any college to which the provisions of KRS 164.945 to 164.947 are applicable, shall be presumed by the Council on Public Higher Education as being in compliance with the licensure requirements of this regulation on the following conditions:

(1) If such college is fully accredited by a regional or a national institutional accrediting agency which is recognized by the U. S. Office of Education, or which accreditation is accepted by the council, it may be considered as continuing in compliance so long as such accreditation is maintained;

(2) If such college is fully accredited by an agency which is recognized by the U. S. Office of Education, or which accreditation is accepted by the Council on Public Higher Education as being appropriate to the instructional program or programs of the college, it may be considered as continuing in such compliance so long as such accreditation is maintained;

(3) If such college does not award degrees of any kind or level, and if it is fully accredited, licensed or otherwise approved by an agency of the State of Kentucky which is recognized by the Council on Public Higher Education as being appropriate for such accreditation, licensure, or approval, the college may be considered as continuing in compliance so long as such accreditation, licensure, or approval is maintained;

(4) A college to which the provisions of subsections (1) and (2) of this section are applicable shall submit to the Council on Public Higher Education within thirty (30) days of its receipt of reports or other communications from such recognized and accepted accrediting agency regarding the status of the college's accreditation, whether or not such reports or communications are favorable or unfavorable toward the college, a report of the action taken by the accrediting agency. The council may request for stated reasons that the college submit copies of such reports or communications.

(5) Notwithstanding the provisions of subsections (1) and (2) of this section the Council on Public Higher Education may proceed, for stated cause, with respect to any particular college as though it were not accredited by any agency which is recognized by the U. S. Office of Education and accepted by the council.

(6) Out-of-state institutions. Any institution which is chartered, organized, or which has its principal location outside Kentucky shall be required to have a license issued by the Council on Public Higher Education prior to the establishment of academic and instructional programs and prior to the awarding of degrees. Any application by such institution must establish the need for the proposed program in Kentucky, and the Council on Public Higher

Education shall determine that such need cannot reasonably be met by colleges located in Kentucky before a license shall be granted.

Section 3. Procedures and Standards for Licensure. The Council on Public Higher Education shall observe the following procedures, and shall determine that the following requirements or standards are met, in considering applications for licensure and for license renewal under these statutes:

(1) Financial stability: The college shall present evidence of financial stability, including the following:

(a) A financial statement including assets and liabilities, prepared by a licensed accountant, on forms prescribed by the Council on Public Higher Education; and

(b) The name of a bank or other financial institution as reference.

(2) Surety bond:

(a) A college shall be responsible for the actions of its agents and shall file a surety bond with the Council on Public Higher Education, covering the institution and such agents, before a license may be issued. The names of agents shall be included in the application for licensure. The surety bond shall be for the protection of contractual and other rights of students, or of their parents or guardians, and shall be executed by a surety company qualified and authorized to do business in Kentucky, and shall be made payable to the Commonwealth of Kentucky. The minimum amount of the bond shall be based on the total maximum headcount enrollment during the previous year, or on the estimated maximum headcount enrollment for the current year, whichever is larger, and shall be as follows:

Maximum Enrollment	Maximum Bond
0 - 50	\$ 5,000
51 - 100	10,000
101 - 200	20,000
201 - 300	30,000
301 - 400	40,000
401 and over	50,000

(b) In the event the surety bond is terminated, the college shall so notify the Council on Public Higher Education, and the license shall automatically expire with the bond, unless replacement bond is provided without a lapse in such bonding.

(3) Personnel requirements:

(a) The Council on Public Higher Education may require the applicant college to furnish information regarding the administrative offices, the directors, the owners, and the faculty.

(b) The chief administrator shall hold at least an earned baccalaureate degree from a recognized college or university and shall have a sufficient background of experience to qualify for the position.

(c) Members of the faculty shall possess academic, scholarly and teaching qualifications appropriate and requisite to their respective positions and teaching assignments.

(d) Faculty members for programs in which degrees are awarded shall possess the level of qualifications usually required for faculty in accredited colleges which offer degrees at comparable levels.

(e) There shall be a sufficient number of full-time faculty to insure continuity and stability of the educational program.

(f) Teaching loads of faculty members shall be consistent with recognized educational practices, and shall be appropriate to the field, the variety of courses assigned, class size, and other related factors.

(4) Facilities and equipment:

(a) The institution shall be maintained and operated in compliance with all local, city, and county ordinances, and federal and state law, including rules and regulations adopted pursuant thereto, relative to the safety and health of all persons upon the premises.

(b) Adequate and appropriate space shall be maintained for instruction in classrooms and laboratories. Enrollment shall not exceed the design characteristics of the facilities. The instructional program shall not be conducted in substandard housing, and the quality and quantity of equipment shall be adequate and appropriate for a good instructional program.

(5) Library: The library shall be appropriate to the type of programs of the college:

(a) The collection of books, periodicals, newspapers, teaching aids, and other instructional materials and equipment shall be adequate in relation to the needs of the educational program, shall be appropriately housed, and shall be readily accessible to the faculty and students.

(b) A program for continuous acquisition of current library materials and for the recording of all library holdings shall be clearly outlined and maintained, with a pattern of expenditures in relation to the total fiscal operational budget consistent with that commonly observed in recognized colleges of similar types.

(c) A professionally trained and competent library staff adequate to serve the needs of the students, and in keeping with the purposes and objectives of the educational program of the college, shall be provided.

(d) Space for seating and work space for quiet and reflective study and research, sufficient for a reasonable proportion of the faculty and students to be accommodated at one time, shall be provided.

(e) The physical environment of the library shall be conducive to reflective intellectual pursuits common to institutions of higher learning.

(f) Any institution which does not provide its own library facilities and must rely on other institutions to provide library resources must demonstrate that permission to utilize library resources has been obtained prior to implementation of its programs. The extent of dependence on other libraries shall be clearly stated and the nature and details of the agreements or contracts with the participating libraries shall be explained and exhibited. The details of the contractual agreements with other libraries must meet the criteria outlined in the above standards.

(6) Curriculum. The institution shall have a systematic program of curriculum revision in order to maintain the general standards of accredited institutions in similar programs.

(7) Program supervision and instructional support. In addition to the requirements set forth in Section 3, and regardless of location, type of program, method of instruction, or other characteristics, any instructional program for which degree credit is awarded shall include the following:

(a) Adequate supervision by the college; and

(b) Such other instructional support as may be required to maintain a program of acceptable quality.

(8) Site visits. Within thirty (30) days of the receipt of a full and complete application for licensure or license renewal, the Council on Public Higher Education shall

conduct, or shall have conducted, a site visit at the location or locations where the applicant college offers, or proposes to offer courses of instruction. Personnel conducting such site visits shall possess the expertise appropriate to the type of college to be visited. The purpose of such visits shall be to make an assessment of the instructional program, library, faculty, student services, administration, financial status, facilities, and equipment and of such other factors which are of significance in determining the college's qualifications for licensure.

(9) Council action on applications. Within thirty (30) working days of completion of such site visit, or within ten (10) working days following the date on which the Council on Public Higher Education formally considers an application, in those cases in which such formal action is deemed necessary, the Council on Public Higher Education shall do one (1) of the following:

(a) Issue a license;

(b) Deny application for license; or

(c) Notify the applicant college of deficiencies which must be overcome before a license can be issued.

(10) License fee. The Council on Public Higher Education may establish a nominal fee schedule for licensure and for license renewal. Each application for licensure or for license renewal shall be accompanied by such fee, which fee is nonrefundable whether or not the college is granted a license, such fee to be deposited in the state treasury, trust and agency account of the Council on Public Higher Education, and shall be applied to the cost of administering KRS 164.945 to 164.947.

(11) Cost of site visits. A college which applies for licensure or license renewal, or a college to which a site visit is necessary in the course of administering KRS 164.945 to 164.947, shall bear the cost of such site visit. However, such costs may not exceed \$100 per day, plus expenses, for each person conducting such site visit, and the total cost to a college for a single site visit shall not exceed \$500, except that any college chartered, organized, or having its principal location outside Kentucky shall bear the full cost of such site visit. The estimated cost of such visit, and final settlement regarding actual expenses incurred shall be made within thirty (30) days following the site visit. Failure to pay these costs may result in license suspension or revocation.

(12) Documents to accompany application. Each application for licensure or license renewal shall be accompanied by copies of the college's charter, catalog, constitution and by-laws, and student enrollment application, contract or agreement.

(13) New colleges. In the case of a proposed new college, the Council on Public Higher Education may grant a license if it determines that there is evidence that the college may reasonably be expected to meet the standards set forth in these regulations:

(a) Within three (3) years if the college proposes to offer an associate degree.

(b) Within five (5) years if it proposes to offer a baccalaureate degree. Annual reports shall be submitted to the council demonstrating the progress being made in meeting these standards, during the first three (3) years for a college offering an associate degree, and during the first five (5) years for a college offering the baccalaureate degree.

(14) Truth in advertising. A college licensed under the provisions of KRS 164.945 to 164.947 shall observe the following standards in its advertising:

(a) Shall not utilize advertising of any type which is untrue, deceptive, or misleading.

(b) Shall not utilize advertising of any type to indicate that the college is "supervised," "recommended," "endorsed," or "accredited" by the Commonwealth of Kentucky, by the Council on Public Higher Education, or by any other state agency. Such advertising statement, if any, shall be in exactly the following form: "(Name of College) is licensed by the Kentucky Council on Public Higher Education," and

(c) Shall not use such terms as "employment," "business opportunities," or "earnings" in the recruitment of students, regardless of financial assistance or other benefits available to them, but shall use only such terms as "education," "college," "instruction," or "preparation."

(15) Recruitment and enrollment procedures:

(a) A college shall furnish the following to each student prior to enrollment:

1. A copy of the college's policies on grades, attendance, and conduct;

2. A copy of a description of the instructional program in which the prospective student has expressed an interest, with a detailed schedule of all charges, rentals, and deposits, along with a copy of the schedule of refunds of all such charges, rentals, and deposits; and

3. A copy of the college's student enrollment application, contract, or agreement.

(b) A student shall be considered officially enrolled when he attends the first day of classes in any enrollment period. Following official enrollment a student may withdraw without penalty and with full refund within ten (10) days of such enrollment except that the college may retain an application fee not in excess of fifty dollars (\$50), provided that such application fee must be set forth in the catalog and in the student's enrollment application contract or agreement. In the event a student cancels the enrollment application contract or agreement at least thirty (30) days prior to the date that the student is scheduled to begin classes, then the institution may not retain more than twenty-five dollars (\$25).

(16) Quality of degrees. Earned degrees awarded by colleges licensed under the provisions of KRS 164.945 to 164.947 shall be bona fide academic degrees and the courses offered in degree programs shall be of collegiate quality as determined by the Council on Public Higher Education using the following criteria:

(a) Courses offered in degree programs shall be such as are generally transferable for credit among accredited colleges in programs of corresponding degree levels, and for credit toward the baccalaureate degree if such programs are at the associate degree level, as determined by the Council on Public Higher Education; or

(b) The Council on Public Higher Education may determine that because of the uniqueness of a program, or for other valid educational reasons, that courses are not usually transferable but are of collective quality.

(c) In the case of associate degrees and baccalaureate degrees, a reasonable percentage of the total credits for such degrees shall be earned in general education, including science-mathematics, social behavioral sciences, and humanities. A college which offers an interdisciplinary general education program, a block-type program, or other unique general education program shall be considered to be in compliance with the general education requirement stated above if the Council on Public Higher Education determines that such program content and distribution are appropriately related to the degree and institutional purposes.

(d) A college which is licensed under the provisions of KRS 164.945 to 164.947 shall not offer a master's degree, a doctoral-level degree, or any other graduate-level degree, as determined by the Council on Public Higher Education, unless such college is accredited by a regional institutional accrediting agency or a national accrediting agency which is recognized by the U. S. Office of Education, or which accreditation is accepted by the council.

(e) Any new college, and any existing college which initiates a new associate degree or baccalaureate degree program or major, or other concentration or specialty, after the effective date of these regulations, shall comply fully from the outset with the general education requirements as set forth herein.

(f) Any college which is offering a degree program as of the effective date of this regulation shall comply fully with the general education requirements, as set forth herein, within twelve (12) months of the effective date of such regulation.

(17) Student affairs:

(a) Students admitted to the college shall have completed a state-approved secondary school program or its equivalent.

(b) A student who is admitted to an instructional program shall have demonstrated a readiness for such instruction in the field or specialty, and the student's preparation, aptitude, and interest shall be such as to provide reasonable assurance that the student has the potential to benefit from the training offered.

(c) The college shall provide qualified academic counseling to each student at the time of admission, and a reasonable amount of time of qualified faculty and staff shall be made available to students for counseling purposes throughout the program.

(d) Assistance and counseling shall be made available by the college to each student who completes a technical or vocational program, for the purpose of assisting the student with an appropriate job placement or with transfer.

(e) The college shall maintain sufficient records of each student to provide an understanding of his background, to record his progress through the instructional program, and for reference purposes for employers and prospective employers for a reasonable time after the student leaves the college. Administrative officers of the college shall keep informed regarding federal and state laws and regulations concerning the disclosure of information on students and shall comply with such laws and regulations.

(f) The college shall establish suitable policies and procedures whereby a student is assured due process.

(18) College policies:

(a) The college shall maintain records in an orderly manner and make them available for inspection by the Council on Public Higher Education, the council staff, or designated representatives of the council.

(b) A catalog shall be published at least every two (2) years and shall include general information, administrative policies, and academic policies of the college such as is indicated below:

1. General information:

a. Official name and address of the college, name of the chief administrative officers, members of the governing body, and names of principal owners.

b. The college's calendar for the period covered by the catalog, such calendar to include beginning and ending dates of each term or semester, registration and examination dates, legal holidays, and other important dates.

c. Names of faculty, including relevant education and experience.

d. Full disclosure with respect to the philosophy and purpose of the institution and its capacity to fulfill these objectives.

2. Administrative policies:

a. Admissions policies and procedures, applicable to the various programs, including policies regarding granting of credit for previous education.

b. Policies and procedures regarding student conduct and behavior and the process for dealing with cases which culminate in probation or dismissal.

c. Schedules for all tuition and instructional charges, and refund schedules for such tuition and instructional charges.

d. Statement of financial aids available to students.

e. Procedures for obtaining transcripts in a timely fashion and at reasonable cost.

3. Academic policies:

a. Policy on class attendance.

b. Description of grading system.

c. Description of the various degree, diploma, certificate, and other programs, including the course requirements and the time normally required to complete each.

d. Full description of the nature and objectives of all degrees offered.

(c) Refund policy on tuition and other instructional charges: the refund policy shall meet the following minimum requirements:

1. If tuition and other instructional charges are collected in advance of entrance and the student fails to enter, then not more than \$100, or not more than ten (10) percent of such tuition and other instructional charges for a term or semester, whichever is less, shall be retained by the college.

2. If notification of withdrawal is given by the student, or if the student fails, without explanation to the proper institutional authority, to attend classes for a period of thirty (30) days during which class is in session, the college shall officially withdraw the student from class and shall comply with at least the following refund schedule:

a. During the first twenty-five (25) percent of the semester or other registration period at least seventy-five (75) percent of tuition and other fees for that period and 100 percent of all other tuition and other fees collected by the institution for subsequent periods shall be returned to the student.

b. During the second twenty-five (25) percent of the semester or other registration period at least fifty (50) percent of tuition and other fees collected by the institution for that period and 100 percent of all other tuition and instructional charges or fees collected by the institution for subsequent periods shall be returned to the student.

c. After completion of fifty (50) percent of the enrollment period, the college is not required to make refunds of tuition or other fees for that period but shall refund 100 percent of tuition or other fees collected by the institution for subsequent enrollment periods.

d. In all other cases, including illness or accident, the college shall make a settlement which is fair and reasonable; and

e. Refunds shall be made within thirty (30) days after notification of withdrawal has been received by the college.

3. Notwithstanding the provisions as set forth herein, if the college is accredited by an accrediting agency which is

recognized by the U. S. Office of Education, and if that accrediting agency has a specific refund policy which is more favorable to the student, then such policy shall be followed.

4. A college which is chartered, organized, or which has its principal location outside Kentucky, shall refund in accordance with the policies indicated herein unless their policy is more favorable to the student, in which case the latter shall be followed.

(19) Other requirements for license renewal:

(a) An annual report from each licensed college shall be submitted to the Council on Public Higher Education, and it shall contain the following:

1. A financial statement including assets and liabilities, as well as a profit and loss statement for the previous twelve (12) months in the case of proprietary colleges subject to this regulation, shall be submitted to the Council on Public Higher Education. Such statements shall be prepared by a licensed accountant on forms prescribed by the Council on Public Higher Education, and such reports shall be due no later than sixty (60) days following the end of the previous academic year;

2. A current list of the college's agents; and

3. Such annual license renewal fee as may be established by the council.

(b) An application for license renewal, to be accompanied by the license renewal fee as established by the council, or a supplementary application in such form and manner as may be prescribed by the Council on Public Higher Education, may be required within sixty (60) days following any of these developments:

1. A change in the name of a college;

2. A change in the principal location of a college;

3. A change in ownership or governance of a college;

4. Major curricula additions or deletions of such nature as to result in a fundamental change in the focus of the college;

5. Action by a nationally recognized accrediting agency which results in a college being placed in a probationary status for more than one (1) year, or which results in the loss of the college's accreditation.

6. Determination by the Council on Public Higher Education that other sufficient cause exists which requires a supplementary application or an application for license renewal.

(c) As pertains to licensure under the provisions of KRS 164.945 to 164.947, the Council on Public Higher Education may at its discretion require that:

1. All colleges so licensed shall apply for license renewal at established time intervals from the date of original licensure, which time interval shall not exceed five (5) years;

2. Individually identified colleges, due to their stage of development, financial circumstances, or for other stated reasons, shall apply for license renewal at established time intervals from the date of original licensure;

3. Time intervals referred to herein need not be uniform, but each license shall indicate the time interval which is applicable in the case of that college.

Section 4. Hearings and Appeals. (1) As pertains to licensure under the provisions of KRS 164.945 to 164.947, the Council on Public Higher Education may, for cause, require the chief administrative officer or officers of a college so licensed, to appear for a hearing before the council or a designated committee or officer of the council, in order to determine the facts in the case. At such hearings

the officer or officers of the college may be accompanied by counsel of their own choosing and at their expense. If the findings warrant, the council may impose such sanctions as are hereinafter authorized.

(2) A college which is sanctioned as a result of the actions of an officer or a committee of the Council on Public Higher Education may appeal to the full council. Notice of such appeal shall be made in writing to the council within ten (10) days of notification of such sanctions. Implementation of such sanctions shall be held in abeyance until appeal is heard and such appeal shall be scheduled on a timely basis.

(3) Sanctions: probation, suspension of license, or revocation of license:

(a) If the Council on Public Higher Education determines, on the basis of a hearing as described herein, that the public interest requires that sanctions be imposed, the council may take one or more of the following steps:

1. Place the college's license in a probationary status for a designated period not to exceed one (1) year;

2. Suspend the college's license for a period not to exceed one (1) year;

3. Revoke the college's license; or

4. Refer the case to other officials for appropriate action.

(b) A college which is sanctioned by the Council on Public Higher Education, whether such sanction is probation, suspension of license, or revocation of license, shall comply with the terms of such sanction.

(c) Any expense incurred in site visits, and for other purposes related to the removal of such sanctions, shall be borne by the college, notwithstanding the provisions of Section 3(11).

HARRY M. SNYDER, Executive Director

ADOPTED: January 19, 1977

RECEIVED BY LRC: February 10, 1977 at 10 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Roger Crittenden, Legal Counsel, Council on Public Higher Education, Capital Plaza Office Tower, Frankfort, Kentucky 40601.

**EXECUTIVE DEPARTMENT FOR  
FINANCE AND ADMINISTRATION  
Real Estate Commission**

**201 KAR 11:052. Broker's license.**

RELATES TO: KRS 324.094

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: To inform and set certain standards for the licensees and to protect the public.

Section 1. Every applicant for a broker's license shall have held a salesman's license for a period of twenty-four (24) months in this state prior to the date of said application, and must have been engaged in the real estate business for such a period of time, and shall apply in writing upon blanks prepared or furnished by the commission. If the applicant can furnish the commission a certificate from a resident college, university, or business school, accredited by appropriately recognized educational associations or chartered and licensed in the state of

Kentucky, reflecting satisfactory completion of sixty (60) college hours or eighteen (18) months of resident classroom training, or four (4) years of related business experience, then the requirements pertaining to holding a salesman's license for two (2) years shall be reduced to one (1) year and the applicant shall otherwise be eligible to apply for a broker's examination. The requirements for a salesman's (broker's) license shall not apply to any applicant who formerly held a broker's license in this or any other state nor to any person who has been actively engaged as a builder for a period of three (3) years.

CHARLES R. BROWN, Chairman

ADOPTED: January 27, 1977

APPROVED:

RUSSELL McCLURE,  
Secretary

RECEIVED BY LRC: February 2, 1977 at 9 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: General Counselor, Kentucky Real Estate Commission, 100 East Liberty Street, Suite 204, Louisville, Kentucky 40202.

**EXECUTIVE DEPARTMENT FOR FINANCE  
AND ADMINISTRATION  
Board of Nursing Education  
and Nurse Registration**

**201 KAR 20:011. School approval.**

RELATES TO: KRS 314.111, 314.011(5)

PURSUANT TO: KRS Chapter 314

NECESSITY AND FUNCTION: It is necessary to establish standards for continued approval of schools of nursing to assure that students will have an appropriate educational program to prepare them for licensure.

Section 1. If a school of nursing has a twenty percent (20%) or more failure rate on the State Board Test Pool Examination:

(1) A letter of concern will be issued;

(2) A representative of the board will visit the nursing program.

Section 2. If for two (2) consecutive fiscal years a school of nursing has a twenty percent (20%) or more failure rate on the State Board Test Pool Examination:

(1) A letter of warning will be issued;

(2) The nurse administrator will appear before the board;

(3) A representative of the board will visit the nursing program at regular intervals, at least quarterly.

Section 3. If for three (3) consecutive years a school of nursing has a twenty percent (20%) or more failure rate on the State Board Test Pool Examination:

(1) The nursing program will be put on probation;

(2) Students shall not be recruited;

(3) A new class shall not be admitted.

Section 4. If for four (4) consecutive years a school of nursing has a twenty percent (20%) or more failure rate on the State Board Test Pool Examination:

(1) Approval shall be withdrawn;



(2) Provision will be made for students enrolled in the program to complete the requirements for graduation and to take the State Board Test Pool Examination.

Section 5. If fifty percent (50%) or more of the State Board Test Pool Examinations administered over a five (5) year period yields a twenty percent (20%) or more failure rate the board will investigate and determine if the program should be on probation.

Section 6. If a nursing program had five (5) or more first-time writers for an administration of a State Board Test Pool Examination the group will be considered to constitute a class.

Section 7. Failure rate means the percentage of first-time writers taking the State Board Test Pool Examination in Kentucky with a score of less than 350.

Section 8. A nursing program that has fifty percent (50%) or more failures in the sub-exam for one (1) clinical area will be required to review the curriculum with the board or a representative of the board.

Section 9. A nursing program that has been on probation two (2) times during an eight (8) year period will have approval automatically withdrawn.

DORIS McDOWELL, Executive Director

ADOPTED: November 19, 1976

APPROVED: RUSSELL McCLURE, Secretary

RECEIVED BY LRC: January 26, 1977 at 11 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Doris McDowell, RN, Executive Director, Kentucky Board of Nursing, 6100 Dutchmans Lane, Louisville, Kentucky 40205.

**EXECUTIVE DEPARTMENT FOR FINANCE  
AND ADMINISTRATION**  
Board of Nursing Education  
and Nurse Registration

**201 KAR 20:012. Approval reinstatement.**

RELATES TO: KRS 314.111, 314.011(5)

PURSUANT TO: KRS Chapter 314

NECESSITY AND FUNCTION: It is necessary to establish a means for a school of nursing to regain approval.

Section 1. For a school of nursing to be reinstated or removed from probationary status the school shall be required to:

- (1) Submit an analysis of causes;
- (2) Submit a plan for correcting weaknesses; and
- (3) Other conditions prescribed by the board.

DORIS McDOWELL, Executive Director

ADOPTED: November 19, 1976

APPROVED: RUSSELL McCLURE, Secretary

RECEIVED BY LRC: January 26, 1977 at 11 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Doris McDowell, RN, Executive Director, Kentucky Board of Nursing, 6100 Dutchmans Lane, Louisville, Kentucky 40205.

**EXECUTIVE DEPARTMENT FOR FINANCE  
AND ADMINISTRATION**  
Board of Nursing Education  
and Nurse Registration

**201 KAR 20:015. Faculty standards.**

RELATES TO: KRS 314.111, 314.011(5)

PURSUANT TO: KRS Chapter 314

NECESSITY AND FUNCTION: It is necessary to establish standards for faculty in nursing schools to assure that students will have an appropriate educational program to prepare them for licensure.

Section 1. Each school of nursing must submit to the Board of Nursing by August 1 of each year a list of nurse faculty employed for the subsequent school year. Their nurse faculty positions and academic preparation shall be included.

Section 2. If the nurse faculty does not meet the minimum qualifications as set forth in 201 KAR 20:030 and 201 KAR 20:050 a notice of warning shall be issued to the school.

(1) Following receipt of the warning the school will submit:

- (a) A plan for faculty recruitment;
- (b) A quarterly report on progress of recruitment plan;
- (c) A quarterly report of faculty employed and their qualifications.

(2) Following receipt of the warning the school shall not:

- (a) Recruit students;
- (b) Admit a new class.

Section 3. If the minimum qualifications for faculty have not been met in one (1) year after the warning an automatic probation notice shall be issued.

(1) While on probation the school will submit:

- (a) A plan for faculty recruitment;
- (b) A quarterly report on progress of recruitment plan;
- (c) A quarterly report of faculty employed and their qualifications.

(2) While on probation the school shall not:

- (a) Recruit students;
- (b) Admit a new class.

Section 4. If the minimum qualifications for faculty have not been met in one (1) year after the automatic probation approval of the program shall be withdrawn.

DORIS McDOWELL, Executive Director

ADOPTED: November 19, 1976

APPROVED: RUSSELL McCLURE, Secretary

RECEIVED BY LRC: January 26, 1977 at 11 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Doris McDowell, RN, Executive Director, Kentucky Board of Nursing, 6100 Dutchmans Lane, Louisville, Kentucky 40205.

**DEPARTMENT OF TRANSPORTATION**  
Bureau of Vehicle Regulation

**601 KAR 25:035. Motorboats that are exempt from registration.**

RELATES TO: KRS 235.110, 235.210

PURSUANT TO: KRS 13.082, 174.080, 235.210, 235.320

**NECESSITY AND FUNCTION:** KRS 235.210(1) exempts from registration motorboats whose owner is the United States, a state or subdivision thereof, except when such boat is leased to the public for compensation. KRS 235.210(2) provides that boats exempt from registration (except boats documented by the Federal Government) may be required by the Division of Water Enforcement to apply for an official identification number to be displayed in accordance with KRS 235.110. This regulation provides a procedure by which motorboats owned exclusively by a state or a subdivision thereof shall be given a certificate of number for the purpose of identification.

Section 1. (1) All motorboats not documented by the Federal Government that are owned exclusively by a state or a subdivision thereof shall be numbered in accordance with the state approved numbering system for the purpose of identification. The Division of Driver Licensing shall issue to such agencies numbers designated by the division and such numbers shall be permanently affixed to each motorboat as prescribed under KRS 235.110.

(2) Applications for certificate of numbers for motorboats owned by a state or a subdivision thereof shall be made to the Division of Driver Licensing.

(3) After a certificate of number is issued to any motorboat owned exclusively by a state or a subdivision thereof, no subsequent certificate of number or renewal of same shall be necessary so long as said motorboat is owned exclusively by such governmental unit.

(4) When a motorboat owned exclusively by a state or a subdivision thereof is transferred or sold to another governmental unit, the Division of Driver Licensing shall cancel the old certificate and issue a new certificate of number for the motorboat in the same manner as provided for in subsection (2) of this section, and shall have the same effect as given to such certificate of number in subsection (3) of this section.

(5) When a motorboat ceases to be owned by a governmental unit, the certificate of number previously issued for such motorboat shall be surrendered by the governmental unit and cancelled, and the new non-governmental owner shall then register such motorboat according to the provisions of KRS 235.050.

O. B. ARNOLD, Commissioner

ADOPTED: February 1, 1977

APPROVED: JOHN C. ROBERTS, Secretary

RECEIVED BY LRC: February 7, 1977 at 2 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Deputy Secretary for Legal Affairs, Department of Transportation, State Office Building, Frankfort, Kentucky 40601.

**DEPARTMENT OF TRANSPORTATION**  
Bureau of Highways

**603 KAR 4:025. Advertising devices; just compensation.**

RELATES TO: KRS 177.867

PURSUANT TO: KRS 13.082, 174.075, 177.860

**NECESSITY AND FUNCTION:** KRS 177.860 authorizes the Commissioner of Highways to prescribe regulations relating to advertising devices. This regulation implements the part of the advertising device law which requires just compensation for certain such advertising devices.

Section 1. The following terms, when used in the regulation, shall have the following meanings: (1) "Advertising device" means as defined in KRS 177.830

(2) "Non-conforming advertising device" means an advertising device which was lawfully erected but does not comply with the provisions of state law or regulations passed at a later date or later fails to comply with state law or regulation due to changed conditions, such as but not limited to, zoning change, highway relocation or reclassification, size, spacing or distance restrictions.

(3) "Interstate highway" means as defined in KRS 177.830.

(4) "Federal-aid primary highway" means as defined in KRS 177.830.

(5) "Abandoned or discontinued" means that for a period of one (1) year or more that the advertising device:

- (a) Has not displayed any advertising matter; or
- (b) Has displayed obsolete advertising matter; or
- (c) Has needed substantial repairs.

(6) "Destroyed" means that the advertising device has sustained damage by any means in excess of sixty (60) percent of the structure and facing or sixty (60) percent of the replacement value of such advertising device.

(7) "Routine maintenance" means that maintenance is limited to replacement of nuts and bolts, nailing, riveting, or welding, cleaning and painting or manipulating to level or plumb the device but not to the extent of adding guys or struts for the stabilization of the advertising device or structure or substantially changing the advertising device. Replacement of new or additional panels or facing shall not constitute routine maintenance. The routine changing of messages is considered to be routine maintenance. Routine maintenance includes laminating or preparing panels in a plant or factory for the changing of messages.

Section 2. The Commissioner, Bureau of Highways, shall pay just compensation upon the removal of the following non-conforming advertising devices adjacent to an interstate highway or a federal-aid primary highway:

- (1) Those lawfully in existence on October 22, 1965;
- (2) Those lawfully on any highway designated a part of the interstate or federal-aid primary system on or after October 22, 1965, and before January 1, 1968;
- (3) Those lawfully erected on or after January 1, 1968; and
- (4) Those lawfully in existence on January 1, 1976.

Section 3. Just compensation shall be paid for the following: (1) The taking from the owner of any such advertising device of all right, title, leasehold, and interest in such advertising device; and

- (2) The taking from the owner of the real property on

which the advertising device is located, of the right to erect and maintain such advertising devices thereon.

Section 4. A non-conforming advertising device will no longer qualify for just compensation if:

- (1) It is destroyed, abandoned or discontinued; or
- (2) It is subjected to more than routine maintenance.

Section 5. Payment of just compensation shall be determined by the use of fixed rate schedules which are developed for the particular type of advertising device or interest held by the property owner and which are approved by and filed with Federal Highway Administration. Such schedules shall be on file in the Division of Right of Way, Bureau of Highways. When an advertising device owner or a site owner does not accept the amount computed under such fixed rate schedules, an appraisal shall be utilized.

JOHN C. ROBERTS, Commissioner

ADOPTED: January 21, 1977

RECEIVED BY LRC: February 8, 1977 at 1 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Ed W. Hancock, Deputy Secretary for Legal Affairs,  
Department of Transportation, Frankfort, Kentucky  
40601.

- (4) A financial plan documenting the request;
- (5) Provisions for loan security and repayment schedule.

Section 5. The rate of interest to be charged on a mass transportation operating fund loan shall be fixed by the Secretary of the Department of Transportation.

Section 6. (1) An agreement shall be entered into between the Department of Transportation, the mass transportation authority and the public body or bodies which shall set forth and contain the following terms and conditions:

- (a) The amount of the loan;
- (b) Provisions for repayment of the principal of the loan and interest thereon to the Department of Transportation;
- (c) Provisions for loan security;
- (d) Provisions that the loan shall be used by the mass transportation authority and the public bodies solely for the purpose stated in the application.

(2) The agreement may contain such other terms and conditions agreed upon between the department, the mass transportation authority and the public body or public bodies.

C. G. GRAYSON, Planning Engineer

ADOPTED: February 9, 1977

APPROVED:

JOHN C. ROBERTS, Secretary

RECEIVED BY LRC: February 15, 1977 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Ed. W. Hancock, Deputy Secretary for Legal Affairs,  
Department of Transportation, State Office Building,  
Frankfort, Kentucky 40601.

#### DEPARTMENT OF TRANSPORTATION Office of Transportation Planning

##### 604 KAR 1:010. Loans.

RELATES TO: KRS Chapter 96A

PURSUANT TO: KRS 13.082, 67.080, 67.083,  
96A.095(3), 96A.120(1)(a)

NECESSITY AND FUNCTION: The purpose of this regulation is to establish guidelines for administering the Mass Transportation Operating Loan Fund.

Section 1. "Mass Transportation Operating Loan Fund" is an appropriation to the Department of Transportation for the purpose of making loans to mass transportation authorities through public bodies to assist the mass transportation authorities in financing the operation of mass transportation systems.

Section 2. "Public Body" means as defined in KRS 96A.010(6).

Section 3. The Department of Transportation shall make loans from the mass transportation operating loan fund to mass transportation authorities through public bodies based upon the hereinafter set forth application being made to the Secretary of the Department of Transportation.

Section 4. The following information shall be included in the application:

- (1) Name and address of the applicant;
- (2) Amount of loan funds requested;
- (3) Purpose for which the loan is to be utilized;

## ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

February 2, 1977 Meeting

(Subject to Subcommittee approval at its next meeting on March 2, 1977.)

The Administrative Regulation Review Subcommittee held its regularly scheduled meeting on Wednesday, February 2, 1977, at 10 a.m., in Room 327 of the Capitol. Present were:

Members: Representative William T. Brinkley, Chairman and Representative David G. Mason.

Guests: Dr. Richard D. King, W. O. Hubbard, William T. Burkett, Ked R. Fitzpatrick, Verna Fairchild and Dr. B. F. Brown, Department for Human Resources; A. F. Humphries and John C. Wagner, Public Service Commission; Carl E. Kays and Joe Bruna, Department of Fish and Wildlife Resources; Thomas W. Brawner and Charles Henry, Department of Transportation; Martin Glazer, Office of Attorney General and Board of Accountancy; Bernard W. Gratzner, Board of Accountancy; I. G. Spencer, Jr., W. R. Vaughan and Rita Vaughan, Southeastern Displays; James E. Ballard, Tri Pac Outdoor Advertising Association; Tom Fearing and O. A. Kensler, Holiday Inns of Louisville; A. L. Rostal, Ray Hatfield and J. N. Fuller, Outdoor Advertising Association of Kentucky; Martin Operle, Operle Poster Advertising; Mary D. Shahan, Kentucky Area Regional Programs; Mack Morgan, Jr. and John Hinkle, Kentucky Retail Federation; W. L. Marohnic, Barren River MR-MH; Robert Harrison, Department of Labor; Neal Gahafer, Radiological Technician; Dr. W. L. Boswell, Radiologist; Judy Hagler, Robert E. Klinglesmith and William Doll, Kentucky Medical Association.

LRC Staff: William H. Raines, Mabel D. Robertson, E. Hugh Morris, Ollie Fint and Garnett Evins.

The minutes of the January 5 meeting were approved.

The proposed amendment to 725 KAR 2:010, Department of Library and Archives, Public Libraries, was withdrawn.

At the request of Mr. Hubbard, office of Counsel, Department for Human Resources, the following regulations were deferred for additional study.

## DEPARTMENT FOR HUMAN RESOURCES

## Bureau for Health Services

## Medical Laboratories

902 KAR 11:010. Application for licensure; fee.

902 KAR 11:020. Reports and standards of health and safety.

902 KAR 11:030. Personnel standards.

902 KAR 11:035. Proficiency test procedures.

902 KAR 11:040. Specialty test procedures.

902 KAR 11:045. Test and specimen records.

902 KAR 11:050. Equipment, methods and samples.

William Doll, counsel for the Kentucky Medical Association, voiced objections to portions of regulation 902 KAR 20:105, Department for Human Resources, Certificate of Need and Licensure Board, "Ambulatory surgical center services." Mr. Doll stated that the regulation

contains provisions to which his client objects. The subcommittee deferred the regulation until the March meeting, to enable the department to have representation at the meeting, and the chairman reminded Mr. Doll that notice of a public hearing had been published in the Administrative Register and that apparently his client had not had a representative present to express its opposition. He suggested that in the future he should check the Register to determine what action was scheduled on regulations concerning his client.

Chairman Brinkley informed those present that he had been contacted by Senator Johnson who apologized for being unable to attend the meeting and at Senator Johnson's request the following regulations would be considered at the March meeting.

## DEPARTMENT FOR HUMAN RESOURCES

## Bureau for Health Services

## Radiation Operators Certification

902 KAR 105:010. Definitions.

902 KAR 105:020. General requirements.

902 KAR 105:030. Teaching institution's curricula.

902 KAR 105:040. Medical or osteopathic physician supervision.

902 KAR 105:050. Chiropractor supervision.

902 KAR 105:060. Podiatrist supervision.

902 KAR 105:070. Violations and enforcement.

Proposed regulations, 603 KAR 3:010 Department of Transportation, Bureau of Highways, Maintenance, Advertising devices on interstates and 603 KAR 3:020, Advertising devices on federal aid primary system were brought before the committee for consideration.

Representatives from the Department of Transportation and from the Out-Door Advertising Association of Kentucky were proponents of the regulations and Mr. Vaughn and his counsel, Mr. Spencer, opposed the regulations. The subcommittee heard fully all testimony offered by the persons who were present and who wished to be heard. This testimony is recorded and is available to interested persons at the Legislative Research Commission's Library.

Chairman Brinkley and Representative Mason questioned at great length the persons giving testimony and expressed concern over some provisions in the regulation. While they expressed sympathy for Mr. Vaughn, they noted that their review is confined to determining whether the regulations conformed to the statutory authority and legislative intent under which they were promulgated.

Representative Mason moved that 603 KAR 3:010 and 603 KAR 3:020 be approved and filed. Chairman Brinkley seconded the motion.

The following regulations were approved and ordered filed.

**EXECUTIVE DEPARTMENT FOR  
FINANCE AND ADMINISTRATION  
Division of Occupations and Professions**

**Board of Accountancy**

201 KAR 1:045. Subjects of examination; grading; re-examination.

201 KAR 1:075. Registration of partnerships and corporations.

201 KAR 1:090. Practice by non-residents.

**Kentucky State Board of Registration for Professional  
Engineers and Land Surveyors**

201 KAR 18:040. Fees.

**CABINET FOR DEVELOPMENT  
Department of Fish and Wildlife Resources**

**Game**

301 KAR 2:071. Falconry.

**Hunting and Fishing**

301 KAR 3:052. Wild turkey hunting.

**DEPARTMENT OF TRANSPORTATION  
Bureau of Highways**

**Traffic**

603 KAR 5:110. Permits for moving house trailers.

**EDUCATION AND ARTS CABINET  
Department of Education**

**Bureau of Administration and Finance-**

**General Administration**

702 KAR 1:100. Merger of independent and county school districts.

**PUBLIC PROTECTION AND REGULATION CABINET  
Department of Labor**

**Occupational Safety and Health**

803 KAR 2:020. Adoption of 29 CFR Part 1910.

803 KAR 2:032. Adoption of 29 CFR Part 1928.

**Department of Insurance**

**Office of State Fire Marshal**

806 KAR 50:200. Mobile homes.

**Public Service Commission**

**Electric, Water, Gas and Telephone Utilities**

807 KAR 2:061. Electrical inspectors' certification.

**DEPARTMENT FOR HUMAN RESOURCES**

**Bureau for Administration and Operation**

**Controlled Substances**

901 KAR 1:030. Schedule IV substances.

**Bureau for Health Services**

**Regional Mental Health-Mental Retardation Boards**

902 KAR 6:010. Local board authority.

902 KAR 6:030. Board structure and operation; eligibility for state grants.

**Bureau for Social Insurance**

**Medical Assistance**

904 KAR 1:030. Home health agency services.

904 KAR 1:044. Mental health center services.

The meeting adjourned at 3 p.m. to meet again on March 2, 1977, at 10 a.m. in Room 327 of the Capitol.





# *Administrative Register* <sup>of</sup> *kentucky*

## **Cumulative Supplement**

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## Regulation Locator—Effective Dates

## Volume 2

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103 KAR 40:090	547	7-7-76	200 KAR 6:010	571	7-7-76	301 KAR 2:100	555	7-7-76
103 KAR 44:010	548	7-7-76	200 KAR 6:015	572	7-7-76	301 KAR 2:110	556	7-7-76
105 KAR 1:010	550	7-7-76	301 KAR 2:045	552	7-7-76	701 KAR 1:020	572	7-7-76
105 KAR 1:030	571	7-7-76	301 KAR 2:047	553	7-7-76	902 KAR 20:059	525	7-7-76

## Volume 3

Emergency Regulation	3 Ky.R. Page No.	Effective Date	Emergency Regulation	3 Ky.R. Page No.	Effective Date	Regulation	3 Ky.R. Page No.	Effective Date
101 KAR 1:050E	483	12-2-76	805 KAR 4:080E	133	6-18-76	101 KAR 1:100		
Expires		4-1-77	Expired		10-16-76	Amended	281	8-4-76
105 KAR 1:040E	114	6-30-76	805 KAR 4:085E	133	6-18-76	101 KAR 1:110		
Expired		10-28-76	Expired		10-16-76	Amended	281	8-4-76
105 KAR 1:050E	531	1-1-77	805 KAR 4:090E	134	6-18-76	101 KAR 1:120		
Expires		4-30-77	Expired		10-16-76	Amended	282	8-4-76
106 KAR 1:010E	220	7-23-76	805 KAR 4:095E	134	6-18-76	101 KAR 1:140		
Expired		11-20-76	Expired		10-16-76	Amended	283	8-4-76
107 KAR 1:005E	435	11-9-76	805 KAR 4:100E	135	6-18-76	Amended	535	
Expires		3-9-77	Expired		10-16-76	102 KAR 1:030		
107 KAR 1:015E	436	11-9-76	805 KAR 4:105E	135	6-18-76	Amended	376	12-1-76
Expires		3-9-77	Expired		10-16-76	102 KAR 1:040		
107 KAR 1:025E	436	11-9-76	805 KAR 4:110E	136	6-18-76	Repealed	376	12-1-76
Expires		3-9-77	Expired		10-16-76	102 KAR 1:045		
200 KAR 1:020E	116	6-21-76	805 KAR 4:115E	137	6-18-76	Amended	376	12-1-76
Expired		10-19-76	Expired		10-16-76	102 KAR 1:050		
200 KAR 4:020E	119	6-24-76	805 KAR 4:120E	137	6-18-76	Amended	376	12-1-76
Expired		10-22-76	Expired		10-16-76	102 KAR 1:055		
200 KAR 10:040E	121	6-24-76	805 KAR 4:125E	138	6-18-76	Amended	377	12-1-76
Expired		10-22-76	Expired		10-16-76	102 KAR 1:060		
301 KAR 1:015E	123	6-30-76	805 KAR 4:130E	138	6-18-76	Amended	377	12-1-76
Expired		10-28-76	Expired		10-16-76	102 KAR 1:110		
301 KAR 2:022E	367	9-27-76	805 KAR 4:135E	139	6-18-76	Amended	378	12-1-76
Expired		1-20-77	Expired		10-16-76	102 KAR 1:120		
301 KAR 2:023E	311	8-23-76	805 KAR 4:140E	139	6-18-76	Amended	378	12-1-76
Expired		12-20-76	Expired		10-16-76	102 KAR 1:130		
400 KAR 1:010E	221	7-22-76	805 KAR 4:145E	140	6-18-76	Amended	379	12-1-76
Expired		11-19-76	Expired		10-16-76	102 KAR 1:153	286	8-4-76
503 KAR 5:010E	124	6-30-76	805 KAR 4:150E	140	6-18-76	102 KAR 1:185		
Expired		10-28-76	Expired		10-16-76	Amended	379	12-1-76
503 KAR 5:030E	125	6-30-76	805 KAR 5:010E	140	6-24-76	102 KAR 2:010		
Expired		10-28-76	Expired		10-22-76	Amended	381	12-1-76
503 KAR 5:040E	126	6-30-76	806 KAR 12:060E	225	8-6-76	103 KAR 1:010		
Expired		10-28-76	Expired		12-4-76	Amended	381	12-1-76
503 KAR 5:050E	126	6-30-76	806 KAR 40:010E	141	7-8-76	103 KAR 15:040		
Expired		10-28-76	Expired		11-5-76	Amended	382	12-1-76
503 KAR 5:060E	128	6-30-76	806 KAR 50:010E	226	8-6-76	103 KAR 15:060		
Expired		10-28-76	Expired		12-4-76	Amended	147	9-1-76
503 KAR 5:070E	128	6-30-76				103 KAR 16:060		
Expired		10-28-76				Amended	382	12-1-76
601 KAR 9:012E	128	6-21-76				103 KAR 16:070		
Expired		10-19-76				Amended	385	12-1-76
601 KAR 9:013E	532	1-2-77				103 KAR 17:020		
Expires		5-1-77				Amended	147	9-1-76
604 KAR 1:010E	581	2-15-77	5 KAR 1:010	173	9-1-76	103 KAR 17:030		
Expires		6-15-77	10 KAR 1:010	416	12-1-76	Amended	148	9-1-76
702 KAR 3:061E	582	2-10-77	11 KAR 5:030			Amended	149	9-1-76
Expires		6-10-77	Amended	146	9-1-76	103 KAR 17:040		
803 KAR 2:020E	222	8-12-76	11 KAR 5:060			Amended	149	9-1-76
Expired		12-10-76	Amended	146	9-1-76	103 KAR 17:050		
803 KAR 4:020E	129	7-1-76	12 KAR 1:035			Repealed	173	9-1-76
Expired		10-29-76	Amended	375	12-1-76	103 KAR 17:051	173	9-1-76
803 KAR 4:021E	436	11-3-76	12 KAR 1:080			103 KAR 17:070		
Expires		3-3-77	Amended	375	12-1-76	Amended	149	9-1-76
803 KAR 25:060E	225	7-27-76	12 KAR 1:110	417	12-1-76	103 KAR 17:080		
Expired		11-24-76	13 KAR 1:015	615		Amended	150	9-1-76
805 KAR 4:010E	130	6-18-76	101 KAR 1:050			103 KAR 18:050		
Expired		10-16-76	Amended	370	10-6-76	Amended	150	9-1-76
805 KAR 4:070E	131	6-18-76	Amended	533		103 KAR 18:100		
Expired		10-16-76	101 KAR 1:080			Amended	151	9-1-76
805 KAR 4:075E	132	6-18-76	Amended	278	8-4-76	103 KAR 18:110		
Expired		10-16-76	101 KAR 1:090			Amended	287	8-4-76
			Amended	280	8-4-76			



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103 KAR 27:090			201 KAR 21:020			503 KAR 5:070		
Amended	287	8-4-76	Rejected	364	9-1-76	Amended	159	9-1-76
103 KAR 30:090			Withdrawn		9-29-76	600 KAR 1:010	185	
Amended	288	8-4-76	201 KAR 21:050			Rejected	364	9-1-76
103 KAR 30:170			Repealed	433	10-1-76	Rejected	433	10-6-76
Amended	324	11-3-76	201 KAR 21:051	431	10-1-76	Withdrawn		11-10-76
103 KAR 31:140			201 KAR 23:010	262	10-6-76	601 KAR 1:010		
Amended	289	8-4-76	201 KAR 23:020	263	10-6-76	Amended	293	8-4-76
105 KAR 1:040	173	9-1-76	201 KAR 23:030	263	10-6-76	601 KAR 1:095		
105 KAR 1:050	566		201 KAR 23:040	263	10-6-76	Amended	294	8-4-76
106 KAR 1:010	261	10-6-76	201 KAR 23:050	264	10-6-76	601 KAR 9:012	186	9-1-76
107 KAR 1:005	460	1-5-77	201 KAR 23:060	264	10-6-76	601 KAR 9:013	567	
107 KAR 1:015	460	1-5-77	201 KAR 23:070	264	11-3-76	601 KAR 9:035		
107 KAR 1:025	461	1-5-77	201 KAR 23:080	266	10-6-76	Amended	238	10-6-76
200 KAR 1:020	175	9-1-76	201 KAR 23:090	266		601 KAR 9:040		
200 KAR 2:065	334		Withdrawn	433	10-6-76	Amended	294	8-4-76
Amended	486	12-1-76	201 KAR 24:010	461	1-5-77	601 KAR 9:047	268	10-6-76
200 KAR 4:020	177	9-1-76	201 KAR 24:020	566		601 KAR 13:020		
200 KAR 5:075	335		301 KAR 1:015			Amended	603	
Amended	487	12-1-76	Amended	152	9-1-76	601 KAR 25:030		
200 KAR 10:040	179	10-6-76	301 KAR 2:055			Amended	605	
201 KAR 1:015			Amended	600		601 KAR 25:035	622	
Amended	438	1-5-77	301 KAR 2:070			601 KAR 25:050		
201 KAR 1:025			Repealed	523	2-2-77	Amended	605	
Amended	438	1-5-77	301 KAR 2:071	523	2-2-77	601 KAR 25:090		
201 KAR 1:035			301 KAR 2:105			Amended	606	
Amended	438	1-5-77	Amended	289	8-4-76	601 KAR 25:150		
201 KAR 1:040			301 KAR 3:010			Amended	606	
Amended	439	1-5-77	Amended	153	9-1-76	603 KAR 2:015		
201 KAR 1:045			301 KAR 3:052	525	2-2-77	Amended	538	
Amended	440		Expires	525	5-8-77	603 KAR 3:010		
Amended	583	2-2-77				Amended	390	
201 KAR 1:050			301 KAR 3:070			Amended	585	2-2-77
Amended	441	1-5-77	Amended	602		603 KAR 3:020		
201 KAR 1:055			302 KAR 1:020	182	9-1-76	Amended	393	
Amended	441	1-5-77	302 KAR 1:030	183	9-1-76	Amended	588	2-2-77
201 KAR 1:060			302 KAR 15:010			603 KAR 4:025	622	
Amended	442	1-5-77	Amended	354	9-1-76	603 KAR 5:066	2	7-7-76
201 KAR 1:065			302 KAR 20:060			603 KAR 5:096	4	7-7-76
Amended	443	1-5-77	Amended	325	11-3-76	Amended	327	11-3-76
201 KAR 1:075			302 KAR 20:070			Amended	451	1-5-77
Amended	443		Amended	153	11-3-76	603 KAR 5:110		
Amended	584	2-2-77	303 KAR 1:002	185		Amended	506	2-2-77
201 KAR 1:085			Withdrawn		10-21-76	604 KAR 1:010	623	
Repealed	461	1-5-77	305 KAR 1:010	267	10-6-76	701 KAR 5:010	461	
201 KAR 1:086	461	1-5-77	400 KAR 1:010	267	1-5-77	702 KAR 1:035	567	
201 KAR 1:090			401 KAR 1:010			702 KAR 1:090	269	10-6-76
Amended	443		Amended	357	9-1-76	702 KAR 1:100	462	
Amended	584	2-2-77	401 KAR 1:011	337		Amended	592	2-2-77
201 KAR 1:095			Amended	488	12-1-76	702 KAR 3:185	269	11-3-76
Amended	444	1-5-77	401 KAR 1:015			702 KAR 5:120	463	1-5-77
201 KAR 8:185			Amended	237	11-3-76	703 KAR 2:020		
Amended	600		401 KAR 1:030			Amended	238	11-3-76
201 KAR 8:277			Amended	313	9-1-76	703 KAR 2:050		
Amended	600		Amended	445	1-5-77	Amended	239	11-3-76
201 KAR 9:075	180		401 KAR 1:040			704 KAR 3:010		
201 KAR 11:052	620		Amended	447	1-5-77	Amended	241	11-3-76
201 KAR 11:062	182	9-1-76	401 KAR 1:070			704 KAR 3:050		
201 KAR 12:031	417	12-1-76	Amended	448	1-5-77	Amended	540	
201 KAR 12:057			401 KAR 1:090			704 KAR 3:052	568	
Rejected	433	10-6-76	Amended	450	1-5-77	704 KAR 3:055	269	11-3-76
201 KAR 12:082			401 KAR 1:100			704 KAR 3:175	270	
Amended	388	12-1-76	Amended	314	9-1-76	704 KAR 3:180		
201 KAR 12:083	418	12-1-76	401 KAR 1:105	526		Amended	241	
201 KAR 12:101	418	12-1-76	401 KAR 1:110			704 KAR 6:010	270	11-3-76
201 KAR 12:125	419	12-1-76	Amended	362	9-1-76	704 KAR 10:022	271	11-3-76
201 KAR 14:115			401 KAR 3:080	420	12-1-76	704 KAR 10:023	463	1-5-77
Amended	324	11-3-76	402 KAR 1:011			704 KAR 15:015	271	
201 KAR 16:040	336		Withdrawn		9-10-76	704 KAR 20:005		
Rejected	481	11-3-76	503 KAR 5:010			Amended	242	11-3-76
201 KAR 16:050	337	11-3-76	Amended	155	9-1-76	704 KAR 20:030		
201 KAR 18:040			503 KAR 5:030			Amended	243	11-3-76
Amended	584	2-2-77	Amended	156	9-1-76	704 KAR 20:050		
201 KAR 20:011	620		503 KAR 5:040			Amended	541	
201 KAR 20:012	621		Amended	157		704 KAR 20:065		
201 KAR 20:015	621		Rejected	433	10-6-76	Amended	541	
201 KAR 20:030			503 KAR 5:050			704 KAR 20:070		
Amended	444	1-5-77	Amended	158	9-1-76	Amended	542	
201 KAR 20:090			503 KAR 5:060			704 KAR 20:080		
Amended	445	1-5-77	Amended	159	9-1-76	Amended	542	



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Amended	543		Amended	110	7-7-76	Amended	251	
704 KAR 20:090			725 KAR 1:030	111	7-7-76	Amended	489	12-1-76
Amended	543		725 KAR 2:010			806 KAR 50:015	479	
704 KAR 20:100			Amended	507		806 KAR 50:200		
Amended	544		Withdrawn		2-1-77	Amended	210	8-4-76
704 KAR 20:135			730 KAR 1:005	338		Amended	512	2-2-77
Amended	545		801 KAR 2:010	338	11-3-76	806 KAR 50:205	341	
704 KAR 20:145			802 KAR 1:010			Amended	499	12-1-76
Amended	545		Amended	398	12-1-76	807 KAR 2:060		
704 KAR 20:150			803 KAR 1:025	469	1-5-77	Repealed	593	2-2-77
Amended	546		803 KAR 1:075			807 KAR 2:061	192	
704 KAR 20:170			Amended	301	8-4-76	Amended	593	2-2-77
Amended	243	11-3-76	803 KAR 1:100			808 KAR 1:070	481	1-5-77
704 KAR 20:195			Amended	245	11-3-76	810 KAR 1:002		
Amended	546		803 KAR 2:020			Amended	399	12-1-76
704 KAR 20:220			Amended	160	9-1-76	810 KAR 1:012		
Repealed	421	12-1-76	Amended	246	10-6-76	Amended	458	1-5-77
704 KAR 20:221	421	12-1-76	Amended	510	2-2-77	811 KAR 1:032	427	12-1-76
704 KAR 20:222	272	11-3-76	803 KAR 2:030			811 KAR 1:090		
704 KAR 20:230			Amended	248	10-6-76	Amended	401	12-1-76
Amended	547		803 KAR 2:032			811 KAR 1:125		
704 KAR 20:235			Amended	162	11-3-76	Amended	402	12-1-76
Amended	548		Amended	512	2-2-77	811 KAR 1:200	428	12-1-76
704 KAR 20:240			803 KAR 2:060			900 KAR 1:010	194	
Amended	548		Amended	249	10-6-76	Rejected	433	10-6-76
704 KAR 20:245			803 KAR 2:062			901 KAR 1:030		
Amended	549		803 KAR 2:120			Amended	518	
704 KAR 20:266	464	1-5-77	Amended	250	10-6-76	902 KAR 1:015		
704 KAR 20:270	568		803 KAR 3:010	421		Amended	407	12-1-76
705 KAR 1:010			803 KAR 3:020	422		902 KAR 1:020		
Amended	243	11-3-76	803 KAR 3:030	423		Amended	303	8-4-76
Amended	327	11-3-76	803 KAR 3:040	424		902 KAR 1:025		
705 KAR 4:130			803 KAR 4:020	187		Amended	408	12-1-76
Repealed	273	11-3-76	Rejected	364	9-1-76	902 KAR 1:035		
705 KAR 4:131	273	11-3-76	803 KAR 4:021	470	1-5-77	Amended	408	12-1-76
705 KAR 4:150			803 KAR 5:010	425		902 KAR 1:080		
Repealed	274	11-3-76	Withdrawn		11-18-76	Amended	408	12-1-76
705 KAR 4:151	274	11-3-76	803 KAR 25:060	276	10-6-76	902 KAR 1:085		
705 KAR 7:050			804 KAR 1:090	341	11-3-76	Amended	304	8-4-76
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705 KAR 10:020			Amended	302	8-4-76	Amended	305	8-4-76
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705 KAR 10:030			805 KAR 4:070			902 KAR 1:141	306	8-4-76
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705 KAR 10:050			805 KAR 4:080	364	9-1-76	Amended	306	8-4-76
Repealed	275	11-3-76	805 KAR 4:085	364	9-1-76	Amended	410	12-1-76
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Repealed	275	11-3-76	Amended	320	8-4-76	Amended	410	12-1-76
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163.130	706 KAR 1:010		902 KAR 105:050	230.690	811 KAR 1:125
163.140	706 KAR 1:010		902 KAR 105:060	230.700	811 KAR 1:090
163.170	706 KAR 1:010		902 KAR 105:070	230.710	811 KAR 1:125
163.180	706 KAR 1:010	214.032	902 KAR 2:060	230.770	811 KAR 1:032
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247.710-247.785	302 KAR 1:020		201 KAR 1:060	805 KAR 4:087	
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