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IN THIS ISSUE

NOTE: The May meeting of the Administrative Regulation Review Subcommittee will be a ONE-DAY meeting—Wednesday, May 6, 1981, at 10 a.m., in Room A, Capitol Annex.

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

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Public Hearings Scheduled

DEPARTMENT OF HOUSING, BUILDINGS AND CONSTRUCTION

A public hearing will be held at 1 p.m. EDT May 28, 1981, in the Conference Room of the Department of Housing, Buildings and Construction, U.S. 127 South, Frankfort, Kentucky on the following regulation:

815 KAR 7:050. Accessibility standards for the physically disabled. [7 Ky.R. 866]

DEPARTMENT FOR HUMAN RESOURCES

A public hearing will be held at 9 a.m. EDT May 15, 1981, in the Vital Statistics Conference Room, First Floor, DHR Building, 275 East Main Street, Frankfort, Kentucky on the following regulation:

904 KAR 2:005. Technical requirements; AFDC. [7 Ky.R. 787]

Emergency Regulations Now In Effect

JOHN Y. BROWN, JR., GOVERNOR
Executive Order 81-291
March 31, 1981

EMERGENCY REGULATIONS
Department for Human Resources
Bureau for Social Insurance

WHEREAS, the Secretary of the Department for Human Resources is responsible, under KRS 194.050 and KRS 205.520, for promulgating, by regulation, the policies of the Department with regard to the provision of Medical Assistance; and

WHEREAS, the Secretary has found that at the current rate of spending, the Department will incur a deficit which necessitates reductions in the Department's budget to bring spending in line with appropriation; and

WHEREAS, the Secretary has found that to reduce the rate of spending it is necessary to implement new regulations governing certain rates, policies and programs administered by the Department; and

WHEREAS, the Secretary has promulgated regulations on Technical Eligibility, Physicians' Services, Payments for Physicians' Services, Inpatient Hospital Services, Skilled Nursing Facility Services, Intermediate Care Facility Services, Hearing and Vision Services, Mental Health Center Services, Payments for Mental Health Center Services and Payments for Skilled Nursing and Intermediate Care Facility Services; and

WHEREAS, the Secretary has found that an emergency exists with respect to said regulations and that, therefore, said regulations should, pursuant to the provisions of KRS 13.085(2), become effective immediately upon filing with the Legislative Research Commission:

NOW, THEREFORE, I, John Y. Brown, Jr., Governor of the Commonwealth of Kentucky, by virtue of the authority vested in me by KRS 13.085(2), do hereby acknowledge the finding of emergency by the Secretary of the Department for Human Resources with respect to the filing of said regulations on Technical Eligibility, Physicians' Services, Payments for Physicians' Services, Inpatient Hospital Services, Skilled Nursing Facility Services, Intermediate Care Facility Services, Hearing and Vision Services, Mental Health Center Services, Payments for Mental Health Center Services and Payments for Skilled Nursing and Intermediate Care Facility Services, and hereby direct that said regulations shall become effective upon being filed with the Legislative Research Commission, as provided in Chapter 13 of the Kentucky Revised Statutes.

JOHN Y. BROWN, JR., Governor
FRANCES JONES MILLS, Secretary of State

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Insurance

904 KAR 1:003E. Technical eligibility.

RELATES TO: KRS 205.520
PURSUANT TO: KRS 13.082, 194.050
EFFECTIVE: April 1, 1981
EXPIRES: Sine Die adjournment of 1982 regular session of the General Assembly, or upon being replaced through regular procedure.

NECESSITY AND FUNCTION: The Department for Human Resources has responsiblity to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520(3) empowers the department by regulation to comply with any requirement that may be imposed or opportunity presented by federal law for the provision of Medical Assistance, hereinafter

referred to as MA, to Kentucky's indigent citizenry. This regulation sets forth the technical eligibility requirements of the MA Program.

Section 1. The Categorically Needy: All individuals receiving Aid to Families with Dependent Children, Supplemental Security Income or Optional or Mandatory State Supplementation are eligible for MA as categorically needy individuals. In addition, the following classifications of needy persons are included in the program as categorically needy and thus eligible for MA participation.

(1) Children in foster family care or private non-profit child caring institutions dependent in whole or in part on a governmental or private agency;

(2) Children in psychiatric hospitals or medical institutions for the mentally retarded;

(3) Unborn children deprived of parental support due to death, absence, incapacity or unemployment of the father;

(4) Children of unemployed parents;

(5) Children in subsidized adoptions dependent in whole or in part on a governmental agency;

(6) Families terminated from the Aid to Families with Dependent Children (AFDC) program because of increased earnings or hours of employment.

Section 2. The Medically Needy: Other individuals, meeting technical requirements comparable to the categorically needy group, but with sufficient income to meet their basic maintenance needs may apply for MA with need determined in accordance with income and resource standards prescribed by regulation of the Department for Human Resources.

Section 3. Technical Eligibility Requirements: Technical eligibility factors of families and individuals included as categorically needy under subsections (1) through (6) of Section 1, or as medically needy under Section 2 are:

(1) Children in foster care, private institutions, psychiatric hospitals or mental retardation institutions must be under twenty-one (21) years of age, except that a child eligible for and receiving inpatient psychiatric services on his twenty-first birthday may be eligible until he reaches his twenty-second birthday or the inpatient treatment ends, whichever comes first;

(2) Unborn children are eligible only upon medical proof of pregnancy;

(3) Unemployment relating to eligibility of both parents and children is defined as:

(a) Employment of less than 100 hours per month, except that the hours may exceed that standard for a particular month if the work is intermittent and the excess is of a temporary nature as evidenced by the fact that the individual was under the 100 hour standard for the prior two (2) months and is expected to be under the standard during the next month;

(b) The individual has prior labor market attachment consisting of earned income of at least fifty dollars ($50) during six (6) or more calendar quarters ending on March 31, June 30, September 30, or December 31, within any thirteen (13) calendar quarter period ending within one (1) year of application, or the individual within twelve (12) months prior to application received unemployment compensation;

(c) The individual is currently receiving or has been found ineligible for unemployment compensation;

(d) The individual is currently registered for employment at the state employment office, and available for full-time employment;

(e) The unemployed parent must not have refused suitable employment without good cause as determined in accordance with 45 CFR section 233.100(a)(3)(ii).

(4) Children, but not parents, may be eligible if both parents meet a more liberal definition of unemployment defined as:

(a) Employment of less than thirty (30) hours per week; or

(b) Regular attendance, at public expense, in a formalized full-time training course, below the college level. A public work project in which a real wage is paid, that is, subject to standard payroll deductions, is not considered a training course; or

(c) Receipt of unemployment compensation; and

(d) Requirements of subsection (3)(d) are met in that at least one (1) parent is registered and available for employment unless both parents are unemployed pursuant to paragraph (b) of this subsection; and the requirements of subsection (3)(e) are met for both parents.

(5) Under the definitions contained in subsections (3) and (4) of this section, a parent shall not be considered as unemployed if he is:

(a) Temporarily unemployed due to weather conditions or lack of work when it is anticipated he can return to work within thirty (30) days; or

(b) On strike, or unemployed as a result of involvement in a labor dispute when such involvement would disqualify the individual from eligibility for unemployment insurance in accordance with KRS 341.360; or

(c) Unemployed because he voluntarily quit his most recent work for the purpose of attending school; or

(d) A farm owner or tenant farmer, unless he has previously habitually required and secured outside employment and currently is unable to secure outside employment; or

(e) Self-employed and not available for full-time employment.

(6) An aged individual must be at least sixty-five (65) years of age.

(7) A blind individual must meet the definition of blindness as contained in Title II and XVI of the Social Security Act relating to RSDI and SSI.

(8) A disabled individual must meet the definition of permanent and total disability as contained in Title II and XVI of the Social Security Act relating to RSDI and SSI.

(9) For families losing AFDC eligibility solely because of increased earnings or hours of employment, medical assistance shall continue for four (4) months to all such family members as were included in the family grant (and children born during the four (4) month period) if the family received AFDC in any three (3) or more months during the six (6) month period immediately preceding the month in which it became ineligible for AFDC. The four (4) month period begins on the date AFDC is terminated. If AFDC benefits are paid erroneously for one (1) or more months in such a situation, the four (4) month period begins with the first month in which AFDC was erroneously paid, i.e., the month in which the AFDC should have been terminated.

(10) Parents may be included for assistance in the cases of families with children (except as shown in subsection (4) of this section) including adoptive parents and alleged fathers where circumstances indicate the alleged father has admitted the relationship prior to application for assistance. Other relatives who may be included in the case (one (1) only) are caretaker relatives to the same extent they may be eligible in the aid to families with dependent children program.

(11) An applicant who is deceased may have eligibility determined in the same manner as if he was alive, in order to pay medical bills during the terminal illness.

(12) Children of the same parent, i.e., a "common" parent, residing in the same household shall be included in the same case unless this acts to preclude eligibility of an otherwise eligible household member.

(13) To be eligible, an applicant or recipient must be a citizen of the United States, or an alien legally admitted to this country or an alien who is residing in this country under color of law. The applicant or recipient must also be a resident of Kentucky. Generally, this means the individual must be residing in the state for other than a temporary purpose; however, there are exceptions with regard to recipients of a state supplementary payment and institutionalized individuals. The conditions for determining state residency are specified in federal regulations at 42 CFR 435.403, which are hereby incorporated by reference.

(14) An individual may be determined eligible for medical assistance for up to three (3) months prior to the month of application if all conditions of eligibility are met. The effective date of medical assistance is generally the first day of the month of eligibility. For individuals eligible on the basis of unemployment, eligibility may not exist for the thirty (30) day period following the starting date of the unemployment. In these cases, the effective date of eligibility may be as early as the first day following the end of the thirty (30) day period if all other conditions of eligibility are met. For individuals eligible on the basis of desertion, a period of desertion must have existed for thirty (30) days, and the effective date of eligibility may not precede the first day of the month in which the thirty (30) day period ends. For individuals eligible on the basis of utilizing their excess income for incurred medical expenses, the effective date of eligibility is the day the spend-down liability is met.

(15) "Child" means a needy dependent child under the age of twenty-one (21), including the unborn child, who is not otherwise emancipated, self supporting, married, or a member of the armed forces of the United States, and who is a recipient of or applicant for public assistance. Included within this definition is an individual(s) under the age of twenty-one (21), previously emancipated, who has returned to the home of his parents, or to the home of another relative, so long as such individual is not thereby residing with his spouse.

Section 4. Institutional Status: No individual shall be eligible for MA if a resident or inmate of a non-medical public institution. No individual shall be eligible for MA while a patient in a state tuberculosis hospital unless he has reached age sixty-five (65). No individual shall be eligible for MA while a patient in a state institution for mental illness unless he is under age twenty-one (21) (except as provided for in Section 3(1) or is sixty-five (65) years of age or over.

Section 5. Application for Other Benefits: As a condition of eligibility for medical assistance, applicants and recipients must apply for all annuities, pensions, retirement and disability benefits to which they are entitled, unless they can show good cause for not doing so. Good cause is considered to exist when such benefits have previously been denied with no change of circumstances, or the individual does not meet all eligibility conditions. Annuities, pensions, retirement and disability benefits include, but are not limited to, veterans' compensations and pensions, retirement and survivors disability insurance benefits, railroad retirement benefits, and unemployment compensation. Notwithstanding the preceding, no applicant or recipient shall be required to apply for federal benefits when the federal law providing for such benefits shows the benefit to be optional and that the potential applicant or recipient for such benefit need not apply for such benefit when to do so would, in his opinion, act to his disadvantage.

Section 6. Transferred Resources. When an applicant or recipient *transfers* [is suspected of transferring] a *non-excluded* resource(s) for the purpose of becoming eligible for medical assistance, the value of the transferred resource(s) will be considered a resource [only] to the extent provided for by this section. *The provisions of this section are applicable to both family related cases and medical assistance only cases based on age, blindness, or disability.*

(1) *The disposal of a resource, including liquid assets, at less than fair market value shall be presumed to be for the purpose of establishing eligibility unless the individual presents convincing evidence that the disposal was exclusively for some other purpose. If the purpose of the transfer is for some other reason or if the transferred resource was considered an excluded resource at the time it was transferred, the value of the transferred resource is disregarded. If the resource was transferred for an amount equal to at least the assessed value for tax purposes, the resource shall be considered as being disposed of for fair market value.* [For family related cases, the following actions must be taken:]

[(a) The department shall be responsible for determining whether the resource was transferred for the sole purpose of the applicant or recipient becoming or remaining eligible for medical assistance. If the purpose of the transfer is for some other reason (in whole or in part), or cannot be determined, the value of the transferred resource is disregarded.]

(2) [(b)] After determining that the purpose of the transfer was to become or remain eligible, the department shall first add the *uncompensated* equity value of the transferred resource to *other currently held* [remaining] resources to determine if retention of the property would have resulted in ineligibility. For this purpose, the resource considered available shall be the type of resource it was prior to transfer, e.g., if non-homestead property was transferred, the *uncompensated* equity value of the transferred property would be counted against the permissible amount for non-homestead property. If retention of the resource would not have resulted in ineligibility, the value of the transferred resource would thereafter be disregarded.

(3) [(c)] If retention would result in ineligibility, the department will compute the period the transferred resource will be considered available by dividing the total excess resources (including the *uncompensated equity value of the* transferred resource) by *$500* [the medically needy scale shown in 904 KAR 1:004]. The derived number[s] shall be the number of months the resource is considered available; however, the resource shall not be considered available for a period of time in excess of *twenty-four (24)* [twelve (12)] months. For an applicant meeting all other conditions of eligibility, the period the transferred resource is to be considered available shall begin with the first month the applicant would be eligible except for the fact the transferred resource is counted as an available resource, or the month of application if earlier. For a recipient whose care must be discontinued due to excess resources, the period shall begin with the month of

discontinuance. For an applicant also ineligible for another reason, the period shall begin with the month of application. In none of the preceding, however, shall the period begin prior to the month in which the resource was transferred *or extend longer than twenty-four (24) months from the date of transfer.*

[(2) For supplemental security income recipients and related adult category cases (medical assistance only cases based on age, blindness or disability) disposal of resources prior to application shall not be a factor in determining eligibility. If, after application, the applicant wishes to establish conditional eligibility by disposing of excess property, this may be done within the following limits and guidelines:]

[(a) The total estimated value of the excess amount (the amount by which the value of the resource exceeds the applicable resource limit(s)) to be disposed of shall not be more than $1,500 per individual, and such resource must be non-liquid assets not readily disposed of, i.e., real property such as land, buildings, etc.]

[(b) The applicant must enter into a written contract or agreement whereby the applicant agrees to dispose of the excess property within six (6) months, to be potentially liable for medical assistance expenditures made on his behalf during the period of conditional eligibility, to repay the department as required for those expenditures up to the full amount of the excess (with liability for repayment computed in accordance with subsection (2)(f) of this section), to sell the property at the assessed or fair market value, and to notify the department within five (5) days of the sale of the property.]

[(c) When a conditionally eligible recipient alleges that he has been unable to sell the property within the six (6) month period, a three (3) month extension of the period for disposition will be granted at the request of the client.]

[(d) The period of conditional eligibility shall begin with the month the contract to dispose of the excess property is signed by the applicant and may continue thereafter for eight (8) additional months. The period of conditional eligibility shall also end (within the upper limit) whenever the conditionally eligible recipient disposes of the property and the determination of eligibility is made in the usual manner, or whenever the recipient advises the department that he no longer wishes to dispose of the property.]

[(e) When the period for disposition (including any extension) ends and the client has not sold the property, he is liable for medical expenses paid by the program on his behalf (during the period of conditional eligibility) up to the amount of the estimated excess. No sale is considered to have occurred, for purposes of this program, if the recipient disposes of the property by sale, trade, gift or other method without receiving the assessed or fair market value.]

[(f) When the recipient sells the property, the client liability for repayment is to be computed as follows:]

[1. Determine gross sale amount of the property;]

[2. Deduct all encumbrances and costs of sale;]

[3. Add the remainder (but not more than the actual excess amount which is the difference between the applicable resource limit and the actual selling price when the property value is sold at the assessed or fair market value) to liquid assets available at the time the contract was signed;]

[4. Subtract the allowable liquid resources amount for the appropriate family size ($1,500 for family size of one (1), $3,000 for a family size of two (2)); and]

[5. Compare the remainder with the amount of conditional medical assistance payments made on behalf of the recipient. The conditional recipient's liability is the lesser of the two (2) amounts.]

[(g) For purposes of conditional eligibility, an applicant shall not be permitted to enter into a contract to dispose of the same property more than once, or to enter into a contract to dispose of property purchased with the proceeds of a sale under a disposal of property contract, or to enter into a contract when the terms of an earlier contract were not met by the applicant.]

[(h) It is the department's intent that the estimated excess amount referenced in subsection (2)(a) of this section shall be the critical amount in determining eligibility of the applicant to enter into a disposal of property agreement for conditional eligibility purposes. Determination, by sale, at a later time that the actual excess in fact exceeded the upper limit of $1,500 will not negatively affect the conditional eligibility; however, any additional amount of excess must also be considered in determining the recipient's liability for repayment.]

(4) [(3)] The provisions of this section shall be effective on *March 1, 1981* [December 16, 1980]. *For those recipients who were receiving assistance on February 28, 1981, this section will be applicable only with respect to resources transferred subsequent to that date.*

WILLIAM L. HUFFMAN, Commissioner
ADOPTED: March 27, 1981
APPROVED: W. GRADY STUMBO, Secretary
RECEIVED BY LRC: April 1, 1981 at 10 a.m.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Insurance

904 KAR 1:009E. Physicians' services.

RELATES TO: KRS 205.520
PURSUANT TO: KRS 13.082, 194.050
EFFECTIVE: April 1, 1981
EXPIRES: Sine Die adjournment of 1982 regular session of the General Assembly, or upon being replaced through regular procedure.

NECESSITY AND FUNCTION: The Department for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520 empowers the department, by regulation, to comply with any requirement that may be imposed or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the provisions relating to physicians' services for which payment shall be made by the Medical Assistance Program in behalf of both the categorically needy and the medically needy.

Section 1. Physicians' Services: Covered services shall include those furnished by physicians through direct physician-patient contact in the office, the patient's home, a hospital, a skilled nursing or intermediate care facility or elsewhere.

Section 2. Limitations: (1) Coverage for initial and ex-

tensive visits shall be limited to *one (1)* [two (2)] visit[s] per patient per physician per calender year.

(2) Payment for outpatient psychiatric services rendered by other than board-eligible and board-certified psychiatrists shall be limited to four (4) such services per patient per physician per calendar year.

(3) A patient placed in "lock-in" status due to over-utilization is to receive services only from his/her lock-in provider except in the case of emergency or referral.

(4) Coverage for laboratory procedures performed in the physician's office shall be limited to those procedures listed on the agency's physician laboratory benefit schedule.

(5) The cost of preparations used in injections shall not be considered a covered benefit.

(6) Telephone contacts with patients shall not be considered a covered benefit.

(7) The provisions of this regulation shall become effective April 1, 1981.

WILLIAM L. HUFFMAN, Commissioner
ADOPTED: March 26, 1981
APPROVED: W. GRADY STUMBO, Secretary
RECEIVED BY LRC: April 1, 1981 at 10 a.m.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Insurance

904 KAR 1:010E. Payment for physician services.

RELATES TO: KRS 205.550, 205.560
PURSUANT TO: KRS 13.082, 194.050
EFFECTIVE: April 1, 1981
EXPIRES: Sine Die adjournment of 1982 regular session of the General Assembly, or upon being replaced through regular procedure.

NECESSITY AND FUNCTION: The Department for Human Resources has responsibility to administer a program of Medical Assistance under Title XIX of the Social Security Act. KRS 205.550 and 205.560 require that the secretary prescribe the methods for determining costs for vendor payments for medical care services. This regulation sets forth the method for establishing payment for physician services.

Section 1. Amount of Payment. Payment for covered services rendered to eligible medical assistance recipients is based on the physicians' usual, customary, reasonable and prevailing charges.

Section 2. Definitions. For purposes of determination of payment: (1) Usual and customary charge refers to the uniform amount the individual physician charges in the majority of cases for a specific medical procedure or service.

(2) Prevailing charge refers to those charges which fall within the range of charges as computed by the use of a pre-determined and established statistical percentile. Prevailing charges for each medical procedure are derived from the overall pattern existing within each medical service area.

Section 3. Method and Source of Information on Charges. (1) Effective October 1, 1974, the individual fee profiles for participating physicians were generated from historical data accumulated from charges submitted and processed by the medical assistance program during all of calendar year 1973.

(2) Effective October 1, 1974, the Title XIX prevailing fee maximums were generated from the same historical data as referenced in subsection (1) of this section.

(3) Effective October 1, 1974, the Title XVIII, Part B, current reasonable charge profiles were utilized by the medical assistance program to comply with 45 C.F.R. section 250.30, now recodified as 42 C.F.R. 447.341.

(4) Effective October 1, 1974, the Title XVIII, Part B, current prevailing charge data was utilized by the medical assistance program to comply with 45 C.F.R. section 250.30, now recodified as 42 C.F.R. 447.341.

(5) Percentile:

(a) The Title XIX prevailing charges were established by utilizing the statistical computation of the seventy-fifth (75th) precentile.

(b) The Title XVIII, Part B, prevailing charges were established by utilizing the statistical computation of the seventy-fifth (75th) percentile.

Section 4. Maximum Reimbursement for Covered Procedures. (1) Reimbursement for covered procedures is limited to the lowest of the following:

(a) Actual charge for service rendered as submitted on billing statement;

(b) The physician's median charge for a given service derived from claims processed or from claims for services rendered during all of the calendar year preceding the start of the fiscal year in which the determination is made; or

(c) The physician's reasonable charge recognized under Part B, Title XVIII.

(2) In no case may payment exceed the prevailing charge recognized under Part B, Title XVIII for similar service in the same locality.

(3) In instances where a reasonable charge for a specific medical procedure for a given physician has not been established under Part B, Title XVIII, the prevailing charge recognized under Part B, Title XVIII, for a similar procedure is utilized.

(4) In instances where neither a reasonable charge nor prevailing charge has been established for a specific medical procedure by Part B, Title XVIII, the prevailing charge established under Title XIX is utilized as the maximum allowable fee.

(5) The upper limit for new physicians shall not exceed the fiftieth (50th) percentile.

Section 5. Exceptions. Exceptions to reimbursement as outlined in foregoing sections are as follows: (1) Reimbursement for physician's services provided to inpatients of hospitals is made on the basis of 100 percent reimbursement per procedure for the first fifty dollars ($50) of allowable reimbursement and on the basis of a percentage of the physician's usual, customary and reasonable charge in excess of fifty dollars ($50) per procedure, after the appropriate prevailing fee screens are applied. The percentage rate applied to otherwise allowable reimbursement in excess of fifty dollars ($50) per procedure is established at *sixty (60)* [seventy (70)] percent. The percentage rate will be reviewed periodically and adjusted according to the availability of funds.

(2) Payment for individuals eligible for coverage under Title XVIII, Part B, Supplementary Medical Insurance, is

made in accordance with Sections 1 through 4 and Section 5(1) within the individual's deductible and coinsurance liability.

Section 6. The provisions of [Sections (1) to (6) of] this [amended] regulation shall be effective for all services rendered beginning *April 1, 1981* [July 1, 1979].

WILLIAM L. HUFFMAN, Commissioner
ADOPTED: March 26, 1981
APPROVED: W. GRADY STUMBO, Secretary
RECEIVED BY LRC: April 1, 1981 at 10 a.m.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Insurance

904 KAR 1:012E. In-patient hospital services.

RELATES TO: KRS 205.520
PURSUANT TO: KRS 13.082, 194.050
EFFECTIVE: April 1, 1981
EXPIRES: Sine Die adjournment of 1982 regular session of the General Assembly, or upon being replaced through regular procedure.
NECESSITY AND FUNCTION: The Department for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520[(3)] empowers the department, by regulation, to comply with any requirement that may be imposed or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the provisions relating to in-patient hospital services for which payment shall be made by the Medical Assistance program in behalf of both the categorically needy and the medically needy.

Section 1. Length of Stay: In-patient hospital services except for services in an institution for treatment of tuberculosis or mental diseases shall be limited to a maximum of *ten (10)* [twenty-one] (21) days per admission *effective April 1, 1981, with the limit changed to a maximum of fourteen (14) days per admission effective April 11, 1981.* Each admission shall be reviewed by the *Kentucky Peer Review Organization and assigned a length of stay date in order to qualify for reimbursement* [hospital's utilization review mechanism within twenty-four (24) hours after admission and assigned a length of stay date]. The admission shall again be reviewed on or before the assigned length of stay date if further admission necessitates. *Weekend stays associated with a Friday or Saturday admission will not be reimbursed unless an emergency exists.*

Section 2. Covered Admissions: Admissions for which payment is made shall be limited to those primarily indicated in the management of acute or chronic illness, injury or impairment, or for maternity care [or diagnostic services] that could not be rendered on an out-patient basis. *Admissions relating to only observation or diagnostic purposes or for elective cosmetic, plastic or reconstructive surgeries shall not be covered.*

Section 3. In-patient Hospital Services Not Covered by the Medical Assistance Program: (1) Those services which are not medically necessary to the patient's well-being, such as television, telephone and guest meals.
(2) Private duty nursing.
(3) Those supplies, drugs, appliances, and equipment which are furnished to the patient for use outside the hospital unless it would be considered unreasonable or impossible from a medical standpoint to limit the patient's use of the item to the periods during which he is an in-patient.
(4) Those laboratory tests not specifically ordered by a physician and not done on a pre-admission basis unless an emergency exists.
(5) [(4)] Private accommodations unless medically necessary and so ordered by the attending physician.

Section 4. The provisions of this regulation shall become effective April 1, 1981.

WILLIAM L. HUFFMAN, Commissioner
ADOPTED: March 26, 1981
APPROVED: W. GRADY STUMBO, Secretary
RECEIVED BY LRC: April 1, 1981 at 10 a.m.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Insurance

904 KAR 1:022E. Skilled nursing facility services.

RELATES TO: KRS 205.520
PURSUANT TO: KRS 13.082, 194.050
EFFECTIVE: April 1, 1981
EXPIRES: Sine Die adjournment of 1982 regular session of the General Assembly, or upon being replaced through regular procedure.
NECESSITY AND FUNCTION: The Department for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520[(3)] empowers the department, by regulation, to comply with any requirement that may be imposed or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the provisions relating to skilled nursing facility services for which payment shall be made by the medical assistance program in behalf of both the categorically needy and medically needy.

Section 1. Participation Requirements. Each facility desiring to participate as a skilled nursing facility must meet the following requirements:
(1) An application for participation shall be made to the department using the procedures specified by the Commissioner, Bureau for Social Insurance, Department for Human Resources. A vendor number shall be assigned to the facility by the department when participation status is achieved.
(2) Each skilled nursing facility shall be required to have participatory status in the program of health care known as Title XVIII, Medicare, before the conditions of participation for Title XIX shall be deemed met.

Section *2.* [1.] Provision of Service: Payment for services shall be limited to those services provided to eligible individuals meeting the criteria of patient status in that they require skilled nursing care on a continuous basis following an acute illness or as a result of a chronic disease and/or disability and are receiving such care in a participating facility. *No payment will be made for reserved bed days.*

Section *3.* [2.] Determining Patient Status: Professional staff of the department, *or the Kentucky Peer Review Organization operating under its lawful authority pursuant to the terms of its agreement with the department,* shall review and evaluate the health status and care needs of the recipient in need of institutional care giving consideration to the medical diagnosis, care needs, services and health personnel required to meet these needs and the feasibility of meeting the needs through alternative institutional or non-institutional services. *Patients qualify for skilled nursing care when their needs mandate skilled nursing and/or skilled rehabilitation services on a daily basis and when, as a practical matter, the care can only be provided on an inpatient basis. Where the inherent complexity of a service prescribed for a patient is such that it can be safely and/or effectively performed only by or under the supervision of technical or professional personnel, the patient would qualify for skilled nursing care.* A patient with an unstable medical condition manifesting a combination of care needs in the following areas may qualify for skilled nursing care:

(1) Intravenous, intramuscular, or subcutaneous injections and hypodermoclysis or intravenous feeding;

(2) [(1) Requires n] *N*aso-gastric or gastrostomy tube feedings;

(3) Nasopharyngeal and tracheotomy aspiration;

(4) [(2)] Recent and/or complicated ostomy requiring extensive care and self-help training;

(5) [(3)] In-dwelling catheter for therapeutic management of a urinary tract condition;

(6) [(4)] Bladder irrigations in relation to previously indicated stipulation;

(7) [(5)] Special vital signs evaluation necessary in the management of related conditions;

(8) [(6)] Sterile dressings;

(9) [(7)] Changes in bed position to maintain proper body alignment;

(10) [(8)] *Treatment of extensive decubitus ulcers or other widespread skin disorders* [Care of decubitus];

(11) [(9)] Receiving medication recently initiated, which requires skilled observation to determine desired or adverse effects and/or frequent adjustment of dosage;

(12) [(10)] *Initial phases of a regimen involving administration of medical gases* [Requiring intensive physical therapy with potential of rehabilitation (therapy must be within the realm of accepted medical practice)];

(13) [(11)] *Receiving services which would qualify as skilled rehabilitation services when provided by or under the supervision of a qualified therapist(s), such as: ongoing assessment of rehabilitation needs and potential; therapeutic exercises which must be performed by or under the supervision of a qualified physical therapist; gait evaluation and training; range of motion exercises which are part of the active treatment of a specific disease state which has resulted in a loss of, or restriction of, mobility; maintenance therapy when the spcialized knowledge and judgment of a qualified therapist is required to design and establish a maintenance program based on an initial evaluation and periodic reassessment of the patient's needs, and consistent with the patient's capacity and tolerance; ultra-sound, short-wave, and microwave therapy treatments; hot pack, hydrocollator infra-red treatments, paraffin baths, and whirlpool (in cases where the patient's condition is complicated by circulatory deficiency, areas of desensitization, open wounds, fractures or other complications, and the skills, knowledge, and judgment of a qualified physical therapist are required); and services by or under the supervision of a speech pathologist or audiologist when necessary for the restoration of function in speech or hearing.* [Requiring respiratory therapy on continuous or very regular basis;]

[(12)Requiring respiratory therapy as circumstances may require (in the management of an unstable condition when there is evidence that therapy is administered as circumstances may require).]

Section *4.* [3.] Re-evaluation of Need for Service: Skilled nursing service shall be provided for as long as the health status and care needs are within the scope of program benefits as described in Sections *2* [1] and *3* [2]. Patient status shall be re-evaluated at least once every six (6) months. If a re-evaluation of care needs reveals that the patient no longer requires skilled care, payment shall continue for *ten (10)* [twenty (20)] days to permit orderly transfer to a lesser level of care. [If the patient's care needs are within the scope of intermediate care facility benefits and there are no beds available in the area, an extension of payment shall be granted] *Patients in skilled facilities who would be reclassified to intermediate care patient status except for the unavailability of an intermediate care bed, may be considered to meet patient status criteria for skilled care, so long as the patient continues to reside in that facility and* providing the patient's name is placed on the waiting list of suitable facilities.

Section 5. Evaluation of Patient Status for Persons with Mental Disorders. A person with a mental disorder meeting the health status and care needs specified in Sections 2 and 3 shall generally be considered to meet patient status. However, these individuals are specifically excluded from coverage in the following situations:

(1) When the department determines that in the individual case the combination of care needs is beyond the capability of the facility, and that placement in the skilled nursing facility is inappropriate due to potential danger to the health and welfare of the patient, other patients in the facility and/or staff of the facility; and

(2) When the skilled nursing care needs result directly and specifically from the mental disorder; i.e., are essentially symptoms of the mental disorder.

Section 6. This regulation shall become effective April 1, 1981.

WILLIAM L. HUFFMAN, Commissioner
ADOPTED: March 26, 1981
APPROVED: W. GRADY STUMBO, Secretary
RECEIVED BY LRC: April 1, 1981 at 10 a.m.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Insurance

904 KAR 1:024E. Intermediate care facility services.

RELATES TO: KRS 205.520
PURSUANT TO: KRS 13.082, 194.050
EFFECTIVE: April 1, 1981
EXPIRES: Sine Die adjournment of 1982 regular session of the General Assembly, or upon being replaced through regular procedure.

NECESSITY AND FUNCTION: The Department for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520 empowers the department, by regulation, to comply with any requirement that may be imposed or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the provision relating to intermediate care facility services for which payment shall be made by the medical assistance program in behalf of both the categorically needy and the medically needy.

Section 1. Provision of Services: Payment for services shall be limited to those services provided to eligible individuals meeting the criteria of patient status.

Section 2. Classification of Facilities: There shall be two (2) classifications of intermediate care facilities, i.e. (i) general intermediate care facilities and (ii) intermediate care facilities for the mentally retarded and persons with related conditions.

Section 3. Definitions: The following definitions shall be applicable: (1) "Patient status," means that the individual has care needs meeting the criteria set forth in this regulation for treatment in the institutional setting.

(2) "Intermittent skilled services," means the individual requires skilled nursing services at regular or irregular intervals, but not on a twenty-four (24) hour per day basis.

(3) "Stable medical condition," means one which is capable of being maintained in accordance with a planned treatment regimen requiring a minimum amount of medical supervision without significant change or fluctuation in the patient's condition and/or treatment regimen.

Section 4. Determining Patient Status: Professional staff of the department, or the Kentucky Peer Review Organization operating under its lawful authority pursuant to the terms of its agreement with the department, shall review and evaluate the health status and care needs of the recipient in need of institutional care giving consideration to the medical diagnosis, care needs, services and health personnel required to meet the needs and the feasibility of meeting the needs through alternative institutional or non-institutional services.

(1) An individual shall be determined to meet patient status for a general intermediate care facility when the individual requires intermittent skilled nursing care, continuous personal care and/or supervision in an institutional setting. In making the decision as to patient status, the following criteria shall be applicable:

(a) An individual with a stable medical condition requiring intermittent skilled services not provided in a personal care home is considered to meet patient status.

(b) An individual with a stable medical condition, who has a complicating problem which prevents the individual from caring for himself in an ordinary manner outside the institution is considered to meet patient status. For example, ambulatory cardiac and hypertensive patients may be reasonably stable on appropriate medication, but have intellectual deficiencies preventing safe use of self-medication, or other problems requiring frequent nursing appraisal, and thus be considered to meet patient status.

(c) An individual with a stable medical condition manifesting a significant combination of the following care needs shall be determined to meet patient status for a general intermediate care facility when the professional staff determines that such combination of needs can be met satisfactorily only by provision of intermittent skilled nursing care, continuous personal care and/or supervision in an institutional setting:

1. Assistance with wheelchair;
2. Physical and/or environmental management for confusion and mild agitation;
3. Must be fed;
4. Assistance with going to bathroom or using bedpan for elimination;
5. Old colostomy care;
6. In-dwelling catheter for dry care;
7. Changes in bed position;
8. Administration of stabilized dosages of medication;
9. Restorative and supportive nursing care to maintain the patient and prevent deterioration of his condition;
10. Administration of injections during time licensed personnel is available.
11. Services that could ordinarily be provided or administered by the individual but due to physical and/or mental condition is not capable of such self-care.
12. Routine administration of medical gases after a regimen of therapy has been established.

(d) An individual shall not generally be considered to meet patient status criteria when care needs are limited to the following:

1. Minimal assistance with activities of daily living;
2. Independent use of mechanical devices, for example, assistance in mobility by means of a wheelchair, walker, crutch(es) or cane;
3. Limited diets such as low salt, low residue, reducing and other minor restrictive diets;
4. Medications that can be self-administered and/or the individual requires minimal supervision.

(e) An individual with a psychiatric primary diagnosis or needs is considered to meet patient status criteria only when the individual also has medical care needs as shown in subsection (1)(a) through (c) of this section, the mental care needs are adequately handled in a supportive environment (i.e., the intermediate care facility), and the individual does not require active psychiatric in-patient treatment.

(2) An individual shall be determined to meet patient status for an intermediate care facility for the mentally retarded and persons with related conditions when the individual requires physical and/or enviromental management and/or rehabilitation for moderate to severe retardation. In making the decision as to patient status the following criteria shall be applicable:

(a) An individual with significant developmental disabilities and significantly sub-average intellectual functioning who requires a planned program of active treatment to attain and/or maintain the individual's optimal level of functioning, but does not necessarily require skilled or general intermediate care facility services, is considered to meet patient status.

(b) An individual requiring a protected environment

while overcoming the effects of developmental disabilities and sub-average intellectual functioning is considered to meet patient status while:

1. Learning fundamental living skills;
2. Learning to live happily and safely within his own limitations;
3. Obtaining educational experiences that will be useful in self-supporting activities;
4. Increasing his awareness of his environment.

(c) An individual with a psychiatric primary diagnosis or needs is considered to meet patient status criteria only when the individual also has care needs as shown in paragraph (a) or (b) of this subsection, the mental care needs are adequately handled in a supportive environment (i.e., the intermediate care facility), and the individual does not require psychiatric in-patient treatment.

(d) An individual that does not require a planned program of active treatment to attain and/or maintain the individual's optimal level of functioning is not considered to meet patient status.

(e) It is the policy of the department that no individual is to be denied patient status solely due to advanced age, or length of stay in an institution, or history of previous institutionalization, so long as the individual qualifies for patient status on the basis of all other factors.

(f) With regard to an individual with a "related condition" (not mental retardation), the illness or ailment must have manifested itself prior to the individual's twenty-second birthday.

Section 5. Limitations on Services. No payment will be made for reserved bed days.

Section *6.* [5.] Re-evaluation of Need for Service: Intermediate care shall be provided for as long as the health status and care needs are within the scope of program benefits. Patient status shall be re-evaluated at least every six (6) months. If the re-evaluation reveals that the patient's condition indicates the need for a different level of care, payment shall continue for a maximum of *ten (10)* [thirty (30)] days to provide for orderly transfer to the appropriate level of care.

Section *7.* [6.] Hearing Rights: Any applicant/recipient determined not to meet patient status may appeal that decision in accordance with 904 KAR 1:075 or 904 KAR 2:055, as applicable.

Section 8. The provisions of this regulation shall become effective April 1, 1981.

WILLIAM L. HUFFMAN, Commissioner
ADOPTED: March 26, 1981
APPROVED: W. GRADY STUMBO, Secretary
RECEIVED BY LRC: April 1, 1981 at 10 a.m.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Insurance

904 KAR 1:036E. Amounts payable for skilled nursing and intermediate care facility services.

RELATES TO: KRS 205.520
PURSUANT TO: KRS 13.082, 194.050
EFFECTIVE: April 1, 1981
EXPIRES: Sine Die adjournment of 1982 regular session of the General Assembly, or upon being replaced through regular procedure.

NECESSITY AND FUNCTION: The Department for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520 empowers the department, by regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the method for determining amounts payable by the department for skilled nursing care facility services and intermediate care facility services.

Section 1. Reimbursement for Skilled Nursing and Intermediate Care Facilities. All skilled nursing or intermediate care facilities participating in the Title XIX program shall be reimbursed in accordance with this regulation. Payments made shall be in accordance with the requirements set forth in 42 CFR 447.272 through 42 CFR 447.316. A skilled nursing facility desiring to participate in Title XIX shall be required to participate in Title XVIII-A.

Section 2. Basic Principles of Reimbursement. (1) Payment shall be on the basis of rates which are reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities in order to provide care and services in conformity with applicable state and federal laws, regulations, and quality and safety standards.

(2) Payment amounts shall be arrived at by application or the reimbursement principles developed by the department and supplemented by the use of the Title XVIII-A reimbursement principles.

Section 3. Implementation of the Payment System. The department's reimbursement system is supported by the Title XVIII-A Principles of Reimbursement, with the system utilizing such principles as guidelines in unaddressed policy areas. The department's reimbursement system includes the following specific policies, components or principles:

(1) Prospective payment rates for routine services shall be set by the department on a facility by facility basis, and shall not be subject to retroactive adjustment. Prospective rates shall be set annually, and may be revised on an interim basis in accordance with procedures set by the department. An adjustment to the prospective rate (subject to the maximum payment for that type of facility) will be considered only if a facility's increased costs are attributable to one (1) of the following reasons: governmentally imposed minimum wage increases; the direct effect of new licensure requirements or new interpretations of existing requirements by the appropriate governmental agency as issued in regulation or written policy which affects all facilities within the class; or other governmental actions that result in an unforeseen cost increase. The amount of any prospective rate adjustment may not exceed that amount by which the cost increase resulting directly from

the governmental action exceeds on an annualized basis the inflation allowance amount included in the prospective rate for the general cost area in which the increase occurs. For purposes of this determination, costs will be classified into two (2) general areas, salaries and other. The effective date of interim rate adjustment shall be the first day of the month in which the adjustment is requested or in which the cost increase occurred, whichever is later.

(2) The prospective rate shall not exceed, on a facility by facility basis, an administratively established maximum payment for that type of facility. Such maximum payment rate may be reviewed annually by the department and may be adjusted as deemed appropriate with consideration given to the factors of facility costs, program objectives and budgetary resources.

(3) The reasonable direct cost of ancillary services provided by the facility as a part of total care shall be compensated on a reimbursement cost basis as an addition to the prospective rate. Ancillary services reimbursement shall be subject to a year-end audit, retroactive adjustment and final settlement. Ancillary costs may be subject to maximum allowable cost limits under federal regulations. Any percentage reduction made in payment of current billed charges shall not exceed twenty-five (25) percent, except in the instance of individual facilities where the actual retroactive adjustment for a facility for the previous year reveals an overpayment by the department exceeding twenty-five (25) percent of billed charges, or where an evaluation by the department of an individual facility's current billed charges shows the charges to be in excess of average billed charges for other comparable facilities serving the same area by more than twenty-five (25) percent.

(4) Interest expense used in setting the prospective rate is an allowable cost if permitted under Title XVIII-A principles and if it meets these additional criteria:

(a) It represents interest on long-term debt existing at the time the vendor enters the program or represents interest on any new long-term debt, the proceeds of which are used to purchase fixed assets relating to the provision of the appropriate level of care. If the debt is subject to variable interest rates found in balloon-type financing, renegotiated interest rates will be allowable. The form of indebtedness may include mortgages, bonds, notes and debentures when the principal is to be repaid over a period in excess of one (1) year; or

(b) It is other interest for working capital and operating needs that directly relates to providing patient care. The form of such indebtedness may include, but is not limited to, notes, advances and various types of receivable financing; however, short-term interest expense on a principal amount in excess of program payments made under the prospective rate equivalent to two (2) months experience based on ninety (90) percent occupancy or actual program receivables will be disallowed in determining cost;

(c) For both paragraphs (a) and (b) of this subsection, interest on a principal amount used to purchase goodwill or other intangible assets will not be considered an allowable cost.

(5) Compensation to owner/administrators will be considered an allowable cost provided that it is reasonable, and that the services actually performed are a necessary function. Compensation includes the total benefit received by the owner for the services he renders to the institution, excluding fringe benefits routinely provided to all employees and the owner/administrator. Payment for services requiring a licensed or certified professional performed on an intermittent basis will not be considered a part of compensation. "Necessary function" means that had the owner not rendered services pertinent to the operation of the institution, the institution would have had to employ another person to perform the service. Reasonableness of compensation will be based on total licensed beds (all levels).

(6) The allowable cost for services or goods purchased by the facility from related organizations shall be the cost to the related organization, except when it can be demonstrated that the related organization is in fact equivalent to any other second party supplier, i.e., a relationship for purposes of this payment system is not considered to exist. A relationship will be considered to exist when an individual or individuals possess five (5) percent or more of ownership or equity in the facility and the supplying business; however, an exception to the relationship will be determined to exist when fifty-one (51) percent or more of the supplier's business activity of the type carried on with the facility is transacted with persons and organizations other than the facility and its related organizations.

(7) The amount allowable for leasing costs shall not exceed the amount which would be allowable based on the computation of historical costs, except that for general intermediate care facilities entering into lease/rent arrangements prior to April 22, 1976, intermediate care facilities for the mentally retarded entering into lease/rent arrangements prior to February 23, 1977, and skilled nursing facilities entering into lease/rent arrangements prior to December 1, 1979, the department will determine the allowable costs of such arrangements based on the general reasonableness of such costs.

(8) The following provisions are applicable with regard to median per diem cost center upper limits:

(a) For facilities (except ICF-MRs) beginning participation in the Medicaid program on or after April 1, 1981, (newly participating facilities), the following upper limits (within the class) shall be applicable with regard to otherwise allowable per diem costs, by cost center: for nursing services, 125 percent of the median; for dietary services, 125 percent of the median; for property costs, 105 percent of the median; and for all other costs, 105 percent of the median.

(b) Facilities participating in the Medicaid program prior to April 1, 1981, shall be classified as newly participating facilities when any of the following occurs on or after April 1, 1981: first, when the facility expands its bed capacity by expansion of its currently existing plant; or, second, when a multi-level facility (one providing more than one (1) type of care, converts existing personal care beds in the facility to either skilled nursing or intermediate care beds, and the number of converted personal care beds equals or exceeds (in the cumulative) twenty-five (25) percent of the Medicaid certified beds in the facility as of March 31, 1981; or, third, when the facility changes ownership. (However, stock transfers which are not considered changes of facility ownership, or changes of ownership based on sales or purchase agreements entered into prior to April 1, 1981, and which are finalized by transfer of legal ownership prior to October 1, 1981, shall not cause the facility to be classified as a newly participating facility for purposes of this subsection.)

(c) Effective May 1, 1981, the following additional upper limit (within the class) shall be applicable with regard to otherwise allowable costs, by cost center, for all facilities (except ICF-MRs): for administrative and general and owner's compensation (combined), the upper limit shall be 105 percent of the median per diem cost.

(d) For purposes of application of this subsection the facility classes are basic intermediate care and skilled nursing care. The "median per diem cost" is the midpoint of the range of all facilities' costs (for the clsss) which are attributable to the specific cost center, which are otherwise allowable costs for the facilities' prior fiscal year, and which are adjusted for the inflation and occupancy factors. The median for each cost center for each class shall be determined annually using the latest cost data available for the class. The Division for Medical Assistance shall notify all participating facilities of the median upper limits currently in effect.

(e) Intermediate care facilities for the mentally retarded (ICF-MRs) are not subject to the median per diem cost center upper limits shown in this subsection.

(9) Certain costs not directly associated with patient care will not be considered allowable costs. Costs which are not allowable include membership dues, political contributions, the cost of travel outside the state (and all costs related thereto), and legal fees for unsuccessful lawsuits.

(10) To determine the gain or loss on the sale of a facility for purposes of determining a purchaser's cost basis in relation to depreciation and interest costs, the following methods will be used:

(a) Determine the actual gain on the sale of the facility.

(b) Add to the seller's depreciated basis two-thirds (⅔) of one (1) percent of the gain for each month of ownership since the date of acquisition of the facility by the seller to arrive at the purchaser's cost basis.

(c) Gain is defined as any amount in excess of the seller's depreciated basis as computed under program policies at the time of the sale, excluding the value of goodwill included in the purchase price.

(d) A sale is any bona fide transfer of legal ownership from an owner(s) to a new owner(s) for reasonable compensation, which is usually fair market value. Stock transfers, except stock transfers followed by liquidation of all company assets and which may be revalued in accordance with Internal Revenue Service rules, are not considered changes of facility ownership. Lease-purchase agreements and/or other similar arrangements which do not result in transfer of legal ownership from the original owner to the new owner are not considered sales until such time as legal ownership of the property is transferred.

(11) Each facility shall maintain and make available such records (in a form acceptable to the department) as the department may require to justify and document all costs to and services performed by the facility. The department shall have access to all fiscal and service records and data maintained by the provider, including unlimited on-site access for accounting, auditing, medical review, utilization control and program planning purposes.

(12) The following shall apply with regard to the annual cost report required of the facility:

(a) The year-end cost report shall contain information relating to prior year cost, and will be used in establishing prospective rates and setting ancillary reimbursement amounts.

(b) New items or expansions representing a departure from current service levels for which the facility requests prior approval by the program are to be so indicated with a description and rationale as a supplement to the cost report.

(c) Departmental approval or rejection of projections and/or expansions will be made on a prospective basis in the context that if such expansions and related costs are approved they will be considered when actually incurred as an allowable cost. Rejection of items or costs will represent notice that such costs will not be considered as part of the cost basis for reimbursement. Unless otherwise specified, approval will relate to the substance and intent rather than the cost projection.

(d) When a request for prior approval of projections and/or expansions is made, absence of a response by the department shall not be construed as approval of the item or expansion.

(13) The department shall audit each year-end cost report in the following manner: an initial desk review shall be performed of the report and the department will determine the necessity for and scope of a field audit in relation to routine service cost. A field audit may be conducted for purposes of verifying prior year cost to be used in setting the new prospective rate; field audits may be conducted annually or at less frequent intervals. A field audit of ancillary cost will be conducted as needed.

(14) Year-end adjustments of the prospective rate and a retroactive cost settlement will be made when:

(a) Incorrect payments have been made due to computational errors (other than the omission of cost data) discovered in the cost basis or establishment of the prospective rate.

(b) Incorrect payments have been made due to misrepresentation on the part of the facility (whether intentional or unintentional).

(15) Reimbursement paid may not exceed the facility's customary charges to the general public for such services, except in the case of public facilities rendering inpatient services at a nominal charge (which may be reimbursed at the prospective rate established by the department).

(16) The department may develop and/or utilize methodology to assure an adequate level of care. Facilities determined by the department to be providing less than adequate care may have penalties imposed against them in the form of reduced payment rates.

(17) Each facility shall submit the required data for determination of the prospective rate no later than sixty (60) days following the close of the facility's fiscal year. The department shall, under normal circumstances, be expected to determine the prospective rate and make notification to the facility within an additional sixty (60) days after actual receipt of the required documents. These time limits may be extended as necessary for the procuring of additional documentation, resolution of disputed facts, at the specific request of the facility (with the department's concurrence), and at such times as the rate review and appeal process is utilized by a facility and the determination and/or notification is held awaiting completion of that process.

Section 4. Prospective Rate Computation. The prospective rate for each facility will be set in accordance with the following:

(1) Determine allowable prior year cost for routine services.

(2) The allowable prior year cost, not including fixed or capital costs, will then be increased by a percentage so as to reasonably take into account economic conditions and trends. Such percentage increase shall be known as an inflation factor.

(3) The unadjusted basic per diem cost (defined as the unadjusted allowable cost per patient per day for routine services) will then be determined by comparison of costs with the facility's occupancy rate (i.e., the occupancy factor) as determined in accordance with procedures set by the

department. The occupancy rate shall not be less than actual bed occupancy, except that it shall not exceed ninety-eight (98) percent of certified bed days (or ninety-eight (98) percent of actual bed usage days, if more, based on prior year utilization rates). The minimum occupancy rate shall be ninety (90) percent of certified bed days for facilities with less than ninety (90) percent certified bed occupancy. The department may impose a lower occupancy rate for newly constructed or newly participatingfacilities, or for existing facilities suffering a patient census decline as a result of a competing facility newly constructed or opened serving the same area. The department may impose a lower occupancy rate during the first two (2) full facility fiscal years an existing skilled nursing facility participates in the program under this payment system.

(4) Cost center median related per diem upper limits will then be applied as appropriate to the unadjusted basic per diem cost. The resultant adjusted amounts (and unadjusted amounts, as applicable) will be combined (or recombined) to arrive at the basic per diem cost (defined as the adjusted allowable cost per patient per day for routine services).

(5) To the basic per diem cost shall be added a specified dollar amount for investment risk and an incentive for cost containment in lieu of a return on equity capital, except that no return for investment risk shall be made to nonprofit facilities, and publicly owned and operated facilities shall not receive the investment or incentive return.

(a) Cost incentive and investment schedule for general intermediate care facilities:

(Effective 4-1-81)

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
$21.99 & below*	—	—
22.00 - 22.99	$1.38	$ .87
23.00 - 23.99	1.29	.75
24.00 - 24.99	1.18	.62
25.00 - 25.99	1.06	.47
26.00 - 26.99	.92	.31
27.00 - 27.99	.76	.13
28.00 - 28.99	.53	—

Maximum Payment $29.80

* For a basic per diem of $21.99 and below, the investment amount will be equal to 7.5 percent, but not to exceed $1.38, and the incentive amount will be equal to 5.0 percent, but not to exceed $.87.

(b) Cost incentive and investment schedule for intermediate care facilities for the mentally retarded:

(Effective 4-1-81)

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
$29.99 & below*	—	—
30.00 - 31.99	$1.38	$ .87
32.00 - 33.99	1.29	.75
34.00 - 35.99	1.18	.62
36.00 - 37.99	1.06	.47
38.00 - 39.99	.92	.31
40.00 - 41.99	.76	.13
42.00 - 43.99	.53	—

Maximum Payment $90.00

* For a basic per diem of $29.99 and below, the investment amount will be equal to 7.5 percent, but not to exceed $1.38 and the incentive amount will be equal to 5.0 percent, but not to exceed $.87.

(c) Cost incentive and investment schedule for skilled nursing facilities:

(Effective 4-1-81)

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
$28.99 & below*	—	—
29.00 - 30.99	$1.38	$ .87
31.00 - 32.99	1.29	.75
33.00 - 34.99	1.18	.62
35.00 - 36.99	1.06	.47
37.00 - 38.99	.92	.31
39.00 - 40.99	.76	.13
41.00 - 42.99	.53	—

Maximum Payment $45.00**

* For a basic per diem of $28.99 and below, the investment amount will be equal to 7.5 percent, but not to exceed $1.38, and the incentive amount will be equal to 5.0 percent, but not to exceed $.87.

** The maximum payment for hospital based skilled nursing facilities was initially set at $80.00, such amount to be adjusted as shown in Section 4(6).

(6) The prospective rate is then compared with the maximum payment. This shall be twenty-nine dollars and eighty cents ($29.80) per patient per day for routine services for the period beginning 4/1/81 for general intermediate care facilities; ninety dollars ($90) per patient per day for routine services for the period beginning 4/1/81 for intermediate care facilities for the mentally retarded, and forty-five dollars ($45) per patient per day for routine services for the period beginning 12/1/79 for non-hospital based skilled nursing facilities. The maximum payment shall be eighty dollars ($80) per patient per day for routine services for the period beginning 12/1/79 for hospital based skilled nursing facilities, the rate to be adjusted proportionately in relation to the non-hospital based skilled nursing facility maximum payment so that the rates will be identical after a period of five (5) years (beginning 12/1/79). If in excess of the program maximum, the prospective rate shall be reduced to the appropriate maximum payment amount. The maximum payment amounts have been set to be at or about 110 percent of the median of adjusted basic per diem costs for the class, recognizing that

hospital based skilled nursing facilities and intermediate care facilities for the mentally retarded have special requirements that must be considered. Current maximum payment rates are somewhat in excess of 110 percent since the department is allowing for a period of adjustment from the prior method of determining the maximum payment rates. The department has determined that the maximum payment rates shall be reviewed annually against the criteria of 110 percent of the median for the class and that adjustments to the payment maximums will be made effective July 1, 1982 and each July 1 thereafter. This policy shall allow, but does not require lowering of the maximum payments below the current levels if application of the criteria against available cost data should show that 110 percent of the median is a lower dollar amount than has been currently set.

Section 5. Rate Review and Appeal. Participating facilities may appeal departmental decisions as to application of the general policies and procedures in accordance with the following:

(1) First recourse shall be for the facility to request in writing to the Director, Division for Medical Assistance, a re-evaluation of the point at issue. This request must be received within twenty (20) days following notification of the prospective rate by the program. The director shall review the matter and notify the facility of any action to be taken by the department (including the retention of the original application of policy) within twenty (20) days of receipt of the request for review.

(2) Second recourse shall be for the facility to request in writing to the Commissioner, Bureau for Social Insurance, a review by a standing review panel to be established by the commissioner. This request must be postmarked within fifteen (15) days following notification of the decision of the Director, Division for Medical Assistance. Such panel shall consist of three (3) members: one (1) member from the Division for Medical Assistance, one (1) member from the Kentucky Association of Health Care Facilities, and one (1) member from the Center for Program Development, Bureau for Social Insurance. The panel shall meet to consider the issue within fifteen (15) days after receipt of the written request, and shall issue a binding decision on the issue within five (5) days of the hearing of the issue. The attendance of the representative of the Kentucky Association of Health Care Facilities at review panel meetings shall be at the department's expense.

Section 6. Definitions. For purposes of Sections 1 through 6, the following definitions shall prevail unless the specific context dictates otherwise.

(1) "Allowable cost" means that portion of the facility's cost which may be allowed by the department in establishing the reimbursement rate. Generally, cost is considered allowable if the item of supply or service is necessary for the provision of the appropriate level of patient care and the cost incurred by the facility is within cost limits established by the department, i.e., the allowable cost is "reasonable."

(2) "Ancillary services" means those direct services for which a separate charge is customarily made, and which are retrospectively settled on the basis of reasonable allowable cost at the end of the facilities' fiscal year. Ancillary services are limited to the following:

(a) Legend and non-legend drugs, including urethral catheters, and irrigation supplies and solutions utilized with those catheters regardless of how those supplies and solutions are utilized. Coverage and allowable cost payment limitations are specified in the department's regulation on payment for drugs.

(b) Physical, occupational and speech therapy.

(c) Laboratory procedures.

(d) X-ray.

(e) Oxygen and other related oxygen supplies.

(f) Psychological and psychiatric therapy (for ICF/MR only).

(3) "Hospital based skilled nursing facilities" means those skilled nursing facilities so classified by Title XVIII-A.

(4) The "basic per diem cost" is the computed rate arrived at when otherwise allowable prior year costs are adjusted in accordance with the inflation factor, the occupancy factor, and the median cost center per diem upper limits.

(5) "Inflation factor" means the comparison of allowable prior year routine service costs, not including fixed or capital costs, with an inflation rate to arrive at projected current year cost increases, which when added to allowable prior year costs, including fixed or capital costs, yields projected current year allowable costs.

(6) "Incentive factor" means the comparison of the basic per diem cost with the incentive return schedule to arrive at the actual dollar amount of cost containment incentive return to be added to the basic per diem cost.

(7) "Investment factor" means the comparison of the basic per diem cost with the investment return schedule to arrive at the actual dollar amount of investment return to be added to the basic per diem cost.

(8) "Maximum allowable cost" means the maximum amount which may be allowed to a facility as reasonable cost for provision of an item of supply or service while complying with limitations expressed in related federal or state regulations.

(9) "Maximum payment" means the maximum amount the department will reimburse, on a facility by facility basis, for routine services.

(10) "Occupancy factor" means the imposition of an assumed level of occupancy used in computing unadjusted basic per diem rates.

(11) "Prospective rate" means a payment rate of return for routine services based on prior year costs and other factors, and includes the understanding that except as specified such prospective rate shall not be retroactively adjusted, either in favor of the facility or the department.

(12) "Routine services" means the regular room, dietary, medical social services, nursing services, minor medical and surgical supplies, and the use of equipment and facilities. Routine services include but are not limited to the following:

(a) All general nursing services, including administration of oxygen and related medications, handfeeding, incontinency care and tray services.

(b) Items which are furnished routinely and relatively uniformly to all patients, such as patient gowns, water pitchers, basins, and bed pans. Personal items such as paper tissues, deodorants, and mouthwashes are allowable as routine services if generally furnished to all patients.

(c) Items stocked at nursing stations or on the floor in gross supply and distributed or utilized individually in small quantities, such as alcohol, applicators, cotton balls, bandaids and tongue depressors.

(d) Items which are utilized by individual patients but which are reusable and expected to be available in an institution providing a skilled nursing or intermediate care facility level of care, such as ice bags, bed rails, canes, crutches, walkers, wheelchairs, traction equipment, and other durable medical equipment.

(e) Laundry services, including personal clothing to the extent it is the normal attire for everyday facility use, but excluding dry cleaning costs.

(f) Other items or services generally available or needed within a facility unless specifically identified as ancillary services. (Items excluded from reimbursement include private duty nursing services and ambulance services costs.)

Section 7. The provisions of this regulation shall be effective April 1, 1981.

Section 8. 904 KAR 1:021E is hereby repealed effective April 1, 1981.

WILLIAM L. HUFFMAN, Commissioner
ADOPTED: March 26, 1981
APPROVED: W. GRADY STUMBO, Secretary
RECEIVED BY LRC: April 1, 1981 at 10 a.m.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Insurance

904 KAR 1:038E. Hearing and vision services.

RELATES TO: KRS 205.520
PURSUANT TO: KRS 13.082, 194.050
EFFECTIVE: April 1, 1981
EXPIRES: Sine Die adjournment of 1982 regular session of the General Assembly, or upon being replaced through regular procedure.

NECESSITY AND FUNCTION: The Department for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520[(3)] empowers the department, by regulation, to comply with any requirement that may be imposed or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the provisions relating to the hearing services and vision care services for which payment shall be made by the medical assistance program in behalf of both categorically needy and medically needy.

Section 1. Hearing Services: (1) Audiological benefits: Coverage shall be limited to the following services provided to children under age twenty-one (21) by certified audiologists:

(a) Complete hearing evaluation;

(b) Hearing aid evaluation;

(c) A maximum of three (3) follow-up visits within the six (6) month period immediately following fitting of a hearing aid, such visits to be related to the proper fit and adjustment of that hearing aid;

(d) One (1) follow-up visit six (6) months following fitting of a hearing aid, to assure patient's successful use of the aid.

(2) Hearing aid benefits: Coverage shall be provided to children under age twenty-one (21) on a pre-authorized basis for any hearing aid model recommended by a certified audiologist so long as that model is available through a participating hearing aid dealer.

Section 2. Vision Care Services: Coverage for all age groups shall be limited to prescription services, services to frames and lenses, and diagnostic services provided by ophthalmologists and optometrists, to the extent the optometrist is licensed to perform the services and to the extent the services are covered in the ophthalmologist portion of the physician's program. Eyeglasses are provided only to children under age twenty-one (21) *on a pre-authorized basis. Coverage for eyeglasses is limited to two (2) pairs of eyeglasses per year per person. This limitation includes the initial eyeglasses and one (1) replacement per year or two (2) replacements per year.*

Section 3. If the funds allocated in the budget for eye examinations, prescriptions (for glasses); and other services are exhausted for the group aged twenty-one (21) and over, vision care services provided by ophthalmologists and optometrists will be terminated for that age group; this limitation shall not be interpreted to limit treatment of diseases of the eye by ophthalmologists. Vision care services for the group aged twenty-one (21) and over if terminated, shall be reinstituted at such time as funds again become available.

Section 4. The provisions of this regulation, as amended, shall become effective *April 1, 1981* [July 1, 1980].

WILLIAM L. HUFFMAN, Commissioner
ADOPTED: March 26, 1981
APPROVED: W. GRADY STUMBO, Secretary
RECEIVED BY LRC: April 1, 1981 at 10 a.m.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Insurance

904 KAR 1:044E. Mental health center services.

RELATES TO: KRS 205.520
PURSUANT TO: KRS 13.082, 194.050
EFFECTIVE: April 1, 1981
EXPIRES: Sine Die adjournment of 1982 regular session of the General Assembly, or upon being replaced through regular procedure.

NECESSITY AND FUNCTION: The Department for Human Resources has responsibility to administer the program of Medical Assistance in accordance with [the] Title XIX of the Social Security Act. KRS 205.520(3) empowers the Department, by regulation, to comply with any requirement that may be imposed or opportunity presented by federal law for the provision of Medical Assistance to Kentucky's indigent citizenry. This regulation sets forth the provisions relating to services provided by Mental Health Centers for which payment shall be made by the medical assistance program to both the categorically needy and the medically needy.

Section 1. Covered Services. The following services provided by participating mental health centers shall be considered covered when rendered within Kentucky medical assistance program guidelines:

(1) Inpatient services, as defined in 902 KAR 20:090, when a center based physchiatrist renders the service, or when the phychiatrist deems it appropriate for the psychologist, psychiatric nurse, master degree social worker, or individuals with equivalent professional education (as determined by the department) to provide therapy for the patient.

(2) Outpatient services, as defined in 902 KAR 20:090, but not including services excluded from coverage under other provisions of this regulation, if rendered by a mental health professional from one (1) of the four (4) principal disciplines (psychiatrist, psychologist, psychiatric nurse, or master degree social worker), or individuals with equivalent professional education (as determined by the department). Services rendered by a staff member other than one of the above shall be covered only if the service is delivered in accordance with a plan of treatment approved by the psychiatrist when delivered under the supervision of a mental health professional from one (1) of the four (4) principal disciplines or an individual with equivalent professional education (as determined by the department).

(3) Partial hospitalization, as defined in 902 KAR 20:090, if:

(a) The psychiatrist is present in the partial hospitalization unit on a regularly scheduled basis and assumes clinical responsibility for all patients; and

(b) The program has direct supervision by a psychiatrist, psychologist, psychiatric nurse, master degree social worker, or individuals with equivalent professional education (as determined by the department).

(4) Home visits, defined as visits by center staff to recipients in their homes, if:

(a) Certified as a medical necessity by the psychiatrist or if the patient is homebound; and

(b) Provided by a mental health professional from one (1) of the four (4) principal disciplines, or individuals with equivalent professional education (as determined by the department), and in accordance with an approved treatment plan.

(5) Detoxification services, when rendered by a center based psychiatrist in a detoxification unit.

(6) Psychological testing, if the tests are administered and evaluated by a certified clinical psychologist.

(7) Emergency services, as defined in 902 KAR 20:090, if the eligible recipient is seen in an emergency situation by any professional or paraprofessional member of the mental health staff.

(8) Personal care home services, if rendered by a mental health professional from one (1) of the four (4) principal disciplines (psychiatrist, psychologist, psychiatric nurse, or master degree social worker) or individuals with equivalent professional education (as determined by the department) to eligible recipients in personal care homes, and including resocialization and/or remotivation services rendered to personal care home groups, if such group services are rendered.

(9) Diagnosis deferred, diagnostic category, only if provided by the psychiatrist or psychologist.

(10) Speech disturbance, diagnostic category, only if provided by a psychiatrist or psychologist.

[(11) Services to clients in intermediate and skilled nursing facilities if provided on a one-to-one basis by the psychiatrist, psychologist, psychiatric nurse, master degree social worker or individuals with equivalent professional education (as determined by the department) in accordance with an approved plan of treatment.]

Section 2. Non-Covered Services. The following health center services are non-covered:

(1) Services of an educational or supervisory nature;

(2) Speech therapy;

(3) Alcohol and drug services:

(4) Consultation (except consultation among direct staff of the center);

(5) Collateral therapy (except that immediate family members may participate in joint therapy sessions when the client is present and the client's plan of care as approved by the psychiatrist requires that treatment modality);

(6) Residential treatment for alcoholism;

(7) *Services rendered to residents or patients of* [Social and recreational activities for clients in] intermediate care facilities *and/*or skilled nursing facilities.

Section 3. The provisions of this regulation shall become effective April 1, 1981.

WILLIAM L. HUFFMAN, Commissioner
ADOPTED: March 26, 1981
APPROVED: W. GRADY STUMBO, Secretary
RECEIVED BY LRC: April 1, 1981 at 10 a.m.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Insurance

904 KAR 1:045E. Payments for mental health center services.

RELATES TO: KRS 205.520
PURSUANT TO: KRS 13.082, 194.050
EFFECTIVE: April 1, 1981
EXPIRES: Sine Die adjournment of 1982 regular session of the General Assembly, or upon being replaced through regular procedure.

NECESSITY AND FUNCTION: The Department for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520 empowers the department, by regulation, to comply with any requirement that may be imposed, or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the method for determining amounts payable by the department for mental health center services.

Section 1. Mental Health Centers. In accordance with 42 CFR *447.321* [450.30], the department shall make payment to providers who are appropriately licensed and have met the conditions for participation (including the signing of such contractural arrangements as the department may require of this class of provider) set by the department, on the following basis:

(1) Payment shall be made on the basis of reasonable allowable costs.

(2) Payment amounts shall be determined by application of the "Community Mental health Center General Policies and Guidelines and Principles of Reimbursement"

developed and issued by the department, supplemented by the use of Title XVIII reimbursement principles.

(3) Allowable costs shall not exceed customary charges which are reasonable.

(4) The upper limit for allowable costs shall be set at 110 percent of the median visit cost, for the four (4) different service areas reimbursed under the program (inpatient, outpatient, partial hospitalization, and personal care), with the upper limit imposed on a prospective basis at the time final rates are determined.

(5) Allowable costs shall not include the costs associated with political contributions, membership dues, travel and related costs for trips outside the state, and legal fees for unsuccssful lawsuits.

Section 2. Implementation of Payment System. (1) The system shall utilize a method whereby community mental health centers are reimbursed on a prospective basis based on prior year actual allowable cost.

(2) The department may establish an interim rate at the end of each fiscal year until such time as a final prospective rate is determined with interim payments adjusted to the final prospective rate as necessary.

(3) The vendor shall complete an annual cost report on forms provided by the department not later than sixty (60) days from the end of the vendor's accounting year and the vendor shall maintain an acceptable accounting system to account for the cost of total services provided, charges for total services rendered, and charges for covered services rendered eligible recipients.

(4) Each community mental health center provider shall make available to the department at the end of each fiscal reporting period, and at such intervals as the department may require, all patient and fiscal records of the provider, subject to reasonable prior notice by the department.

(5) Payments due the community mental health center shall be made at reasonable intervals but not less often than monthly.

Section 3. Nonallowable Costs. The department shall not make reimbursement under the provisions of this regulation for services not covered by 904 KAR 1:044, community mental health center services, nor for that portion of a community mental health center's costs found unreasonable or nonallowable in accordance with the department's "Community Mental Health Center General Policies and Guidelines and Principles of Reimbursement."

Section 4. The provisions of this regulation shall become effective April 1, 1981.

WILLIAM L. HUFFMAN, Commissioner
ADOPTED: March 26, 1981
APPROVED: W. GRADY STUMBO, Secretary
RECEIVED BY LRC: April 1, 1981 at 10 a.m.

JOHN Y. BROWN, JR., GOVERNOR
Executive Order 81-278
March 31, 1981

EMERGENCY REGULATION
Department for Human Resources
Bureau for Social Insurance

WHEREAS, the Secretary of the Department for Human Resources is responsible for promulgating, by regulation, the policies of the Department with regard to the program for Unemployment Insurance; and

WHEREAS, the Secretary has found that Public Law 96-499, effective December 5, 1980, requires that certain requirements with regard to definition of "period of unemployment" must be met by March 31, 1981, in order that the Unemployment Insurance Program remain in compliance with mandatory federal standards; and

WHEREAS, the Secretary has promulgated a regulation providing that "duration of unemployment" shall be terminated only by subsequent employment of at least four (4) weeks' duration and with earnings of at least four (4) times the individual's weekly benefit rates; and

WHEREAS, the Secretary has found that an emergency exists with regard to the proposed regulation, and that, therefore, said regulation should, pursuant to the provision of law, be effective immediately upon filing with the Legislative Research Commission:

NOW, THEREFORE, I, John Y. Brown, Jr., Governor of the Commonwealth of Kentucky, by virtue of the authority vested in me by KRS 13.085(2), do hereby acknowledge the finding of emergency by the Secretary of the Department for Human Resources with respect to the filing of said regulation of the Department for Human Resources providing for the Program of Unemployment Insurance, and direct that said regulation shall be effective upon filing with the Legislative Research Commission, as provided in Chapter 13 of the Kentucky Revised Statutes.

JOHN Y. BROWN, JR., Governor
FRANCES JONES MILLS, Secretary of State

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Insurance

904 KAR 5:120E. Duration of unemployment.

RELATES TO: KRS 341.370
PURSUANT TO: KRS 13.082, 194.050, 341.115
EFFECTIVE: April 1, 1981
EXPIRES: Sine Die adjournment of 1982 regular session of the General Assembly, or upon being replaced through regular procedure.

NECESSITY AND FUNCTION: This regulation sets the criteria for relieving a duration of unemployment disqualification, and implements the mandatory federal requirements set forth in Public Law 96-499.

Section 1. The "duration of any period of unemployment," as that term is used in KRS 341.370, shall be the period of time beginning with the worker's discharge, voluntary quitting, failure to apply for or accept suitable

work, and running until such worker has worked four (4) weeks and has earned four (4) times his weekly benefit rate in bona fide full-time employment covered under the provisions of KRS Chapter 341 or a similar law of another state or of the United States.

Section 2. An individual claiming benefits under KRS 341.700 (extended benefits) who fails to engage in an active search for work during any week of his extended benefits claim shall be disqualified from receiving benefits for the duration of his unemployment, as defined in Section 1, commencing with the week within which the failure occurs.

WILLIAM L. HUFFMAN, Commissioner
ADOPTED: March 23, 1981
APPROVED: W. GRADY STUMBO, Secretary
RECEIVED BY LRC: April 1, 1981 at 10 a.m.

Amended Regulation Now In Effect

DEPARTMENT OF FINANCE
As Amended

200 KAR 6:040. Floodplain management.

RELATES TO: KRS Chapters 45, 56, 151
PURSUANT TO: KRS 13.082, 56.185
EFFECTIVE: April 1, 1981
NECESSITY AND FUNCTION: This regulation establishes guidelines by which the Secretary of the Department of Finance may issue or grant a development permit for the activities covered by KRS 56.185 and this regulation.

Section 1. General. (1) Purpose. The purpose of this regulation is to minimize the loss of lives and property due to floods. Each state agency undertaking a development activity within the base floodplains of the state shall comply with this regulation.

(2) Definitions. Unless otherwise defined, terms in this regulation shall be interpreted to give them the meaning they commonly have.

(a) "Allowable base flood elevation" means an increase of no more than one (1) foot in the water surface elevation above the existing base flood elevation.

(b) "Base flood" means the flood having a one percent (1%) chance of being equaled or exceeded in any given year (i.e., 100-year frequency flood).

(c) "Base flood elevation" means the elevation of the existing base flood.

(d) [(c)] "Base floodplain" means any land area susceptible to a base flood.

(e) [(d)] "Development activity" means any man-made change to improved or unimproved real estate by a state agency including, but not limited to, the construction of buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

(f) [(e)] "FEMA" means Federal Emergency Management Agency.

(g) [(f)] "Flood-proofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures or their contents.

(h) [(g)] "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than *one (1) foot* [a designated height].

(i) [(h)] "Mean sea level" means the average height of the sea for all stages of the tide.

(j) [(i)] "Mobile home" means a structure, transportable in one or more sections, which is built on a permanent chassis and *designed* [designated] to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers.

(k) [(j)] "New construction" means facilities for which the "start of consturction" began on or after the effective date of this regulation.

(l) [(k)] "Riverine" means relating to, formed by, or resembling a river (including tributaries), streams, brooks, etc.

(m) [(l)] "Secretary" means the Secretary of the Department of Finance.

(n) [(m)] "State" means Commonwealth of Kentucky.

(o) [(n)] "State agency" means any state administrative body, department, bureau or division as defined in KRS Chapter 12, and any institution, commission, board, program cabinet, instrumentality, independent state authority, office, or other agency of the state.

(p) [(o)] "State facility" means all structures including, but not limited to, buildings, mobile homes, storage tanks, docks, piers, dams, levees, utilities, roads, and bridges, constructed or placed, and associated land disturbance activities or state-owned lands.

(q) [(p)] "Substantial improvement" means any repair, reconstruction, or improvement of a state facility, the cost of which equals or exceeds fifty percent (50%) of the current value of the facility either: before the improvement or

repair is started; or if the facility has been damaged and is being restored, before the damage occurred. The term does not include: any project for improvement of a structure to comply with existing state health, sanitary, or safety codes solely necessary to assure safe living conditions; or any alteration of a structure listed on the "National Register of Historic Places" or a "State Inventory of Historic Places."

(r) [(q)] "Water surface elevation" means the projected heights in relation to mean sea level reached by floods in the floodplains of riverine areas.

Section 2. Application. This regulation shall apply to all base floodplains of the state.

Section 3. Establishing Floodplains. (1) Base floodplains in the state will be identified in writing by the Department for Natural Resources and Environmental Protection. The Department of Finance will use this in determining whether a permit is to be issued.

Section 4. Abrogation and Greater Restrictions. This regulation is not intended to repeal, abrogate, or impair any existing state easements, covenants, or deed restrictions. Where this regulation and another state regulation conflict or overlap, whichever imposes the more stringent restrictions shall apply. Compliance with this regulation does not relieve responsibility for complying with other statutory requirements. *All permits as required under CFR 44, Chapter 1, Section 60.3(a)(2) of the National Flood Insurance Program must be obtained where applicable.*

Section 5. Interpretation. In interpreting and applying this regulation, all provisions shall be construed in favor of the state.

Section 6. Warning and Disclaimer of Liability. This regulation shall not subject the state or any officer, agency or employee thereof to any liability for any damages from flooding that may occur or result from compliance with or reliance on this regulation or any administrative decision made hereunder.

Section 7. Development Permit. (1) The Secretary shall administer this regulation by granting, granting with conditions, refusing to grant, or otherwise determining the appropriate action as hereinafter provided, a development permit to state agencies proposing to undertake development activity within the base floodplain, excluding only those activities of the Bureau of Highways in the Department of Transportation relating to the acquiring of right-of-way for, and constructing and maintaining of highways.

(2) The Secretary of the Department of Transportation, subject to this regulation, *shall* [may] grant, grant with conditions, or refuse to grant, a permit for development activities for the Bureau of Highways. The permit shall include a certification that it was issued pursuant to this regulation and a copy of it shall be provided to the Department of Finance.

Section 8. Floodplain Management. (1) Every state agency (except as provided in Section 7) proposing development activity within the base floodplain shall notify the Department of Finance prior to initiating such activity. The notice shall contain a complete description of the proposed development and likely effects of it on the base floodplain; an explanation of why the development must be located in the floodplain, whether alternative sites were considered, and why alternative sites not in the floodplain were rejected.

(2) The plans and specifications for all construction covered by this regulation shall meet the following criteria:

(a) All development activity within a floodway, except as hereinafter provided, is prohibited. Necessary utilities are permitted. Except as provided in subparagraph 3 of this paragraph, the following are also permitted in the floodway only if their construction does not cause the flood to exceed the [allowable] base flood elevation: necessary marine use facilities (other than buildings) when such construction is considered together with full usage of the floodway on the opposite bank; and bridges, with their appurtenances. Construction within the floodway must be designed to withstand at least the water velocity of the base flood. Dams are permitted only if the base floodplain is held entirely in fee simple. To meet the requirements of this regulation, the following methods shall be acceptable in order of preference:

1. Design the facility so there is no encroachment within the floodway;

2. Fully offset the effect of any encroachment into the floodway by stream improvements; or

3. Determine the increased backwater over the [allowable] base flood elevation caused by an encroachment and secure any affected land by flood easement or fee simple purchase.

4. In areas where no floodway is designated, an engineering analysis must be conducted to establish an appropriate floodway or it must be demonstrated that the proposed development, in combination with all present and planned development, will not cause the flood to exceed the allowable base flood elevation. The methodology for conducting such an analysis may be obtained from FEMA.

5. If subparagraphs 2, 3, or 4 above are used, new floodplain information must be provided to FEMA.

(b) Development outside the floodway limits, but in the remaining portion of the floodplain, is permitted as follows:

1. Water supply, sewage, electrical, gas, and all other utilities must be so located and constructed as to eliminate infiltration of flood waters which could damage the utilities. *In the case of on site waste disposal systems, they shall also be located to avoid contamination from them during flooding.*

2. All structures shall be anchored to prevent flotation, collapse, or lateral movement and constructed with materials resistant to flood damage by methods that minimize flood damage.

3. No mobile home shall be allowed in the base floodplain.

4. [3.] Buildings shall be constructed [and mobile homes located] so as to be protected to at least the [allowable] base flood elevation. Flood protection for such buildings may consist of the following methods in order of preference:

(i) Elevation of the lowest floor (including basement) using open works such as columns, walls, piles.

(ii) Elevation of the lowest floor (including basement) using fill.

(iii) For non-residential buildings only, together with attendant utility and sanitary facilities, completely floodproofed watertight with walls substantially impermeable to the passage of water and with structural components able to resist the hydrostatic and hydrodynamic loads and

buoyancy effects of the base flood. The adequacy of such floodproofing shall be certified by a professional engineer registered in Kentucky.

(c) Improvements to existing facilities are permitted within the floodplain provided:

1. For facilities located in the floodway, no additions, alterations, encroachments, or relocations will cause flood levels to increase.

2. Practical alternatives are considered and used to minimize or eliminate flood damages.

3. Facilities substantially improved shall meet all requirements of new development as contained in this section.

Section 9. Administrative Procedures. (1) Upon receipt and review by the secretary of notice from a state agency proposing development activity within the floodplain, the secretary shall: issue a development permit; issue such a permit with conditions; refuse to issue a permit and provide the reasons for denial; or, in his discretion, determine that such a permit is not required under this regulation.

(2) When a development permit for building construction is issued, the agency undertaking the development in accordance with the terms of the permit shall:

(a) Secure a certification from a land surveyor or professional engineer registered in Kentucky of the elevation of the lowest floor (including basement) or, if floodproofing is utilized, the actual level of floodproofing in relation to the mean sea level and provide the certificate to the secretary within thirty (30) days following its issuance.

(b) Secure certifications, as applicable under Section 8(2)(b)4(iii) and provide same to the secretary within sixty (60) days after completion of the building.

(3) The Department of Finance shall maintain for public inspection all certifications and permit records required by these regulations.

GEORGE L. ATKINS, Secretary
ADOPTED: March 31, 1981
RECEIVED BY LRC: March 31, 1981 at 4 p.m.

Amended After Hearing

(Republished prior to Subcommittee consideration as required by KRS 13.085(4).)

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Insurance
Amended After Hearing

904 KAR 5:130. Appeals.

RELATES TO: KRS 341.440
PURUSANT TO: KRS 13.082, 194.050, 341.115
NECESSITY AND FUNCTION: This regulation sets up the appeals process and general rules for the conduct of hearings.

Section 1. Appeals to Referee. (1) The presentation of an appeal to a referee:

(a) Any interested party wishing to appeal to a referee from a notice of determination may do so by filing with the Division for Unemployment Insurance or its authorized representative a written statement clearly indicating the party's intention to appeal.

(b) An appeal to a referee shall be considered filed at the time it is delivered to a representative of the division or deposited in the mail as indicated by the postmark thereon.

(2) Notification of hearings: All hearings shall be scheduled promptly and notices thereof shall be mailed to all interested parties at least seven (7) days before the date of hearing specifying the time and place of hearing, except that, the referee may, when the exigencies of the situation in his judgment require, set a case for hearing before the expiration of seven (7) days, only then, however, upon agreement of all interested parties.

(3) Disqualification of referees: No referee shall participate in the hearing of an appeal in which he has an interest. Challenges to the interest of any referee shall be heard and decided by the commission.

(4) Hearing of appeals:

(a) The claimant and any other party to the appeal may present such evidence as may be pertinent and may question the opposite party and his witnesses. The referee shall, if he deems it necessary to secure full information on the issues, examine each party who appears and his witnesses. The referee may take any additional evidence which he deems necessary; but, if additional evidence is taken, all interested parties shall be afforded an apportunity of examining and refuting the same.

(b) The parties to an appeal, with the consent of the referee, may stipulate the facts involved, in writing. The referee may decide the appeal on the basis of such stipulation or may schedule a hearing and take such further evidence as he deems necessary.

(c) The hearing shall be scheduled and held at a place where the claimant can attend without undue expense or inconvenience, giving conisderation to the claimant's place of employment.

(d) The referee may in his discretion grant a continuance of a hearing in order to secure necessary evidence.

(5) Decisions:

(a) After the hearing is concluded the referee shall promptly set forth in writing his finding of facts on the issues involved, his decision and the reasons therefor; provided, however, that if the appellant fails to appear and prosecute his appeal, the referee may summarily affirm the determination.

(b) Copies of the decision shall be mailed to the claimant and other parties to the appeal, and a copy shall be retained in the division's files.

Section 2. Appeals to the Commission. (1) Presentation of an appeal to the commission:

(a) Any interested party wishing to appeal to the commission from a decision of a referee may make written application with the commission, the division or its authoriz-

ed representative for leave to appeal in any form which clearly indicates the party's intention to appeal. A notice of such application for leave to appeal shall be mailed by the division to other interested parties.

(b) An application for leave to appeal shall be considered initiated and filed at the time it is delivered to an authorized representative of the commission or the division or deposited in the mail, as indicated by the postmark thereon.

(c) The commission may grant or deny the application for leave to appeal without a hearing or may notify the parties to appear at a specified place and time for argument on the application.

(2) Hearing of appeals:

(a) Except in instances where the commission orders cases removed to it from a referee, all appeals to the commission may be heard upon the records of the division and the evidence and exhibits introduced before the referee. In the hearing of an appeal on the record, the parties may, if they desire, present written arguments and, at the commission's discretion be allowed to present oral arguments.

(b) The commission may, however, direct the taking of additional evidence before it, if needed, in order to determine the appeal. If, in the discretion of the commission, additional evidence is necessary to determine the appeal, the parties shall be notified of the time and place such evidence shall be taken at least seven (7) days prior to the date on which the evidence will be taken.

(c) The commission, at its discretion, may return any case or issue to a referee for the taking of such additional evidence as it desires. The referee shall take the testimony in the manner prescribed for the hearing of appeals before referees and shall thereupon return the record to the commission for its decision thereon.

(3) The hearing of appeals by the commission on cases ordered removed to it from any referee: The procedure on any case before a referee, ordered by the commission to be removed to it, shall be presented, heard and decided by the entire commission in the manner as prescribed for the hearing of other cases before the referee.

(4) The determination of appeals before the commission:

(a) Following the conclusion of a hearing the commission shall promptly announce its decision, which may be either an affirmation of the decision of the referee, or a separate finding of facts, decision and reasons therefor. The decision shall be in writing and shall be signed by the members of the commission who heard the appeal.

(b) If a decision of the commission is not unanimous, the decision of the majority shall control. The minority may file a dissent from such decision of the majority setting forth the reasons why it fails to agree with the majority.

(c) Copies of the decision shall be mailed to all interested parties.

Section 3. General Rules for Both Appeal Stages. (1) Issuance of subpoenas: Subpoenas requested by a claimant or an employer to compel the attendance of witnesses and/or the production of records for any hearing of an appeal shall be issued only on a sworn statement by the party applying for the issuance thereof setting forth the substance of the anticipated proof to be obtained and the need therefor.

(2) Appeal record: All reports, forms, letters, transcripts, communications, statements, determinations, decisions, orders, and other matters, written or oral, from the worker, employer, or personnel or representative of the division which have been written, sent, or made in connection with an appealed claim shall constitute the record with respect to such claim.

(3) Supplying information from the records of the division for unemployment insurance: Information from the records of the division shall be furnished to an interested party or his representative to the extent necessary for the proper presentation of the party's case, only upon written request therefor. All requests for such information shall state, as clearly as possible, the nature of the information desired. Nothing in this regulation shall prevent an interested party or his representative from examining a record in the hands of a referee at a hearing.

(4) Conduct of hearings: All hearings shall be conducted informally without regard to common law, statutory or technical rules or procedure and in such manner as to determine the substantial rights of the parties. The parties and their witnesses shall testify under oath or affirmation. All issues relevant to the claim shall be considered and passed upon.

(5) Reopening hearings: Any party to an appeal who fails to appear at the scheduled hearing may, within seven (7) days from the date thereof, request a rehearing. The request shall be granted if such party has shown good cause for his failure to appear. The request shall be in writing and shall set forth the reasons for his failure to attend the scheduled hearing. The request shall be mailed or delivered to the office where the appeal was filed or the Appeals Branch, the Division for Unemployment Insurance, Frankfort, Kentucky. Upon the rehearing being granted, notice of the time and place of the reopened hearing shall be given to the parties or to their representatives.

Section 4. Representation Before Referee and Commission. A worker [or employer] may represent himself or may be represented by an attorney or other authorized representative in a proceeding before a referee or in an appeal to the commission. An authorized representative may be any individual who has the necessary qualifications to enable him to render valuable assistance to the worker [or the employer] in the proceeding.

WILLIAM L. HUFFMAN, Commissioner
ADOPTED: March 23, 1981
APPROVED: W. GRADY STUMBO, Secretary
RECEIVED BY LRC: March 27, 1981 at 11 a.m.

Proposed Amendments

PERSONNEL AND MANAGEMENT CABINET
Kentucky Retirement Systems
(Proposed Amendment)

105 KAR 1:010. Contributions and interest rates.

RELATES TO: KRS 16.505 to 16.652, 61.510 to 61.702, 78.510 to 78.852

PURSUANT TO: KRS 13.082, 16.576, 16.640, 61.559, 61.645, 78.780

NECESSITY AND FUNCTION: KRS 16.645, 61.565 and 78.545, require the board to determine the employer contribution rate based on an actuarial valuation. KRS 61.552 requires the board to adopt a rate of interest payable on a recontribution of refund. KRS 16.560, 61.575 and 78.640 provide that the board may determine the rate of interest payable on the members' contribution account. KRS 61.670 provides that the board shall adopt such actuarial tables as are necessary for the administration of the system. This regulation sets the employer contribution rates, and rate of interest on a recontribution of refund and member contribution account and establishes the actuarial tables for computation of retirement allowances for members of the Kentucky Employes Retirement System (KERS), County Employes Retirement System (CERS) and State Police Retirement System (SPRS).

Section 1. The employer contribution rate payable by a participating agency applicable to creditable compensation earned on or after July 1, *1981* [1979] shall be as follows:

KRS 61.565 State Police Retirement System..... *18½%* [17¼%]
KRS 61.656 Kentucky Employes Retirement System 7¼%
KRS 61.565 County Employes Retirement System 7¼%
KRS 61.592 Kentucky Employes Retirement System 19¼%
KRS 61.592 County Employes Retirement System 16%

Section 2. The interest rate on a recontribution of refund as provided under KRS 61.552 shall be six (6) percent compounded annually, except that the interest rate on recontribution of refund made by an employee who has been reinstated by order of the Personnel Board shall be at the rate of zero (0) percent, if the refund is recontributed within a reasonable period of time.

Section 3. Interest creditable on a member's accumulated contributions in accordance with KRS 16.560, 61.575, and 78.640 shall be at the rate of three (3) percent.

Section 4. Reduction factors to be applied to determine immediate annuity equivalent to annuity deferred to Normal Retirement age under KRS 16.577, 16.578, 61.595, 61.640 and 61.680 shall be as provided in Table G, below, except:

(1) A SPRS, or KERS hazardous duty member who is age fifty (50) or older and would attain thirty (30) years of service (fifteen (15) years of which would be current service) prior to age fifty-five (55), if the employment had continued shall have his retirement benefit computed based on the appropriate factor as follows:

TABLE A

Years Required to Complete 30 Years Service	Percentage Payable
1	94.5%
2	89.0%
3	83.5%
4	78.0%
5	72.5%

(2) A CERS hazardous duty member who is age fifty (50) or older and has attained twenty-five (25) years of service or would attain twenty-five (25) years of service prior to age fifty-five (55), if his employment had continued shall have his retirement benefit computed based on the appropriate factor as follows:

TABLE B

Years Required to Complete 25 Years Service	Percentage Payable
0	100%
1	94.5%
2	89.0%
3	83.5%
4	78.0%
5	72.5%

(3) A KERS or CERS non-hazardous member who is age fifty-five (55) or older and would attain thirty (30) years of service (fifteen (15) years of which would be current service) prior to age sixty-five (65) if employment were continued shall have benefits computed using the appropriate factor as follows:

TABLE C

Years Required to Complete 30 Years Service	Percentage Payable
1	95.0%
2	90.0%
3	85.0%
4	80.0%
5	75.0%
6	71.0%
7	67.0%
8	63.0%
9	59.0%
10	55.0%

(4) A KERS or CERS non-hazardous member who dies prior to age fifty-five (55) or who retires prior to age fifty-five (55) based on SPRS or KERS hazardous early retirement eligibility, and would have attained thirty (30) or more years of service (fifteen (15) of which would be current service) on or before reaching his sixty-fifth (65th) birthday, if employment were continued, shall have benefits computed by first multiplying his deferred benefit by the percentage payable as determined from Table C based on

the number of years required to complete thirty (30) years of service and then multiply this result by the percentage payable as determined from Table D based on said member's age at the time of death or early retirement.

TABLE D

Years Prior to Age 55	Percentage Payable
1	97.0%
2	94.0%
3	91.0%
4	88.0%
5	85.0%
6	82.0%
7	79.0%
8	76.0%
9	73.0%
10	70.0%

(5) A KERS or CERS non-hazardous member with CERS Hazardous Service who dies prior to age fifty-five (55) or who retires prior to age fifty-five (55) based on CERS hazardous early retirement eligibility, and would have attained twenty-five (25) or more years of service on or before reaching his sixty-fifth (65th) birthday, if employment were continued, shall have benefits computed by first multiplying his deferred benefit by the percentage payable as determined from Table E based on the number of years required to complete twenty-five (25) years of service and then multiply this result by the percentage payable as determined from Table D based on said member's age at the time of death or early retirement.

TABLE E

Years Required to Complete 25 Years Service	Percentage Payable
0	100%
1	95.0%
2	90.0%
3	85.0%
4	80.0%
5	75.0%
6	71.0%
7	67.0%
8	63.0%
9	59.0%
10	55.0%

(6) A SPRS or KERS hazardous member who dies prior to age fifty (50) and would have attained thirty (30) or more years of service (fifteen (15) or which would be current service) on or before reaching his fifty-fifth (55th) birthday, if employment were continued, shall have benefits payable as determined from Table C based on the number of years required to complete thirty (30) years of service and then multiply this result by the percentage payable as determined from Table F based on said member's age at the time of death.

(7) A CERS hazardous member who dies prior to age fifty (50) and has attained twenty-five (25) years of service or would have attained twenty-five (25) or more years of service on or before reaching his fifty-fifth (55th) birthday, if employment were continued, shall have benefits payable as determined from Table E based on the number of years required to complete twenty-five (25) years of service and then multiply this result by the percentage payable as determined from Table F based on said member's age at the time death.

TABLE F

Years Prior to Age 50	Percentage Payable
1	97.0%
2	94.0%
3	91.0%
4	88.0%
5	85.0%
6	82.0%
7	79.0%
8	76.0%
9	73.0%
10	70.0%

TABLE G

Early Age	Normal Retirement Age 65	55
64	95.0%	
63	90.0%	
62	85.0%	
61	80.0%	
60	75.0%	
59	71.0%	
58	67.0%	
57	63.0%	
56	59.0%	
55	55.0%	
54	51.3%	94.5%
53	47.9%	89.0%
52	44.9%	83.5%
51	42.1%	78.0%
50	39.5%	72.5%
49	37.1%	68.8%
48	34.9%	65.2%
47	33.0%	61.7%
46	31.3%	58.2%
45	29.9%	54.7%
44	28.7%	51.3%
43	27.6%	47.9%
42	26.7%	44.9%
41	25.8%	42.1%
40	25.1%	39.5%
39	24.4%	37.1%
38	23.8%	34.9%
37	23.2%	33.0%
36	22.5%	31.3%
35	21.9%	29.9%
34	21.2%	28.7%
33	20.6%	27.6%
32	20.0%	26.7%
31	19.5%	25.8%
30	19.0%	25.1%
29	18.5%	24.4%
28	18.0%	23.8%
27	17.5%	23.2%
26	17.0%	22.5%
25	16.5%	21.9%

The member's exact age in years and months shall be determined and the above factors shall be used to extrapolate in order to determine the appropriate factors.

(8) Benefits paid in the event of death prior to retirement pursuant to subsections (1) through (7) of this section shall be reduced, as required by KRS 61.640 and as determined in "Contingent Annuity Factors," "Integrated Survivor Factors" and "Ten Year Certain Factors" incorporated herein by reference.

Section 5. Conversion factors to be applied to determine immediate annuity which could be purchased by $1,000 of contributions and interest after doubling as provided in KRS 16.576 and 61.559.

TABLE H

	Age	Male	Female
Non-Hazardous	65	$ 8.229	$ 7.432
	66	$ 8.423	$ 7.596
	67	$ 8.628	$ 7.767
	68	$ 8.848	$ 7.951
	69	$ 9.087	$ 8.147
	70	$ 9.332	$ 8.355
	71	$ 9.605	$ 8.565
	72	$ 9.882	$ 8.796
	73	$10.180	$ 9.042
	74	$10.468	$ 9.304
	75	$10.792	$ 9.567
	76	$11.139	$ 9.848
	77	$11.510	$10.149
	78	$11.908	$10.450
	79	$12.286	$10.775
	80	$12.684	$11.121
Hazardous	55	$ 6.809	$ 6.257
	56	$ 6.899	$ 6.349
	57	$ 7.020	$ 6.449
	58	$ 7.150	$ 6.546
	59	$ 7.281	$ 6.635
	60	$ 7.419	$ 6.745
	61	$ 7.561	$ 6.870
	62	$ 7.692	$ 7.002
	63	$ 7.860	$ 7.138
	64	$ 8.039	$ 7.279
	65	$ 8.229	$ 7.432
	66	$ 8.423	$ 7.596
	67	$ 8.628	$ 7.767
	68	$ 8.848	$ 7.951
	69	$ 9.087	$ 8.147
	70	$ 9.332	$ 8.355
	71	$ 9.605	$ 8.565
	72	$ 9.882	$ 8.796
	73	$10.180	$ 9.042
	74	$10.468	$ 9.304
	75	$10.792	$ 9.567
	76	$11.139	$ 9.848
	77	$11.510	$10.149
	78	$11.908	$10.450
	79	$12.286	$10.775
	80	$12.684	$11.121

BOBBY J. McKEE, Operations Manager
ADOPTED: February 18, 1981
APPROVED: G. E. FISCHER, Secretary
RECEIVED BY LRC: April 10, 1981 at 11 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Operations Manager, Kentucky Retirement Systems, 226 West Second Street, Frankfort, Kentucky 40601..

DEPARTMENT OF MILITARY AFFAIRS
(Proposed Amendment)

106 KAR 1:010. Educational encouragement fund.

RELATES TO: KRS 38.500
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: KRS 38.500 established the Kentucky National Guard Educational Encouragement Fund and authorized the Adjutant General to make rules and regulations for the administration of the fund. This regulation provides policy, procedure and qualification requirements.

Section 1. Purpose. The purpose of the Educational Encouragement Fund is to:
(1) Encourage voluntary membership and retention in the Kentucky National Guard.
(2) Improve the educational level of the guard's members; and
(3) Benefit the state as a whole, by virtue of subsections (1) and (2) of this section.

Section 2. Responsibilities. (1) The Adjutant General of Kentucky shall be responsible for the overall policies, guidance, administration, implementation and proper utilization of the Educational Encouragement Fund; and appointment of the Educational Encouragement Fund Board.
(2) The Educational Encouragement Fund Board, hereinafter referred to as the board, shall be charged with administering the fund.
(3) The public information officer, Frankfort Headquarters, shall be responsible for initiating and maintaining an active publicity program, designed to promote the recruiting and retention incentive offered by the educational encouragement fund.
(4) National Guard Unit Commanders shall be responsible for keeping members of their command informed of the program, submission and verification of applications, *and monitoring military type administrative actions (such as discharge/resignations) for the Adjutant General which could result in a change in status thus requiring forfeiture/repayment of fund benefits by its members.* [monitoring the continued qualifications of units members and advising the Adjutant General of any change in status that would require forfeiture of fund payment.] Change in status of a member receiving benefits shall include the following:
(a) Resignation or discharge from the guard.
(b) [(a)] Drops out of school, with or without just cause.
(c) [(b)] Is expelled or suspended from school.
(d) [(c)] Receives an unsatisfactory drill attendance or performance report which results in not being in good standing.
(e) Member receives benefits and fails to serve the one (1) year obligation.
(5) Members of the National Guard who are recipients of funds offered by this program shall be responsible for notifying his/her Unit Commander and/or the Adjutant General of any change in status which would affect his/her entitlement thereto.

Section 3. Definitions. (1) "Matriculation" means enrollment or admission costs which may include tuition.
(2) "Tuition" means the charge or fee that an institution normally charges for instruction.

(3) *"Acceptable school"* ["State-supported university, college, community college or vocational school"] means those universities, colleges or schools enumerated in Appendix A. Copies of Appendix A can be obtained from the Department of Military Affairs, Frankfort, Kentucky 40601.

(4) "Proprietary school" means those business-oriented schools that are licensed by the State Board of Proprietary Education and are approved by the Kentucky Educational Encouragement Fund Board.

(5) [(4)] "Good standing" means any active member of the Kentucky National Guard endorsed by his commander as successfully attending and participating in the required training program. A member may be considered "not in good standing" in cases where criminal or military charges affect the member's ability to perform his/her duties with the Kentucky National Guard.

Section 4. Benefits. (1) Subject to the availability of funds, the benefits provided shall consist of a monetary grant for full-time or part-time enrollment not to exceed fifty (50) percent of tuition or matriculation fees, *or $250 per term and in no event to exceed $750 within a twelve (12) month period* to qualifying members *of the Kentucky National Guard.*

(2) Benefits shall be payable to qualifying members attending [state-supported] institutions *as* listed in Appendix A, *or others approved by the Educational Encouragement Fund Board.*

(3) The Educational Encouragement Fund Board may authorize benefits payable for the following periods of study:

[(a) Academic year;]

(a) [(b)] Semester;

(b) [(c)] Quarter;

(c) [(d)] Summer terms; or

(d) [(e)] Others, as approved by the board.

Section 5. Eligiblity. (1) Active members of the Kentucky National Guard have benefit eligibility who:

(a) Are members in good standing of the active Kentucky National Guard and commit themselves to service in the Kentucky National Guard for at least one (1) year beyond the end of the term for which benefits are payable.

[(a) Have their commanders verification of membership and good standing at the beginning of and throughout the entire period for which benefits are payable.]

[(b) Have satisfactorily completed basic/REP training.]

(b) [(c)] Have verification of payment of all tuition or matriculation fees for the period of study he/she is requesting benefits for under the fund.

(c) [(d)] Agrees, through contract with the Department of Military Affairs to reimburse the State of Kentucky by and through the department any money paid for him/her from the fund in the event he/she *fails to remain a Guard member; or* is expelled or suspended or quits the program without just cause.

(d) [(e)] Has a minimum of one (1) year remaining as a member of the Guard from the end of the academic period for which educational fund assistance is provided.

(2) The educational assistance benefit shall be applicable to eligible personnel in the following categories:

(a) Students seeking trade or vocational training or education *courses for self improvement and advancement.*

(b) Students seeking to achieve a two (2) year associate degree.

(c) Students seeking to achieve a four (4) year baccalaureate or graduate degree.

Section 6. Application for Benefits. (1) Eligible individuals in the active Kentucky National Guard interested in submitting applications for benefits of the Educational Encouragement Fund shall comply with the following:

(a) Complete the application, herein filed as Appendix B, and submit to his/her Unit Commander for signature. *Both signatures must be present for valid application.* Applications may be obtained from the Department of Military Affairs, Frankfort, Kentucky 40601.

(b) Apply, be accepted, and enrolled for credit as a student in any [state-supported] university, college, community college, or vocational education school as a full-time or part-time student.

(c) Pay, or make arrangements for payment of, all educational costs at the time of registration.

(d) Provide the board *a stamped "Paid" receipt for payment* [an itemized receipt] from the institution for all fees paid at the time of registration.

(e) Must forward the application for (approval/disapproval) consideration prior to the end of the semester for which requesting assistance. No application will be considered by the board beyond the end of the term for which assistance is requested.

(2) Unit Commanders at all levels shall forward applications with endorsements to the Adjutant General's Office *as soon as possible.*

Section 7. Priority System. (1) Should the demand for assistance from the Educational Encouragement Fund exceed the supply of available funds, a priority system will be put into effect by the board.

(2) Priority will be given as follows:

(a) Enlistees serving in the first term of enlistment.

(b) Other enlisted members.

(c) Officers and members receiving other financial assistance.

Section *8.* [7.] Appeals. Any appeal from the actions or decision of the board in connection with the administration of the educational assistance program shall be submitted in writing, within ten (10) days after receipt of the board's decision, to the Adjutant General, Department of Military Affairs. The decision of the Adjutant General shall be final.

BILLY G. WELLMAN, The Adjutant General

ADOPTED: December 1, 1980

RECEIVED BY LRC: March 20, 1981 at 11:10 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Eddie R. Sanders, Director, Division of Administrative Services, Department of Military Affairs, Boone National Guard Center, Frankfort, Kentucky 40601.

(See Appendix A and B on following pages.)

APPENDIX A

LIST OF *ACCEPTABLE* [STATE SUPPORTED] SCHOOLS [AND INSTITUTIONS]

Senior Colleges

Asbury—Wilmore
Bellarmine-Ursuline—Louisville
Berea—Berea
Brescia—Owensboro
Campbellsville—Campbellsville
Centre—Danville
Cumberland—Williamsburg
Eastern Kentucky University—Richmond
Georgetown—Georgetown
Kentucky State—Frankfort
Kentucky Wesleyan—Owensboro
Morehead State University—Morehead
Murray State University—Murray
Northern Kentucky—Covington
Pikeville—Pikeville
Spalding—Louisville
Thomas More—Fort Mitchell
Transylvania—Lexington
Union—Barbourville
University of Kentucky—Lexington
University of Louisville—Louisville
Western Kentucky University—Bowling Green

[UNIVERSITIES

Eastern Kentucky University—Richmond
Kentucky State—Frankfort
Morehead State University—Morehead
Murray State University—Murray
Northern Kentucky—Covington
University of Kentucky—Lexington
University of Louisville—Louisville
Western Kentucky University—Bowling Green]

Community Colleges

Ashland—Ashland
Elizabethtown—Elizabethtown
Fort Knox—Fort Knox
Hazard—Hazard
Henderson—Henderson
Hopkinsville—Hopkinsville
Jefferson—Louisville
Lexington Technical Institute—Lexington
Madisonville—Madisonville
Maysville—Maysville
Paducah—Paducah
Prestonsburg—Prestonsburg
Somerset—Somerset
Southeast—Cumberland

Vocational Technical Schools

Ashland Area—Ashland
Bowling Green Area—Bowling Green
Central Kentucky Area—Lexington
Daviess County Area—Henderson
Harlan Area—Harlan
Hazard Area—Hazard
Jefferson County Area—Jeffersontown
Madisonville Area—Madisonville
Mayo Area—Paintsville
Northern Kentucky Area—Covington
Somerset Area—Somerset
Tilghman Area—Paducah
West Kentucky—Paducah
Laurel—London

Junior Colleges

Alice Lloyd—Pippa Passes
Lees—Jackson
Lindsey Wilson—Columbia
Midway—Midway
Southeastern Christian—Winchester
Saint Catharine—St. Catharine
Sue Bennett—London

Area Vocational Education Centers

Any Area Vocational Education Center funded by the Commonwealth of Kentucky and approved by the Department of Education.

Proprietary Schools

As licensed by the State Board of Proprietary Education.

APPENDIX B

KENTUCKY NATIONAL GUARD EDUCATIONAL ENCOURAGEMENT FUND

Application for Tuition Assistance

(All blanks must be completed before application will be processed)

NAME: _____ RANK: _____ SSN: _____

HOME ADDRESS: _____
(Street) (City) (State) (Zip Code)

Home Phone: _____ Work Phone: _____ KyNG Unit: _____

KyNG Enlistment Date: _____ ETS Date: _____
(day, month, year) (day, month, year)

School/institution and address: _____

Term beginning date: _____ Term ending date: _____ Tuition Cost: _____

How much money have you received through this program in the past 12 months? _____

Will you receive a financial grant other than benefits from this fund? (Excluding VA benefits) _____

If so, what type? _____

What portion of your tuition is paid by grant? $_____

APPLICANT'S STATEMENT

I, the undersigned, certify that the information on this form is true and correct to the best of my knowledge. I have read the provisions of KY NGR 621-1/KyANGR 53-1 and understand that the awarding of tuition assistance is considered on the basis of availability of funds, the accuracy of this application, the standing of the school and its program, the minimum one year period of service in the Kentucky National Guard beyond the end of the term applied for and I further understand that NO PERSON MAY RECEIVE MORE THAN $250 PER TERM OR $750 DURING A 12 MONTH PERIOD. I hereby promise to reimburse the Commonwealth of Kentucky any monies received by me due to overpayment, leaving the program without just cause, or violation of the regulation/state law which governs the program.

Date: _____ Signature: _____

UNIT COMMANDER'S AFFIRMATION

I certify that the applicant is a member in good standing in the Kentucky National Guard prior to the beginning of the term for which application is made. I further certify that the individual has at least one year of service remaining beyond the term applied for. ETS is correct: Yes _____ No _____

Date: _____ Signature: _____

NOTE: When this application is completed, forward one copy to: Educational Encouragement Fund Board, Boone Center, Frankfort, KY. It must be received prior to the end of term, and bursar's receipt showing payment should be attached (Cancelled checks are not sufficient). If payment cannot be made until after the cut-off date, a statement noting when payment will be made must be attached. The application will be considered when the receipt is available.

AGO Ky FM 11-8 (1 September 1980)
Previous editions are obsolete

[APPENDIX B]

[APPLICATION FOR EDUCATION ASSISTANCE]

[Print or Type

NAME: _____

Home Address: _____
Street County City State Zip

Unit of Assignment: _____

Active KyNG Service to Date: Yrs. Mos. ETS

School/Institution & Address: _____

Requested Course of Study (Degree or Certification): _____

Beginning Date: Ending Date: Total Tuition/Fees Cost:

Previous Benefits Received Under This Fund: YES ( ) NO ( ) Dates:

Will you utilize the Federal GI Bill as an additional benefit to the Kentucky Educational Encouragement Fund: YES ( ) NO ( ) N/A ( )]

[UNIT COMMANDER'S AFFIRMATION]

[I certify that the applicant is a member in good standing and has completed basic/REP training in the Kentucky National Guard prior to the beginning of the term for which application is made. I further certify that the individual has at least one year of service remaining beyond the end of the term applied for:

DATE: _____ SIGNATURE: _____]

[APPLICANT'S STATEMENT]

[I, the undersigned, certify that the information on this form is true and correct to best of my knowledge. I have read the provisions of KyNGR 621-1/KyANGR 53-1 and understand that the awarding of tuition assistance is considered on the basis of availability of funds, the accuracy of this application, the standing of the school and its program, the minimum one year period of service in the active Kentucky National Guard beyond the end of the term applied for and the completion of basic/REP training prior to the term applied. As a condition of the acceptance of benefits under the Kentucky National Guard Educational Encouragement Fund, I hereby agree to abide by the Kentucky Military Department Regulation 621-1/53-1; and specifically, I hereby promise to reimburse the Commonwealth of Kentucky by payment to the Kentucky Department of Military Affairs any monies received by me for any semester from which I have been expelled or suspended, or quit the program without just cause.

DATE: _____ SIGNATURE: _____]

AGO Ky FM 11-8 (1 Jul 76)

DEPARTMENT OF MILITARY AFFAIRS
Division of Disaster and Emergency Services
(Proposed Amendment)

106 KAR 1:020. Disaster and emergency fund administration; qualification requirements, procedure.

RELATES TO: KRS 39.480
PURSUANT TO: KRS 39.400
NECESSITY AND FUNCTION: KRS 39.480 established a fund to develop and maintain local emergency preparedness organizations affiliated with the Division of Disaster and Emergency Services and authorized the Division to make rules and regulations for the administration of the fund. This regulation provides policy, procedure and qualification requirements.

Section 1. The purpose of the fund is to: (1) Assist local organizations to develop adequate emergency response capabilities;
(2) Maintain and improve existing organizations through enhanced training, planning, staffing, and equipment acquisition; and
(3) Benefit the state as a whole, through creation of a better prepared network of emergency response organizations.

Section 2. Responsibilities. (1) The Adjutant General, as Director of the Division of Disaster and Emergency Services, shall have overall responsibility for policy, guidance, administration, implementation and proper utilization of this fund.
(2) The Executive Director shall serve as the primary advisor to the Adjutant General and shall serve as the principal liaison between the Adjutant General and local officials participating in programs affected by this fund.
(3) The Executive Director, with the advice of *at least a five (5) member board to be chosen by him,* [the Assistant Director, Director of Operations, Director of Support Services, Administrative Officer, and appropriate area coordinators,] shall make determinations related to fund allocations.
(4) Area coordinators shall fully explain program opportunities and requirements to local elected officials and local director/coordinators, review budget and program submissions, and make recommendations to the Executive Director.
(5) Local director/coordinators shall be responsible for submitting budget requests and documentation of expenditures, as required.

Section 3. Benefits. Funds shall be made available, to not more than one (1) emergency preparedness organization per county, on a reimbursement basis up to fifty (50) percent of the local funds expended for the emergency services organization.

Section 4. Eligibility. Local emergency preparedness organizations shall be eligible to receive benefits from the fund if they meet the following criteria:
(1) Director. The local organization must have qualified director/coordinator who is capable of performing during an emergency, devoting time to administrative matters, and available to participate in federal and state training programs. During the first year of participation in the funding program, the director/coordinator, whether serving on a voluntary or paid basis, shall have successfully completed three (3) correspondence courses designed to provide basic emergency preparedness information, guidance for director/coordinators, and radiological defense instruction. He shall also participate in *an emergency management workshop* [a basic seminar and an advanced seminar,] when offered. *Each director/coordinator who is reimbursed for his services must also attend a Phase I course when offered.*
(a) In following years, each director/coordinator must attend, as a minimum, *an emergency management workshop,* [an advanced seminar,] when offered.
(b) In subsequent years, the director/coordinator paid for spending at least one-half (½) of his time in emergency preparedness matters must continue his education by completing advanced instruction offered by the federal emergency preparedness organization.
(c) With permission of the director/coordinator the deputy director/coordinator may attend emergency management workshop in place of the director/coordinator.

(2) Plan. Within the first year of participation in the funding program, the local organization must complete a basic emergency opertions plan and appropriate annexes. This plan will be subject to review and final approval by the Executive Director, Division of Disaster and Emergency Services. In subsequent years, the plan and all annexes must be reviewed and up-dated, as appropriate.
(3) Exercises. During the second and each subsequent year of participation in the program, the local organization must conduct an exercise to test the operations plan. Multijurisdictional exercises are encouraged.
(4) Emergency operation center. Each participating organization must have an organized operating center, from which local emergency operations will be conducted. This center, when fully developed, must provide resources for the coordination of all emergency elements of government.
(5) Program paper. Each participating local organization must develop, and submit annually to Disaster and Emergency Services, a program paper detailing the current status of emergency preparedness and goals for the next fiscal year. Forms for this report will be provided by Disaster and Emergency Services. The report must be submitted as part of the budget request.
(6) Merit status. Each employee, with the exception of the local director/coordinator, *and his deputy, if the deputy functions in a policy making capacity* whose salary is paid in part or in total with these funds, must meet the standards of the Kentucky Merit System.

Section 5. Administrative Process. (1) Local organizations requesting financial assistance through the fund must submit, by May 15 of each year, a Local Civil Preparedness Annual Program Paper [(DCPA 744)] to the Division of Disaster and Emergency Services Area Coordinator. This document will be reviewed by the area coordinator and forwarded to the state office with recommendations.
(2) The Executive Director, as outlined in Section 2(3), will review and evaluate each request and, not later than June 15, designate funds for approved programs and notify each applicant.
(3) At the end of each month *or quarter,* the local organization will submit a completed claim of reimbursement [(DCPA Form 234-3)], with supporting documentation, to the area coordinator. After review, the area coordinator will forward the documentation to the state office

and a reimbursement check will be returned, at the rate determined.

(4) Requests to utilize these funds to purchase equipment must be approved in advance. To obtain approval, the local organization must submit a project application to the area coordinator, who will review it and forward to the state office with recommendation. Upon approval, the local organization will be notified and after making the purchase, may submit a reimbursement claim under the procedures outlined in subsection (3) of this section.

Section 6. Review. (1) Program progress will be subject to quarterly review by area coordinators. Local organizations determined not to be making satisfactory progress toward goals outlined in the program paper will be given thirty (30) days to correct deficiencies. At the end of the thirty (30) day period, further funding may be withdrawn by the Executive Director if deficiencies are not corrected. Such funds may then be re-allocated to other organizations.

(2) *On a quarterly basis* [By April 1 of each year,] the Executive Director, as outlined in Section 2(3), will review the expenditure rate of each organization receiving funds. If it is determined that an organization will not utilize all allocated funds, appropriate portions of the allocation may be withdrawn and re-allocated to another organization with a demonstrated need.

Section 7. Waivers. Requests for waiver of any section or subsection of this regulation may be submitted with appropriate justification to the Executive Director. Waivers approved will apply only to the specific request.

MG BILLY G. WELLMAN, The Adjutant General
ADOPTED: March 13, 1981
RECEIVED BY LRC: March 17, 1981 at 11 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: MG Billy G. Wellman, The Adjutant General, Boone Center, Frankfort, Kentucky 40601.

DEPARTMENT OF FINANCE
Board of Physical Therapy
(Proposed Amendment)

201 KAR 22:020. Method of applying for licensure.

RELATES TO: KRS 327.050
PURSUANT TO: KRS 327.040
NECESSITY AND FUNCTION: Describes the criteria for eligibility, methods, and procedures of applying for a license to practice physical therapy in Kentucky.

Section 1. To be eligible for licensure *application* by examination, the *person* [applicant] must have successfully completed the academic and clinical requirements of *an approved physical therapy* [the] program and have been granted certification of completion *by the educational administrator of that program.* All physical therapy programs approved by the American Physical Therapy Association or the Council on Allied Health Education and Accreditation of the American Medical Association are periodically reviewed and updated for approval by the Kentucky State Board of Physical Therapy. *To be eligible for licensure application by endorsement, the person must have, in addition, successfully completed an examination approved by the board.*

Section 2. A person desiring to practice as a physical therapist in Kentucky must apply to the Kentucky State Board of Physical Therapy. An application form will be sent to the applicant by the executive secretary of the board. When the completed application, certification of completion of academic and clinical portions of an approved physical therapy program and *the correct fee relative to that person's vehicle of licensure* [a money order, cashier's or certified check for seventy-five dollars ($75) made payable to the Kentucky State Treasurer,] have been received, the applicant becomes an official candidate for licensure. At the request of the applicant, the board shall determine the necessity of conducting a hearing regarding licensure qualifications of said applicant.

Section 3. Three (3) types of candidates will be accepted for licensure:
(1) Examination,
(2) Endorsement, and
(3) Reinstatement.

RICHARD V. McDOUGALL, Chairman
ADOPTED: March 13, 1981
RECEIVED BY LRC: April 15, 1981 at 2:50 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Nancy Brinly, Executive Secretary, 1614 Dunbarton Wynde, Louisville, Kentucky 40205.

DEPARTMENT OF FINANCE
Board of Physical Therapy
(Proposed Amendment)

201 KAR 22:031. Therapist's licensing procedure.

RELATES TO: KRS 327.050, 327.060, 327.080
PURSUANT TO: KRS 327.040
NECESSITY AND FUNCTION: The purpose of this regulation is to clearly define the procedure for issuing licenses. This regulation standardizes the administrative procedures involved in granting a physical therapy license through the various means of qualifying.

Section 1. *The fee for application by examination shall be $110 by money order, cashier's or certified check payable to the Kentucky State Treasurer.* Upon approval as a candidate by the board, the candidate for examination will be notified of the date, place and time of the examination by the board. Examination will be held at a time and location set by the board. The board will administer the Professional Examination Service of the American Public Health Association examination and/or other examinations as determined by the board to those qualified candidates permitted to sit for the examination.

Section 2. If an applicant becomes a candidate for licensure by examination after the fifth (5th) day of the month preceding the month that the next examination is to be held

and credentials of the applicant are in order and fees submitted *and the board is in receipt of a completed supervisory agreement statement*, then a temporary license shall be issued to be in force until sixty (60) days after the examination held six (6) months later, or until the results of that examination are received and processed, whichever comes first. A temporary license requires that the physical therapist applicant shall work only under the supervision of a physical therapist fully licensed in Kentucky. Supervision means that the responsible therapist be available and accessible by telecommunication to the temporarily licensed therapist at all times during the working hours of the temporarily licensed therapist and be responsible for the direction of the actions of the person supervised when services are performed by the temporarily licensed physical therapist. The board shall issue a temporary license only to:

(1) Graduates who have applied for licensure by examination, have met all requirements and are sitting for the next examination.

(2) Applicants for licensure by endorsement who have met all requirements but must take one (1) or more parts of the examination again.

(3) Foreign-trained physical therapists who have met all requirements for licensure and paid all fees provided for in KRS 327.060(2), except that the applicant has not taken the PES examination and has not yet begun a one (1) year board approved, employment as a physical therapist.

Section 3. The applicant shall have three (3) attempts to pass the examination. The original application fee covers the first attempt. The cost of the examination to the board plus an administrative fee of fifteen dollars ($15) must be assumed by the applicant for the second and third attempts. The temporary license will be issued after request for re-examination on the second and third attempts and payment of required fee at the discretion of the board. If the applicant fails on the third attempt, the temporary license is revoked and the applicant may no longer be employed in Kentucky as a physical therapist. The applicant may reapply after one (1) year but must submit a new application fee and no temporary license will be issued.

Section 4. Candidates examined by boards of other states and territories shall have registered their PES scores with the Interstate Reporting Service of the Professional Examination Service. The applicants' scores, calculated by the PES to meet Kentucky board requirements, shall be submitted to this board for consideration of licensure.

Section 5. The candidate for licensure by endorsement shall use the regular license application form and submit a fee to cover the cost of issuing the license, which shall be *sixty-five dollars ($65)* [seventy-five dollars ($75)]. The board will process the mechanics of endorsement. The Kentucky State Board of Physical Therapy will endorse a candidate who has been examined by the Professional Examination Service, meets the board's requirements of national average raw score minus 1.5 standard deviation set equal to a converted score of seventy-five (75) on each part of the examination, and whose physical therapy license has never been revoked or suspended, and is currently not on probation *or under disciplinary review* in another state.

Section 6. The candidate for licensure through reinstatement may receive renewal of his license without further examination upon requesting renewal, furnishing his complete current home and work addresses and telephone numbers, payment of the renewal fee of thirty dollars ($30) and reinstatement fee of fifteen dollars ($15) by money order, cashier's or certified check made payable to the Kentucky State Treasurer, and mailing these to the executive secretary of the board. Therapists who have not been licensed for three (3) years may, in addition, be required to appear before the board and/or show evidence of professional competency. Reinstatement of the candidate will be at the board's discretion after evaluation of said evidence.

Section 7. A license, which shall be in effect until the next January 31st shall be issued by the board as soon as it receives notice from the Professional Examination Service that the candidate by examination has received a passing grade which shall be set based on the national raw average score minus 1.5 standard deviation set equal to a converted score of seventy-five (75) on each part of the examination, and when candidates by endorsement and reinstatement have meet all requirements.

Section 8. The executive secretary of the board may function administratively to review, process, and interpret all applications received by the board and correspond with the applicants accordingly.

RICHARD V. McDOUGALL, Chairman
ADOPTED: March 13, 1981
RECEIVED BY LRC: April 15, 1981 at 2:50 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Nancy Brinly, Executive Secretary, 1614 Dunbarton Wynde, Louisville, Kentucky 40205.

DEPARTMENT OF FINANCE
Board of Physical Therapy
(Proposed Amendment)

201 KAR 22:101. Eligibility and method of applying for assistant's certification.

RELATES TO: KRS 327.040
PURSUANT TO: KRS 327.040
NECESSITY AND FUNCTION: In order to offer a high level of assistance to the physical therapist in delivery of his service, the role of physical therapist's assistant was developed. The assistant's work is carried out only under the supervision and direction of the physical therapist to whom the employee is responsible. This regulation identifies the requirements and mechanisms by which one may become certified as a physical therapist's assistant and defines supervision of practice and delegation of duties.

Section 1. (1) The physical therapist's assistant is a skilled technical worker who performs physical therapy and related duties as assigned by the physical therapist. This work is carried out only under the supervision and direction of the therapist to whom the employee is responsible. Supervision means that the responsible therapist be available and accessible by telecommunications to the assistant at all times during the working hours of the assistant and be responsible for the direction of the actions of the person supervised when services are performed by the

assistant. The therapist shall not designate to a less qualified person any service which requires the skill, knowledge and judgment of the therapist and shall perform personally the following activities, regardless of the setting in which service is given:

(a) Interpretation of physician referrals.

(b) Initial evaluation of the referred patient.

(c) Development of the treatment plan and program, including long and short term goals.

(d) Selection of the appropriate portions of the program to be delegated.

(e) Instruction of the assistant in the delegated functions to be carried out: precautions, special problems, contraindications, goals and anticipated progress, and plans for re-evaluation.

(f) Supervision of the assistant.

(g) Re-evaluation of the patient and adjustment of the treatment plan with the assistant present.

(h) Arrangement for reports (written and oral) from the assistant through the therapist to the physician or another physical therapy service.

(2) Only individuals certified as a physical therapist's assistant under this chapter may hold himself out as a physical therapist's assistant, and may use the initials PTA or CPTA, *or in any other manner imply that he is a physical therapist's assistant* in designating his/her title. From the effective date of this regulation, no person shall act, nor hold himself out to be able to act as an assistant in this state unless he/she is certified in accordance with the provisions of the board's regulations.

Section 2. (1) To be eligible for board certification the assistant applicant must have:

(a) Successfully completed the academic and clinical requirements of an approved physical therapist's assistant program;

(b) Been granted certification upon completion by the *administrator of that program;* [educational institution; and]

(c) Have successfully completed an examination required by the Kentucky State Board of Physical Therapy.

(d) Have paid a fee to the board relative to that person's vehicle of certification.

(2) All physical therapist's assistant programs accredited by the American Physical Therapy Association are periodically reviewed and updated for approval by the Kentucky State Board of Physical Therapy.

Section 3. A person desiring to practice as a physical therapist's assistant in Kentucky must apply to the Kentucky State Board of Physical Therapy. An application form will be sent to the applicant by the executive secretary of the board. When the completed application, certification of completion of all academic and clinical portions of an approved program, and *correct fee* [a money order, cashier's or certified check for fifty dollars ($50) made payable to the Kentucky State Treasurer] have been received, the applicant becomes an official candidate for certification.

Section 4. Four (4) types of candidates will be accepted for certification:

(1) Examination;

(2) Endorsement;

(3) Reinstatement; and

(4) Special.

RICHARD V. McDOUGALL, Chairman

ADOPTED: March 13, 1981

RECEIVED BY LRC: April 15, 1981 at 2:50 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Nancy Brinly, Executive Secretary, 1614 Dunbarton Wynde, Louisville, Kentucky 40205.

DEPARTMENT OF FINANCE
Board of Physical Therapy
(Proposed Amendment)

201 KAR 22:106. Assistant's certification procedure.

RELATES TO: KRS 327.040

PURSUANT TO: KRS 327.040

NECESSITY AND FUNCTION: Because certification may be achieved in several ways, this regulation defines the types of candidates, the fee and procedure for making application to the State Board of Physical Therapy as a candidate for certification as a physical therapist's assistant.

Section 1. *The fee for application by examination shall be $105 by money order, cashier's or certified check payable to the Kentucky State Treasurer.* Upon approval as a candidate by the board, the candidate for examination will be notified of the date, place and time of the examination. Examination will be held at a time and location set by the board. The board will administer the Professional Examination Service of the American Public Health Association examination and/or other examinations as determined by the board to those qualified candidates permitted to sit for the examination.

Section 2. If an applicant becomes a candidate for certification by examination after the fifth (5th) day of the month preceding the month that the next examination is to be held, [and] the credentials of the applicant are in order and correct fee submitted *and the board is in receipt of a completed supervisory agreement statement,* then a temporary certificate shall be issued to be in force until sixty (60) days after the next examination is held or until the results of that examination are received and processed, whichever comes first. A temporary certificate requires that the physical therapist's assistant work only with on-site supervision of a physical therapist licensed in Kentucky. The board shall issue a temporary certificate to:

(1) Graduates who have applied for certification and have met all requirements and are sitting for the next examination.

(2) Applicants for certification by endorsement who have met all requirements but must take the examination again.

Section 3. The applicant shall have three (3) attempts to pass the examination. The original fee [of fifty dollars ($50)] covers the first attempt. The cost of the examination to the board plus an administrative fee of fifteen dollars ($15) must be assumed by the applicant for the second and third attempts. If the applicant fails on the first and second attempts and requests re-examination and pays the required fee, at the discretion of the board, a temporary certificate shall be issued to allow the applicant to practice. If the applicant fails on the third attempt, the temporary certificate is revoked and the applicant may no longer be employed in Kentucky as a physical therapist's assistant. The applicant who has failed the qualifying examination three (3) times may reapply after one (1) year but must submit a new application fee and no temporary certificate will be issued.

Section 4. Candidates examined by boards of other states or territories shall have registered their PES scores with the Interstate Reporting Service of the Professional Examination Service. The applicant's scores, calculated by the PES to meet Kentucky board requirements, shall be submitted to this board for consideration of certification.

Section 5. The candidate for certification by endorsement shall use the regular application form. The board will process the mechanics of endorsement. The Kentucky State Board of Physical Therapy will endorse a candidate who has paid a fee to cover the cost of issuing the certificate which shall be *sixty-five dollars ($65)* [fifty dollars ($50)], been examined by the Professional Examination Service, meets the Kentucky board's requirements of the national raw average score minus 1.5 standard deviation set equal to a converted score of seventy-five (75), and has never had a physical therapist's assistant certificate revoked or suspended or whose certificate is currently not on probation *or under disciplinary review in another state.*

Section 6. The candidate for reinstatement may receive a renewal of his/her certificate without further examination upon requesting renewal, payment of the renewal fee of twenty dollars ($20), reinstatement fee for fifteen dollars ($15) by money order, cashier's or certified check made payable to the Kentucky State Treasurer, furnishing current complete home and business addresses and telephone numbers and mailing these to the executive secretary of the board. Assistants who have not been certified for three (3) or more years may, in addition, be required to work with on-site supervision for a maximum period of time of up to six (6) months; or possibly, after evaluation of each instance and at the board's discreton, may be required to be re-examined.

Section 7. Physical therapist candidates who fail to pass the physical therapists' licensure examination on three (3) attempts may become special candidates for certification as a physical therapist's assistant by application to the board. The board will only consider those candidates who have achieved at least a converted fifty (50) on each part of their physical therapist examination with a passing set equal to the national average raw score minus 1.5 standard deviation set equal to a converted seventy-five (75) on each part of the physical therapist examination.

Section 8. Certification, which shall be in effect until the next January thirty-first, shall be issued by the board when candidates for certification by endorsement, reinstatement and special means have met all requirements and the board has received notice from the Professional Examination Service that the candidate by examination has received a passing grade of at least the national raw average score minus 1.5 standard deviation set equal to a converted score of seventy-five (75).

RICHARD V. McDOUGALL, Chairman
ADOPTED: March 13, 1981
RECEIVED BY LRC: April 15, 1981 at 2:50 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Nancy Brinly, Executive Secretary, 1614 Dunbarton Wynde, Louisville, Kentucky 40205.

COMMERCE CABINET
Department of Fish and Wildlife Resources
(Proposed Amendment)

301 KAR 1:090. Bow fishing.

RELATES TO: KRS 150.025, 150.175, 150.360
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: The purpose of this regulation is to define and limit bow fishing. It is necessary to protect the sport fish population of the state. The Commissioner, with the concurrence of the Commission, finds it necessary to amend this regulation to *provide for night bow fishing and to include trout streams as prohibited bow fishing waters* [include the use of cross bows].

Section 1. Definition. The words "bow and arrow" as used in this regulation means any long bow or cross bow with an arrow or bolt with one or more barbs.

Section 2. Permitted conditions and waters. (1) Rough fish may be taken year round [during daylight hours] by bow and arrow with line attached, *except only rough fish having scales may be taken during nighttime hours,* from all waters except as specified in subsection (2).

(2) No bow and arrow may be used within [one (1) mile below Wolf Creek Dam or within] 700 yards below Kentucky Dam or within 200 yards of any other dam in the state. *Also excluded for bow fishing are all waters designated as prohibited waters for gigging and snagging in Section 5 of 301 KAR 1:075 (trout waters).*

(3) All persons using the bow and arrow for fishing are required to have an appropriate fishing license and may take rough fish from either the bank or from a boat. There is no limit on the number of rough fishes taken.

CARL E. KAYS, Commissioner
JACK T. BROOKS, Chairman
ADOPTED: March 2, 1981
APPROVED: W. BRUCE LUNSFORD, Secretary
RECEIVED BY LRC: March 24, 1981 at 12 noon.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: The Commissioner, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky 40601.

COMMERCE CABINET
Department of Fish and Wildlife Resources
(Proposed Amendment)

301 KAR 2:047. Specified areas; seasons, limits for birds and small game.

RELATES TO: KRS 150.025, 150.170, 150.175, 150.176, 150.330, 150.340, 150.360, 150.370
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: This regulation pertains to the hunting seasons, bag and possession limits for upland game birds and animals on specified wildlife management areas and refuges. This regulation is necessary for the continued protection of the species listed herein, and to insure a permanent and continued supply of the 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 upland game birds and animals within reasonable limits based upon an adequate supply.

Section 1. All statewide and specified area regulations, seasons, bag and possession limits apply to the following wildlife management areas, and refuges unless exceptions are listed herein.

Section 2. The following wildlife management areas are closed to all hunting at all times except for deer hunting as authorized by regulation *301 KAR 2:112* [301 KAR 2:109].
(1) Grayson Wildlife Management Area in Carter and Elliott Counties.
[(2) Beaver Creek Wildlife Management Area, including all private inholdings, in Pulaski and McCreary Counties.]
(2) [(3)] Cane Creek Wildlife Management Area, including all private inholdings, in Laurel County.
(3) [(4)] Robinson Forest Wildlife Management Area in Breathitt, Perry and Knott Counties.
[(5) Red Bird Wildlife Management Area including all private inholdings, in Leslie and Clay Counties.]
(4) [(6)] Mill Creek Wildlife Management Area, including all private inholdings, in Jackson County.
(5) [(7)] Dewey Lake Wildlife Management Area located in Floyd County.

Section 3. Exceptions to Statewide Small Game Hunting Regulations for Wildlife Management Areas and Refuges:
(1) West Kentucky Wildlife Management Area located in McCracken County.
(a) Quail: Third Thursday in November through February 15 on Tracts 2, 3, 6 and 7.
(b) Rabbit: Third Thursday in November through *January 31* [February 15] on Tracts 2, 3, 6 and 7. Other tracts may be opened and will be designated at the check station.
(c) Squirrel (gray and fox): Third Saturday in August through October 31 on Tracts 1, 2, 3, 4, 5 and 6. Third Thursday in November through December 31 on Tract 6 only.
(d) Raccoon and opossum: During the regular statewide season with gun or dog on Tracts 1, 2, 3, 4, 5 and 6 and night training on all tracts and shake-out on Tracts 1 through 6.
(e) Rabbit and quail hunters must check in and out at the designated check station.
(f) All tracts designated by number followed by the letter "A" are closed to gun hunting.
(g) Weapon restrictions. No rifles, or ball or slug ammunition of any type shall be permitted for taking small game on this area.
(2) Land Between the Lakes Wildlife Management Area located in Trigg and Lyon Counties. Areas open to hunting for the following species are located north of the state line to Barkley Canal, except that no hunting is allowed in developed public use areas, safety zones and posted areas unless otherwise noted.
(a) Squirrel (gray and fox): Third Saturday in August through October 1; December 1 through January 31 *and October 7 through November 8 only by legally licensed and equipped deer archery hunters.*
(b) Quail: December 1 through February.
(c) Rabbit: December 1 through January.
(d) Raccoon and opossum: Mondays, Tuesdays, Fridays and Saturdays during the period December 1 through January. Daily bag limit two (2) per person per night.
(e) Raccoon field trials: *December 1 through March 31* [February 1 through May]. Scheduled basis only. Written requests must be received by Land Between the Lakes at least ten (10) days prior to the proposed hunt date. Approval must be given by Land Between the Lakes and the Department of Fish and Wildlife Resources District Supervisor. Field trials must be recognized club hunts and each participant must be on a club roster for that hunt and must have a valid score card in his or her possession.
(f) Fox chasing: From sunset to sunrise; Third Saturday in August through October 1 south of highway 68 to state line.
(g) Gray fox and coyote taking: Daylight hours only; *Gun and archery on* December 1 through February. [and] October *7* [8] through November *8* [9] only by legally licensed and equipped deer archery hunters. *Any hand, mouth, mechanical or electronic recording and amplifying devices are legal to use in calling gray fox and coyote.*
(h) Woodchuck: Hunting during daylight hours only. March 18 through March 31 *and June 1 through June 15.* [and] October *7* [8] through November *8* [9] only by legally licensed and equipped deer archery hunters. No hunting in the Environmental Education Center Area including a one-quarter (¼) mile safety zone around the outside boundary. No hunting within one-quarter (¼) mile of The Trace, U.S. Highway 68, Energy Lake Road and Shaw Branch Road. [A special Land Between the Lakes woodchuck permit required.] All woodchucks harvested must be removed from the area. Legal weapons include center-fire rifles .17 caliber or larger, .22 caliber rimfire magnum rifles, muzzle-loading rifles, and longbows and compound bows according to state regulations. All other weapons are prohibited. Bow hunting only allowed in Hunt Area 8 and in that portion of Hunt Area 9 designated as the ORV Area.
(i) Bird dog and beagle hound training season: During the entire month of October on Turkey Creek portion of the ORV Area only. A permit is required from Land Between the Lakes.
(j) For Land Between the Lakes hunting rules refer to regulation 301 KAR 2:050.
(k) Permits. All required permits may be obtained by writing the Wildlife Management Section, Land Between the Lakes, Golden Pond, Kentucky 42231, or in person during open hours at the two information stations or the main office.
(l) Weapon restrictions: Unless otherwise specified, small game hunting is limited to muzzle-loading and breech-loading shotguns using No. 2 shot or smaller, rifles using .22 caliber rimfire ammunition, muzzle-loading rifles and arrows with blunt-tipped or field points.

(3) Reelfoot National Wildlife Refuge located in Fulton County.

(a) Squirrel (gray and fox): August *22* [23] through October 15 only in areas designated by signs as open to public hunting.

(b) Raccoon: September *23* [24] through September *26* [27] and *September 30* [October 1] through October *3* [4] on the Long Point refuge unit, with hunting allowed only during the hours of 7:30 p.m. to 12:00 midnight. No bag or possession limits.

(c) Permits: All hunters are required to have a special hunting permit which can be obtained at refuge headquarters, P.O. Box 295, Samburg, Tennessee 38254, or at designated check stations.

(d) Age limit. Hunters under age seventeen (17) must be accompanied by an adult. For safety reasons, the ratio should be one (1) adult to one (1) juvenile, but in no case more than two (2) juveniles per adult.

(e) Firearms. Only shotguns incapable of holding more than three (3) shells and .22 caliber rimfire rifles are permitted.

(f) Dogs are permitted only for raccoon hunting.

(g) Open fires and cutting trees are not permitted.

(4) Ballard County Wildlife Management Area located in Ballard County.

(a) Squirrel (gray and fox): Third Saturday in August through October 14 on the whole management area *except for designated areas that will be closed.*

(b) All statewide game seasons, bag and possession limits apply only to the wooded area south of Terrell Landing Road and designated by signs reading "Wildlife Management Area for Public Hunting."

(5) Central Kentucky Wildlife Management Area located in Madison County.

(a) Squirrel (gray and fox): Third Saturday in August through October 14.

(b) This area is closed to all hunting except dove (see statewide dove regulation) and squirrel.

(6) Curtis Gates Lloyd Wildlife and Recreation Area located in Grant County: Areas closed to hunting are designated by refuge signs. All statewide hunting seasons apply to remainder of the area.

(7) Pioneer Weapons Wildlife Management Area located in Bath and Menifee Counties. Hunters on this area are restricted to pioneer weapons only. These include muzzle-loading rifles, muzzle-loading pistols, muzzle-loading shotguns, longbows and crossbows. Muzzle-loading shotguns for taking squirrels, quail, grouse and rabbits must not use shot larger than No. 2 in size.

(8) Fort Campbell Wildlife Management Area located in Christian and Trigg Counties; there will be no hunting on December 25 and January 1 and Mondays and Tuesdays except when Monday *or Tuesday* is a federal holiday *and Tuesday, September 1*, then hunting will be permitted.

(a) Seasons, bag and possession limits:

1. Squirrel (gray and fox): September *1* [3] through September *20* [21], November 26 through December *11* [12], December *12* [13] through December 31 on selected areas; and January 2 through January 31.

2. Quail: November 26 through December *11* [12], December *12* [13] through December 31 on selected areas; January 2 through February.

3. Rabbit: November 26 through December *11* [12], December *12* [13] through December 31 on selected areas; January 2 through February; bag limit five (5); possession limit ten (10).

4. Raccoon and opossum: Taking with gun and/or dogs, November 26 through December *11* [12], December *12* [13] through December 31 on selected areas. January 2 through January 31; possession limit one (1) per person.

5. Gray fox and woodchuck: September *1* [3] through September *20* [21]. January 2 through February.

6. Red fox: November 26 through December *11* [12], December *12* [13] through December 31 on selected areas. January 2 through January 31.

7. Bobcat: The season is closed on bobcat.

(b) Permission must be obtained for each hunt at building #6645 and hunters must stay within their assigned area. A hunting permit costing fifteen dollars ($15) is required and is good for all species hunting for the season.

(c) All hunters between the ages of twelve (12) and sixteen (16), must possess a valid hunter safety certificate.

[(9) Knob State Forest located in Nelson County. Closed to all small game hunting except squirrels during the regular statewide seasons. Squirrel hunting weapons are limited to shotguns using shotshells and .22 caliber rimfire rifles and longbows and compound bows.]

(9) [(10)] Clay Wildlife Management Area located in Nicholas County is closed to the training of all dogs during the period October 1 through November 15.

(10) [(11)] Pine Mountain Wildlife Management Area located in Letcher County is closed to training of all dogs during the period March 1 through August 1.

(11) Red Bird Wildlife Area located in Leslie and Clay Counties.

(a) Squirrel (gray and fox): October 17 through October 30.

(b) Grouse and quail: January 16 through January 29.

(c) Firearms: Only shotguns incapable of holding more than three (3) shells are permitted.

(d) Dogs: Dogs are permitted for hunting all the wildlife species listed in this subsection.

(e) This area is closed to all other hunting except deer as authorized by regulation 301 KAR 2:112.

(12) Beaver Creek Wildlife Area located in McCreary and Pulaski Counties.

(a) Squirrel (gray and fox): October 17 through October 30.

(b) Grouse and quail: January 16 through January 29.

(c) Firearms: Only shotguns incapable of holding more than three (3) shells are permitted.

(d) Dogs: Dogs are permitted for hunting all the wildlife species listed in this subsection.

(e) This area is closed to all other hunting except deer as authorized by regulation 301 KAR 2:112.

CARL E. KAYS, Commissioner
JACK T. BROOKS, Chairman

ADOPTED: March 1, 1981
APPROVED: W. BRUCE LUNSFORD, Secretary
RECEIVED BY LRC: April 13, 1981 at 10 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: The Commissioner, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, No. 1 Game Farm Road, Frankfort, Kentucky 40601.

COMMERCE CABINET
Department of Fish and Wildlife Resources
(Proposed Amendment)

301 KAR 2:111. Deer and turkey hunting on special areas.

RELATES TO: KRS 150.025, 150.170, 150.175, 150.305, 150.330, 150.340, 150.360, 150.370, 150.390
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: This regulation pertains to the deer gun and archery season and the turkey archery season on special deer areas. This regulation is necessary for the continued protection of the species listed herein, and to insure a permanent and continued supply of the 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 deer and turkey within reasonable limits based upon an adequate supply.

Section 1. Deer and Turkey Season on Special Deer Areas. Unless stated herein, statewide deer gun and archery season regulations apply.

(1) Land Between the Lakes Wildlife Management Area located in Trigg and Lyon Counties:

(a) Deer archery hunts (either sex): White-tailed or fallow deer. October *7* [8] through November *8* [9]. December *12* [13] through December 31.

(b) Quota deer hunts:

1. Quota gun hunts: White-tailed or fallow deer. Antlered deer only. Some areas *antlerless only or any deer* [either sex] as specified on permit. November *17, 19-20, 24-25 and 28-29* [14, 18-19, 25-26 and 29-30].

2. Quota archery hunts: Only antlerless white-tailed or fallow deer unless otherwise specified on the permit, in that portion of the Environmental Education Center designated as hunt area 17. November *14-15, 17, 19-20, 24-25 and 28-29* [14, 18-19, 22-23, 25-26 and 29-30].

(c) Turkey archery hunts: Gobblers only with visible beards. Statewide *1981 season limits only* [limit of one (1) per calendar year applies]. October *7* [8] through November *8* [9] and December *12* [13] through December 31. Hunter must have a valid wild turkey permit in possession when a turkey is taken. Turkey hunting will not be allowed after a hunter has harvested a deer.

(d) Quota deer gun hunt for youths only: One (1) white-tailed or fallow deer of either sex on November *14-15* [22-23]. Hunting is restricted to persons at least ten (10) years of age but who have not reached their sixteenth (16th) birthday. Each youth must be accompanied by an adult and must have a valid Kentucky hunting license, a state deer permit, a Land Between the Lakes Youth Hunt Permit and a Hunter Safety Certificate.

(e) Bag limits: The deer bag limit for the Kentucky portion of Land Between the Lakes is two (2) deer; provided only one (1) deer of either sex is taken during the Land Between the Lakes deer archery season October *7* [8] through November *8* [9] and December *12* [13] through December 31, and one (1) deer is taken during any quota gun or archery hunts at Land Between the Lakes. Persons who have taken their first deer elsewhere in Kentucky, including other designated special deer areas, may take a second deer at Land Between the Lakes by means of any type of legal weapon permitted on this area. Persons who take their first deer at Land Between the Lakes are eligible to take their second deer elsewhere in Kentucky including other designated special deer areas by means of any legal deer hunting weapon. Under no circumstances may an individual hunter take more than two (2) deer anywhere in the state.

(f) Areas open and closed to hunting: State line to Barkley Canal is open to hunting except for developed public use areas (unless posted as open), safety zones and posted areas. Duncan Bay Area on Kentucky Lake is closed to all activity during the dates designated by signs posted along the boundary as an eagle and waterfowl refuge.

(g) Youth and quota hunt applications: A drawing by computer will select hunters for each of these hunts. Application forms are available from, and must be submitted to, *Quota* [Kentucky] Deer Hunt, Land Between the Lakes, Golden Pond, Kentucky 42231. Completed applications must be received by the wildlife staff at the Land Between the Lakes Administrative Office no later than 3:30 p.m. on the last Wednesday in July.

(h) Checking in and out:

1. Quota gun hunters. All gun hunters, including those camping in Land Between the Lakes, must check in, but will not be required to check out unless a deer is harvested. Hunters must check in between 9:00 a.m. and 5:00 p.m. the day before the hunt, or after 4:00 a.m. on hunt days. Check stations will be open from 4:00 a.m. to 6:30 p.m. (CST) on hunt days.

2. Archery hunters. Archery hunters are not required to check in or out except on quota hunts. All deer and turkey harvested must be checked out.

(i) Permits and tagging requirements:

1. Permits. A Land Between the Lakes hunting permit is required for each hunter participating in the deer *and turkey* archery season and *an* [a] *L.B.L.* computer card permit is required for each hunter participating in the quota deer gun or archery hunts.

2. Tags. All harvested deer and turkey must be tagged with a Land Between the Lakes permanent game tag before being removed from the area. In addition, all deer and turkey harvested must have the state tag attached. Hunters eligible to harvest a second deer at Land Between the Lakes must present their copy of the Land Between the Lakes permanent game tag which was attached to the first deer harvested or the stamped (at a check station) and punched "A" tag portion of their Kentucky first deer permit. They will be issued a free Land Between the Lakes second deer permit which must be accompanied by a Kentucky second deer permit to be valid. Permanent Land Between the Lakes game tags will be attached to all harvested deer and turkey at Land Between the Lakes check stations.

(j) Prohibited and permitted weapons. All deer hunting weapons listed in the statewide deer gun and archery season regulation are permitted except for crossbows and muzzle-loading handguns.

(k) For Land Between the Lakes general hunting rules refer to 301 KAR 2:050.

(2) Fort Campbell Wildlife Management Area located in Christian and Trigg Counties. There will be no hunting on Mondays and Tuesdays except when Monday *or Tuesday* is a federal holiday. An exception to this is December 25 [and January 1] when no hunting will be permitted.

(a) Deer archery *and muzzle-loading rifles* (either sex): September *26* [27] through October *4*. [5 and October 11 through November 23 on selected areas. December 13-14, 20-21 and December 24 through December 31 on selected areas.]

(b) Deer gun *and archery* (either sex): October *10* [11] through November *22* [23]. December *12* [13-14, 20-21 and December 24] through December 31 on selected areas.

[Rifles on December 20-21 only, on selected areas.]

(c) Bag limits: The bag limit for Kentucky license holders hunting on Fort Campbell will be two (2) deer of either sex taken by either gun or bow. *Prior to November 22, once a hunter has taken his first deer on Fort Campbell, he is not eligible for weekend drawings (i.e., he can only hunt on Wednesdays through Fridays or on weekend standby) until the reopening of deer hunting on December 12. At that time if he has not harvested his limit he is eligible for the weekend drawing until he has taken his limit.* [; provided only one (1) deer of either sex is taken by gun or bow during the first hunting period of September 27 through November 23 and one (1) deer of either sex by gun or bow during the second hunting period of December 13 through December 31. If no deer is taken during the first hunting period, this does not entitle the hunter to take two (2) deer during the second hunting period.] Persons who have taken their first deer elsewhere in Kentucky, including other designated special deer areas, may take a second deer at Fort Campbell by means of any type of legal weapon permitted on this area. Persons who take their first deer at Fort Campbell are eligible to take their second deer elsewhere in Kentucky including other designated special deer areas by means of any legal deer hunting weapon. Each deer taken must be tagged with a valid Kentucky first or second deer tag. Under no circumstances may an individual hunter take more than two (2) deer anywhere in the state.

(d) Permits and tagging requirements:

1. Deer hunters must purchase a fifteen dollar ($15) post hunting and fishing permit which includes a Fort Campbell deer tag, at building #6645. All Fort Campbell deer hunters must also have a valid Kentucky deer permit. Persons sixty-five (65) years of age or older are not required to purchase a post hunting and fishing permit.

2. All deer taken on post by Kentucky hunters must have a valid Kentucky first or second deer tag attached to the carcass and the "A" tag portion of the permit stamped by post authorities at building #6645.

(e) Prohibited and permitted weapons: Handguns and crossbows are prohibited. Center-fire rifles of .240 caliber or larger will be permitted only *in areas west of Palmyra Road* [during a special two (2) day rifle hunt on specified areas]. Hunting arrows must be not less than twenty-four (24) inches in length, equipped with broadhead barbless blades not less than seven-eighths (7/8) inch nor more than *two (2)* [one and one-half (1½)] inches wide for single two (2) edged blades, or not more than *three and one-half (3½)* [three (3)] inches in circumference for three (3) or more blades. The minimum weight for all broadheads is 100 grains. Explosive heads are prohibited on arrows.

(f) Hunter safety certificate: All deer hunters between the ages of twelve (12) and sixteen (16) must possess a hunter safety certificate.

(g) Special clothing requirements: All deer gun hunters must wear a cap and jacket or panels of daylight fluorescent orange totaling 500 square inches.

(h) Deer hunting information: Information on deer hunting, hunting permits and drawings may be obtained by writing the Recreation Services Division, attention: Outdoor Recreation Branch, Hunting and Fishing Unit, Fort Campbell, Kentucky 42223, or by calling AC502-798-2175.

(3) Fort Knox Wildlife Management Area located in Hardin, Bullitt and Meade Counties:

(a) Deer archery hunt (either sex): October *3* [4] through November *8* [9].

(b) Deer gun hunt[, first phase] (either sex): November *28-29* [27-28], *December 12-13* [and November 29-30] *and December 19-20.*

[(c) Deer gun hunt, second phase (either sex): December 1-20 on selected areas.]

(c) [(d)] Bag limits: The post bag limit is one (1) deer of either sex. Persons who have taken their first deer elsewhere in Kentucky, including other designated special deer areas may take their second deer at Fort Knox by any legal weapon permitted on this area. Persons who take their first deer on Fort Knox are eligible to take their second deer elsewhere in Kentucky, including other designated special deer areas, by means of any legal deer hunting weapon. Under no circumstances may an individual hunter take more than two (2) deer anywhere in the state.

(d) [(e)] Applications: Separate applications are required for archery and gun hunts. For inquiries concerning deer hunting call AC502-624-7311.

1. Archery hunts: Civilians not working on post must apply for weekend archery hunts by mail. No more than five (5) hunters may apply on any one (1) application. Applications must not be postmarked earlier than *July 25* [August 1] or later than August *8* [15] to be considered for the drawing for weekend archery hunts. Applicants drawn will be assigned two (2) weekends of archery hunting. Applications must include type of hunt (archery), name and address of each hunter and a *fifteen dollar ($15)* [twenty-five dollar ($25)] money order, certified check or cashier's check for each hunter, made payable to Treasurer of the United States. Mail applications to Conservation and Beautification Committee, P.O. Box 1052, Fort Knox, Kentucky 40121. Weekday archery hunting will be on a first come, first served basis. Sign-up for weekday hunts must be made forty-eight (48) hours in advance at Hunt Control Headquarters Building 1060.

2. Gun hunts[, first phase]: Civilians not working on post must apply for a two (2) day gun hunt by mail. No more than five (5) hunters may apply on any one (1) application. Applications must not be postmarked earlier than *August 22* [September 1] or later than September *5* [12] to be considered for a random drawing. Hunters will be assigned one (1), two (2) day hunting period [(November 27-28 or November 29-30)]. Applications must contain the type of hunt (gun), names and addresses of each hunter, and a *fifteen dollar ($15)* [twenty-five dollar ($25)] money order, certified check or cashier's check for each hunter, made payable to Treasurer of the United States. Mail applications to Conservation and Beautification Committee, P.O. Box 1052, Fort Knox, Kentucky 40121.

[3. Gun hunts, second phase: All hunters must sign up for a drawing for weekend hunting on the Monday or Tuesday prior to the weekend of the desired hunt. Weekday hunters will be required to register the day prior to hunting. Civilians not working on post must sign up from 11:00 a.m. to 3:00 p.m. at Hunt Control Headquarters, Building 1060, Fort Knox, Kentucky 40121.]

(e) [(f)] Check stations and validation of state deer permit: All deer taken during the archery season [and the December 1-20 gun hunts] must be checked in at Building 1060. Deer taken during the [November 27-30] gun hunts must be checked in at Building *7331* [7334] on 9th Avenue. Deer tags must be stamped "Taken at Fort Knox" to be valid.

(f) [(g)] Hunting hours: One-half (½) hour before sunrise until 5:00 p.m. local prevailing time. Hunters must clear hunt control by 7:00 p.m.

(g) [(h)] Prohibited and permitted weapons: Only breech-loading and muzzle-loading shotguns of twelve (12) gauge maximum and twenty (20) gauge minimum firing a single projectile, and muzzle-loading rifles of .38 caliber to .58 caliber firing a single projectile will be permitted. Crossbows are prohibited. Longbows and compound bows must have a minimum pull weight of forty (40) pounds.

(h) [(i)] Hunter safety certificates: All deer hunters under the age of sixteen (16) must possess a hunter safety certificate.

(4) Blue Grass Ordnance Depot located in Madison County:

(a) Deer archery hunts (either sex): October *10, 17 and 24* [11, 18 and 25].

(b) Deer gun hunts (either sex): December *5, 12 and 19* [6, 13 and 20].

(c) Bag limits: The post bag limit is one (1) deer of either sex. Persons who have taken their first deer elsewhere in Kentucky, including other designated special areas, may take their second deer on Blue Grass Ordnance Depot by any legal weapon permitted on this area. Persons who take their first deer on Blue Grass Ordnance Depot are eligible to take their second deer elsewhere in Kentucky, including other designated special deer areas by means of any legal deer hunting weapon. Under no circumstances may an individual hunter take more than two (2) deer anywhere in the state.

(d) Applications: Separate applications are required for archery and gun hunts. [For inquiries concerning deer hunting call AC606-623-8383 between the hours of 7:30 a.m. to 4:00 p.m.] Applications for the drawings must be made on a postcard with only one (1) hunter allowed per card. More than one (1) postcard per individual will disqualify the applicant. When a husband or wife or father (or other adult) and juvenile desire to hunt together, the required information may be written on individual three (3) inch by five (5) inch cards, stapled together, and mailed in one (1) envelope. Each applicant must furnish name and address (including zip code), telephone number and specify whether gun or archery hunting is desired. Hunting dates and areas will be decided by a drawing. All cards or envelopes must be postmarked no earlier than August 10 or later than September 10 to be eligible for the drawing. A ten dollar ($10) per person fee will be charged for hunting payable on the assigned hunting date. Mail all applications to: Deer Hunt, Building S-14, [BGA,] Lexington Blue Grass Depot Activity, Lexington, Kentucky 40511.

(e) Age limits: No one under the age of fourteen (14) will be allowed to hunt. Hunters under sixteen (16) must be accompanied by an adult.

(f) Prohibited and permitted weapons: Only breech-loading or muzzle-loading shotguns of ten (10) gauge maximum and twenty (20) gauge minimum firing a single projectile are permitted. Crossbows are prohibited.

(g) Harvest quota: Hunting will be discontinued whenever the designated deer harvest quota is reached.

CARL E. KAYS, Commissioner
JACK T. BROOKS, Chairman

ADOPTED: March 1, 1981
APPROVED: W. BRUCE LUNSFORD, Secretary
RECEIVED BY LRC: April 13, 1981 at 10 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: The Commissioner, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, No. 1 Game Farm Road, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Labor
(Proposed Amendment)

803 KAR 1:025. Equal pay provisions, meaning and application.

RELATES TO: KRS 337.420 to 337.433
PURSUANT TO: KRS 13.082, 337.425(4)
NECESSITY AND FUNCTION: KRS 337.425 authorizes the Commissioner of Labor to issue regulations appropriate to carry out the provisions of KRS 337.420 to 337.433. The function of this regulation is to make available official interpretations of the Department of Labor with respect to the meaning and application of the equal pay provisions set forth in KRS 337.420 to 337.433.

Section 1. Application of Provisions in General. (1) Application to employers. The prohibition against discrimination in wages on account of sex contained in KRS 337.423 is applicable to every employer who has *two (2)* [eight (8)] or more employes employed within the state in each of twenty (20) or more calendar weeks in the current or preceding calendar year. The employer may not discriminate on the basis of sex against such employes in any establishment in which such employes are employed by paying them wages at rates lower than he pays employes of the opposite sex employed in the same establishment for work on jobs which have comparable requirements relating to skill, effort and responsibility. The law excepts from this general prohibition such differences between the wage rates pursuant to established seniority systems or merit systems which do not discriminate on the basis of sex. It is clear in KRS 337.423(2) that where a wage rate differential in violation of the provision is paid, the violation cannot be corrected by reducing the wage rate of any employe.

(2) Application to establishments:

(a) The prohibition against discrimination in wages on account of sex applies within the same establishment. It should be kept in mind, in determining an employer's obligations under the law, that employer and establishment as used in the statute are not synonymous terms. An employer may have more than one (1) establishment in which he employs employes. In such cases, there shall be no comparison between wages paid to employes in different establishments.

(b) Although not expressly defined in the law, the term establishment has a well settled meaning in the application of the statute's provisions. It refers to a distinct physical place of business rather than to an entire business or enterprise which may include several separate places of business. Each physically separate place of business is ordinarily considered a separate establishment.

(c) Application to employes. There must be compliance by the employer with the equal pay requirements within the same establishment in which employes are employed by him. The statute speaks of the employment of employes in the establishment rather than of their engagement in work there. The statute applies to all work performed in the establishment even if the work is performed away from the physical premises of the establishment in which they are employed.

Section 2. Meaning of Wage Rate. The term "wage rate" used in KRS 337.420(3) shall include all payments made to or on behalf of the employe as remuneration for employment. This shall include such payments referred to

as fringe benefits. Thus, vacation and holiday pay, and premium payments for work on Saturdays, Sundays, holidays, regular days of rest, pension benefits, insurance benefits, and other fringe benefits paid as remuneration for employment must be considered in applying the equal pay provisions of the law. On the other hand, payments made by an employer to an employe which do not constitute remuneration for employment are not wages to be compared for equal pay purposes. Examples are payments related to maternity, and such reasonable payments for reimbursable expenses of traveling on the employer's business.

Section 3. Male Jobs and Female Jobs. (1) Wage classification systems which designate certain jobs as male jobs and other jobs as female jobs frequently specify markedly lower rates for the female jobs. Because such a practice frequently indicates a pay practice of discrimination based on sex, where such system exists a serious question would be raised as to whether prohibited wage differentials are involved.

(2) The law was intended to eliminate sex as a basis for wage differentials between employes performing comparable work on jobs within the establishment, and if the rates paid for the same jobs are lower when occupants of the jobs are of one (1) sex than they are when the jobs are filled by employes of the opposite sex, such discrimination within the establishment is equally in violation of the statutory prohibition whether or not employes of both sexes are employed in such jobs at the same time. Accordingly, where an employe of one (1) sex is hired or assigned to a particular job to replace an employe of the opposite sex, comparison of the newly assigned employe's wage rate with that of the replaced former employe is required, whether or not the job is performed concurrently by employes of both sexes. For example, if a particular job which in the past has been performed by a male employe becomes vacant and is then filled by a female employe, it would be contrary to the equal pay requirement to pay the female employe a lower wage rate than was paid for the same job when performed by the male employe, even though employes of both sexes may not be performing the job at the same time. Payment of the lower wage rate in such circumstances is a prohibited wage differential. The same principle is involved if all employes of one (1) sex are removed from a particular job by transfer or discharge so as to retain employes of only one (1) sex in a job previously performed interchangeably or concurrently by employes of both sexes. If a prohibited sex-based wage differential had been established or maintained in violation of the law when the same job was being performed by employes of both sexes, the employer's obligation to pay the higher rate for the job cannot be avoided or evaded by the device of confining the job to members of the lower paid sex. Compliance with the law in such circumstances can be achieved only by increasing the wage rate to the higher rate paid for the job when performed by employes of the opposite sex.

Section 4. Inequalities in Pay That Raise Questions Under the Law. It is necessary to scrutinize with special care those inequalities in pay between employes of opposite sexes which may indicate a pattern of discrimination in wage payment that is based on sex. Thus, a serious question would be raised where such an inequality, allegedly based on a difference in job content, is in fact one on which the employe occupying the job purportedly requiring the higher degree of skill, effort, or responsiblity receives the lower wage rate. Likewise, because the equal pay amendment was designed to eliminate wage rate differentials which are based on sex; situations will be carefully scrutinized where employes of only one (1) sex are concentrated in the lower grades of the wage scale, and where there does not appear to be any material relationship other than sex between the lower wage rates paid to such employes and the higher rates paid to employes of the opposite sex. Such concentrations in rate range situations may occur also where an employer follows a practice of paying a range of rates to newly hired employes. Differentials in entrance rates will not constitute a violation of the equal pay principle if the factors taken into consideration in determining which rate is to be paid each employe or applied equally to men and women. This would be true, for example, if all persons who have a parent employed by the firm are paid at the highest rate of the rate range whether they are men or women. However, if in a particular establishment all persons of one (1) sex tend to be paid at the lowest rate of the range and employes of the opposite sex hired to perform the same work tend to be paid at the highest rate of the range, and if no specific factor or factors other than sex appear to be associated with the difference in pay, a serious question would be raised as to whether the pay practice involves prohibited wage differentials.

Section 5. Equality and Inequality of Pay in Particular Situations. (1) Overtime work. Because overtime premiums are a part of wages for purposes of the equal pay provisions, where men and women receive the same straight-time rates for work subject to the equal pay standards, but the men receive an overtime premium rate of twice the straight-time rate while the women receive only one and one-half (1½) times the straight-time rate for overtime, a prohibited wage rate differential is being paid. On the other hand, where male and female employes perform comparable work during regular hours but employes of one (1) sex only continue working overtime into another work period, work performed during this later period may be compensated at a higher rate where such is required by law or is the customary practice of the employer. However, in such a situation the payment of the higher rate to employes of one (1) sex for all hours worked, including the non-overtime hours when they are performing comparable work with employes of the opposite sex would result in a violation of the equal pay provisions. If male and female employes are performing equal work in the establishment during regular hours but only some of these employes continue working into an overtime period, payment of a higher wage rate for the overtime worked would not be in violation of the equal pay standard so long as it were paid for the actual overtime hours worked by the employes, whether male or female.

(2) Special assignments. The fact that an employe may be required to perform an additional task outside his regular working hours would not justify payment of a higher wage rate to that employe for all hours worked. However, employes who are assigned a different and unrelated task to be performed outside the regular workday may under some circumstances be paid at a different rate of pay for the time spent in performing such additional duty provided such rate is commensurate with the task performed. For example, suppose a male employe is regularly employed in the same job with female employes in the same establishment in work which requires comparable skill, effort, and responsibility, except that the male employe must carry money to a bank after the establishment closes at night. Such an employe may be

paid at a different rate for the time spent in performing this unrelated task if the rate is appropriate to the task performed and the payment is bona fide and not simply used as a device to escape the equal pay requirements of the statute.

(3) Vacation or holiday pay. Since vacation or holiday pay is deemed to be remuneration for employment included in wages within the meaning of the law, if employes of one (1) sex receive vacation pay for a greater number of hours than employes of the opposite sex, a prohibited wage rate differential is being paid if their work is subject to the equal pay standard and the differential is not shown to come within any of the specified exceptions.

(4) Contributions to employe benefit plans. If employer contributions to a plan providing insurance or similar benefits to employes are equal for both men and women, no wage differential prohibited by the equal pay provisions will result from such payments, even though the benefits which accrue to the employes in question are greater for one (1) sex than for the other. The mere fact that the employer may make unequal contributions for employes of opposite sexes in such a situation will not, however, be considered to indicate that the employer's payments are in violation of the law, if the resulting benefits are equal for such employes.

(5) Commissions. The establishment of different rates of commission on different types of merchandise would not result in a violation of the equal pay provisions where the factor of sex provides no part of the basis for the differential. For example, suppose that a retail store maintains two (2) shoe departments, each having employes of both sexes, that the shoes carried in the two (2) departments differ in style, quality, and price, and that the male and female sales clerks in the one (1) department are performing comparable work with those in the other. In such a situation, a prohibited differential would not result from payment of a lower commission rate in the department where a lower price line with a lower markup is sold than in the other department where the merchandise is higher priced and has a higher markup, if the employer can show that the commission rates paid in each department are applied equally to the employes of both sexes in the establishment for all employment in that department and that the factor of sex has played no part in the setting of the different rates.

Section 6. The Equal Pay for Equal Work Standard; Generally. (1) The job concept in general. KRS 337.423 prohibits an employer from paying to employes of one (1) sex wages at rates lower than he pays employes of the opposite sex for comparable work on jobs described by the statute in terms of equality of the skill, effort, and responsibility required for performances and similarity of the working conditions under which they are performed. This descriptive language refers to jobs. In applying the various tests of equality to the requirements for the performance of such jobs, it will generally be necessary to scrutinize the job as a whole and to look at the characteristics of the jobs being compared over a full work cycle. This will be true because the kinds of activities required to perform a given job and the amount of time devoted to such activities may vary from time to time.

(2) Effect of differences between jobs in general. The statute requires that jobs with comparable requirements should be compared in applying the equal pay for equal work standard. Jobs that require comparable skill, effort, and responsibility in their performance within the meaning of the law are usually not identical in every respect. Inconsequential differences in job content would not be a valid excuse for payment of a lower wage to an employe of one (1) sex than to an employe of the opposite sex if the two (2) are performing comparable work on essentially the same jobs in the same establishment.

(3) Job content controlling. Application of the equal pay standard is not dependent on job classifications or titles but depends rather on actual job requirements and performance. For example, the fact that jobs performed by male and female employes may have the same total point value under an evaluation system in use by the employer does not in itself mean that the jobs concerned are comparable according to the terms of the statute. Conversely, although the point values allocated to jobs may add up to unequal totals, it does not necessarily follow that the work being performed in such jobs is unequal when the statutory tests of the equal pay standard are applied. Job titles are frequently of such a general nature as to provide very little guidance in determining the application of the equal pay standard. For example, the job title "clerk" may be applied to employes who perform a variety of duties so dissimilar as to place many of them beyond the scope of comparison under the statute. Clearly, the equal pay standard would not apply where jobs require such substantially different duties, even though the job titles are identical.

(4) General guides for testing equality of jobs:

(a) What constitutes comparable skill, comparable effort, or comparable responsibility cannot be precisely defined. In interpreting these key terms of the statute, the broad remedial purpose of the law must be taken into consideration. The terms are considered to constitute three (3) separate tests, each of which must be met in order for the equal pay standard to apply. In applying the tests it should be kept in mind that comparable does not mean identical. Insubstantial or minor differences in the degree or amount of skill, or effort, or responsibility required for the performance of jobs will not render the equal pay standard inapplicable. On the other hand, substantial differences, such as those customarily associated with differences in wage levels when the jobs are performed by persons of one (1) sex only, will ordinarily demonstrate an inequality as between the jobs justifying differences in pay. In determining whether job differences are so substantial as to make jobs unequal, it is pertinent to inquire whether and to what extent significance has been given to such differences in setting the wage levels for such jobs. Such an inquiry may, for example, disclose that apparent differences between jobs have not been recognized as relevant for wage purposes and that the facts as a whole support the conclusion that the differences are too insubstantial to prevent the jobs from being comparable in all significant respects under the law.

(b) In determining whether differences in job content are substantial in order to establish whether or not employes are performing comparable work, the amounts of time which employes spend in the performance of different duties are not the sole criteria. It is also necessary to consider the degree of difference in terms of skill, effort, and responsibility. These factors are related in such a manner that a general standard to determine comparability of jobs cannot be set up solely on the basis of a percentage of time.

Section 7. Comparable Skill. (1) Jobs requiring comparable skill in performance. The jobs to which the equal pay standard is applicable are jobs requiring comparable skill in their performance. Where the amount or degree of skill required to perform one (1) job is substantially greater

than that required to perform another job, the equal pay standard cannot apply even though the jobs may be comparable in all other respects. Skill includes consideration of such factors as experience, training, education, and ability. It must be measured in terms of the performance requirements of the job. If an employe must have essentially the same skill in order to perform either of two (2) jobs, the jobs will qualify under the statute as jobs the performance of which requires comparable skill, even though the employe in one (1) of the jobs may not exercise the required skill as frequently or during as much of his working time as the employe in the other job. Possession of a skill not needed to meet requirements of the job cannot be considered in making a determination regarding comparability of skill. The efficiency of the employe's performance in the job is not in itself an appropriate factor to consider in evaluating skill.

(2) Comparing skill requirements of jobs. As an illustration of the principle of comparable skill, suppose that a man and a woman have jobs classified as typists. Both jobs require them to spend two-thirds (⅔) of their working time in typing and related activities such as proofreading and filing, and the remaining one-third (⅓) in diversified tasks, not necessarily the same. Since there is no difference in the skills required for most of their work, whether or not these jobs require comparable skill in performance will depend upon the nature of the work the employes must actually perform during this latter period to meet the requirements of the jobs. If it happens that the man, during the remaining one-third (⅓) of the time, spends twice as much time operating a calculator as does the woman who prefers and is allowed to do most of the copying work required in the office, this would not preclude a conclusion that the performance of the two (2) jobs requires comparable skill if there is actually no distinction in the performance requirements of such jobs so far as the skills utilized in these tasks are concerned. Even if the man were required to do all of the calculating work in order to perform his job, it is not at all apparent that the jobs would require substantially different degrees of skill unless it should appear that operation of that calculator requires more training and can command a higher wage than the typing and related work performed by both the man and the woman and that the work required to be done by the woman in the remaining one-third (⅓) of the time requires less training and is recognized as commanding a lower wage whether performed by a man or a woman.

Section 8. Comparable Effort. (1) Jobs requiring comparable effort in performance. The jobs to which the equal pay standard is applicable are jobs that require comparable effort to perform. Where substantial differences exist in the amount or degree of effort required to be expended in the performance of jobs, the equal pay standard cannot apply even though the jobs may be comparable in all other respects. Effort is concerned with the measurement of the physical or mental exertion needed for the performance of a job. Where jobs are otherwise comparable under the statute, and there is no substantial difference in the amount or degree of effort which must be expended in performing the jobs under comparison, the jobs may require comparable effort in their performance even though the effort may be exerted in different ways on the two (2) jobs. Differences only in the kind of effort required to be expended in such a situation will not justify wage differentials.

(2) Comparing effort requirements of jobs. To illustrate the principle of comparable effort exerted in different ways, suppose that a male checker employed by a supermarket is required to spend part of his time carrying out heavy packages or replacing stock involving the lifting of heavy items whereas a female checker is required to devote a comparable degree of effort during a similar portion of her time to performing fill-in work requiring greater dexterity, such as rearranging displays of spices or other small items. The difference in kind of effort required of the employes does not appear to make their efforts unequal in any respect which would justify a wage differential, where such differences in kind of effort expended to perform the job are not ordinarily considered a factor in setting wage levels. Further, the occasional or sporadic performance of an activity which may require extra physical or mental exertion is not alone sufficient to justify a finding of unequal effort. Suppose, however, that men and women are working side by side on a line assembling parts. Suppose further that one (1) of the men who performs the operations at the end of the line must also lift the assembly, as he completes his part of it and place it on a waiting pallet. In such a situation, a wage rate differential might be justified for the person who is required to expend the extra effort in the performance of his job, provided that the extra effort so expended is substantial and is performed over a considerable portion of the work cycle. However, a serious question would be raised about the bona fides of wage differential if it is paid to a male employe who is otherwise performing comparable work with female employes on the basis that the male is required to do some heavy lifting, unless a similar distinction in wage rates is made in the establishment as between male employes only where some do heavy lifting and others do not. In general, a wage rate differential based on differences in the degree or amount of effort required for performance of jobs must be applied uniformly to men and women. For example, if all women and some of the men performing a particular type of job do not perform heavy lifting, and some men do, payment of a higher wage rate to all of the men than to the women would constitute a prohibited wage rate differential if the equal pay provisions otherwise apply.

Section 9. Comparable Responsibility. Jobs requiring comparable responsibility in performance. The jobs to which the equal pay standard applies are jobs in the performance of which comparable responsibility is required. Responsibility is concerned with the degree of accountability required in the performance of the job, with emphasis on the importance of the job obligation. Differences in the degree of responsibility required in the performance of otherwise comparable jobs cover a wide variety of situations. The following illustrations, which are by no means exhaustive, may suggest the nature or degree of differences in responsibility which will constitute uncomparable work:

(1) There are many situations where one (1) employe of a group performing jobs which are comparable in other respects is required from time to time to assume supervisory duties for reasons such as the absence of the regular supervisor. Suppose, for instance, that it is the employer's practice to pay a higher wage rate to such a relief supervisor with the understanding that during the intervals in which he performs supervisory duties he is in training for a supervisory position. In such a situation, payment of the higher rate to him might well be based solely on the additional responsibility required to perform his job and the equal pay provisions would not require the same rates to be paid to an employe of the opposite sex in the group who

does not have a comparable responsibility. There would clearly be no question concerning such a wage rate differential if the employer pays the higher rate to both men and women who are called upon from time to time to assume such supervisory responsibilities.

(2) Other differences in responsibilities of employes in generally similar jobs may require similar conclusions. Sales clerks, for example, who are engaged primarily in selling identical or similar merchandise may be given different responsibilities. Suppose that one (1) employe of such a group is authorized and required to determine whether to accept payment for purchases by personal checks of customers. The person having this authority to accept personal checks may have a considerable additional degree of responsibility which may materially affect the business operations of the employer. In this situation, payment of a higher wage rate to this employe would be permissible.

(3) On the other hand, there are situations where one (1) employe of the group may be given some minor responsibility which the others do not have but which is not of sufficient consequence or importance to justify a finding of unequal responsibility.

Section 10. Exceptions to Equal Pay Standards. (1) The specified exceptions. KRS 337.423(1) provides two (2) specific exceptions to its general standard requiring that employes doing comparable work be paid equal wages, regardless of sex. Under these exceptions, where it can be established that a differential in pay is the result of a wage payment made pursuant to an established seniority system or merit increase system which does not discriminate on the basis of sex, the differential is expressly excluded from the statutory prohibition of wage discrimination based on sex.

(2) Establishing application of an exception. The facts necessary to establish that a wage differential has a basis specified in any of the exceptions are peculiarly within the knowledge of the employer. If he relies on the excepting language to exempt a differential in pay from the operation of the equal pay provisions, he will be expected to show the necessary facts. Thus, such a showing will be required to demonstrate that a payment of wages to employes at a rate less than the rate at which he pays employes of the opposite sex is based on a factor other than sex where it appears that such payments are for comparable work on jobs the performance of which requires comparable skill, effort, and responsibility.

(3) Sex must not be a factor in excepted wage differentials. While differentials in the payment of wages are permitted when it can be shown that they are based on an established seniority system or merit increase system, the requirements for such an exception are not met unless the factor of sex provides no part of the basis for the wage differential. If these conditions are met, the fact that application of the system for measuring earnings results in higher average earnings for employes of one (1) sex than for employes of the opposite sex performing comparable work would not constitute a prohibited wage differential. However, to come within the exempting provisions, any system or factor of the type described pursuant to which a wage rate differential is paid must be applied equally to men and women whose jobs require comparable skill, effort and responsibility.

(4) Establishing absence of sex as a factor. A showing that a wage differential is based on a factor other than sex, so as to be exempt from the statute, may sometimes be incomplete without a showing that there is a reasonable relationship between the amount of the differential and the weight properly attributable to the factor other than sex. To illustrate, suppose that male clerks who work forty (40) hours each week and female clerks who work thirty-five (35) hours each week are performing comparable work on jobs the performance of which requires comparable skill, effort and responsibility. If they are paid weekly salaries for this work, a differential in the amounts could be justified as based on a difference in hours of work. But if the difference in salaries paid is too great to be accounted for by the difference in hours of work, as where the male clerks are paid ninety dollars ($90) for their forty (40) hour week (equal to two dollars and twenty-five cents ($2.25) an hour) and the female clerks receive only seventy dollars ($70) for their thirty-five (35) hour week (equal to two dollars ($2) an hour), then it would be necessary to show some other factor other than sex as the basis for the unexplained portion of the wage differential. To illustrate further, a compensation plan which provides for a higher rate of commission, draw, advance or guarantee for sales employes of one (1) sex than for employes of the opposite sex would be in violation of the equal pay provisions of the statute unless the employer can establish that the differential in pay is pursuant to an established seniority system, merit increase system, or is based on any other factor other than sex. A compensation plan which provides for a "draw" based on a percentage of each employe's earnings during a specified prior period would not be in violation of the statute if the plan is applied equally to men and women. However, for all men to receive a higher draw, because it is the employer's experience that men generally earn more in commissions than women, would not be sufficient indication that the differential is based on a factor other than sex.

(5) Application of exceptions illustrated; in general. When applied without distinction to employes of both sexes, shift differentials, incentive payments, production bonuses, performance and longevity raises and the like will not result in equal pay violations. For example, in an establishment where men and women are employed on a job, but only men work in the night shift for which a night shift differential is paid, such a differential would not be prohibited. However, the payment of a higher hourly rate to all men on that job for all hours worked because some of the men may occasionally work nights would result in a prohibited wage differential. The examples in the following paragraphs illustrate a few applications of the exception provisions.

(a) Examples; "red circle" rates, in general. The term "red circle" rates describes certain unusual, higher than normal wage rates which are maintained for many reasons. An example of the use of a "red circle" rate might arise in a situation where a company wishes to transfer a long-service male employe, who can no longer perform his regular job because of ill health, to different work which is now being performed by women. Under the "red circle" principle the employer may continue to pay the male employe his present salary, which is greater than that paid to the women employes, for the work both will be doing. Under such circumstances, maintaining an employe's established wage rate despite a reassignment to a less demanding job, is a valid reason for the differential even though other employes performing the less demanding work would be paid at a lower rate, since the differential is based on a factor other than sex. However, where wage rate differentials have been or are being paid on the basis of sex to employes performing comparable work, rates of the higher paid employes may not be "red circled" in order to comply with the statute.

(b) Examples; temporary reassignments. For a variety of reasons an employer may require an employe, for a short period, to perform the work of a job classification other than the employe's regular classification. If the employe's rate for his regular job is higher than the rate usually paid for the work to which he is temporarily reassigned, the employer may continue to pay him the higher rate, under the "red circle" principle. For instance an employer who must reduce help in a skilled job may transfer employes to less demanding work without reducing their pay, in order to have them available when they are again needed for their former jobs. Although employes traditionally engaged in performing the less demanding work would be paid at a lower rate than those employes transferred from the more skilled jobs, the resultant wage differential would not constitute a violation of the equal pay provisions since the differential is based on factors other than sex. This would be true during the period of time for which the "red circle" rate is bona fide. Temporary reassignments may also involve the opposite relationship of wage rates. Thus, an employe may be required, during the period of temporary reassignment, to perform work for which employes of the opposite sex are paid a higher wage rate than that paid for the duties of the employe's regular job classification. In such a situation, the employer may continue to pay the reassigned employe at the lower rate, if the rate is not based on quality or quantity of production, and if the reassignment is in fact a temporary one. If a piece rate is paid employes of the opposite sex who perform the work to which the employer in question is reassigned, failure to pay that employe the same piece rate paid such other employes would discriminate on the basis of sex. Also, failure to pay the higher rate to the reassigned employe after it becomes known that the reassignment will not be of a temporary nature would raise a question whether sex rather than the temporary nature of the assignment is the real basis for the wage differential. Generally, failure to pay the higher rate for a period longer than one (1) month will raise questions as to whether the reassignment was in fact intended to be a temporary one.

(c) Examples; training programs. Employes employed under a bona fide training program may, in the furtherance of their training, be assigned from time to time to various types of work in the establishment. At such times, the employe in training status may be performing comparable work with non-trainees of the opposite sex whose wages or wage rates may be unequal to those of the trainee. Under these circumstances, provided the rate paid to the employe in training status is paid, regardless of sex, under the training program, the differential can be shown to be attributable to a factor other than sex and no violation of the equal pay standard will result.

(d) Examples; head of household. Sometimes differentials in pay to employes performing comparable work are said to be based on the fact that one (1) employe is head of a household and the other, of the opposite sex, is not. Accordingly, since the normal pay practice is to set a wage rate in accordance with the requirements of the job itself and since a "head of household" status bears no relationship to the requirements of the job or to the individual's performance on the job, the position of the Department of Labor is that they are not prepared to conclude that any differential allegedly based on such status is based on a factor other than sex within the intent of the statute.

(e) Examples; temporary and part-time employes. The payment of different wage rates to permanent employes than to temporary employes such as may be hired during the holiday season would not necessarily be a violation of the equal pay provisions even though comparable work is performed by both groups of workers. For example, no violation would result where payment of such a differential conforms with the nature and duration of the job and with the customary practice in the industry and the establishment, and the pay practice is applied uniformly to both male and female. Generally, employment for a period longer than one (1) month will raise questions as to whether the employment is in fact temporary. Likewise, the payment of a different wage to employes who work only a few hours a day than to employes of the opposite sex who work a full day will not necessarily involve noncompliance with the equal pay provisions, even though both groups of workers are performing comparable work in the same establishment. No violation of the equal pay standards would result if, for example, the difference in working time is the basis for the pay differential, and the pay practice is applied uniformly to both male and female. However, if employes of one (1) sex work thirty (30) to thirty-five (35) hours a week and employes of the other sex work forty (40) to forty-five (45) hours, a question would be raised as to whether the differential is not in fact based on sex since different rates for part-time work are usually for workweeks of twenty (20) hours or less.

Section 11. 803 KAR 1:087, Benefits as wages, is hereby repealed.

EUGENE F. LAND, Commissioner
ADOPTED: March 26, 1981
APPROVED: H. FOSTER PETTIT, Secretary
RECEIVED BY LRC: April 10, 1981 at 4:10 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Charles E. McCoy, Director, Division of Employment Standards and Mediation, Kentucky Department of Labor, U.S. 127 South Building, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET
Harness Racing Commission
(Proposed Amendment)

811 KAR 1:015. Race officials.

RELATES TO: KRS 230.630(1),(3), 230.640(2), 230.660, 230.700, 230.720
PURSUANT TO: KRS 13.082, 230.630(3),(4),(7)
NECESSITY AND FUNCTION: To regulate conditions under which harness racing shall be conducted in Kentucky. The function of this regulation is to set out the required officials, their functions and duties.

Section 1. Officials Required. In every race, there shall be a presiding judge, two (2) associate judges and not less than two (2) patrol judges, a racing secretary, starter, clerk of the course and three (3) timers, or one (1) timer and an approved electric timing device. In the event a patrol car is used, one (1) associate judge may ride in the car, in which case the patrol judges may be eliminated.

Section 2. All officials must be licensed and approved by the commission.

Section 3. Any track permitting an unlicensed person to officiate when a license is required shall be fined not exceeding $250 for each day such unlicensed person officiates. Any person officiating without being licensed shall be fined not exceeding $250 for each day he acts as such an official.

Section 4. Officials at Extended Meetings. No presiding judge, associate judge, starter, race secretary, barrier judge, patrol judge, clerk of the course or paddock judge shall be qualified to serve as such at an extended pari-mutuel meeting without a valid commission license. Holders of pari-mutuel licenses are authorized to officiate at all meetings. No official acting as judge at a pari-mutuel meeting shall serve as race secretary or clerk of the course at such meeting. No licensed official shall be qualified to act as such at any pari-mutuel meeting where he is the owner or otherwise interested in the ownership of any horse participating at such meeting. Any refusal to grant a license to a person may be reviewed by the Kentucky Harness Racing Commission.

Section 5. Disqualification to Act as Official. A person under suspension, expulsion or other disqualification, or who has any interest in or any bet on a race or has an interest in any of the horses engaged therein, is disqualified from acting in any official capacity in that race. In the event of such disqualification the management shall be notified by the disqualified person and shall appoint a substitute. Any person who violates this restriction shall be fined, suspended or expelled.

Section 6. Suspension or Revocation of Official's License. An official may be fined, suspended or removed at any time for incompetence, failure to follow or enforce rules, or any conduct detrimental to the sport including drinking within four (4) hours prior to the time he starts work as an official.

Section 7. Ban on Owning or Dealing in Horses. No employee of any track whose duties include the classification of horses shall directly or indirectly be the owner of any horse racing at such meeting, nor shall he participate financially directly or indirectly in the purchase or sale of any horse racing at such meeting. Any person violating this rule shall be suspended.

Section 8. Location of Judge's Stand. The judge's stand shall be so located and constructed as to afford to the officials an unobstructed view of the entire track and no obstruction shall be permitted upon the track, or the centerfield which shall obscure the officials' vision of any portion of the track during the race. Any violation of this section shall subject the track to a fine not exceeding $500 and immediate suspension.

Section 9. Judge's Stand Occupants. None but the judges, the clerk of the course, the secretary, starter and timers, official announcer, runner that posts the photo finish, and officials of the commission, shall be allowed in the judge's stand from fifteen (15) minutes before the first race until fifteen (15) minutes after the last race unless authorized by the commission. Any track violating this rule shall be fined not to exceed $300.

Section 10. Improper Acts by an Official. If any person acting as judge or an official shall be guilty of using insulting language to an owner, driver, or other person, or be guilty of other improper conduct, he shall be fined not exceeding $500, or be suspended or expelled.

Section 11. Presiding Judge. The presiding judge shall: (1) Have supervision to see that the rules of this commission are followed over the following officials:
(a) Associate Judges;
(b) Patrol Judges;
(c) Starters;
(d) Paddock Judges;
(e) Finish Wire Judge;
(f) Clerk of the Course;
(g) Timers;
(h) Charters;
(i) Racing Secretary;
(j) Official Announcer; and
(k) Any other licensed personnel directly responsible for conducting the racing program.
(2) Notify owners, trainers, drivers and grooms of penalties imposed.
(3) Report in writing to the commission, violations of the rules by a track, its officers or race officials, giving detailed information thereof.
(4) Make such other reports as required by the commission.
(5) Sign each sheet of the judge's book, verifying the correctness of the record.
(6) Be responsible for the maintenance of the records of the meeting and the forwarding thereof to the commission.
(7) Failure of the presiding judge to see that the rules of the commission are complied with may be grounds for suspension and may be grounds for denial of a license for the subsequent year.

Section 12. Authority and Procedure of Judges. The judges shall have the authority while presiding to: (1) Inflict fines and penalties, as prescribed by these rules.
(2) Determine all questions of fact relating to the race.
(3) Decide any differences between parties to the race, or any contingent matter which shall arise, such as are not otherwise provided for in these rules.
(4) Declare pools and bets "off" in case of fraud, no appeal to be allowed from their decision in that respect. All pools and bets follow the decision of the judges. Such a decision in respect to pools and bets shall be made at the conclusion of the race upon the observation of the judges and upon the facts as an immediate investigation shall develop. A reversal or change of decision after the official placing at the conclusion of the heat or dash shall not affect the distribution of betting pools made upon such official placing. When pools and bets are declared off for fraud, the guilty parties shall be fined, suspended or expelled.
(5) Control the horses, drivers, and assistants and punish by a fine not exceeding $100 or by suspension or expulsion, any such person who shall fail to obey their orders or the rules. In no case shall there be any compromise or change on the part of the judges or members of punishment prescribed in the rules, but the same shall be strictly enforced. Tracks shall not remove or modify any fine imposed by the judges of a race, review any order of suspension, expulsion, or interfere with the judges performing their duties.
(6) Examine under oath all parties connected with a race as to any wrong or complaint. The judges may compel by written notice the appearance of any person whose

testimony is necessary to the proper conduct of a hearing. Failure to attend shall be a violation of these rules and shall be penalized as provided above in subsection (5).

(7) Consider complaints of foul from the patrols, owners, trainers or drivers in the race and no other.

(8) Make such decision in the public interest required by extraordinary circumstances not covered by rules and regulations of the commission.

Section 13. Judges' Duties. It shall be the duty of the judges to: (1) Exclude from the race any horse that in their opinion is improperly equipped, dangerous or unfit to race, which shall include sick, weak and extremely lame horses. No horse shall race with a tube in its throat. No horse shall race unless it has unimpaired vision in at least one (1) eye and no horse infected with Equine Infectious Anemia or a carrier thereof, shall race. [Horses that are bleeders may race under recognized medication for said bleeding condition provided that said condition and the type of medication is certified to the commission by the commission veterinarian or a veterinarian licensed by the commission prior to the race and said horse is approved for racing by the presiding judge. In the event the horse bleeds while being raced under medication, said horse shall not again race with or without medication until it is cured and approved for racing by the commission.]

(2) Investigate any apparent or possible interference, or other violation of 811 KAR 1:075, Section 1, whether or not complaint has been made by the driver.

(3) Investigate any act of cruelty seen by them or reported to them by any member towards a race horse during a meeting at which they officiate. If the judges find that such an act has been committed, they shall suspend or fine the offending member not to exceed $500 and submit a written report within ten (10) days of their findings and action to the commission. The chairman of the commission or the designated representative of the commission shall have all the authority conferred upon the judges by this section, and in addition may order an investigation and a hearing and impose a penalty for any act of cruelty or neglect of a horse committed by any member whether on or off the premises of any race track.

(4) Immediately thereafter or on the day of the race conduct an investigation of any accidents to determine the cause thereof, and the judges shall make all accidents a matter of record in the judge's book and completely fill out an accident report. At the time of the accident, the inquiry sign shall be posted and the race shall not be declared official until the presiding judge has conferred with the patrol judge.

(5) Observe closely performance of the drivers and the horses to ascertain if there are any violations of 811 KAR 1:075, particularly interference, helping, or inconsistent racing and exhaust all means possible to safeguard the contestants and the public.

(6) Grant a hearing at a designated time before a penalty may be imposed upon any party. All three (3) judges should be present if possible, and at least the presiding judge and one (1) associate judge must be present at all judges' hearings. The judges may inflict the penalties prescribed by rules and regulations of the commission.

(a) All penalty notices will carry the exact reason why the penalty has been imposed together with a summary of the rule or regulation violated. All penalties imposed on any driver may be recorded on the reverse side of his driver's license by the presiding judge.

(b) In the event the judges believe that a person has committed a rule or regulation violation and has left the grounds and they are unable to contact him, and hold a hearing thereon, they may make an investigation and send a detailed written report to the commission. The commission may impose a penalty not to exceed ten (10) days without a hearing based upon the report of the judges. No penalty in excess of ten (10) days shall be imposed before a hearing is granted.

(c) It shall be the duty of the judges to submit in writing a complete list of all witnesses questioned by them at any hearing, which list of witnesses, along with the testimony of such witnesses, shall be forwarded to the commission.

(d) The testimony of all witnesses questioned by the judges shall be recorded by one (1) of the following methods: written, signed statements, tape recorders or court reporter's transcript.

(e) No decision shall be made by the judges in such cases until all of the witnesses called by the judges and the person so required to appear before the judges have given their testimony. Any person charged with a rule or regulation violation shall be given at least until 12 noon of the following day to prepare his defense if he so requests.

(7) It shall be the duty of the judges to declare a dash or heat of a race no contest in the event the track is thrown into darkness during the progress of a race by failure of electricity.

Section 14. Judges' Procedure. It shall be the procedure of the judges to: (1) Be in the stand fifteen (15) minutes before the first race and remain in the stand for ten (10) minutes after the last race, and at all times when the horses are upon the track.

(2) Observe the preliminary warming up of horses and scoring, noting behavior of horses, lameness, equipment, conduct of the drivers, changes in odds at pari-mutuel meetings and any unusual incidents pertaining to horses or drivers participating in races.

(3) Have the bell rung or give other notice at least ten (10) minutes before the race or heat. Any driver failing to obey this summons may be punished by a fine not exceeding $100 and his horse may be ruled out by the judges and considered drawn.

(4) Designate one (1) of their members to lock the pari-mutuel machines immediately upon the horses reaching the official starting point. The presiding judge shall designate the post time for each race and the horses shall be called at such time as to preclude excessive delay after the completion of two (2) scores.

(5) Be in communication with the patrol judges, by use of patrol phones, from the time the starter picks up the horses until the finish of the race. Any violation or near violation of the rules or regulations shall be reported by the patrol judge witnessing the incident and a written record made of same. At least one (1) judge shall observe the drivers throughout the stretch specifically noting changing course, interference, improper use of whips, breaks, and failure to contest the race to the finish.

(6) Post the objection sign, or inquiry sign, on the odds board in the case of a complaint or possible rule or regulation violation, and immediately notify the announcer of the objection and the horse or horses involved. As soon as the judges have made a decision, the objection sign shall be removed, the correct placing displayed, and the "official" sign flashed. In all instances the judges shall post the order of finish and the "official" sign as soon as they have made their decision.

(7) Display the photo sign if the order of finish among the contending horses is less than half-length or a conten-

ding horse is on a break at the finish. After the photo has been examined and a decision made, a copy or copies shall be made, checked by the presiding judge, and posted for public inspection.

(8) Should a horse fall, run loose and uncontrolled, during warm-up, prior to the race or going to the post, the horse shall be examined by the state veterinarian to determine whether the horse is fit to race. If the veterinarian determines that the horse is unfit the presiding judge shall order the horse scratched.

Section 15. Patrol Judges. At the discretion of the judges, patrol may be appointed by the track but such patrols shall be approved by the presiding judge and work under his direction. At extended pari-mutuel meetings and at other meetings conducting one (1) or more races with a purse value of $5,000 or over, at least two (2) patrol judges shall be employed. It shall be their duty to phone or repair to the judge's stand and report all fouls and improper conduct. The result of a heat or dash shall not be announced until sufficient time has elapsed to receive the reports of the patrols. Where there is a patrol car, only one (1) patrol judge shall be required.

Section 16. Incapacitated Official. If any licensed official is absent or incapacitated, the track management, subject to commission approval, must appoint a substitute at such meeting. Notice of such temporary appointment shall be given immediately to the office of this commission. If such official acts for more than three (3) days, he shall apply for a commission license in that capacity. This power may only be used in cases of unavoidable emergencies.

Section 17. Starter Appointment. Starter shall be designated by the track, subject to the approval of this commission. Such officials must be licensed as starters by this commission.

Section 18. Starter; Authority. The starter shall be in the stand or starting gate fifteen (15) minutes before the first race. He shall have control over the horses and authority to assess fines and/or suspend drivers for any violation of the rules and regulations from the formation of the parade until the word "go" is given. He may assist in placing the horses when requested by the judges to do so. He shall notify the judges and the drivers of penalties imposed by him. His services shall be paid for by the track employing him. An assistant starter must be available at all times.

Section 19. Clerk-Duties; Clerk of the Course. The clerk of the course shall:

(1) At request of judges assist in drawing positions.

(2) Keep the judge's book and record therein:

(a) All horses entered and their eligibility certificate numbers.

(b) Names of owners and drivers and drivers' license numbers.

(c) The charter lines at pari-mutuel meetings. At all race meetings, the money won by the horse at that track.

(d) Note drawn or ruled out horses.

(e) Record time in minutes, seconds, and fifths of seconds.

(f) Check eligibility certificates before the race, and after the race shall enter all information provided for thereon, including the horse's position in the race if it was charted.

(g) Verify the correctness of the judge's book including race time, placing and money winnings, reasons for disqualification, if any, and see that the book is properly signed.

(h) Forward the judge's book charts and marked programs to this commission from all extended pari-mutuel meetings the day following each racing day.

(i) Notify owners and drivers of penalties assessed by the officials.

(3) Upon request may assist judges in placing horses.

(4) After the race, return the eligibility certificate to owner of the horse or his representative when requested.

(5) Failure to comply with any part of this rule and make the above listed entries legible, clear and accurate, may subject either the clerk or the track, or both, to a fine not to exceed $100 for each violation.

Section 20. Timers. (1) At each race there shall be three (3) timers in the judge's or timer's stand except when an electric timing device approved by the commission is used, in which event there shall be one (1) timer. The chief timer shall sign the judge's book for each race verifying the correctness of the record. All time shall be announced and recorded in fifths of seconds. All tracks licensed by the commission shall use an approved electronic or electric timing device.

(2) The timers shall be in the stand fifteen (15) minutes before the first heat or dash is to be contested. They shall start their watches when the first horse leaves the point from which the distance of the race is measured. The time of the leading horse at the quarter, half, three-quarters, and the finish shall be taken. If odd distances are raced, the fractions shall be noted accordingly.

Section 21. Paddock Judge. Under the direction and supervision of the presiding judge, the paddock judge will have complete charge of all paddock activities as outlined in 811 KAR 1:010, Section 10. The paddock judge shall be subject to the approval of this commission. The paddock judge is responsible for:

(1) Getting the fields on the track for post parades in accordance with the schedule given to him by the presiding judge.

(2) Inspection of horses for changes in equipment, broken or faulty equipment, head numbers or saddle pads.

(3) Supervision of paddock gate men.

(4) Proper check in and check out of horses and drivers. Check the identification of all horses coming into the paddock including the tattoo number.

(5) Director of the activities of the paddock farrier.

(6) The paddock judge will immediately notify the presiding judge of anything that could in any way change, delay or otherwise affect the racing program. The paddock judge will report any cruelty to any horse that he observes to the presiding judge.

(7) The paddock judge will see that only properly authorized persons are permitted in the paddock and any violation of this rule may result in a fine, suspension or expulsion.

(8) Notify the presiding judge of any change of racing equipment or shoes before the race.

(9) Inspect and supervise the maintenance of emergency equipment kept in the paddock.

(10) Notify judges of all trainers and grooms who leave the paddock in an emergency.

Section 22. Identifier. At all extended pari-mutuel meetings the association shall employ an identifier licensed by the commission, whose duty it shall be to check the

identification of all horses coming into the paddock, to include the tattoo number, color, and any markings. The identifier shall be under the immediate supervision of the paddock judge and the general supervision of the presiding judge. Any discrepancy detected in the tattoo number, color, or markings of a horse shall be reported immediately to the paddock judge, who shall in turn report same forthwith to the presiding judge.

Section 23. Program Director. Each extended pari-mutuel track shall designate a program director. Such program director shall be subject to the approval of this commission.

(1) It shall be the responsibility of the program director to furnish complete and accurate past performance information.

(2) No person shall be permitted to act as a program director unless he is capable of furnishing accurate and complete past performance information to the general public.

Section 24. Duties of Patrol Judges. (1) The patrol judges shall observe all activity on the race track in their area at all times during the racing program. They shall immediately report to the presiding judge:

(a) Any action on the track which could improperly affect the result of a race.

(b) Every violation of the racing rules and regulations.

(c) Every violation of the rules of decorum.

(d) The lameness or unfitness of any horse.

(e) Any lack of proper racing equipment.

(2) The patrol judges shall, furthermore:

(a) Be in constant communication with the judges during the course of every race and shall immediately advise the judges of every rule violation; improper act or unusual happening which occurs at their station.

(b) Submit individual daily reports of their observations of the racing to the presiding judge.

(c) When directed by the presiding judge shall attend hearings or inquiries on violations and testify thereat under oath.

Section 25. Licensed Charter. (1) At all extended pari-mutuel meetings and grand circuit meetings, the charting of races is mandatory and the track shall employ a licensed charter to fulfill the requirements of this section.

(2) The charter shall be subject to the approval of this commission.

Section 26. All equipment changes shall be cleared through the paddock judge who will call the judges for the necessary permission.

Section 27. Duties of the Race Secretary. The race secretary of each association must be licensed and approved by the commission and it shall be his duty:

(1) To receive and keep safe the eligibility certificates of all horses competing at the race track or stabled on grounds owned or cared for by any association and to return same to the owner of a horse or his representative upon their departure from the grounds.

(2) To be familiar with the age, class, and competitive ability of all horses racing at the track.

(3) To classify and reclassify horses in accordance with the rules.

(4) To list horses in the categories for which they qualify and to cause such lists to be kept current and to be properly displayed in the room in which the declaration box is located for examination by horsemen and others.

(5) To provide for the listing of horses in the daily program; to examine all entry blanks and declarations to verify all information set forth therein; to select the horses to start and the also eligible horses from the declarations in accordance with the rules governing these functions.

(6) To examine nominations and declarations in early closing events, late closing and stake events, to verify the eligibility of all declarations and nominations and to compile lists thereof for publication.

Section 28. Commission Supervisors of Pari-Mutuel Betting. (1) The commission shall employ supervisors with accounting experience who shall be responsible for ascertaining whether the proper amounts have been paid from pari-mutuel pools to the betting public, to the association, and to the Commonwealth, by checking, auditing and filing with the commission verified reports accounting for daily pari-mutuel handle distribution and attendance for each preceding racing day and a final report at the conclusion of each race meeting in the Commonwealth.

(2) Such daily reports shall show:

(a) For each race: number of horses started, number of betting interests, total money wagered in each betting pool, and refunds, if any, for each day. The sum of all betting pools, and total refunds also, total pari-mutuel handle for the comparable racing day for the preceding year, and cumulative total and daily average pari-mutuel handle for the race meeting.

(b) Amount of state pari-mutuel tax due; taxable admissions, tax exempt admissions, total admissions; temperature, weather and track conditions, post time of first race; program purses, distance and conditions of each race; any minus pools resulting with explanation.

(3) The commission supervisors of pari-mutuel betting shall submit to the commission on or before thirty (30) days after the close of each race meeting a final verified report giving in summary form a recapitulation of the daily reports for each race meeting and such other information as the commission may require.

(4) The commission supervisors of pari-mutuel betting or their representative shall have access to all association books, records, and pari-mutuel equipment for checking accuracy of same.

CARL B. LARSEN, Deputy Commissioner
ADOPTED: October 20, 1980
APPROVED: H. FOSTER PETTIT, Secretary
RECEIVED BY LRC: April 10, 1981 at 12:40 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Carl B. Larsen, Deputy Commissioner, Kentucky Harness Racing Commission, 1051-H Newtown Pike, Lexington, Kentucky 40511.

PUBLIC PROTECTION AND REGULATION CABINET
Harness Racing Commission
(Proposed Amendment)

811 KAR 1:090. Stimulants and drugs.

RELATES TO: KRS 230.630(1), (3), 230.640, 230.700
PURSUANT TO: KRS 13.082, 230.630(3), (4), (7)
NECESSITY AND FUNCTION: To regulate conditions under which harness racing shall be conducted in Kentucky. The function of this regulation is to provide for the testing of horses for stimulants and drugs and the regulation of stimulants and drugs.

Section 1. (1) At every meeting except as stated herein where pari-mutuel wagering is permitted, the winning horse in every heat and/or race shall be subjected to a urine test and/or a blood test and the winning horse and second place horse in every perfecta or quinella race may be subjected to a urine test and/or a blood test for the purpose of determining thereby the presence of any drug, stimulant, sedative, depressant, or medicine. The winning horse and/or the second and third horses in a trifecta may be tested the same as in the rule above. Also, the judges may order any horse in a race to be subjected to a urine, blood and/or saliva test. Such tests shall be made only by qualified veterinarians and by laboratories designated by the commission. In addition to the above, the winning horse and second horse in every heat or dash of a race at any track with a total purse in excess of $5,000 may be subjected to both blood and a urine test.

(2) The commission may, in its discretion, or at the request of a member, authorize or direct a saliva, blood, urine or other test of any horse racing at any meeting.

Section 2. (1) During the taking of the blood and/or urine sample by the veterinarian, the owner, trainer or authorized agent may be present at all times. Samples so taken shall be placed in two (2) containers and shall immediately be sealed and the evidence of such sealing indicated thereon by the signature of the representative of the owner or trainer. One (1) part of the sample is to be placed in a depository under the supervision of the presiding judge and/or any other agency the commission may designate to be safeguarded until such time as the report on the chemical analysis of the other portion of the split sample is received.

(2) Should a positive report be received, an owner or trainer shall have the right to have the other portion of the split sample inserted in with a subsequent group being sent for testing or may demand that it be sent to another chemist for analysis, the cost of which will be paid by the party requesting the test.

Section 3. (1) Whenever there is a positive test finding the presence of any drug, stimulant, sedative or depressant present, in the post-race test, the laboratory shall immediately notify the presiding judge who shall immediately report such findings to the commission.

(2) When a positive report is received from the laboratory by the presiding judge, the persons held responsible shall be notified and a thorough investigation shall be conducted by or on behalf of the judges. A time shall be set by the judges for a hearing to dispose of the matter. The time set for the hearing shall not exceed four (4) racing days after the responsible persons were notified. The hearing may be continued, if in the opinion of the judges, circumstances justify such action.

(3) Should the chemical analysis of saliva, blood, urine or other sample of the post-race test taken from a horse indicate the presence of a forbidden narcotic, stimulant, depressant, or local anesthetic, it shall be considered prima facie evidence that such has been administered to the horse.

(4) Upon receipt of written notification of a positive test finding, the judges shall cause the immediate suspension of the horse from further participation in racing pending the outcome of a hearing.

Section 4. Any person or persons who shall administer or influence or conspire with any other person or persons to administer to any horse any drug, medicament, stimulant, depressant, narcotic or hypnotic to such horse within forty-eight (48) hours of his race, shall be subject to penalties provided in this rule.

Section 5. Whenever the post-race test or tests prescribed in Section 1 disclose the presence in any horse of any drug, stimulant, depressant or sedative, in any amount whatsoever, it shall be presumed that the same was administered by the person or persons having control and/or care and/or custody of such horse with the intent thereby to affect the speed or condition of such horse and the result of the race in which it participated.

Section 6. A trainer shall be responsible at all times for the condition of all horses trained by him. No trainer shall start a horse or permit a horse in his custody to be started if he knows, or if by the exercise of reasonable care he might have known or have cause to believe, that the horse has received any drug, stimulant, sedative, depressant, medicine or other substance that could result in a positive test. Every trainer must guard or cause to be guarded each horse trained by him in such manner and for such period of time prior to racing the horse so as to prevent any person not employed by or connected with the owner or trainer from administering any drug, stimulant, sedative, depressant, or other substance resulting in a post-race positive test.

Section 7. Any owner, trainer, driver or agent of the owner, having the care, custody and/or control of any horse who shall refuse to submit such horse to a saliva test or other tests as herein provided or ordered by the judges shall be guilty of a violation of this rule. Any horse that refuses to submit to a pre-race blood test shall be required to submit to a post-race saliva and urine test regardless of its finish.

Section 8. Any horse in which an offense was detected under any section of this rule shall be placed last in the order of finish and all winnings of such horse shall be forfeited and paid over to the commission for redistribution among the remaining horses in the race entitled to same. No such forfeiture and redistribution of winnings shall effect the distribution of the pari-mutuel pools at tracks where pari-mutuel wagering is conducted, when such distribution of pools is made upon the official placing at the conclusion of the heat or dash.

Section 9. Pre-Race Blood Test. Where there is a pre-race blood test which shows that there is an element present in the blood indicative of a stimulant, depressant or any unapproved medicament, the horse shall immediately be scratched from the race and an investigation conducted by the officials to determine if there was a violation of Section 4.

Section 10. Hypodermic Syringe Prohibited. No person except a licensed veterinarian approved by the commission shall have within the grounds of a licensed harness race track in or upon the premises which he occupies, or has a right to occupy, or in his personal property or effects any hypodermic syringe, hypodermic needle, or other devices which can be used for the injection or other infusion into a horse of a drug, stimulant or narcotic. Every licensed harness racing association upon the grounds of which horses are lodged or kept, is required to use all reasonable effort to prevent violation of this rule.

Section 11. (1) All veterinarians practicing on the grounds of an extended pari-mutuel meeting shall keep a log of their activities on a form provided by the commission and shall submit a copy of it to the commission office of the track each day of a race meeting. The log shall include:

(a) Name of horse;
(b) Nature of ailment;
(c) Type of treatment;
(d) Date and hour of treatment.

(2) It shall be the responsibility of the veterinarian to report to the presiding judge any internal medication given by him by injection or orally to any horse after he has been declared to start in any race.

Section 12. (1) Any veterinarian practicing veterinary medicine on a race track where a race meeting is in progress or any other person using a needle or syringe shall use only one (1) time disposable type needles and a disposable needle shall not be reused. The disposable needles shall be kept in his possession until disposed of by him off the track.

(2) No veterinarian, assistant veterinarian or employee of same shall leave a needle or syringe with anyone on a race track where a race meeting is in progress except upon written authorization from the commission.

Section 13. *The use of lasix is prohibited for racing purposes.* [(1) The commission veterinarian or a practicing veterinarian, licensed by the Kentucky Harness Racing Commission, may prescribe the use of lasix for a bleeder, providing the veterinarian actually sees said horse bleed.]

[(2) The aforementioned horse shall be treated and shall perform in a qualifying race and meet the standards of the meeting before being entered to race again.]

[(3) A lasix use form (blue) must be submitted to the commission office at the track for approval of the use of lasix.]

[(4) Each time the horse treated with lasix races, a form (yellow) must be submitted to the commission office at the track.]

[(5) If a trainer no longer wishes to use lasix, a form (white) must be submitted to the commission office at the track. Said horse may again race on lasix, but must race with lasix the balance of the meeting.]

[(6) Horses racing on lasix at one (1) meeting in Kentucky and racing at another meeting in Kentucky need not qualify, but will have to submit the necessary forms to the commission office.]

[(7) It is the responsibility of the trainer to submit all necessary forms.]

[(8) The horse may be treated with lasix orally or systemically.]

[(9) Lasix found in the chemical test of a horse not registered to race with lasix shall be judged a positive.]

Section 14. The penalty for violation of any sections of this rule, unless otherwise provided, shall be a fine of not to exceed $5,000, suspension for a fixed or indeterminate time, or both; or expulsion.

CARL B. LARSEN, Deputy Commissioner
ADOPTED: October 20, 1980
APPROVED: H. FOSTER PETTIT, Secretary
RECEIVED BY LRC: April 10, 1981 at 12:40 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Carl B. Larsen, Deputy Commissioner, Kentucky Harness Racing Commission, 1051-H Newtown Pike, Lexington, Kentucky 40511

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings and Construction
(Proposed Amendment)

815 KAR 20:030. License application; examination.

RELATES TO: KRS Chapter 318
PURSUANT TO: KRS 13.082, 318.010, 318.050, 318.054
NECESSITY AND FUNCTION: KRS 318.040 requires the Department to conduct examinations for master and journeyman plumber applicants. KRS 318.050 was amended by the 1976 General Assembly to eliminate the fixed fees for such examinations as was shown in the previous act. The Department now has the authority to set such fees by regulation.

Section 1. Applications for Master or Journeyman Plumber's Licenses. Applications for master or journeyman plumber's licenses shall be submitted to the Department of Housing, Buildings and Construction on forms furnished by the department. Each application shall be properly notarized and accompanied by a fee of $100 if for a master plumber's license or twenty-five dollars ($25) if for a journeyman plumber's license. A signed photograph of the applicant not less than two (2) inches square nor larger than four (4) inches square taken within two (2) years shall accompany each application. Application fees shall be submitted at least two (2) weeks prior to the date of examination and remitted by post office or express money order, bank draft or certified check payable to the Kentucky State Treasurer.

Section 2. Examinations for Master or Journeyman Plumber's Licenses. (1) Examination of applicants. Regular examination of applicants for master or journeyman plumber's licenses shall be conducted during the months of February, May, August and November of each year. Special examinations may be conducted at such times as the Department of Housing, Buildings and Construction may direct.

(2) Time and place of examination. Notice of the time and place of examination shall be given by the United States mail at least one (1) week prior to the date of examination to all persons having applications on file.

(3) Materials required for journeyman plumbers' examinations. Applicants for journeyman plumber's licenses shall furnish the materials required for the practical examination.

Section 3. Renewals of Master and Journeyman Plumber's Licenses. (1) Renewal fees. The annual license renewal fee shall be *$150* [fifty dollars ($50)] for master plumbers and *thirty dollars ($30)* [twenty-five dollars ($25)] for journeyman plumbers.

(2) Remittance of renewal fees. Renewal fees shall be remitted by post office or express money order, bank draft, or certified check payable to the Kentucky State Treasurer.

JOHN R. GROVES, JR., Commissioner
ADOPTED: April 2, 1981
APPROVED: H. FOSTER PETTIT, Secretary
RECEIVED BY LRC: April 15, 1981 at 3:45 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Eugene F. Perkins, Director, Division of Plumbing, Department of Housing, Buildings and Construction, The 127 Building, U.S. 127 South, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings and Construction
(Proposed Amendment)

815 KAR 20:050. Installation permits.

RELATES TO: KRS Chapter 318
PURSUANT TO: KRS 13.082, 318.010, 318.134
NECESSITY AND FUNCTION: The department is directed by KRS 318.134 to adopt a reasonable schedule of fees and charges to be paid for plumbing installation permits and the necessary inspections incident thereto. This regulation is to assure uniformity of fees and charges for plumbing installation permits throughout the state.

Section 1. Issuance of permits. (1) Except as otherwise provided by subsection (3) of this section, permits to construct, install or alter plumbing, sewerage or drainage shall be issued only to licensed master plumbers.

(2) Journeyman plumbers shall not construct, install or alter plumbing, sewerage or drainage except when the work is done under the supervision of a licensed master plumber.

(3) Permits to construct, install or alter plumbing, sewerage or drainage may be issued to homeowners who desire to install plumbing in homes actually occupied by them provided:

(a) Application is made for the permit prior to the beginning of the work;

(b) All work is performed in compliance with the state plumbing law and code and the rules and regulations thereunder promulgated;

(c) The work is not performed for monetary gain;

(d) All the work is personally performed by the owner and he does not employ any other person to assist him.

(4) No permit shall be required for the repairing of leaks, cocks, valves, or for cleaning out waste or sewer pipes.

Section 2. When a permit is required. A plumbing construction permit shall be required for the following: (1) For all new plumbing installations.

(2) For all existing plumbing installations where a fixture or a soil waste opening is to be moved or relocated.

(3) For each individual unit of a multi-story building where there is more than one (1) unit.

(4) For each individual building. (Buildings shall be deemed separate if the connection between them is not a necessary part of the structure of either building, or if they are not under a continuous roof.)

(5) For a new house sewer and for a house sewer that is to be replaced.

(6) For a new water service and for a water service that is to be replaced.

(7) For a new water heater installation and for a water heater installation that is to be replaced.

(8) For any other installation which constitutes "plumbing" within the meaning of KRS Chapter 318 and the state plumbing code.

Section 3. Plumbing installation permit fees. (1) The fee for each plumbing installation permit *for residential, one (1) and two (2) family units,* shall be fifteen dollars ($15) plus:

(a) Four dollars ($4) for each plumbing fixture or appliance or plumbing fixture opening or appliance opening left in the soil or waste pipe system including openings left for future fixtures or appliances;

(b) Four dollars ($4) for each domestic water heater.

(2) The fee for each plumbing installation permit for other than residential, one (1) and two (2) family units, shall be fifteen dollars ($15) plus;

(a) Five dollars ($5) for each plumbing fixture or appliance or plumbing fixture opening or appliance opening left in the soil or waste pipe system including openings left for future fixtures or appliances;

(b) Five dollars ($5) for each domestic water heater.

(3) [(2)] In the event only a new domestic water heater is installed or replaced, the fee for the plumbing installation permit shall be ten dollars ($10).

(4) [(3)] In the event only a new water service is constructed or replaced the fee for the plumbing construction permit shall be fifteen dollars ($15).

(5) [(4)] In the event only a new house sewer is constructed or replaced the fee for a plumbing construction permit shall be fifteen dollars ($15).

(6) [(5)] In the event only a new private sewage disposal system is constructed or replaced the fee for a plumbing construction permit shall be fifteen dollars ($15).

(7) [(6)] All persons securing plumbing permits shall be entitled to plumbing inspections at no additional cost; provided, however, that all inspections in excess of three (3) shall be charged at the rate of three dollars ($3) per inspection.

(8) [(7)] All plumbing installation permits issued under this regulation shall expire one (1) year after date of issuance thereof; provided, however, if construction is begun within one (1) year after date of issuance the permit shall not expire until completion of the planned plumbing installation.

(9) [(8)] Plumbing fixtures may be replaced without procuring a plumbing installation permit provided the county plumbing inspector is notified of the installation.

Section 4. Plumbing inspection fees for public buildings. The schedule of fees for inspection of the con-

struction, installation or alteration of plumbing in public buildings shall be the same as specified in Section 3.

JOHN R. GROVES, JR., Commissioner
ADOPTED: April 2, 1981
APPROVED: H. FOSTER PETTIT, Secretary
RECEIVED BY LRC: April 15, 1981 at 3:45 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Eugene F. Perkins, Director, Division of Plumbing, Department of Housing, Buildings and Construction, The 127 Building, U.S. 127 South, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings and Construction
(Proposed Amendment)

815 KAR 20:090. Soil, waste and vent systems.

RELATES TO: KRS Chapter 318
PURSUANT TO: KRS 13.082, 318.130
NECESSITY AND FUNCTION: The department is directed by KRS 318.130 through the State Plumbing Code Committee to adopt and put into effect a State Plumbing Code. This regulation relates to material and the design of the soil, waste and vent systems that will be used in all types of plumbing systems that are constructed throughout the Commonwealth.

Section 1. Grades and Supports of Horizontal Piping. All horizontal pipings shall be run in practical alignment and at a uniform grade of not less than one-eighth (1/8) inch per foot, and shall be supported or anchored in accordance with the manufacturer's recommendations but in no instance to exceed ten (10) feet in length. All stacks shall be supported at their bases and all pipes shall be rigidly secured. No-hub pipe and fittings shall be supported at each joint of pipe and fittings. Polyvinyl chloride and acrylonitrile-butadiene-styrene schedule forty (40) horizontal piping shall be supported at intervals not to exceed five (5) feet and at the base of all vertical stacks and at all trap branches as close to the trap as possible. Polyethylene pipe and fittings must be continuously supported with a V channel. Stacks must be rigidly supported at their bases and at each floor level.

Section 2. Change in Direction. All changes in direction shall be made by the appropriate use of forty-five (45) degree wyes, half-wyes, quarter, sixth, eighth or sixteenth bends, except that a single sanitary tee may be used in a vertical stack, or a sanitary tee may be turned on its back or side at an angle of not more than forty-five (45) degrees.

Section 3. Prohibited Fittings. No double hub bend or double hub tee or inverted hubs shall be used on sewers, soil or waste line. The drilling and tapping of house sewers or house drains, soil, waste or vent pipes, and the use of saddle hubs and bands is prohibited. Double sanitary tees may be used on vertical soil, waste and vent lines. All pipes shall be installed without hubs or restrictions that would reduce the area or capacity of the pipe.

Section 4. Dead Ends. In the installation of any drainage system dead ends shall be avoided.

Section 5. Protection of Material. All pipes passing under or through walls shall be protected from breakage. All pipes passing through, or under cinder, concrete, or other corrosive material shall be protected against external corrosion.

Section 6. Materials. All main or branch soil, waste and vent pipes and fittings within or underneath a building shall be hub and spigot extra heavy or service weight cast iron, no-hub service weight cast iron, galvanized steel, galvanized wrought iron, lead, brass, Types K, L, M, DWV copper, standard high frequency welded tubing conforming to ASTM B-586-73, Types R-K, R-L, R-DWV brass tubing, DWV brass tubing conforming to ASTM B-587-73, seamless stainless steel tubing, Grade G or H conforming to CS-268-68, polyvinyl chloride schedule 40 or 80 conforming to ASTM D-2665-76 and D-1784-75, acrylonitrile-butadiene-styrene schedule 40 or 80 conforming to ASTM D-2661-76 and D-1788-73, silicon iron or borosilicate. All mains or branch soil waste and vent pipe and fittings underground shall either be hub and spigot extra heavy or service weight cast iron, No-Hub service weight cast iron, Type K or L copper pipe, Type R-K, R-L brass tubing, lead, silicon iron or borosilicate pipe and fittings or plastics DWV listed above.

Section 7. Size of Waste Pipe Per Fixture Unit on Any One Stack. The following table, based on the rate of discharge from a lavatory as a unit, shall be employed to determine fixture equivalents.

Pipe Size (In Inches)	Maximum Developed Length	Fixture Units
1¼	25 ft.	1
1½	30 ft.	2
2	50 ft.	6
2½	100 ft.	12
3	225 ft.	30
4		96
5		180
6		420
8		1200
10		2400
12		4200

Section 8. Size of Combined Soil and Waste Pipe Per Fixture Unit on Any One (1) Stack. The following table, based on the rate of discharge from a lavatory as the unit, shall be employed to determine fixture equivalents.

Pipe Size (In Inches)	(Maximum Developed Length of Combined Soil and Waste and Vent)	Fixture Units
*3	100 ft.	24
4		96
5		180
6		420
8		1200
10		2400
12		4200

* Not more than two (2) water closets or two (2) bathroom groups.

Section 9. Soil and Waste Branch Interval. The total number of fixture units installed on any soil or waste branch interval shall not exceed one-half (½) of the fixture units set forth in the table in Section 8, above.

Section 10. Soil, and Vent Stacks. Every building in which plumbing fixtures are installed shall have a soil, waste and/or vent stack, or stacks extending full size through the roof, except as otherwise provided for in Sections 7 or 8 of this regulation. Soil, waste and/or vent stacks shall be as direct as possible and free from sharp bends or turns. The required size of the soil, waste and/or vent stack shall be determined from the total of all fixture units connected to the stack in accordance with Section 7 or 8 except that no more than two (2) water closets shall discharge into a three (3) inch stack.

Section 11. Future Openings. All openings left or installed in a plumbing system for future openings shall be complete with its soil and/or waste and vent piping and shall comply with all other sections of this code.

Section 12. House Drain. When a three (3) inch house drain enters a building it shall be provided with a three (3) inch stack. One (1) floor drain may be added to the house drain with a three (3) inch trap provided that it conforms with the requirements of Sections 26 and *30* [29] of this regulation, without counting toward the fixture units of the system. Eight and one-half (8½) fixture units may be added to the three (3) inch house drain if an additional two (2) inch stack is provided, the fixtures are vented in accordance with Section 23 of this code, the center of the last fixture opening does not exceed ten (10) feet (horizontal measures) from the center line of the house drain and these fixtures are installed on a lower level than the other fixtures in the system.

Section 13. Soil and Waste Stacks, Fixture Connections. All soil and waste stacks and branches shall be provided with correctly faced inlets for fixture connections. Each fixture shall be independently connected to the soil and/or waste system. Fixture connections to water closets, floor-outlet pedestal sinks, pedestal urinals, or other similar plumbing fixtures shall be made by either cast iron, lead, brass, copper, or plastic closet bends. All three (3) inch closet bends shall have a four (4) inch by three (3) inch flange.

Section 14. Changing Soil and Vent Pipes. In an existing building where the soil, waste and vent piping is not extended undiminished through the roof or where there is a sheet metal soil or waste piping such piping shall be replaced with appropriate sizes and materials as prescribed for new work when a fixture or fixtures are changed or replaced.

Section 15. Prohibited Connections. No fixture connection shall be made to a lead bend or a branch of a water closet or a similar fixture. Vent pipes above the highest installed fixture on a branch or main shall not be used as a soil or waste pipe.

Section 16. Soil, Waste and Vent Pipe Protected. No soil, waste, or vent pipe shall be installed or permitted outside a building unless adequate provision is made to protect it from frost. The piping must be wrapped with one (1) layer of heavy hair felt and at least two (2) layers of two (2) ply tar paper, all properly bound with copper wire or in lieu thereof, the vent shall be increased to full size, the size of the increaser required as if it were passing through the roof.

Section 17. Roof Extensions. All roof extensions of soil and waste stacks shall be run full size at least one (1) foot above the roof, and when the roof is used for other purposes than weather protection, such extensions shall not be less than five (5) feet above the roof. All stacks less than three (3) inches in diameter shall be increased to a minimum of three (3) inches in diameter before passing through a roof. When a change in diameter is made the fitting must be placed at least one (1) foot below the roof.

Section 18. Terminals. If a roof terminus of any stack or vent is within ten (10) feet of the top, bottom, face or side edge of any door, window, scuttle, or air shaft, and not screened from such an opening by a projecting roof or building wall, it shall be extended at least two (2) feet above the top edge of the window or opening.

Section 19. Terminals Adjoining High Buildings. No soil, waste or vent pipe extension of any new or existing building shall be run or placed on the outside of a wall, but shall be carried up in the inside of the building unless the piping is protected from freezing. In the event, the new building is built higher than the existing building, the owner of the new building shall not locate windows within ten (10) feet of any existing vent stack on the lower building.

Section 20. Traps, Protected; Vents. Every fixture trap shall be protected against siphonage and backpressure. Air circulation shall be assured by means of an individual vent. Crown vents are not permitted.

Section 21. Distance of Trap from Vent. (1) The distance between the vent and the fixture trap shall be measured along the center line of the waste or soil pipe from the vertical inlet of the trap to the vent opening. The fixture trap vent, except for water closets and similar fixtures, shall not be below the dip of the trap, and all ninety (90) degree turns in the water line of the main waste, soil, or vent pipes shall be washed. Each fixture trap shall have a vent located with a developed length not greater than that set forth in the table below:

Size of Fixture Drain (In Inches)	Distance-Trap to Vent
1 ¼	2 ft. 6 in.
1 ½	3 ft. 6 in.
2	5 ft.
3	6 ft.
4	10 ft.

(2) A fixture branch on a water closet shall not be more than three (3) feet.

Section 22. Main Vents to Connect at Base. When a main vent or vent stack is used, it shall connect full size at the base of the main soil or waste pipe at or below the lowest fixture branch and shall extend undiminished in size through the roof or shall be reconnected with the main soil or vent stack at least six (6) inches above the rim of the highest fixture. This section shall not apply to one (1) and two (2) story installations. When it becomes necessary to

increase a vertical vent stack it then becomes a main vent and must comply with other sections of this code.

Section 23. Vents; Required Sizes. (1) The required size of a vent or vent stacks shall be determined by the total number of fixture units it serves and the developed length of the vent, in accordance with the following table, interpolating, when necessary, between permissible length of vent given in the following table.

MAXIMUM PERMISSIBLE LENGTHS OF VENTS

Pipe Size (In Inches)	Maximum Length (In Feet)	Fixture Units
1 ¼	30	2
1 ½	150	8
2	200	18
2 ½	250	36
3	300	72
4	400	240
5	600	420
6	800	720

(2) If a fixture opening is installed more than twenty-five (25) feet of developed length from the point where it is connected to the main soil or waste systems, or, if more than ten (10) feet of vertical piping is used, the vent shall be continued full size through the roof or returned full size to the main vent.

Section 24. Branch and Individual Vents. In no instance shall a branch or individual vent be less than one and one-fourth (1¼) inches in diameter and shall not exceed the maximum length permitted for a main vent.

Section 25. Vent Pipes Grades and Connections. All vent and branch vent pipes shall be free from drops or sags and be so graded and connected as to drip back to the soil or waste pipe by gravity. Where vent pipes connect to a horizontal soil or waste pipe, the vent branch shall be taken off above the center line of the pipe, and the vent pipe must rise vertically at an angle of forty-five (45) degrees to the vertical, to a point six (6) inches above the fixture it is venting before offsetting horizontally or connecting to the branch, main, waste, soil or vent.

Section 26. Vents Not Required. Vents will not be required on a back-water trap, or a subsoil catch basin trap, or a basement floor drain provided that the basement floor drain is the first opening on the house drain and that the basement floor drain branches into the house drain so that measuring along the flow line from the center of the stack, the floor drain shall not be closer than five (5) feet to the stack, nor farther than twenty (20) feet. The floor drain line shall be four (4) inches above the house drain. All floor drains on a house drain in between stacks shall be vented. All floor drains shall be the caulk-on-type.

Section 27. When Common Vent Permissible. Where two (2) water closets, two (2) lavatories or two (2) of any fixtures of identical purpose are located on opposite sides of a wall or partition, or directly adjacent to each other within the prescribed distance as set forth in Section 21 of this regulation measured along the center line of the flow of water, the fixtures may have a common soil or waste pipe and a common vent. It shall be vented in accordance with the other sections of this code.

Section 28. Floor Drain Individual Vent Not Required. Manufacturers' floor drains do not require individual vents when they are placed on a waste line for floor drains only within the prescribed distance of ten (10) feet from the main waste line, or stack, provided the base of the stack is washed and the stack or stacks are undiminished through the roof, or connected to a main vent stack.

Section 29. Floor drains and service sinks installed on the operational floor level of sewage and water treatment plant facilities which discharge into an open sump and are not connected directly to the sanitary sewage system are not required to be trapped or vented.

Section *30.* [29.] A Basement Floor Drain Does Not Require an Individual Vent. A basement floor drain does not require an individual vent if it conforms to Section 26 of this regulation, or if it is the first floor drain on the main and is ahead of all sanitary openings and is not farther than five (5) feet from the main.

Section *31.* [30.] House Drain Material. House drains shall be either extra heavy cast iron, service weight cast iron, brass Type (K) or (L) copper, lead, ABS or PVC plastic, or duriron.

Section *32.* [31.] Indirect Waste Connections. Waste pipe from a refrigerator drain or any other receptacle where food is stored or waste water from a water cooled compressor, shall connect indirectly with the house drain, soil or waste pipe. The drain shall be vented to the outside air. Such waste pipes shall discharge into an open sink or another approved open receptacle that is properly supplied with water in accordance with other sections of this code. Such connections shall not be located in an inaccessible or unventilated area.

Section *33.* [32.] Bar and Soda Fountain Wastes. Bar and soda fountain wastes, sinks and receptacles shall have a one and one-half (1½) inch P trap and branches. The main shall not be less than two (2) inches. The fresh air pipe shall not be less than one and one-half (1½) inches. The main waste line shall discharge into a properly vented and trapped open receptacle inside or outside a building. Food storage compartment drains shall be indirectly connected through a trapped receptacle whose upper edge is raised at least one (1) inch above the finished floor line.

Section *34.* [33.] Open Receptacles. Soil or waste piping receiving the discharge from an open receptacle shall be at least six (6) inches above the surface of the ground when it discharges into a septic system.

Section *35.* [34.] Refrigerator Wastes. Refrigerator waste pipes shall not be less than one and one-half (1½) inches for one (1) to three (3) openings, and at least two (2) inches for four (4) to eight (8) openings. Each opening shall be trapped. Such waste piping shall be provided with sufficient cleanouts to allow for thorough cleaning.

Section *36.* [35.] Overflow Pipes. Waste from a water supply tank or exhaust from a water lift shall not directly connect to a house drain, soil, or waste pipe. Such waste pipe shall discharge upon a roof or into a trapped open receptacle.

Section *37.* [36.] Acid and Chemical Wastes. Except as

provided herein, no corrosive liquids shall be permitted to discharge into the soil, waste or sewer system. Such waste shall be thoroughly diluted or neutralized by passing through a properly constructed and acceptable dilution or neutralizing pit before entering the house sewer.

Section *38.* [37.] Laboratory Waste Piping. Laboratory waste piping shall be sized in accordance with the other sections of this code. Each fixture shall be individually trapped. A continuous waste and vent pipe system may be used, provided the waste discharges into a vented dilution pit outside the building with a vent equal to the size of the drain. The vent may be eliminated when a pit has a ventilated cover. If under certain conditions a dilution pit is not required and is not used, each fixture shall be individually vented. If construction conditions permit, the base of the stack of the continuous waste and vent system shall be washed by the last fixture opening, and continue full size independently through the roof. All fixture branches exceeding more than the distance specified in the table in Section 21 of this regulation from the main shall be revented. The distance shall be measured from the center of the main to the center of the vertical riser. Fixture connections shall rise vertically to a height so that the trap will not be lower than twelve (12) inches from the bottom of the sink. Two (2) or more sinks may be connected into a common waste before entering the riser of the continuous waste and vent system, provided the fixtures are not more than five (5) feet from the center of one (1) fixture to the center of the other.

Section *39.* [38.] Acid Waste Piping. Underground piping for acid wastes shall be extra heavy salt glazed vitrified pipe, silicon iron, lead, polyethylene pipe and fittings conforming to PS 10-69, PS 11-69, and PS 12-69, polypropylene pipe conforming to ASTM 2581-73, or other materials approved by the department. Piping for acid wastes and vents above ground shall be of silicon iron, lead, borosilicate, or polyethylene pipe conforming to PS 10-69, PS 11-69, and PS 12-69, polypropylene pipe conforming to ASTM 2581-73, or reinforced thermosetting resin pipe conforming to ASTM D-2996 (green or poly thread).

Section *40.* [39.] Special Vents. Flat or wet vents serving a plumbing fixture may be constructed only with special permission when a plumbing system is being remodeled or when additions are added to an original system.

JOHN R. GROVES, JR., Commissioner
ADOPTED: April 1, 1981
APPROVED: H. FOSTER PETTIT, Secretary
RECEIVED BY LRC: April 15, 1981 at 3:45 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Eugene F. Perkins, Director, Division of Plumbing, Department of Housing, Buildings and Construction, The 127 Building, U.S. 127 South, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings and Construction
(Proposed Amendment)

815 KAR 20:120. Water supply and distribution.

RELATES TO: KRS Chapter 318
PURSUANT TO: KRS 13.082, 318.130
NECESSITY AND FUNCTION: The department is directed by KRS 318.130 through the State Plumbing Code Committee to adopt and put into effect a State Plumbing Code. This regulation relates to the types of piping, pipe sizes for a potable water supply system and the methods to be used to protect and control it.

Section 1. Quality. The bacteriological and chemical quality of the water supply shall comply with the regulations of the department.

Section 2. Distribution. The water supply shall be distributed through a piping system entirely independent of any other piping system.

Section 3. Water Service. The water service piping to any building shall be not less than three fourths (¾) inch but shall be of sufficient size to permit a continuous and ample flow of water to all fixtures on all floors at all times. The water service may be laid in the same trench with the house sewer provided the water piping is benched eighteen (18) inches above the sewer.

Section 4. Water Supply to Fixtures. Plumbing fixtures shall be provided with a sufficient supply of water for flushing to keep them in a sanitary condition. Every water closet or pedestal urinal shall be flushed by means of an approved tank or flush valve. The tank or valves shall furnish at least a four (4) gallon flushing capacity for a water closet and at least a two (2) gallon capacity for a urinal. When a water closet, urinal, or similar fixture is supplied directly from the water supply system through a flushometer or other valve, such valves shall be set above the fixture in a manner so as to prevent any possibility of polluting the potable water supply by back siphonage. All such fixtures shall have a vacuum breaker. Plumbing fixtures, devices or appurtenances shall be installed in a manner that will prevent any possibility of a cross connection between the potable water supply system, drainage system or other water system.

Section 5. Water Supply to Drinking Fountains. The orifice of a drinking fountain shall be provided with a protective cowl to prevent any contamination of the potable water supply system.

Section 6. Sizing of Water Supply Piping. (1) The minimum size water service from the property line to the water heater shall be three-fourths (¾) inch. The hot and cold water piping shall extend three-fourths (¾) inch in size to the first fixture branch regardless of the kind of material used. When galvanized iron pipe is used the distribution piping shall be arranged so that no two (2) one-half (½) inch fixture branches are supplied from any one-half (½) inch pipe.

(2) The following schedule shall be used for sizing the water supply piping to fixtures:

Fixture Branches	Size Minimum Inches
Sill Cocks	1/2
Hot water boilers	3/4
Laundry trays	1/2
Sinks	1/2
Lavatories	3/8
Bathtubs	1/2
Water closet tanks	3/8
Water closet flush valves	1

Section 7. Water Supply Pipes and Fittings, Materials. Water supply piping for a potable water system shall be of galvanized wrought iron, galvanized steel, brass, Types K, L, and M copper, cast iron, Types R-K, R-L, and R-M brass tubing, standard high frequency welded tubing conforming to ASTM B-586-73, fusion welded copper tubing conforming to ASTM B-447-72 and ASTM B-251, DWV welded brass tubing conforming to B-587-73, seamless stainless steel tubing, Grade H conforming to CS A-268-68, reinforced thermosetting resin pipe conforming to ASTM D-2996 (red thread for cold water use and silver and green thread for hot and cold). Polyethylene plastic pipe conforming to ASTM D-2239-69, PVC plastic pipe conforming to ASTM 1785, and CPVC plastic pipe conforming to CS D-2846-70, PVC SDR 21 and SDR 26 conforming to ASTM D-2241, polybutylene pipe conforming to ASTM D-3309 with brass, copper or celcon fittings, plastic pipe and fittings shall bear the NSF seal of approval. Polybutylene hot and cold water connectors to lavatories, sinks and water closets shall conform to ASTM 3309, and polybutylene plastic pipe conforming to ASTM 2662 for cold water applications only. Fittings shall be brass, copper or approved plastic or galvanized cast iron or galvanized malleable iron. Piping or fittings that have been used for other purposes shall not be used for the water distribution system. All joints in the water supply system shall be made of screw, solder, or plastic joints. Cast iron water pipe joints may be caulked, screwed, or machine drawn. When Type M Copper pipe, Type R-M brass tubing, standard high frequency welded tubing or stainless steel tubing is placed within a concrete floor or when it passes through a concrete floor it shall be wrapped with an approved material that will permit expansion or contraction. In no instance shall Polythylene, PVC or CPVC be used below ground under any house or building.

Section 8. Temperature and Pressure Control Devices for Shower Installations. Temperature and pressure control devices shall be installed on all shower installations that will maintain an even temperature and pressure and will provide non-scald protection. Such devices shall be installed on all installations other than in homes or apartment complexes.

Section 9. Water Supply Control. A main supply valve shall be placed inside a foundation wall. Each fixture or each group of fixtures shall be valved and each lawn sprinkler opening shall be valved.

Section 10. Water Supply Protection. All concealed water pipes, storage tanks, cisterns, and all exposed pipes or tanks subject to freezing temperatures shall be protected against freezing. Water services shall be installed at least thirty (30) inches in depth.

Section 11. Temperature and Pressure Relief Devices for Water Heaters. Temperature and pressure relief devices shall be installed on all water heaters on the hot water side not more than three (3) inches from the top of the heater. Temperature and pressure relief devices shall be of a type approved by the department. When a water heater is installed in a location that has a floor drain the discharge from the relief device shall be piped to within two (2) inches of the floor; when a water heater is installed in a location that does not have a floor drain, the discharge from the relief device shall be piped to the outside of the building with an ell turned down and piped to within four (4) inches of the surface of the ground. Relief devices shall be installed on a pneumatic water system.

Section 12. Protection of a Private Water Supply or Source. Private water supplies or sources shall be protected from pollution in a manner approved by the department. Such approval shall be obtained before an installation is made.

Section 13. Trap Primer Valves. Trap primer valves that conform to ASSE 1018 shall be installed on all traps connected to floor drains in all buildings except residential complexes with less than eight (8) units as well as traps that serve condensate drains for either heating or air-conditioning equipment.

Section 14. Domestic Solar Water Heaters. Domestic solar water heaters may have a "single wall heat exchanger" provided the solar panel and the water heater exchanger use a nontoxic liquid such as propylene glycol or equal, and that the heat exchanger is pretested by the manufacturer to 450 PSI and that the water heater has a warning label advising that a nontoxic heat exchanger fluid must be used at all times and that a pressure relief valve is installed at the highest point in the solar panel.

Section 15. Domestic Water Heater Preheating Device. A domestic water heater preheating device may be used and connected with the high pressure line from the compressor of a domestic home air-conditioner. This device must be equipped with a temperature limit control that would actuate a pump that would circulate hot water from the water heater to the preheater device.

Section *16.* [13.] Water Distribution and Connections to Mobile Homes. (1) An adequate and safe water supply shall be provided to each mobile home conforming to the requlations of the department.

(2) All materials, including pipes and fittings used for connections shall conform with the other sections of this code.

(3) An individual water connection shall be provided at an appropriate location for each mobile home space. The connection shall consist of a riser terminating at least four (4) inches above the ground with two (2) three-fourths (¾) inch valve outlets with screw connection, one (1) for the mobile home water system and the other for lawn watering and fire control. The ground surface around the riser pipe shall be graded so as to divert surface drainage. The riser pipe shall be encased in an eight (8) inch vitrified clay pipe or equal with the intrervening space filled with an insulating material to protect it from freezing. An insulated cover shall be provided which will encase both valve outlets but not prevent connection to the mobile home during freezing weather. A shut-off valve may be placed below the

frost depth on the water service line, but in no instance shall this valve be a stop-and-waste cock.

JOHN R. GROVES, JR., Commissioner
ADOPTED: April 1, 1981
APPROVED: H. FOSTER PETTIT, Secretary
RECEIVED BY LRC: April 15, 1981 at 3:45 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Eugene F. Perkins, Director, Division of Plumbing, Department of Housing, Buildings and Construction, The 127 Building, U.S. 127 South, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings and Construction
(Proposed Amendment)

815 KAR 20:141. Standards for subsurface sewage disposal systems.

RELATES TO: KRS Chapter 318
PURSUANT TO: KRS 13.082, 198B.040(10), 318.130, 318.134
NECESSITY AND FUNCTION: The department is directed by KRS 318.130 and through the State Plumbing Code Committee to adopt and put into effect a state plumbing code. This regulation establishes uniform standards for subsurface sewage disposal systems. This regulation is necessary to adequately evaluate soil conditions, as well as to designate the type and size of the on-site sewage disposal system that is suitable for any particular project, prior to the issuance of KRS 318.134 plumbing construction permits.

Section 1. Citation of Regulation. This regulation may be cited as the "Kentucky Subsurface Sewage Disposal Regulation."

Section 2. Permit Required. No person shall construct, install or alter a subsurface sewage disposal system or dispose of sewage below the surface of the earth without first having received a permit pursuant to this regulation. The permit may be obtained from the department or from a local board of health which has been authorized to act for the department.

Section 3. Definitions. As used in this regulation the following terms shall have the meanings set forth below:
(1) "Approved percolation test" means a test conducted on a parcel of property at the location where the subsurface sewage system is to be installed and the written results of which are given in the following manner:
(a) Four (4) test holes at least thirty (30) inches deep and four (4) inches to twelve (12) inches in diameter shall be dug to the bottom depth of the drain field;
(b) The sides and bottom of the holes shall be scarified to remove any smeared surfaces;
(c) All loose material shall be removed from the holes;
(d) The holes shall be presoaked by filling with water for at least fourteen (14) hours prior to the test;
(e) Prior to the commencement of readings the water in the test holes shall be adjusted to a six (6) inch depth to begin the test;
(f) A reading shall be taken each hour over a four (4) hour period and the depth shall be readjusted to the six (6) inch level after each hourly reading;
(g) A fixed point shall be established for evaluating each test hole (e.g. by placing a stake approximately three (3) feet long in the test hole with two (2) nails in the stake, one four (4) and the other ten (10) inches from the bottom of the stake. The stake shall be driven into the ground with the first nail resting on the bottom of the hole. The first nail shall be used as a bench mark for each hourly reading and the second nail shall be used as a guide in adjusting the waterlevel);
(h) The hourly rate of absorption shall be recorded and the average fourth hour rate shall be considered the equilibrium rate;
(i) Four (4) rock sounding tests shall be conducted to detect the presence of rock formation at a depth of six (6) feet or less;
(j) Test holes for determining the equilibrium rate and rock sounding tests shall be conducted in separate locations and shall be so spaced as to accurately reflect the general configuration of the proposed lateral system;
(k) Seasonal high water table within six (6) feet of the surface shall be ascertained and reported whenever the percolation test is conducted in the months of May, June, July, August or September;
(l) Where soil maps are available, soil characteristics at the location of the proposed system shall be reported on the percolation test sheet;
(m) The percolation tests results shall be reported on a departmental form and certified by a person authorized to perform such a test. The report shall include, as a minimum, a sketch of the shape and dimensions of the lot lines, location of the test holes in relation thereto and proposed location of the building;
(n) The percolation test shall be void if the area in which the percolation test was conducted is regraded, or if the system is not to be installed in the area where the test was conducted. If regrading of the area after a system is installed results in removal of any of the original soil, approval of the system shall be void. If an area is filled, the site shall not be utilized for subsurface disposal for a period of one (1) year; this requirement may be waived after review and approval by the department of soil compaction test results prepared and certified by a professional engineer registered in Kentucky.

(2) "Drain field" means a system of piping installed in a two (2) foot wide trench approximately thirty (30) inches deep. The piping shall be either four (4) inch open joint or four (4) inch perforated pipe. Six (6) inches of number three (3) rock shall be placed below the pipe, six (6) inches of number three (3) rock shall be placed over the (above the crown of the) pipe, with a total depth of sixteen (16) inches.
(3) "Subsurface disposal system" means an installation intended for the treatment and disposal of sewage by means of a septic tank, or other approved device, and includes the drain field into which the effluent will disperse. (See Section 5.)
(4) "Equilibrium rate" means the average fourth hour absorption rate of the test holes. However, if review of the data indicates that the rate of fall is not consistent, tests shall be continued until such time as a consistent absorption rate is obtained. This consistent absorption rate is the equilibrium rate.

Section 4. Standards for Issuing Subsurface Sewage

Disposal Permits. No permit shall be issued for a subsurface sewage disposal system unless: (1) The rock sounding test indicated the absence of rock formation at a depth of at least four (4) feet; and

(2) The seasonal high water table was not within four (4) feet of the surface; and

(3) The septic tank (or other approved treatment device) and drain field are sized in accordance with Sections 5 and 6; and

(4) An approved percolation test was conducted and reported and the results thereof indicate that the equilibrium rate was at least one (1) inch per hour; however, in the event the equilibrium rate is greater than one-half (½) inch per hour the site may be approved provided:

(a) The parcel of property is of sufficient size to reconstruct the drain field in an alternate location should the initial installation malfunction; and

(b) That additional approved treatment is given the waste water before disposal to the drain field; and

(5) Plans for the proposed system have been submitted which when taken together with the percolation test report show the following: the location of the building; the distances from the proposed system to the property line and nearby wells and streams; size and shape of lot lines, including length and width of the site; the location of the proposed system in relation to the percolation test holes; and elevations where the department or person authorized to conduct the percolation test deems it necessary to adequately evaluate the site.

(6) In the event a proposed site fails to meet the criteria set forth in this section, a permit shall be issued for an approved alternative system, other than a septic tank, which is appropriate to the individual characteristics of the site or a variance shall be granted if the department or authorized local board of health finds that health standards and water quality criteria are not jeopardized.

(7) Any person who wishes a variance to the requirements of this section, must petition the department or authorized board of health in writing. Such request shall be accompanied by a statement of the reasons for seeking the variance. Variances may be issued for any lot which can safely accommodate the proposed system.

Section 5. Table I. Size of Septic Tank:

Minimum Capacity for Septic Tank and Other Sewage Treatment Devices

Number of Bedrooms	Size in Gallons
2 or less	750
3	900
4	1,000
each additional	250

Section 6. Table II. Length of Drain Field:

Footage of Drainage Lines Required

Equilibrium Rate (Greater than inches per hour)	Bedrooms (feet) 2	3	4	5
1/2	495	660	825	990
1	330	495	660	825
1 1/8	320	480	640	800
1 1/4	315	475	630	790
1 3/8	310	465	620	775
1 1/2	300	450	600	750
1 5/8	290	435	580	725
1 3/4	275	415	550	690
1 7/8	260	390	520	650
2	250	375	500	625

Section 7. Authorized Local Boards of Health and Persons Approved to Conduct Percolation Tests. (1) The Commissioner of the Department of Housing shall, upon written request from a local board of health, authorize such board to serve as its agent to issue permits for on-site sewage disposal systems within that area of local board jurisdiction. Such request shall include a method of administering this regulation. As agent, the authorized local board of health shall act for the department in issuing permits and granting variances for on-site sewage disposal systems. Actions by the local board of health shall comply with the requirements of KRS 318.134 and 318.160 and with the regulations established by the department for on-site sewage disposal systems. Whenever the local health board grants a subsurface sewage system permit, a copy of same shall be placed on file in the Department of Housing, Buildings and Construction, Division of Plumbing.

(2) All persons who propose to conduct percolation tests shall submit their name, occupation, registration number and address to the department *except registered civil and sanitary engineers. Lists of names of these persons shall be furnished by the engineers registration board.*

(3) In the event the department finds that an authorized local board of health, professional engineer or land surveyor, registered sanitarian or other person authorized by the department to conduct and report percolation tests is not complying with the terms of this regulation, the commissioner may suspend or revoke such authorization after a hearing thereon.

Section 8. Effect on Local Regulation. This regulation shall not supersede more stringent regulations of any local government body.

JOHN R. GROVES, JR., Commissioner
ADOPTED: April 1, 1981
APPROVED: H. FOSTER PETTIT, Secretary
RECEIVED BY LRC: April 15, 1981 at 3:45 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Eugene F. Perkins, Director, Division of Plumbing, Department of Housing, Buildings and Construction, The 127 Building, U.S. 127 South, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Insurance
(Proposed Amendment)

904 KAR 1:003. Technical eligibility.

RELATES TO: KRS 205.520
PURSUANT TO: KRS 13.082, 194.050
NECESSITY AND FUNCTION: The Department for Human Resources has responsiblity to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520(3) empowers the department by regulation to comply with any requirement that may be imposed or opportunity presented by federal law for the provision of Medical Assistance, hereinafter referred to as MA, to Kentucky's indigent citizenry. This regulation sets forth the technical eligibility requirements of the MA Program.

Section 1. The Categorically Needy: All individuals receiving Aid to Families with Dependent Children, Supplemental Security Income or Optional or Mandatory State Supplementation are eligible for MA as categorically needy individuals. In addition, the following classifications of needy persons are included in the program as categorically needy and thus eligible for MA participation.

(1) Children in foster family care or private non-profit child caring institutions dependent in whole or in part on a governmental or private agency;

(2) Children in psychiatric hospitals or medical institutions for the mentally retarded;

(3) Unborn children deprived of parental support due to death, absence, incapacity or unemployment of the father;

(4) Children of unemployed parents;

(5) Children in subsidized adoptions dependent in whole or in part on a governmental agency;

(6) Families terminated from the Aid to Families with Dependent Children (AFDC) program because of increased earnings or hours of employment.

Section 2. The Medically Needy: Other individuals, meeting technical requirements comparable to the categorically needy group, but with sufficient income to meet their basic maintenance needs may apply for MA with need determined in accordance with income and resource standards prescribed by regulation of the Department for Human Resources.

Section 3. Technical Eligibility Requirements: Technical eligibility factors of families and individuals included as categorically needy under subsections (1) through (6) of Section 1, or as medically needy under Section 2 are:

(1) Children in foster care, private institutions, psychiatric hospitals or mental retardation institutions must be under twenty-one (21) years of age, except that a child eligible for and receiving inpatient psychiatric services on his twenty-first birthday may be eligible until he reaches his twenty-second birthday or the inpatient treatment ends, whichever comes first;

(2) Unborn children are eligible only upon medical proof of pregnancy;

(3) Unemployment relating to eligibility of both parents and children is defined as:

(a) Employment of less than 100 hours per month, except that the hours may exceed that standard for a particular month if the work is intermittent and the excess is of a temporary nature as evidenced by the fact that the individual was under the 100 hour standard for the prior two (2) months and is expected to be under the standard during the next month;

(b) The individual has prior labor market attachment consisting of earned income of at least fifty dollars ($50) during six (6) or more calendar quarters ending on March 31, June 30, September 30, or December 31, within any thirteen (13) calendar quarter period ending within one (1) year of application, or the individual within twelve (12) months prior to application received unemployment compensation;

(c) The individual is currently receiving or has been found ineligible for unemployment compensation;

(d) The individual is currently registered for employment at the state employment office, and available for full-time employment;

(e) The unemployed parent must not have refused suitable employment without good cause as determined in accordance with 45 CFR section 233.100(a)(3)(ii).

(4) Children, but not parents, may be eligible if both parents meet a more liberal definition of unemployment defined as:

(a) Employment of less than thirty (30) hours per week; or

(b) Regular attendance, at public expense, in a formalized full-time training course, below the college level. A public work project in which a real wage is paid, that is, subject to standard payroll deductions, is not considered a training course; or

(c) Receipt of unemployment compensation; and

(d) Requirements of subsection (3)(d) are met in that at least one (1) parent is registered and available for employment unless both parents are unemployed pursuant to paragraph (b) of this subsection; and the requirements of subsection (3)(e) are met for both parents.

(5) Under the definitions contained in subsections (3) and (4) of this section, a parent shall not be considered as unemployed if he is:

(a) Temporarily unemployed due to weather conditions or lack of work when it is anticipated he can return to work within thirty (30) days; or

(b) On strike, or unemployed as a result of involvement in a labor dispute when such involvement would disqualify the individual from eligibility for unemployment insurance in accordance with KRS 341.360; or

(c) Unemployed because he voluntarily quit his most recent work for the purpose of attending school; or

(d) A farm owner or tenant farmer, unless he has previously habitually required and secured outside employment and currently is unable to secure outside employment; or

(e) Self-employed and not available for full-time employment.

(6) An aged individual must be at least sixty-five (65) years of age.

(7) A blind individual must meet the definition of blindness as contained in Title II and XVI of the Social Security Act relating to RSDI and SSI.

(8) A disabled individual must meet the definition of permanent and total disability as contained in Title II and XVI of the Social Security Act relating to RSDI and SSI.

(9) For families losing AFDC eligibility solely because of increased earnings or hours of employment, medical assistance shall continue for four (4) months to all such family members as were included in the family grant (and children born during the four (4) month period) if the family received AFDC in any three (3) or more months

during the six (6) month period immediately preceding the month in which it became ineligible for AFDC. The four (4) month period begins on the date AFDC is terminated. If AFDC benefits are paid erroneously for one (1) or more months in such a situation, the four (4) month period begins with the first month in which AFDC was erroneously paid, i.e., the month in which the AFDC should have been terminated.

(10) Parents may be included for assistance in the cases of families with children (except as shown in subsection (4) of this section) including adoptive parents and alleged fathers where circumstances indicate the alleged father has admitted the relationship prior to application for assistance. Other relatives who may be included in the case (one (1) only) are caretaker relatives to the same extent they may be eligible in the aid to families with dependent children program.

(11) An applicant who is deceased may have eligibility determined in the same manner as if he was alive, in order to pay medical bills during the terminal illness.

(12) Children of the same parent, i.e., a "common" parent, residing in the same household shall be included in the same case unless this acts to preclude eligibility of an otherwise eligible household member.

(13) To be eligible, an applicant or recipient must be a citizen of the United States, or an alien legally admitted to this country or an alien who is residing in this country under color of law. *An alien must have been admitted for permanent residence.* The applicant or recipient must also be a resident of Kentucky. Generally, this means the individual must be residing in the state for other than a temporary purpose; however, there are exceptions with regard to recipients of a state supplementary payment and institutionalized individuals. The conditions for determining state residency are specified in federal regulations at 42 CFR 435.403, which are hereby incorporated by reference.

(14) An individual may be determined eligible for medical assistance for up to three (3) months prior to the month of application if all conditions of eligibility are met. The effective date of medical assistance is generally the first day of the month of eligibility. For individuals eligible on the basis of unemployment, eligibility may not exist for the thirty (30) day period following the starting date of the unemployment. In these cases, the effective date of eligibility may be as early as the first day following the end of the thirty (30) day period if all other conditions of eligibility are met. For individuals eligible on the basis of desertion, a period of desertion must have existed for thirty (30) days, and the effective date of eligibility may not precede the first day of the month in which the thirty (30) day period ends. For individuals eligible on the basis of utilizing their excess income for incurred medical expenses, the effective date of eligibility is the day the spend-down liability is met.

(15) "Child" means a needy dependent child under the age of twenty-one (21), including the unborn child, who is not otherwise emancipated, self supporting, married, or a member of the armed forces of the United States, and who is a recipient of or applicant for public assistance. Included within this definition is an individual(s) under the age of twenty-one (21), previously emancipated, who has returned to the home of his parents, or to the home of another relative, so long as such individual is not thereby residing with his spouse.

Section 4. Institutional Status: No individual shall be eligible for MA if a resident or inmate of a non-medical public institution. No individual shall be eligible for MA while a patient in a state tuberculosis hospital unless he has reached age sixty-five (65). No individual shall be eligible for MA while a patient in a state institution for mental illness unless he is under age twenty-one (21) (except as provided for in Section 3(1) or is sixty-five (65) years of age or over.

Section 5. Application for Other Benefits: As a condition of eligibility for medical assistance, applicants and recipients must apply for all annuities, pensions, retirement and disability benefits to which they are entitled, unless they can show good cause for not doing so. Good cause is considered to exist when such benefits have previously been denied with no change of circumstances, or the individual does not meet all eligibility conditions. Annuities, pensions, retirement and disability benefits include, but are not limited to, veterans' compensations and pensions, retirement and survivors disability insurance benefits, railroad retirement benefits, and unemployment compensation. Notwithstanding the preceding, no applicant or recipient shall be required to apply for federal benefits when the federal law providing for such benefits shows the benefit to be optional and that the potential applicant or recipient for such benefit need not apply for such benefit when to do so would, in his opinion, act to his disadvantage.

Section 6. Transferred Resources. When an applicant or recipient *transfers* [is suspected of transferring] a *non-excluded* resource(s) for the purpose of becoming eligible for medical assistance, the value of the transferred resource(s) will be considered a resource [only] to the extent provided for by this section. *The provisions of this section are applicable to both family related cases and medical assistance only cases based on age, blindness, or disability.*

(1) *The disposal of a resource, including liquid assets, at less than fair market value shall be presumed to be for the purpose of establishing eligibility unless the individual presents convincing evidence that the disposal was exclusively for some other purpose. If the purpose of the transfer is for some other reason or if the transferred resource was considered an excluded resource at the time it was transferred, the value of the transferred resource is disregarded. If the resource was transferred for an amount equal to at least the assessed value for tax purposes, the resource will be considered as being disposed of for fair market value.* [For family related cases, the following actions must be taken:]

[(a) The department shall be responsible for determining whether the resource was transferred for the sole purpose of the applicant or recipient becoming or remaining eligible for medical assistance. If the purpose of the transfer is for some other reason (in whole or in part), or cannot be determined, the value of the transferred resource is disregarded.]

(2) [(b)] After determining that the purpose of the transfer was to become or remain eligible, the department shall first add the *uncompensated* equity value of the transferred resource to *other currently held* [remaining] resources to determine if retention of the property would have resulted in ineligibility. For this purpose, the resource considered available shall be the type of resource it was prior to transfer, e.g., if non-homestead property was transferred, the *uncompensated* equity value of the transferred property would be counted against the permissible amount for non-homestead property. If retention

of the resource would not have resulted in ineligibility, the value of the transferred resource would thereafter be disregarded.

(3) [(c)] If retention would result in ineligibility, the department will compute the period the transferred resource will be considered available by dividing the total excess resources (including the *uncompensated equity value of the* transferred resource) by *$500* [the medically needy scale shown in 904 KAR 1:004]. The derived number[s] shall be the number of months the resource is considered available; however, the resource shall not be considered available for a period of time in excess of *twenty-four (24)* [twelve (12)] months. For an applicant meeting all other conditions of eligibility, the period the transferred resource is to be considered available shall begin with the first month the applicant would be eligible except for the fact the transferred resource is counted as an available resource, or the month of application if earlier. For a recipient whose care must be discontinued due to excess resources, the period shall begin with the month of discontinuance. For an applicant also ineligible for another reason, the period shall begin with the month of application. In none of the preceding, however, shall the period begin prior to the month in which the resource was transferred *or extend longer than twenty-four (24) months from the date of transfer.*

[(2) For supplemental security income recipients and related adult category cases (medical assistance only cases based on age, blindness or disability) disposal of resources prior to application shall not be a factor in determining eligibility. If, after application, the applicant wishes to establish conditional eligibility by disposing of excess property, this may be done within the following limits and guidelines:]

[(a) The total estimated value of the excess amount (the amount by which the value of the resource exceeds the applicable resource limit(s)) to be disposed of shall not be more than $1,500 per individual, and such resource must be non-liquid assets not readily disposed of, i.e., real property such as land, buildings, etc.]

[(b) The applicant must enter into a written contract or agreement whereby the applicant agrees to dispose of the excess property within six (6) months, to be potentially liable for medical assistance expenditures made on his behalf during the period of conditional eligibility, to repay the department as required for those expenditures up to the full amount of the excess (with liability for repayment computed in accordance with subsection (2)(f) of this section), to sell the property at the assessed or fair market value, and to notify the department within five (5) days of the sale of the property.]

[(c) When a conditionally eligible recipient alleges that he has been unable to sell the property within the six (6) month period, a three (3) month extension of the period for disposition will be granted at the request of the client.]

[(d) The period of conditional eligibility shall begin with the month the contract to dispose of the excess property is signed by the applicant and may continue thereafter for eight (8) additional months. The period of conditional eligibility shall also end (within the upper limit) whenever the conditionally eligible recipient disposes of the property and the determination of eligibility is made in the usual manner, or whenever the recipient advises the department that he no longer wishes to dispose of the property.]

[(e) When the period for disposition (including any extension) ends and the client has not sold the property, he is liable for medical expenses paid by the program on his behalf (during the period of conditional eligibility) up to the amount of the estimated excess. No sale is considered to have occurred, for purposes of this program, if the recipient disposes of the property by sale, trade, gift or other method without receiving the assessed or fair market value.]

[(f) When the recipient sells the property, the client liability for repayment is to be computed as follows:]

[1. Determine gross sale amount of the property;]

[2. Deduct all encumbrances and costs of sale;]

[3. Add the remainder (but not more than the actual excess amount which is the difference between the applicable resource limit and the actual selling price when the property value is sold at the assessed or fair market value) to liquid assets available at the time the contract was signed;]

[4. Subtract the allowable liquid resources amount for the appropriate family size ($1,500 for family size of one (1), $3,000 for a family size of two (2)); and]

[5. Compare the remainder with the amount of conditional medical assistance payments made on behalf of the recipient. The conditional recipient's liability is the lesser of the two (2) amounts.]

[(g) For purposes of conditional eligibility, an applicant shall not be permitted to enter into a contract to dispose of the same property more than once, or to enter into a contract to dispose of property purchased with the proceeds of a sale under a disposal of property contract, or to enter into a contract when the terms of an earlier contract were not met by the applicant.]

[(h) It is the department's intent that the estimated excess amount referenced in subsection (2)(a) of this section shall be the critical amount in determining eligibility of the applicant to enter into a disposal of property agreement for conditional eligibility purposes. Determination, by sale, at a later time that the actual excess in fact exceeded the upper limit of $1,500 will not negatively affect the conditional eligibility; however, any additional amount of excess must also be considered in determining the recipient's liability for repayment.]

(4) [(3)] The provisions of this section shall be effective on *March 1, 1981* [December 16, 1980]. *For those recipients who were receiving assistance on February 28, 1981, this section will be applicable only with respect to resources transferred subsequent to that date.*

WILLIAM L. HUFFMAN, Commissioner
ADOPTED: March 27, 1981
APPROVED: W. GRADY STUMBO, Secretary
RECEIVED BY LRC: April 14, 1981 at 8:40 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, DHR Building, 275 East Main Street, Frankfort, Kentucky 40621.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Insurance
(Proposed Amendment)

904 KAR 1:009. Physicians' services.

RELATES TO: KRS 205.520
PURSUANT TO: KRS 13.082, 194.050
NECESSITY AND FUNCTION: The Department for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX

of the Social Security Act. KRS 205.520 empowers the department, by regulation, to comply with any requirement that may be imposed or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the provisions relating to physicians' services for which payment shall be made by the Medical Assistance Program in behalf of both the categorically needy and the medically needy.

Section 1. Physicians' Services: Covered services shall include those furnished by physicians through direct physician-patient contact in the office, the patient's home, a hospital, a skilled nursing or intermediate care facility or elsewhere.

Section 2. Limitations: (1) Coverage for initial and extensive visits shall be limited to *one (1)* [two (2)] visit[s] per patient per physician per calender year.

(2) Payment for outpatient psychiatric services rendered by other than board-eligible and board-certified psychiatrists shall be limited to four (4) such services per patient per physician per calendar year.

(3) A patient placed in "lock-in" status due to over-utilization is to receive services only from his/her lock-in provider except in the case of emergency or referral.

(4) Coverage for laboratory procedures performed in the physician's office shall be limited to those procedures listed on the agency's physician laboratory benefit schedule.

(5) The cost of preparations used in injections shall not be considered a covered benefit.

(6) Telephone contacts with patients shall not be considered a covered benefit.

WILLIAM L. HUFFMAN, Commissioner
ADOPTED: March 26, 1981
APPROVED: W. GRADY STUMBO, Secretary
RECEIVED BY LRC: April 14, 1981 at 8:40 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, DHR Building, 275 East Main Street, Frankfort, Kentucky 40621.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Insurance
(Proposed Amendment)

904 KAR 1:010. Payment for physicians' services.

RELATES TO: KRS 205.550, 205.560
PURSUANT TO: KRS 13.082, 194.050
NECESSITY AND FUNCTION: The Department for Human Resources has responsibility to administer a program of Medical Assistance under Title XIX of the Social Security Act. KRS 205.550 and 205.560 require that the secretary prescribe the methods for determining costs for vendor payments for medical care services. This regulation sets forth the method for establishing payment for physician services.

Section 1. Amount of Payment. Payment for covered services rendered to eligible medical assistance recipients is based on the physicians' usual, customary, reasonable and prevailing charges.

Section 2. Definitions. For purposes of determination of payment: (1) Usual and customary charge refers to the uniform amount the individual physician charges in the majority of cases for a specific medical procedure or service.

(2) Prevailing charge refers to those charges which fall within the range of charges as computed by the use of a pre-determined and established statistical percentile. Prevailing charges for each medical procedure are derived from the overall pattern existing within each medical service area.

Section 3. Method and Source of Information on Charges. (1) Effective October 1, 1974, the individual fee profiles for participating physicians were generated from historical data accumulated from charges submitted and processed by the medical assistance program during all of calendar year 1973.

(2) Effective October 1, 1974, the Title XIX prevailing fee maximums were generated from the same historical data as referenced in subsection (1) of this section.

(3) Effective October 1, 1974, the Title XVIII, Part B, current reasonable charge profiles were utilized by the medical assistance program to comply with 45 C.F.R. section 250.30, now recodified as 42 C.F.R. 447.341.

(4) Effective October 1, 1974, the Title XVIII, Part B, current prevailing charge data was utilized by the medical assistance program to comply with 45 C.F.R. section 250.30, now recodified as 42 C.F.R. 447.341.

(5) Percentile:

(a) The Title XIX prevailing charges were established by utilizing the statistical computation of the seventy-fifth (75th) precentile.

(b) The Title XVIII, Part B, prevailing charges were established by utilizing the statistical computation of the seventy-fifth (75th) percentile.

Section 4. Maximum Reimbursement for Covered Procedures. (1) Reimbursement for covered procedures is limited to the lowest of the following:

(a) Actual charge for service rendered as submitted on billing statement;

(b) The physician's median charge for a given service derived from claims processed or from claims for services rendered during all of the calendar year preceding the start of the fiscal year in which the determination is made; or

(c) The physician's reasonable charge recognized under Part B, Title XVIII.

(2) In no case may payment exceed the prevailing charge recognized under Part B, Title XVIII for similar service in the same locality.

(3) In instances where a reasonable charge for a specific medical procedure for a given physician has not been established under Part B, Title XVIII, the prevailing charge recognized under Part B, Title XVIII, for a similar procedure is utilized.

(4) In instances where neither a reasonable charge nor prevailing charge has been established for a specific medical procedure by Part B, Title XVIII, the prevailing charge established under Title XIX is utilized as the maximum allowable fee.

(5) The upper limit for new physicians shall not exceed the fiftieth (50th) percentile.

Section 5. Exceptions. Exceptions to reimbursement as outlined in foregoing sections are as follows: (1) Reimbursement for physician's services provided to inpatients of hospitals is made on the basis of 100 percent reimburse-

ment per procedure for the first fifty dollars ($50) of allowable reimbursement and on the basis of a percentage of the physician's usual, customary and reasonable charge in excess of fifty dollars ($50) per procedure, after the appropriate prevailing fee screens are applied. The percentage rate applied to otherwise allowable reimbursement in excess of fifty dollars ($50) per procedure is established at *sixty (60)* [seventy (70)] percent. The percentage rate will be reviewed periodically and adjusted according to the availability of funds.

(2) Payment for individuals eligible for coverage under Title XVIII, Part B, Supplementary Medical Insurance, is made in accordance with Sections 1 through 4 and Section 5(1) within the individual's deductible and coinsurance liability.

[Section 6. The provisions of Sections (1) to (6) of this amended regulation shall be effective for all services rendered beginning July 1, 1979.]

WILLIAM L. HUFFMAN, Commissioner
ADOPTED: March 26, 1981
APPROVED: W. GRADY STUMBO, Secretary
RECEIVED BY LRC: April 14, 1981 at 8:40 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, DHR Building, 275 East Main Street, Frankfort, Kentucky 40621.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Insurance
(Proposed Amendment)

904 KAR 1:012. In-patient hospital services.

RELATES TO: KRS 205.520
PURSUANT TO: KRS 13.082, 194.050
NECESSITY AND FUNCTION: The Department for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520[(3)] empowers the department, by regulation, to comply with any requirement that may be imposed or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the provisions relating to in-patient hospital services for which payment shall be made by the Medical Assistance program in behalf of both the categorically needy and the medically needy.

Section 1. Length of Stay: In-patient hospital services except for services in an institution for treatment of tuberculosis or mental diseases shall be limited to a maximum of *fourteen (14)* [twenty-one (21)] days per admission. Each admission shall be reviewed by the *Kentucky Peer Review Organization and assigned a length of stay date in order to qualify for reimbursement* [hospital's utilization review mechanism within twenty-four (24) hours after admission and assigned a length of stay date]. The admission shall again be reviewed on or before the assigned length of stay date if further admission necessitates. *Weekend stays associated with a Friday or Saturday admission will not be reimbursed unless an emergency exists.*

Section 2. Covered Admissions: Admissions for which payment is made shall be limited to those primarily indicated in the management of acute or chronic illness, injury or impairment, or for maternity care [or diagnostic services] that could not be rendered on an out-patient basis. *Admissions relating to only observation or diagnostic purposes or for elective cosmetic, plastic or reconstructive surgeries shall not be covered.*

Section 3. In-patient Hospital Services Not Covered by the Medical Assistance Program: (1) Those services which are not medically necessary to the patient's well-being, such as television, telephone and guest meals.

(2) Private duty nursing.

(3) Those supplies, drugs, appliances, and equipment which are furnished to the patient for use outside the hospital unless it would be considered unreasonable or impossible from a medical standpoint to limit the patient's use of the item to the periods during which he is an in-patient.

(4) Those laboratory tests not specifically ordered by a physician and not done on a pre-admission basis unless an emergency exists.

(5) [(4)] Private accommodations unless medically necessary and so ordered by the attending physician.

WILLIAM L. HUFFMAN, Commissioner
ADOPTED: March 26, 1981
APPROVED: W. GRADY STUMBO, Secretary
RECEIVED BY LRC: April 14, 1981 at 8:40 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, DHR Building, 275 East Main Street, Frankfort, Kentucky 40621.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Insurance
(Proposed Amendment)

904 KAR 1:022. Skilled nursing facility services.

RELATES TO: KRS 205.520
PURSUANT TO: KRS 13.082, 194.050
NECESSITY AND FUNCTION: The Department for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520[(3)] empowers the department, by regulation, to comply with any requirement that may be imposed or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the provisions relating to skilled nursing facility services for which payment shall be made by the medical assistance program in behalf of both the categorically needy and medically needy.

Section 1. Participation Requirements. Each facility desiring to participate as a skilled nursing facility must meet the following requirements:

(1) An application for participation shall be made to the department using the procedures specified by the Commissioner, Bureau for Social Insurance, Department for

Human Resources. A vendor number shall be assigned to the facility by the department when participation status is achieved.

(2) Each skilled nursing facility shall be required to have participatory status in the program of health care known as Title XVIII, Medicare, before the conditions of participation for Title XIX shall be deemed met.

Section *2.* [1.] Provision of Service: Payment for services shall be limited to those services provided to eligible individuals meeting the criteria of patient status in that they require skilled nursing care on a continuous basis following an acute illness or as a result of a chronic disease and/or disability and are receiving such care in a participating facility. *No payment will be made for reserved bed days.*

Section *3.* [2.] Determining Patient Status: Professional staff of the department, *or the Kentucky Peer Review Organization operating under its lawful authority pursuant to the terms of its agreement with the department,* shall review and evaluate the health status and care needs of the recipient in need of institutional care giving consideration to the medical diagnosis, care needs, services and health personnel required to meet these needs and the feasibility of meeting the needs through alternative institutional or non-institutional services. *Patients qualify for skilled nursing care when their needs mandate skilled nursing and/or skilled rehabilitation services on a daily basis and when, as a practical matter, the care can only be provided on an inpatient basis. Where the inherent complexity of a service prescribed for a patient is such that it can be safely and/or effectively performed only by or under the supervision of technical or professional personnel, the patient would qualify for skilled nursing care.* A patient with an unstable medical condition manifesting a combination of care needs in the following areas may qualify for skilled nursing care:

(1) Intravenous, intramuscular, or subcutaneous injections and hypodermoclysis or intravenous feeding;

(2) [(1) Requires n] *N*aso-gastric or gastrostomy tube feedings;

(3) Nasopharyngeal and tracheotomy aspiration;

(4) [(2)] Recent and/or complicated ostomy requiring extensive care and self-help training;

(5) [(3)] In-dwelling catheter for therapeutic management of a urinary tract condition;

(6) [(4)] Bladder irrigations in relation to previously indicated stipulation;

(7) [(5)] Special vital signs evaluation necessary in the management of related conditions;

(8) [(6)] Sterile dressings;

(9) [(7)] Changes in bed position to maintain proper body alignment;

(10) [(8)] *Treatment of extensive decubitus ulcers or other widespread skin disorders* [Care of decubitus];

(11) [(9)] Receiving medication recently initiated, which requires skilled observation to determine desired or adverse effects and/or frequent adjustment of dosage;

(12) [(10)] *Initial phases of a regimen involving administration of medical gases* [Requiring intensive physical therapy with potential of rehabilitation (therapy must be within the realm of accepted medical practice)];

(13) [(11)] *Receiving services which would qualify as skilled rehabilitation services when provided by or under the supervision of a qualified therapist(s), such as: ongoing assessment of rehabilitation needs and potential; therapeutic exercises which must be performed by or under the supervision of a qualified physical therapist; gait evaluation and training; range of motion exercises which are part of the active treatment of a specific disease state which has resulted in a loss of, or restriction of, mobility; maintenance therapy when the spcialized knowledge and judgment of a qualified therapist is required to design and establish a maintenance program based on an initial evaluation and periodic reassessment of the patient's needs, and consistent with the patient's capacity and tolerance; ultra-sound, short-wave, and microwave therapy treatments; hot pack, hydrocollator infra-red treatments, paraffin baths, and whirlpool (in cases where the patient's condition is complicated by circulatory deficiency, areas of desensitization, open wounds, fractures or other complications, and the skills, knowledge, and judgment of a qualified physical therapist are required); and services by or under the supervision of a speech pathologist or audiologist when necessary for the restoration of function in speech or hearing.* [Requiring respiratory therapy on continuous or very regular basis;]

[(12)Requiring respiratory therapy as circumstances may require (in the management of an unstable condition when there is evidence that therapy is administered as circumstances may require).]

Section *4.* [3.] Re-evaluation of Need for Service: Skilled nursing service shall be provided for as long as the health status and care needs are within the scope of program benefits as described in Sections *2* [1] and *3* [2]. Patient status shall be re-evaluated at least once every six (6) months. If a re-evaluation of care needs reveals that the patient no longer requires skilled care, payment shall continue for *ten (10)* [twenty (20)] days to permit orderly transfer to a lesser level of care. [If the patient's care needs are within the scope of intermediate care facility benefits and there are no beds available in the area, an extension of payment shall be granted] *Patients in skilled facilities who would be reclassified to intermediate care patient status except for the unavailability of an intermediate care bed, may be considered to meet patient status criteria for skilled care, so long as the patient continues to reside in that facility and* providing the patient's name is placed on the waiting list of suitable facilities.

Section 5. Evaluation of Patient Status for Persons with Mental Disorders. A person with a mental disorder meeting the health status and care needs specified in Sections 2 and 3 shall generally be considered to meet patient status. However, these individuals are specifically excluded from coverage in the following situations:

(1) When the department determines that in the individual case the combination of care needs is beyond the capability of the facility, and that placement in the skilled nursing facility is inappropriate due to potential danger to the health and welfare of the patient, other patients in the facility and/or staff of the facility; and

(2) When the skilled nursing care needs result directly and specifically from the mental disorder; i.e., are essentially symptoms of the mental disorder.

WILLIAM L. HUFFMAN, Commissioner
ADOPTED: March 26, 1981
APPROVED: W. GRADY STUMBO, Secretary
RECEIVED BY LRC: April 14, 1981 at 8:40 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, DHR Building, 275 East Main Street, Frankfort, Kentucky 40621.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Insurance
(Proposed Amendment)

904 KAR 1:024. Intermediate care facility services.

RELATES TO: KRS 205.520
PURSUANT TO: KRS 13.082, 194.050
NECESSITY AND FUNCTION: The Department for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520 empowers the department, by regulation, to comply with any requirement that may be imposed or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the provision relating to intermediate care facility services for which payment shall be made by the medical assistance program in behalf of both the categorically needy and the medically needy.

Section 1. Provision of Services: Payment for services shall be limited to those services provided to eligible individuals meeting the criteria of patient status.

Section 2. Classification of Facilities: There shall be two (2) classifications of intermediate care facilities, i.e. (i) general intermediate care facilities and (ii) intermediate care facilities for the mentally retarded and persons with related conditions.

Section 3. Definitions: The following definitions shall be applicable: (1) "Patient status," means that the individual has care needs meeting the criteria set forth in this regulation for treatment in the institutional setting.

(2) "Intermittent skilled services," means the individual requires skilled nursing services at regular or irregular intervals, but not on a twenty-four (24) hour per day basis.

(3) "Stable medical condition," means one which is capable of being maintained in accordance with a planned treatment regimen requiring a minimum amount of medical supervision without significant change or fluctuation in the patient's condition and/or treatment regimen.

Section 4. Determining Patient Status: Professional staff of the department, or the Kentucky Peer Review Organization operating under its lawful authority pursuant to the terms of its agreement with the department, shall review and evaluate the health status and care needs of the recipient in need of institutional care giving consideration to the medical diagnosis, care needs, services and health personnel required to meet the needs and the feasibility of meeting the needs through alternative institutional or non-institutional services.

(1) An individual shall be determined to meet patient status for a general intermediate care facility when the individual requires intermittent skilled nursing care, continuous personal care and/or supervision in an institutional setting. In making the decision as to patient status, the following criteria shall be applicable:

(a) An individual with a stable medical condition requiring intermittent skilled services not provided in a personal care home is considered to meet patient status.

(b) An individual with a stable medical condition, who has a complicating problem which prevents the individual from caring for himself in an ordinary manner outside the institution is considered to meet patient status. For example, ambulatory cardiac and hypertensive patients may be reasonably stable on appropriate medication, but have intellectual deficiencies preventing safe use of self-medication, or other problems requiring frequent nursing appraisal, and thus be considered to meet patient status.

(c) An individual with a stable medical condition manifesting a significant combination of the following care needs shall be determined to meet patient status for a general intermediate care facility when the professional staff determines that such combination of needs can be met satisfactorily only by provision of intermittent skilled nursing care, continuous personal care and/or supervision in an institutional setting:

1. Assistance with wheelchair;
2. Physical and/or environmental management for confusion and mild agitation;
3. Must be fed;
4. Assistance with going to bathroom or using bedpan for elimination;
5. Old colostomy care;
6. In-dwelling catheter for dry care;
7. Changes in bed position;
8. Administration of stabilized dosages of medication;
9. Restorative and supportive nursing care to maintain the patient and prevent deterioration of his condition;
10. Administration of injections during time licensed personnel is available.
11. Services that could ordinarily be provided or administered by the individual but due to physical and/or mental condition is not capable of such self-care.
12. Routine administration of medical gases after a regimen of therapy has been established.

(d) An individual shall not generally be considered to meet patient status criteria when care needs are limited to the following:

1. Minimal assistance with activities of daily living;
2. Independent use of mechanical devices, for example, assistance in mobility by means of a wheelchair, walker, crutch(es) or cane;
3. Limited diets such as low salt, low residue, reducing and other minor restrictive diets;
4. Medications that can be self-administered and/or the individual requires minimal supervision.

(e) An individual with a psychiatric primary diagnosis or needs is considered to meet patient status criteria only when the individual also has medical care needs as shown in subsection (1)(a) through (c) of this section, the mental care needs are adequately handled in a supportive environment (i.e., the intermediate care facility), and the individual does not require active psychiatric in-patient treatment.

(2) An individual shall be determined to meet patient status for an intermediate care facility for the mentally retarded and persons with related conditions when the individual requires physical and/or enviromental management and/or rehabilitation for moderate to severe retardation. In making the decision as to patient status the following criteria shall be applicable:

(a) An individual with significant developmental disabilities and significantly sub-average intellectual functioning who requires a planned program of active treatment to attain and/or maintain the individual's optimal level of functioning, but does not necessarily require skilled or general intermediate care facility services, is considered to meet patient status.

(b) An individual requiring a protected environment while overcoming the effects of developmental disabilities and sub-average intellectual functioning is considered to meet patient status while:

1. Learning fundamental living skills;
2. Learning to live happily and safely within his own limitations;
3. Obtaining educational experiences that will be useful in self-supporting activities;
4. Increasing his awareness of his environment.

(c) An individual with a psychiatric primary diagnosis or needs is considered to meet patient status criteria only when the individual also has care needs as shown in paragraph (a) or (b) of this subsection, the mental care needs are adequately handled in a supportive environment (i.e., the intermediate care facility), and the individual does not require psychiatric in-patient treatment.

(d) An individual that does not require a planned program of active treatment to attain and/or maintain the individual's optimal level of functioning is not considered to meet patient status.

(e) It is the policy of the department that no individual is to be denied patient status solely due to advanced age, or length of stay in an institution, or history of previous institutionalization, so long as the individual qualifies for patient status on the basis of all other factors.

(f) With regard to an individual with a "related condition" (not mental retardation), the illness or ailment must have manifested itself prior to the individual's twenty-second birthday.

Section 5. Limitations on Services. No payment will be made for reserved bed days.

Section *6.* [5.] Re-evaluation of Need for Service: Intermediate care shall be provided for as long as the health status and care needs are within the scope of program benefits. Patient status shall be re-evaluated at least every six (6) months. If the re-evaluation reveals that the patient's condition indicates the need for a different level of care, payment shall continue for a maximum of *ten (10)* [thirty (30)] days to provide for orderly transfer to the appropriate level of care.

Section *7.* [6.] Hearing Rights: Any applicant/recipient determined not to meet patient status may appeal that decision in accordance with 904 KAR 1:075 or 904 KAR 2:055, as applicable.

WILLIAM L. HUFFMAN, Commissioner
ADOPTED: March 26, 1981
APPROVED: W. GRADY STUMBO, Secretary
RECEIVED BY LRC: April 14, 1981 at 8:40 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, DHR Building, 275 East Main Street, Frankfort, Kentucky 40621.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Insurance
(Proposed Amendment)

904 KAR 1:038. Hearing and vision services.

RELATES TO: KRS 205.520
PURSUANT TO: KRS 13.082, 194.050
NECESSITY AND FUNCTION: The Department for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520[(3)] empowers the department, by regulation, to comply with any requirement that may be imposed or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the provisions relating to the hearing services and vision care services for which payment shall be made by the medical assistance program in behalf of both categorically needy and medically needy.

Section 1. Hearing Services: (1) Audiological benefits: Coverage shall be limited to the following services provided to children under age twenty-one (21) by certified audiologists:

(a) Complete hearing evaluation;
(b) Hearing aid evaluation;
(c) A maximum of three (3) follow-up visits within the six (6) month period immediately following fitting of a hearing aid, such visits to be related to the proper fit and adjustment of that hearing aid;
(d) One (1) follow-up visit six (6) months following fitting of a hearing aid, to assure patient's successful use of the aid.

(2) Hearing aid benefits: *Effective June 1, 1981,* coverage shall be provided to children under age twenty-one (21) on a pre-authorized basis for any *monaural* hearing aid model recommended by a certified audiologist so long as that model is available through a participating hearing aid dealer. *Binaural hearing aids are not covered.*

Section 2. Vision Care Services: Coverage for all age groups shall be limited to prescription services, services to frames and lenses, and diagnostic services provided by ophthalmologists and optometrists, to the extent the optometrist is licensed to perform the services and to the extent the services are covered in the ophthalmologist portion of the physician's program. Eyeglasses are provided only to children under age twenty-one (21) *on a pre-authorized basis. Coverage for eyeglasses is limited to two (2) pairs of eyeglasses per year per person. This limitation includes the initial eyeglasses and one (1) replacement per year or two (2) replacements per year.*

Section 3. If the funds allocated in the budget for eye examinations, prescriptions (for glasses), and other services are exhausted for the group aged twenty-one (21) and over, vision care services provided by ophthalmologists and optometrists will be terminated for that age group; this limitation shall not be interpreted to limit treatment of diseases of the eye by ophthalmologists. Vision care services for the group aged twenty-one (21) and over if terminated, shall be reinstituted at such time as funds again become available.

[Section 4. The provisions of this regulation, as amended, shall become effective July 1, 1980.]

WILLIAM L. HUFFMAN, Commissioner
ADOPTED: March 26, 1981
APPROVED: W. GRADY STUMBO, Secretary
RECEIVED BY LRC: April 14, 1981 at 8:40 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, DHR Building, 275 East Main Street, Frankfort, Kentucky 40621.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Insurance
(Proposed Amendment)

904 KAR 1:044. Mental health center services.

RELATES TO: KRS 205.520
PURSUANT TO: KRS 13.082, 194.050
NECESSITY AND FUNCTION: The Department for Human Resources has responsibility to administer the program of Medical Assistance in accordance with [the] Title XIX of the Social Security Act. KRS 205.520(3) empowers the Department, by regulation, to comply with any requirement that may be imposed or opportunity presented by federal law for the provision of Medical Assistance to Kentucky's indigent citizenry. This regulation sets forth the provisions relating to services provided by Mental Health Centers for which payment shall be made by the medical assistance program to both the categorically needy and the medically needy.

Section 1. Covered Services. The following services provided by participating mental health centers shall be considered covered when rendered within Kentucky medical assistance program guidelines:

(1) Inpatient services, as defined in 902 KAR 20:090, when a center based physchiatrist renders the service, or when the phychiatrist deems it appropriate for the psychologist, psychiatric nurse, master degree social worker, or individuals with equivalent professional education (as determined by the department) to provide therapy for the patient.

(2) Outpatient services, as defined in 902 KAR 20:090, but not including services excluded from coverage under other provisions of this regulation, if rendered by a mental health professional from one (1) of the four (4) principal disciplines (psychiatrist, psychologist, psychiatric nurse, or master degree social worker), or individuals with equivalent professional education (as determined by the department). Services rendered by a staff member other than one of the above shall be covered only if the service is delivered in accordance with a plan of treatment approved by the psychiatrist when delivered under the supervision of a mental health professional from one (1) of the four (4) principal disciplines or an individual with equivalent professional education (as determined by the department).

(3) Partial hospitalization, as defined in 902 KAR 20:090, if:

(a) The psychiatrist is present in the partial hospitalization unit on a regularly scheduled basis and assumes clinical responsibility for all patients; and

(b) The program has direct supervision by a psychiatrist, psychologist, psychiatric nurse, master degree social worker, or individuals with equivalent professional education (as determined by the department).

(4) Home visits, defined as visits by center staff to recipients in their homes, if:

(a) Certified as a medical necessity by the psychiatrist or if the patient is homebound; and

(b) Provided by a mental health professional from one (1) of the four (4) principal disciplines, or individuals with equivalent professional education (as determined by the department), and in accordance with an approved treatment plan.

(5) Detoxification services, when rendered by a center based psychiatrist in a detoxification unit.

(6) Psychological testing, if the tests are administered and evaluated by a certified clinical psychologist.

(7) Emergency services, as defined in 902 KAR 20:090, if the eligible recipient is seen in an emergency situation by any professional or paraprofessional member of the mental health staff.

(8) Personal care home services, if rendered by a mental health professional from one (1) of the four (4) principal disciplines (psychiatrist, psychologist, psychiatric nurse, or master degree social worker) or individuals with equivalent professional education (as determined by the department) to eligible recipients in personal care homes, and including resocialization and/or remotivation services rendered to personal care home groups, if such group services are rendered.

(9) Diagnosis deferred, diagnostic category, only if provided by the psychiatrist or psychologist.

(10) Speech disturbance, diagnostic category, only if provided by a psychiatrist or psychologist.

[(11) Services to clients in intermediate and skilled nursing facilities if provided on a one-to-one basis by the psychiatrist, psychologist, psychiatric nurse, master degree social worker or individuals with equivalent professional education (as determined by the department) in accordance with an approved plan of treatment.]

Section 2. Non-Covered Services. The following health center services are non-covered:

(1) Services of an educational or supervisory nature;

(2) Speech therapy;

(3) Alcohol and drug services:

(4) Consultation (except consultation among direct staff of the center);

(5) Collateral therapy (except that immediate family members may participate in joint therapy sessions when the client is present and the client's plan of care as approved by the psychiatrist requires that treatment modality);

(6) Residential treatment for alcoholism;

(7) *Services rendered to residents or patients of* [Social and recreational activities for clients in] intermediate care facilities *and/*or skilled nursing facilities.

WILLIAM L. HUFFMAN, Commissioner
ADOPTED: March 26, 1981
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RECEIVED BY LRC: April 14, 1981 at 8:40 a.m.
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DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Insurance
(Proposed Amendment)

904 KAR 1:045. Payments for mental health center services.

RELATES TO: KRS 205.520
PURSUANT TO: KRS 13.082, 194.050
NECESSITY AND FUNCTION: The Department for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520 empowers the department, by regulation, to comply with any require-

ment that may be imposed, or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the method for determining amounts payable by the department for mental health center services.

Section 1. Mental Health Centers. In accordance with 42 CFR *447.321* [450.30], the department shall make payment to providers who are appropriately licensed and have met the conditions for participation (including the signing of such contractural arrangements as the department may require of this class of provider) set by the department, on the following basis:

(1) Payment shall be made on the basis of reasonable allowable costs.

(2) Payment amounts shall be determined by application of the "Community Mental health Center General Policies and Guidelines and Principles of Reimbursement" developed and issued by the department, supplemented by the use of Title XVIII reimbursement principles.

(3) Allowable costs shall not exceed customary charges which are reasonable.

(4) The upper limit for allowable costs shall be set at 110 percent of the median visit cost, for the four (4) different service areas reimbursed under the program (inpatient, outpatient, partial hospitalization, and personal care), with the upper limit imposed on a prospective basis at the time final rates are determined.

(5) Allowable costs shall not include the costs associated with political contributions, membership dues, travel and related costs for trips outside the state, and legal fees for unsuccessful lawsuits.

Section 2. Implementation of Payment System. (1) The system shall utilize a method whereby community mental health centers are reimbursed on a prospective basis based on prior year actual allowable cost.

(2) The department may establish an interim rate at the end of each fiscal year until such time as a final prospective rate is determined with interim payments adjusted to the final prospective rate as necessary.

(3) The vendor shall complete an annual cost report on forms provided by the department not later than sixty (60) days from the end of the vendor's accounting year and the vendor shall maintain an acceptable accounting system to account for the cost of total services provided, charges for total services rendered, and charges for covered services rendered eligible recipients.

(4) Each community mental health center provider shall make available to the department at the end of each fiscal reporting period, and at such intervals as the department may require, all patient and fiscal records of the provider, subject to reasonable prior notice by the department.

(5) Payments due the community mental health center shall be made at reasonable intervals but not less often than monthly.

Section 3. Nonallowable Costs. The department shall not make reimbursement under the provisions of this regulation for services not covered by 904 KAR 1:044, community mental health center services, nor for that portion of a community mental health center's costs found unreasonable or nonallowable in accordance with the department's "Community Mental Health Center General Policies and Guidelines and Principles of Reimbursement."

WILLIAM L. HUFFMAN, Commissioner
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APPROVED: W. GRADY STUMBO, Secretary
RECEIVED BY LRC: April 14, 1981 at 8:40 a.m.
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DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Insurance
(Proposed Amendment)

904 KAR 5:120. Duration of unemployment [defined].

RELATES TO: KRS 341.370
PURSUANT TO: KRS 13.082, 194.050, 341.115
NECESSITY AND FUNCTION: This regulation *sets the criteria for relieving a duration of unemployment disqualification,* [defines the phrase "duration of any period of unemployment"] *and implements the mandatory federal requirements set forth in Public Law 96-499.*

Section 1. The "duration of any period of unemployment," as that term is used in KRS 341.370[(2)], shall be the period of time beginning with the worker's discharge, [or] voluntary quitting, *failure to apply for or accept suitable work* and running until such worker has *worked four (4) weeks and has earned four (4) times his weekly benefit rate in bona fide full-time employment covered* [again obtained bona fide full-time employment or has earned six (6) times his weekly benefit rate in covered employment] under the provisions of KRS Chapter 341 or a similar law of another state or of the United States. [Employment which is temporary or intermittent in nature, or which was secured or furnished for the sole purpose of terminating the disqualification provided for in KRS 341.370(2), shall not be deemed bona fide employment for the purpose of this regulation.]

Section 2. An individual claiming benefits under KRS 341.700 (extended benefits) who fails to engage in an active search for work during any week of his extended benefits claim shall be disqualified from receiving benefits for the duration of his unemployment, as defined in Section 1, commencing with the week within which the failure occurs.

WILLIAM L. HUFFMAN, Commissioner
ADOPTED: March 26, 1981
APPROVED: W. GRADY STUMBO, Secretary
RECEIVED BY LRC: March 31, 1981 at 11 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, DHR Building, 275 East Main Street, Frankfort, Kentucky 40621.

Proposed Regulations

STATE BOARD OF ELECTIONS

31 KAR 1:020. Registration for members of armed forces and dependents.

RELATES TO: KRS 116.045, 117.085
PURSUANT TO: KRS 117.085
NECESSITY AND FUNCTION: This regulation is to assure that the many military personnel and their dependents may register and apply for an absent voter ballot. Similarly, the county clerk will know how to process the FPCA for registration and application for an absent voter ballot. Further, this streamlining of the registration process will reduce the time required to register and vote by absent voter ballot.

Section 1. Residents of Kentucky, who are members of the Armed Forces, or dependents of members of the Armed Forces, may register or reregister by means of the Federal Post Card Application. The FPCA will be accepted from above named persons as one (1) of the approved forms of the State Board of Elections for the purpose of registration and applying for an absent voter ballot. These dual purpose cards will be accepted for voter registration as long as the post mark is prior to the thirty (30) day cut off date, and accepted as an absent voter application until seven (7) days prior to the elections.

Section 2. 31 KAR 1:010, When charged with or indicted for a crime, is hereby repealed. (This is now incorporated in the statutes.)

BRADY MIRACLE

ADOPTED: March 26, 1981
RECEIVED BY LRC: March 27, 1981 at 11:45 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: State Board of Elections, Capitol Building, Frankfort, Kentucky 40601.

DEPARTMENT OF FINANCE
Division of County and Municipal Accounting

200 KAR 4:005. Local government economic assistance fund grants.

RELATES TO: KRS 42.450 to 42.495
PURSUANT TO: KRS 42.455(5)
NECESSITY AND FUNCTION: As directed by KRS 42.455(5) the Department of Finance, by this regulation, establishes rules and requirements relating to implementation of a system of grants from the Local Government Economic Assistance Fund (hereafter referred to as the Fund) and, in addition, sets forth procedures for reporting with respect to Fund grants to the Department of Finance as required by statute.

Section 1. As used in this regulation, the terms "local government," "local government unit," "recipient government," or similar descriptive terms, shall mean the fiscal courts of coal producing, coal impact and mineral producing counties, and the governing bodies of incorporated cities within such counties who may be eligible for fund grants.

Section 2. Proposed Use Hearing. Commencing with fiscal year 1981, each recipient local government shall have at least one (1) public hearing annually to solicit proposals for grants from the fund. At the hearing, citizens of the recipient government shall have the opportunity to provide the executive authority written and/or oral comments and suggestions respecting the possible uses of grants from the fund. From this hearing actual proposed uses will be determined (hereafter referred to as the proposed use hearing).

(1) Each recipient shall notify the Department of Finance in writing of the date, time, and location of each proposed use hearing at least ten (10) days prior to the date it is held.

(2) Notice of the proposed use hearing shall be published in a newspaper of general circulation and made available to local radio and television stations serving the geographic area of the recipient no later than ten (10) days prior to the scheduled date of the proposed use hearing. This notice may appear concurrently with other legal notices placed by the recipient local government. The notice shall state the date, time, and location of the public hearing and the amount of money anticipated from the fund for the fiscal year. The notice shall include a statement that citizens who attend the proposed use hearing have the right to provide written and/or oral comments and to ask questions concerning proposals.

(3) The proposed use hearing may be held concurrently with other meetings for public purposes held by the recipient, provided the notice specifically identifies the fund.

(4) (a) The Department of Finance may waive the requirement for a proposed use hearing in any year for which the estimated amount to be received from the fund is less than $5,000, or if deemed in the best public interest.

(b) The recipient local government requesting a waiver shall state in writing the reasons for the waiver. The request shall be signed by the chief executive of the recipient government. The waiver shall be granted if it appears to be in the public interest.

Section 3. Budget Hearings. Commencing with fiscal year 1981 each recipient local government that expends money from the fund in any fiscal year shall hold at least one (1) public hearing on specific proposed projects the government intends to fund (hereafter referred to as the budget hearing).

(1) At the budget hearing, all citizens of the recipient local government shall have a reasonable opportunity to provide written and oral comments, and to ask questions concerning the allocation of local government assistance funds.

(2) At least ten (10) days prior to the budget hearing the recipient local government shall make available for public inspection during normal business hours, at the principal office of the local government, a summary of the projects proposed to be funded by the fund. This summary shall be submitted as a part of the county's annual budget to the Department of Finance. This summary shall identify each project according to eligible categories in the statute and shall contain a narrative description of each project, the

amount of money to be allocated to each and the relative priority of each project.

(3) A notice of the budget hearing shall be published in a newspaper of general circulation serving the geographic area of the recipient local government no later than ten (10) days prior to the scheduled date of the hearing. The notice shall contain the following: Date, place and time of the public budget hearing; a statement of the amount anticipated from the fund for the fiscal year; the amount of such funds to be expended in each eligible category; a statement advising when and where a summary of projects and a summary of the entire budget for all income and expenditures of the recipient government is available for public inspection; a statement that citizens attending the public budget hearing have the right to provide written and/or oral comments and ask questions concerning the allocation of local government assistance funds.

(4) The public budget hearing may be held concurrently with budget hearings of the recipient local government provided the notice specifically identifies the fund and includes all information required by subsection (3).

(5) The Department of Finance may waive the requirement for a budget hearing pursuant to the requirements stated in Section 1(4).

Section 4. Annual Use Report. Each local government that receives grant money from the fund shall file an annual report with the Department of Finance within sixty (60) days after the end of the fiscal year in which the funds were received.

(1) The annual use report shall be on a part of the annual budget submitted to the Department of Finance and shall contain the following information: The status of each project funded in whole or in part by a grant from the fund; the amount of money from the fund actually expended on each project during the fiscal year; the manner in which each project affected local and regional plans.

(2) The annual use report shall be certified by the chief executive official and contain a statement that the recipient government's general tax effort has not been reduced below the level of fiscal year 1980.

Section 5. Records. Each recipient government shall maintain an official project file for each capital expenditure which shall be subject to inspection by the Department of Finance, the Attorney General or the Auditor of Public Accounts at any time from the date of grant approval and for a period of five (5) years after date of the final expenditure.

(1) The project file shall contain complete records and information including deeds, contracts, change orders; and documents which shall prove that the local government complied with any and all federal and state laws and regulations pertaining to bid advertisement and award, prevailing wage, nondiscrimination, licensing and permits and other such laws and regulations applicable to the expenditure.

(2) The Department of Finance shall establish uniform audit requirements which shall be used by each recipient unit of local government required to submit an audit report under provisions of KRS 42.460.

(3) Each recipient government shall maintain financial records for each expenditure which shall be subject to state initiated audit for a period of five (5) years after date of the final expenditure. Financial records shall include all earnings from investment of funds in accordance with KRS 42.455(4).

(4) No additional funds from the fund shall be transferred to the local government unit after the date required for submission to the Department of Finance, which is eighteen (18) months after the end of each fiscal year, until an acceptable audit report has been submitted to the Department of Finance.

(5) Each recipient government shall maintain a separate financial account for the receipt of any funds from the fund. Any expenditures or transfers shall be made from this account.

(6) Each recipient government shall submit to the Department of Finance, before the close of a fiscal year in which assistance has been granted under this Act, a copy of the agreement that an independent annual audit shall be conducted in accordance with KRS 42.460.

(7) Any grant proposal that includes a sub-grant to another agency shall include an agreement executed by the recipient and the sub-grantee which provides that:

(a) Thirty (30) days prior to the close of each fiscal year and upon completion of a project, the sub-grantee shall furnish the entitlement recipient a report of all expenditures and all activities of any project funded by the sub-grant.

(b) The sub-grantee shall pay the cost of any audit of the sub-grant required by the entitlement recipient.

Section 6. 200 KAR 4:005E, Local government economic assistance fund grants, is hereby repealed.

GEORGE L. ATKINS, Secretary
ADOPTED: April 3, 1981
RECEIVED BY LRC: April 6, 1981 at 11:15 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: George L. Atkins, Secretary, Department of Finance, New Capitol Annex, Frankfort, Kentucky 40601.

DEPARTMENT OF FINANCE
Board of Physical Therapy

201 KAR 22:052. Refusal, revocation, suspension or probation of license or certificate.

RELATES TO: KRS 327.070, 327.090
PURSUANT TO: KRS 327.040
NECESSITY AND FUNCTION: The board has the responsibility of enforcing the definitive procedures of refusal, revocation, suspension, or placing on probation, the license of any physical therapist and the certificate of any physical therapist's assistant. Often questions concerning the law or possible violations can be resolved by mutual discussion; however, these guidelines are to be followed when the board receives, or initiates, a written and signed explicit complaint. All aspects of an investigation of a complaint shall be held strictly confidential until after enforcement action is completed or a decision is made to take no action.

Section 1. (1) Complaint. A complaint that a person (hereinafter called respondent) has failed to or refused to obey the requirements of KRS Chapter 327, the rules and regulations of the board or its "Standards of Practice Guidelines" shall be made in writing to or by the Kentucky

State Board of Physical Therapy. The complaint must be a clear and concise statement of violation and it must be signed by the complainant. The complainant need not be a physical therapist or assistant. Within ten (10) days the chairman of the board shall acknowledge to the complainant receipt of the complaint by registered or certified mail.

(2) Notice to respondent. Within ten (10) days after receipt of the written complaint, the chairman of the board shall notify the respondent of the complaint by registered or certified mail, return receipt requested. This notice shall require the respondent to reply to the complaint by registered or certified mail to the board within ten (10) days after receipt of notice.

(3) Investigation of complaint. The investigation shall be a thorough, objective review of the circumstances under which the alleged violation took place. Two (2) members of the board or its official representative may wish to discuss the complaint with the respondent or complainant to collect and organize more information, but not make a decision. An investigative file shall be formed to include all information and documents acquired during the investigation.

(4) Arrangement for a hearing. After receiving respondent's written reply and after possible discussion between the board and respondent, the board shall determine if a hearing will be necessary to further investigate the complaint. If no hearing is necessary or all parties come to an agreement, the board shall advise all parties that the matter is determined to be settled or closed. If a hearing is necessary, the board shall give all involved parties thirty (30) days notice of the date, time and place the hearing will be held. The board shall call a hearing if it may revoke, refuse, or suspend a license or certificate or place a licensee or certificand on probation so that the licensee or certificand can show evidence why his/her license or certificate should not be revoked, refused, or suspended or that the licensee or certificand should not be placed on probation.

(5) Hearing. At the hearing the respondent has the right to be present and to be represented by counsel. The board may or may not wish to follow formal rules of evidence, but the board may exclude irrelevant or repetitious evidence. The hearing may be conducted to bring out pertinent facts, including the calling of witnesses and the production of pertinent documents. Testimony shall be under oath or affirmation. The hearing shall be recorded. All documents accepted by the board, including the investigative file, shall be made part of the record of the hearing.

(6) Findings and decisions. After the hearing the board shall make findings as to all questions of fact and all questions of interpretation of KRS Chapter 327, board rules and regulations and the "Standards of Practice Guideline." The board may close the matter or settle, and notify all persons involved, or it may take appropriate disciplinary action after conferring with the Attorney General to assure that all guidelines have been followed correctly.

Section 2. Any person aggrieved by an order of the board denying, suspending or revoking his/her license or certificate may appeal to the Franklin Circuit Court within thirty (30) days after entry of said order for appropriate relief. Examination of the record of the board's action will be done for the purpose of determining whether the board abused its discretion.

Section 3. The Kentucky State Board of Physical Therapy hereby adopts a "Standards of Practice Guidelines" for evaluating the performance of a physical therapist or physical therapist's assistant. These guidelines being one and the same as adopted by the Kentucky State Board of Physical Therapy at its meeting on March 27, 1981 and filed with the board minutes. A copy is filed herein by reference.

Section 4. 201 KAR 22:050 and KAR 22:115 are hereby repealed.

RICHARD V. McDOUGALL, Chairman
ADOPTED: March 27, 1981
RECEIVED BY LRC: April 15, 1981 at 3:40 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Nancy Brinly, Executive Secretary, 1614 Dunbarton Wynde, Louisville, Kentucky 40205.

COMMERCE CABINET
Department of Fish and Wildlife Resources

301 KAR 4:040. Sale of abandoned mounted specimens by taxidermists.

RELATES TO: KRS 150.025, 150.175, 150.411
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: This regulation pertains to the sale of abandoned mounted wildlife by taxidermists. Its function is to permit licensed taxidermists to sell mounts that have been abandoned by a person for whom the taxidermy work was performed so some involved expenses may be recovered. The Commissioner, with the concurrence of the Commission, finds it necessary to permit, yet control the manner in which these mounts are sold, so as to prevent the abusive marketing of protected wildlife.

Section 1. The commissioner may issue a permit, except as prohibited by federal regulations, authorizing licensed taxidermists to sell mounted specimens of fish or wildlife that have been abandoned by the owner. For the purposes of this regulation, unclaimed mounts that have been in the possession of a taxidermist more than twelve (12) months shall be considered abandoned.

Section 2. A taxidermist wishing to sell abandoned mounts shall apply to the commissioner by letter during January. The letter shall identify the mounts to be sold, with the name and address of the person for whom it was mounted, and the date that each specimen was accepted for mounting. Upon receipt of the required information, the commissioner may issue a permit authorizing sale of the described mounts during a sixty (60) day period beginning with the date the permit is issued. Taxidermists conducting a sale shall provide a written report to the commissioner within ten (10) days of such sale, listing the name and address of the purchaser and a description of the mount(s) purchased.

Section 3. Only those taxidermists whose monthly reports are current, as required by KRS 150.411, will be issued permits to sell abandoned mounts.

CARL E. KAYS, Commissioner
ADOPTED: March 1, 1981
APPROVED: W. BRUCE LUNSFORD, Secretary
RECEIVED BY LRC: April 13, 1981 at 10 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: The Commissioner, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, No. 1 Game Farm Road, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET
Kentucky State Racing Commission

810 KAR 1:021. Backside Improvement Commission.

RELATES TO: KRS 230.218
PURSUANT TO: KRS 13.082, 230.218, 230.260
NECESSITY AND FUNCTION: The Backside Improvement Commission shall have the purpose and mission of providing and administering funds for improvement of backside facilities at thoroughbred horse racing facilities located in the Commonwealth of Kentucky. This regulation sets forth requirements and procedures for disbursement of commission funds.

Section 1. (1) Definition of backside facilities: Those facilities located at thoroughbred horse racing tracks which serve the primary function of stabling and quartering of horses and where stable employees work and live.
(2) All monies disbursed by the Backside Improvement Commission shall be used solely for improvements to backside facilities as defined in subsection (1) of this section.

Section 2. (1) All applications for monies under the auspices of the Backside Improvement Commission shall be submitted on a yearly basis and shall be filed with the Backside Improvement Commission on a date set by the commission.
(2) All applications shall include the following:
(a) A prioritized list of all proposed projects;
(b) A full written and graphic description of each proposed project complete with justification therefor;
(c) An itemized cost estimate of each proposed project;
(d) Any contract in existence dealing with improvements.
(3) Each year, on a date set by the commission, the Backside Improvement Commission shall meet to consider all applications and shall approve for funding those projects it deems most justified.

Section 3. All disbursements of monies and other transactions between the Backside Improvement Commission and the horse racing facility involved shall be according to the terms and conditions of the Backside Improvement Commission's individual project contract.

EDNA LOOK JOHNSTONE, Secretary
ADOPTED: March 18, 1981
APPROVED: H. FOSTER PETTIT, Secretary
RECEIVED BY LRC: April 14, 1981 at 4:20 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Mr. Keene Daingerfield, Senior State Steward, Kentucky State Racing Commission, P.O. Box 1080, Lexington, Kentucky 40588.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings and Construction

815 KAR 7:050. Accessibility standards for the physically disabled.

RELATES TO: KRS Chapter 198B
PURSUANT TO: KRS 198B.260
NECESSITY AND FUNCTION: The Board of Housing, Buildings and Construction is required by KRS 198B.260 to issue regulations establishing the requirements necessary for making buildings accessible to and usable by physically disabled persons. This regulation has been designed after and selected from various nationally recognized codes and standards. This regulation establishes the minimum new construction requirements which shall apply to buildings and facilities to provide accessibility and usability by the elimination of architectural barriers in the environment. The terms of this regulation shall be incorporated into the Kentucky Building Code.

Section 1. Purpose and Scope. It is the express intention of this regulation to achieve uniformity in the technical design criteria necessary to establish a barrier-free environment thereby allowing a physically disabled person to get to, enter and use a building or facility, so that they may have access to education, employment, living and recreational opportunities and be as self sufficient as possible.
(1) New construction. This regulation shall be mandatory to and in all buildings and facilities, including both rooms and spaces, site improvements, exterior facilities and public walks, with the following specific exceptions:
(a) One (1) and two (2) family dwellings which are single family detached units or duplexes;
(b) Multi-family residential buildings or projects consisting of twenty-four (24) units or less;
(c) The restoration or authentic reconstruction of buildings designated as historic properties by the Kentucky Heritage Commission or the National Register of Historic Places;
(d) Small business concerns, which is defined to mean buildings and facilities primarily used for office purposes consisting of a total square footage of less than 10,000 square feet and no more than two (2) stories in height. Any building or facility owned or leased by the Commonwealth or any political subdivision thereof shall not be classified as a small business, irrespective of area or height. (In the case of a one (1) story building or the first floor of a two (2) story building not exceeding the maximum established herein, it is the intent that the provisions of this subsection

should be applied as broadly as possible, including the theory of accessible route.)

(2) Existing buildings. This regulation shall be mandatory for existing buildings, as follows:

(a) Alterations and repairs may be made to any structure without requiring other areas of the existing structure to comply with the accessibility requirement of this regulation provided such new work conforms to that of a new structure.

(b) Additions to an existing facility shall comply with the standards established by this regulation; however, the existing portion need not comply provided such addition does not result in decreased accessibility.

(c) Remodeling involving major structural changes to a building shall require full compliance with all applicable provisions of this regulation.

(3) Modifications of the technical provisions of this regulation may be allowed where such modification provides equal facilitation.

(4) Problem sites. It is not the intent of this regulation to discourage development of sites with extreme conditions, for example, where housing would be built on steep slopes or recreation facilities provided in natural terrain, and where full accessibility might prove impractical.

(5) Interpretive decisions. Where any provision of this regulation can be shown to be clearly unreasonable or impractical as applied to a particular building or use, or if full compliance would create a safety hazard, because of a particular use or condition, any person may request to appear before the Architectural Barriers Advisory Committee of the Department of Housing, Buildings and Construction. After advice from the committee, the department shall render its decision in the matter and said decision shall be appealable to the Board of Housing, Buildings and Construction.

(6) Enforcement. It shall be the duty of the local building official or the state building official having plan review and inspection responsibility under the Kentucky Building Code to enforce the provisions of this regulation.

(7) Distribution of accessible elements. Residential units accessible to the physically handicapped must not be segregated from other units. For example, in large apartment complexes, hotels or motels, all the units or rooms for the disabled may not be placed in one (1) building but must be dispersed throughout the complex.

(8) Appendix. All figures, tables and charts which are not included under a specific section of this regulation shall be found in Appendix A which is attached hereto.

(9) Technical provisions. Sections 3 through 35 constitute the technical provisions of this regulation.

Section 2. Definitions. The following terms shall, for the purpose of this regulation, have the meaning indicated in this section.

(1) Access aisle. An accessible pedestrian space between elements such as parking spaces, seating, and desks, that provides clearances appropriate for use of the elements.

(2) Accessible. Describes a site, building, facility, or portion thereof that complies with this section and that can be approached, entered, and used by physically disabled people.

(3) Accessible element. Part of an accessible route or accessible functional space; an item specified by this regulation (for example, telephone, controls, and the like).

(4) Accessible route. A continuous unobstructed path connecting all accessible elements and spaces in a building or facility that can be negotiated by a severely disabled person using a wheelchair and that is also safe for and usable by people with other disabilities. Interior accessible routes may include corridors, floors, ramps, elevators, and clear floor space at fixtures. Exterior accessible routes may include parking access aisles, curb ramps, walks, and ramps.

(5) Adaptability. The ability of certain building elements, such as kitchen counters and sinks to be added to, raised, lowered, or otherwise altered so as to accommodate the needs of either the disabled or nondisabled, or to accommodate the needs of persons with different types or degrees of disability.

(6) Assembly area. A room or space accommodating fifty (50) or more individuals for religious, recreational, educational, political, social or amusement purposes, or for the consumption of food and drink, including all connected rooms or spaces with a common means of egress and ingress. Such areas as conference rooms would have to be accessible in accordance with other parts of this standard but would not have to meet all of the criteria associated with assembly areas.

(7) Automatic door. A door equipped with a power-operated mechanism and controls that open and close the door automatically upon receipt of a momentary actuating signal. The switch that begins the automatic cycle may be a photoelectric device, floor mat, or manual switch mounted on or near the door itself (see power-assisted door).

(8) Circulation path. An exterior or interior way of passage from one place to another for pedestrians, including, but not limited to, walks, hallways, courtyards, stairways, and stair landings.

(9) Clear. Unobstructed.

(10) Common use. Refers to those interior and exterior rooms, spaces, or elements that are made available for the use of a restricted group of people (for example, residents of an apartment building, occupants of an office building, or guests of such residents or occupants).

(11) Coverage. The extent or range of accessibility that a particular administrative authority adopts and requires.

(12) Cross slope. The slope of a pedestrian way that is perpendicular to the direction of travel (see running slope).

(13) Curb ramp. A short ramp cutting through a curb.

(14) Detectable. Perceptible by one (1) or more of the senses.

(15) Disability. A limitation or loss of use of a physical, mental, or sensory body part or function.

(16) Dwelling unit. A single unit providing complete, independent living facilities for one (1) or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation.

(17) Egress, means of. A continuous and unobstructed path of travel from any point in a building or structure to a public way and consists of three (3) separate and distinct parts:

(a) The exitway access;

(b) The exitway; and

(c) The exitway discharge; a means of egress comprises the vertical and horizontal means of travel and shall include intervening room spaces, doors, hallways, corridors, passageways, balconies, ramps, stairs, enclosures, lobbies, escalators, horizontal exits, courts, and yards.

(18) Emergency. Refers to facilities resulting from or anticipating unforeseen combinations of circumstances, for example, storm shelters, bomb shelters, and comparable refuges.

(19) Functional spaces. The rooms and spaces in a building or facility that house the major activities for which the building or facility is intended.

(20) Handicapped. Those with significant limitations in using specific parts of the environment.

(21) Housing. A building, facility, or portion thereof, excluding inpatient health care facilities, that contains one (1) or more dwelling units or sleeping accommodations. Housing may include, but is not limited to, one (1) and two (2) family dwellings, apartments, group homes, hotels, motels, dormitories, and mobile homes.

(22) Marked crossing. A crosswalk or other identified path intended for pedestrian use in crossing a vehicular way.

(23) Operable part. A part of a piece of equipment or appliance used to insert or withdraw objects, or to activate, deactivate, or adjust the equipment or appliance (for example, coin slot, pushbutton, handle).

(24) Power-assisted door. A door with a mechanism that helps to open the door, or relieve the opening resistance of a door, upon the activation of a switch or a continued force applied to the door itself. If the switch or door is released, such doors immediately begin to close or close completely within three (3) to thirty (30) seconds (see automatic door).

(25) Principal entrance. An entrance intended to be used by the residents or users to enter or leave a building or facility. This may include, but is not limited to, the main entrance.

(26) Public use. Describes interior and exterior rooms or spaces that are made available to the general public. Public use may be provided at a building or facility that is privately or publicly owned.

(27) Ramp. A walking surface that has a running slope greater than 1:20.

(28) Reasonable number. A number that is sufficient to accommodate the disabled users of a site, building, facility, or element.

(29) Running slope. The slope of a pedestrian way that is parallel to the direction of travel (see cross slope).

(30) Service entrance. An entrance intended primarily for delivery or service.

(31) Signage. Verbal, symbolic, and pictorial information.

(32) Site. A parcel of land bounded by a property line or a designated portion of a public right-of-way.

(33) Site improvements. Landscaping, paving for pedestrian and vehicular ways, outdoor lighting, recreational facilities, and the like, added to a site.

(34) Sleeping accommodations. Rooms in which people sleep, for example, dormitory and hotel or motel guest rooms, but not including dwelling units.

(35) Tactile. Describes an object that can be perceived using the sense of touch.

(36) Tactile warning. A standardized surface texture applied to or built into walking surfaces or other elements to warn visually impaired people of hazards in the path of travel.

(37) Temporary. Applies to facilities that are not of permanent construction but are extensively used or essential for public use for a given (short) period of time; for example, temporary classrooms or classroom buildings at schools and colleges, or facilities around a major construction site to make passage accessible, usable, and safe for everybody. Structures directly associated with the actual processes of major construction, such as port-a-potties, scaffolding, bridging, trailers, and the like, are not included.

(38) Vehicular way. A route intended for vehicular traffic, such as a street, driveway, or parking lot.

(39) Walk. An exterior pathway with a prepared surface intended for pedestrian use, including general pedestrian areas such as plazas and courts.

(40) Walking aid. A device used by a person who has difficulty walking (for example, a cane, crutch, walker, or brace).

Section 3. Minimum Requirements. (1) Accessible site and exterior facilities. An accessible site shall meet the following minimum requirements:

(a) At least one (1) accessible route complying with Section 5 shall be provided from public transportation stops, accessible parking spaces, accessible passenger loading zones if provided, and public streets or sidewalks to an accessible building entrance.

(b) At least one (1) accessible route complying with Section 5 shall connect accessible buildings, facilities, elements, and spaces that are on the same site.

(c) All objects that protrude from surfaces or posts into circulation paths shall comply with Section 5(3).

(d) Ground surfaces along accessible routes and in accessible spaces shall comply with Section 5(2).

(e) When parking is provided, parking spaces and access aisles shall comply with Section 6.

(f) Stairs shall comply with Section 9.

(g) All passenger elevators shall comply with Section 10.

(h) All doors or gates to accessible spaces and elements and along accessible routes shall comply with Section 13.

(i)All drinking fountains along accessible routes shall comply with Section 15.

(j) All toilet rooms provided for public use or as otherwise required by the Kentucky Building Code shall comply with Section 22. Bathing facilities on accessible routes shall comply with Section 23.

(k) Tactile warnings shall be provided at hazardous conditions as specified in Section 29.

(l) All signs shall comply with Section 30.

(m) If public telephones are provided, they shall comply with Section 31.

(n) If seating, tables, or work surfaces are provided in accessible spaces, they shall comply with Section 32.

(o) If places of assembly are provided, they shall comply with Section 33.

(2) Accessible buildings. Accessible buildings and facilities shall meet the following minimum requirements:

(a) At least one (1) accessible route complying with Section 5(1) shall connect accessible building or facility entrances with all accessible spaces and elements within the building or facility.

(b) All objects that overhang circulation paths shall comply with Section 5(3).

(c) Ground and floor surfaces along accessible routes and in accessible rooms and spaces shall comply with Section 5(2).

(d) Stairs shall comply with Section 9. This requirement is not mandatory within dwelling units.

(e) All passenger elevators shall comply with Section 10.

(f) If windows intended to be operated by occupants are provided, then a reasonable number, but always at least one (1), of windows in each accessible space shall comply with Section 12.

(g) All doors to accessible spaces along accessible routes shall comply with Section 13.

(h) All principal entrances shall comply with Section 14.

(i) All drinking fountains along accessible routes shall comply with Section 15.

(j) All toilet rooms provided for public use or as otherwise required by the Kentucky Building Code shall comply with Section 22. Bathing facilities on accessible routes shall comply with Section 23.

(k) If storage facilities such as cabinets, shelves, closets,

and drawers are provided in accessible spaces, they shall comply with Section 25.

(l) Controls and operating mechanisms in accessible spaces, along accessible routes, or as parts of accessible elements (for example, light switches and dispenser controls), shall comply with Section 27.

(m) If emergency warning systems are provided, they shall comply with Section 28.

(n) Tactile warnings shall be provided at hazardous conditions as specified in Section 29.

(o) If signs are provided, they shall comply with Section 30.

(p) If public telephones are provided, they shall comply with Section 31.

(q) If seating tables, or work surfaces are provided in accessible spaces, they shall comply with Section 32.

(r) If places of assembly are provided, they shall comply with Section 33.

(s) If sleeping accommodations are provided, they shall comply with Section 34.

(3) Accessible housing. Accessible housing shall comply with the minimum requirements in subsections (1) and (2) of this section. It shall also meet the following requirements:

(a) Accessible dwelling units shall comply with Section 35.

(b) Each accessible dwelling unit shall be connected to an accessible entrance complying with Section 14 by an accessible route complying with Section 5.

(c) Common use spaces and facilities (for example, swimming pools, playgrounds, entrances, rental offices, lobbies, elevators, mail box areas, lounges, storage rooms, halls, corridors, and the like) that serve one (1) or more accessible dwelling units shall comply with subsections (1) and (2) of this section. At least one (1) accessible route shall connect all accessible entrances to each accessible dwelling unit.

Section 4. Space Allowances and Reach Ranges. (1) Wheelchair passage width. The minimum clear width for single wheelchair passage shall be thirty-two (32) inches at a point and thirty-five (35) inches continuously.

(2) Width for wheelchair passing. The minimum width for two (2) wheelchairs to pass is sixty (60) inches.

(3) Wheelchair turning space. The space required for a wheelchair to make a 180 degree turn is a clear space of sixty (60) inches diameter or a T-shaped space with a minimum clear width of thirty-six (36) inches.

(4) Clear floor or ground space for wheelchairs:

(a) Size and approach. The minimum clear floor or ground space required to accommodate a single, stationary wheelchair and occupant is thirty (30) inches by forty-eight (48) inches. The minimum clear floor or ground space for wheelchairs may be positioned for forward or parallel approach to an object. Clear floor or ground space for wheelchairs may be part of the knee space required under some objects.

(b) Relationship of maneuvering clearances to wheelchair spaces. One (1) full unobstructed side of the clear floor or ground space for a wheelchair shall adjoin or overlap an accessible route or adjoin another wheelchair clear floor space. If a clear floor space is located in an alcove or otherwise confined in all or part of three (3) sides, additional maneuvering clearances shall be provided (see Appendix A, Figure 1).

(c) Surfaces of wheelchair spaces. Clear floor or ground spaces for wheelchairs shall comply with Section 5(2).

(5) High forward reach. If the clear floor space only allows forward approach to an object, the maximum high forward reach allowed shall be forty-eight (48) inches. If the high forward reach is over an obstruction, reach and clearances shall be as shown in Appendix A, Figure 2.

(6) Side reach. If the clear floor space allows parallel approach by a person in a wheelchair, the maximum high side reach allowed shall be fifty-four (54) inches and the low side reach shall be no less than nine (9) inches above the floor. If the side reach is over an obstruction, the reach and clearances shall be as shown in Appendix A, Figure 3.

Section 5. Accessible Route, Ground and Floor Surfaces, and Protruding Objects. (1) Accessible route. All walks, halls, corridors, aisles, and other spaces that are of an accessible route shall comply with this subsection.

(a) Location:

1. At least one (1) accessible route shall be provided from public transportation stops, accessible parking and accessible passenger loading zones, and public streets or sidewalks to the accessible building entrance they serve.

2. At least one (1) accessible route shall connect accessible buildings, facilities, elements, and spaces that are on the same site.

3. At least one (1) accessible route shall connect accessible building or facility entrances with all accessible spaces and elements and with all accessible dwelling units within the building or facility.

4. An accessible route shall connect at least one (1) accessible entrance of each accessible dwelling unit with those exterior and interior spaces and facilities that serve the accessible dwelling unit.

(b) Width. The minimum clear width of an accessible route shall be thirty-six (36) inches except at doors. (See Section 13(5).) If a person in a wheelchair must make a turn around an obstruction, the minimum clear width of the accessible route shall be as shown in Appendix A, Figure 4.

(c) Passing space. If an accessible route has less than sixty (60) inches clear width, then passing spaces at least sixty (60) inches by sixty (60) inches shall be located at reasonable intervals not to exceed 200 feet. A T-intersection of two (2) corridors or walks is an acceptable passing place.

(d) Head room. Accessible routes shall comply with subsection (3)(b) of this section.

(e) Surface texture. The surface of an accessible route shall comply with subsection (2) of this section.

(f) Slope. An accessible route with a running slope greater than 1:20 is a ramp and shall comply with Section 8. Nowhere shall the cross slope of an accessible route exceed 1:50.

(g) Changes in level. Changes in level along an accessible route shall comply with subsection (2)(b) of this section. If an accessible route has changes in level greater than one-half (½) inch, then a curb ramp, ramp or elevator shall be provided that complies with Sections 7, 8 and 10, respectively. Stairs shall not be part of an accessible route.

(h) Doors. Doors along an accessible route shall comply with Section 13.

(i) Egress. At least one (1) accessible route serving any accessible space or element shall also serve as a means of egress.

(2) Ground and floor surfaces. Ground and floor surfaces along accessible routes and in accessible rooms and spaces, including floors, walks, ramps, stairs, and curb ramps, shall be stable, firm, and relatively nonslip under all weather conditions and shall comply with this subsection.

(a) Changes in level. Changes in level up to one-fourth (¼) inch may be vertical and without edge treatment. Changes in level between one-fourth (¼) inch and one-half (½) inch shall be beveled with a slope no greater than 1:2. Changes in level greater than one-half (½) inch shall be accomplished by means of a ramp that complies with Sections 7 or 8.

(b) Carpet. If carpet or carpet tile is used on a ground or floor surface, then it shall be securely attached; have a firm cushion, pad, or backing or no cushion or pad; and have a level loop, textured loop, level cut pile or level cut/uncut pile texture. The maximum combined thickness of pile, cushion, and backing shall be one-half (½) inch. Exposed edges and trim shall be securely fastened in place and shall comply with paragraph (a) of this subsection.

(c) Gratings. If gratings are located in walking surfaces, then they shall have spaces no greater than one-half (½) inch wide in one (1) direction. If gratings have elongated openings, then they shall be placed so that the long dimension is perpendicular to the dominant direction of travel.

(3) Protruding objects:

(a) Objects projecting from walls (for example, telephones) with their leading edges between twenty-seven (27) inches and eighty (80) inches above the finished floor shall protrude no more than four (4) inches into walks, halls, corridors, passageways, or aisles. Objects mounted with their leading edges at or below twenty-seven (27) inches above the finished floor may protrude any amount. Free standing objects mounted on posts or pylons may overhang twelve (12) inches maximum from twenty-seven (27) inches to eighty (80) inches above the ground or finished floor. Protruding objects shall not reduce the clear width of an accessible route or maneuvering space. (See Appendix A, Figure 5.)

(b) Head room. Walks, halls, corridors, passageways, aisles, or other circulation spaces shall have eighty (80) inches in minimum clear head room. (See Appendix A, Figure 5.)

Section 6. Parking and Passenger Loading Zones. (1) Minimum number. Where parking spaces are provided, the minimum number of spaces shall be in accordance with Table 1 and shall comply with subsections (2) through (4) of this section. Where passenger loading zones are provided, at least one (1) shall comply with subsection (5) of this section.

TABLE 1

1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 or over	2% of total—20 plus 1 for each 200 over 1000

(2) Location. Parking spaces for disabled people and accessible passenger loading zones that serve a particular building shall be located on the shortest possible accessible circulation route to an accessible entrance of the building. In separate parking structures or lots that do not serve a particular building, parking spaces for disabled people shall be located on the shortest possible circulation route to an accessible pedestrian entrance of the parking facility.

(3) Parking spaces. Parking spaces for disabled people shall be at least ninety-six (96) inches wide and shall have an adjacent access aisle sixty (60) inches wide minimum (see Appendix A, Figure 6). Parking access aisles shall be part of the accessible route to the building or facility entrance and shall comply with Section 5(1). Two (2) accessible parking spaces may share a common access aisle. Parked vehicle overhangs shall not reduce the clear width of an accessible circulation route.

(4) Signage. Accessible parking spaces shall be designated as reserved for the disabled by a sign showing the international symbol of accessibility. Such signs shall be above grade.

(5) Passenger loading zones. Passenger loading zones shall provide an access aisle at least forty-eight (48) inches wide and twenty (20) feet long adjacent and parallel to the vehicle pull-up space. If there are curbs between the access aisle and the vehicle pull-up space, then a curb ramp complying with Section 7 shall be provided.

(6) Vertical clearance. Provide minimum vertical clearance of nine (9) feet six (6) inches at accessible parking spaces, at accessible passenger loading zones and along vehicle access route to such areas from site entrances.

Section 7. Curb Ramps. (1) Location. Curb ramps complying with this section shall be provided wherever an accessible route crosses a curb.

(2) Slope. Slopes of curb ramps shall comply with Table 815 of the Kentucky Building Code. The slope shall be measured at a ratio of rise to horizontal run.

(3) Width. The minimum width of a curb ramp shall be thirty-six (36) inches, exclusive of flared sides.

(4) Surface. Surfaces of curb ramps shall comply with Section 5(2). Transitions from ramps to walks and ramps to gutters or streets shall be flush and free from abrupt changes.

(5) Sides of curb ramps. If a curb ramp is located where pedestrians must walk across the ramp, then it shall have flared sides; the maximum slope of the flare shall be 1:10. Curb ramps with returned curbs may be used where pedestrians would not normally walk across the ramp. Curb ramps shall not have handrails.

(6) Built-up curb ramps. Built-up curb ramps, or curb ramps that project into a vehicular path, shall not be permitted in new construction. They may be permitted in existing conditions only where such application is determined to be the only reasonable means of access and where the location of the built-up curb ramp is not in an uncontrolled vehicular path. Built-up curb ramps shall comply with this section.

(7) Warning textures. A curb ramp shall have a tactile warning texture contrasting to adjoining surfaces and complying with Section 29, extending the full width and depth of the curb ramp, including any flares.

(8) Obstructions. Curb ramps shall be located or protected to prevent their obstruction by parked vehicles.

(9) Location at marked crossings. Curb ramps at marked crossings shall be wholly contained within the markings, excluding any flared sides.

(10) Diagonal curb ramps. If diagonal (or corner type) curb ramps have returned curbs or other well defined edges, such edges shall be parallel to the direction of pedestrian flow. If diagonal curb ramps have flared sides, they shall also have at least a twenty-four (24) inch long segment of straight curb located on each side of the curb ramp and within the marked crossing.

(11) Islands. Any raised islands in crossings shall be cut through level with the street or have curb ramps at both

sides and a level area at least forty-eight (48) inches long in the part of the island intersected by the crossings.

(12) Uncurbed intersections. If there is no curb at the intersection of a walk and an adjoining street, parking lot, or busy driveway, then the walk shall have a tactile warning texture complying with Section 29(5) at the edge of the vehicular way.

Section 8. Ramps. Any part of an accessible route with a slope greater than 1:20 shall be considered a ramp and shall comply with Section 815 of the Kentucky Building Code as filed in 815 KAR 7:020.

Section 9. Stairs. Stairways shall comply with Section 816 of the Kentucky Building Code as filed in 815 KAR 7:020. These specifications are not mandatory for stairs within dwelling units.

Section 10. Elevators. (1) All public passenger elevators shall be required to be accessible and shall comply with the provisions of Article 21 of the Kentucky Building Code as filed in 815 KAR 7:020.

(2) At least one (1) public passenger elevator shall be required in buildings three (3) stories or greater in height.

Section 11. Platform lifts. Platform lifts are not permitted until such time as a national standard shall be created and approved by the board.

Section 12. Windows. (1) General. If windows intended to be operated by occupants are provided, at least one (1) operable window in each accessible space shall comply with this section.

(2) Window hardware. Windows requiring pushing, pulling or lifting to open (for example, doublehung, sliding, or casement and awning units without cranks) shall require no more than five (5) pounds to open or close. Locks, cranks, and other window hardware shall comply with Section 27.

Section 13. Doors. (1) General. All doors to accessible spaces and elements and along accessible routes shall comply with the requirements of this section.

(2) Revolving doors and turnstiles. Revolving doors or turnstiles shall not be the only means of passage at an accessible entrance or along an accessible route.

(3) Gates. Gates, including ticket gates, shall meet all applicable specifications of this section.

(4) Double-leaf doorways. If doorways have two (2) door leaves, then at least one (1) leaf shall meet the specifications in subsections (5) and (6) of this section. That leaf shall be an active leaf.

(5) Clear width. Doorways shall have a minimum clear opening of thirty-two (32) inches with the door open ninety (90) degrees, measured between the face of the door and the stop. Openings more than twenty-four (24) inches in depth shall have a minimum clear opening of thirty-six (36) inches.

(6) Maneuvering clearances at doors. Minimum maneuvering clearances for doors that are not automatic shall be as shown in Appendix A, Figure 7. The floor or ground area within the required clearances shall be level and clear. Doors required to be a minimum of forty-four (44) inches in institutional buildings shall be exempt from the requirements for space at the latch side of the door.

(7) Two (2) doors in series. The minimum space between two (2) doors in series shall be forty-eight (48) inches plus the width of any door swinging into the space. Doors in series shall swing either in the same direction or away from the space between the doors.

(8) Thresholds at doorways. Thresholds at doorways shall not exceed one-half (½) inch in height except that thresholds at exterior sliding doors shall not exceed three-fourth (¾) inch. Raised thresholds and floor level changes at accessible doorways shall be beveled with a slope no greater than 1:2, and shall meet the requirements of Section 5(2)(a).

(9) Door hardware. Handles, pulls, latches, locks and other operating devices on accessible doors shall have a shape that is easy to grasp with one (1) hand and does not require tight grasping, tight pinching, or twisting of the wrist to operate. Lever-operated mechanisms, push-type mechanisms and U-shaped handles are acceptable designs. When sliding doors are fully open, operating hardware shall be exposed and usable from both sides. Doors to hazardous areas shall have hardware complying with Section 29(3).

(10) Door closers. If a door has a closer, then the sweep period of the closer shall be adjusted so that from an open position of seventy (70) degrees, the door will take at least three (3) seconds to move to a point three (3) inches from the latch, measured to the leading edge of the door.

(11) Door opening force. The maximum force for pushing or pulling open a door shall be as follows:

(a) Fire doors shall have the minimum opening force of fifteen (15) pounds and as required in Section 812.5.4 of the Kentucky Building Code.

(b) Other doors: exterior hinged doors, 8.5 pounds; interior hinged doors, five (5) pounds; sliding or folding doors, five (5) pounds. These forces do not apply to the force required to retract latch bolts or disengage other devices that may hold the door in a closed position.

(12) Automatic doors and power-assisted doors. If an automatic door is used, then it shall comply with American National Standard for Power-Operated Doors, ANSI A156.10-1979. Slowly opening, low-powered, automatic doors shall be considered a type of custom design installation as described in paragraph 1.1.1 of ANSI A156.10-1979. Such doors shall not open to back check faster than three (3) seconds and shall require no more than fifteen (15) pounds to stop door movement. If a power-assisted door is used, its door opening force shall comply with subsection (11) of this section and its closing shall conform to the requirements in Section 10 of ANSI A156.10-1979.

(13) Framed glass doors. Where framed glass doors are used, the bottom rail shall be a minimum height of seven and one-half (7½) inches.

Section 14. Entrances. (1) Principal entrances. Principal entrances to a building or facility shall be part of an accessible route and shall comply with Section 5(1). Such entrances shall be connected by an accessible route to public transportation stops, to accessible parking and passenger loading zones, and to public streets or sidewalks if available. They shall also be connected by an accessible route to all accessible spaces or elements within the building or facility.

(2) Service entrances. A service entrance shall not be the sole accessible entrance unless it is the only entrance to a building or facility (for example, in a factory or garage).

Section 15. Drinking Fountains and Water Coolers. (1) Minimum number. All drinking fountains or water coolers along accessible routes shall comply with this section.

(2) Spout height. Spouts shall be no higher than thirty-

six (36) inches, measured from the floor or ground surfaces to the spout outlet.

(3) Spout location. The spouts of drinking fountains and water coolers shall be at the front of the unit and shall direct the water flow in a trajectory that is parallel or nearly parallel to the front of the unit. The spout shall provide a flow of water so as to allow the insertion of a cup or glass under the flow of water.

(4) Controls. Controls shall comply with Section 27(4).

(5) Clearances. Wall and post mounted cantilevered units shall have a clear knee space between the bottom of the apron and the floor or ground at least twenty-seven (27) inches high, thirty (30) inches wide, and seventeen (17) inches to nineteen (19) inches deep. Such units shall also have a minimum clear floor space thirty (30) inches by forty-eight (48) inches to allow a person in a wheelchair to make a parallel approach to the unit. This clear floor space shall comply with Section 4(4).

Section 16. Water Closets. Accessible water closets shall comply with this section. For water closets in adaptable dwelling units, see Section 35(4)(b).

(1) Clear floor space. Clear floor space for water closets not in stalls shall comply with Appendix A, Figure 9. Clear floor space may be arranged to allow either a left-handed or right-handed approach.

(2) Height. The height of water closets shall be seventeen (17) inches to nineteen (19) inches measured to the top of the toilet seat (see Appendix A, figure 10). Seats shall not be sprung to return to a lifted position when not in use.

(3) Grab bars. Grab bars for water closets shall comply with Appendix A, Figures 9 and 10, and Section 4. Grab bars may be mounted by any desired method as long as they have a gripping surface at the locations shown and do not obstruct the required floor area.

(4) Flush controls. Flush controls shall be hand operated and shall comply with Section 27(4). Controls for flush valves shall be mounted no more than forty-four (44) inches above the floor.

(5) Dispensers. Toilet paper dispensers shall be installed within reach as shown in Appendix A, Figure 10. Dispensers shall not control delivery and shall permit continuous paper flow.

Section 17. Toilet Stalls. (1) Location. Accessible toilet stalls shall be on an accessible route and shall meet the requirements of this section.

(2) Water closets. Water closets in stalls shall comply with Section 16.

(3) Size and arrangement. The size and arrangement of the toilet stalls shall comply with Appendix A, Figure 11(a). In existing buildings alternate stalls (Appendix A, Figure 11(b)) may be used where available space prohibits installation of the standard stall. Arrangements shown for stalls may be reversed to allow either a left or right-handed approach.

(4) Toe clearances. In standard stalls, the front partition and at least one (1) side partition shall provide a toe clearance of at least nine (9) inches above the floor. If the depth of the stall is greater than sixty (60) inches, then the toe clearance is not required.

(5) Doors. Toilet stall doors shall comply with Section 13. Doors of toilet stalls shall be out-swinging. Doors on toilet stalls shall have either a self-closing mechanism or a pull mounted on the hinged side of the stall door.

(6) Grab bars. Provide grab bars at toilet stalls as shown in Appendix A, Figures 10 and 11. Grab bars may be mounted by any desired method as long as they have a gripping surface at the locations shown and do not obstruct the required clear floor area. Grab bars shall comply with Section 26.

Section 18. Urinals. (1) General. Accessible urinals shall comply with this section.

(2) Heights. Urinals shall be stall-type or wallhung with an elongated rim at a maximum of seventeen (17) inches above the floor.

(3) Clear floor space. A clear floor space thirty (30) inches by forty-eight (48) inches shall be provided in front of urinals to allow forward approach. This clear space shall adjoin or overlap an accessible route and shall comply with Section 4(4).

(4) Flush controls. Flush controls shall be hand operated, shall comply with Section 27(4) and shall be mounted no more than forty-four (44) inches above the finished floor.

(5) Urinal shields. Urinal shields that do not extend beyond the front edge of the urinal rim may be provided with twenty-nine (29) inches clearance between them.

Section 19. Lavatories and Mirrors. The requirements of this section shall apply to lavatory fixtures, vanities, and built-in lavatories.

(1) Height and clearances. Lavatories shall be mounted with a clearance of at least twenty-nine (29) inches from the floor to the bottom of the apron. Knee and toe clearances shall comply with Appendix A, Figure 12.

(2) Clear floor space. A clear floor space thirty (30) inches by forty-eight (48) inches complying with Section 4(4) shall be provided in front of a lavatory to allow a forward approach. Such clear floor space shall adjoin or overlap an accessible route and shall extend a maximum of nineteen (19) inches underneath the lavatory.

(3) Exposed pipes and surfaces. If hot water exceeds 120 degrees Fahrenheit, the hot water and drain pipes under lavatories shall be insulated or otherwise covered. There shall be no sharp or abrasive surfaces under lavatories.

(4) Faucets. Faucets shall comply with Section 27(4). Lever-operated, push-type and electronically controlled mechanisms are examples of acceptable designs. Self-closing valves are allowed if the faucet remains open for at least ten (10) seconds.

(5) Mirrors. Mirrors shall be mounted with the bottom edge no higher than forty (40) inches from the floor.

Section 20. Bathtubs. (1) General. Accessible bathtubs shall comply with this section. For bathtubs in accessible dwelling units, see Section 35(4)(d).

(2) Floor space. Clear floor space in front of bathtubs shall be as shown in Appendix A, Figure 13.

(3) Seat. An in-tub seat or a seat at the head end of the tub shall be provided as shown in Appendix A, Figures 13 and 14. The structural strength of seats and their attachments shall comply with Section 26(3). Seats shall be mounted securely and shall not slip during use.

(4) Grab bars. Grab bars complying with Section 26 shall be provided as shown in Appendix A, Figures 13 and 14.

(5) Controls. Faucets and other controls complying with Section 27(4) shall be located as shown in Appendix A, Figure 14.

(6) Shower unit. A shower spray unit with a hose at least sixty (60) inches long that can be used as a fixed shower head or as a hand-held shower shall be provided.

(7) Bathtub enclosures. If provided, enclosures for bathtubs shall not obstruct controls or transfer from

wheelchairs onto bathtub seats or into tubs. Enclosures on bathtubs shall not have tracks mounted on their rims.

Section 21. Shower Stalls. (1) General. Accessible shower stalls shall comply with this section. For shower stalls in accessible dwelling units, see Section 35(4)(e).

(2) Size and clearances. Shower stall size and clear floor space shall comply with Appendix A, Figure 15.

(3) Seat. A seat shall be provided in transfer shower stalls as shown in Appendix A, Figure 16. The seat shall be mounted seventeen (17) inches to nineteen (19) inches from the bathroom floor and shall extend the full depth of the stall. The seat shall be on the wall opposite the controls. The structural strength of seats and their attachments shall comply with Section 26(3).

(4) Grab bars. Grab bars complying with Section 26 shall be provided as shown in Appendix A, Figure 17.

(5) Controls. Faucets and other controls complying with Section 27(4) shall be located as shown in Appendix A, Figure 17. In transfer shower stalls all controls, faucets, and the shower unit shall be mounted on the side wall opposite the seat.

(6) Shower unit. A shower spray unit with a hose at least sixty (60) inches long that can be used as a fixed shower head or as a hand-held shower shall be provided.

(7) Curbs. If provided, curbs in transfer shower stalls shall be no higher than four (4) inches. Roll-in shower stalls shall not have curbs.

(8) Shower enclosures. If provided, enclosures for shower stalls shall not obstruct controls or obstruct transfer from wheelchairs onto shower seats.

Section 22. Toilet Rooms. (1) Minimum number. All toilet rooms provided for public use or otherwise required by the Kentucky Building Code shall be on an accessible route and shall comply with this section.

(2) Doors. All doors to accessible toilet rooms shall comply with Section 13. Doors shall not swing into the clear floor space required for any fixture.

(3) Clear floor space. The accessible fixtures and controls required in subsections (4), (5), (6) and (7) of this section shall be on an accessible route. An unobstructed turning space complying with Section 4(3) shall be provided within an accessible toilet room. The clear floor space at fixtures and controls, the accessible route, and the turning space may overlap.

(4) Water closets. If toilet stalls are provided, then a reasonable number, but always at least one (1), shall comply with Section 17; its water closet shall comply with Section 15. If water closets are not in stalls, then a reasonable number, but always at least one (1), of water closets shall comply with Section 16.

(5) Urinals. If urinals are provided, a reasonable number, but always at least one (1), shall comply with Section 18.

(6) Lavatories and mirrors. If lavatories and mirrors are provided, a reasonable number, but always at least one (1) of each, shall comply with Section 19.

(7) Controls and dispensers. If controls, dispensers, receptacles, or other equipment is provided, at least one (1) of each shall be on an accessible route and shall comply with Section 27.

(8) Emergency lighting. Where emergency lighting in a building is required by Section 624 of the Kentucky Building Code, the emergency lighting shall be provided in accessible toilet rooms.

Section 23. Bathrooms, Bathing Facilities and Shower Rooms. (1) Minimum number. Bathrooms, bathing facilities, or shower rooms on an accessible route shall comply with this section. For bathrooms in accessible dwelling units, see Section 35(4).

(2) Doors. Doors to accessible bathrooms shall comply with Section 13. Doors shall not swing into the floor space required for any fixture.

(3) Clear floor space. The accessible fixtures and controls required in subsections (4), (5), (6), (7), (8), and (9) of this section shall be on an accessible route. An unobstructed turning space complying with Section 4(3) shall be provided within an accessible bathroom. The clear floor space at fixtures and controls, the accessible route, and the turning space may overlap.

(4) Water closets. If toilet stalls are provided, then a reasonable number, but always at least one (1), shall comply with Section 17; its water closet shall comply with Section 16. If water closets are not in stalls, then a reasonable number, but always at least one (1), shall comply with Section 16.

(5) Urinals. If urinals are provided, then a reasonable number, but always at least one (1), shall comply with Section 18.

(6) Lavatories and mirrors. If lavatories and mirrors are provided, then a reasonable number, but always at least one (1) of each, shall comply with Section 19.

(7) Controls and dispensers. If controls, dispensers, receptacles, or other equipment is provided, at least one (1) of each shall be on an accessible route and shall comply with Section 27.

(8) Bathing and shower facilities. If tubs or showers are provided, then at least one (1) accessible tub that complies with Section 20 or at least one (1) accessible shower that complies with Section 20 or at least one (1) accessible shower that complies with Section 21 shall be provided.

(9) Medicine cabinets. If medicine cabinets are provided, at least one (1) shall be located with a usable shelf no higher than forty-four (44) inches above the floor space. The floor space shall comply with Section 4(4).

Section 24. Sinks. (1) General. If accessible sinks are provided, they shall comply with this section. Sinks in kitchens of accessible dwelling units shall comply with Section 35(5)(e).

(2) Height. Sinks shall be mounted with the counter or rim no higher than thirty-four (34) inches from the floor.

(3) Knee clearance. Knee clearance that is twenty-seven (27) inches high, thirty (30) inches wide, and nineteen (19) inches deep shall be provided underneath sinks.

(4) Depth. Each sink shall be a maximum of six and one-half (6½) inches deep.

(5) Clear floor space. A clear floor space at least thirty (30) inches by forty-eight (48) inches complying with Section 4(4) shall be provided in front of a sink to allow forward approach. The clear floor space shall be on an accessible route and shall extend a maximum of nineteen (19) inches underneath the sink.

(6) Exposed pipes and surfaces. If hot water exceeds 120 degrees Fahrenheit, hot water and drain pipes under sinks shall be insulated or otherwise covered. There shall be no sharp or abrasive surfaces under sinks.

(7) Faucets. Faucets shall comply with Section 27(4). Lever-operated push-type, touch-type, or electronically controlled mechanisms are acceptable designs.

Section 25. Storage. (1) General. Accessible storage facilities such as cabinets, shelves, closets, and drawers shall comply with this section.

(2) Clear floor space. A clear floor space at least thirty (30) inches by forty-eight (48) inches complying with Section 4(4) that allows either a forward or parallel approach by a person using a wheelchair shall be provided at accessible storage facilities.

(3) Height. Accessible storage spaces shall be within at least one (1) of the reach ranges specified in Section 4(5) and (6). Clothes rods shall be a maximum of fifty-four (54) inches from the floor.

(4) Hardware. Hardware for accessible storage facilities shall comply with Section 27(4). Touch latches and U-shaped pulls are acceptable.

Section 26. Handrails, Grab Bars and Tub and Shower Seats. (1) General. All handrails, grab bars, and tub and shower seats shall comply with this section.

(2) Size and spacing of grab bars and handrails. The outside diameter or width of the gripping surfaces of handrail or grab bar shall be one and one-fourth (1¼) inch to one and one-half (1½) inch or the shape shall provide an equivalent gripping surface. If handrails or grab bars are mounted adjacent to a wall, the space between the wall and the handrail or grab bars shall be one and one-half (1½) inch (see Appendix A, Figure 18). Handrails may be located in a recess if the recess is a maximum of three (3) inches deep and extends at least eighteen (18) inches above the top of the rail (see Appendix A, Figure 18).

(3) Structural strength. Handrails, grab bars, tub and shower seats, fasteners, and mounting devices shall support a minimum concentrated load of 250 pounds and shall not rotate in their fittings.

(4) Eliminating hazards. A handrail or grab bar and any wall or other surface adjacent to it shall be free of any sharp or abrasive elements. Edges shall have a minimum radius of one-eighth (1/8) inch.

Section 27. Controls and Operating Mechanisms. (1) General. Controls and operating mechanisms in accessible spaces, along accessible routes, or as part of accessible elements (for example, light switches, dispenser controls) shall comply with this section.

(2) Clear floor space. Clear floor space complying with Section 4(4) that allows a forward or parallel approach by a person using a wheelchair shall be provided at controls, dispensers, receptables, and other operable equipment.

(3) Height. The highest operable part of all controls, dispensers, receptacles, and other operable equipment shall be placed within at least one (1) of the reach ranges specified in Section 4(5) and (6). Except where the use of special equipment dictates otherwise, electrical and communications systems receptacles on walls shall be mounted no less than fifteen (15) inches above the floor.

(4) Operation. Controls and operating mechanisms shall be operable with one (1) hand and shall not require tight grasping, pinching, or twisting of the wrist. The force required to activate controls shall be no greater than five (5) pounds of force.

Section 28. Alarms. (1) General. If emergency warning systems are provided, they shall include both audible alarms complying with subsection (2) of this section and visual alarms complying with subsection (3) of this section. In facilities with sleeping accommodations, accessible sleeping accommodations shall have an auxiliary visual alarm system complying with subsection (4) of this section.

(2) Audible alarms. Audible emergency alarms shall produce a sound that exceeds the ambient room or space noise by at least fifteen (15) decibels or exceeds any maximum sound level with a duration of thirty (30) seconds by five (5) decibels, whichever is louder. Sound levels for alarm signals shall not exceed 120 decibels.

(3) Visual alarms. Electronically powered internally illuminated emergency exit signs or adjacent devices shall flash as a visual emergency alarm in conjunction with audible emergency alarms. The flashing frequency of visual alarm devices shall be less than five (5) Hz. If such alarms use electricity from the building as a power source, then they shall be installed on the same system as the audible emergency alarms.

(4) Auxiliary alarms. Accessible sleeping accommodations shall have a visual alarm connected to the building emergency alarm system or shall have a standard 110-volt electrical receptable into which such an alarm could be connected. Instructions for use of the auxiliary alarm or connection shall be provided.

(5) Alarm activators. Alarm activators shall comply with Section 27 controls and operating mechanisms.

(6) Special alarm systems. Specialized alarm systems utilizing advanced technology will be considered on a case-by-case basis.

Section 29. Tactile Warnings. (1) General. Where tactile warnings are required, they shall comply with this section.

(2) Tactile warnings on walking surfaces. Tactile warning textures on walking surfaces shall contrast with that of the surrounding surface. Raised strips or grooves shall comply with Appendix A, Figure 19. Grooves may be used indoors only.

(3) Tactile warnings on doors to hazardous areas. Doors that lead to areas that might prove dangerous to a blind person (for example, doors to loading platforms, mechanical rooms, stages, and the like) shall be made identifiable to the touch by a textured surface on the door handle, knob, pull, or other operating hardware. This textured surface may be made by knurling or roughening or by a material applied to the contact surface. Such textured surfaces shall not be provided for emergency exit doors or any doors other than those to hazardous areas.

(4) Tactile warnings at stairs. All stairs (except those in dwelling units, in enclosed stair towers, or set to the side of the path of travel) shall have a tactile warning at the top of stair runs.

(5) Tactile warnings at hazardous vehicular areas. If a walk crosses or adjoins a frequently used vehicular way, and if there are no curbs, railings, or other elements detectable by a person who has a severe visual impairment separating the pedestrian and vehicular areas, then the boundary between the areas shall be defined by a continous thirty-six (36) inch wide tactile warning texture complying with subsection (2) of this section.

(6) Tactile warnings at reflecting pools. The edges of reflecting pools shall be protected by railings, walls, curbs, or tactile warnings complying with subsection (2) of this section.

(7) Standardization. Textured surfaces for tactile warnings shall be standard within a building, facility, site, or complex of buildings.

Section 30. Signage. (1) General. All signage that provides emergency information of general circulation directions or identifies rooms and spaces shall comply with this section.

(2) Character proportion and contrast. Letters and numbers on sign systems shall:

(a) Have a width-to-height ratio of between 3:5 and 1:1.

(b) Have a stroke width-to-height ratio of between 1:5 and 1:10.

(c) Contrast in value with their backgrounds, preferably light letters on a dark background.

(d) Have a matte finish on a matte finish background.

(3) Raised or incised characters. Provide numbers and letters that are:

(a) Raised or incised from the background surface one thirty-second (1/32) inch. Also incise or raise symbols and pictographs in this manner.

(b) Between five-eighths (5/8) inch and two (2) inches high.

(c) San serif with sharply defined edges.

(d) If incised, provided with at least one-fourth (¼) inch stroke width.

(4) Mounting location and height. Signage shall be placed in a standardized location throughout a building or facility as follows:

(a) Interior signage shall be located on the door or alongside of the door on the latch side and shall be mounted at between four feet, six inches (4'6") and five feet, six inches (5'6") above finished floor.

(b) Exterior signage shall be installed at entrances and walks to direct individuals to accessible routes and entrances as required.

(c) Symbols of accessibility. If accessible facilities are identified, then the international sign of accessibility shall be used.

Section 31. Telephones. (1) General. If public telephones are provided, then they shall comply with this section.

(2) Clear floor or ground space. A clear floor or ground space at least thirty (30) inches by forty-eight (48) inches that allows either a forward or parallel approach by a person using a wheelchair shall be provided at telephones. The clear floor or ground space shall comply with Section 4(4). Bases, enclosures, and fixed seats shall not impede approaches to telephones by people who use wheelchairs.

(3) Mounting height. The highest operable part of the telephone shall be within reach ranges specified in Section 4(5) or (6). Telephones mounted diagonally shall have the highest operable part no higher than fifty-four (54) inches above the floor.

(4) Enclosures. If telephone enclosures are provided, they may overhang the clear floor space required in subsection (2) of this section within the following limits:

(a) Side reach possible: The overhang shall be no greater than nineteen (19) inches; the height of the lowest overhanging part shall be equal to or greater than twenty-seven (27) inches.

(b) Full-height enclosures: Entrances to full-height enclosures shall be thirty (30) inches clear minimum.

(c) Forward reach required: If the overhang is greater than twelve (12) inches, then the clear width of the enclosure shall be thirty (30) inches minimum, if the clear width of the enclosure is less than thirty (30) inches, then the height of the lowest overhanging part shall be equal to or greater than twenty-seven (27) inches.

(d) Where telephone enclosures protrude into walls, halls, corridors, or aisles, they shall also comply with Section 5(3).

(5) Equipment for hearing impaired people. Telephones shall be equipped with a receiver that generates a magnetic field in the area of the receiver cap. If banks of public telephones are provided, a minimun of five (5) percent, but always at least one (1), in a building or facility shall be equipped with a volume control.

(6) Controls. Telephones shall have pushbutton controls where service for such equipment is available.

(7) Telephone books. Telephone books, if provided, shall be located so that they can be used by a person in a wheelchair.

(8) Cord length. The cord from the telephone to the handset shall be at least twenty-nine (29) inches long.

Section 32. Seating, Tables, and Work Surfaces. (1) Minimum number. If fixed or built-in seating, tables, or work surfaces are provided in accessible spaces, a minimum of five (5) percent, but always at least one (1), of seating spaces, tables, or work surfaces shall comply with this section.

(2) Seating. If seating spaces for people in wheelchairs are provided at tables, counters, or work surfaces, clear floor space complying with Section 4(4) shall be provided. Such clear floor space shall not overlap knee space by more than nineteen (19) inches.

(3) Knee clearances. If seating for people in wheelchairs is provided at tables, counters, and work surfaces, knee spaces at least twenty-seven (27) inches high, thirty (30) inches wide, and nineteen (19) inches deep shall be provided.

(4) Height of work surfaces. The tops of tables and work surfaces shall be from twenty-eight (28) inches to thirty-four (34) inches from the floor to ground.

Section 33. Assembly Areas. (1) Minimum number. Assembly areas shall have a minimum of five (5) percent, but no less than two (2), of locations for wheelchair users in each assembly area that complies with this section. Assembly areas with audio-amplification systems shall have a listening system complying with subsections (6) and (7) of this section to assist a minimum of five (5) percent of people, but no fewer than two (2), with severe hearing loss in the appreciation of audio presentations.

(2) Size of wheelchair locations. Each wheelchair location shall provide minimum clear ground or floor space of sixty-six (66) inches wide by forty-eight (48) inches deep for forward or rear access and sixty-six (66) inches deep for side access and shall accommodate two (2) people in wheelchairs.

(3) Placement of wheelchair locations:

(a) Wheelchair areas shall be an integral part of any fixed seating plan and shall be dispersed throughout the seating area. They shall adjoin an accessible route that also serves as a means of egress in case of emergency and shall be located to provide lines of sight comparable to those for all viewing areas.

(b) Exception. In alteration work where it is structurally impossible to alter seating location to disperse seating throughout, seating may be located in collected areas, but must adjoin an accessible route.

(4) Surfaces. The ground or floor at wheelchair locations shall be level and shall comply with Section 5(2).

(5) Access to performing areas. An accessible route shall be provided to performing areas, including stages, arena floors, dressing rooms, locker rooms, and other spaces used by performers.

(6) Placement of listening systems. If the listening system provided serves individual fixed seats, then such seats shall be located within a fifty (50) foot viewing distance of the stage or playing area and shall have a complete view of the stage or playing area.

(7) Types of listening systems. Audio loops and radio frequency systems are two (2) acceptable types of listening systems.

Section 34. Hotels and Motels. Minimum Requirements. In hotel and motel buildings, lodging houses, boarding houses, and dormitory buildings, providing sleeping accommodations for twenty (20) or more individuals, a minimum of five (5) percent of those accommodations shall be accessible to and shall comply with Section 3(1) and (2).

Section 35. Dwelling Units. Where multi-family housing projects are required to be accessible, a minimum of one (1) in twenty-five (25) dwelling units shall meet the requirements of this section.

(1) An accessible dwelling unit shall be on an accessible route. An accessible dwelling unit shall have the following accessible elements and spaces as a minimum:

(a) Common spaces and facilities serving individual accessible dwelling units (for example, entry walks, trash disposal facilities, and mail boxes) shall comply with Sections 3 through 33.

(b) Accessible spaces shall have maneuvering space complying with Section 4(2) and (3) and surfaces complying with Section 5(2).

(c) At least one (1) accessible route complying with Section 5(1) shall connect the accessible entrances with all accessible spaces and elements within the dwelling units.

(d) If parking spaces are assigned for use with individual dwelling units, then at least one (1) parking space per accessible dwelling unit shall comply with Section 6(3).

(e) If windows intended to be operated by occupants are provided, then they shall comply with Section 12.

(f) Doors to and in accessible spaces that are intended for passage shall comply with Section 13.

(g) All entrances to accessible dwelling units shall comply with Section 14.

(h) Storage in accessible spaces in dwelling units, including cabinets, shelves, closets, and drawers, shall comply with Section 25.

(i) All controls in accessible spaces shall comply with Section 27. Those portions of heating, ventilating, and air conditioning equipment requiring regular, periodic maintenance and adjustment by the resident of a dwelling shall be accessible to people in wheelchairs. If air distribution registers must be placed in or close to ceilings for proper air circulation, this specification shall not apply to registers.

(j) If emergency alarms are provided, alarm connections complying with Section 28(4), (5), and (6) shall be provided in the dwelling unit.

(k) If telephone connections are installed in the dwelling unit, a reasonable number, but always at least one (1), shall comply with Section 31(2) and (3).

(l) A reasonable number, but always at least one (1), of full bathrooms shall comply with subsection (4) of this section. A full bathroom shall include a water closet, a lavatory, and a bathtub or shower.

(m) The kitchen shall comply with subsection (5) of this section.

(n) If laundry facilities are provided, they shall comply with subsection (6) of this section.

(o) The following spaces shall be accessible and shall be on an accessible route:

1. The living area.
2. The dining area.
3. The sleeping area, or the bedroom in one (1) bedroom dwelling units, or at least two (2) bedrooms or sleeping spaces in dwelling units with two (2) or more bedrooms.
4. Patios, terraces, balconies, carports, and garages, if provided with the dwelling unit.

(2) Adaptability. The specifications of subsection (5) of this section are based on the concept of adaptability.

(3) Consumer information. To ensure that the existence of adaptable features will be known to the owner or occupant of a dwelling, consumer information shall be provided for each accessible dwelling unit for rent or sale.

(4) Bathrooms. Bathrooms shall be on an accessible route and shall comply with the requirements of this subsection.

(a) Minimum dimensions. Accessible bathrooms shall accommodate wheelchair turning space in accordance with Section 4(3). Door operation shall not interfere with maneuverability.

(b) Water closets:

1. Clear floor space at the water closet shall be as shown in Appendix A, Figure 9. The water closet may be located with the clear area at either the right or left side of the toilet.
2. The height of the water closet shall be at least seventeen (17) to nineteen (19) inches measured to the top of the toilet seat.
3. Grab bars shall be installed as shown in Appendix A, Figure 10 and shall comply with Section 26.
4. The toilet paper dispenser shall be installed within reach as shown in Appendix A, Figure 10.

(c) Lavatory, mirrors, and medicine cabinets:

1. The lavatory and mirrors shall comply with Section 19.
2. If a medicine cabinet is provided above the lavatory, then the bottom of the medicine cabinet shall be located with a usable shelf no higher than forty-four (44) inches above the floor.

(d) Bathtubs. If a bathtub is provided, then it shall have the following features:

1. Floor space. Clear floor space at bathtubs shall be as shown in Appendix A, Figure 13.
2. Seat. An in-tub seat or a seat at the head end of the tub shall be provided as shown in Appendix A, Figures 13 and 14. The structural strength of seats and their attachments shall comply with Section 26(3). Seats shall be mounted securely and shall not slip during use.
3. Grab bars. Grab bars shall be installed as shown in Appendix A, Figure 14 and shall comply with Section 26.
4. Controls. Faucets and other controls shall be located as shown in Appendix A, Figure 14 and shall comply with Section 27(4). Single lever and mixing devices are acceptable designs.
5. Shower unit. A shower spray unit with a hose at least sixty (60) inches long that can be used as a fixed shower head at various heights or as a hand-held shower shall be provided.

(e) Showers. If a shower is provided, it shall have the following features:

1. Size and clearances. Shower stall size and clear floor space shall comply with Appendix A, Figure 15.
2. Seat. A seat shall be provided in the transfer shower stalls as shown in Appendix A, Figure 16. The seat shall be seventeen (17) inches to nineteen (19) inches high measured from the bathroom floor and shall extend the full depth of the stall. The seat shall be on the wall opposite the controls. The structural strength of seats and their attachments shall comply with Section 26(3). Seats shall be mounted securely and shall not slip during use.
3. Grab bars. Grab bars complying with Section 26 shall be provided as shown in Appendix A, Figure 17.

4. Controls. Faucets and other controls shall be located as shown in Appendix A, Figure 17 and shall comply with Section 27(4). In transfer shower stalls, all controls, faucets, and the shower unit shall be mounted on the side wall opposite the seat.

5. Shower unit. A shower spray unit with a hose at least sixty (60) inches long that can be used as a fixed shower head at various heights or as a hand-held shower shall be provided.

(f) Bathtub and shower enclosures. Enclosures for bathtubs or shower stalls shall not obstruct controls or transfer from wheelchairs onto shower or bathtub seats. Enclosures on bathtubs shall not have tracks mounted on their rims.

(g) Clear floor space. Clear floor space at fixtures may overlap.

(5) Kitchens. Kitchens and their components shall be on an accessible route and shall comply with the requirements of this subsection.

(a) Clearance. Clearances between all opposing base cabinets, counter tops, appliances or walls shall accommodate wheelchair turning space in accordance with Section 4(3).

(b) Clear floor space. A clear floor space at least thirty (30) inches by forty-eight (48) inches complying with Section 4(4) that allows either a forward or a parallel approach by a person in a wheelchair shall be provided at all appliances in the kitchen, including the range or cooktop, oven, refrigerator/freezer, dishwasher, and trash compactor. Laundry equipment located in the kitchen shall comply with subsection (6) of this section.

(c) Controls. All controls in kitchens shall comply with Section 27.

(d) Work surfaces. At least one (1) thirty (30) inch section of counter shall provide a work surface that complies with the following requirements:

1. The counter either shall be adjustable (or replaceable as a unit) to provide alternative heights of twenty-eight (28) inches to thirty-six (36) inches, or shall be fixed at thirty (30) inches measured from the floor to the top of the counter surface.

2. Base cabinets, if provided, shall be removable under the full thirty (30) inch minimum frontage of the counter. The finished floor shall extend under the counter to the wall.

3. Counter thickness and supporting structure shall be two (2) inches maximum over the required clear area.

4. A clear floor space thirty (30) inches by forty-eight (48) inches shall allow a forward approach to the counter. Nineteen (19) inches maximum of the clear floor space may extend underneath the counter. The knee space shall have a minimum clear width of thirty (30) inches and a minimum clear depth of nineteen (19) inches.

5. There shall be no sharp or abrasive surfaces under such counters.

(e) Sink. The sink and surrounding counter shall comply with the following requirements:

1. The sink and surrounding counter either shall be adjustable (or replaceable as a unit) to provide alternative heights of twenty-eight (28) inches to thirty-six (36) inches, or shall be fixed at thirty (30) inches measured from the floor to the top of the counter surface or sink rim. The total width of sink and counter area shall be thirty (30) inches minimum.

2. Where the sink is adjustable, rough-in plumbing shall be located to accept connections of supply and drain pipes for sinks mounted at the height of twenty-eight (28) inches.

3. The depth of a sink bowl shall be no greater than six and one-half (6½) inches.

4. Faucets shall comply with Section 27(4). Lever-operated or push-type mechanisms are two (2) acceptable designs.

5. Base cabinets, where provided, shall be removable under the full thirty (30) inch minimum frontage of the sink and surrounding counter. The finished flooring shall extend under the counter to the wall.

6. Counter thickness and supporting structure shall be two (2) inches maximum over the required clear space.

7. A clear floor space thirty (30) inches by forty-eight (48) inches shall allow forward approach to the sink. Nineteen (19) inches maximum of the clear floor space may extend underneath the sink. The knee space shall have a minimum clear width of thirty (30) inches and a clear depth of nineteen (19) inches.

8. There shall be no sharp or abrasive surfaces under sinks. If hot water exceeds 120 degrees Fahrenheit, hot water and drain pipes under sinks shall be insulated or otherwise covered.

(f) Ranges and cooktops. Ranges and cooktops shall comply with subsection (5)(b) of this section and Section 27. If ovens or cooktops have keen spaces underneath, then they shall be insulated or otherwise protected on the exposed contact surfaces to prevent burns, abrasions, or electrical shock. The clear floor space may overlap the knee space, if provided, by nineteen (19) inches maximum. The location of controls for ranges and cooktops shall not require reaching across burners.

(g) Ovens. Ovens shall comply with subsection (5)(b) of this section and Section 27. Ovens shall be of the self-cleaning type or be located adjacent to a counter with knee space below. For side-opening ovens, the door latch side shall be next to the open counter space, and there shall be a pull-out shelf under the oven extending the full width of the oven and pulling out not less than ten (10) inches when fully extended. Ovens shall have controls on front panels; they may be located on either side of the door.

(h) Refrigerator/freezers. Refrigerator/freezer type shall comply with Section 27. Refrigerators shall be:

1. Of the vertical side-by-side refrigerator/freezer type; or

2. Of the over-and-under type and meet the following requirements:

a. Have at least fifty (50) percent of the freezer space below fifty-four (54) inches above the floor.

b. Have 100 percent of the refrigerator space and controls below fifty-four (54) inches. Freezers with less than 100 percent of the storage volume within the limits specified in subsections (5) or (6) of this section shall be the self-defrosting type.

(i) Dishwashers. Dishwashers shall comply with subsection (5)(b) of this section and Section 27. Dishwashers shall have all rack space accessible from the front of the machine for loading and unloading dishes.

(j) Kitchen storage. At least fifty (50) percent of kitchen storage areas shall comply with Section 25. Door pulls or handles for wall cabinets shall be mounted as close to the bottom of cabinet doors as possible. Door pulls or handles for base cabinets shall be mounted as close to the top of cabinet doors as possible.

(6) Laundry facilities. If laundry equipment is provided within individual accessible dwelling units, or if separate laundry facilities serve one (1) or more accessible dwelling units, then they shall meet the requirements of this subsection.

(a) Location. Laundry facilities and laundry equipment

shall be on an accessible route.

(b) Washing machines and clothes dryers. Washing machines and clothes dryers in common-use laundry rooms shall be front loading.

(c) Controls. Laundry equipment shall comply with Section 27.

JOHN R. GROVES, JR, Commissioner
ADOPTED: April 14, 1981
APPROVED: H. FOSTER PETTIT, Secretary
RECEIVED BY LRC: April 15, 1981 at 3:45 p.m.
PUBLIC HEARING: A public hearing will be held on this regulation at 1 p.m., EDT, May 28, 1981, in the Conference Room of the Department of Housing, Buildings and Construction, The 127 Building, U.S. 127 South, Frankfort, Kentucky.

See Appendix A on the following pages.

APPENDIX A

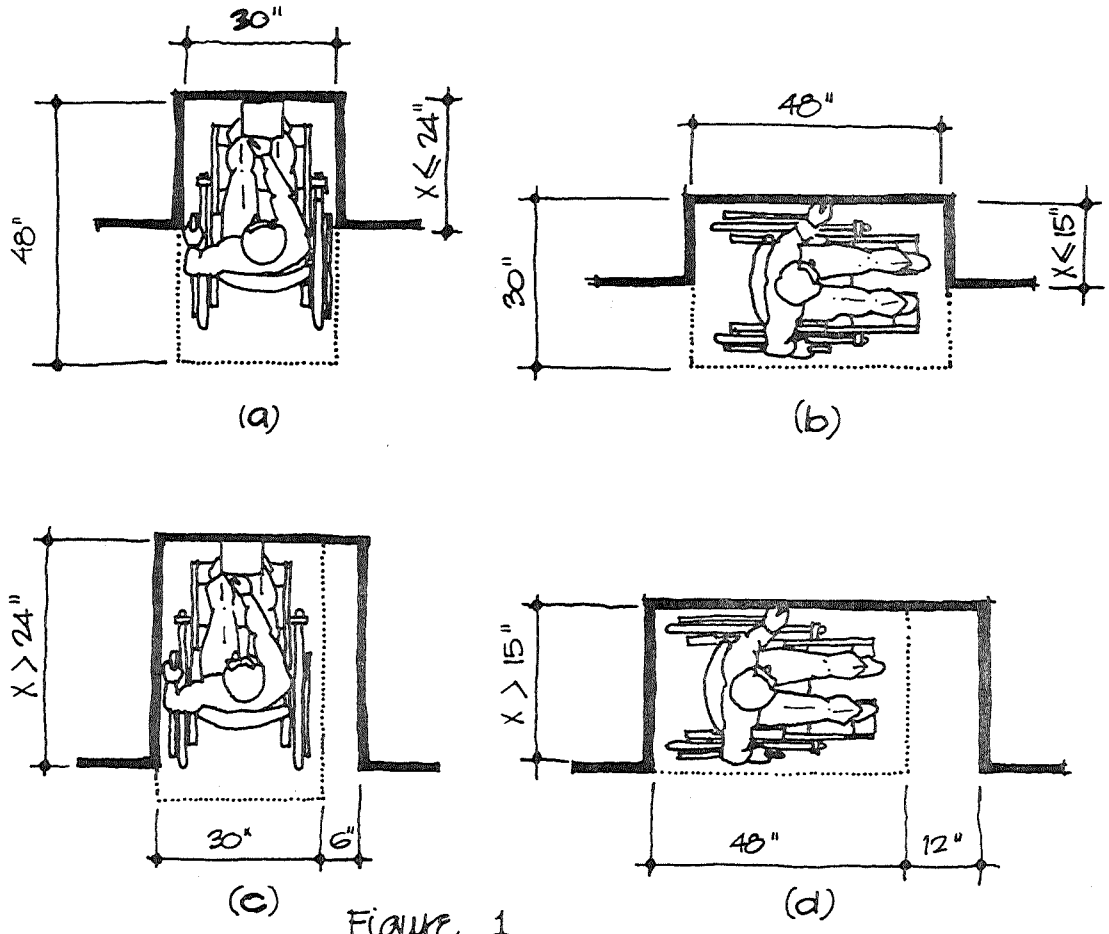


Figure 1
Clear Floor Space in Alcoves

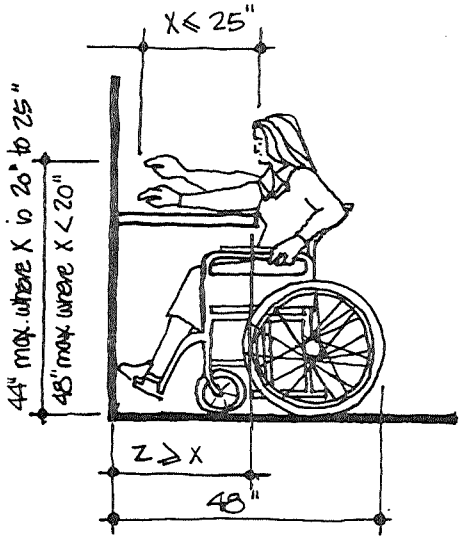


Figure 2
Maximum Forward Reach
Over an Obstruction

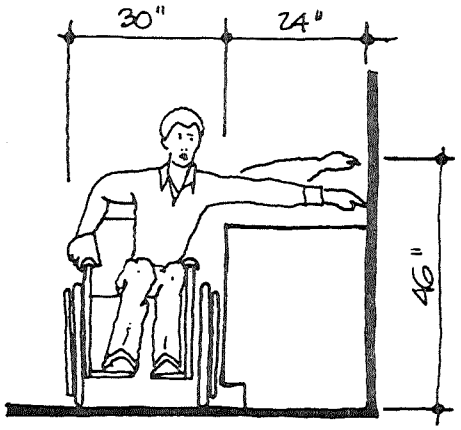


Figure 3
Maximum Side Reach
Over an Obstruction

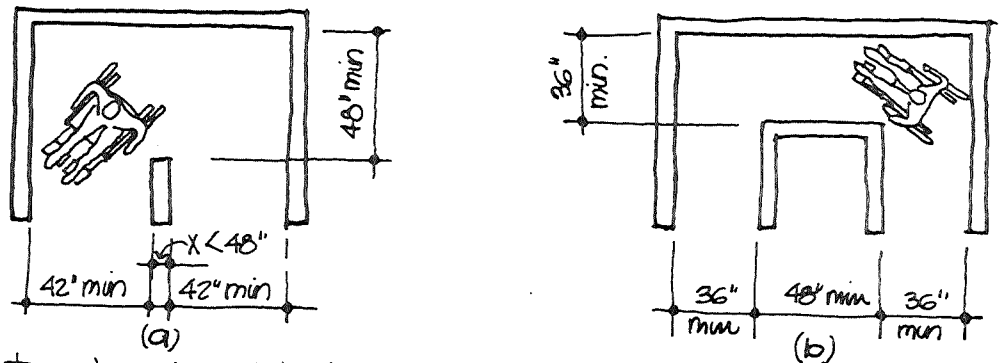


Figure 4
Width of Accessible Route

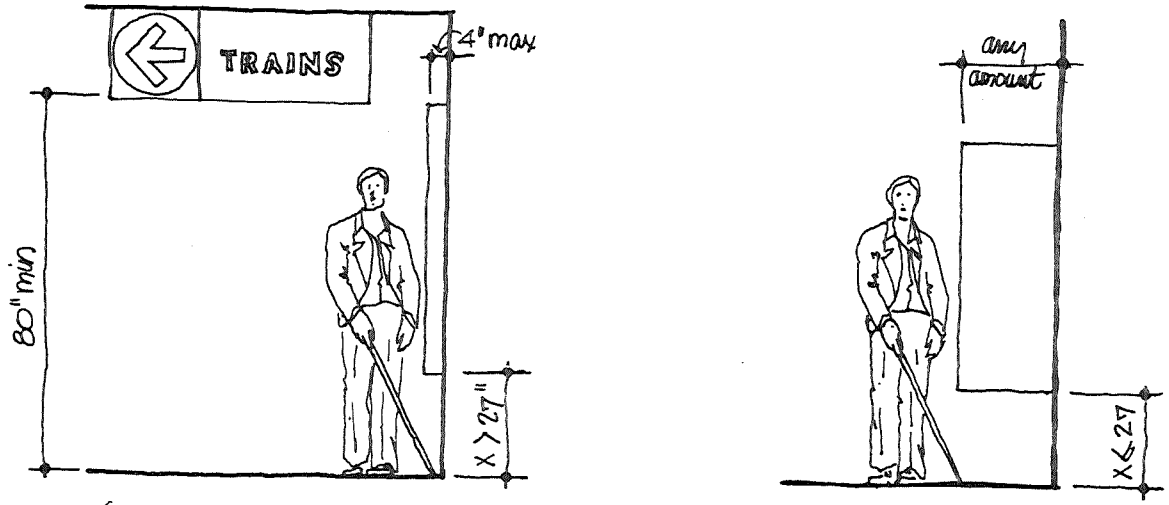


Figure 5
Protruding Objects

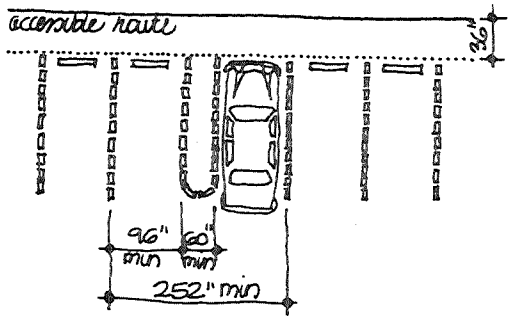


Figure 6
Dimensions of Parking Spaces

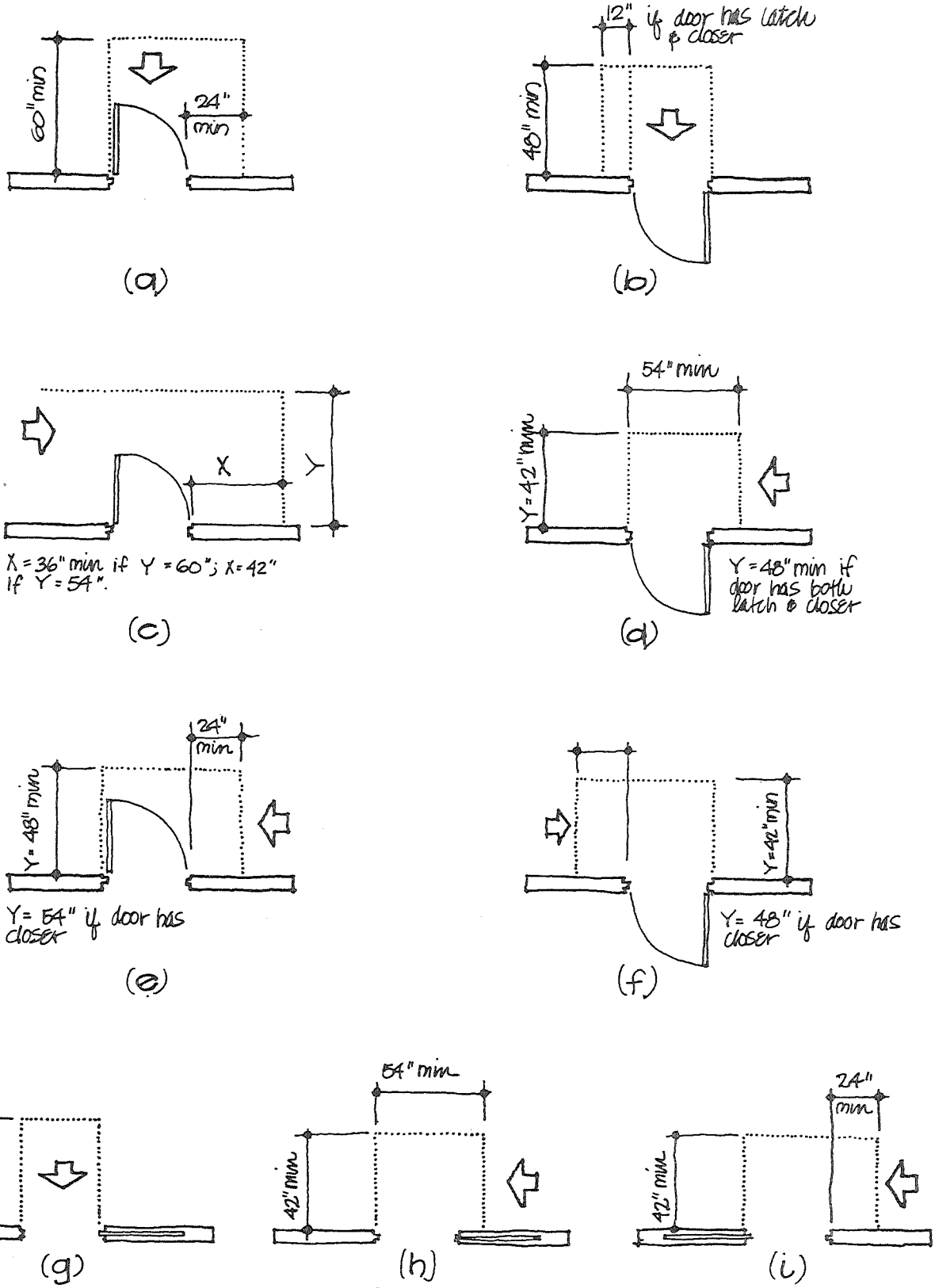
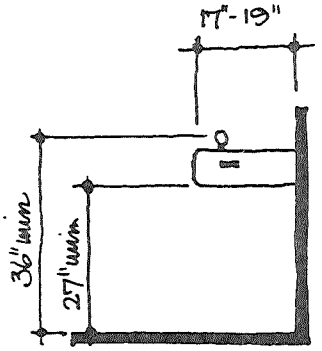
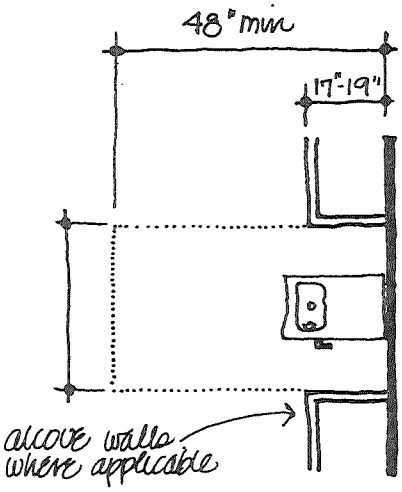


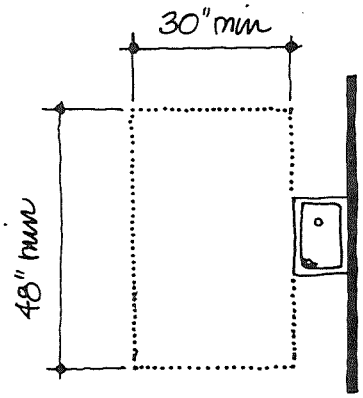
FIGURE 7
Maneuvering Clearances at Doors



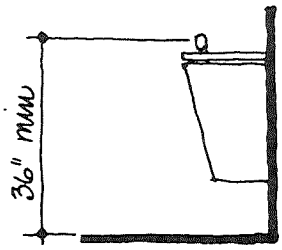
(a)
Spout Height and
Knee Clearance



(b)
Clear Floor Space



(c)
Free Standing
Fountain or Cooler



(d)
Free Standing
Fountain or Cooler

Figure 8
Drinking Fountains and
Water Coolers

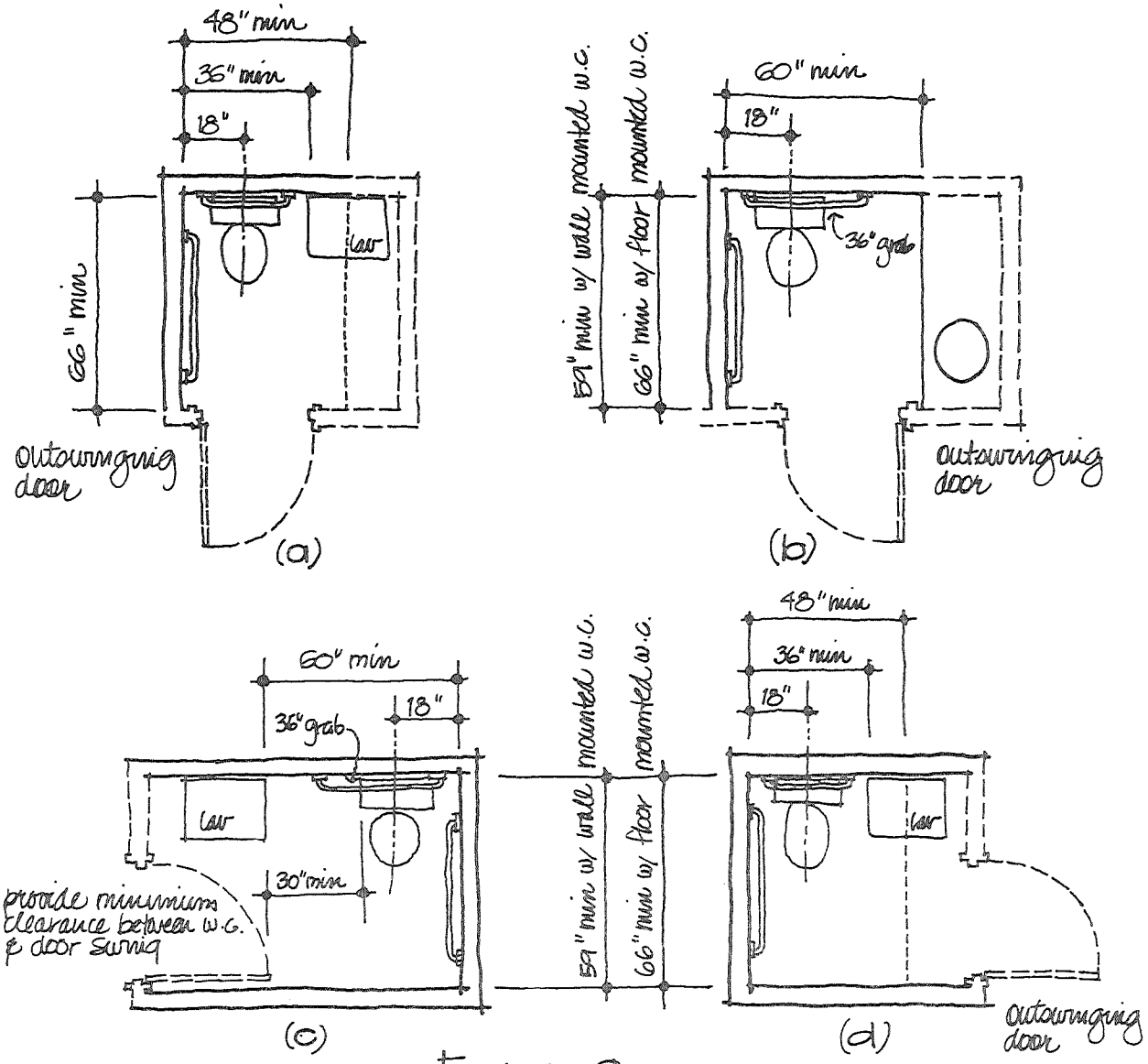


Figure 9
Clear Floor Space at Water Closets

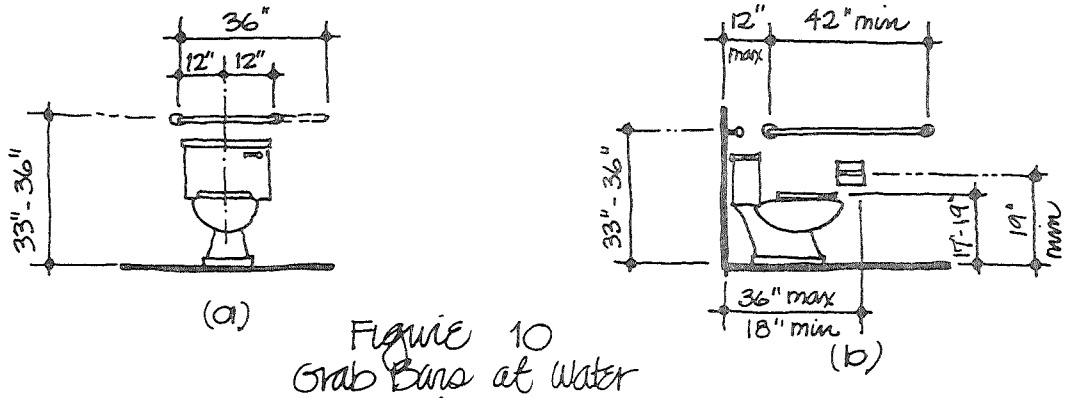
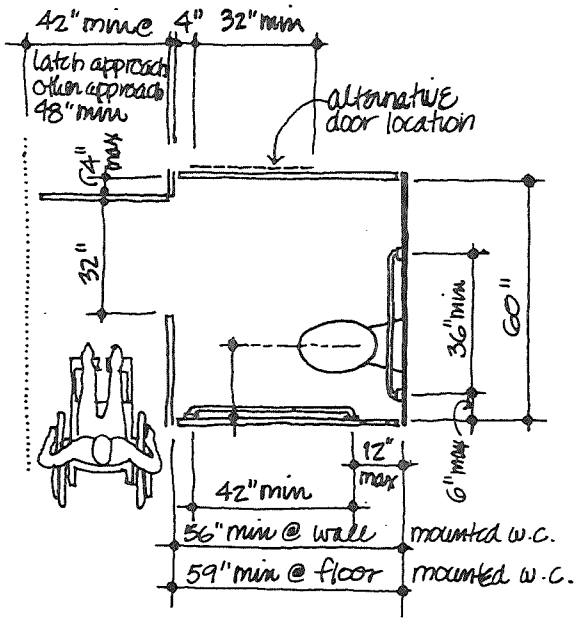
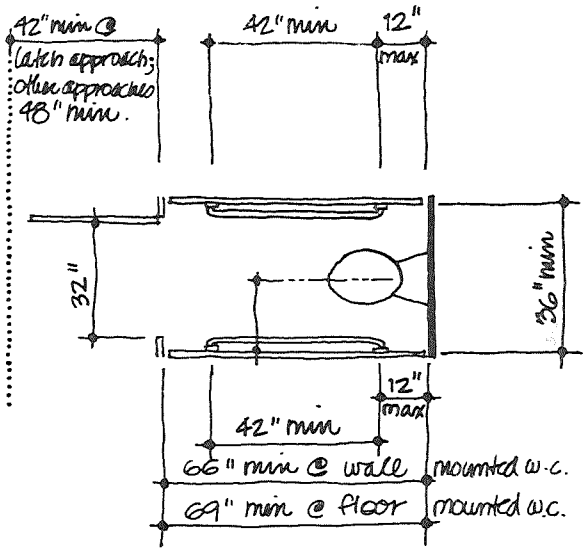


Figure 10
Grab Bars at Water Closets

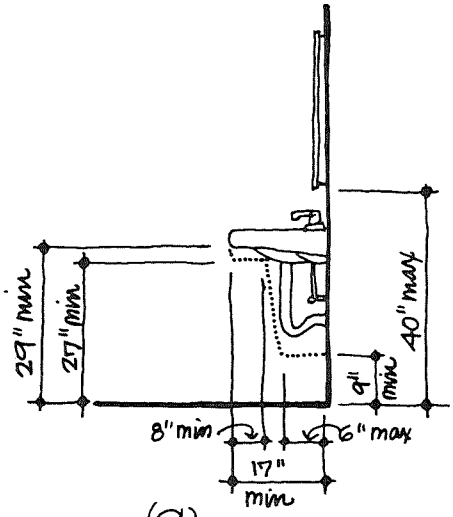


(a)
Standard Stall

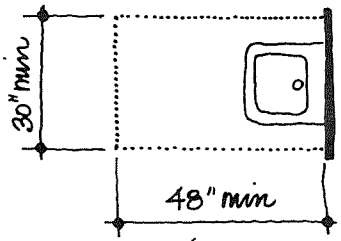


(b)
Alternative Stall
(Existing construction only)

Figure 11
Toilet Stalls



(a)
Lavatory Clearances



(b)
Clear Floor Space

Figure 12
Lavatories

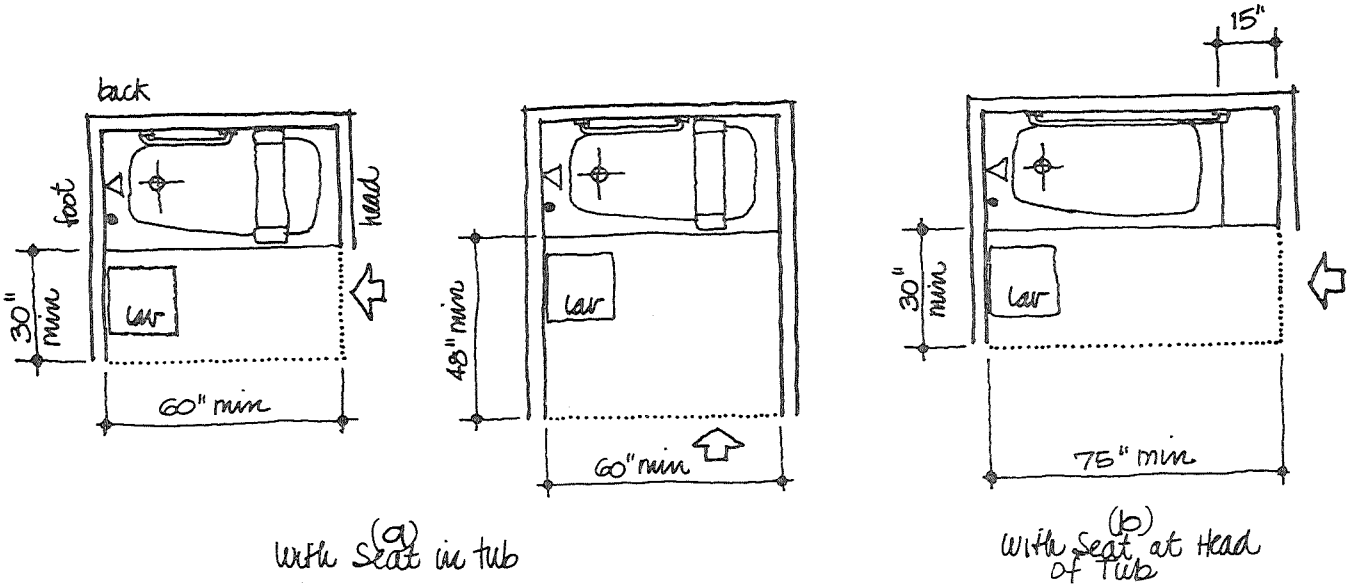


FIGURE 13
Clear Floor Space @ Bathtubs

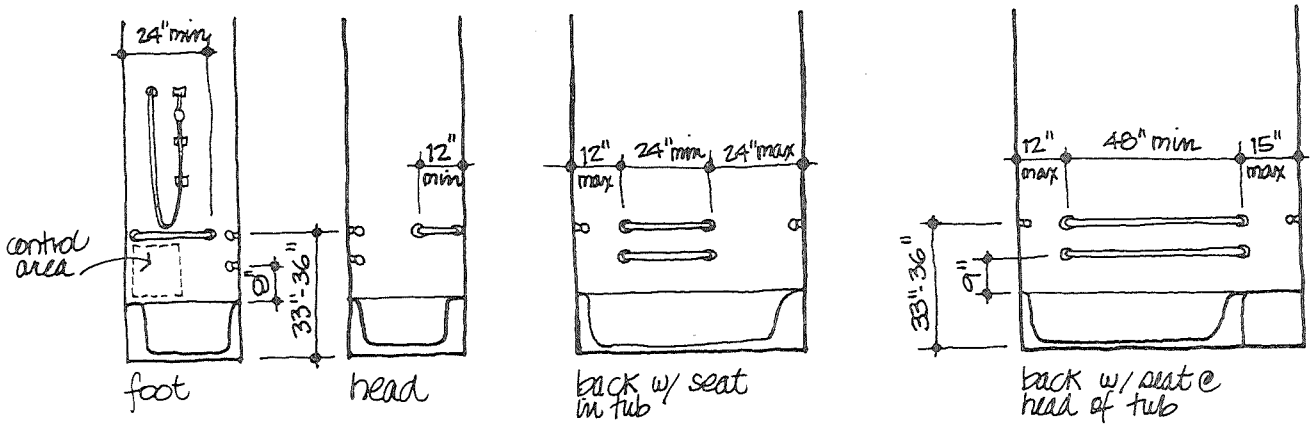


FIGURE 14
Grab Bars @ Bathtubs

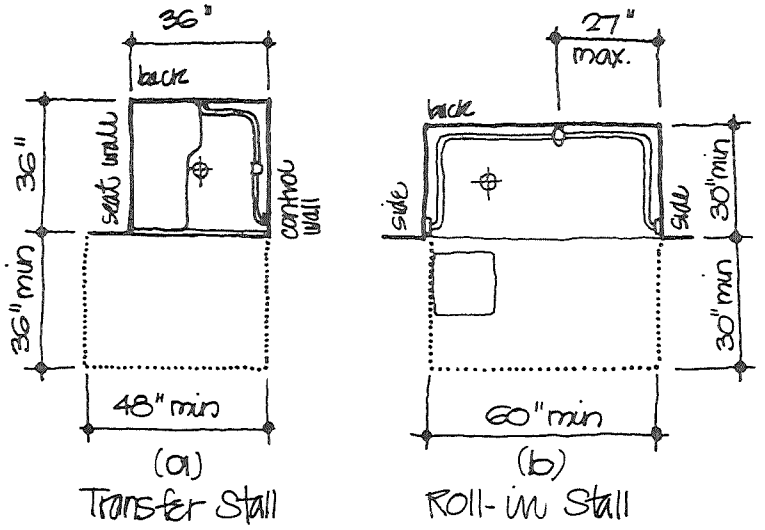


Figure 15
Shower Size and Clearances

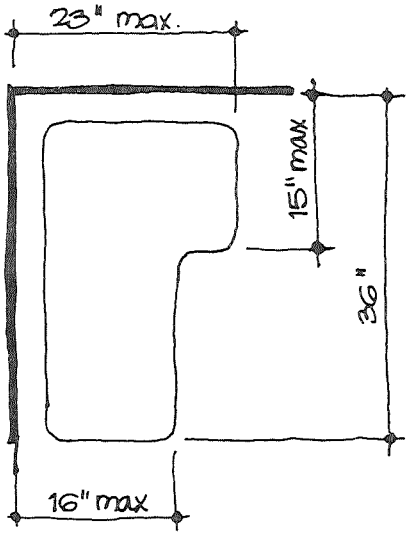
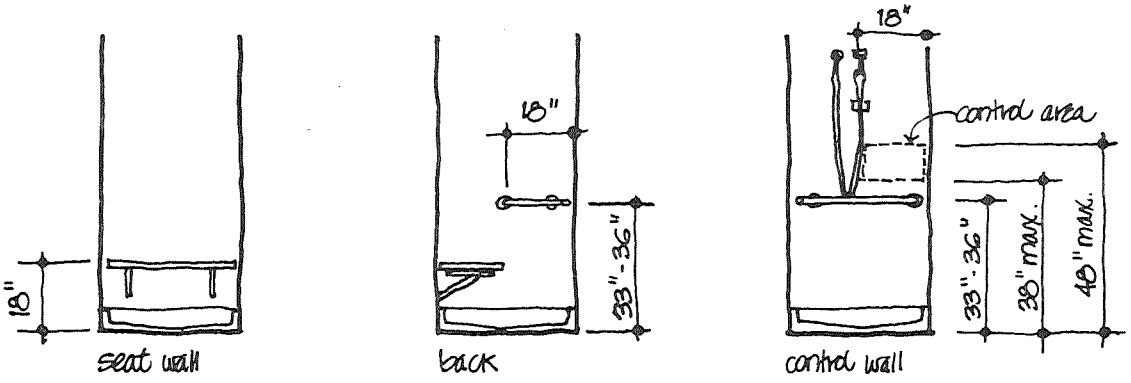


Figure 16
Shower Seat Design



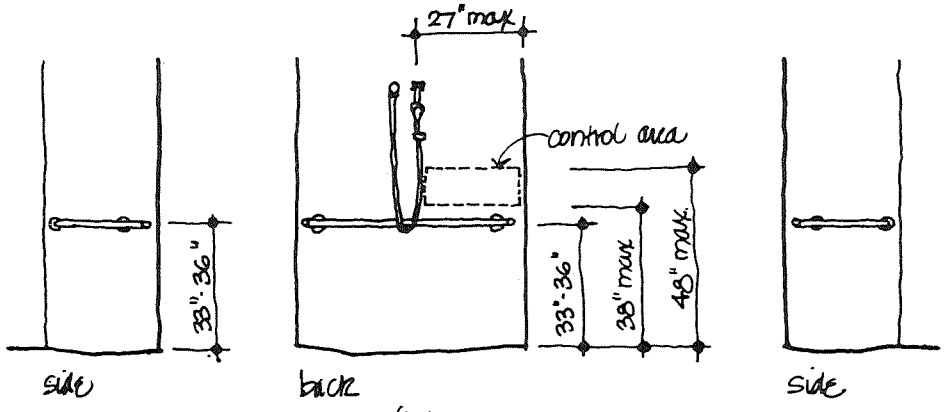


Figure 17
Grab Bars at Shower Stalls

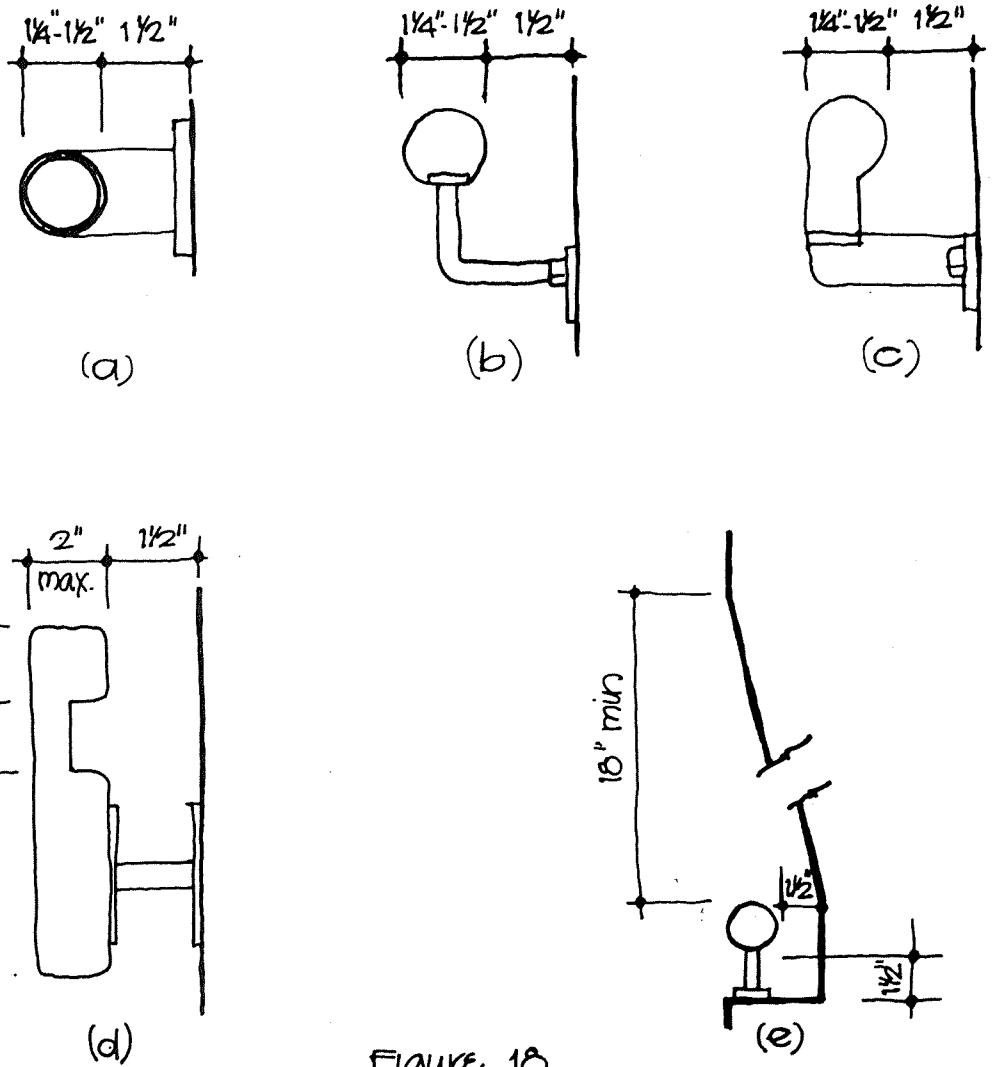


Figure 18
GRAB BARS and HANDRAILS

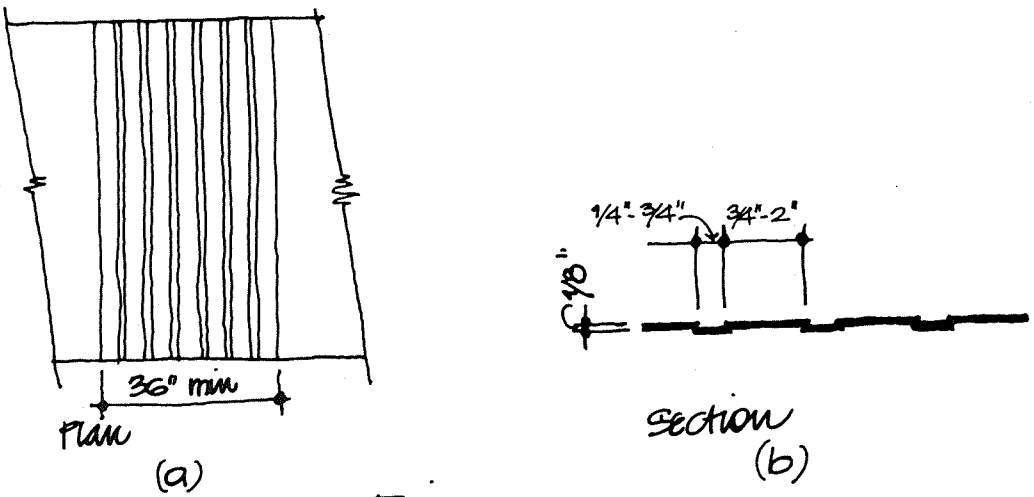


Figure 19
tactile Warnings on
walking Surfaces

DEPARTMENT FOR HUMAN RESOURCES
Office of the Inspector General

901 KAR 1:070. Requirements for distribution of small amounts of controlled substances without manufacturer's or wholesaler's licenses.

RELATES TO: KRS Chapter 218A
PURSUANT TO: KRS 13.082, 194.050, 218A.250
NECESSITY AND FUNCTION: KRS 218A.250 directs the Department for Human Resources to adopt rules and regulations for carrying out the provisions of KRS Chapter 218A relating to controlled substances. KRS 218A.170(2) provides that all sales and distributions of controlled substances shall be in accordance with the federal controlled substances laws, including the requirements governing the use of order forms. The purpose of this regulation is to provide for the distribution of small amounts of controlled substances by pharmacies to practitioners or other pharmacies, without the necessity of obtaining a state license as a manufacturer or a wholesaler, in accordance with applicable federal laws and regulations.

Section 1. Distribution of Controlled Substances by Pharmacy to Practitioner or Other Pharmacy. A pharmacy licensed in Kentucky and registered with the U.S. Drug Enforcement Adminstration may distribute, without being licensed as a manufacturer or wholesaler in Kentucky, a quantity of a controlled substance to a practitioner or another pharmacy provided that:

(1) The practitioner or pharmacy to whom the controlled substance is to be distributed is registered with the U.S. Drug Enforcement Administration;

(2) The distribution is recorded by the distributing pharmacy and by the receiving practitioner or pharmacy in accordance with KRS 218A.200;

(3) If the substance is listed in Schedule II, DEA Order Form 222C shall be utilized and copy one thereof shall be completed and filed in the Schedule II prescription file and copy two thereof shall be completed and forwarded to U.S. Drug Enforcement Administration;

(4) If the substance is listed in Schedule III, IV or V, a written record of the substance distributed shall be maintained in the appropriate prescription file showing: the date of the transaction, the name, form and quantity of the substance, the name, address and registration number of the purchaser;

(5) The total number of dosage units of all controlled substances distributed by the pharmacy pursuant to this regulation during a twelve (12) month period shall not exceed five percent (5%) of the total number of dosage units of all controlled substances distributed and dispensed by such pharmacy during the twelve (12) month period. In the event the five percent (5%) limitation is expected to be exceeded, the pharmacy shall obtain a license to distribute controlled substances in accordance with KRS 218A.160 and 218A.170;

(6) No prescription shall be issued by a practitioner to obtain any controlled substance for the purpose of general dispensing, administering or office use;

(7) All distributions shall be in accordance with applicable federal and state laws and regulations.

JACKIE H. FRANKS, Inspector General
ADOPTED: April 3, 1981
APPROVED: W. GRADY STUMBO, Secretary
RECEIVED BY LRC: April 6, 1981 at 11:15 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, Department for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Insurance

904 KAR 1:036. Amounts payable for skilled nursing and intermediate care facility services.

RELATES TO: KRS 205.520
PURSUANT TO: KRS 13.082, 194.050
NECESSITY AND FUNCTION: The Department for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520 empowers the department, by regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the method for determining amounts payable by the department for skilled nursing care facility services and intermediate care facility services.

Section 1. Reimbursement for Skilled Nursing and Intermediate Care Facilities. All skilled nursing or intermediate care facilities participating in the Title XIX program shall be reimbursed in accordance with this regulation. Payments made shall be in accordance with the requirements set forth in 42 CFR 447.272 through 42 CFR 447.316. A skilled nursing facility desiring to participate in Title XIX shall be required to participate in Title XVIII-A.

Section 2. Basic Principles of Reimbursement. (1) Payment shall be on the basis of rates which are reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities in order to provide care and services in conformity with applicable state and federal laws, regulations, and quality and safety standards.

(2) Payment amounts shall be arrived at by application or the reimbursement principles developed by the department and supplemented by the use of the Title XVIII-A reimbursement principles.

Section 3. Implementation of the Payment System. The department's reimbursement system is supported by the Title XVIII-A Principles of Reimbursement, with the system utilizing such principles as guidelines in unaddressed policy areas. The department's reimbursement system includes the following specific policies, components or principles:

(1) Prospective payment rates for routine services shall be set by the department on a facility by facility basis, and shall not be subject to retroactive adjustment. Prospective rates shall be set annually, and may be revised on an interim basis in accordance with procedures set by the department. An adjustment to the prospective rate (subject to the maximum payment for that type of facility) will be considered only if a facility's increased costs are attributable to one (1) of the following reasons: governmentally imposed minimum wage increases; the direct effect of

new licensure requirements or new interpretations of existing requirements by the appropriate governmental agency as issued in regulation or written policy which affects all facilities within the class; or other governmental actions that result in an unforeseen cost increase. The amount of any prospective rate adjustment may not exceed that amount by which the cost increase resulting directly from the governmental action exceeds on an annualized basis the inflation allowance amount included in the prospective rate for the general cost area in which the increase occurs. For purposes of this determination, costs will be classified into two (2) general areas, salaries and other. The effective date of interim rate adjustment shall be the first day of the month in which the adjustment is requested or in which the cost increase occurred, whichever is later.

(2) The prospective rate shall not exceed, on a facility by facility basis, an administratively established maximum payment for that type of facility. Such maximum payment rate may be reviewed annually by the department and may be adjusted as deemed appropriate with consideration given to the factors of facility costs, program objectives and budgetary resources.

(3) The reasonable direct cost of ancillary services provided by the facility as a part of total care shall be compensated on a reimbursement cost basis as an addition to the prospective rate. Ancillary services reimbursement shall be subject to a year-end audit, retroactive adjustment and final settlement. Ancillary costs may be subject to maximum allowable cost limits under federal regulations. Any percentage reduction made in payment of current billed charges shall not exceed twenty-five (25) percent, except in the instance of individual facilities where the actual retroactive adjustment for a facility for the previous year reveals an overpayment by the department exceeding twenty-five (25) percent of billed charges, or where an evaluation by the department of an individual facility's current billed charges shows the charges to be in excess of average billed charges for other comparable facilities serving the same area by more than twenty-five (25) percent.

(4) Interest expense used in setting the prospective rate is an allowable cost if permitted under Title XVIII-A principles and if it meets these additional criteria:

(a) It represents interest on long-term debt existing at the time the vendor enters the program or represents interest on any new long-term debt, the proceeds of which are used to purchase fixed assets relating to the provision of the appropriate level of care. If the debt is subject to variable interest rates found in balloon-type financing, renegotiated interest rates will be allowable. The form of indebtedness may include mortgages, bonds, notes and debentures when the principal is to be repaid over a period in excess of one (1) year; or

(b) It is other interest for working capital and operating needs that directly relates to providing patient care. The form of such indebtedness may include, but is not limited to, notes, advances and various types of receivable financing; however, short-term interest expense on a principal amount in excess of program payments made under the prospective rate equivalent to two (2) months experience based on ninety (90) percent occupancy or actual program receivables will be disallowed in determining cost;

(c) For both paragraphs (a) and (b) of this subsection, interest on a principal amount used to purchase goodwill or other intangible assets will not be considered an allowable cost.

(5) Compensation to owner/administrators will be considered an allowable cost provided that it is reasonable, and that the services actually performed are a necessary function. Compensation includes the total benefit received by the owner for the services he renders to the institution, excluding fringe benefits routinely provided to all employees and the owner/administrator. Payment for services requiring a licensed or certified professional performed on an intermittent basis will not be considered a part of compensation. "Necessary function" means that had the owner not rendered services pertinent to the operation of the institution, the institution would have had to employ another person to perform the service. Reasonableness of compensation will be based on total licensed beds (all levels).

(6) The allowable cost for services or goods purchased by the facility from related organizations shall be the cost to the related organization, except when it can be demonstrated that the related organization is in fact equivalent to any other second party supplier, i.e., a relationship for purposes of this payment system is not considered to exist. A relationship will be considered to exist when an individual or individuals possess five (5) percent or more of ownership or equity in the facility and the supplying business; however, an exception to the relationship will be determined to exist when fifty-one (51) percent or more of the supplier's business activity of the type carried on with the facility is transacted with persons and organizations other than the facility and its related organizations.

(7) The amount allowable for leasing costs shall not exceed the amount which would be allowable based on the computation of historical costs, except that for general intermediate care facilities entering into lease/rent arrangements prior to April 22, 1976, intermediate care facilities for the mentally retarded entering into lease/rent arrangements prior to February 23, 1977, and skilled nursing facilities entering into lease/rent arrangements prior to December 1, 1979, the department will determine the allowable costs of such arrangements based on the general reasonableness of such costs.

(8) The following provisions are applicable with regard to median per diem cost center upper limits:

(a) For facilities (except ICF-MRs) beginning participation in the Medicaid program on or after April 1, 1981, (newly participating facilities), the following upper limits (within the class) shall be applicable with regard to otherwise allowable per diem costs, by cost center: for nursing services, 125 percent of the median; for dietary services, 125 percent of the median; for property costs, 105 percent of the median; and for all other costs, 105 percent of the median.

(b) Facilities participating in the Medicaid program prior to April 1, 1981, shall be classified as newly participating facilities when any of the following occurs on or after April 1, 1981: first, when the facility expands its bed capacity by expansion of its currently existing plant; or, second, when a multi-level facility (one providing more than one (1) type of care, converts existing personal care beds in the facility to either skilled nursing or intermediate care beds, and the number of converted personal care beds equals or exceeds (in the cumulative) twenty-five (25) percent of the Medicaid certified beds in the facility as of March 31, 1981; or, third, when the facility changes ownership. (However, stock transfers which are not considered changes of facility ownership, or changes of ownership based on sales or purchase agreements entered into prior to April 1, 1981, and which are finalized by transfer of legal ownership prior to October 1, 1981, shall not cause the facility to be classified as a newly participating facility for purposes of this subsection.)

(c) Effective May 1, 1981, the following additional up-

per limit (within the class) shall be applicable with regard to otherwise allowable costs, by cost center, for all facilities (except ICF-MRs): for administrative and general and owner's compensation (combined), the upper limit shall be 105 percent of the median per diem cost.

(d) For purposes of application of this subsection the facility classes are basic intermediate care and skilled nursing care. The "median per diem cost" is the midpoint of the range of all facilities' costs (for the clsss) which are attributable to the specific cost center, which are otherwise allowable costs for the facilities' prior fiscal year, and which are adjusted for the inflation and occupancy factors. The median for each cost center for each class shall be determined annually using the latest cost data available for the class. The Division for Medical Assistance shall notify all participating facilities of the median upper limits currently in effect.

(e) Intermediate care facilities for the mentally retarded (ICF-MRs) are not subject to the median per diem cost center upper limits shown in this subsection.

(9) Certain costs not directly associated with patient care will not be considered allowable costs. Costs which are not allowable include membership dues, political contributions, the cost of travel outside the state (and all costs related thereto), and legal fees for unsuccessful lawsuits.

(10) To determine the gain or loss on the sale of a facility for purposes of determining a purchaser's cost basis in relation to depreciation and interest costs, the following methods will be used:

(a) Determine the actual gain on the sale of the facility.

(b) Add to the seller's depreciated basis two-thirds (⅔) of one (1) percent of the gain for each month of ownership since the date of acquisition of the facility by the seller to arrive at the purchaser's cost basis.

(c) Gain is defined as any amount in excess of the seller's depreciated basis as computed under program policies at the time of the sale, excluding the value of goodwill included in the purchase price.

(d) A sale is any bona fide transfer of legal ownership from an owner(s) to a new owner(s) for reasonable compensation, which is usually fair market value. Stock transfers, except stock transfers followed by liquidation of all company assets and which may be revalued in accordance with Internal Revenue Service rules, are not considered changes of facility ownership. Lease-purchase agreements and/or other similar arrangements which do not result in transfer of legal ownership from the original owner to the new owner are not considered sales until such time as legal ownership of the property is transferred.

(11) Each facility shall maintain and make available such records (in a form acceptable to the department) as the department may require to justify and document all costs to and services performed by the facility. The department shall have access to all fiscal and service records and data maintained by the provider, including unlimited on-site access for accounting, auditing, medical review, utilization control and program planning purposes.

(12) The following shall apply with regard to the annual cost report required of the facility:

(a) The year-end cost report shall contain information relating to prior year cost, and will be used in establishing prospective rates and setting ancillary reimbursement amounts.

(b) New items or expansions representing a departure from current service levels for which the facility requests prior approval by the program are to be so indicated with a description and rationale as a supplement to the cost report.

(c) Departmental approval or rejection of projections and/or expansions will be made on a prospective basis in the context that if such expansions and related costs are approved they will be considered when actually incurred as an allowable cost. Rejection of items or costs will represent notice that such costs will not be considered as part of the cost basis for reimbursement. Unless otherwise specified, approval will relate to the substance and intent rather than the cost projection.

(d) When a request for prior approval of projections and/or expansions is made, absence of a response by the department shall not be construed as approval of the item or expansion.

(13) The department shall audit each year-end cost report in the following manner: an initial desk review shall be performed of the report and the department will determine the necessity for and scope of a field audit in relation to routine service cost. A field audit may be conducted for purposes of verifying prior year cost to be used in setting the new prospective rate; field audits may be conducted annually or at less frequent intervals. A field audit of ancillary cost will be conducted as needed.

(14) Year-end adjustments of the prospective rate and a retroactive cost settlement will be made when:

(a) Incorrect payments have been made due to computational errors (other than the omission of cost data) discovered in the cost basis or establishment of the prospective rate.

(b) Incorrect payments have been made due to misrepresentation on the part of the facility (whether intentional or unintentional).

(15) Reimbursement paid may not exceed the facility's customary charges to the general public for such services, except in the case of public facilities rendering inpatient services at a nominal charge (which may be reimbursed at the prospective rate established by the department).

(16) The department may develop and/or utilize methodology to assure an adequate level of care. Facilities determined by the department to be providing less than adequate care may have penalties imposed against them in the form of reduced payment rates.

(17) Each facility shall submit the required data for determination of the prospective rate no later than sixty (60) days following the close of the facility's fiscal year. The department shall, under normal circumstances, be expected to determine the prospective rate and make notification to the facility within an additional sixty (60) days after actual receipt of the required documents. These time limits may be extended as necessary for the procuring of additional documentation, resolution of disputed facts, at the specific request of the facility (with the department's concurrence), and at such times as the rate review and appeal process is utilized by a facility and the determination and/or notification is held awaiting completion of that process.

Section 4. Prospective Rate Computation. The prospective rate for each facility will be set in accordance with the following:

(1) Determine allowable prior year cost for routine services.

(2) The allowable prior year cost, not including fixed or capital costs, will then be increased by a percentage so as to reasonably take into account economic conditions and trends. Such percentage increase shall be known as an inflation factor.

(3) The unadjusted basic per diem cost (defined as the unadjusted allowable cost per patient per day for routine

services) will then be determined by comparison of costs with the facility's occupancy rate (i.e., the occupancy factor) as determined in accordance with procedures set by the department. The occupancy rate shall not be less than actual bed occupancy, except that it shall not exceed ninety-eight (98) percent of certified bed days (or ninety-eight (98) percent of actual bed usage days, if more, based on prior year utilization rates). The minimum occupancy rate shall be ninety (90) percent of certified bed days for facilities with less than ninety (90) percent certified bed occupancy. The department may impose a lower occupancy rate for newly constructed or newly participatingfacilities, or for existing facilities suffering a patient census decline as a result of a competing facility newly constructed or opened serving the same area. The department may impose a lower occupancy rate during the first two (2) full facility fiscal years an existing skilled nursing facility participates in the program under this payment system.

(4) Cost center median related per diem upper limits will then be applied as appropriate to the unadjusted basic per diem cost. The resultant adjusted amounts (and unadjusted amounts, as applicable) will be combined (or recombined) to arrive at the basic per diem cost (defined as the adjusted allowable cost per patient per day for routine services).

(5) To the basic per diem cost shall be added a specified dollar amount for investment risk and an incentive for cost containment in lieu of a return on equity capital, except that no return for investment risk shall be made to non-profit facilities, and publicly owned and operated facilities shall not receive the investment or incentive return.

(a) Cost incentive and investment schedule for general intermediate care facilities:

(Effective 4-1-81)

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
$21.99 & below*	—	—
22.00 - 22.99	$1.38	$ .87
23.00 - 23.99	1.29	.75
24.00 - 24.99	1.18	.62
25.00 - 25.99	1.06	.47
26.00 - 26.99	.92	.31
27.00 - 27.99	.76	.13
28.00 - 28.99	.53	—

Maximum Payment $29.80

* For a basic per diem of $21.99 and below, the investment amount will be equal to 7.5 percent, but not to exceed $1.38, and the incentive amount will be equal to 5.0 percent, but not to exceed $.87.

(b) Cost incentive and investment schedule for intermediate care facilities for the mentally retarded:

(Effective 4-1-81)

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
$29.99 & below*	—	—
30.00 - 31.99	$1.38	$ .87
32.00 - 33.99	1.29	.75
34.00 - 35.99	1.18	.62
36.00 - 37.99	1.06	.47
38.00 - 39.99	.92	.31
40.00 - 41.99	.76	.13
42.00 - 43.99	.53	—

Maximum Payment $90.00

* For a basic per diem of $29.99 and below, the investment amount will be equal to 7.5 percent, but not to exceed $1.38 and the incentive amount will be equal to 5.0 percent, but not to exceed $.87.

(c) Cost incentive and investment schedule for skilled nursing facilities:

(Effective 4-1-81)

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
$28.99 & below*	—	—
29.00 - 30.99	$1.38	$ .87
31.00 - 32.99	1.29	.75
33.00 - 34.99	1.18	.62
35.00 - 36.99	1.06	.47
37.00 - 38.99	.92	.31
39.00 - 40.99	.76	.13
41.00 - 42.99	.53	—

Maximum Payment $45.00**

* For a basic per diem of $28.99 and below, the investment amount will be equal to 7.5 percent, but not to exceed $1.38, and the incentive amount will be equal to 5.0 percent, but not to exceed $.87.

** The maximum payment for hospital based skilled nursing facilities was initially set at $80.00, such amount to be adjusted as shown in Section 4(6).

(6) The prospective rate is then compared with the maximum payment. This shall be twenty-nine dollars and eighty cents ($29.80) per patient per day for routine services for the period beginning 4/1/81 for general intermediate care facilities; ninety dollars ($90) per patient per day for routine services for the period beginning 4/1/81 for intermediate care facilities for the mentally retarded, and forty-five dollars ($45) per patient per day for routine services for the period beginning 12/1/79 for non-hospital based skilled nursing facilities. The maximum payment shall be eighty dollars ($80) per patient per day for routine services for the period beginning 12/1/79 for hospital based skilled nursing facilities, the rate to be adjusted proportionately in relation to the non-hospital based skilled nursing facility maximum payment so that the rates will be identical after a period of five (5) years (beginning 12/1/79). If in excess of the program maximum, the prospective rate shall be reduced to the appropriate maximum payment amount. The maximum payment amounts have

been set to be at or about 110 percent of the median of adjusted basic per diem costs for the class, recognizing that hospital based skilled nursing facilities and intermediate care facilities for the mentally retarded have special requirements that must be considered. Current maximum payment rates are somewhat in excess of 110 percent since the department is allowing for a period of adjustment from the prior method of determining the maximum payment rates. The department has determined that the maximum payment rates shall be reviewed annually against the criteria of 110 percent of the median for the class and that adjustments to the payment maximums will be made effective July 1, 1982 and each July 1 thereafter. This policy shall allow, but does not require lowering of the maximum payments below the current levels if application of the criteria against available cost data should show that 110 percent of the median is a lower dollar amount than has been currently set.

Section 5. Rate Review and Appeal. Participating facilities may appeal departmental decisions as to application of the general policies and procedures in accordance with the following:

(1) First recourse shall be for the facility to request in writing to the Director, Division for Medical Assistance, a re-evaluation of the point at issue. This request must be received within twenty (20) days following notification of the prospective rate by the program. The director shall review the matter and notify the facility of any action to be taken by the department (including the retention of the original application of policy) within twenty (20) days of receipt of the request for review.

(2) Second recourse shall be for the facility to request in writing to the Commissioner, Bureau for Social Insurance, a review by a standing review panel to be established by the commissioner. This request must be postmarked within fifteen (15) days following notification of the decision of the Director, Division for Medical Assistance. Such panel shall consist of three (3) members: one (1) member from the Division for Medical Assistance, one (1) member from the Kentucky Association of Health Care Facilities, and one (1) member from the Center for Program Development, Bureau for Social Insurance. The panel shall meet to consider the issue within fifteen (15) days after receipt of the written request, and shall issue a binding decision on the issue within five (5) days of the hearing of the issue. The attendance of the representative of the Kentucky Association of Health Care Facilities at review panel meetings shall be at the department's expense.

Section 6. Definitions. For purposes of Sections 1 through 6, the following definitions shall prevail unless the specific context dictates otherwise.

(1) "Allowable cost" means that portion of the facility's cost which may be allowed by the department in establishing the reimbursement rate. Generally, cost is considered allowable if the item of supply or service is necessary for the provision of the appropriate level of patient care and the cost incurred by the facility is within cost limits established by the department, i.e., the allowable cost is "reasonable."

(2) "Ancillary services" means those direct services for which a separate charge is customarily made, and which are retrospectively settled on the basis of reasonable allowable cost at the end of the facilities' fiscal year. Ancillary services are limited to the following:

(a) Legend and non-legend drugs, including urethral catheters, and irrigation supplies and solutions utilized with those catheters regardless of how those supplies and solutions are utilized. Coverage and allowable cost payment limitations are specified in the department's regulation on payment for drugs.

(b) Physical, occupational and speech therapy.

(c) Laboratory procedures.

(d) X-ray.

(e) Oxygen and other related oxygen supplies.

(f) Psychological and psychiatric therapy (for ICF/MR only).

(3) "Hospital based skilled nursing facilities" means those skilled nursing facilities so classified by Title XVIII-A.

(4) The "basic per diem cost" is the computed rate arrived at when otherwise allowable prior year costs are adjusted in accordance with the inflation factor, the occupancy factor, and the median cost center per diem upper limits.

(5) "Inflation factor" means the comparison of allowable prior year routine service costs, not including fixed or capital costs, with an inflation rate to arrive at projected current year cost increases, which when added to allowable prior year costs, including fixed or capital costs, yields projected current year allowable costs.

(6) "Incentive factor" means the comparison of the basic per diem cost with the incentive return schedule to arrive at the actual dollar amount of cost containment incentive return to be added to the basic per diem cost.

(7) "Investment factor" means the comparison of the basic per diem cost with the investment return schedule to arrive at the actual dollar amount of investment return to be added to the basic per diem cost.

(8) "Maximum allowable cost" means the maximum amount which may be allowed to a facility as reasonable cost for provision of an item of supply or service while complying with limitations expressed in related federal or state regulations.

(9) "Maximum payment" means the maximum amount the department will reimburse, on a facility by facility basis, for routine services.

(10) "Occupancy factor" means the imposition of an assumed level of occupancy used in computing unadjusted basic per diem rates.

(11) "Prospective rate" means a payment rate of return for routine services based on prior year costs and other factors, and includes the understanding that except as specified such prospective rate shall not be retroactively adjusted, either in favor of the facility or the department.

(12) "Routine services" means the regular room, dietary, medical social services, nursing services, minor medical and surgical supplies, and the use of equipment and facilities. Routine services include but are not limited to the following:

(a) All general nursing services, including administration of oxygen and related medications, handfeeding, incontinency care and tray services.

(b) Items which are furnished routinely and relatively uniformly to all patients, such as patient gowns, water pitchers, basins, and bed pans. Personal items such as paper tissues, deodorants, and mouthwashes are allowable as routine services if generally furnished to all patients.

(c) Items stocked at nursing stations or on the floor in gross supply and distributed or utilized individually in small quantities, such as alcohol, applicators, cotton balls, bandaids and tongue depressors.

(d) Items which are utilized by individual patients but

which are reusable and expected to be available in an institution providing a skilled nursing or intermediate care facility level of care, such as ice bags, bed rails, canes, crutches, walkers, wheelchairs, traction equipment, and other durable medical equipment.

(e) Laundry services, including personal clothing to the extent it is the normal attire for everyday facility use, but excluding dry cleaning costs.

(f) Other items or services generally available or needed within a facility unless specifically identified as ancillary services. (Items excluded from reimbursement include private duty nursing services and ambulance services costs.)

Section 7. 904 KAR 1:021E is hereby repealed.

WILLIAM L. HUFFMAN, Commissioner
ADOPTED: March 27, 1981
APPROVED: W. GRADY STUMBO, Secretary
RECEIVED BY LRC: April 14, 1981 at 8:40 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, DHR Building, 275 East Main Street, Frankfort, Kentucky 40621.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the April 1, 1981 Meeting

(Subject to subcommittee approval at its May 6, 1981 meeting.)

The Administrative Regulation Review Subcommittee held its regularly scheduled meeting on Wednesday, April 1, 1981, at 10 a.m., in Room A of the Capitol Annex. Present were:

Members: Representative William T. Brinkley, Chairman; Senators Helen Garrett, James Bunning and William Quinlan; and Representatives James E. Bruce, Albert Robinson and Gregory D. Stumbo.

Guests: Sharon Rodriguez, Ked Fitzpatrick, Danna Droz, and Edward Crews, Department for Human Resources; James Smith, Department of Housing, Buildings and Construction; Carl B. Larsen, Christopher Johnson, George Geoghegan, Clarkson Beard, Keene Daingerfield, and L. M. Roach, State Racing Commission; Ellyn Elise Crutcher, Public Service Commission; Jim Nelson and John West, Department of Library and Archives; Gil McCarty, Department of Insurance; Robert Spillman, Stewart Gatewood, Gary Bale, Paul Jones, Conley Manning, and Don Hunter, Department of Education; Thom Rogers and Douglas True, Department of Justice; Joseph Manley, William Crim, Hisham M. Saaid, James Dills, Norman Schell, and Robert Yarbrough, Department for Natural Resources and Environmental Protection; Gil Mischel, J. Donald Dugger, James True, Martha Belwood, Department of Finance; James Holladay, Board of Dentistry; Tom Graham, Kentucky Cancer Commission; Addie Stokley and Joe Johnson, Board of Claims; Galen Martin and Norma Hogan, Commission on Human Rights; Bill Caylor, Kentucky Coal Association; Kent Riggs, National Southwire; Edward Flint and Bob Benson, HBPA; Herman Regan, Kentucky Chamber of Commerce; John Leinenbach, Blue Grass Chapter AGC; Etta Ruth Kepp, Environmental Quality Commission.

LRC Staff: Mabel D. Robertson, Deborah Herd, O. Joseph Hood, Susan Harding, Garnett Evins, and Mike Greenwell.

Press: Sy Ramsey, Associated Press.

Chairman Brinkley announced that all members were present and called the meeting to order. On motion of Representative Bruce, seconded by Senator Bunning, the minutes of the March meeting were approved.

The following emergency regulations were reviewed by the subcommittee. Senator Bunning noted that Senate Bill 38 which was defeated during the 1980 Regular Session of the General Assembly would have reestablished the Public Service Commission; and on his motion, seconded by Representative Robinson, the subcommittee unanimously objected to the regulations:

PUBLIC SERVICE COMMISSION

Utilities

807 KAR 5:001E. Rules of procedure.
807 KAR 5:006E. General rules.
807 KAR 5:011E. Tariffs.
807 KAR 5:016E. Advertising.
807 KAR 5:021E. Gas.
807 KAR 5:026E. Gas service; service lines.
807 KAR 5:031E. Gas well determinations.
807 KAR 5:036E. Natural gas outdoor lighting.
807 KAR 5:041E. Electric.
807 KAR 5:046E. Prohibition of master metering.
807 KAR 5:051E. Electric consumer information.
807 KAR 5:056E. Fuel adjustment clause.
807 KAR 5:061E. Telephone.
807 KAR 5:066E. Water.
807 KAR 5:071E. Sewage.

The following regulation was withdrawn at the request of the issuing agency:

BOARD OF CLAIMS

Practice and Procedure

108 KAR 1:020. Hearings.

The following regulations were deferred until the May meeting:

DEPARTMENT OF FINANCE

Property

200 KAR 6:035. Leased properties. (Chairman Brinkley read a communication from Representative Buddy Adams, Chairman, Committee for Program Review and Investigation, asking the subcommittee to defer action on this regulation until after the April 22, 1981, meeting of the Program Review and Investigation Committee. Chairman Adams stated that the Program

Review and Investigation Committee adopted a preliminary recommendation to retain 200 KAR 6:030, Section 9(4), relating to the maintenance of a public register that lists proposed lease modifications.) (This provision would be eliminated under proposed regulation 200 KAR 6:035.)

Social Security

200 KAR 13:010. Social security reports.

Occupations and Professions

Real Estate Commission

201 KAR 11:140. Salesman operating as broker; when.

201 KAR 11:147. Procedure for license retention when salesman released by broker.

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

Bureau of Environmental Protection

Air Pollution

General Administrative Procedures

401 KAR 50:036. Permit and exemption fees. (Chairman Brinkley appointed Representatives Robinson and Stumbo as a subcommittee to work with the administrative agency in setting forth guidelines for permit and exemption fees.)

DEPARTMENT OF EDUCATION

Bureau of Instruction

Teacher Education

704 KAR 15:020. Curricula; evaluation and approval.

DEPARTMENT OF INSURANCE

Health Insurance Contracts

806 KAR 17:060. Minimum standards for medicare supplement policies.

DEPARTMENT OF HOUSING, BUILDINGS AND CONSTRUCTION

Kentucky Building Code

815 KAR 7:020. Building Code. (This regulation was deferred at the request of the issuing agency.)

Mobile Homes and Recreational Vehicles

815 KAR 25:020. Recreational vehicles. (Chairman Brinkley read a communication from Senator Clyde Middleton, Covington, Kentucky, stating that he had numerous complaints from his district relating to the inspection fees. Chairman Brinkley said he personally objected to the fees being charged by an hourly rate.)

The following regulations were rejected by the subcommittee:

STATE RACING COMMISSION

Thoroughbred Racing Rules

810 KAR 1:018. Medication; testing procedures. (This regulation was rejected by a unanimous vote because it did not conform with legislative intent.)

DEPARTMENT OF TRANSPORTATION

Bureau of Vehicle Regulation

Motor Vehicle Tax

601 KAR 9:005. Year-round registration system. (This regulation was rejected by the subcommittee because the department does not have the authority to require county clerks to "type" registration forms.) (Representative Robinson passed.)

DEPARTMENT OF FINANCE

Occupations and Professions

Board of Dentistry

201 KAR 8:251. License reinstatement. (This regulation was rejected for non-conformance with statutory authority and legislative intent.)

The following regulations were accepted and ordered filed by the subcommittee:

COMMISSION ON HUMAN RIGHTS

Human Rights

104 KAR 1:050. Guidelines on discrimination. (Representative Robinson passed.)

KENTUCKY CANCER COMMISSION

Procedures

110 KAR 1:030. Commission procedures.

DEPARTMENT OF FINANCE

Property

200 KAR 6:040. Floodplain management. (As amended.)

DEPARTMENT OF JUSTICE

Bureau of Training

Kentucky Law Enforcement Council

503 KAR 1:020. School's certification.

503 KAR 1:040. Basic training certification.

503 KAR 1:050. In-service schools; certified graduates.

Law Enforcement Foundation Program Fund

503 KAR 5:020. Participation requirements.

503 KAR 5:030. Training and educational eligibility requirements.

503 KAR 5:040. Educational incentive plan.

503 KAR 5:050. Salary provisions.

DEPARTMENT OF EDUCATION

Bureau of Administration and Finance

Pupil Transportation

702 KAR 5:080. Bus drivers' qualifications; responsibilities.

Bureau of Instruction

Instructional Services

704 KAR 3:035. Annual in-service education plan. (As amended in committee contingent upon approval by the State Board of Education.)

704 KAR 3:307. Recognition of credits when transferring without transcript.

Teacher Certification

704 KAR 20:005. Kentucky plan for preparation program approval.

704 KAR 20:010. Ranking procedures; general.

704 KAR 20:015. Rank I classification.

704 KAR 20:020. Rank II equivalency.

704 KAR 20:057. Certificate endorsements for certain subjects.

Bureau of Vocational Education

Management of State-Operated Schools

705 KAR 5:040. Steering committee.

Supporting Services

705 KAR 6:010. Vocational teacher education.

Bureau of Rehabilitation Services

Administration

706 KAR 1:010. Interim three-year plan for vocational rehabilitation services.

DEPARTMENT OF LIBRARY AND ARCHIVES

Libraries

725 KAR 2:015. Service and facilities for public libraries.

725 KAR 2:050. Textbooks for non-public schools.

STATE RACING COMMISSION

Thoroughbred Racing Rules

810 KAR 1:012. Horses.

DEPARTMENT OF HOUSING, BUILDINGS AND CONSTRUCTION

Kentucky Building Code

815 KAR 7:010. Administration and enforcement.

DEPARTMENT FOR HUMAN RESOURCES

Administration

900 KAR 1:015. Laetrile manufacturing standards. (Senator Bunning voted "No.")

Bureau for Social Insurance

Medical Assistance

904 KAR 1:031. Payments for home health services.

Food Stamp Program

904 KAR 3:020. Eligibility requirements.

On motion of Senator Quinlan, seconded by Representative Bruce, the meeting was adjourned at 1:15 p.m. to meet again on May 6, 1981.

Administrative Register of kentucky

Cumulative Supplement

Regulation Locator—Effective Dates

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