

LEGISLATIVE RESEARCH COMMISSION  
FRANKFORT, KENTUCKY

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**IN THIS ISSUE**

Public Hearings Scheduled ..... 191

**Amended Regulations Now in Effect:**

Department for Human Resources:  
    Health Services ..... 191  
    Social Insurance ..... 192

**Proposed Amendments:**

Department of Finance:  
    Property ..... 193  
    Board of Engineers ..... 194  
Department of Fish and Wildlife ..... 195  
Department of Transportation—Vehicle Regulation ..... 195  
Department of Labor ..... 196  
Department of Alcoholic Beverage Control ..... 198  
Department of Banking and Securities ..... 202  
Kentucky State Racing Commission ..... 202  
Kentucky Harness Racing Commission ..... 204  
Department for Human Resources—Social Insurance ..... 205

**Proposed Regulations Received Through September 15:**

Auditor of Public Accounts ..... 207  
Department of Fish and Wildlife ..... 209  
Department of Agriculture ..... 212  
Department of Alcoholic Beverage Control ..... 214  
Public Service Commission ..... 216  
Department for Human Resources:  
    Health Services ..... 218  
    Social Insurance ..... 257

**Reprint:**

Board of Claims ..... 259

Minutes of Administrative Regulation Review Subcommittee ..... 260

**CUMULATIVE SUPPLEMENT**

Locator Index—Effective Dates ..... D 2  
KRS Index ..... D 4  
Subject Index ..... D 6

NOTE: The October meeting of the Administrative Regulation Review Subcommittee will be a ONE-DAY meeting—Wednesday, October 7, 1981, at 10 a.m., in Room 103, 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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Title	Chapter	Regulation
806 KAR 50 155		
Cabinet Department Board or Agency	Bureau Division or Major Function	Specific Area or Regulation

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# Public Hearings Scheduled

## DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

A public hearing will be held on October 2, 1981, at 10:00 a.m. EDT in Room G-2 of the Capital Plaza Tower, Frankfort, Kentucky on the following regulation:

**401 KAR 61:165. Existing primary aluminum reduction plants. [8 Ky.R. 164]**

## PUBLIC SERVICE COMMISSION

A public hearing will be held on October 15, 1981, at 9:00 a.m. EDT in the Public Service Commission office, 730 Schenkel Lane, Frankfort, Kentucky on the following regulation:

**807 KAR 5:054. Small power production and cogeneration. [8 Ky.R. 216]**

## DEPARTMENT FOR HUMAN RESOURCES

A public hearing will be held on October 9, 1981, at 9:00 a.m. EDT in the Vital Statistics Conference Room, 1st Floor, DHR Building, 275 East Main Street, Frankfort, Kentucky on the following regulation:

**904 KAR 1:090. Drug formulary; therapeutic equivalence evaluations. [8 Ky.R. 186]**

# Amended Regulations Now In Effect

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

**902 KAR 8:010. Membership[; executive committee].**

RELATES TO: KRS Chapter 212

PURSUANT TO: KRS 13.082, 194.050, 211.090

EFFECTIVE: September 2, 1981

**NECESSITY AND FUNCTION:** The Department for Human Resources is authorized by KRS 212.810 to 212.930 to approve of the establishment of district health departments. The Department for Human Resources is also authorized by KRS 211.025 and 211.090 to supervise, assist and appoint members of local boards of health as provided by law. The purpose of this regulation is to clarify the membership of a district board of health where a district health department has been established and to insure representation from each county of the district [on an executive committee if such committee is created].

**Section 1. Membership of District Boards of Health.** [District boards of health shall be composed of the members of the respective county boards of health of the counties that have joined together to create the district health department.]

(1) A district board of health shall consist of the following members:

(a) The county judge/executive or his designee from each county in the district as an ex officio voting member; and

(b) One (1) additional member per county per 15,000 population or fraction thereof, which shall include the

mayor of each city of the second class as an ex officio voting member.

(2) All members except for county judge/executives and mayors of second class cities shall be appointed by the Secretary of the Department for Human Resources from two (2) nominations for each positions submitted by the fiscal court of each county and each county board of health.

(a) When nominations are required for submission to the Secretary of the Department for Human Resources, nominees should be solicited from all interested parties within the county, with the County Dental Society, the County Medical Society and the District Nursing Association providing recommendations for nominations to the responsible agency.

(b) [(a)] Twenty-five percent (25%), or the nearest whole number to twenty-five percent (25%), of the appointed positions shall be doctors of medicine or osteopathy, licensed in the Commonwealth, [physicians,] and there shall be at least one (1) licensed, registered nurse and one (1) dentist as appointed members.

(c) Nominations for any position on the district board of health must come from the county in which the vacancy occurs and the nominee resides.

(d) [(b)] The remaining appointed members shall be concerned community leaders residing within the county from which they are to be representatives.

(3) The appointed members of the district board of health shall hold office for a term of two (2) years ending on June 30 or until their successors are appointed and qualify provided, however, that the terms of the first appointments shall be staggered in such a manner that not less than one-half (½) of the members shall be appointed

for a term of one (1) year or until their successors are appointed and qualify.

(4) A majority of the members of the district board of health shall constitute a quorum. The board shall elect a chairman and vice chairman and such other officers as it deems necessary for them to conduct business. The Executive Committee shall be representative of the district.

[Section 2. Membership of Executive Committee of District Boards of Health. In those instances where a district board of health chooses to form an executive committee, the membership of such committee shall have at least two (2) persons from each of the counties comprising the district, one of whom shall be the county judge/executive or his designee.]

DAVID T. ALLEN, Commissioner

ADOPTED: June 10, 1981

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: June 11, 1981 at 10:30 a.m.

**DEPARTMENT FOR HUMAN RESOURCES**  
Bureau for Social Insurance  
As Amended

**904 KAR 3:035. Certification process.**

RELATES TO: KRS 194.050

PURSUANT TO: KRS 13.082, 194.050

EFFECTIVE: September 2, 1981

**NECESSITY AND FUNCTION:** The Department for Human Resources has responsibility to administer a food stamp program as prescribed by the Food Stamp Act of 1977, as amended, and 7 CFR Part 270 through 280. KRS 194.050 provides that the secretary shall, by regulation, develop policies and operate programs concerned with the welfare of the citizens of the Commonwealth. This regulation sets forth the certification process used by the department in the administration of the food stamp program.

**Section 1. Eligibility and Benefit Levels.** Eligibility and benefit levels shall be determined by the department by considering the households circumstances for the entire month(s) for which each household is certified. Procedures specified in 7 CFR Parts 273.10(a), 273.10(b), 273.10(c), 273.10(d) and 273.10(e) shall be used to determine eligibility and calculate net income and benefit levels.

**Section 2. Certification Periods.** The department shall establish a definite period of time within which a household shall be eligible to receive benefits. At the expiration of each certification period entitlement to food stamp benefits ends. Further eligibility shall be established only upon a recertification based upon a newly completed application, an interview, and verification. Certification periods for non-public assistance households shall be in accordance with those specified in 7 CFR Part 273.10(f)(3)(4)(5)(6). Households in which all members are

included in a PA grant shall be certified for one (1) year, except that the food stamp case shall be recertified at the same time they are redetermined for PA.

**Section 3. Certification Notices to Households.** The department shall provide applicants with one (1) of the following written notices as soon as a determination is made, but no later than thirty (30) days after the date of the initial application:

- (1) Notice of eligibility.
- (2) Notice of denial.
- (3) Notice of pending status.

**Section 4. Application for Recertification.** The department shall process applications for recertification in accordance with 7 CFR Part 273.10(g)(2) and Part 273.14.

**Section 5. Certification Process for Specific Households.** The following households have circumstances that are substantially different from other households and therefore require special certification procedures:

(1) Households with self-employed members shall have their cases processed in accordance with 7 CFR Part 273.11(a).

(2) Boarders and/or households with boarders shall have their case processed in accordance with 7 CFR Part 273.11(b).

(3) Households with members which have been disqualified from program participation due to fraud or failure to provide a Social Security number [meet the student work registration requirements] shall have their case processed in accordance with 7 CFR Part 273.11(c).

(4) Households with ineligible aliens or other non-household members will be processed in accordance with 7 CFR Part 273.11(d).

(5) Residents of drug/alcoholic treatment and rehabilitation programs shall have their case processed in accordance with 7 CFR Part 273.11(e).

(6) Residents of group living arrangements who are blind or disabled receive benefits under Title II or Title XVI of the Social Security Act shall have their case processed in accordance with 7 CFR Part 273(f), which allows residents to apply in their own behalf or through the use of an authorized/certified facility's authorized representative.

(7) [(6)] Households requesting replacement allotments for stolen or destroyed coupons or improperly manufactured or mutilated coupons shall be processed in accordance with 7 CFR 273.11(g) [(f)].

**Section 6. Reporting Changes.** Certified households are required to report within ten (10) days, those changes in household circumstances specified in 7 CFR Part 273.12(a). The department shall use the change report form designated by FNS and shall act on reported changes in accordance with 7 CFR Part 273.12(c). The department shall comply with other change reporting provisions outlined in 7 CFR Part 273.12.

WILLIAM L. HUFFMAN, Commissioner

ADOPTED: June 17, 1981

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: June 18, 1981 at 2:30 p.m.



# Proposed Amendments

## DEPARTMENT OF FINANCE (Proposed Amendment)

### 200 KAR 6:035. Leased properties.

RELATES TO: KRS Chapter 56

PURSUANT TO: KRS 56.811

NECESSITY AND FUNCTION: This regulation complies with KRS 56.811. It provides for the calculation of compensation to persons leasing real property to the Commonwealth and for the negotiation of modifications or changes in the conditions of leases.

Section 1. Space Request, Advertising, Bidding: (1) *The agency shall, except as enumerated in Section 3 of this regulation, submit its space request to the Department of Finance at least ninety (90) calendar days before the space requested will be required by the agency.*

(2) [(1)] Upon review and approval of the agency space request by the Department of Finance, advertisements will be placed soliciting written proposals.

(3) [(2)] Lease proposals shall be submitted at or prior to the time and place designated in the advertisement for proposals. All proposals shall be opened and publicly read.

(4) [(3)] The Division of Real Properties shall notify in writing all persons submitting a lease proposal of the selected property intended to be leased. Mere notice of award of a lease shall not constitute a contract binding against the Commonwealth.

(5) [(4)] Whenever it is anticipated that lease may be negotiated containing deviations or variations from the terms and conditions of the state standard lease form, Form B217-5, any such deviations or variations shall be noted in the advertisement. If any person submitting a proposal in response to an advertisement proposes terms and conditions of lease different from those contained in the state standard lease form which are determined to be advantageous to, and in the Commonwealth's best interest to accept, but no mention has been made in the advertisement of the acceptability thereof, then all other persons submitting proposals on the basis of such advertisement shall be advised in writing of such terms and conditions and allowed to conform their proposals in accordance therewith for purposes of establishing more competitive positions upon which lease negotiations may be based.

Section 2. Lease Terms and Renewal of Expired Leases: (1) *Except when another lease term is approved by the Secretary of the Department of Finance, the terms of all leases made under this regulation shall, as provided in the state standard lease agreement, provide for an initial lease term beginning on a date certain and ending on or before the 30th day of June in each year, subject to automatic extension for additional periods of twelve (12) months each, not to exceed five (5) such extension periods, provided that the Commonwealth, within the time specified in the lease (thirty (30), sixty (60) or ninety (90) days) does not give written notice that the lease will not be extended beyond the end of the then current term. Subject to the agreement of the lessor, an expired lease, i.e., a lease in which the final automatic extension period has expired or will expire as of the end of the then current term, may be renewed*

*upon the same terms and conditions without newspaper advertisement for space.*

(2) *The Commonwealth shall reserve the right to cancel a lease upon written notice within the time specified in the lease agreement (thirty (30), sixty (60) or ninety (90) days).*

Section 3. When Advertisement Not Required: (1) *Newspaper advertisements soliciting written proposals for the lease of space by the Commonwealth shall not be required if space suitable to the needs of agencies for whose use space is sought is determined to be available for lease in a building owned by a political subdivision or municipality, or the space is required as the result of a bona fide emergency.*

Section 4. [2.] Calculation of Rent: (1) After all requirements have been met for selecting property to be leased, the Division of Real Properties shall determine the amount of rent to be paid for leased property by negotiating with the property owner or owner's authorized representative. In such negotiation the Secretary of Finance or his designee shall seek to obtain the lowest rate possible.

(2) Except as stated in Section 5 [3], when part but not all of a building is to be leased, the rent shall be calculated by multiplying the agreed per square foot rental charge by the number of square feet for all space in the building to be exclusively occupied by the state agency.

(3) Except as stated in Section 5 [3], when the purpose of a lease is to provide one (1) or more state agencies with total occupancy of an entire leased building, the rent shall be calculated by multiplying the agreed per square foot rental rate by the number of square feet of floor space in the building as determined by its exterior horizontal dimensions, times the number of floors.

Section 5. [3.] Lease Modification: (1) An agency may request that the Department of Finance provide additional space in a building in which space is already leased by the state. If the Department of Finance determines there is need for more space, the current lease may be amended, with agreement of the lessor, to increase the leased space. However, the rental rate paid for such additional space shall not exceed the square foot rental rate fixed by the original lease. A lease may also be modified with agreement of the lessor to decrease the number of square feet leased and the rent shall be appropriately reduced.

(2) The Department of Finance may amend a lease of private property to provide for an increase in the rental rate when the lessor has made improvements in the leased property at the request of and to meet the needs of the state agency occupying the premises, provided the improvements and rent increase have the prior approval of the Secretary of Finance. Such rent increase shall be, and shall be identified as being, for the purpose of amortizing in full or in part the cost incurred by the owner at the state's request. Any increase for this purpose shall not extend beyond the period required to accomplish the agreed amortization.

(3) No improvement of a permanent nature shall be made at direct state expense in privately leased property. No improvements of a permanent nature may be made at

direct state expense in publicly-owned leased property unless the Commonwealth shall have the leasehold interest in such property of a duration sufficient to permit amortization of the cost of the improvement over the life of the lease.

(4) The Division of Real Properties shall maintain a register of proposed modifications or renewals of leases which shall be filed and kept available for public inspection and comment all proposals for the modification and renewal of any lease which, if approved, will result in the payment of rent for leased space in an amount greater than that provided for in the original lease. No lease modification or renewal providing for the payment of increased rent shall be effective or binding against the Commonwealth or any agency thereof until the proposal for such modification or renewal has been filed in the register for thirty (30) calendar days. Comments received from the public during such period shall be considered before the lease modification or renewal is executed by the parties and becomes binding against the Commonwealth. After receiving such comments should the Secretary determine that the proposed modifications are not in the interest of the Commonwealth, he may then require the agency to continue operation in its present space or cancel the lease and seek more suitable space. After receiving comments on any proposed renewal, the Secretary may determine the renewal is not in the best interest of the Commonwealth and cause the requirement for space by the occupying agency to be readvertised. The lessor under any lease proposed to be modified or renewed as contemplated therein shall be advised of the requirements of this subsection and cautioned that the Commonwealth shall have no liability for any action undertaken by the lessor in anticipation of, but prior to execution of the modifications or renewal of the lease.

Section 6. *Prior Disclosure of Ownership Interests:* (1) Whenever the owner of real property selected to be leased to the Commonwealth is a corporation or a partnership, a list of the names of all persons owning five (5) percent or more of the shares in such corporation, and the names of all partners, including silent and limited partners, shall be furnished to the Division of Real Properties prior to execution of the lease agreement. The Division shall maintain such lists in the file pertaining to the particular lease or leases of property owned by such corporation or partnership and make them available for public inspection as provided in 200 KAR 1:020.

(2) A new disclosure of ownership statement shall be furnished to the Department of Finance upon any change or transfer of ownership involving persons owning five (5) percent or more of the shares in the partnership or corporation, including silent or limited partners.

Section 7. [4.] Change in Ownership: (1) When there is a change in ownership in the leased premises, the new owner shall furnish the Division of Real Properties a copy of the deed or other instrument of conveyance by which the new owner acquired title to the property or the right to payment under the lease and such other evidence in support of his claim to the payment of rent under the lease as the division may request. The state shall change its records and redirect its rent payments accordingly.

(2) When the agency occupying leased premises or the Department of Finance receives information that a change in ownership has occurred, payments of rent shall be suspended until the Department of Finance learns the ownership of the premises and determines who is entitled to the rent.

Section 8. [5.] Records relating to leases are a matter of public record, except as otherwise provided by law.

Section 9. [6.] 200 KAR 6:030, real property leases and rentals, is hereby repealed.

GEORGE L. ATKINS, Secretary

ADOPTED: September 15, 1981

RECEIVED BY LRC: September 15, 1981 at 2:30 p.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 Registration for Professional Engineers  
and Land Surveyors  
(Proposed Amendment)

201 KAR 18:040. Fees.

RELATES TO: KRS 322.040, 322.090, 322.100, 322.110, 322.120, 322.140, 322.150, 322.160, 322.420

PURSUANT TO: KRS 13.082, 322.090, 322.100, 322.120, 322.140, 322.290, 322.420

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

Section 1. Fees. (1) The license fee under KRS 322.040 shall be *seventy dollars (\$70)* [sixty dollars (\$60)], of which *thirty-five dollars (\$35)* [thirty dollars (\$30)] is payable on application. The license fee under KRS 322.120 shall be *seventy dollars (\$70)* [sixty dollars (\$60)] all of which is payable on application. The amounts specified as application fees should accompany each application and shall be transmitted by check or money order made payable to "Kentucky State Registration Board."

(2) These fees will be retained by the board as non-refundable application fees, the same to be credited to the applicant when and if a license is granted.

(3) If approved under KRS 322.120 the license certificate will be issued without further fee, and if under KRS 322.040, it will be issued upon receipt by the board of the final payment of *thirty-five dollars (\$35)* [thirty dollars (\$30)], representing the balance of the total licensing fee of *seventy dollars (\$70)* [sixty dollars (\$60)].

(4) Only one (1) complete application form is required for a license in any one or more branches of engineering or land surveying. However, an updating of the application and an additional application fee of *thirty-five dollars (\$35)* [thirty dollars (\$30)] and an additional *thirty-five dollar (\$35)* [thirty dollar (\$30)] final fee is required for each additional branch of engineering or section of the law under which the applicant subsequently applies for licensing. The update must stress the work experience the applicant has had in the branch he wishes to add.

(5) Candidates who pass the fundamentals of engineering examination, the first of the two (2) required professional examinations under KRS 322.040, will be designated as engineers-in-training and will be issued a certificate to that effect.

[(6) The fees accompanying applications for licensing and in-training certification shall entitle the applicants to one (1) examination and one (1) re-examination if required. Application for the second re-examination must be accompanied by a fee of thirty dollars (\$30).]

JOHN T. HILL, Secretary-Treasurer

ADOPTED: September 10, 1981

APPROVED: GEORGE ATKINS, Secretary

RECEIVED BY LRC: September 14, 1981 at 3:45 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Executive Director, Board of Registration for Professional Engineers and Land Surveyors, P.O. Box 612, Frankfort, Kentucky 40602.

### COMMERCE CABINET

Department of Fish and Wildlife Resources  
(Proposed Amendment)

#### 301 KAR 1:145. Gear allowed for commercial fishing.

RELATES TO: KRS 150.010, 150.025, 150.120, 150.170, 150.175, 150.445, 150.450

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: It is necessary to accurately describe the gear allowed in commercial fishing so that the limitations and susceptibilities of the gear will permit the harvesting of the proper size and species of fishes, and so that the sport harvest is not affected and the fishery resources perpetuation is assured. *This amendment is necessary to increase the effectiveness of trotline fishing.*

Section 1. The following gear is the only commercial gear that can be used in commercial waters designated in 301 KAR 1:150 and under conditions described in 301 KAR 1:155 by appropriately licensed commercial fishermen.

Section 2. Legal Commercial Gear: (1) All lines and mesh must be made of linen, cotton, or flexible synthetic fiber only.

(2) All mesh is measured by bar measure. This measure is the length of one (1) side of the square, or as measured between two (2) knots on the same line.

(3) The functions of the various commercial fishing tags authorized under KRS 150.175 are consolidated into one (1) tag called "commercial gear tag" which shall serve as they each were designated in KRS 150.175, sections (5), (6), (7), and (8).

(4) Gear:

(a) Hoop net, wing net, straight lead net, heart lead net:

1. Must have a minimum mesh size of three (3) inches, except in the Ohio and Mississippi Rivers and those portions of the Cumberland River below Barkley Dam and the Tennessee River below Kentucky Dam that are open to commercial fishing where the minimum mesh size shall be one (1) inch.

2. Hoops may be any size or shape or material.

3. Maximum length of the lead or wing is thirty (30) feet.

4. One (1) commercial gear tag must be attached to the first hoop of each net.

(b) Gill net or trammel net:

1. Are legal gear in Ohio and Mississippi Rivers and

overflow lakes directly connected with each river. Minimum mesh size is three (3) inches in the Mississippi and overflow lakes and four (4) inches in the Ohio River and its overflow lakes. Gill and trammel nets may also be authorized for other waters under certain conditions by separate regulations.

2. May be fished weighted or as a flag net.

3. Must have one (1) commercial gear tag attached to each 100 feet or part thereof.

(c) Commercial trotline:

1. Must have more than fifty (50) hooks placed no closer than eighteen (18) inches apart.

2. Must have one (1) commercial gear tag attached.

3. A commercial trotline may be no longer than 3,000 [1,000] feet, including staging, and must be fished separately, not tied together in a continuous line.

(d) Seine:

1. Must have a minimum mesh size of two (2) inches.

2. Must have both float and lead lines.

3. Must have wood, fiberglass or metal poles or brails attached at each end.

4. When seine is in the water, it must be attended by persons pulling the seine through the water for the entrapment of fish.

5. At no time may a seine be left unattended to act as a set net or other purpose.

6. Must have one (1) commercial gear tag attached to each 100 feet or part thereof.

(e) Slat trap or wood basket:

1. Must be constructed entirely of wood and nails or similar fastenings. No wire or other mesh may be added to any part of trap.

2. There must be at least two (2) openings left between slats no smaller than one and one-fourth (1 1/4) inches wide in the catch portion of the trap. These openings may not be restricted by cross-bracings to a length shorter than eight (8) inches.

3. The trap may be no larger than two (2) feet in diameter or square end measure.

4. Must have one (1) commercial gear tag attached to opening ring or square.

CARL E. KAYS, Commissioner

CHARLES E. PALMER, JR., Chairman

ADOPTED: August 31, 1981

APPROVED: W. BRUCE LUNSFORD, Secretary

RECEIVED BY LRC: September 4, 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.

### DEPARTMENT OF TRANSPORTATION

Bureau of Vehicle Regulation  
(Proposed Amendment)

601 KAR 20:070. Suitable premises; signs; multibusinesses.

RELATES TO: KRS 190.030; 190.035

PURSUANT TO: KRS 13.082, 174.080, 190.020, 190.073

NECESSITY AND FUNCTION: KRS 190.035 requires a dealer to display a sign easily visible from the street iden-

tifying his business, allows a dealer to conduct more than one (1) business in a building if he has suitable space and adequate facilities for his dealer business, and requires a dealer to have a lot and building of suitable character and adequate facilities to properly conduct the business of a motor vehicle dealer. *KRS 190.030 requires the applicant to furnish such financial and other information as the bureau may require.* This regulation interprets and implements those requirements.

*Section 1. An applicant for a dealer's license must submit to the bureau the following information:*

(1) A financial statement showing a minimum of \$3,000 working capital;

(2) Six (6) photographs of the premises to be occupied by applicant;

(3) A detailed sketch or drawing of the premises showing relationship to nearest roadway, the drawing to indicate location and size of office, display area and dealership sign;

(4) A personal data sheet on each individual owning a portion of the business;

(5) A signed statement from each partner or corporate officer authorizing the bureau to make inquiries or investigation concerning applicant's employment history, credit and criminal record;

(6) Evidence of garage liability insurance; and furnish the bureau a certificate of insurance (form TD 95-99) in the precise name he operates as dealer; and

(7) Verify that applicant has read and understands the statutes on the purchase and sale of motor vehicles. (A copy of KRS Chapter 190 and 601 KAR 20:010-20:130 will be furnished applicant; failure to have a working knowledge of the law and regulations is grounds for denial of license.)

*Section 2. [1.] A motor vehicle dealer shall display on his premises a sign identifying his business, the letters on which shall be not less than nine (9) inches in height that is clearly visible from the nearest roadway.*

*Section 3. [2.] An applicant for a dealer's license conducting more than one (1) business at his proposed location shall be scrutinized in regard to his fitness and ability properly to conduct the business of a dealer.*

(1) If an applicant for motor vehicle dealer's license will be conducting more than one (1) business at the proposed location, and if the primary business being conducted will not be that of a motor vehicle dealer, then the applicant must have the following:

(a) A sign in compliance with Section 2 [1] clearly indicating he is a motor vehicle dealer in addition to any other signs he may have.

(b) A display area used for the parking and showing of vehicles for sale that is separate, apart and exclusively used for the display and parking of vehicles for sale. *There must be a hard surface lot (gravel, asphalt, concrete or other suitable covering) of at least 2,000 square feet parking and storage area. The lot shall be used exclusively for the display and showing of vehicles for sale and customer parking. The lot shall be designed or arranged in such manner as to not allow the flow of public traffic through it.*

(c) Sufficient office space to carry on the business of a dealer. There need be no separate walled enclosure for the conduct of the dealer business, but there must be an area of at least 150 feet which is used to conduct the dealer business and which is in addition to the area necessary to

the conduct of the primary business *and separate and apart from living quarters or other business.*

(2) If an applicant for a motor vehicles dealer's license conducts an automobile salvage or junk business on the same premises, he must have a current license from the Department of Transportation as a junkyard operator and must be in compliance with all state regulations regarding junkyard operation. The applicant must have an area for the display of vehicles for sale and an office area separate and apart from the area where junk cars or parts are stored or situated.

(3) If an applicant for a motor vehicle dealer's license conducts a garage for the repair or rebuilding of wrecked or disabled vehicles, such applicant must have an area for the display of vehicles for sale and an office separate and apart from the area where such repairs are conducted.

*Section 4. [3.] Not more than one (1) licensed dealer shall operate from a single place of business at one (1) time.*

*Section 5. A licensed dealer shall have a sales tax permit number from the Kentucky Department of Revenue.*

JAMES F. RUNKE, Commissioner

ADOPTED: August 10, 1981

APPROVED: FRANK R. METTS, Secretary

RECEIVED BY LRC: August 20, 1981 at 12:30 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Stephen Reeder, Deputy Secretary for Legal Affairs,  
1008 State Office Building, Frankfort, Kentucky 40622.

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

**803 KAR 1:090. Handicapped, sheltered workshop and student employee's wages.**

RELATES TO: KRS 337.275, 337.285

PURSUANT TO: KRS 13.082, 337.295

NECESSITY AND FUNCTION: KRS 337.295 authorizes the commissioner to issue regulations permitting handicapped workers, sheltered workshop employees, and students to be employed at less than the established minimum wage. KRS 337.010(2)(a)(v) requires that the wages be set for a period of time fixed by the commissioner. The function of this regulation is to set certain standards to be used in obtaining these special rates.

*Section 1. As used in this regulation, unless the context requires otherwise:*

(1) "Commissioner" means commissioner of labor or any authorized person to act in his behalf, having jurisdiction over laws or regulations governing wages and hours of employees working in this state;

(2) "Department" means Department of Labor;

(3) "Handicapped worker" means an individual whose earning or productive capacity is impaired by age or physical or mental deficiency or injury for the work he is to perform;

(4) "Sheltered workshop" means a charitable organization or institution conducted not for profit, but for the purpose of carrying out a recognized program of rehabilitation for handicapped workers, and/or providing such individuals with remunerative employment or other occupational rehabilitative activity of an educational or therapeutic nature; and

(5) "Student" means a person who receives primarily daytime instruction at the physical location of a bona fide educational institution, in accordance with the institution's accepted definition of a student. A student retains that status during Christmas, summer, and other vacations.

Section 2. (1) No employer shall employ a handicapped worker or sheltered workshop employee at less than the applicable minimum wage, unless such employment has been authorized by a special certificate issued by the Commissioner or by the U.S. Department of Labor. The rate of pay and the period of time effective shall be fixed by the certificate. [he has been granted a special certificate from the Commissioner of Labor authorizing such employment. The rate of pay shall be fixed by the commissioner and be in effect for such period of time as fixed by the commissioner.]

(2) When the minimum wage provided by KRS 337.275 is less than or equal to the federal minimum wage the Commissioner will not issue certificates for persons whose employment is subject to the federal minimum wage provisions of the Fair Labor Standards Act of 1938, as amended (FLSA). For such persons the employer should request a certificate from the U.S. Department of Labor. Valid certificates issued by the U.S. Department of Labor, Wage Hour Division, which authorize rates of pay lower than the applicable Kentucky minimum wage, will be accepted as authority to pay such subminimum wage rates, provided that the information submitted in the applications is complete and accurate. If there is any reason to believe that the employment is, or may be in the future, subject to the FLSA minimum wage, the federal certificate should be obtained and a state certificate will not be necessary. [Before a certificate will be issued it will be necessary for the employer to submit a formal application signed by both the employer and employee. The application shall set forth, among other things, the nature of the disability, a description of the occupation at which the worker is to be employed, and the wage the employer proposes to guarantee the worker per hour. The nature of the disability must be set out in detail. The application shall be addressed to the Kentucky Department of Labor, Frankfort, Kentucky 40601.]

(3) For handicapped workers or sheltered workshop clients not covered by the minimum wage provisions of the FLSA, certificates may be issued by the Commissioner if all of the requirements for federal certification are met. These requirements are published in the following regulations. These regulations may be obtained from the U.S. Department of Labor Wage Hour Regional and Area Offices and Field Stations. The common use of the criteria and procedures outlined in these regulations will serve to eliminate duplication and to standardize special minimum wage certification within the state. For state certification the Commissioner will generally exercise the authority and functions which the administrator has for the federal certificates. [If the application is approved, the commissioner will issue a special certificate to the employer authorizing the individual stated in the certificate permission to work at the rate contained in the certificate and for the period stated in the certificate.]

(a) For handicapped workers in competitive employment: Title 29, Part 524 of the Code of Federal Regulations.

(b) For employment of handicapped clients in sheltered workshops: Title 29, Part 525 of the Code of Federal Regulations.

(c) For employment of handicapped patient workers in hospitals and institutions: Title 29, Part 529 of the Code of Federal Regulations.

(4) In the event an employer misuses a certificate in any way, the Commissioner reserves the right to revoke such certificate and to refuse to issue another certificate in the future. If the certificate was issued by the U.S. Department of Labor, the Commissioner will revoke any authority for payment of less than the minimum wage provided by KRS 337.275. [The employer shall not be permitted to employ such worker at less than the applicable minimum wage until the certificate has been returned to him approved by the commissioner.]

(5) Application for Kentucky special minimum wage certificates for handicapped and sheltered workshop employees will be submitted on Form LS-61 which is available from Division of Employment Standards and Mediation, Kentucky Department of Labor, Frankfort, Kentucky 40601. In all cases the application will be accompanied by the following completed federal special minimum wage certificate applications as appropriate. The forms may be obtained from the U.S. Department of Labor Wage Hour Regional Office in Atlanta, Ga. [In the event an employer misuses the certificate in any way, the commissioner reserves the right to revoke such certificate and refuse to issue such certificate in the future.]

(a) For individual handicapped worker in competitive employment: Form WH-222.

(b) For sheltered workshop group rates: Forms WH-373, WH-226, WH-227, WH-247.

(c) For individual rates for sheltered workshop clients: Form WH-249.

(d) For Work Activity Center client with productivity substantially exceeding average for the center, and for training sheltered workshop clients in commercial industry: Form WH-222.

(6) Special minimum wage certificates issued by the Commissioner under provisions of this section will specify the rate authorized. The wages paid may not be lower than the certificate rate and may not be lower than wages which are commensurate with those paid non-handicapped workers in the industry in the vicinity for the same type, quality and quantity of work.

Section 3. (1) No employee shall employ a student at less than the applicable minimum wage, unless he has been granted a special certificate from the commissioner authorizing such employment. The certificate, if issued, will permit the student to be paid no less than eighty-five percent (85%) of the applicable minimum wage.

(2) A student shall not be permitted to work at sub-minimum wages for more than twenty (20) hours a week. A student worker who exceeds these limitations shall be paid the applicable minimum wage for hours worked in excess of twenty (20) hours per week.

(3) Certificates authorizing the employment of students at sub-minimum wages shall not be issued unless the following conditions are met:

(a) Students are available for employment at sub-minimum wages.

(b) The employment of students will not create a substantial probability of reducing the full-time employ-

ment opportunities for persons other than those employed under such certificates. To insure against the probability of reducing the full-time employment opportunities for persons, the employer shall be limited to ten percent (10%) of his full-time employes or four (4) student employes at sub-minimum wages, whichever is the least.

(c) Abnormal labor conditions such as a strike or lockout do not exist at the establishment for which a certificate is requested.

(d) There are no outstanding violations of the provisions of a student certificate previously issued to the employer, nor have there been any violations of any minimum wage laws or child labor regulations which provide reasonable grounds to conclude that the terms of a certificate may not be complied with.

(e) The application for a special certificate shall be in writing and addressed to the Kentucky Department of Labor, Frankfort, Kentucky 40601. The application shall contain the following information:

1. Name and address of employer requesting certificate.
2. Name and address of student to be employed at special minimum wage.
3. Social security number of student.
4. Total number of full-time employes presently employed by employer requesting certificate.
5. A statement that abnormal labor conditions such as a strike or lockout do not exist at the establishment for which a certificate is requested.

6. A statement that there are no outstanding violations of the provisions of a student certificate previously issued to the employer, nor have there been any violations of any minimum wage laws or child labor regulations in the past.

7. Signature and title of employer or authorized representative requesting certificate.

(4) The employer shall not be permitted to employ such worker at less than the applicable minimum wage until the certificate has been returned to him approved by the commissioner.

(5) In the event that an employer misuses the certificate in any way, the commissioner reserves the right to revoke such certificate and refuse to issue such certificate in the future.

*Section 4. 803 KAR 1:088, Illegal deductions, is hereby repealed.*

EUGENE F. LAND, Commissioner

ADOPTED: September 14, 1981

APPROVED: JAMES B. TAYLOR, Acting Secretary

RECEIVED BY LRC: September 14, 1981 at 3:30 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**  
Department of Alcoholic Beverage Control  
(Proposed Amendment)

**804 KAR 1:030. Prohibited statements.**

RELATES TO: KRS 244.130

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: KRS 244.130 requires the Alcoholic Beverage Control Board to prescribe regulations dealing with advertising of alcoholic beverages. This regulation is to prevent false or misleading advertising of distilled spirits and wine.

Section 1. Prohibited Statements; Restrictions. An advertisement of distilled spirits or wine shall not contain:

(1) Any statement that is false or misleading in any material particular.

(2) Any statement that is disparaging of a competitor's products.

(3) Any statement, design, device, or representation which is obscene or indecent.

(4) *Any statement concerning or illustrations of family scenes pertaining to the home.*

(5) [(4)] Any statement, design, device, or representation of or relating to analysis, standards or tests, irrespective of falsity, which the Alcoholic Beverage Control Board finds to be likely to mislead the consumer.

(6) [(5)] Any statement, design, device, or representation of or relating to any guaranty, irrespective of falsity, which the Alcoholic Beverage Control Board finds to be likely to mislead the consumer. No guaranty cards or labels shall be used that would indicate the consumer would be entitled to a refund of the purchase price if dissatisfied with the distilled spirits or wine.

(7) [(6)] Any statement that the distilled spirits or wine are produced, distilled, blended, made, bottled, or sold under or in accordance with any municipal, state or federal authorization, law or regulation; and if a municipal, state or federal permit number is stated, such permit number shall not be accompanied by any additional statement relating thereto.

(8) [(7)] The words "bond," "bonded," "bottled in bond," "aged in bond," or phrases containing these or synonymous terms, unless such words or phrases appear, pursuant to federal regulations upon the labels of the distilled spirits advertised, and are stated in the advertisement in the manner and form in which they are required to appear upon the label.

(9) [(8)] Any statement of bonded winecellar and bonded winery numbers unless stated in direct conjunction with the name and address of the person operating such winery or storeroom. Statement of bonded winecellar and bonded winery numbers may be made in the following form: "Bonded Winecellar No. \_\_\_\_\_," "Bonded Winery No. \_\_\_\_\_," "B.W.C. No. \_\_\_\_\_," "B.W. No. \_\_\_\_\_." No additional reference thereto shall be made, nor shall any use be made of such statement that may convey the impression that the wine has been made or matured under government supervision or in accordance with government specifications or standards.

(10) [(9)] The word "pure" except as part of the bona fide name of a licensee or a retailer for whom the distilled spirits are bottled.

(11) [(10)] The terms "double distilled," "triple distilled," or any similar term.

(12) [(11)] Statements inconsistent with labeling. The advertisement shall not contain any statement concerning a



brand or lot of distilled spirits or wine that is inconsistent with any statement on the labeling thereof.

(13) [(12)] Statements of age. The advertisement shall not contain any statement, design or device directly or by implication concerning age or maturity of any brand or lot of distilled spirits unless a statement of age appears on the label of the advertised product. When any such statement, design, or device concerning age or maturity is contained in any advertisement, it shall include (in direct conjunction therewith and with substantially equal conspicuousness) all parts of the statement, if any, concerning age and percentages required to be made on the label under the provisions of federal regulations. An advertisement for any whiskey or brandy (except immature brandies) which is not required to bear a statement of age on the label or an advertisement for any rum which has been aged for not less than four (4) years may, however, contain general inconspicuous age, maturity or other similar representations even though the optional age statement does not appear on the label of the advertised product and in the advertisement itself.

(14) [(13)] Curative and therapeutic effects. The advertisement shall not contain any statement, design, or device representing that the use of any distilled spirits or wine has curative or therapeutic effects, if such statement is untrue in any particular, or tends to create a misleading impression.

(15) [(14)] Place of origin. The advertisement shall not represent that the distilled spirits or wine were manufactured in or imported from a place or country other than that of their actual origin, or were produced or processed by one who was not in fact the actual producer or processor.

(16) [(15)] Confusion of brands. Two (2) or more different brands or lots of distilled spirits or wine shall not be advertised in one (1) advertisement (or in two (2) or more advertisements in one (1) issue of a periodical or newspaper, or in one (1) piece of other written, printed, or graphic matter) if the advertisement tends to create the impression that representations made as to one (1) brand or lot apply to the other or others, and if as to such latter the representations contravene any provision of these regulations or are in any respect untrue.

(17) [(16)] Flags, seals, coats of arms, crests, and other insignia. No advertisement shall contain any statement, design, device, or pictorial representation of or relating to, or capable of being construed as relating to the armed forces; nor shall any advertisement contain any statement, device, design, or pictorial representation of or concerning any flag, seal, coat of arms, crest, or other insignia, likely to mislead the consumer to believe that the product has been indorsed, made, or used by, or produced for, or under the supervision of, or in accordance with the specifications of the government, organization, family, or individual with whom such flag, seal, coat of arms, crest, or insignia is associated.

RICHARD H. LEWIS, Commissioner

ADOPTED: September 9, 1981

APPROVED: JAMES TAYLOR, Acting Secretary

RECEIVED BY LRC: September 11, 1981 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Commissioner, Alcoholic Beverage Control Board,  
123 Walnut Street, Frankfort, Kentucky 40601.

**PUBLIC PROTECTION AND REGULATION CABINET**  
**Department of Alcoholic Beverage Control**  
**(Proposed Amendment)**

**804 KAR 2:015. Prohibited statements.**

RELATES TO: KRS 244.130

PURSUANT TO: KRS 13.082, 241.060

NECESSITY AND FUNCTION: Under the general authority of KRS 244.130, permitting this department to regulate advertising of alcoholic beverages, this regulation is intended to regulate the type of advertising appearing in newspapers, magazines or periodicals. This is our department's version of a "truth in advertising" regulation, and has been in effect since December 1956.

Section 1. Any advertisement of malt beverages shall not contain:

(1) Any statement that is disparaging of a competitor's product.

(2) Any statement, device or representation that is obscene or indecent.

(3) Any statement concerning or illustrations of family scenes pertaining to the home.

(4) Any statement that is false or misleading in any manner.

(5) Any statement concerning the brand of malt beverages that is inconsistent with any statement on the labeling thereof.

(6) Any statement that may intimate or state that drinking of the advertised product produces good health, affects weight, builds muscles or like statements.

[(7) Any statement which shall mention the place at which malt beverages are sold at retail. This does not apply to advertising by retailers in newspapers, magazines, periodicals, radio or television.]

RICHARD H. LEWIS, Commissioner

ADOPTED: September 9, 1981

APPROVED: JAMES TAYLOR, Acting Secretary

RECEIVED BY LRC: September 11, 1981 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Commissioner, Alcoholic Beverage Control Board,  
123 Walnut Street, Frankfort, Kentucky 40601.

**PUBLIC PROTECTION AND REGULATION CABINET**  
**Department of Alcoholic Beverage Control**  
**(Proposed Amendment)**

**804 KAR 5:060. Entertainment requirements.**

RELATES TO: KRS 244.120

PURSUANT TO: KRS 13.082, 241.060

NECESSITY AND FUNCTION: The types of entertainment provided by licensees of this department on the licensed premises varies widely throughout the state. The licensees of the smaller towns offer little or no entertainment and the metropolitan areas offer everything from strolling violin players to go-go dancing. It is, therefore, necessary for this board to prohibit certain types of entertainment on licensed premises which could be considered improper or immoral.

Section 1. (1) No licensee shall knowingly or willfully allow in, upon or about his licensed premises improper conduct of any kind, type or character; any improper disturbances; lewd, immoral activities or brawls, or any indecent, profane, or obscene language, songs, entertainment, literature, pictures or advertising materials; nor shall any entertainment consisting of the spoken language or songs which can or may convey either directly or by implication an immoral meaning be permitted in, upon or about the permit premises.

(2) Entertainment consisting of dancing, either solo or otherwise, which may or can, either directly or by implication, suggest an immoral act is prohibited. Nor shall any licensee possess or cause to have printed or distributed any lewd, immoral, indecent, or obscene literature, pictures, or advertising material nor shall any licensee permit dance contests on the licensed premises for which a prize or award is given.

(3) *No retail licensee shall suffer or permit any person to appear on the licensed premises in such manner or attire as to expose to view any portion of the pubic area, anus, vulva or genitals, or any simulation thereof, nor shall suffer or permit any female to appear on the licensed premises in such manner or attire as to expose to view any portion of the breast below the top of the areola, or any simulation thereof.*

RICHARD H. LEWIS, Commissioner

ADOPTED: September 9, 1981

APPROVED: JAMES TAYLOR, Acting Secretary

RECEIVED BY LRC: September 11, 1981 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Commissioner, Alcoholic Beverage Control Board,  
123 Walnut Street, Frankfort, Kentucky 40601.

**PUBLIC PROTECTION AND REGULATION CABINET**  
**Department of Alcoholic Beverage Control**  
**(Proposed Amendment)**

**804 KAR 6:010. Procedures.**

RELATES TO: KRS 241.060, 243.550

PURSUANT TO: KRS 13.082, 241.060

NECESSITY AND FUNCTION: An absolute necessity for any administrative board is a written code of practice and procedure. The enabling legislation for the adoption of such procedures by the ABC Board is found in KRS 243.550 and 241.060. This regulation establishes the proper form of procedure and practice before the ABC Board and adopts the general practice procedures found in the Kentucky Rules of Civil Procedure.

Section 1. Definitions. All words are used as defined in the Alcoholic Beverage Control Law of Kentucky, unless otherwise specified.

Section 2. Appeal from Administrator. Any applicant for a local license, appealing from a rejection by a local administrator, must file with the Department of Alcoholic Beverage Control a correct application for a state license, accompanied by necessary license fee, before an appeal will be heard.

Section 3. Appearances. Any licensee may appear and be heard in person, or by duly appointed attorney, and may produce under oath evidence relative and material to matters before the board. Any attorney, in a representative capacity, appearing before the board may be required to show his authority to act in such capacity.

Section 4. Argument. Due to press of other matters, the Alcoholic Beverage Control Board asks all oral arguments be succinct and concise. The hearing officer may curtail or set time limits for oral arguments.

Section 5. Additional Hearings. The board may, on its own motion, prior to its determination, require an additional hearing. Notice to all interested parties setting forth the date of such hearing must be given in writing by the secretary to the board.

Section 6. Briefs. Briefs may be filed upon permission if a member of the Alcoholic Beverage Control Board is conducting hearing, and may be filed as a matter of right if hearing is conducted by a referee other than a member of the board. The board asks that briefs be concise, summarizing first the evidence presented at the hearing. Copies of briefs must be typewritten or printed and filed in quadruplicate. Time allowed for filing briefs may be designated by the hearing officer, in no event less than five (5) days after the hearing. Respondent briefs may be filed by the administrator whose order is appealed from, or filed by any person whose interests are affected. Reply briefs may be filed only when limited strictly to answering the brief of respondent. Briefs containing more than ten (10) pages shall contain on the top fly leaves a subject index with page references.

Section 7. Continuances. Continuances may be granted in the discretion of the board or hearing officer, if good cause therefor be shown. *Prior to the hearing, requests for continuances must be made in writing to the secretary to the board, stating the grounds therefor.*

Section 8. Depositions. The hearing officer of the board may order testimony to be taken by deposition at any stage of hearing. Depositions may be taken before any person having power to administer oaths and designated by the board or writing by the person taking the deposition or under his direction and shall then be subscribed by the deponent and certified in the usual manner by the person taking the deposition. The provisions of the Civil Code governing the taking of depositions shall be applicable.

Section 9. (1) Evidence. When called to the attention of the hearing officer "judicial notice" will be taken of any matter situated in the files of the Department of Alcoholic Beverage Control or the Department of Revenue; any action pending which involves the Department of Alcoholic Beverage Control; and all other matters of which a court of Kentucky may take such notice. A brief statement recognizing the matter should be made in the transcript by the hearing officer.

(2) Rules of evidence. Except as otherwise provided herein, the rules of evidence governing civil proceedings in courts of the Commonwealth of Kentucky shall govern hearings before the Alcoholic Beverage Control Board; provided, however, that the hearing officer may relax such rules in any case where, in his judgment, the ends of justice will be better served by so doing.

(3) Cumulative evidence. The introduction of



cumulative evidence shall be avoided and the hearing officer may curtail the testimony of any witness which he judges to be merely cumulative; however, the party offering witness may make a short avowal of the testimony the witness would give and if witness asserts such avowal is true, this avowal shall be made a part of the stenographic record.

(4) Decisions. All decisions shall be based upon the evidence developed at the hearing.

(5) Additional evidence. Upon due application to the board, prior to the decision of the board thereon, the hearing may, in the discretion of the board, be reopened for the presentation of additional evidence. Application for additional hearings must set forth concisely the nature of this additional evidence. The board may, on its own motion, require an additional hearing.

Section 10. Hearings. (1) Hearings shall be conducted by a board member or person designated by the board as a referee, hereinafter referred to as a hearing officer.

(2) The hearing officer shall conduct said hearing, ruling upon matters of procedure and introduction of evidence. The hearing shall be conducted in such manner as the hearing officer determines will best serve the purpose of attainment of justice and dispatch. Objections may be taken to rulings of hearing officer and a rehearing or additional hearing may be ordered by the board. Reason for objection must be stated and made a part of the stenographic record.

(3) In the event a board member is not present at a hearing the referee shall submit to the board a written summary of the evidence; but, except as requested by the board or the commissioner, shall not draw conclusions therefrom. Such summaries shall not be made public but are for the aid of the board. All testimony shall be taken down but shall not be transcribed unless requested by a party to the proceedings.

(4) Witnesses will be examined orally unless testimony is taken by deposition, as provided for herein, or the facts are stipulated.

Section 11. Motions, Pleadings, etc. Copies of all motions, pleadings, etc., must be served upon all interested parties, in addition to filing the required copies before the board. Formal petitions are not necessary in appealing action of a city, county or state administrator; but a copy of the order appealed from must be filed and a supplemental statement of the position of the appellant may be attached thereto. There shall be no demurrers; but motions to dismiss, setting forth the reasons therefor may be entertained by the board.

Section 12. Notices. Upon the filing of an appeal from the order or decision of a city, county or state administrator, the secretary of the board shall notify in writing all interested parties of that fact and of the time set for the hearing. All other hearings shall be held only after notice at least ten (10) days before hearing. A notice of a revocation hearing by registered mail to the licensee or the owner of the licensed premises, if locking and barring the premises is involved, sent to the known address of the licensee or owner of the licensed premises, at the address shown in the last application for a license shall be deemed sufficient compliance with the provision of KRS 243.520.

Section 13. Record. (1) The stenographic record of any hearing before the Alcoholic Beverage Control Board shall not be transcribed unless such transcription is directed by the appropriate department officer, or employee or is re-

quested in writing by any interested party to the hearing who shall make arrangements for such transcript of record with the secretary of the board. The original record shall be filed directly with the Clerk of the Franklin Circuit Court, and copy furnished to the interested party requesting the record.

(2) The charge for transcript of records of hearing shall be one dollar (\$1) per page of the original copy, and fifty (50) cents per page for each carbon copy, not to exceed four (4), furnished with an original. The fee shall be paid before the record is filed or the copies delivered to interested parties.

(3) If for its own use the board has any record of hearing transcribed, any person requiring the same may have a carbon copy, if one is available, at the rate of fifty (50) cents per page.

Section 14. Specifications as to Applications, Complaints, Briefs, Motions, etc. Except when permission is granted by the hearing officer, all papers filed under these rules must be typewritten or printed (mimeographed, multigraphed or planographed copies will be accepted as typewritten). All copies must be clearly legible and double spaced, except for quotations. It is requested that all motions, complaints, briefs, etc. be made on unglazed paper of the size required for use in the Franklin Circuit Court [eight and one-half (8½) inches wide and thirteen (13) inches long].

Section 15. Stipulations. Parties may, by agreement, stipulate as to any facts involved in the proceedings. Such stipulation must be made part of the stenographic records of the hearing.

Section 16. Subpoenas and Subpoena Duces Tecum. (1) The party desiring a subpoena must make application at least five (5) days before the hearing date with the secretary of the board. The application shall be in writing, and shall state the name and address of each witness required. Provisions of the Civil Code shall be applicable.

(2) If evidence other than oral testimony is required, such as documents or written data, the application shall set forth the specific matter to be produced and sufficient facts to indicate that such matter is reasonably necessary to establish the cause of action or defense of the applicant. Provisions of the Civil Code shall be applicable.

Section 17. Witnesses. Separation of witnesses may be had upon request of either party to the hearing.

RICHARD H. LEWIS, Commissioner

ADOPTED: September 9, 1981

APPROVED: JAMES TAYLOR, Acting Secretary

RECEIVED BY LRC: September 11, 1981 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Commissioner, Alcoholic Beverage Control Board,  
123 Walnut Street, Frankfort, Kentucky 40601.

**PUBLIC PROTECTION AND REGULATION CABINET**  
**Department of Banking and Securities**  
**(Proposed Amendment)**

**808 KAR 3:030. Conduct of examination of records.**

RELATES TO: KRS 290.100

PURSUANT TO: KRS 13.082, 290.070

NECESSITY AND FUNCTION: KRS 290.100 requires the Department of Banking and Securities to examine each state-chartered credit union. This regulation is to assure the proper conduct of examinations and the availability of books and records of the credit union.

Section 1. Examination of credit unions under the supervision of the department *may* [shall] be performed without prior notification to the subject credit union. To this end books and records of the credit union must be kept in a place accessible to the examiner so that prior notification is not necessary.

(1) If books and records are kept outside the place of work or business (example: at home), access to these must be on a daily or continuous basis within the normal five (5) day work week. Those credit unions (where books and records are kept at home) can inform this department of days and/or hours which will be convenient for them and the examiners will take this into consideration when schedules are being made for examinations.

(2) If books and records of the credit union are kept at the place of work or business this may require that management maintain a dual control system in order that these books and records will be readily accessible to the examiners.

Section 2. All books and records of the subject credit union shall be posted to date, at the close of every month. Books and records must be posted to date, on or before the 16th of the following month. The daily work shall be posted in the journal and be kept up to date within a week of the time of any examination, so that the examiners may examine the subject credit union on a current basis.

Section 3. In order to facilitate examinations conducted by the department, all deposits received by the credit union must be deposited in the credit union's bank within two (2) working days after receipt.

JAMES B. TAYLOR, Acting Secretary

ADOPTED: September 15, 1981

RECEIVED BY LRC: September 15, 1981 at 3:15 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
 TO: Andrew J. Palmer, General Counsel, Department of  
 Banking and Securities, 911 Leewood Drive, Frankfort,  
 Kentucky 40601.

**PUBLIC PROTECTION AND REGULATION CABINET**  
**Kentucky State Racing Commission**  
**(Proposed Amendment)**

**810 KAR 1:013. Entries, subscriptions and declarations.**

RELATES TO: KRS 230.210 to 230.360

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: To regulate conditions under which thoroughbred racing shall be conducted

in Kentucky. The function of this regulation is to outline requirements for entry, subscription and declaration of horses in order to race.

Section 1. Entering Required. No horse shall be qualified to start in any race unless such horse has been and continues to be duly entered therein. Entries or subscriptions for any horse, or the transfer of same, may be refused or cancelled by the association without notice or reason given therefor.

Section 2. Procedure for Making Entries. (1) All entries, subscriptions, declarations, and scratches shall be lodged with the racing secretary and shall not be considered as having been made until received by the racing secretary who shall maintain a record of time of receipt of same.

(2) Every entry must be in the name of such horse's licensed owner, as completely disclosed and registered with the racing secretary under these rules, and made by the owner, or trainer, or a person deputized by such owner or trainer.

(3) Every entry must be in writing, or by telegraph promptly confirmed in writing; except that an entry may be made by telephone to the racing secretary, but must be confirmed promptly in writing should the stewards, the racing secretary, or an assistant to the racing secretary so request.

(4) Every entry shall clearly designate the horse so entered. When entered for the first time during a meeting, every horse shall be designated by name, age, color, sex, sire, dam, and broodmare sire, as reflected by such horse's registration certificate.

(a) No horse may race unless correctly identified to the satisfaction of the stewards as being a horse duly entered.

(b) In establishing identity of a horse, responsibility shall be borne by any person attempting to identify such horse as well as the owner of such horse, all such persons being subject to appropriate disciplinary action for incorrect identification.

(5) No alteration may be made in any entry after the closing of entries, but an error may be corrected.

(6) No horse may be entered in two (2) races to be run on the same day.

(7) A horse which has never raced shall not be permitted to start unless it has a published work-out from the starting gates, at a distance acceptable to the stewards, within twenty (20) days of starting. In the event that a horse has done the requisite work-out but through no fault of the trainer, such work-out does not appear in the past performances, the horse shall be permitted to race and the correct work-out announced and posted.

Section 3. Stabling Requirement. No entry shall be accepted for any horse not stabled on association grounds where such race is to be run, unless its stabling elsewhere has been approved by the racing secretary as provided by Section 4 of 810 KAR 1:006.

Section 4. Limitation as to Spouses. No entry in any race shall be accepted for a horse owned wholly or in part by, or trained by, a person whose husband or wife is under license suspension at time of such entry; except that, if the license of a jockey has been suspended for a routine riding offense, then the stewards may waive this rule as to the duly licensed husband or wife or such suspended jockey.

Section 5. Mutuel Entries. (1) All horses entered in the

same race and trained by the same trainer shall be joined as a mutuel entry and single betting interest. All horses entered in the same race and owned wholly, or in part by the same owner or spouse thereof, shall be joined as a mutuel entry and single betting interest.

(2) No more than two (2) horses having common ties through ownership or training as to be joined as a mutuel entry may be entered in a purse race. When making such double entry, a preference for one (1) of the horses must be made.

(3) In no case may two (2) horses having common ties through ownership start in a purse race to the exclusion of a single interest. In races in which the number of starters is limited to ten (10) or less, no two (2) horses having common ties through training may start to the exclusion of a single entry.

Section 6. Subscriptions. (1) Nominations to or entry of a horse in a stakes race is a subscription. Any subscriber to a stakes race may transfer or declare such subscription prior to closing.

(2) Joint subscriptions and entries may be made by any one of the joint owners of a horse, and each such owner shall be jointly and severally liable for all payments due thereon.

(3) Death of a horse, or a mistake in its entry when such horse is eligible, does not release the subscriber or transferee from liability for all stakes fees due thereon. No fees paid in connection with a subscription to a stakes race that is run shall be refunded, "except as otherwise stated in the conditions of a stakes race."

(4) Death of a nominator or original subscriber to a stakes race shall not render void any subscription, entry, or right of entry thereunder. All rights, privileges, and obligations shall attach to the successor owner, including the legal representatives of the decedent.

(5) When a horse is sold privately, or sold at public auction, or claimed, stakes engagements for such horse shall be transferred automatically with such horse to its new owner; except that, if such horse is transferred to a person whose license is suspended or otherwise unqualified to race or enter such horse, then such subscription shall be void as of the date of such transfer.

(6) All stakes fees paid toward a stakes race shall be allocated to the winner thereof unless otherwise provided by the condition for such stakes race. In the event a stakes race is not run for any reason, all such subscription fees paid shall be refunded.

Section 7. Closing. (1) Entries for purse races and subscriptions to stakes races shall close at the time designated by the association in previously published conditions for such races. If a race is not split, no entry, subscription, or declaration shall be accepted after such closing time; except that in event of an emergency, or if a purse race fails to fill them the racing secretary may, with the approval of a steward, extend such closing time.

(2) If the hour of closing is not specified for stakes races, then subscriptions and declarations therefor may be accepted until midnight of the day of closing; provided, they are received in time for compliance with every other condition of such race.

(3) Entries which have closed shall be complied without delay by the racing secretary and, along with declarations, be posted.

Section 8. Number of Starters in a Race. (1) The maximum number of starters in any race shall be limited to the

number of starting positions afforded by the association starting gate and extensions thereof approved by the commission as can be positioned across the width of the track at the starting point for such race; and such maximum number of starters further shall be limited by the number of horses which, in the opinion of the stewards, considering the safety of the horses and riders, and the distance from the start to the first turn, can be afforded a fair and equal start.

(2) At tracks measuring less than a mile in circumference, no more than ten (10) horses may start in any race without consent of the stewards, and no more than twelve (12) horses may start under any circumstance.

(3) Any claiming race in the printed condition book for which eight (8) or more horses representing different betting interests are entered must be run. All other purse races in the printed condition book for which six (6) or more horses representing different betting interests are entered must be run.

(4) If any purse race in the printed condition book fails to fill with the minimum number of entries required by subsection (3) of this section to be run, then the association may cancel or declare off such race. The names of all horses entered therein shall be publicly posted in the office of the racing secretary not later than 1:00 p.m. the same day.

Section 9. Split or Divided Races. (1) In the event a race is cancelled or declared off, the association may split any race programmed for the same day and which may previously have been closed. Races printed in the condition book shall have preference over substitute and extra races.

(2) When a purse race is split, forming two (2) or more separate races, the racing secretary shall give notice thereof not less than fifteen (15) minutes before such races are closed so as to grant time for the making of additional entries to such split races.

(3) Division of entries upon the splitting of any race shall be made in accordance with the conditions under which entries and subscriptions therefor were made, and in the absence of specific prohibition of such conditions:

(a) Horses originally joined as a mutuel entry may be placed in different divisions of a split race unless the person making such multiple entry, at the time of such entry indicates such coupling of horses is not to be uncoupled when such race is split.

(b) Division of entries in any split stakes race may be made according to age, or sex, or both.

(c) Entries for any split race not divided by any method provided above by this rule, shall be divided by lot so as to provide a number of betting interests as near equal as possible for each division of such split race.

Section 10. Post Positions. Post positions for all races shall be determined by lot, drawn in the presence of those making the entries for such race. Post positions in split races also shall be redetermined by lot in the presence of those making the entries for such split race. The racing secretary shall assign pari-mutuel numbers for each starter to conform with the post position drawn, except when a race included two (2) or more horses joined as a single betting interest.

Section 11. Also-Eligible List. (1) If the number of entries for a purse race exceeded the number of horses permitted to start in such race as provided by Section 8 of this regulation, then the names of as many as eight (8) horses entered but not drawn into such race as starters shall be

posted on the entry sheet as "also eligible" to start.

(2) After any horses have been excused from a purse race at scratch time, a new drawing shall be taken as to horses on the also-eligible list, and the starting and post position of such horses drawn from the also-eligible list shall be determined by the sequence drawn, *unless otherwise stipulated in published conditions of the race.*

(3) Any owner or trainer of any horse on the also-eligible list who does not wish to start such horse in such race shall so notify the racing secretary prior to scratch time for such race and such horse shall forfeit any preference to which it may have been entitled.

(4) Where entries are closed two (2) racing days prior to the running of a race, any horse on an also-eligible list, and which also has been drawn into a race as a starter for the succeeding day, shall not be given an opportunity to be drawn into the earlier race for which he had been listed as also-eligible.

Section 12. Preferred List; Stars. (1) The racing secretary shall maintain a list of horses which were entered but denied an opportunity to race because eliminated from a race programmed in the printed condition book either by overfilling or failure to fill. Horses so eliminated shall be awarded a preference "star" for each such elimination, and as to drawing in from the also-eligible list to subsequent races of similar distance and similar conditions, such horses shall be given preference over horses with fewer number or no preference stars.

(2) No preference shall be given a horse otherwise entitled thereto for a race if such horse also is entered for a race on the succeeding day.

(3) No preference shall be given a horse otherwise entitled thereto for a race unless preference is claimed at the time of entry by indicating same on the entry with the word "preferred."

Section 13. Arrears. No horse may be entered or raced if the owner thereof is in arrears as to any stakes fees due by such owner; except with the approval of the racing secretary.

Section 14. Declarations. Withdrawal of a horse from a race before closing thereof by the owner or trainer or person deputized by either, such being known as a "declaration," shall be made in the same manner as to form, time, and procedure as provided for the making of entries. Declarations and scratches are irrevocable. No declaration fee shall be required by any licensed association.

Section 15. Scratches. Withdrawal of a horse from a race after closing thereof by owner or trainer or person deputized by either, such being known as a "scratch," shall be permitted only under the following conditions:

(1) A horse may be scratched from a stakes race for any reason at any time up until fifteen (15) minutes prior to post time for the race preceeding such stakes race by the filing in writing of such intention with the racing secretary, *unless a list of also-eligibles has been drawn, in which case scratches must be filed at the regular scratch time as posted by the racing secretary, and no horse will be excused thereafter without a valid physical reason.* Upon receiving a scratch from a stakes race, the racing secretary shall promptly notify the stewards and pari-mutuel manager, and shall cause public announcement of same to be made.

(2) No horse may be scratched from a purse race without approval of the stewards and unless such intention to scratch has been filed in writing with the racing secretary or

his assistant at or before the time conspicuously posted as "scratch time." Scratch of one (1) horse coupled in a mutuel entry in a purse race must be made at or before the posted scratch time, unless permission is granted by the stewards to allow both horses to remain in the race until a later appointed scratch time therefor.

(3) In purse races, horses that are physically disabled or sick shall be permitted to be scratched first. Should horses representing more than ten (10) betting interests in either of the two (2) daily double races, or horses representing more than eight (8) betting interests in any other purse race, remain in after horses with physical excuses have been scratched, then owners or trainers may be permitted at scratch time to scratch horses without physical excuses down to such respective minimum numbers for such races, this privilege to be determined by lot if an excessive number of owners or trainers wish to scratch their horses.

(4) Entry of any horse which has been scratched, or excused from starting by the stewards, because of a physical disability or sickness shall not be accepted until the expiration of three (3) calendar days after such horse was scratched or excused.

MICHAEL W. DAVIDSON, Director

ADOPTED: July 15, 1981

APPROVED: H. FOSTER PETTIT, Secretary  
RECEIVED BY LRC: August 18, 1981 at 10:45 a.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 Kentucky Harness Racing Commission (Proposed Amendment)

811 KAR 1:200. Administration of purses and payments.

RELATES TO: KRS 230.770

PURSUANT TO: KRS 230.770

NECESSITY AND FUNCTION: To regulate races and purses and payments in races for which a portion of the purse is provided by the Kentucky Standardbred Development Fund. The function of this regulation is to establish mandatory criteria for these races and the administration of purses and payments in such races.

Section 1. Races in which any part of the purse is provided by the Kentucky Standardbred Development Fund shall be subject to the rules and regulations of the Kentucky Harness Racing Commission.

Section 2. Each participating foal must have been sired by a stallion registered with the Kentucky Harness Racing Commission, and eligible to the Kentucky Standardbred Development Fund.

Section 3. Each race shall be a one (1) mile dash.

Section 4. The race will split if more than twelve (12) declare to start. In the case of a split the event will be raced adopting one (1) of the methods of division racing then

current in the Kentucky Harness Racing Commission rules and regulations, except the Kentucky Standardbred Development Fund will add the money to the purses.

Section 5. Gait must be specified by the first two (2) year old payment. Transfer may be made at the time of declaration but sustaining payments remain in the respective funds.

Section 6. All races will be raced in separate colt-gelding and filly divisions.

Section 7. All declaration fees will be added to the purse and will be made payable to the Kentucky Standardbred Development Fund at the time of declaration.

Section 8. The purse will be distributed on the following percentage basis:

- (1) 50-25-12-8-5: 5 starters or more;
- (2) 50-25-15-10: 4 starters;
- (3) 60-30-10: 3 starters;
- (4) 65-35: 2 starters.

Section 9. Should circumstances prevent the racing of any event, monies will be prorated among horses eligible for the uncontested event at the time of declaring off. In the event the race is drawn, the monies will be equally divided among the horses entered to start. This will include stake payments, declaration fees and purses provided by the Kentucky Standardbred Development Fund.

Section 10. Starters will declare in at each track at the time specified by the association conducting the event.

Section 11. At the time of the declaration a starter must show at least one (1) charted line with no breaks within the last six (6) starts and within thirty (30) days prior to the day of the race and a two (2) year old trotter must have been timed in 2:18 or faster and a two (2) year old pacer must have been timed in 2:15 or faster. *A broken equipment break or an interference break will not be considered a break as stated in this section.* An eligibility certificate or a clear photocopy of the eligibility certificate must be on deposit with the race secretary at the time of declaration or the declaration may be rejected. If the horse has a start subsequent to the eligibility certificate of photocopy being sent, the declarer must advise the race secretary of the commitment to race or the horse may be scratched from the race. This rule shall be in effect for wagering and non-wagering races.

Section 12. After payment of the nomination fee, foals shall remain eligible for events each year by making the required sustaining and declaration payments for that year.

Section 13. The Kentucky Standardbred Development Fund will be distributed by the Kentucky Harness Racing Commission on an equitable basis to promote the purposes expressed in KRS 230.770. The commission may authorize expenditures at any time; however, the commission will, at its scheduled meeting each November, make provisions for the following year's distribution of funds for stake races.

Section 14. The Kentucky Standardbred Development Fund will provide a trophy for each event. In the case of division races each division shall receive a trophy.

Section 15. All nomination and sustaining payments

shall be made to the Kentucky Standardbred Development Fund.

#### Section 16. Payments:

##### Two-Year Olds

##### PAYMENTS

March 15th .....	\$ 40
May 15th .....	\$200
Declaration Fee (for each track) .....	\$200
March 15th payment makes entry eligible as a 3-year old.	

##### Three-Year Olds

##### PAYMENTS

February .....	\$ 80
March 15 .....	\$200
Declaration Fee (for each track) .....	\$200

Section 17. All yearlings will be nominated on May 15 and fees will be twenty dollars (\$20) each. Fees are payable to the Kentucky Standardbred Development Fund.

CARL B. LARSEN, Supervisor of Racing

ADOPTED: August 21, 1981

APPROVED: JAMES B. TAYLOR, Secretary

RECEIVED BY LRC: September 11, 1981 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Carl Larsen, Supervisor of Racing, Kentucky Harness Racing Commission, 1051-H Newtown Road, Lexington, Kentucky 40511-1278.

#### 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 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 psychiatrist renders the service, or when the psychiatrist 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.

*Section 2. Definition of Psychiatric Nurse. (1) For the purpose of providing Medical Assistance Program reimbursable services, registered nurses employed by participating mental health centers shall be considered psychiatric or mental health nurses when they meet any of the following criteria:*

*(a) Master of Science in Nursing (MSN) with specialty in psychiatric/mental health nursing; additional experience is not required; or*

*(b) Graduate of a four (4) year nursing educational program, with a Bachelor of Science in Nursing (BSN) and with a minimum of one (1) year of experience in a mental health setting; or*

*(c) Graduate of a three (3) year nursing educational program (diploma graduate), and with a minimum of two (2) years of experience in a mental health setting; or*

*(d) Graduate of a two (2) year nursing educational program, with an Associate Degree in Nursing (ADN) and with a minimum of three (3) years of experience in a mental health setting.*

*(2) Notwithstanding the preceding, any registered nurse employed by a participating mental health center in Kentucky on June 30, 1981 shall be considered a psychiatric nurse so long as his/her employment with the center continues, for the purpose of providing Medical Assistance Program reimbursable services.*

*Section 3. [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 intermediate care facilities and/or skilled nursing facilities.*

WILLIAM L. HUFFMAN, Commissioner

ADOPTED: September 15, 1981

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: September 15, 1981 at 3:45 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Secretary for Human Resources, DHR Building, 275 East Main Street, Frankfort, Kentucky 40621.



# Proposed Regulations

## AUDITOR OF PUBLIC ACCOUNTS

45 KAR 1:070. Audits of county budgets and county fee officials.

RELATES TO: KRS 43.070(1)(a),(b), 64.810

PURSUANT TO: KRS 13.082, 43.075

NECESSITY AND FUNCTION: KRS 43.075 requires the Auditor of Public Accounts to develop uniform standards, procedures and formats for reporting all audits of the accounts, books and papers of elected county or district officials. This regulation provides the uniform standards for audits of the funds contained in each county's budget and for audits of each county fee official.

Section 1. (1) The financial and compliance audit of the funds contained in each county's budget shall be conducted in accordance with generally accepted auditing standards as promulgated by the "Standards for Audit of Governmental Organizations, Programs, Activities and Functions" issued by the Comptroller General of the United States. This regulation reflects the interpretation of the Auditor of Public Accounts of generally accepted governmental auditing standards as applied to county government.

(2) It is not the intent, however, of this regulation to subjugate either the judgment or the independence of the certified public accountant.

(3) Objective of the audit.

(a) The primary objective in audits of county governments is to express an opinion as to the fairness of the assets, liabilities and fund balances arising from the cash transactions of the county and its cash receipts and disbursements during the year.

(b) More specifically, the auditor should make sufficient tests to determine:

1. Whether county receipts have been collected, accounted for and disbursed in accordance with applicable state and federal laws and regulations.

2. Whether disbursements are properly documented.

3. Whether the official is complying with all other legal requirements relating to the management of public funds by his office including, but not limited to, requirements of the uniform system of accounts adopted under KRS 68.210 and all publication requirements.

4. Auditors shall be alert to situations or transactions that could be indicative of fraud, abuse, illegal expenditures and acts, and if such evidence exists, extend audit steps and procedures to identify the effect on the entity's financial statements.

5. Determination of fund balance of official accounts.

(4) Reporting format.

(a) The auditor's report shall indicate whether the audit was conducted in accordance with the "Standards for Audit of Governmental Organizations, Programs, Activities and Functions."

(b) The report shall include a comparative statement of assets, liabilities and fund balances arising from cash transactions, a statement of cash receipts, cash disbursements and changes in fund balances, a comparison of estimated and actual revenue, a statement of operating revenue and a comparative statement of final budget and budgeted expenditures. Other statements such as "Notes to Financial Statements" may also be included in the report.

(c) The auditor shall express an overall opinion as to whether the financial statements of the county present fairly the assets, liabilities and fund balances arising from cash transactions and its cash receipts and disbursements or shall indicate the reasons why an overall opinion cannot be expressed.

(d) Since the content of the financial statements is determined by law, reference to generally accepted accounting principles would not be appropriate. As recommended by the State Local Finance Officer, pursuant to KRS 68.210, the financial statements are prepared primarily on a cash basis. Consequently, certain revenues and the related assets are recognized when received rather than when earned, and certain expenses are recognized when paid rather than when a liability is incurred. Accordingly, the financial statements are not intended to present financial position and results of operations in conformity with generally accepted accounting principles.

(e) The report shall indicate any matters of non-compliance with law or regulation known to the auditor including any deficit in official accounts. Additionally, the auditor's report shall contain a statement of positive assurance on those items of compliance tested and a statement of negative assurance on those items not tested. It shall also include material instances of noncompliances and instances or indications of fraud, abuse or illegal acts found during or in connection with the audit.

(f) The auditors shall report on their study and evaluation of internal accounting controls made as part of the financial and compliance audit. They shall identify as a minimum:

1. The entity's significant internal accounting controls;

2. The controls identified that were evaluated;

3. The controls identified that were not evaluated (the auditor may satisfy this requirement by identifying any significant classes of transactions and related assets not included in the study and evaluation); and

(4) The material weaknesses identified as a result of the evaluation.

(g) There are a number of reasons why a study and evaluation of internal accounting control may not be made. They include:

1. The entity is so small that it is not feasible to have an adequate internal control system.

2. The auditor may conclude that the audit can be performed more efficiently by expanding substantive audit tests, thus placing very little reliance on the internal control system.

3. The existing internal control system may contain so many weaknesses that the auditor has no choice but to rely on substantive testing, thus virtually ignoring the internal control system.

The above circumstances may justify not making a study and evaluation of internal accounting controls. However, the auditors must describe in their report why a study was not made.

(h) The auditor shall report on any other material findings.

(i) If certain information is prohibited from general disclosure, the report shall state the nature of the information omitted and the requirement that makes the omission necessary.

Section 2. (1) On and after December 31, 1981, finan-



cial and compliance audits of county fee officials shall be conducted in accordance with generally accepted auditing standards as promulgated by the "Standards for Audit of Governmental Organizations, Programs, Activities and Functions" issued by the Comptroller General of the United States and the "Audit Guide for County Fee Officials" issued by the Auditor of Public Accounts, Commonwealth of Kentucky. This regulation reflects the interpretation of the Auditor of Public Accounts of generally accepted governmental auditing standards as applied to county fee officials in Kentucky.

(2) It is not the intent, however, of this regulation or the guide to subjugate either the judgment or the independence of the certified public accountant.

(3) Objective of the audit.

(a) The primary objective in audits of county fee officials is to express an opinion as to the fairness of the reported "Receipts, Disbursements and Excess Fee" of any of the officials and to determine whether the official complied with the laws and regulations governing the collection and expenditures of government funds as enumerated in KRS 43.070.

(b) More specifically, the auditor should make sufficient tests to determine:

1. Whether statutory receipts have been collected, accounted for and disbursed in accordance with applicable state and federal laws and regulations.

2. Whether expenses claimed are allowable against fee income by statute or common law.

3. The amount of "excess fees," if any, of the officials and the amounts otherwise payable to the county and/or the state.

4. Whether the official is complying with all other legal requirements relating to the management of public funds by his office including, but not limited to, requirements of the uniform system of accounts adopted under KRS 68.210 and all publication requirements.

5. Auditors shall be alert to situations or transactions that could be indicative of fraud, abuse, illegal expenditures and acts, and if such evidence exists, extend audit steps and procedures to identify the effect on the entity's financial statements.

6. Determination of fund balance of official accounts.

(4) Reporting format.

(a) The auditor's report shall indicate whether the audit was conducted in accordance with the "Standards for Audit of Governmental Organizations, Programs, Activities and Functions" issued by the Comptroller General of the United States, and the "Audit Guide for County Fee Officials" issued by the Auditor of Public Accounts, Commonwealth of Kentucky.

(b) The report shall include a statement of receipts, disbursements and excess fees, with receipts classified by source and disbursements classified by object. Excess fees shall be identified in the statement as the excess of receipts over disbursements, statutory compensation and unpaid obligations. Excess fees shall be reduced by payments including payments made up to the date of the audit report. Other statements such as "Notes to Financial Statements" and "Schedule of Excess of Liabilities Over Assets" may also be included in the report.

(c) The auditor shall express an overall opinion as to whether the statement of receipts, disbursements and excess fees presents fairly the receipts, disbursements and excess fees of the official, or shall indicate the reasons why an overall opinion cannot be expressed.

(d) If a deficit exists in the official accounts on December 31 of the audit period, it should be disclosed in the letter of transmittal.

(e) Since the content of the statement of receipts, disbursements and excess fees is determined by law, reference to generally accepted accounting principles would not be appropriate. As recommended by the State Local Finance Officer, pursuant to KRS 68.210, the financial statements are prepared primarily on a cash basis. Consequently, certain revenues and the related assets are recognized when received rather than when earned, and certain expenses are recognized when paid rather than when a liability is incurred. Accordingly, the financial statements are not intended to present financial position and results of operations in conformity with generally accepted accounting principles.

(f) The report shall indicate any matters of non-compliance with law or regulation known to the auditor including any deficit in official accounts. Additionally, the auditor's report shall contain a statement of positive assurance on those items of compliance tested and a statement of negative assurance on those items not tested. It shall also include material instances of noncompliance and instances or indications of fraud, abuse or illegal acts found during or in connection with the audit.

(g) The auditors shall report on their study and evaluation of internal accounting controls made as part of the financial and compliance audit. They shall identify as a minimum:

1. The entity's significant internal accounting controls;

2. The controls identified that were evaluated;

3. The controls identified that were not evaluated (the auditor may satisfy this requirement by identifying any significant classes of transactions and related assets not included in the study and evaluation); and

4. The material weaknesses identified as a result of the evaluation.

(h) There are a number of reasons why a study and evaluation of internal accounting control may not be made. They include:

1. The entity is so small that it is not feasible to have an adequate internal control system.

2. The auditor may conclude that the audit can be performed more efficiently by expanding substantive audit tests, thus placing very little reliance on the internal control system.

3. The existing internal control system may contain so many weaknesses that the auditor has no choice but to rely on substantive testing, thus virtually ignoring the internal control system.

The above circumstances may justify not making a study and evaluation of internal accounting controls. However, the auditors must describe in their report why a study was not made.

(i) The auditor shall report on any other material findings.

(j) If certain information is prohibited from general disclosure, the report shall state the nature of the information omitted and the requirement that makes the omission necessary.

JAMES B. GRAHAM,  
Auditor of Public Accounts

ADOPTED: August 31, 1981

RECEIVED BY LRC: August 31, 1981 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Auditor of Public Accounts, Capitol Annex,  
Frankfort, Kentucky 40601.



**COMMERCE CABINET**  
**Department of Fish and Wildlife Resources**

**301 KAR 2:086. Limits and seasons for taking migratory birds.**

RELATES TO: KRS 150.025, 150.170, 150.175, 150.235, 150.305, 150.330, 150.340, 150.360

PURSUANT TO: KRS 13.082

**NECESSITY AND FUNCTION:** This regulation pertains to the bag limits, possession limits, and seasons for the taking of certain migratory birds, including waterfowl. In accordance with KRS 150.015, this regulation is necessary for the continued protection and conservation of the migratory birds 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 framework of this regulation falls within the seasons and bag limits dictated by the U.S. Fish and Wildlife Service. The function of this regulation is to provide for the prudent taking of migratory birds within reasonable limits based upon an adequate supply.

**Section 1. Seasons for Gun and Archery.** (1) Ducks, Coots and Mergansers: November 21 through November 28, 1981. December 10 through January 20, 1982.

(2) Geese: December 2 through January 20, 1982, in Ballard (except on the Ballard Wildlife Area), Hickman, Carlisle and Fulton Counties. November 12 through January 20, 1982, in the remainder of the state.

(3) Rails (Sora and Virginia): November 12 through January 20, 1982.

(4) Gallinules: November 12 through January 20, 1982.

**Section 2. Limits for Gun and Archery.** (1) Ducks:

(a) Bag limits. A point system bag limit is in effect. Point values for species and sexes taken are as follows (either sex unless specified):

1. Canvasback: 100 points;
2. Hen mallard, black duck, wood duck, hooded merganser and redhead: 70 points;
3. Pintail, blue-winged teal, cinnamon teal, green-winged teal, widgeon, gadwall, shoveler, scaup and mergansers (except hooded merganser): 10 points;
4. Drake mallard and all other species of ducks not mentioned above: 25 points;
5. Coots; but limited to 15 daily and 30 in possession: 0 points.

(b) The daily bag limit is reached when the point value of the last duck taken, added to the total of the point values of the other ducks already taken during that day, reaches or exceeds 100 points. The maximum number of points possible is 195.

(c) Possession limits. The possession limit is the maximum number of ducks of those species and sexes which could have legally been taken in two (2) days. The maximum number of points possible for the possession limit is 390.

(2) Geese:

(a) Bag limits, statewide. Five (5) (no more than two (2) Canada and two (2) white-fronted geese).

(b) Possession limits, statewide. Ten (10) (any combination of Canada, blue, snow or white-fronted geese, not to include more than four (4) Canada and four (4) white-fronted).

(3) Others:

(a) Coots: bag limit 15; possession limit 30;

(b) Rails (Sora and Virginia): bag limit 25 (singly or in

the aggregate); possession limit 25 (singly or in the aggregate);

(c) Gallinules: bag limit 15; possession limit 30.

**Section 3. Shooting Hours.** The basic shooting hours for ducks, geese, coots, mergansers, rails and gallinules shall be one-half (½) hour before sunrise to sunset (prevailing time). The shooting hours for ducks and geese on Ballard County Wildlife Management Area shall be one-half (½) hour before sunrise to twelve (12) o'clock noon prevailing time. The shooting hours on the Grassy Pond-Powell's Lake and Jenny Hole-Highland Creek Units of the Sloughs Wildlife Management Area shall be one-half (½) hour before sunrise until two (2) p.m. prevailing time.

**Section 4. Shot Size Restrictions.** No shot larger than BBs may be in possession while hunting waterfowl.

**Section 5. Seasons for Falconry.** All species listed in Section 1 may be taken by means of falconry by licensed falconers. The falconry season begins on November 1, 1981 and extends through January 20, 1982.

**Section 6. Limits for Falconry.** Daily bag and possession limits shall not exceed three (3) and six (6) birds respectively, of any species listed in Section 1, singly or in combination, during both the regular gun and archery hunting season or the extended falconry season.

**Section 7. Hunting Hours for Falconry.** The hunting hours will conform with those stated in Section 3.

**Section 8. Ballard County Goose Quota Zone.** (1) Canada goose quota. There will be no quota on the harvest of Canada geese in the Ballard quota zone during the 1981-82 waterfowl season. The goose harvest will continue to be monitored as prescribed in regulations 301 KAR 2:055 and 301 KAR 3:070.

(2) Quota zone boundaries. The Ballard County Canada goose quota zone is described as follows: starting at the northwest city limits of the town of Wickliffe in Ballard County to the middle of the Mississippi River, and thence north along the Mississippi to the low water mark of the Ohio River along the Illinois shore to the Ballard-McCracken County line; thence along the county line south to state road 358; then south along state road 358 to its junction with U.S. Highway 60 at LaCenter; thence following U.S. 60 southwest to the northeast city limits of Wickliffe.

(3) Quota zone permit requirements. All persons hunting geese on commercial waterfowl shooting areas and non-commercial lands and/or waters within the designated quota zone must comply with regulations 301 KAR 2:055 and 301 KAR 3:070.

**Section 9. Migratory Bird Shipping and Transporting Restrictions.** For information on tagging, shipping, transporting and storing migratory game birds, refer to regulation 301 KAR 2:090 and federal law 50 CFR Part 20. Geese taken in the counties of Ballard, Hickman, Fulton and Carlisle may not be transported, shipped or delivered for transportation or shipment by common carrier, the Postal Service, or by any person except as the personal baggage of any licensed waterfowl hunter, provided that no hunter shall possess or transport more than the legally-prescribed possession limit of geese. Geese possessed or transported by persons other than the taker must be

labeled with the name and the address of the taker and the date taken.

Section 10. Methods of Taking. For information on legal methods of taking migratory birds, refer to regulation 301 KAR 2:090 or federal law 50 CFR Part 20.

Section 11. Waterfowl Seasons on Specified Wildlife Management Areas. (1) Ballard County Wildlife Management Area, located in Ballard County, Kentucky, and described as follows: bounded on the north by the Turner Landing Road, on the west by the Ohio River, on the south by the Terrell Landing Road, on the east by refuge sign markers and visible yellow paint markers on tree line; a tract of land known as the Rudy and Haydon tracts bounded on the south by the Turner Landing Road, on the east by refuge sign markers and visible yellow paint markers on tree line, on the north by Kentucky Highway 473, then running south along the east bank of Mitchell Lake to the Turner Landing Road; also, open on the north side of the refuge proper a tract of land north of the Clark Line Road including Shelby Lake and west to the Ohio River and continuing north to yellow signs.

(a) Species and seasons:

1. Ducks, Coots and Mergansers: December 10 through January 20, 1982 (excluding Sundays and Christmas Day);

2. Geese: December 7 through January 20, 1982 (excluding Sundays and Christmas Day).

(b) There will be a ten (10) shell limit per hunter on the Ballard County Wildlife Management Area when hunting geese. This does not apply when hunting ducks from pothole blinds or pits as separated from goose hunting areas. Shooting ducks is permitted in goose hunting areas but shooting geese in duck areas is prohibited. The barrel and magazine of all guns will be checked for ammunition before the hunter enters the check station. No shot larger than BBs may be used or possessed for hunting waterfowl. Any hunter on the management area under the age of eighteen (18) must be accompanied by an adult. Any person whose transportation to and from pits and blinds is furnished by the Department of Fish and Wildlife Resources must have his gun encased.

(c) Miller Tract, located in Ballard County, Kentucky, and consisting of 300 acres, more or less south of the Terrell Landing Road and marked with yellow signs reading "Wildlife Management Area for Public Hunting" is open to waterfowl hunting during the regular statewide season. Pits and blinds must be 100 yards apart and 100 yards from Terrell Landing Road. Both ducks and geese may be taken by hunters occupying a pit or blind. Shooting hours conform to statewide regulations.

(2) Land Between the Lakes Wildlife Management Area, located in Lyon and Trigg Counties.

(a) Waterfowl hunting will be in accordance with statewide seasons and regulations and is permitted from the Kentucky-Tennessee state line to Barkley Canal except Smith and Duncan Bays, Energy Lake, and Long Creek Pond which are indicated by signs and are closed to hunting. Duncan Bay is an eagle and waterfowl refuge during the dates designated by signs and is closed to all activity. The Environmental Education Center is closed to waterfowl hunting. An annual LBL hunting permit is required for waterfowl hunting on all shoreline and inland areas.

(b) Shoreline areas are defined as all LBL areas along Kentucky and Barkley Lakes from the waters edge to twenty-five (25) yards above elevation 359'. Waterfowl hunting from shoreline areas along Lake Barkley is allowed according to Lake Barkley Wildlife Management Area regulations.

(c) Inland areas are defined as all areas above shoreline areas. No waterfowl hunting is permitted on inland areas during quota gun deer hunt days. Permanent pits and blinds are not permitted on inland areas nor along Kentucky Lake shoreline area. Temporary blinds and decoys may be used, but they must be removed at the end of each hunting day.

(3) Lake Barkley Wildlife Management Area.

(a) Refuge areas will be closed to all hunting, fishing, boating and molesting of waterfowl during the dates designated in this regulation and on signs posted along the boundaries. Refuges and closing dates are as follows: November 1 through February 15 within an area including a row of islands on the west side of the main channel, as marked by buoys and signs, between river mile 51 (Hayes Landing Light) and river mile 57.3 (Crooked Creek Light), excluding Taylor and Jake Fork Bays as marked by buoys and signs. Within the refuge area, Fulton Bay will remain closed until March 15 and Honker Bay until March 1 (or later if necessary) as marked by buoys and signs to protect eagles. Boating is allowed but hunting is prohibited within 200 yards of the area surrounded by a levee and located between river mile 68.4 and river mile 70.4 during the period October 15 through March 15.

(b) Open hunting areas. Hunting will be permitted on the remainder of Lake Barkley with the exception of recreation areas and access points which will be closed and designated by posted signs at the entrance of said areas. Waterfowl hunting along the western shore of the lake will be confined to those areas outside the refuge between river mile 51 and river mile 57.3. No hunting is allowed on the shoreline within the refuge area.

(c) Permanent blinds or pits must be registered on a permit issued by the Corps of Engineers. Persons hunting Lake Barkley shoreline areas bordering the Land Between the Lakes must have an LBL hunting permit. Applicants for blind or pit permits must show a current Kentucky hunting license to the registration clerk before a permit will be issued. Registration will be conducted at the Lake Barkley Maintenance Shop located at Barkley Dam off U.S. Highway 641-62 on October 5 from 8:00 a.m. to 9:00 a.m. prevailing time. Applicants for permanent blinds or pits will take part in a special drawing to determine the order of blind registration. The drawing, which will close promptly at 9:00 a.m., will be followed by registration in which hunters with the lowest numbers will receive first choice of locations. Hunters who miss out on the special October 5 drawing will be registered on a first come first served basis at the Resource Manager's Office from 8:00 a.m. to 3:00 p.m. (prevailing time) weekdays, except federal holidays, from October 6 through November 11. A permit will be issued for each permanent blind or pit and only one (1) permit will be issued per hunter. No unregistered permanent pit or blind is allowed. Any blind remaining in a location over twenty-four (24) hours is considered permanent. Blind or pit permittees will have priority over their registered blinds or pits and may claim ownership by showing their permit. Permits are not transferable to other hunters. Permanent registered blinds or pits must not be locked to exclude other waterfowl hunters when not occupied. Any waterfowl hunter may occupy any unoccupied blind or pit until claimed by permittee. All blinds or pits must be erected or installed no later than the day before the opening of the goose hunting season. All pits and blinds must be 200 yards apart and 200 yards from any refuge as designated by signs. Permanent blinds or pits must be removed no later than thirty (30) days after the close of the waterfowl season or they become the property of the Department of Fish and Wildlife Resources. Any extension must be approved by the Lake Barkley Resource Manager.

(4) Barren Lake Wildlife Management Area, located in Barren, Allen and Monroe Counties and including all lands and waters owned and operated by the Department of the Army, Corps of Engineers, including those under license to the Kentucky Department of Fish and Wildlife Resources as marked by red painted steel boundary posts are open to waterfowl hunting during the regular statewide season with the following exceptions: all recreation areas, operational areas and islands (except Mason Island) are closed to all hunting. Lands under license to the Department are open to hunting for all other wildlife species during the regular statewide seasons. Permanent blinds must be registered and a blind permit issued by the Corps of Engineers. Registration and a drawing for permanent blinds will be conducted at the Barren Lake Resource Manager's Office located near the dam off Kentucky Highway 252, on October 6 from 7:00 a.m. to 9:00 a.m. prevailing time. A permit will be issued for each permanent blind and only one (1) permit will be issued per hunter. All blinds must be 100 yards apart. Permanent blinds must be removed no later than thirty (30) days after the close of the waterfowl season or they become the property of the Department of Fish and Wildlife Resources.

(5) Nolin, Rough, Green and Buckhorn Wildlife Management Areas, including all lands and waters owned and operated by the Department of the Army, Corps of Engineers, including those under license to the Kentucky Department of Fish and Wildlife Resources, and excluding all recreation and park areas, are open to all waterfowl hunting during the regular statewide season. Permanent blinds must be registered and a blind permit issued by the Corps of Engineers. Registration will be conducted at each of the Resource Managers' offices located at or near the dam sites, from October 5 through December 31, 1981 during weekdays only, from 7:30 a.m. to 4:00 p.m. prevailing time, excluding federal holidays. A permit will be issued for each permanent blind and only one (1) permit will be issued per hunter. The drawing for blinds has already been conducted on the Green River Lake Wildlife Management Area. All blinds must be 100 yards apart. Permanent blinds must be removed no later than thirty (30) days after the close of the waterfowl season or they become the property of the Department of Fish and Wildlife Resources.

(6) Sloughs Wildlife Management Area located in Henderson and Union Counties.

(a) Grassy Pond-Powell's Lake Unit located in Henderson and Union Counties and including all lands and waters marked by steel boundary posts, public hunting signs and painted yellow rings on trees is open to waterfowl hunting during the regular statewide season. Only permanent pits or blinds will be allowed for waterfowl hunting. These will be registered on a permit issued by the Department of Fish and Wildlife Resources.

(b) Jenny Hole-Highland Creek Units located in Henderson and Union Counties and including all lands and waters marked by steel boundary posts, public hunting signs and painted yellow rings on trees are open to waterfowl hunting during the regular statewide season. Waterfowl hunting will be allowed from permanent pit or blind sites registered on a permit issued by the Department of Fish and Wildlife Resources and at any other above ground site provided there is a minimum of 200 yards between hunters or hunting parties.

(c) Pit or blind registration. Applicants for a permanent pit or blind must show a current Kentucky hunting license before a permit will be issued. Applicants for pits or blinds will take part in a special drawing to determine the order of blind registration. The drawing for numbers will take place

on September 28, 1981 from 6:00 p.m. until 8:00 p.m. prevailing time at the Henderson Community and Youth Center in Atkinson Park, Henderson, Kentucky. The drawing, which will close promptly at 8:00 p.m. will be followed by registration in which hunters with the lowest numbers will receive first choice of pit or blind locations. A hunter may designate one (1) other person as a partner for registration. Two (2) nontransferable permits will be issued for each permanent pit or blind and only one (1) permit per hunter will be issued. Either of the permittees for a location will have priority over other users of their registered pits or blinds and may claim ownership by showing their permit. Registered pits or blinds must not be locked to exclude other hunters when not occupied by the permittee. Any waterfowl hunter may occupy any unoccupied pit or blind until claimed by the permittee. Only four (4) persons may occupy a pit or blind at one (1) time. All blinds and pits must be 100 yards apart and at the designated locations. Permit holders who have not constructed their pit or blind at the designated location by November 10, 1981 will lose their location and the site may be assigned to another hunter. Blinds or pits and all construction materials must be removed from the area no later than thirty (30) days after the close of the waterfowl season or they become the property of the Department of Fish and Wildlife Resources.

(d) When the Ohio River stage at Uniontown Lock and Dam reaches a level that requires boat access to the units, hunting will be allowed from boats spaced 200 yards apart, without regard to the registered pits or blinds.

(e) Shooting hours for waterfowl. Refer to Section 3 of this regulation.

(7) Ohio River Islands Wildlife Management Area within the Smithland Lock and Dam Pool in Livingston County. The islands of Twin Sisters, Pryor and Rondeau, and the mainland marsh area between Twin Sisters and Pryor Islands, marked with public hunting signs and painted yellow circles on trees is open to all hunting during statewide seasons. Only temporary waterfowl blinds are permitted and they must be removed at the end of each day's hunting. All blinds must be 200 yards apart and only four (4) persons may occupy a blind at one time.

Section 12. Wildlife Management Areas, Counties and Other Areas Closed or Partially Closed to Hunting of Waterfowl. (1) Sauerheber Unit of the Sloughs Wildlife Management Area located in Henderson County will be closed to all hunting, fishing, boating and trespassing during the period indicated on posted signs. This area includes all state-owned land north and south of Kentucky Highway 268 and privately-owned land south of Kentucky Highway 268 as designated by yellow waterfowl refuge signs. Hunting waterfowl is also prohibited from Kentucky Highway 268 and thirty (30) feet on either side of the center line where it lies adjacent to the refuge.

(2) Ohio River Waterfowl Refuge located in Livingston County will be closed to all hunting and molesting of waterfowl from October 15 through March 15. This area includes the Kentucky portion of the Ohio River from Smithland Lock and Dam upstream to a power line crossing the river at approximately river mile 911.5 and including Stewart Island.

(3) Dewey Lake Wildlife Management Area located in Floyd County is closed to all waterfowl hunting.

(4) Grayson Lake Wildlife Management Area located in Carter and Elliott Counties is closed to all waterfowl hunting.

(5) Bath, Rowan, Menifee and Morgan Counties, in-

cluding Cave Run Lake, are closed only to goose hunting. Breech and muzzle-loading shotguns may be used for duck hunting along the shoreline portion of Cave Run Lake bordering the Pioneer Weapons Wildlife Management Area.

(6) Beaver Creek Wildlife Management Area located in Pulaski and McCreary Counties is closed to all waterfowl hunting.

(7) Cane Creek Wildlife Management Area located in Laurel County is closed to all waterfowl hunting.

(8) Robinson Forest Wildlife Management Area located in Breathitt, Perry and Knott Counties is closed to all waterfowl hunting.

(9) Redbird Wildlife Management Area located in Leslie and Clay Counties is closed to all waterfowl hunting.

(10) Mill Creek Wildlife Management Area located in Jackson County is closed to all waterfowl hunting.

Section 13. 301 KAR 2:085, seasons and limits for migratory birds, is hereby repealed.

CARL E. KAYS, Commissioner

CHARLES E. PALMER, JR., Chairman

ADOPTED: August 31, 1981

APPROVED: W. BRUCE LUNSFORD, Secretary

RECEIVED BY LRC: September 4, 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.

## DEPARTMENT OF AGRICULTURE

### 302 KAR 1:040. Manufacturing grade milk.

RELATES TO: KRS 247.450 to 247.505

PURSUANT TO: KRS 13.082, 247.483

NECESSITY AND FUNCTION: KRS 247.483 authorizes the Commissioner to establish and determine the rules and regulations to conduct a referendum among producers of manufacturing grade milk for the purpose of promoting and stimulating by research, market development and education, the increased production, use and sale, domestic and foreign, of manufacturing grade milk and manufacturing grade milk products.

Section 1. Definitions. As used in these rules and regulations, unless the context otherwise requires:

(1) "Commissioner" means the Commissioner of Agriculture.

(2) "Board" means the State Board of Agriculture.

(3) "Manufacturing grade producer" means every person who produces manufacturing grade milk and thereafter causes the same to be marketed.

(4) "New producer" means a producer who was not engaged in the business of producing manufacturing grade milk at the time a referendum was conducted in accordance with the provisions in these rules and regulations.

(5) "Person" means any individual, corporation, partnership, association, cooperative, or other business entity.

(6) "Referendum agent" means an employee of the State Department of Agriculture under the direct control of the Commissioner of Agriculture.

(7) "Manufacturing grade milk" means milk from cows from manufacturing grade producing herds.

(8) "ADA" means the American Dairy Association of Kentucky, Inc.

Section 2. Counties in Which Referendum Will Be Conducted. The manufacturing grade milk referendum will be conducted in all counties where there are manufacturing grade milk producers.

Section 3. List of Eligible Voters. The Commissioner shall prepare a list of all known persons eligible to vote in said referendum. The list shall be composed from the Bureau for Health Services and the Division of Livestock Sanitation. Two (2) ballots will be mailed to each manufacturing grade milk farm residence. Another sheet will be included for the farm owner to submit any additional names and addresses of those who would be eligible to vote. The names on that list will then be mailed an official ballot to vote in the referendum.

Section 4. Who May Vote. Each person engaged in the production of manufacturing grade milk on a commercial basis including the owners of farms on which such manufacturing grade milk is produced, tenants and sharecroppers sharing in the proceeds of the sale of such manufacturing grade milk shall be entitled to cast one (1) vote in the referendum provided the producer is eighteen (18) years of age or older. Without limiting the previous sentence, each person whose name regularly appears on checks issued in payment for the sale of manufacturing grade milk is eligible to cast one (1) vote in the referendum regardless of the ownership of the farm upon which such manufacturing grade milk is produced and regardless of the ownership of the manufacturing grade milk dairy herd from which such manufacturing grade milk is obtained. Any persons who certify by signing the official mail out ballot stating that they are a producer of manufacturing grade milk shall be eligible to vote and have their ballot counted in the referendum.

Section 5. Voting. Voting will be by mail out ballot with the voter returning the signed and marked ballot to the Kentucky Department of Agriculture as determined in Section 6 of this regulation.

Section 6. Referendum Voting Period. Mail out ballots will be mailed to all manufacturing grade milk producers on November 9, 1981. The ballots must be signed, marked and returned to the Kentucky Department of Agriculture postmarked no later than November 30, 1981. These dates will be published by the Commissioner through the medium of the public press in the Commonwealth of Kentucky at least thirty (30) days before the holding of such referendum, and direct written notice thereof shall likewise be given to each County Extension Service Agent in any county covered by such referendum.

Section 7. Supervision of the Referendum and Duties of the Referendum Agent. The Commissioner shall provide the Referendum Agent with a copy of these rules and regulations to conduct said referendum. The Referendum Agent shall see that the official mail out ballots are mailed out and received back from the manufacturing grade milk producers on schedule as set forth in Section 6 of this regulation. The Referendum Agent shall determine by the signature and marking of the ballot if said ballot shall be counted in the referendum.

Section 8. Approved Ballot Forms. The Commissioner shall furnish the Referendum Agent with the approved official ballot forms. The ballot shall contain a certification statement to be signed by the manufacturing grade milk producer. Also, the ballot shall show the amount of the assessment the manufacturing grade milk producer is voting on.

Section 9. Custody of Ballots. The Referendum Agent shall have custody of the ballots that are returned to the Kentucky Department of Agriculture and keep the ballots in a secure place until such ballots may be counted.

Section 10. Confidential Information. All ballots cast, the identity of any person who voted, or the manner in which any person voted, and all information furnished to, compiled by, or in the possession of the Commissioner and the Referendum Agent shall be regarded as confidential. The Commissioner shall retain the records, the ballots, the results of the referendum, and all other information furnished to or compiled by the Commissioner in regard to the referendum for a period of six (6) months.

Section 11. Counting the Ballots. The counting of the ballots shall be December 3, 1981, in an area designated within the Kentucky Department of Agriculture by the Commissioner. The vote count shall be conducted by employees of the Kentucky Department of Agriculture, but the ADA and any organization actively engaged in the production of manufacturing grade milk in Kentucky may each have one (1) representative present during the counting of the ballots. Such organization must establish to the satisfaction of the Commissioner that its desire to observe the counting of the ballots is for a legitimate purpose.

Section 12. Announcement of the Referendum Results. Announcement of the results of the referendum will be made only by the Commissioner. The Referendum Agent or others who assist in the referendum shall not disclose any information in regard to the referendum. The Commissioner will announce the results within ten (10) days after the referendum.

ALBEN W. BARKLEY II, Commissioner

ADOPTED: September 1, 1981

RECEIVED BY LRC: September 1, 1981 at 11 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Alben W. Barkley II, Commissioner, Kentucky  
Department of Agriculture, Capital Plaza Tower, 7th  
Floor, Frankfort, Kentucky 40601.

## DEPARTMENT OF AGRICULTURE

302 KAR 1:050. Grade A milk.

RELATES TO: KRS 247.450 to 247.505

PURSUANT TO: KRS 13.082, 247.483

NECESSITY AND FUNCTION: KRS 247.483 authorizes the Commissioner to establish and determine the rules and regulations to conduct a referendum among producers of Grade A milk for the purpose of promoting and stimulating by research, market development and education, the increased production, use and sale, domestic and foreign, of Grade A milk and Grade A milk products.

Section 1. Definitions. As used in these rules and regulations, unless the context otherwise requires:

(1) "Commissioner" means the Commissioner of Agriculture.

(2) "Board" means the State Board of Agriculture.

(3) "Producer" means every person who produces Grade A milk and thereafter causes the same to be marketed.

(4) "New producer" means a producer who was not engaged in the business of producing Grade A milk at the time a referendum was conducted in accordance with the provisions in these rules and regulations.

(5) "Person" means any individual, corporation, partnership, association, cooperative, or other business entity.

(6) "Referendum agent" means an employee of the State Department of Agriculture under the direct control of the Commissioner of Agriculture.

(7) "Grade A milk" means milk from cows from Grade A producing herds.

(8) "ADA" means the American Dairy Association of Kentucky, Inc.

Section 2. Counties in Which Referendum Will Be Conducted. The Grade A milk referendum will be conducted in all counties where there are Grade A milk producers.

Section 3. List of Eligible Voters. The Commissioner shall prepare a list of all known persons eligible to vote in said referendum. The list shall be composed from the Bureau for Health Services and the Division of Livestock Sanitation. Two (2) ballots will be mailed to each Grade A milk farm residence. Another sheet will be included for the farm owner to submit any additional names and addresses of those who would be eligible to vote. The names on that list will then be mailed an official ballot to vote in the referendum.

Section 4. Who May Vote. Each person engaged in the production of Grade A milk on a commercial basis including the owners of farms on which such Grade A milk is produced, tenants and sharecroppers sharing in the proceeds of the sale of such Grade A milk shall be entitled to cast one (1) vote in the referendum provided the producer is eighteen (18) years of age or older. Without limiting the previous sentence, each person whose name regularly appears on checks issued in payment for the sale of Grade A milk is eligible to cast one (1) vote in the referendum regardless of the ownership of the farm upon which such Grade A milk is produced and regardless of the ownership of the Grade A dairy herd from which such Grade A milk is obtained. Any persons who certify by signing the official mail out ballot stating that they are a producer of Grade A milk shall be eligible to vote and have their ballot counted in the referendum.

Section 5. Voting. Voting will be by mail out ballot with the voter returning the signed and marked ballot to the Kentucky Department of Agriculture as determined in Section 6 of this regulation.

Section 6. Referendum Voting Period. Mail out ballots will be mailed to all Grade A milk producers on November 9, 1981. The ballots must be signed, marked and returned to the Kentucky Department of Agriculture postmarked no later than November 30, 1981. These dates will be published by the Commissioner through the medium of the public press in the Commonwealth of Kentucky at least thirty (30) days before the holding of such referendum, and direct

written notice thereof shall likewise be given to each County Extension Service Agent in any county covered by such referendum.

Section 7. Supervision of the Referendum and Duties of the Referendum Agent. The Commissioner shall provide the Referendum Agent with a copy of these rules and regulations to conduct said referendum. The Referendum Agent shall see that the official mail out ballots are mailed out and received back from the Grade A milk producers on schedule as set forth in Section 6 of this regulation. The Referendum Agent shall determine by the signature and marking of the ballot if said ballot shall be counted in the referendum.

Section 8. Approved Ballot Forms. The Commissioner shall furnish the Referendum Agent with the approved official ballot forms. The ballot shall contain a certification statement to be signed by the Grade A milk producer. Also, the ballot shall show the amount of the assessment the Grade A milk producer is voting on.

Section 9. Custody of Ballots. The Referendum Agent shall have custody of the ballots that are returned to the Kentucky Department of Agriculture and keep the ballots in a secure place until such ballots may be counted.

Section 10. Confidential Information. All ballots cast, the identity of any person who voted, or the manner in which any person voted, and all information furnished to, compiled by, or in the possession of the Commissioner and the Referendum Agent shall be regarded as confidential. The Commissioner shall retain the records, the ballots, the results of the referendum, and all other information furnished to or compiled by the Commissioner in regard to the referendum for a period of six (6) months.

Section 11. Counting the Ballots. The counting of the ballots shall be December 3, 1981, in an area designated within the Kentucky Department of Agriculture by the Commissioner. The vote count shall be conducted by employees of the Kentucky Department of Agriculture, but the ADA and any organization actively engaged in the production of Grade A milk in Kentucky may each have one (1) representative present during the counting of the ballots. Such organization must establish to the satisfaction of the Commissioner that its desire to observe the counting of the ballots is for a legitimate purpose.

Section 12. Announcement of the Referendum Results. Announcement of the results of the referendum will be made only by the Commissioner. The Referendum Agent or others who assist in the referendum shall not disclose any information in regard to the referendum. The Commissioner will announce the results within ten (10) days after the referendum.

ALBEN W. BARKLEY II, Commissioner

ADOPTED: September 1, 1981

RECEIVED BY LRC: September 1, 1981 at 11 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Alben W. Barkley II, Commissioner, Kentucky  
Department of Agriculture, Capital Plaza Tower, 7th  
Floor, Frankfort, Kentucky 40601.

## PUBLIC PROTECTION AND REGULATION CABINET Department of Alcoholic Beverage Control

### 804 KAR 1:100. General advertising practices.

RELATES TO: KRS 244.130

PURSUANT TO: KRS 13.082, 241.060

NECESSITY AND FUNCTION: KRS 244.130 permits this department to regulate the advertising of alcoholic beverages. This regulation is designed to regulate said advertising in a manner consistent with modern marketing practices and in conformance with relevant statutory provisions and legislative intent.

Section 1. No licensee shall advertise or cause to be advertised any alcoholic beverages or his place of business in any manner not in conformance with the statutes and regulations governing alcoholic beverages.

Section 2. Licensees may utilize outdoor advertising, provided, however, that no advertising by a manufacturer, producer, brewer, vintner, distributor or wholesaler pursuant to this section shall contain the name or business designation (DBA) or any reference whatsoever to any retail licensee.

Section 3. (1) Except as provided by subsection (2) of this section, no licensee shall advertise in material directed to the home or business of the consumer either by United States mail, personal delivery, or otherwise.

(2) Subsection (1) of this section shall not prohibit advertising in newspapers, magazines or periodicals having a general circulation among regular paying subscribers or patrons.

Section 4. (1) Except as provided by subsection (2) of this section, advertising novelties are permitted.

(2) No licensee shall require directly or indirectly the purchase or consumption of any alcoholic beverage as a condition for the sale, gift, or reduction in price of any advertising novelty.

Section 5. Licensees may advertise by means of radio and television.

Section 6. (1) Licensees may sponsor athletic and charitable events provided that the consumption or purchase of alcoholic beverages is not a requirement, directly or indirectly, for participation therein.

(2) Any licensee sponsoring or co-sponsoring an event described in subsection (1) of this section upon the premises of another licensee may advertise said event upon that licensed premises for thirty (30) days immediately preceding the event.

Section 7. No advertising pursuant to this regulation shall use the terms "free," "complimentary" or any other terms which infer or suggest special prices, reduced prices, give-aways or similar words of pecuniary appeal in relation to the sale of alcoholic beverages.

Section 8. No licensee shall advertise any product, service or activity which the licensee is prohibited by statute or regulation from selling, providing, or conducting.

Section 9. No licensee may advertise in any manner the



sale of distilled spirits and wine, by bottle or case, at a price below the minimum resale price.

RICHARD H. LEWIS, Commissioner

ADOPTED: September 9, 1981

APPROVED: JAMES TAYLOR, Acting Secretary

RECEIVED BY LRC: September 11, 1981 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Commissioner, Alcoholic Beverage Control Board,  
123 Walnut Street, Frankfort, Kentucky 40601.

#### **PUBLIC PROTECTION AND REGULATION CABINET Department of Alcoholic Beverage Control**

804 KAR 1:101. Repeal of 804 KAR 1:010, 804 KAR 1:020, 804 KAR 2:025, and 804 KAR 3:070.

RELATES TO: KRS 244.130, 244.140, 244.380, 244.450

PURSUANT TO: KRS 13.082, 241.060

NECESSITY AND FUNCTION: KRS 244.130 provides for the regulation of alcoholic beverage advertising by the Alcoholic Beverage Control Board. Regulations 804 KAR 3:070, 804 KAR 1:020, 804 KAR 2:025 and 804 KAR 1:010 were enacted to regulate various facets of alcoholic beverage advertising. These regulations are inconsistent with modern marketing practices and are being repealed with the view of updating alcoholic beverage advertising regulations.

Section 1. 804 KAR 3:070, Retail price advertising; 804 KAR 1:020, Outside signs, first and second class cities; 804 KAR 1:010, Inside signs; and 804 KAR 2:025, Novelties and specialties are hereby repealed.

RICHARD H. LEWIS, Commissioner

ADOPTED: September 9, 1981

APPROVED: JAMES TAYLOR, Acting Secretary

RECEIVED BY LRC: September 11, 1981 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Commissioner, Alcoholic Beverage Control Board,  
123 Walnut Street, Frankfort, Kentucky 40601.

#### **PUBLIC PROTECTION AND REGULATION CABINET Department of Alcoholic Beverage Control**

804 KAR 4:220. Riverboats.

RELATES TO: KRS 243.030(25), 243.040(10)

PURSUANT TO: KRS 13:082, 241.060

NECESSITY AND FUNCTION: KRS 243.030(25) and KRS 243.040(10) authorize the Alcoholic Beverage Control Board to issue such other special licenses as the Board may find necessary for the proper regulation and control of the traffic in alcoholic beverages. Although licenses have been provided for both airplanes and railroad cars, no such provision has been made for riverboats. The growth of excursion

riverboat traffic in recent years necessitates the adoption of a license to permit the retail sale of malt beverages, distilled spirits and wine by the drink for consumption on the licensed vessel.

Section 1. Subject to the conditions set forth in this regulation, a special license may be issued for the retail sale of distilled spirits, wine and malt beverages for consumption on the premises of any boat, or other vessel licensed by the United States Coast Guard to carry 100 or more passengers for hire on navigable waters in or adjacent to this state.

Section 2. (1) Each boat or vessel must have a regular place of mooring in a county of this state in which the sale of distilled spirits by the drink is legal.

(2) A boat or vessel which would otherwise qualify for a special license under the provisions of this regulation, but which has a regular place of mooring outside this state, may be licensed if said boat has an alternative regular place of mooring that qualifies under subsection (1) of this section.

Section 3. The license fee for this special riverboat license shall be \$600 per annum, and the fee shall be prorated as set forth in KRS 243.090(2). All such licenses shall expire at midnight June 30 of each year.

Section 4. The issuance of this license shall be at the discretion of the Distilled Spirits Administrator and the Malt Beverage Administrator.

Section 5. The licenses issued hereunder shall be non-quota licenses and shall not be transferable to other premises.

Section 6. Any time a boat or vessel licensed under the provisions of this regulation moors or makes landfall in a location other than its regular place of mooring, or alternate place of mooring as provided for by Section 2 of this regulation, all alcoholic beverages must be kept locked pursuant to the requirements of KRS 244.290 and 804 KAR 7:030.

Section 7. Except as provided herein, licenses issued under this regulation shall be governed by all the statutes and regulations governing licensed premises in the regular place of mooring or alternative place of mooring as contained in Section 2 of this regulation.

Section 8. Proceedings relative to application, renewal, suspension or revocation of these licenses shall be conducted in the same manner and extent as regular retail drink and retail malt beverage licenses.

RICHARD H. LEWIS, Commissioner

ADOPTED: September 9, 1981

APPROVED: JAMES TAYLOR, Acting Secretary

RECEIVED BY LRC: September 11, 1981 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Commissioner, Alcoholic Beverage Control Board,  
123 Walnut Street, Frankfort, Kentucky 40601.

**PUBLIC PROTECTION AND REGULATION CABINET**  
**Public Service Commission**

**807 KAR 5:054. Small power production and cogeneration.**

RELATES TO: KRS Chapter 278

PURSUANT TO: KRS 278.040(3)

**NECESSITY AND FUNCTION:** Under Title II of the Public Utility Regulatory Policies Act of 1978, the Federal Energy Regulatory Commission (FERC) was required to adopt rules to encourage cogeneration and small power production by requiring electric utilities to sell electricity to qualifying cogeneration and small power production facilities and purchase electricity from such facilities. Section 210(f) of this act requires the state regulatory authority with jurisdiction over electric utilities to implement the FERC rules. As the state regulatory authority for Kentucky, the Public Service Commission proposes to implement those rules.

**Section 1. General.** It is the purpose of this regulation to set forth the manner in which the Public Service Commission will discharge the duties conferred upon it by Title II of the Public Utility Regulatory Policies Act of 1978.

**Section 2. Definitions.** (1) "Commission" means the Kentucky Public Service Commission.

(2) "Qualifying facility" means a cogeneration facility as defined herein, construction of which was commenced on or after November 9, 1978, or a small power production facility as defined herein, construction or substantial renovation of which was begun on or after November 9, 1978, neither of which is owned in equity interest greater than fifty (50) percent by a person primarily engaged in generation of electric power other than as described in these rules.

(3) "Cogeneration facility" means equipment used to produce electricity and another form of useful energy which is used for industrial purposes or commercial heating or cooling purposes through the sequential use of input energy and which facility meets criteria at Title 18 CFR Part 292.203(b) and 292.205, as published in the Federal Register on March 20, 1980 (45 F.R. 17959) and herein incorporated by reference.

(4) "Small power production facility" means an arrangement of equipment for the production of electricity with capacity no greater than eighty (80) megawatts, which equipment is located within a one (1) mile radius on the same impoundment of water, and which equipment must be powered at last fifty (50) percent by biomass, waste, renewable resources, or any combination thereof and not more than twenty-five (25) percent coal or oil or natural gas or any combination thereof and which meets criteria at Title 18 CFR Part 292.204 as published in the Federal Register on March 20, 1980 (45 F.R. 17959) herein incorporated by reference.

(5) "Purchase" means the purchase of electric energy or capacity or both from a qualifying facility by an electric utility.

(6) "Sale" means the sale of electric energy or capacity or both by an electric utility to a qualifying facility.

(7) "Avoided costs" means the incremental costs to an electric utility of electric energy or capacity or both which, but for the purchase from the qualifying facility or facilities, such utility would generate itself or purchase from another source.

(8) "Interconnection costs" means the reasonable costs of connection, switching, metering, transmission, distribution, safety provisions and administrative costs incurred by the electric utility directly related to the installation and maintenance of the physical facilities necessary to permit interconnected operations with a qualifying facility, to the extent such costs are in excess of the corresponding costs which the utility would have incurred if it had not engaged in interconnected operations but instead had generated an equivalent amount of electric energy itself or purchased an equivalent amount of electric energy or capacity from other sources. Interconnection costs do not include any costs included in the calculation of avoided costs.

(9) "Supplementary power" means electric energy or capacity supplied by an electric utility, regularly used by a qualifying facility in addition to that which the facility generates itself.

(10) "Back-up power" means electric energy or capacity supplied by an electric utility to replace energy ordinarily generated by a facility's own generation equipment during an unscheduled outage of the facility.

(11) "Interruptible power" means electric energy or capacity supplied by an electric utility subject to interruption by the electric utility under specified conditions.

(12) "Maintenance power" means electric energy or capacity supplied by an electric utility during scheduled outages of the qualifying facility.

(13) "System emergency" means a condition on a utility's system which is liable to result in imminent significant disruption of service to customers or is imminently liable to endanger life or property.

**Section 3. Applicability.** This regulation shall apply to any electric utility subject to the jurisdiction of the Commission which purchases from or sells to any qualifying facility.

**Section 4. Criteria for Qualifying Facility.** (1) Criteria for qualification of small power production facilities and cogeneration facilities constructed on or after November 9, 1978, are the same as those adopted by the Federal Energy Regulatory Commission including Title 18 CFR Parts 292.203, 292.204, 292.205, and 292.206 as published in the Federal Register March 20, 1980 (45 F.R. 17959) and herein incorporated by reference.

(2) The qualifying status of small power production facilities and cogeneration facilities the construction of which was commenced prior to November 9, 1978, but which were not selling power to the interconnected utility under an existing contract as of November 9, 1978, will be determined under this regulation on a case-by-case basis.

(3) Small power production facilities and cogeneration facilities constructed prior to November 9, 1978, but which were selling power to their interconnected utility under an existing contract on that date will not be considered qualifying facilities. At the expiration of the power sales contract between a small power production or cogeneration facility and the electric utility, the Commission will determine the qualifying status of the facility under this regulation on a case-by-case basis.

**Section 5.** (1)(a) All electric utilities with annual retail sales greater than 500 million kilowatt hours shall provide data to the Commission from which avoided costs may be derived not later than May 31, 1982, and not less often than every two (2) years thereafter unless otherwise determined by the Commission.



(b) In the case of a utility required to purchase all of its electricity from a wholesale supplier by contract, the utility shall file the contracts under which its capacity and energy are purchased, in addition to data required by subsection (2) of this section. The data required under subsection (2) of this section shall be provided by the supplying utility.

(2) Each electric utility as described in subsection (1) of this section shall file with the Commission and shall maintain for public inspection the following data:

(a) The estimated avoided cost on the electric utility's system, solely with respect to the energy component, for various levels of purchases from qualifying facilities. Such levels of purchases shall be stated in blocks of not more than 100 megawatts for systems with peak demand of 1,000 megawatts or more, and in blocks equivalent to not more than ten (10) percent of the system peak demands for systems with peak demand of less than 1,000 megawatts. The avoided costs shall be stated on a cents per kilowatt-hour basis during daily, seasonal peak and off-peak periods, by year, for the current calendar year, and each of the next five (5) years.

(b) The electric utility's plan for the addition of capacity by amount and type, for purchases of firm energy and capacity, and for capacity retirements for each year during the succeeding ten (10) years.

(c) The estimated capacity costs at the completion of the planned capacity additions and planned capacity firm purchases, on the basis of dollars per kilowatt, and the associated energy cost of each unit, expressed in cents per kilowatt-hour. These costs shall be expressed separately for each individual unit and individual planned firm purchases.

(3) (a) Any data submitted by an electric utility beginning with the scheduled May 31, 1982, data shall be subject to review by the Commission.

(b) The electric utility has the burden of proof to justify the data it supplies.

**Section 6. Electric Utility Obligations.** (1) Each electric utility shall purchase any energy and capacity which is made available from a qualifying facility except as provided in subsections (2) and (3) of this section.

(2) The qualifying facility's right to sell power to the utility shall be curtailed in periods when purchases from qualifying facilities will result in costs greater than those which the utility would incur if it did not make such purchases but instead generated an equivalent amount of energy.

(3) During any system emergency, an electric utility may discontinue:

(a) Purchases from a qualifying facility if such purchases would contribute to such emergency; and/or

(b) Sales to a qualifying facility provided that such discontinuance is on a non-discriminatory basis.

(4) Any utility which invokes subsection (2) of this section shall provide adequate notice to the qualifying facility. In addition, the Commission may require the utility to furnish documentation within ten (10) working days after the suspension occurs. If the utility fails to provide adequate notice or incorrectly identifies such a period, it will be required to reimburse the qualifying facility for energy and/or capacity available to be supplied as if such a period had not occurred.

(5) Rates for sale. An electric utility shall sell power to a qualifying facility upon request except as provided in subsection (3)(b) of this section. The rates for sale must be

just and reasonable, in the public interest and non-discriminatory. Rates for sale which are based on accurate data and consistent system costing principles shall not be considered to discriminate against any qualifying facility to the extent that such rates apply to the utility's other customers with similar load or other similar cost-related characteristics. If a utility provides backup or supplementary power to a qualifying facility, then the costs associated with that capacity reservation are properly recoverable from the qualifying facility.

(6) Obligation to interconnect. (a) An electric utility is required to make any interconnection with a qualifying facility that is necessary for purchase and sale. Owners of qualifying facilities shall be required to pay for any additional transmission or distribution costs, including costs of metering, system protection, and safety equipment to the extent that such costs are in excess of those that the electric utility would have incurred if the qualifying facility's output had not been purchased. Payment shall be over a reasonable period of time and the terms of payment shall be a part of the contract between the electric utility and the qualifying facility.

(b) Each electric utility shall offer to operate in parallel with a qualifying facility, provided that the qualifying facility complies with applicable standards established in accordance with Section 7(6) of this regulation.

**Section 7. Purchase of Output from Qualifying Facilities.** (1) Qualifying facilities shall be permitted the option of either:

(a) Using the output of the qualifying facility to supply their power requirements and selling their surplus; or

(b) Simultaneously selling their entire output to the interconnecting utility while purchasing their own requirements from that utility.

(2) Rates for purchase of output of qualifying facility with design capacity of 100 kilowatts or less. Each electric utility shall prepare standard rates for purchases from qualifying facilities with a design capacity of 100 kilowatts or less. These rates shall be just and reasonable to the electric consumer of the utility, in the public interest and non-discriminatory. These rates shall be based on avoided costs and shall be subdivided into an energy component and a capacity component.

(a) Rates for power offered on an "as available" basis shall be based on the purchasing utility's avoided costs estimated at the time of delivery.

(b) Rates for power offered on all legally enforceable obligations shall be based at the option of the qualifying facility on either the avoided costs at the time of delivery or the avoided costs at the time the legally enforceable obligation is incurred. The capacity component shall be based on the supply characteristics of the qualifying facilities, and the aggregate capacity value of all 100 kilowatts or less facilities.

(3) Electric utilities shall design and offer a standard contract to qualifying facilities with a design capacity of 100 kilowatts or less. This contract shall be subject to the approval of the Commission.

(4) Rates for purchase of output of qualifying facility with design capacity over 100 kilowatts. Each electric utility shall provide a standard rate schedule for qualifying facilities with a design capacity over 100 kilowatts. The rate schedule shall be based on avoided costs which shall be subdivided into an energy component and a capacity component. These rates shall be used only as the basis for

negotiating a final purchase rate with qualifying facilities after proper consideration has been given to factors affecting purchase rates listed in subsection (5)(a) of this section. Negotiated rates shall be just and reasonable to the electric consumer of the utility, in the public interest and non-discriminatory. If the electric utility and qualifying facility cannot agree on the purchase rate, than the Commission shall determine the rate after a hearing.

(a) Rates for power offered on an "as available" basis shall be based on the purchasing utility's avoided costs estimated at the time of delivery.

(b) Rates for energy or capacity or both offered on a legally enforceable basis shall be based at the option of the qualifying facility on either the avoided costs at the time of delivery or the avoided costs at the time the obligation is incurred.

(5) Factors affecting rates for purchase for all qualifying facilities. In determining the final purchase rate, the following factors shall be taken into account:

(a) The availability of capacity or energy from a qualifying facility during the system daily and seasonal peak. The utility should consider for each qualifying facility the ability to dispatch, reliability, terms of contract, duration of obligation, termination requirements, ability to coordinate scheduled outages, usefulness of energy and capacity during system emergencies, individual and aggregate value of energy and capacity, and the shorter construction lead times associated with cogeneration and small power production.

(b) The ability of the electric utility to avoid costs due to deferral, cancellation, or downsizing of capacity additions, and the reduction of fossil fuel use.

(c) The savings resulting from line losses that would have existed in the absence of purchases from a qualifying facility.

(6) Utility safety and system protection requirements. The qualifying facility shall provide adequate equipment to insure the safety and reliability of interconnected operations. This equipment shall be designed to protect the interconnect operations between the qualifying facility and the electric utility grid. If the electric utility and qualifying facility cannot agree on reasonable protection, then the qualifying facility may apply to the Commission for its determination of adequate system protection.

(7) Additional services to be provided to qualifying facilities. Upon request of a qualifying facility each electric utility shall provide supplementary power, backup power, maintenance power, and interruptible power. The Commission may waive this requirement if the electric utility demonstrates that compliance with it would result in impairing its ability to render adequate service to its other customers or would place an undue burden on it.

(8) Wheeling. The electric utility may wheel power to a third party if the qualifying facility approves. This provision shall not eliminate the responsibility of the interconnected electric utility to purchase power from the qualifying facility if the qualifying facility does not approve. The third party which agrees to purchase the power shall pay its avoided cost connected with the transmission of this power adjusted for line losses.

(9) This regulation is not intended to restrict voluntary agreements between qualifying facilities and electric utilities. All contracts between qualifying facilities and electric utilities shall be provided to the Commission for its review.

(10) Disputes. The Commission's inquiry and deter-

mination will be limited to those parts of a proposed contract which are in dispute.

MARLIN M. VOLZ, Chairman

ADOPTED: September 14, 1981

APPROVED: JAMES B. TAYLOR, Acting Secretary

RECEIVED BY LRC: September 14, 1981 at 2:45 p.m.

PUBLIC HEARING: A public hearing will be held at 9 a.m. EDT October 15, 1981, at the Commission's offices, 730 Schenkel Lane, Frankfort, Kentucky 40601.

## DEPARTMENT FOR HUMAN RESOURCES

### Bureau for Health Services

#### Certificate of Need and Licensure Board

**902 KAR 20:008. Health facilities and health service; licensure and fee schedule.**

RELATES TO: KRS 216B.010 to 216B.130, 216B.990(1),(2)

PURSUANT TO: KRS 13.082, 216B.040, 216B.105(3)

NECESSITY AND FUNCTION: KRS 216B.040 and 216B.105(3) mandate that the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board regulate health facilities and health services. This regulation provides for the requirements for obtaining a license to operate a health facility or health service and establishes the fee schedule for a license.

Section 1. Licenses. (1) No person shall operate any health facility or health service in this Commonwealth without first obtaining the appropriate license therefor.

(2) The license shall be conspicuously posted in a public area of the facility.

(3) All applications for licensure shall be filed with the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board, 275 East Main Street, Frankfort, Kentucky 40621.

(4) All applicants for licenses shall, as a condition precedent to licensure, be in compliance with the applicable regulations relating to the particular health facility or health service.

(5) All licenses shall expire on December 31 following the date of issuance unless otherwise expressly provided in the license certificate.

(6) Licenses may be renewed upon:

(a) Payment of the prescribed fee;

(b) Compliance with the applicable provisions of the Certificate of Need and Licensure Board's regulations; and

(c) Submission of reports of health services provided, health manpower employed and utilization of health services as required by the Board.

(7) Each license to operate shall be issued only for the person or persons and premises, including the number of beds (if applicable), named in the application and shall not be transferable. A new application shall be filed in the event of change of ownership. Change of ownership for licenses shall be defined as follows:

(a) Sole proprietorship: Where a health facility/service is owned by a single individual, a transfer of any part of the title to the facility/service to another person or firm shall constitute a change in ownership.

(b) Partnership: Where a health facility/service is owned by a partnership, the addition, deletion or the substitution of any individual or transfer of any part of the title to the facility/service to another person or firm shall constitute a change in ownership.

(c) Closely held corporation: Where a health facility/service is owned by a corporation of ten (10) or fewer stockholders, any change of shares of stock or transfer of any part of the title to the facility/service to another person or firm shall constitute a change in ownership.

(d) Proprietary corporation: Where the health facility/service is owned by a corporation of more than ten (10) stockholders, any transfer of any part of the title to the facility/service to another person or firm as well as any consolidation with another corporation or change of name or transfer of any part of the title to the facility/service shall constitute a change in ownership.

(e) Lease: Where any person or firm leases the health facility/service or any part thereof to another person or firm it shall constitute a change in ownership.

(8) Upon the filing of a new application for a license because of change of ownership, the new license shall be automatically issued for the remainder of the current licensure period. No additional fee will be charged for the remainder of the licensure period.

(9) There shall be full disclosure to the licensure board of the name and address (and any changes) of:

(a) Each person having (directly or indirectly) ownership interest of ten (10) percent or more in the facility;

(b) Each officer and director of the corporation, where a facility is organized as a corporation; and

(c) Each partner, where a facility is organized as a partnership.

Section 2. Fee Schedule. (1) Fees for review of plans and specifications for construction of health facilities shall be as follows:

(a) Hospitals' Plans and Specifications Review (initial through final): 25 per sq. ft. x \$.001, \$1,500 maximum;

(b) All other health facilities' Plans and Specifications Review (initial through final): 25 per sq. ft. x \$.001, \$800 maximum.

(2) Annual fees. The annual licensure fee (including renewals) for health services shall be as follows:

(a) Ambulatory surgical center: \$100;

(b) Community mental health and mental retardation center: \$500 per catchment area;

(c) Day health care: \$50;

(d) Emergency care ambulance service (per service): \$50;

(e) Family care homes: \$25;

(f) Group homes, mentally retarded/developmentally disabled: \$50;

(g) Health maintenance organizations: \$3 per each 100 patients;

(h) Home health agencies: \$50;

(i) Homemaker: \$50;

(j) Hospice: \$10;

1. Accredited hospital: \$3 per bed, \$100 minimum, \$1,000 maximum;

2. No-accredited hospital: \$5 per bed, \$100 minimum, \$1,000 maximum;

(k) Intermediate care facilities: \$5 per bed, \$100 minimum, \$1,000 maximum;

(l) Medical alcohol emergency detoxification services: \$5 per bed;

(m) Nursing home: \$5 per bed, \$100 minimum, \$1,000 maximum;

(n) Outpatient clinics and ambulatory care facilities: \$100;

(o) Personal care home: \$2 per bed, \$50 minimum, \$500 maximum;

(p) Primary care center: \$100, \$15 per satellite;

(q) Rehabilitation (outpatient): \$50;

(r) Renal dialysis: \$10 per station;

(s) Rural health clinics: \$50;

(t) Skilled nursing facilities: \$5 per bed, \$100 minimum, \$1,000 maximum.

Section 3. 902 KAR 20:007E, License and fee schedule, is hereby repealed.

FRANK W. BURKE, SR., Chairman

ADOPTED: September 9, 1981

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: September 15, 1981 at 3:45 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Frank W. Burke, Sr., Chairman, Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board, 275 East Main Street, Frankfort, Kentucky 40621.

## DEPARTMENT FOR HUMAN RESOURCES

### Bureau for Health Services

#### Certificate of Need and Licensure Board

902 KAR 20:018. Operation and services; renal dialysis facilities.

RELATES TO: KRS 216B.010 to 216B.130, 216B.990(1),(2)

PURSUANT TO: KRS 13.082, 216B.040, 216B.105(3)

NECESSITY AND FUNCTION: KRS 216B.040 and 216B.105(3) mandate that the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board regulate health facilities and health services. This regulation provides for the licensure requirements for the operation and services of renal dialysis facilities.

Section 1. Scope of Operation and Services. Renal dialysis facilities are freestanding or hospital based, public or private facilities that are established, equipped and operated to provide outpatient dialysis and related services to end stage renal disease patients.

Section 2. Definitions. As used in this regulation, the following terms shall have the meanings set forth below: (1) "Administrator" means a person who holds a baccalaureate degree or its equivalent and has at least one (1) year of experience in an ESRD unit.

(2) "Qualified dietician" means a person who:

(a) Is registered by the American Dietetic Association and has at least one (1) year of experience in clinical nutrition; or

(b) Has a baccalaureate or advanced degree with major studies in food and nutrition or dietetics and has at least one (1) year of experience in clinical nutrition.

(3) "End stage renal disease (ESRD)" means that stage of renal impairment which is virtually always irreversible and permanent, and requires dialysis or kidney transplantation to ameliorate uremic symptoms and maintain life.

(4) "Facility" means renal dialysis facility.

(5) "Medical director" means a licensed physician who is a board eligible or certified nephrologist, internist, or pediatrician with at least twelve (12) months experience or training in the case of ESRD patients.

(6) "Qualified medical record practitioner" means a person who has graduated from a program for medical record administrators or technicians accredited by the Council on Medical Education of the American Medical Association and the American Medical Record Association; and who is certified as a registered records administrator or an accredited record technician by the American Medical Record Association.

(7) "Qualified registered nurse" means a nurse who is licensed to engage in registered nursing practice pursuant to KRS 314.041; and

(a) Has at least twelve (12) months experience in clinical nursing and an additional six (6) months of experience in nursing care of ESRD patients; or

(b) Has eighteen (18) months experience in nursing care of ESRD patients. At least three (3) months of the total eighteen (18) months required ESRD experience shall be in training patients in self-care if the nurse is responsible for self-care dialysis training.

(8) "Qualified social worker" means a social worker licensed to practice in Kentucky, who has completed a course of study with specialization in clinical practice at, and holds a masters degree from, a graduate school of social work accredited by the Council on Social Work Education.

(9) "Renal dialysis center" means a hospital unit which is approved to furnish the full spectrum of diagnostic, therapeutic (including inpatient dialysis furnished directly or under arrangement), and rehabilitative services, except renal transportation, required for the care of ESRD dialysis patients.

(10) "Renal transplantation center" means a hospital unit which is approved to furnish directly, transplantation and other medical and surgical specialty services required for the care of the ESRD transplant patients, including inpatient dialysis furnished directly or under arrangement. A renal transplantation center may also be a renal dialysis center.

(11) "Self-care dialysis training" means a program which trains ESRD patients or their helpers, or both, to perform dialysis.

### Section 3. Administration and Operation. (1) Licensee:

(a) The licensee shall be legally responsible for the operation of the facility and for compliance with federal, state, and local laws and regulations pertaining to the operation of the facility.

(b) The licensee shall develop written policies for the administration and operation of the facility. Policies shall include:

1. Personnel practices and procedures;
2. Job descriptions for each level of personnel including authority and responsibilities of each classification;
3. Qualifications for medical staff membership;
4. Medical care practices and procedures;
5. Prevention and control of hepatitis, peritonitis and other infections including appropriate procedures for surveillance and reporting of infections, housekeeping, handling and disposal of waste and contaminants, and sterilization and disinfection, including the sterilization and maintenance of equipment; and
6. Procedures to be followed in medical and non-medical emergencies, including fires, natural disasters and equipment failures.

(2) Administrator. The facility shall have an administrator who is responsible for the management of the facility including enforcement of written policies and protection of patient's personal and property rights.

(3) The facility shall have a permanent site of operation and maintain regularly scheduled hours during which dialysis services are available.

(4) Affiliation agreements. A renal dialysis facility shall have affiliation agreements or arrangements in writing with renal dialysis centers and renal transplantation centers which provide the following:

(a) In the case of renal transplantation centers agreements shall provide for medical and surgical specialty services required for the care of ESRD patients, including transplantation and inpatient dialysis furnished directly or under arrangement; and

(b) In the case of renal dialysis centers affiliation agreements shall provide the basis for effective working relationships under which inpatient hospital care or other hospital services are available promptly to the dialysis facility's patients when needed. The agreements between renal dialysis facilities and renal dialysis centers shall provide in writing that:

1. Timely transfer or referral of patients between the renal dialysis facility and the renal dialysis center shall be effected whenever it is determined to be medically appropriate by the physicians at the facility and the center.

2. Patient care plans and medical and other information necessary or useful in the care and treatment of patients transferred or referred between facilities shall be interchanged within one (1) working day of the transfer or referral.

(5) Personnel. An adequate number of personnel shall be present to meet the needs of patients including medical and non-medical emergencies.

(a) Medical staff. The facility shall have an organized medical staff which shall be responsible for the quality of all medical care provided to patients in the facility and for the ethical and professional practices of its staff.

(b) There shall be a medical director responsible for supervising the staff of the facility. The medical director shall be a full or part-time staff member and in his absence a similarly qualified medical staff member shall be either in the unit or immediately available in the community whenever patients are being dialyzed.

(c) The facility shall employ at least one (1) full-time qualified registered nurse who is responsible for nursing services. Whenever patients are undergoing dialysis, a nurse experienced in rendering ESRD care shall be on duty to oversee patient care.

(d) The facility shall employ or have contracts for services with the following ancillary personnel:

1. A qualified dietician;
2. A qualified medical records practitioner;
3. A qualified social worker.

Section 4. Services. (1) Each patient is admitted on the medical authority of, and is under the supervision of, the medical director. When absent from the facility the medical director shall designate a qualified physician to be responsible for admission and supervision of patients.

(2) Laboratory services. All renal dialysis facilities shall have access to laboratory facilities and services (other than the specialty of tissue pathology and histocompatibility testing) to meet the needs of the ESRD patients. All services shall be performed either by a laboratory in a licensed hospital or by a laboratory licensed by the Department for Human Resources pursuant to KRS Chapter 333 and regulations promulgated thereunder.

(3) Medical records:

(a) A current and complete medical record shall be maintained for each patient.

(b) Organization. The supervisor of medical records shall be responsible for the proper documentation, completion and preservation of all the facility's medical records.

(c) Indexing. Medical records shall be properly indexed and systematically filed.

(d) Ownership. Records of patients shall not be removed from the facility's custody except in accordance with a court order or subpoena.

(e) Confidentiality. Records of patients shall be available for inspection only to members of the professional staff, the patient, or an authorized individual acting in behalf of the patient. This shall not preclude the record being used for research or statistical investigation, providing that the patient's anonymity is protected.

(f) Content. Complete medical records shall be prepared for all patients admitted to the facility. A minimum medical record shall include at least the following information:

1. Name and address of the patient, and guardian or committee, if any;
2. Identification data (name, address, age, sex, marital status);
3. Date of admission;
4. Date of transfer to renal transplantation center if applicable;
5. Referring and attending physicians' name;
6. History and physical examination record prior to the initial treatment;
7. Treatment plans;
8. Records of special examinations, consultations, and clinical, laboratory, and x-ray services;
9. Doctor's orders, dated and signed;
10. Nurses' notes;
11. Dialysis chart including pulse, respiration and blood pressure;
12. Social evaluation and plan developed by the social worker; and
13. Orders for medication and treatment written in ink and signed by the prescribing physician.

(g) Retention of records. All medical records shall be retained for a minimum of five (5) years from the date the patient was last seen in the facility, or in the case of a minor, three (3) years after the patient reaches the legal age of majority, whichever is longest.

(4) Pharmaceutical services:

(a) The facility shall have provisions for promptly obtaining prescribed drugs and biologicals from licensed pharmacies.

(b) The facility shall provide appropriate methods and procedures for storage, control and administering of drugs and biologicals.

(c) All medications shall be administered by licensed medical or nursing personnel in accordance with the Medical and Nurse Practice Acts. The medical record shall include a record of each dose administered including date and time of administration, type of medication, dosage, method of administration, name of physician who prescribed the medication, and name of the person who administered the medication.

(5) Social services. The qualified social worker shall be responsible for each patient's social evaluation and treatment, participating in team review of patient progress and recommending changes in treatment based on the patient's current social needs, providing casework and group work services to patients and their families, financial advice, referrals for vocational rehabilitation, and for identifying

community social agencies and other resources and assisting patients and their families to utilize them.

(6) Dietetic services. The nutritional needs of each patient shall be evaluated by the attending physician and the qualified dietician. The dietician, in consultation with the attending physician, shall be responsible for assessing the nutritional and dietetic needs of each patient, recommending therapeutic diets, counseling patients and their families on prescribed diets, and monitoring adherence and response to diets.

(7) Self-care dialysis support services. Renal dialysis facilities which offer self-care dialysis training shall make the following services available either directly, under agreement, or by arrangement with another ESRD facility upon completion of the patients' training:

- (a) Monitoring the patients' home adaptation, including provisions for visits to the home or the facility;
- (b) Consultation for the patient with a qualified social worker and a qualified dietician;
- (c) A recordkeeping system which assures continuity of care;
- (d) Installation and maintenance of dialysis equipment;
- (e) Testing and appropriate treatment of the dialysis water;
- (f) Ordering of supplies as needed; and
- (g) Infection control (i.e., control of hepatitis and peritonitis).

Section 5. Physical Environment. (1) Building and equipment:

(a) All electrical and other equipment used in the facility shall be maintained free of defects which could be a potential hazard to patients or personnel. There shall be a program of preventive maintenance of equipment used in dialysis and related procedures in the facility.

(b) Water used for dialysis purposes shall be analyzed periodically and treated as necessary to maintain a continuous water supply that is biologically and chemically compatible with acceptable dialysis techniques. Records of test results and equipment maintenance shall be maintained at the facility.

(2) Infection control:

(a) All patients to be dialyzed shall be tested for hepatitis prior to the initial dialysis and every two (2) months thereafter. If dialysis of confirmed carriers of hepatitis is performed in the facility a unit which is adequately isolated from other units in the facility and only used for hepatitis carriers shall be used. Confirmed carriers of hepatitis may also be dialyzed in an adjacent or separate facility utilized only for hepatitis carriers, or in the patients' home.

(b) All facilities utilizing a central-batch delivery system shall provide either on the premises or through affiliation agreements sufficient individual delivery systems for the treatment of any patient requiring special dialysis solutions.

(3) Contamination prevention. The facility shall employ appropriate techniques to prevent cross contamination between the unit and adjacent hospital or public areas including, but not limited to, food service areas, laundry, disposal of solid waste and blood-contaminated equipment, and disposal of contaminants into sewage systems. Waste storage and disposal shall be carried out in accordance with applicable local laws and acceptable public health standards.

Section 6. 902 KAR 20:017E, Renal dialysis facilities, is hereby repealed.

FRANK W. BURKE, SR., Chairman

ADOPTED: September 9, 1981

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: September 15, 1981 at 3:45 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Frank W. Burke, Sr., Chairman, Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board, 275 East Main Street, Frankfort, Kentucky 40621.

**DEPARTMENT FOR HUMAN RESOURCES**  
Bureau for Health Services  
Certificate of Need and Licensure Board

902 KAR 20:031. Facility specifications; personal care homes.

RELATES TO: KRS 216B.010 to 216B.130, 216B.990(1),(2)

PURSUANT TO: KRS 13.082, 216B.040, 216B.105(3)

NECESSITY AND FUNCTION: KRS 216B.040 and 216B.105(3) mandate that the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board regulate health facilities and health services. This regulation provides for the licensure requirements for the facility specifications for the construction, alteration and maintenance of personal care homes.

Section 1. Definitions. (1) "Board" means the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board.

(2) "Certificate of need" means an authorization by the Board to proceed with any acquisition, initiation, construction or expansion pursuant to KRS Chapter 216B.

(3) "License" means an authorization issued by the Board for the purpose of operating a personal care home and offering personal care service.

(4) "Licensure agency" means the Division for Licensing and Regulation in the Office of the Inspector General, Department for Human Resources.

Section 2. Preparation and Approval of Plans and Specifications. After receiving certificate of need from the Board, the following procedures shall be followed:

(1) Before construction is begun for the erection of new buildings or alterations to existing buildings or any changes in facilities, for a personal care facility, the licensee or applicant shall submit plans in the detail specified in Section 3 of this regulation to the licensure agency for approval.

(2) All architectural, mechanical and electrical drawings shall bear either the seal of an architect registered in the Commonwealth of Kentucky or the seal of a professional engineer registered in the Commonwealth of Kentucky, or both.

(3) Drawings shall not exceed thirty-six (36) inches by forty-six (46) inches when trimmed.

(4) All such plans and specifications must be approved by the licensure agency prior to commencement of construction of new buildings or alterations of existing buildings.

(5) Plans and specifications in specific detail as required by the Kentucky Building Code shall be submitted together with architectural and/or engineering stamps as required by KRS Chapters 322 and 323, to the Department of Housing, Buildings and Construction for determining compliance with the Kentucky Building Code. All such plans and specifications must be approved by the Department of Housing, Buildings and Construction, and appropriate local building permits shall be obtained prior to commencement of construction.

Section 3. Submission of Plans and Specifications. (1) First stage; schematic plans (Required only if facility exceeds 100 beds).

(a) Single line drawings of each floor shall show the relationship of the various departments or services to each other and the room arrangement in each department. The name of each room shall be noted. Drawings shall include typical resident room layouts (scaled  $\frac{1}{4}" = 1'0"$ ) with dimensions noted. The proposed roads and walks, service and entrance courts, parking and orientation shall be shown in a plot plan.

(b) If the project is an addition, or is otherwise related to existing buildings on the site, the plans shall show the facilities and general arrangements of those buildings.

(2) Second stage; preliminary plans. Preliminary sketch plans shall include the following:

(a) Architectural: Plans of basement and floors.

(b) Outline specifications:

1. General description of the construction, including interior finishes, types and locations of acoustical material, and special floor covering;

2. Description of the air-conditioning, heating, and ventilation systems and their controls, duct and piping systems; and dietary, laundry, and other special equipment;

3. General description of electrical service including voltage, number of feeders, and whether feeders are overhead or underground.

(3) Third stage; contract documents:

(a) Working drawings. Working drawings shall be complete and adequate for bid, contract, and construction purposes. Drawings shall be prepared for each of the following branches of the work: architectural, structural, mechanical, and electrical. They shall include the following:

1. Architectural drawings:

a. Approach plan showing all new topography, newly established levels and grades, existing structures on the site (if any), new building structures, roadways, walks, and parking areas;

b. Plan of each basement, floor and roof;

c. Elevations of each facade;

d. Sections through building;

e. Required scale and full-size details;

f. Schedule of doors, windows, and room finishes;

g. Equipment. Location of all fixed equipment. Layout of typical and special rooms indicating all fixed equipment and major items of movable equipment. Equipment not included in contract shall be so indicated;

h. Conveying systems. Details of construction, machine and control spaces necessary, size and type of equipment, and utility requirements for the following: dumbwaiters: electric, hand, hydraulic; elevators: freight, passenger, patient; loading dock devices; pneumatic tube systems.

2. Structural drawings:

a. Plans for foundations, floors, roofs, and all in-



intermediate levels with sizes, sections, and the relative location of the various structural members;

- b. Dimensions of special openings;
- c. Details of all special connections, assemblies, and expansion joints.

3. Mechanical drawings:

a. Heating, steam piping, and air-conditioning systems: radiators and steam heated equipment, such as warmers and steam tables; heating and steam mains and branches with pipe sizes; diagram of heating and steam risers with pipe sizes; sizes, types, and capacities of boilers, furnaces, hot water heaters with stokers, oil burners, or gas burners; pumps, tanks, boiler breeching, and piping, and boiler room accessories; air-conditioning systems with required equipment, water and refrigerant piping and ducts; supply and exhaust ventilation systems with heating/cooling connections and piping; air quantities for all room supply and exhaust ventilating duct openings.

b. Plumbing, drainage, and standpipe systems. Size and elevation of: street sewer, house sewer, house drains, street water main, and water service into the building. Location and size of soil, waste, and water service with connections to house drains, clean-outs, fixtures, and equipment. Size and location of hot, cold, and circulating branches, and risers from the service entrance, and tanks; riser diagram of all plumbing stacks with vents, water risers, and fixture connections. Standpipe and sprinkler systems where required; all fixtures and equipment that require water and drain connections.

4. Electrical drawings:

a. Electric service entrance with switches and feeders to the public service feeders, characteristics of the light and power current, transformers and their connections if located in the building;

b. Location of main switchboard, power panels, light panels, and equipment. Diagram of feeders and conduits with schedule of feeder breakers or switches;

c. Light outlets, receptacles, switches, power outlets, and circuits;

d. Telephone layout showing service entrance, telephone switchboard, strip boxes, telephone outlets, and branch conduits;

e. Nurses' call systems with outlets for residents' beds and restrooms; duty station, door signal light and wiring diagrams (this is optional but required in all higher levels of care);

f. Emergency electrical system with outlets, transfer switch, sources of supply, feeders, and circuits;

g. All other electrically operated systems and equipment.

(b) Specifications. Specifications shall supplement the drawings to fully describe types, sizes, capacities, workmanship, finishes and other characteristics of all materials and equipment and shall include:

- 1. Cover or title sheet;
- 2. Index;
- 3. Sections describing materials and workmanship in detail for each class of work;

4. General conditions, which must contain the following requirements: Access to the work. Representatives of the appropriate state agencies will have access at all reasonable times to the work wherever it is in preparation or progress, and the contractor shall provide proper facilities for such access and inspection.

Section 4. Compliance with Building Codes, Ordinances and Regulations. (1) This section may be administered independently from other sections of this regulation.

ministered independently from other sections of this regulation.

(2) General. Nothing stated herein shall relieve the sponsor from compliance with building codes, ordinances, and regulations which are enforced by city, county, or state jurisdictions.

(3) The following requirements shall apply where applicable and as adopted by the respective agency authority:

(a) Requirements for safety pursuant to 815 KAR 10:020, as amended.

(b) Requirements for plumbing pursuant to 815 KAR 20:010-190, as amended.

(c) Requirements for air contaminants for incinerators pursuant to 401 KAR 59:020 and 401 KAR 61:010.

(d) Requirements for elevators pursuant to 803 KAR 4:010.

(e) Requirements for making buildings and facilities accessible to and usable by the physically handicapped, pursuant to KRS 198B.260 and regulations promulgated thereunder.

(4) Prior to occupancy, the facility shall have final approval from appropriate agencies.

(5) All facilities shall be currently approved by the Fire Marshal's Office in accordance with the Life Safety Code before relicensure is granted by the licensure agency.

Section 5. Facility Requirements and Special Conditions. (1) Facilities shall be available to the public, staff, and residents who may be physically handicapped with special attention given to ramps, drinking fountain height, mirrors, etc.

(2) At least sixty-six (66) percent of the beds in the facility shall be located in rooms designed for one (1) or two (2) beds.

(3) Access to the facility shall be by means of a paved or gravel roadway which shall be available for use by traffic prior to a license being issued to a facility for occupancy.

Section 6. Resident Unit. The following shall be included: (1) Resident rooms. Each room shall meet the following requirements:

(a) Maximum room capacity: four (4) residents.

(b) Resident rooms shall be designed to permit not less than a three (3) foot space between beds, and at least a three (3) foot space between the side of the bed and the nearest wall, fixed cabinet, or heating/cooling unit. Beds shall be at least thirty-six (36) inches wide. A minimum of three (3) feet is required between the foot of the bed and opposite wall or foot of opposite bed in multibed rooms.

(c) Windows. All resident rooms shall have windows opening to the outside. The sill shall not be higher than three (3) feet above the floor and shall be above grade. Window area shall be at least eight (8) percent of resident room floor area.

(d) Lavatory. In single and two (2) bed rooms with a private toilet room, the lavatory may be located in the toilet room. Where two (2) residents' rooms share a common toilet, a lavatory shall be provided in each resident room.

(e) Wardrobe or closet for each resident. Minimum clear dimensions: one (1) foot and ten (10) inches deep by one (1) foot and eight (8) inches wide with full length hanging space; provide clothes rod and shelf.

(f) In multibed rooms a method of assuring visual privacy for each resident shall be provided.

(2) Resident toilet and bathing areas for existing facilities.

(a) Where a centralized bathing area is used, the facility shall provide for each sex on every floor the following: one (1) shower stall or one (1) bathtub for each twelve (12) residents or major fraction thereof is required. One (1) shower stall shall be designed for wheelchair use.

(b) Where a centralized toilet area is used, the facility shall provide for each sex on every floor the following: one (1) toilet for each eight (8) residents or fraction thereof and one (1) lavatory for each sixteen (16) residents or fraction thereof is required. Toilets must be separated by a permanent partition and at least one (1) toilet for each sex must be designed for wheelchair use.

(c) The centralized bathing and centralized toilet area may be combined into one (1) location provided provision is made for the privacy of sexes.

(d) Grab bars or patient lift with a safety device shall be provided at all tubs. Grab bars shall be provided at all shower stalls and toilets.

(3) Service areas for each floor. The size and location of each service area will depend on the maximum number of residents the floor was designed for and shall include:

(a) Duty station. An adequate centralized area must be provided for charting and other required administrative functions.

(b) Staff lounge area. The area shall have personal storage space and a toilet room for staff.

(c) Visitors toilet room. The home shall provide a toilet room for visitors. The staff toilet room may serve as the visitors toilet room if marked and accessible.

(d) Medication area, with sink, refrigerator, locked storage and facilities for preparation of medication. Controlled substances locker must be under double lock.

(e) Clean linen storage. Enclosed storage area.

(f) Janitor's closet. Storage of housekeeping supplies and equipment. Floor receptor or service sink.

(4) Residents' dining, TV viewing, and recreation areas.

(a) The total areas set aside for these purposes shall be not less than thirty (30) square feet per bed for the first fifty (50) beds and twenty (20) square feet per bed for all beds in excess of fifty (50).

(b) Storage shall be provided for recreational equipment and supplies (such as wall cabinets or closets).

Section 7. Dietary Department. If a commercial service will be used or meals will be provided by an adjacent hospital, dietary areas and equipment shall be designed to accommodate the requirements for sanitary, efficient and safe storage, processing, and handling, otherwise the following shall be provided:

(1) Food preparation center. Provide a lavatory but do not provide a mirror.

(2) Food serving facilities to accommodate residents and staff.

(3) Dishwashing and potwashing facilities. Dish and utensil washing equipment will be used that will result in sanitized serveware and will prevent recontamination.

(4) Refrigerated storage shall accommodate a three (3) day supply minimum.

(5) Dry storage shall accommodate a three (3) day supply minimum.

(6) Food carts. If the home uses food carts, space shall be provided in the kitchen or in a separate storage area for the cleaning and storage of food carts.

(7) Janitor's closet. Storage for housekeeping supplies and equipment; floor receptor or service sink.

(8) A toilet room conveniently accessible to the dietary department. If a toilet room is built in this department, it

must have two (2) door separation from food preparation area or dining areas.

Section 8. Administration Department. Sufficient space shall be allotted for administrative operations. The areas may include: an administrator's office, business office, information center, admitting and medical records.

Section 9. Laundry. The following shall be included: (1) Soiled linen room.

(2) Clean linen room.

(3) Lavatory. Accessible from soiled, clean, and processing rooms.

(4) Laundry processing room and storage for laundry supplies. (Need not be provided if laundry is processed outside the facility.)

Section 10. Storage and Service Areas. The following shall be included: (1) Sufficient storage space shall be provided.

(2) Engineering service and equipment areas. The following shall be provided where applicable:

(a) Boiler room;

(b) Mechanical and electrical equipment room(s). (Can be combined with boiler room);

(c) Storage room for housekeeping equipment. (Need not be provided if space is available in janitor's closets or elsewhere);

(d) Refuse area, for holding trash prior to disposal, shall be located convenient to service entrance.

Section 11. Details and Finishes. A high degree of safety for the occupants in minimizing the incidence of accidents shall be provided. Hazards such as sharp corners shall be avoided. All details and finishes shall meet the following requirements:

(1) Details:

(a) Handrails shall be provided on both sides of corridors used by residents in personal care with a clear distance of one and one-half (1½) inches between handrail and wall.

(b) All doors opening onto corridors shall be swing-type except elevator doors. Alcoves and similar spaces which generally do not require doors are excluded from this requirement.

(c) All doors to resident room toilet rooms shall swing outward or shall be equipped with hardware which will permit access in any emergency.

(d) Thresholds and expansion joint covers, if used, shall be flush with the floor.

(e) Grab bars and accessories in toilet, shower, and bathrooms shall have sufficient strength and anchorage to sustain a load of 250 pounds for five (5) minutes.

(f) Lavatories intended for use by residents shall be installed to permit wheelchairs to slide under.

(g) Mirrors shall be arranged for convenient use by residents in wheelchairs as well as by residents in standing position.

(h) Towel rack or dispensers shall be provided at all lavatories and sinks used for handwashing.

(i) Ceiling heights:

1. Boiler room. Not less than two (2) feet and six (6) inches above the main boiler header and connecting piping with adequate headroom under piping for maintenance and access;

2. Corridors, storage rooms, residents' toilet room, and



other minor rooms. Not less than seven (7) feet and six (6) inches;

3. All other rooms. Not less than eight (8) feet.

(k) Boiler room, food preparation centers, and laundries shall be insulated and ventilated to prevent any floor surface above from exceeding a temperature of eighty-five (85) degrees Fahrenheit.

(l) Noise reduction criteria. The ceilings of the following areas shall be designed to reduce noise transmission:

1. Corridors in resident areas;
2. Work areas such as utility rooms;
3. Lobbies and recreation areas.

(m) Special attention shall be given to sound transmission from boiler rooms, mechanical rooms, and kitchen, to resident bedroom areas.

(2) Finishes:

(a) Floors generally shall be easily cleanable and shall have the wear resistance appropriate for the location involved. Floors in kitchen and related spaces shall be waterproof and greaseproof. In all areas where floors are subject to wetting, they shall have a nonslip finish.

(b) Adjacent dissimilar floor materials shall be flush with each other to provide an unbroken surface.

(c) Walls generally shall be washable and in the immediate area of plumbing fixtures, the finish shall be moistureproof. Wall bases in dietary areas shall be free of spaces that can harbor insects.

(d) Ceilings generally shall be washable or easily cleanable. This requirement does not apply to boiler rooms, mechanical and building equipment rooms, shops and similar spaces.

Section 12. Elevators. Elevators shall conform with 803 KAR 4:010. (1) Elevators, where required. All facilities where either resident beds or residential facilities such as recreation, resident dining or therapy rooms are located on other than the first floor, shall have electric or electrohydraulic elevators as follows:

(a) Number of elevators. All homes with resident beds or residential facilities located on any floor other than the first floor shall have at least one (1) hospital-type elevator and such additional elevators as determined by the licensure agency from a study of the facility plan and the estimated vertical transportation requirements.

(b) Cars and platforms. Cars of hospital-type elevators shall have inside dimensions that will accommodate a resident's bed and attendants and shall be at least five (5) feet wide by seven (7) feet and six (6) inches deep; car doors shall have a clear opening of not less than three (3) feet and eight (8) inches. Cars of all other required elevators shall have a clear opening of not less than three (3) feet.

(c) Leveling. Elevators shall have automatic leveling of the two (2) way automatic maintaining type with accuracy within plus or minus one-half ( $\frac{1}{2}$ ) inch.

Section 13. Construction. Foundations shall rest on natural solid ground if a satisfactory soil is available at reasonable depths. Proper soil bearing values shall be established in accordance with recognized standards. If solid ground is not encountered at practical depths, the structure shall be supported on driven piles or drilled piers designed to support the intended load without detrimental settlement.

Section 14. Mechanical Requirements. (1) Steam and hot water systems:

(a) Boilers. If boilers are used, a minimum of two (2) must be provided; the combined capacity of the boilers,

based upon the published Steel Boiler Institute or Institute of Boiler and Radiator Manufacturer's net rating, must be able to supply 150 percent of the normal requirements of all systems and equipment.

(b) The design and installation of boilers in personal care homes shall comply with 815 KAR 15:010-060.

(2) Temperature and ventilating systems:

(a) Temperature. A minimum temperature of seventy-two (72) degrees Fahrenheit shall be provided for in occupied areas in winter conditions. A maximum temperature of eighty-five (85) degrees Fahrenheit shall be provided for in occupied areas in summer conditions.

(b) Ventilation systems details. All air-supply and air-exhaust systems shall be mechanically operated. All fans serving exhaust systems shall be located at or near the point of discharge from the building. The ventilation rates shown in Table 1, Section 16, shall not be considered as precluding the use of higher ventilation rates if they are required to meet design conditions.

1. Outdoor ventilation air-intakes, other than for individual room units, shall be located as far away as practicable but not less than twenty-five (25) feet from the exhausts from any ventilating system or combustion equipment. The bottom of outdoor intakes serving central air systems shall be located as high as possible but not less than eight (8) feet above the ground level or, if installed through the roof, three (3) feet above roof level.

2. The ventilation systems shall be designed and balanced to provide the general pressure relationship to adjacent areas shown in Table 1, Section 16.

3. Room supply air inlets, recirculation, and exhaust air outlets shall be located not less than three (3) inches above the floor.

4. Corridors shall not be used to supply air to or exhaust air from any room, except that exhaust air from corridors may be used to ventilate rooms such as bathrooms, toilet rooms, or janitor's closets which open directly on corridors.

(3) Plumbing and other piping systems. Lavatories in resident rooms shall have the water supply spout mounted so that its discharge point is a minimum distance of five (5) inches above the rim of the fixture. Fixtures used in the dietary area, soiled workroom and clean workroom shall be trimmed with valves which can be operated without the use of hands. Where blade handles are used for this purpose, they shall be at a distance from the center line of the sink to be operational.

(4) Water supply systems:

(a) System shall be designed to supply water to the fixtures and equipment on the upper floors at a minimum pressure of fifteen (15) pounds per square inch during maximum demand periods.

(b) Each water service main, branch main, riser and branch to a group of fixtures shall be valved. Stop valves shall be provided at each fixture.

(c) Hot, cold and chilled water piping and waste piping on which condensation may occur shall be insulated. Insulation of cold and chilled water lines shall include an exterior barrier.

(d) Backflow preventers (vacuum breakers) shall be installed on hose bibbs and on all fixtures to which hoses or tubing can be attached such as janitor's sinks and bedpan flushing attachments.

(e) Hot water distribution systems shall be arranged to provide hot water at each fixture at all times.

(f) Piping over food preparation centers, food serving facilities, food storage areas, and other critical areas shall be kept to a minimum and shall not be exposed. Special

precautions shall be taken to protect these areas from possible leakage of, or condensation from necessary overhead piping systems.

(5) Hot water heaters and tanks.

(a) The hot water heating equipment shall have sufficient capacity to supply the water at the temperature and amounts indicated below:

	Use		
	Resident	Dishwasher	Laundry
Gal/hr/bed	6½	4	4½
Temp. F.	100-110	180*	140-180**

\* Temperature may be reduced to 140 if chloritizer is used.

\*\* If the temperature used is below 180 the home shall utilize detergents and other additives to insure that the linens be adequately cleaned.

(b) Storage tank(s) shall be provided and shall be fabricated of corrosion-resistant metal, or have non-corrosive lining.

(6) Plumbing approval. Prior to final approval of the plans and specifications by the licensure agency, the plumbing plans and specifications must be approved by the Division of Plumbing, Department of Housing, Buildings and Construction.

Section 15. Electrical Requirements. (1) General. Electrical requirements of the Kentucky Building Code shall apply where applicable.

(2) The wiring in each home shall be inspected by a certified electrical inspector and a certificate of approval shall be issued, to the facility, prior to occupancy; however, the wiring in existing buildings shall be approved by a certified electrical inspector only when the building has not been previously so approved for health care occupancy or where the state Fire Marshal finds that a hazardous condition exists.

(3) Switchboard and power panels. All breakers and switches shall be indexed.

(4) Lighting:

(a) All spaces occupied by people, machinery, and equipment within buildings, and the approaches thereto, and parking lots shall have electric lighting.

(b) Residents' bedrooms shall have general lighting. A reading light shall be provided for each resident when appropriate. Residents' reading lights and other fixed lights not switched at the door shall have switch controls convenient for use at the luminaire. Night lights shall be provided in each resident's room.

(c) Lighting levels for the facility shall comply with the requirements in Table 2, Section 16.

(5) Receptacles (convenience outlets):

(a) Bedroom. Each resident bedroom shall have duplex receptacles as follows: one (1) each side of the head of each bed (for parallel adjacent beds, only one (1) receptacle is required between beds); receptacles for luminaires, television and motorized beds, if used, and one (1) receptacle on another wall.

(b) Corridors. Duplex receptacles for general use shall be installed approximately fifty (50) feet apart in all corridors and within twenty-five (25) feet of ends of corridors.

(6) Emergency electric service:

(a) General.

1. To provide electricity during an interruption of the normal electric supply that could affect the care or safety

of the occupants, an emergency generating set shall be provided and connected to certain circuits for lighting and power for a continuous period up to four (4) hours.

2. When the home is supplied by at least two (2) dedicated and separate utility service feeders, an emergency generating set is not required.

(b) Emergency electrical connections. Emergency electric service shall be provided to circuits as follows:

1. Lighting:

a. Exitways and all necessary ways of approach thereto, including exit signs and exit direction signs, exterior of exits, exit doorways, stairways, and corridors;

b. Medication preparation areas;

c. Switch-gear location and boiler room;

d. Elevator (if required for emergency).

2. Equipment, essential to life safety and for protection of important or vital materials: sewage or sump lift pump, if installed.

(c) Details. The emergency system shall be so controlled that after interruption of the normal electric power supply, the electric source is brought to full voltage and frequency and connected to all emergency lighting, all alarms, and equipment.

Section 16. Appendix: Table 1—Pressure Relationships and Ventilation of Certain Personal Care Areas. Table 2—Lighting Levels for Personal Care.

Table 1. Pressure Relationships and Ventilation of Certain Personal Care Areas

Area Designation	Pressure Relationship to Adjacent Areas	All Supply Air From Outdoors	Minimum Air Changes of Outdoor Air per Hour
Resident room	O	—	1
Resident area corridor	O	—	1
Treatment room	O	Yes	1
Physical therapy and hydrotherapy, if applicable	N	—	1
Dining and recreation areas	O	—	1
Soiled workroom	N	—	1
Clean workroom	P	Yes	1
Toilet room	N	—	—
Bedpan room if applicable	N	—	—
Bathroom	N	—	—
Janitor's closet	N	—	—
Linen and trash chute room	N	—	—
Food preparation center	O	—	2
Dishwashing area	N	—	—
Dietary dry storage	O	—	—
Laundry, general	O	—	2
Soiled linen sorting and storage	N	—	2
Clean linen storage	P	—	2

P = Positive    N = Negative    O = Equal    — = Optional

Table 1. Continued

Area Designation	Minimum Total Air Changes Per Hour	All Air Exhausted Directly to Outdoors
Resident room	4	—
Resident area corridor	4	—
Treatment room	4	Yes
Physical therapy and hydrotherapy if applicable	6	—
Dining and recreation areas	4	—
Soiled workroom	4	Yes
Clean workroom	4	—
Toilet room	10	Yes
Bedpan room if applicable	10	Yes
Bathroom	10	Yes
Janitor's closet	10	Yes
Linen and trash chute rooms	10	Yes
Food preparation center	10	Yes
Dishwashing area	10	Yes
Dietary dry storage	2	—
Laundry, general	10	Yes
Soiled linen sorting and storage	10	Yes
Clean linen storage	2	—
P = Positive    N = Negative    O = Equal    — = Optional		

Table 2. Lighting Levels for Personal Care

Area	Footcandles *
Administrative and lobby areas, day	50
Administrative and lobby areas, night	20
Corridors and interior ramps	20
Corridor night lighting	3
Dining area and kitchen	30
Doorways	10
Exit stairways and landings	5
Janitor's closet	15
Staff Lounge, general, day	50
Staff Lounge, general, night	20
Medicine Cabinet	100
Resident care unit (or room), general	10
Resident care room, reading	30
Recreation area (floor level)	50
Stairways other than exits	30
Toilet and bathing facilities	30
Utility room, general	20

\* Minimum on task at anytime

Section 17. 902 KAR 20:035E, Personal care homes; construction and alteration, is hereby repealed.

FRANK W. BURKE, SR., Chairman

ADOPTED: September 9, 1981

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: September 15, 1981 at 3:45 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Frank W. Burke, Sr., Chairman, Kentucky Health Facilities and Health Services, Certificate of Need and Licensure Board, 275 East Main Street, Frankfort, Kentucky 40621.

DEPARTMENT FOR HUMAN RESOURCES  
Bureau for Health Services  
Certificate of Need and Licensure Board

902 KAR 20:036. Operation and services; personal care homes.

RELATES TO: KRS 216B.010 to 216B.130, 216B.990(1),(2)

PURSUANT TO: KRS 13.082, 216B.040, 216B.105(3)

NECESSITY AND FUNCTION: KRS 216B.040 and 216B.105(3) mandate that the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board regulate health facilities and health services. This regulation provides for the licensure requirements for the operation of personal care homes and the services to be provided by personal care homes.

Section 1. Scope of Operations and Services. Personal care homes are establishments with permanent facilities including resident beds. Services provided include continuous supervision of residents, basic health and health-related services, personal care services, residential care services and social and recreational activities. Residents in a personal care home must be sixteen (16) years of age or older and be ambulatory or mobile nonambulatory, and are able to manage most of the activities of daily living. Persons who are nonambulatory or nonmobile shall not be eligible for residence in a personal care home.

Section 2. Definitions. (1) "Activities of daily living" means activities of self-help (example: being able to feed, bathe and/or dress oneself), communication (example: being able to place phone calls, write letters and understanding instructions), and socialization (example: being able to shop, being considerate of others, working with others and participating in activities).

(2) "Activities services" means social and recreation opportunities to stimulate physical and mental abilities, encourage and develop a sense of usefulness and self respect and encourage participation in a variety of activities.

(3) "Administrator" means a person who:

(a) Has sufficient education to: maintain adequate records; submit reports requested by the board; and interpret any written material related to all phases of facility operation and resident's care. The administrator must: be literate; be a high school graduate or have passed the General Education Development Test; be twenty-one (21) years of age or older; or

(b) Is licensed as a nursing home administrator as provided by KRS 216A.080.

(4) "Ambulatory" means able to walk without assistance.

(5) "Board" means the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board.

(6) "License" means an authorization issued by the Certificate of Need and Licensure Board for the purpose of operating a personal care home and offering personal care services.

(7) "Mobile nonambulatory" means unable to walk without assistance, but able to move from place to place, and self exit the building, with the use of a device such as a walker, crutches, or a wheelchair and capable of independent bed-to-chair transfer or bed-to-chair transfer with minimal assistance.

(8) "Nonambulatory" means unable to walk without assistance.

(9) "Nonmobile" means unable to move from place to place.

(10) "Qualified dietician or nutritionist" means a person who:

(a) Has a Bachelor of Science degree in foods and nutrition, food service management, institutional management or related services and has successfully completed a dietetic internship or coordinated undergraduate program accredited by the American Dietetic Association (ADA) and is a member of the ADA or is registered as a dietician by ADA; or

(b) Has a masters degree in nutrition and is a member of ADA or is eligible for registration by ADA; or

(c) Has a Bachelor of Science degree in home economics and three (3) years of work experience with a registered dietician.

(11) "Personal care" means services to help residents to achieve and maintain good personal hygiene including but not limited to: assistance with bathing, shaving, cleaning and trimming of fingernails and toenails, cleaning of the mouth and teeth, washing, grooming and cutting of hair.

(12) "Protective devices" means devices that are designed to protect a person from falling, to include side rails, safety vest or safety belt.

(13) "Residential care" means services which include but are not limited to: room accommodations, housekeeping and maintenance services, dietary services and laundering of resident's clothing and bed linens.

(14) "Restraint" means any pharmaceutical agent or physical or mechanical device used to restrict the movement of a patient or the movement of a portion of a patient's body.

### Section 3. Administration and Operation. (1) Licensee.

(a) The licensee shall be legally responsible for the operation of the personal care home and for compliance with federal, state and local laws and regulations pertaining to the operation of the home.

(b) The licensee shall establish policies for the administration and operation of the service.

(2) Administrator. All personal care facilities shall have an administrator who shall be responsible for the operation of the facility and shall delegate such responsibility in his or her absence.

#### (3) Admission.

(a) Personal care homes shall admit only persons who are sixteen (16) years of age or older and who are ambulatory or mobile nonambulatory and whose care needs do not exceed the capability of the home. Persons who are nonambulatory or nonmobile shall not be eligible for admission to a personal care home.

(b) No personal care home may care or be responsible for the care of more residents than the capacity indicated on the license, regardless of where housed.

(c) Upon admission the resident and a responsible member of his family or committee shall be informed in writing of the established policies of the home to include but not be limited to fees, reimbursement, visitation rights during serious illness, visiting hours, type of diets offered and services rendered.

(d) Upon admission each resident shall have a complete medical evaluation including medical history, physical examination and diagnosis (may be copy of discharge summary or health and physical report from physician, hospital or other health care facility if done within fourteen (14) days prior to admission).

(4) Patient rights. Patient rights shall be provided for pursuant to KRS 216.510 to 216.525.

(5) Adult and child protection. Personal care homes shall have written policies which assure the reporting of cases of abuse, neglect or exploitation of adults and children to the Department for Human Resources pursuant to KRS Chapter 209 and KRS 199.335.

#### (6) Transfer procedures and agreements.

(a) Personal care homes shall have written transfer procedures and agreements for the transfer of residents to other health care facilities which can provide a level of inpatient care not provided by the personal care home. Any facility which does not have a transfer agreement in effect but has attempted in good faith to enter into such an agreement shall be considered to be in compliance with the licensure requirement. The transfer procedures and agreements shall specify the responsibilities each institution assumes in the transfer of patients and establish responsibility for notifying the other institution promptly of the impending transfer of a patient and arrange for appropriate and safe transportation.

(b) The administrator shall initiate transfer through the resident's physician, and/or appropriate agencies when the resident's condition is not within the scope of services of a personal care home.

(c) In the event of transfer to another health care facility a current summary of the resident's medical record shall accompany the resident. When a transfer is to another level of care within the same facility a copy of the resident's record or current summary thereof shall accompany the resident.

#### (7) Personnel.

(a) Current employee records shall be maintained and shall include a record of each employee's training and experience, evidence of current licensure, registration or certification where required by law, health records and evaluation of performance, along with employee's name, address and social security number.

(b) All employees must be of an age in conformity with state laws.

(c) All employees shall have a test for tuberculosis either prior to or within the first week of employment and annually thereafter. Any employee contracting an infectious disease shall not appear at work until the infectious disease can no longer be transmitted.

(d) All dietary employees must wear hairnets.

(e) In-service training. All personal care home employees shall receive in-service training to correspond with the duties of their respective jobs. Documentation of in-service training shall be maintained in the employee's record and shall include: who gave the training, date and period of time training was given and a summary of what the training consisted of. In-service training shall include but not be limited to the following:

1. Policies of the facility in regard to the performance of their duties;

2. Services provided by the facility;

3. Recordkeeping procedures;

4. Procedures for the reporting of cases of adult and child abuse, neglect or exploitation to the Department for Human Resources pursuant to KRS Chapter 209 and KRS 199.335;

5. Patient rights as provided for in KRS 216.510 to 216.525;

6. Methods of assisting patients to achieve maximum abilities in activities of daily living;

7. Procedures for the proper application of physical restraints;

8. Procedures for maintaining a clean, healthful and pleasant environment;

9. The aging process;
10. The emotional problems of illness;
11. Use of medication; and
12. Therapeutic diets.

(f) Staffing requirements.

1. The number of personnel required shall be based on: the number of patients; amount and kind of personal care, supervision, and program needed to meet the needs of the residents as determined by the definitions of care and services required in this regulation.

2. If the staff/resident ratio does not meet the needs of the residents, the Division for Licensing and Regulation shall determine and inform the administrator in writing how many additional personnel are to be added and of what job classification and shall give the basis for this determination.

3. The administrator shall designate a person for each of the following areas who will be primarily responsible for the coordination and provisions of services (personnel may be required to perform combined duties):

- a. Recordkeeping;
- b. Basic health and health related services; and
- c. Activity services.

4. Each facility shall have a full-time person designated by the administrator, responsible for the total food service operation of the facility and who shall be on duty a minimum of thirty-five (35) hours each week.

5. One (1) attendant shall be awake and on duty on each floor in the facility at all times.

(8) Medical records. The person in charge of medical records shall assure that a complete medical record shall be kept for each resident with all entries current, dated and signed. Entries should be made in ink, ball-point, or typed. Each record shall include the following:

(a) Identification information, including:

1. Resident's name;
2. Social Security, Medicare and Medical Assistance identification number (if appropriate);
3. Marital status;
4. Birthdate;
5. Age;
6. Sex;
7. Home address;
8. Religion and personal clergyman, if any (with consent of resident);
9. Attending physician, dentist and podiatrist, if any; address and phone number for each one;
10. Next of kin and/or responsible person, address and telephone number;
11. Date of admission and discharge;
12. In the event of transfer, a copy of the summary of resident's records; and
13. Monthly recording of the resident's weight.

(b) If admitted from another facility a discharge summary or transfer summary.

(c) Admitting medical evaluation.

(d) Physician's report on annual medical evaluation of the resident.

(e) Physician progress notes indicating changes in resident's condition, at time of each visit by the physician and consultant.

(f) Physician orders for medication or therapeutic services.

(g) Nurses' or staff notes indicating changes in resident's condition as they occur.

(h) Reports of accidents or acute illnesses of any resident.

(i) Reports of social services, dental, laboratory, x-ray

and special reports of consultants or therapists when the resident receives these services.

(j) Medication and treatment sheets including all medications, treatments and special procedures performed indicating date and time. Entries shall be initialed by the personnel rendering treatment or administering medication.

(k) Reports of the use of physical restraints, the procedures used, and the checks and releases of physical restraints.

(l) A record of resident's discharge destination.

(9) Retention of records. After death or discharge the completed medical record shall be placed in an inactive file and retained for five (5) years, or in case of a minor, three (3) years after the patient reaches the age of majority under state law, whichever is the longest.

Section 4. Provision of Services. (1) Basic health and health related services. All personal care homes shall provide basic health and health related services including: continuous supervision and monitoring of the resident to assure that the resident's health care needs are being met, supervision of self administration of medications, storage and control of medications, when necessary, and making arrangements for obtaining therapeutic services ordered by the resident's physician which are not available in the facility. All personal care homes shall meet the following requirements relating to the provision of basic health and health related services:

(a) The person in charge of the facility shall be responsible for obtaining medical care by a licensed physician promptly in cases of accident or acute illness of any resident. Such instances shall be recorded in the resident's medical record.

(b) Medications or therapeutic services shall not be administered or provided to any resident except on the order of a licensed physician. Administration of all medications and provisions of therapeutic services shall be recorded in the resident's medical record.

(c) If orders are received by telephone from a physician, the order shall be recorded on the individual's medical record and signed by the physician within fourteen (14) days.

(d) A written report of any incident or accident involving a resident (including medication errors or drug reactions), visitor or staff shall be made and signed by the administrator, and any staff member who may have been witness to the incident. The report shall be filed in an incident file.

(e) Controlled substances. No home shall keep any controlled substances or other habit forming drugs, hypodermic needles, or syringes except under the specific direction of a physician. Controlled substances shall be kept under double lock (i.e., in a locked box in a locked cabinet). There shall be a controlled substances bound record book with numbered pages, in which is recorded the name of the resident; the date, time, kind, dosage, and method of administration of all controlled substances; the name of the physician who prescribed the medications; and the name of the nurse who administered it, or staff who supervised the self-administration. In addition, there shall be a recorded and signed Schedule II controlled substances count daily, and Schedule III, IV and V controlled substances count once per week by those persons who have access to controlled substances. All controlled substances which are left over after the discharge or death of the resident shall be destroyed in accordance with KRS 218A.230, or CFR 21-1307.21, or sent by registered mail to the Controlled



Substances Enforcement Branch of the Kentucky Department for Human Resources.

(f) All medicines must be plainly labeled with the resident's name, the name of the drug, strength, name of pharmacy, prescription number, date, physician name, caution statements and directions for use except where accepted modified unit dose systems conforming to federal and state laws are used. All medicines kept by the home shall be kept in a locked place and the persons in charge shall be responsible for giving the medicines and keeping them under lock and key. Medications requiring refrigeration must be kept in a separate locked box of adequate size in the refrigerator in the medication area. Drugs for external use must be stored separately from those administered by mouth and injection. Provisions must also be made for the locked separate storage of medications of deceased and discharged patients until such medication is surrendered or destroyed in accordance with existing federal and state laws and regulations.

(g) If a resident manifests persistent behavior that may require psychiatric treatment, the resident's physician shall be notified in order to evaluate and direct the resident's care. If the resident's condition does not improve enough for his continued stay in a personal care facility, the physician shall initiate transfer of the resident to an appropriate facility as soon as possible.

(h) Use of restraints or protective devices. No form of restraints or protective devices shall be used except under written orders of the attending physician.

1. Protective devices. Protective devices may be used to protect the resident from falling from a bed or chair. The least restrictive form of protective device shall be used which affords the resident the greatest possible degree of mobility. In no case shall a locking device be used.

2. Physical restraint. Restraints that require lock and key shall not be used. In an emergency, restraints may be used temporarily, but in no case for a period to exceed twelve (12) hours. Restraints shall be applied only by personnel trained in the proper application and observation of this equipment. Restraints shall be checked at least every one-half (½) hour and released at least ten (10) minutes every two (2) hours. The checks and releases of restraints shall be recorded in the resident's record as they are completed. Such records shall document the rationale or justification for the use of the procedure, a description of the specific procedures employed, and the physician's order. Restraints shall be used only as a therapeutic measure to prevent the patient from causing physical harm to self or others. Restraints shall not be used as a punishment, as discipline, as a convenience for the staff, or as a mechanism to produce regression. Restraints shall be comfortable and easily removed in case of an emergency.

3. Chemical restraints. Chemical restraints shall not be used as punishment, for the convenience of the staff, as a substitute for programs, or in quantities that interfere with the patient's habilitation.

(i) Special purpose areas for the protection or confinement of a resident shall not be permitted unless approved in writing by the Division of Licensure and Regulation of the Department of Human Resources with specification of use of the area.

(j) Each resident shall have an annual medical evaluation by a physician. The results of this evaluation shall be recorded in the resident's medical record.

(k) Communicable diseases.

1. No personal care home shall knowingly admit a person suffering from a communicable disease which is re-

portable to the health department, except a (non-infectious) tuberculosis patient under continuing medical supervision for his tuberculosis disease.

2. If, after admission, a resident is suspected of having a communicable disease that would endanger the health and welfare of other residents the administrator shall assure that a physician is contacted and that appropriate measures are taken on behalf of the resident with the communicable disease and the other residents.

(2) Residential care services. All personal care homes shall provide residential care services to all residents including: room accommodations, housekeeping and maintenance services, and dietary services. All personal care homes shall meet the following requirements relating to the provisions of residential care services:

(a) Room accommodations.

1. Each resident shall be provided a bed equipped with substantial spring, a clean comfortable mattress, a mattress cover, two (2) sheets and a pillow, and such bed covering as is required to keep the residents comfortable. Rubber or other impervious sheets shall be placed over the mattress cover whenever necessary. Beds occupied by residents shall be placed so that no resident may experience discomfort because of proximity to radiators, heat outlets, or by exposure to drafts.

2. The home shall provide window coverings, bedside tables with reading lamps (if appropriate), comfortable chairs, chest or dressers with mirrors and a night light.

3. Residents shall not be housed in unapproved rooms or unapproved detached buildings.

4. Basement rooms shall not be used for sleeping rooms for residents.

5. Residents may have personal items and furniture when it is physically feasible.

(b) Housekeeping and maintenance services.

1. The home shall maintain a clean and safe facility free of unpleasant odors. Odors shall be eliminated at their source by prompt and thorough cleaning of commodes, urinals, bedpans and other obvious sources.

2. An adequate supply of clean linen should be on hand at all times. Soiled clothing and linens shall receive immediate attention and should not be allowed to accumulate. Clothing or bedding used by one (1) resident shall not be used by another until it has been laundered or dry cleaned.

3. Laundering of resident's normal personal clothing and bed linens. Resident's personal clothing and bed linens shall be laundered by the home as often as is necessary. Resident's personal clothing shall be laundered by the home unless the resident or the resident's family accepts this responsibility. Residents capable of laundering their own personal clothing and wishing to do so may, instead, be provided the facilities to do so. Resident's personal clothing laundered by the facility shall be marked to identify the resident-owner and returned to the correct resident.

4. Safety. The home shall take appropriate precautions to insure safety of residents, visitors and employees.

5. Maintenance. The premises shall be well kept and in good repair. Requirements shall include but not be limited to:

a. The facility shall insure that the grounds are well kept and the exterior of the building and including the sidewalk, steps, porches, ramps and fences are in good repair.

b. The interior of the building including walls, ceilings, floors, windows, window coverings, doors, plumbing and electrical fixtures shall be in good repair. Windows and

doors shall be screened.

c. Garbage and trash shall be stored in areas separate from those used for the preparation and storage of food and shall be removed from the premises regularly. Containers shall be cleaned regularly.

d. A pest control program shall be in operation in the facility. Pest control services shall be provided by maintenance personnel of the facility or by contract with a pest control company. Care shall be taken to use the least toxic and least flammable effective insecticides and rodenticides. The compounds shall be stored under lock.

(c) Dietary services.

1. Dining area. A dining area shall be available for the residents.

2. Therapeutic diets. If the facility provides therapeutic diets, and the designated person responsible for food services is not a qualified dietitian or nutritionist, consultation by a qualified dietitian or qualified nutritionist shall be provided.

3. Menu planning.

a. Menus shall be planned in writing and rotated to avoid repetition. Nutrition needs of residents shall be met in accordance with the current recommended dietary allowances of the Food and Nutrition Board of the National Research Council adjusted for age, sex and activity and in accordance with physician's orders.

b. Meals shall correspond with the posted menu. Menus must be planned and posted one (1) week in advance. When changes in the menu are necessary, substitutions shall provide equal nutritive value and the changes shall be recorded on the menu and menus shall be kept on file for thirty (30) days.

4. Food preparation and storage.

a. There shall be at least a three (3) day supply of food to prepare well balanced palatable meals.

b. Food shall be prepared with consideration for any individual dietary requirement. Modified diets; nutrient concentrates and supplements shall be given only on the written orders of a physician.

c. At least three (3) meals per day shall be served with not more than a fifteen (15) hour span between the evening meal and breakfast. Between-meal snacks to include an evening snack before bedtime shall be offered to all residents. Adjustments shall be made when medically contraindicated.

d. Food shall be prepared by methods that conserve nutritive value, flavor, and appearance, and shall be attractively served at the proper temperatures and in a form to meet individual needs. A file of tested recipes, adjusted to appropriate yield, shall be maintained. Food shall be cut, chopped, or ground to meet individual needs. If a resident refuses food served, substitutes shall be offered.

e. All opened containers or left-over food items shall be covered and dated when refrigerated.

f. Ice water must be readily available to the residents at all times.

5. Sanitation. Personal care homes shall comply with all applicable provisions of KRS 219.011 to KRS 219.081 and 902 KAR 45:005 (Kentucky's Food Service Establishment Act and Food Service Code). The Division for Licensing and Regulation, Office of the Inspector General, Department for Human Resources shall carry out the provisions of this Act as they relate to inspections, follow-up and recommendations for issuance and revocation of food service permits.

(3) Personal care services. All personal care homes shall provide services to assist residents to achieve and maintain

good personal hygiene including the level of assistance necessary with:

(a) Washing and bathing of the body to maintain clean skin and freedom from offensive odors. In addition to assistance with washing and bathing, the facility shall provide soap, clean towels, and wash cloths for each resident. Toilet articles such as towels, brushes and combs shall not be used in common.

(b) Shaving.

(c) Cleaning and trimming of fingernails and toenails.

(d) Cleaning of the mouth and teeth to maintain good oral hygiene as well as care of the lips to prevent dryness and cracking. All residents shall be provided with tooth brushes, a dentifrice, and denture containers, when applicable.

(e) Washing, grooming, and cutting of hair.

(4) Activity services.

(a) All personal care homes shall provide social and recreational activities to: stimulate physical and mental abilities to the fullest extent; encourage and develop a sense of usefulness and self respect; prevent, inhibit or correct the development of symptoms of physical and mental regression due to illness or old age, be of sufficient variety that they meet the needs of the various types of residents in the home.

(b) All personal care homes shall meet the following requirements relating to the provision of activity services:

1. Staff. A person designated by the administrator shall be responsible for the activity program. (Volunteer groups may be enlisted to assist with carrying out the activities program.)

2. There shall be a planned activity period each day. The schedule shall be current and posted.

3. The program shall be planned for group and individual activities, both within and outside of the facility.

4. The person responsible for activities shall maintain a current list of residents on which precautions are noted regarding a resident's condition that might restrict or modify his participation in the program.

5. A living or recreation room and outdoor recreational space shall be provided for residents and their guests.

6. The facility shall provide supplies and equipment for the activities program.

7. Reading materials, radios, games and TV sets shall be provided for the residents.

Section 5. 902 KAR 20:030E, Personal care homes; operation and services, is hereby repealed.

FRANK W. BURKE, SR., Chairman

ADOPTED: September 9, 1981

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: September 15, 1981 at 3:45 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Frank W. Burke, Sr., Chairman, Kentucky Health Facilities and Health Services, Certificate of Need and Licensure Board, 275 East Main Street, Frankfort, Kentucky 40621.

**DEPARTMENT FOR HUMAN RESOURCES**  
**Bureau for Health Services**  
**Certificate of Need and Licensure Board**

**902 KAR 20:041. Operation and services; family care homes.**

RELATES TO: KRS 216B.010 to 216B.130, 216B.990(1),(2)

PURSUANT TO: KRS 13.082, 216B.040, 216B.105(3)

NECESSITY AND FUNCTION: KRS 216B.040 and 216B.105(3) mandate that the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board regulate health facilities and health services. This regulation provides for the licensure requirements for the operation of family care homes.

Section 1. Scope of Operations and Services. Family care homes are operated and maintained to provide twenty-four (24) hour supervision and personal care services in residential accommodations for two (2) or three (3) individuals who are not related within the third degree of consanguinity to the licensee, are at least eighteen (18) years of age, and who because of impaired capacity for self care, elect to have or require a protective environment but do not have an illness, injury, or disability for which constant medical care or skilled nursing services are required. Residents must be ambulatory or mobile non-ambulatory and able to manage most of the activities of daily living.

Section 2. Definitions. (1) "Ambulatory" means able to walk without assistance.

(2) "Board" means the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board.

(3) "Home" means a family care home.

(4) "Impaired capacity for self care" means mental or physical limitation which decreases the ability to function in a normal adult manner and requires supervision, assistance, or the use of prescription medicines to normalize daily living.

(5) "Licensee" means the operator of the family care home.

(6) "Mobile non-ambulatory" means unable to walk without assistance, but able to move from place to place, and self exit the building, with the use of a device such as a walker, crutches, or wheelchair and capable of independent bed-to-chair transfer.

(7) "Protective environment" means an environment in which basic health care needs, personal care needs, nutritional needs and safety are insured for the resident who is not capable of providing these services in an effective manner.

(8) "Resident" means any person who is admitted to a family care home for the purpose of receiving personal care and assistance.

Section 3. Operation and Management. (1) The licensee shall be legally responsible for the operation of the home and for compliance with Kentucky laws and regulations pertaining to the operation of the home.

(2) The licensee shall provide twenty-four (24) hour supervision and assistance to the residents and shall be a mature literate adult, at least eighteen (18) years of age, who has knowledge and understanding of adults who require supervision and personal care services.

(3) The licensee shall be the person directly responsible for the twenty-four (24) hour daily operation of the home

or for delegating that responsibility to another similarly qualified individual when a temporary absence is necessary. The name of that individual to whom the responsibility may be designated shall be in writing and provided to the agents of the Board inspecting the home.

(4) No employee of the home contracting an infectious disease shall appear for work until the infectious disease can no longer be transmitted.

(5) The licensee shall attend at least one (1) training program for family care home operators per year as offered or approved by the Department for Human Resources.

(6) The home shall have no more than three (3) persons residing in the home who are not related to the operator within the third degree of consanguinity.

(7) The licensee shall provide opportunities for the residents to become involved in community activities and activities within the home. Residents in cooperation with the licensee and family shall be allowed to use areas of the home, other than their bedroom, such as living rooms, kitchen, dining areas, and recreation areas for entertainment, recreation, and visitation.

(8) The licensee shall maintain a notebook (record), located on the premises and available for inspection by the Board's agents which contains the following information (typed or in ink) about each resident:

(a) Resident name and sex.

(b) Marital status.

(c) Birthdate and age.

(d) Religion and person clergyman, if any (with consent of resident).

(e) Attending physician and dentist, if any; address and phone number for each.

(f) Next of kin and/or responsible person (or agency), address and telephone number.

(g) Date of admission and discharge.

(h) Other relevant information including physician visits and/or assessment reports.

(i) Amount charged per week or month as compensation for care.

(9) The licensee shall make arrangements with other health agencies and facilities for residents who, at some time, may require a transfer to a different level of care.

(10) The licensee shall have phone numbers of a hospital, an ambulance service, fire department, and a physician for emergencies posted by the telephone in large legible print if phone service is available in the area.

(11) The licensee shall have a written procedure for providing or obtaining emergency services.

(12) The licensee shall make a written accident report on a resident who is injured. The licensee shall keep one (1) copy in the file and make the original available to the Board's agents within seven (7) days of the incident. The original shall be sent to the Department for Human Resources, Office of the Inspector General, Division for Licensing and Regulation, 275 East Main Street, Frankfort, Kentucky 40621.

(13) The licensee shall provide for patient rights pursuant to KRS 216.510 to 216.525.

(14) All residents shall be at least eighteen (18) years of age.

(15) Representatives of the Bureau for Social Services and the Division for Licensing and Regulation shall visit the home of the applicant for Certificate of Need to view the home and interview the applicant and at least annually shall visit licensed family care homes to conduct a review and assess the home for relicensure.

#### Section 4. Services. (1) Basic health services.

(a) No licensee shall knowingly admit a person suffering from a communicable disease which is reportable to the health department, except a non-infectious tuberculosis patient under continuing medical supervision for his tuberculosis disease.

(b) If after admission, a resident is suspected of having a communicable disease that would endanger the health and welfare of other residents, the licensee shall assure that a physician is contacted and that appropriate measures are taken on behalf of that resident and the other residents in the home.

(c) The licensee shall show evidence that the resident has obtained a physical examination by a physician within three (3) months prior to or upon admission to the home. If admitted from another health care facility, a discharge summary or transfer form shall be in the resident's record which includes a medical history, record of physical examination and diagnosis.

(d) It shall be the responsibility of the licensee to obtain the services of a physician in case of accident or acute illness of any resident.

(e) All prescription medications administered to residents shall be noted in writing, with the date, time and dosage, and signed by the person administering the medication.

(f) Medication shall not be administered to any resident except on the written order of a physician. When medication requires administration by licensed personnel, arrangement shall be made to procure the services of such personnel.

(g) Medications kept in the home shall be kept in a locked cabinet.

(h) Self-administration of prescription medications shall be allowed only upon the written instructions of the attending physician.

(i) Residents admitted or retained for care shall not require because of illness, injury or disease, a degree of care exceeding the skill of the operator to provide.

#### (2) Personal care services.

(a) Residents in family care homes shall be assisted to achieve and maintain good personal hygiene by providing assistance as required by individual needs with:

1. Washing and bathing of the body to maintain clean skin and freedom from offensive odors with the following items provided for each resident and not used by others: soap, clean towels and wash cloths, brushes and combs and other appropriate toilet articles.

2. Shaving.

3. Cleaning of the mouth and teeth to maintain good oral hygiene as well as care of the lips to prevent dryness and cracking. All residents shall be provided with toothbrushes, a dentifrice, and denture containers, when applicable.

4. Washing, grooming and cutting of hair.

(b) The home shall provide each resident with a bureau or cupboard for storage of personal belongings.

(c) The home shall provide each resident with a bed equipped with substantial springs, a clean comfortable mattress, two (2) sheets, a pillow, and such bed covering as required for resident's health and comfort.

(d) Residents shall be provided the privilege of rest periods in their own beds if they so desire.

#### (3) Dietary services.

(a) Food shall be prepared with consideration for any individual dietary requirements and appetites.

(b) Menus shall be planned in writing and rotated to

avoid repetition. A written record shall be kept of all foods served, including food offered as snacks.

(c) Nutritional needs shall be met in accordance with the current recommended dietary allowances of the Food and Nutrition Board of the National Research Council and adjusted for age, sex, and activity in accordance with physician's orders.

(d) Food returned from residents' dishes shall be discarded at the conclusion of the meal and not served again in any form.

(e) Therapeutic diets. Special diets or dietary restrictions shall be medically prescribed.

(f) At least three (3) meals per day shall be served with not more than a fifteen (15) hour span between the evening meal and breakfast. Snacks shall be available to patients except when conflicting with special diets prescribed by a licensed physician.

(g) All food shall be stored above the floor in such a manner as to be protected from dust, flies, vermin, or other forms of contamination.

(h) Refrigerators shall have a complete seal, be clean, free of odors, and kept at a temperature below forty-five (45) degrees Fahrenheit. A thermometer shall be placed in each refrigerator and freezer.

(i) All food showing evidence of spoilage or infestation shall be disposed of immediately upon detection.

(4) Housekeeping and sanitation. Each family care home shall:

(a) Maintain a clean, uncluttered and safe facility with screens on doors and windows;

(b) Eliminate odors at their source by prompt and thorough cleaning of commodes, and other obvious sources;

(c) Maintain the premises in such a manner as to prevent infestation by rodents and insects;

(d) Bed linens shall be changed as often as necessary to provide a clean bed at all times. A rubber sheet or other waterproof material (excluding paper) shall be placed over the mattress;

(e) Give soiled clothing and linens immediate attention and not allow them to accumulate. Clothing or bedding used by one (1) patient shall not be used by another until it has been laundered or dry cleaned;

(f) Have appropriate toilet facilities which dispose of wastes in a sanitary manner into a public system where available, or if none is available into a system which shall meet the requirements of applicable plumbing codes. Outside toilets shall be allowed only if local county health department approves; and

(g) Collect and dispose of all garbage, refuse, trash, and litter in compliance with applicable state and local laws and regulations. Garbage containers shall be made of metal or other impervious material and shall be water tight and rodent proof and shall have tight-fitting covers.

Section 5. Accommodations. Each family care home shall: (1) Be safe and of substantial construction and comply with applicable state and local laws relating to location, zoning, plumbing, and sanitation.

(2) Be adequately lighted by natural or artificial light including each hall, stairway, entryway, patient area, kitchen, and bathroom.

(3) Have a water supply of a safe, sanitary quality approved by the local health department.

(4) Have an ample supply of hot and cold running water available at all times for general use.

(5) Have appropriate sanitary toilet and bathing

facilities conveniently available for resident use with no less than one (1) toilet and lavatory per six (6) persons residing in the home which includes residents receiving care, the licensee and family.

(6) Have adequate ventilation in all areas used by residents. Toilet rooms shall be vented to the outside, if there is no window. There shall be an exterior window in each resident room which can be opened.

(7) Beds occupied by residents shall be placed so that no resident may experience discomfort due to proximity to radiators, heat outlets or exposure to drafts.

(8) Not use "bunk" beds.

(9) Have beds that are no less than thirty-three (33) inches wide and six (6) feet long.

(10) Not house residents in rooms or detached buildings or other enclosures which have not been previously inspected and approved for resident use, or in basements not constructed for sleeping quarters. Approved basements must have an outside door.

(11) Not be located in a house trailer or motor homes.

(12) Provide a heating system which can maintain an even temperature, and is capable of maintaining seventy-two (72) degrees Fahrenheit in areas used by residents.

(13) Have telephone service, if available in the area, accessible to the residents.

(14) If the home accepts a resident confined to a wheelchair, appropriate measures must be taken to insure that the resident is able to exit the building without assistance (i.e., ramps, rails, etc.).

Section 6. Safety. Each home shall take appropriate precautions to insure the safety of the residents and visitors by:

(1) Having all exterior grounds including sidewalks, steps, porches, ramps, and fences in good repair;

(2) Having all the home's interior including walls, ceilings, floors, floor coverings, steps, windows, window coverings, doors, plumbing, and electrical fixtures in good repair;

(3) Having a fire control and evacuation plan;

(4) Having an adequate number of ABC-rated fire extinguishers located throughout the home;

(5) Having a person in charge thoroughly oriented in the evacuation of the residents in the event of a fire; and

(6) Having all firearms and ammunition locked in a cabinet, drawer, or closet with the key not accessible to residents. Firearms shall not be loaded.

Section 7. 902 KAR 20:040E, Family care homes; operation and services, is hereby repealed.

FRANK W. BURKE, SR., Chairman

ADOPTED: September 9, 1981

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: September 15, 1981 at 3:45 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Frank W. Burke, Sr., Chairman, Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board, 275 East Main Street, Frankfort, Kentucky 40621.

## DEPARTMENT FOR HUMAN RESOURCES Bureau for Health Services Certificate of Need and Licensure Board

902 KAR 20:056. Facility specifications; intermediate care.

RELATES TO: KRS 216B.010 to 216B.130, 216B.990(1),(2)

PURSUANT TO: KRS 13.082, 216B.040, 216B.105(3)

NECESSITY AND FUNCTION: KRS 216B.040 and 216B.105(3) mandate that the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board regulate health facilities and health services. This regulation provides for the licensure requirements for the facility specifications for the construction, alteration and maintenance of intermediate care facilities.

Section 1. Definitions. (1) "Board" means the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board.

(2) "Certificate of need" means an authorization by the Board to proceed with any acquisition, initiation, construction or expansion pursuant to KRS Chapter 216B.

(3) "License" means an authorization issued by the Board for the purpose of operating an intermediate care facility.

(4) "Licensure agency" means the Division for Licensing and Regulation in the Office of the Inspector General, Department for Human Resources.

Section 2. Preparation and Approval of Plans and Specifications. After receiving certificate of need approval from the Board, the following procedures shall be followed:

(1) Before construction is begun for the erection of new buildings or alterations to existing buildings or any change in facilities for an intermediate care facility, the licensee or applicant shall submit plans in the detail specified in Section 3 to the licensure agency for approval.

(2) All architectural, mechanical and electrical drawings shall bear either the seal of an architect registered in the Commonwealth of Kentucky or the seal of a professional engineer registered in the Commonwealth of Kentucky, or both.

(3) Drawings shall not exceed thirty-six (36) inches by forty-six (46) inches when trimmed.

(4) All such plans and specifications must be approved by the licensure agency prior to commencement of construction of new buildings or alterations of existing buildings.

(5) Plans and specifications in specific detail as required by the Kentucky Building Code shall be submitted together with architectural and/or engineering stamps as required by KRS Chapters 322 and 323, to the Department of Housing, Buildings and Construction for determining compliance with the Kentucky Building Code. All such plans and specifications must be approved by the Department of Housing, Buildings and Construction, and appropriate local building permits shall be obtained prior to commencement of construction.

Section 3. Submission of Plans and Specifications. (1) First stage. Schematic plans:

(a) Single line drawings of each floor shall show the relationship of the various departments or services to each other and the room arrangement in each department. The



name of each room shall be noted. Drawings shall include typical patient room layouts (scaled  $\frac{1}{4}'' = 1'0''$ ) with dimensions noted. The proposed roads and walks, service and entrance courts, parking and orientation shall be shown in a plot plan.

(b) If the project is an addition, or is otherwise related to existing buildings on the site, the plans shall show the facilities and general arrangements of those buildings.

(2) Second stage. Preliminary plans: preliminary sketch plans shall include the following:

(a) Architectural: plans of basement and floors.

(b) Outline specifications:

1. General description of the construction, including interior finishes, types and locations of acoustical material, and special floor covering;

2. Description of the air-conditioning, heating, and ventilation systems and their controls, duct and piping systems; and dietary, laundry, and other special equipment;

3. General description of electrical service including voltage, number of feeders, and whether feeders are overhead or underground.

(3) Third stage. Contract documents:

(a) Working drawings. Working drawings shall be complete and adequate for bid, contract, and construction purposes. Drawings shall be prepared for each of the following branches of the work: architectural, structural, mechanical, and electrical. They shall include the following:

1. Architectural drawings:

a. Approach plan showing all new topography, newly established levels and grades, existing structures on the site (if any), new building structures, roadways, walks, and parking areas;

b. Plan of each basement, floor and roof;

c. Elevations of each facade;

d. Sections through building;

e. Required scale and full-size details;

f. Schedule of doors, windows, and room finishes;

g. Equipment. Location of all fixed equipment. Layout of typical and special rooms indicating all fixed equipment and major items of movable equipment. Equipment not included in contract shall be so indicated;

h. Conveying systems. Details of construction, machine and control spaces necessary, size and type of equipment, and utility requirements for the following: dumbwaiters: electric, hand, hydraulic; elevators: freight, passenger, patient; loading dock devices; pneumatic tube systems.

2. Structural drawings:

a. Plans for foundations, floors, roofs, and all intermediate levels with sizes, sections, and the relative location of the various structural members;

b. Dimensions of special openings;

c. Details of all special connections, assemblies, and expansion joints.

3. Mechanical drawings:

a. Heating, steam piping, and air-conditioning systems: radiators and steam heated equipment, such as warmers and steam tables; heating and steam mains and branches with pipe sizes; diagram of heating and steam risers with pipe sizes; sizes, types, and capacities of boilers, furnaces, hot water heaters with stokers, oil burners, or gas burners; pumps, tanks, boiler breeching, and piping and boiler room accessories; air-conditioning systems with required equipment, water and refrigerant piping and ducts; supply and exhaust ventilation systems with heating/cooling connections and piping; air quantities for all room supply and exhaust ventilating duct openings.

b. Plumbing, drainage, and standpipe systems: size and elevation of: street sewer, house sewer, house drains, street water main, and water service into the building; location and size of soil, waste, and water service with connections to house drains, clean-outs, fixtures, and equipment; size and location of hot, cold and circulating branches, and risers from the service entrance, and tanks; riser diagram of all plumbing stacks with vents, water risers, and fixture connections; oxygen and vacuum systems; standpipe and sprinkler systems where required; all fixtures and equipment that require water and drain connections.

4. Electrical drawings:

a. Electric service entrance with switches and feeders to the public service feeders, characteristics of the light and power current, transformers and their connections if located in the building;

b. Location of main switchboard, power panels, light panels, and equipment. Diagram of feeders and conduits (with schedule of feeder breakers or switches);

c. Light outlets, receptacles, switches, power outlets, and circuits;

d. Telephone layout showing service entrance, telephone switchboard, strip boxes, telephone outlets, and branch conduits;

e. Nurses' call systems with outlets for beds, duty stations, door signal light, annunciators, and wiring diagrams;

f. Emergency electrical system with outlets, transfer switch, sources of supply, feeders, and circuits.

(b) Specifications. Specifications shall supplement the drawings to fully describe types, sizes, capacities, workmanship, finishes and other characteristics of all materials and equipment and shall include:

1. Cover or title sheet;

2. Index;

3. Sections describing materials and workmanship in detail for each class of work.

(c) Access to the work. Representatives of the appropriate state agencies shall have access at all reasonable times to the work wherever it is in preparation or progress, and the contractor shall provide proper facilities for such access and inspection.

Section 4. Compliance with Building Codes, Ordinances and Regulations. (1) This section may be administered independently from other sections of this regulation.

(2) General. Nothing stated herein shall relieve the sponsor from compliance with building codes, ordinances, and regulations which are enforced by city, county, or state jurisdictions.

(3) The following requirements shall apply where applicable and as adopted by the respective agency authority.

(a) Requirements for safety pursuant to 815 KAR 10:020, as amended.

(b) Requirements for plumbing pursuant to 815 KAR 20:010-191, as amended.

(c) Requirements for air contaminants for incinerators pursuant to 401 KAR 59:020 and 401 KAR 61:010.

(d) Requirements for elevators pursuant to 803 KAR 4:010.

(e) Requirements for making buildings and facilities accessible to and usable by the physically handicapped, pursuant to KRS 198B.260 and regulations promulgated thereunder.

(4) Prior to occupancy, facility must have final approval from appropriate agencies.

(5) All facilities shall be currently approved by the Fire

Marshal's Office in accordance with the Life Safety Code, before relicensure is granted by the licensure agency.

Section 5. Facility Requirements and Special Conditions. (1) Independent facilities with a capacity of fifty (50) beds or less present special problems. The sizes of the various departments shall depend upon the requirements of the facilities. Some functions allotted separate spaces or rooms in these general standards may be combined provided that the resulting plan will not compromise the standard of safety and of medical and nursing practices and the social needs of patients. Otherwise, the general standards set forth herein, including the area requirements, shall apply.

(2) Facilities shall be available to the public, staff, and patients who may be physically handicapped with special attention given to ramps, drinking fountain height, mirrors, etc.

(3) The number of beds in a nursing unit shall not exceed sixty (60) unless additional services are provided, as deemed necessary by the Board. At least sixty-six (66) percent of the beds shall be located in rooms designed for one (1) or two (2) beds unless health program needs indicate otherwise in intermediate care mentally retarded/developmentally disabled facilities.

(4) Access to the facility shall be by means of a paved or gravel roadway which shall be available for use by traffic prior to a license being issued to the facility for occupancy.

Section 6. Nursing Unit. (1) Patient rooms. Each patient room shall meet the following requirements:

(a) Maximum room capacity: four (4) patients.

(b) Patient rooms shall be designed to permit not less than a four (4) foot space between beds, and at least three (3) foot space between the side of a bed and the nearest wall, fixed cabinet, or heating/cooling element. A minimum of four (4) feet is required between foot of bed and opposite wall, or foot of opposite bed in multi-bed rooms.

(c) Window. All patient rooms must have windows opening to the outside. The sill shall not be higher than three (3) feet above the floor and shall be above grade. Window area shall be at least eight (8) percent of patient room floor area.

(d) Lavatory. In single and two (2) bed rooms with a private toilet room, the lavatory may be located in the toilet room. Where two (2) patient rooms share a common toilet, a lavatory shall be provided in each patient room;

(e) Wardrobe or closet for each patient. Minimum clear dimensions shall be one (1) foot and ten (10) inches deep by one (1) foot and eight (8) inches wide with full length hanging space with a clothes rod and shelf.

(f) Cubicle curtains, or equivalent built-in devices shall be provided for complete privacy for each patient in each multi-bed patient room and in tub, shower and toilet rooms.

(g) No patient room shall be located more than 120 feet from the nurses' station, the clean workroom, and the soiled workroom. No room shall be used as a patient room where the access is through another patient's room.

(2) Patient toilet rooms:

(a) Where a centralized toilet area is used, the facility shall provide for each sex on every floor the following: one (1) toilet for each eight (8) residents or major fraction thereof and one (1) lavatory for each sixteen (16) residents or major fraction thereof. Toilets must be separated by a permanent partition and at least one (1) toilet for each sex must be designed for wheelchair use.

(b) Grab bars shall be provided at all toilets. At least one (1) toilet shall be easily usable by wheelchair patients.

(c) Doors to toilet rooms shall have a minimum width of two (2) feet and ten (10) inches to admit wheelchair.

(3) Service areas in each nursing unit. The size of each service area will depend on the number and types of beds within the unit and shall include:

(a) Nurses' station. For nurses' charting, doctors' charting, communications, and storage for supplies and nurses' personal effects.

(b) Staff lounge area with personal storage space and a toilet room for staff.

(c) Visitors toilet room. The facility shall provide a toilet for visitors. The staff toilet room may serve as the visitors toilet room if marked and accessible.

(d) Clean workroom for storage and assembly of supplies for nursing procedures with a work counter and sink.

(e) Soiled workroom with a clinical sink, work counter with two (2) compartment sink, waste receptacles, and soiled linen receptacles.

(f) Medication area adjacent to nurses' station with sink, refrigerator, locked storage, and facilities for preparation and dispensing of medication. (May be designated area within clean workroom if a self-contained cabinet is provided.) The controlled substances locker must be under double lock.

(g) Clean linen storage with enclosed storage space. (May be designated area within the clean workroom.)

(h) Equipment storage room for storage of IV stands, inhalators, air mattresses, walkers, and similar bulky equipment.

(i) Patient baths. One (1) shower stall or one (1) bathtub shall be required for each twelve (12) beds not individually served. There shall be at least one (1) free standing bathtub in each bathroom. Grab bars or patient lift with a safety device shall be provided at all tubs. Grab bars shall be provided at all shower stalls. Each bathtub or shower enclosure in central bathing facilities shall provide space for private use, for dressing and for a wheelchair and attendant. At least one (1) shower in the central bathing facilities shall not be less than four (4) feet square, without curbs, and designed to permit use from a wheelchair. Soap dishes in showers and bathrooms shall be recessed.

(j) Janitor's closet for storage of housekeeping supplies and equipment with floor receptor or service sink.

(k) Bedpan washing facilities on each floor and located so that bedpans need not be carried through lobbies and dining areas.

(4) Patients' dining, TV viewing and recreation areas:

(a) The total areas set aside for these purposes shall be not less than thirty (30) square feet per bed for the first fifty (50) beds and twenty (20) square feet per bed for all beds in excess of fifty (50). Additional space shall be provided for outpatients if they participate in a day care program.

(b) Storage shall be provided for recreational equipment and supplies. (Such as wall cabinets or closets.)

(c) The areas set aside for these purposes must be readily accessible to wheelchair patients and shall be of sufficient size to accommodate equipment and permit unobstructed movement of wheelchair patients and personnel responsible for instructing and supervising patients.

Section 7. Dietary Department. If a commercial service will be used or meals will be provided by an adjacent hospital, dietary areas and equipment shall be designed to accommodate the requirements for sanitary, efficient, and safe storage, processing, and handling, otherwise the following shall be provided:

(1) Food preparation center with a lavatory but no mirror.

(2) Food serving facilities to accommodate patient and staff.

(3) Dishwashing and potwashing facilities. Dish and utensil washing equipment shall be used that will result in sanitized serveware and will prevent recontamination.

(4) Refrigerated storage which can accommodate a three (3) day supply minimum.

(5) Dry storage which can accommodate a three (3) day supply minimum.

(6) Food carts. If the facility uses food carts, space shall be provided in the kitchen or in a separate storage area for the cleaning and storage of food carts.

(7) Janitor's closet for storage for housekeeping supplies and equipment with a floor receptor or service sink.

(8) A toilet room conveniently accessible to the dietary department. If a toilet room is built within the dietary department it must have a two (2) door separation from food preparation area or dining areas.

Section 8. Administration Department. The facility shall have adequate administrative, public, and staff facilities (e.g., offices, lobby, toilet facilities) to accommodate the needs of the public, patients, and staff without interfering with the provision of medical care services.

Section 9. Laundry. The following shall be included:

(1) Soiled linen room;

(2) Clean linen room;

(3) Lavatory accessible from soiled, clean, and processing rooms;

(4) Laundry processing room, and storage for laundry supplies. (Need not be provided if laundry is processed outside the facility.);

(5) Janitor's closet with storage for housekeeping supplies and equipment and floor receptor or service sink.

Section 10. Storage and Service Areas. The following shall be included: (1) Sufficient storage space for general storage requirements.

(2) Engineering service and equipment areas. The following shall be provided where applicable:

(a) Boiler room;

(b) Mechanical and electrical equipment room(s). (Can be combined with boiler room);

(c) Storage room for housekeeping equipment. (Need not be provided if space is available in janitor's closets or elsewhere);

(d) Refuse area for holding trash prior to disposal which is located convenient to service entrance.

Section 11. Details and Finishes. A high degree of safety for the occupants to minimize the incidence of accidents shall be provided. Hazards such as sharp corners shall be avoided. All details and finishes shall meet the following requirements:

(1) Details:

(a) Handrails shall be provided on both sides of corridors used by patients in intermediate care facilities with a clear distance of one and one-half (1½) inches between handrail and wall.

(b) All doors to patient-room toilet rooms and patient-room bathrooms shall swing outward or shall be equipped with hardware which will permit access in any emergency.

(c) All doors opening onto corridors shall be swing-type except elevator doors. Alcoves and similar spaces which

generally do not require doors are excluded from this requirement.

(d) Thresholds and expansion joint covers, if used, shall be flush with the floor.

(e) Grab bars and accessories in patient toilet rooms, shower rooms, and bathrooms shall have sufficient strength and anchorage to sustain a load of 250 pounds for five (5) minutes.

(f) Lavatories intended for use by patients shall be installed to permit wheelchairs to slide under.

(g) Mirrors shall be arranged for convenient use by patients in wheelchairs as well as by patients in standing position.

(h) Towel rack or dispenser shall be provided at all lavatories and sinks used for handwashing.

(i) Ceiling heights:

1. Boiler room. Not less than two (2) feet and six (6) inches above the main boiler header and connecting piping with adequate headroom under piping for maintenance and access;

2. Corridors, storage rooms, patients' toilet rooms, and other minor rooms. Not less than seven (7) feet and six (6) inches;

3. All other rooms. Not less than eight (8) feet.

(k) Boiler room, food preparation centers, and laundries shall be insulated and ventilated to prevent any floor surface above from exceeding a temperature of eighty-five (85) degrees Fahrenheit.

(l) Noise reduction criteria. The ceilings of the following areas shall be designed to reduce noise transmission:

1. Corridors in patient areas;

2. Nurses' stations;

3. Work areas, such as utility rooms;

4. Lobbies and recreation areas.

(m) Special attention shall be given to sound transmission from boiler rooms, mechanical rooms, and kitchen, to patient bedroom areas.

(2) Finishes:

(a) Floors generally shall be easily cleanable and shall have the wear resistance appropriate for the location involved. Floors in kitchen and related spaces shall be waterproof and greaseproof. In all areas where floors are subject to wetting, they shall have a nonslip finish.

(b) Adjacent dissimilar floor materials shall be flush with each other to provide an unbroken surface.

(c) Walls generally shall be washable and in the immediate area of plumbing fixtures, the finish shall be moistureproof. Wall bases in dietary areas shall be free of spaces that can harbor insects.

(d) Ceilings generally shall be washable or easily cleanable. This requirement does not apply to boiler rooms, mechanical and building equipment rooms, shops and similar spaces.

Section 12. Elevators. Elevators shall conform with 803 KAR 4:010.

(1) Elevators, where required. All facilities where either patient beds or inpatient facilities such as diagnostic, recreation, patient dining or therapy rooms are located on other than the first floor, shall have electric or electrohydraulic elevators as follows:

(a) Number of elevators. All facilities with either patient beds or inpatient facilities located on any floor other than the first floor shall have at least one (1) hospital-type elevator and such additional elevators as determined by the licensure agency from a study of the facility plan and the estimated vertical transportation requirements.

(b) Cars and platforms. Cars of hospital-type elevators

shall have inside dimensions that will accommodate a patient's bed and attendants and shall be at least five (5) feet wide by seven (7) feet and six (6) inches deep; car doors shall have a clear opening of not less than three (3) feet and eight (8) inches. Cars of all other required elevators shall have a clear opening of not less than three (3) feet.

(c) Leveling. Elevators shall have automatic leveling of the two (2) way automatic maintaining type with accuracy within plus or minus one-half (½) inch.

Section 13. Construction. Foundations shall rest on natural solid ground if a satisfactory soil is available at reasonable depths. Proper soil bearing values shall be established in accordance with recognized standards. If solid ground is not encountered at practical depths, the structure shall be supported on driven piles or drilled piers designed to support the intended load without detrimental settlement.

Section 14. Mechanical Requirements. (1) Steam and hot water systems:

(a) Boilers. If boilers are used a minimum of two (2) must be provided; the combined capacity of the boilers, based upon the published Steel Boiler Institute or Institute of Boiler and Radiator Manufacturer's net rating, must be able to supply 150 percent of the normal requirements of all systems and equipment.

(b) The design and installation of boilers in the facility shall comply with 815 KAR 15:010-060.

(2) Temperature and ventilating systems:

(a) Temperatures. A minimum temperature of seventy-two (72) degrees Fahrenheit shall be provided for in occupied areas in winter conditions. A maximum temperature of eighty-five (85) degrees Fahrenheit shall be provided for in occupied areas in summer conditions.

(b) Ventilation systems details. All air-supply and air-exhaust systems shall be mechanically operated. All fans serving exhaust systems shall be located at or near the point of discharge from the building. The ventilation rates shown in Table 1, Section 16, shall not be considered as precluding the use of higher ventilation rates if they are required to meet design conditions.

1. Outdoor ventilation air-intakes, other than for individual room units, shall be located as far away as practicable but not less than twenty-five (25) feet from the exhausts from any ventilating system or combustion equipment. The bottom of outdoor intakes serving central air systems shall be located as high as possible but not less than eight (8) feet above the ground level or if installed through the roof, three (3) feet above roof level.

2. The ventilation systems shall be designed and balanced to provide the general pressure relationship to adjacent areas shown in Table 1, Section 16.

3. Room supply air inlets, recirculation, and exhaust air outlets shall be located not less than three (3) inches above the floor.

4. Corridors shall not be used to supply air to or exhaust air from any room, except that exhaust air from corridors may be used to ventilate rooms such as bathrooms, toilet rooms, or janitor's closets which open directly on corridors.

(3) Plumbing and other piping systems:

(a) Lavatories and sinks required in patient care areas shall have the water supply spout mounted so that its discharge point is a minimum distance of five (5) inches above the rim of the fixture. All fixtures used by medical and nursing staff, and all lavatories used by patients and food handlers shall be trimmed with valves which can be

operated without the use of hands. Where blade handles are used for this purpose, they shall be at a distance from the center line of the sink to be operational.

(b) Clinical sinks shall have an integral trap in which the upper portion of a visible trap seal provides a water surface.

(4) Water supply system:

(a) Systems shall be designed to supply water to the fixtures and equipment on the upper floors at a minimum pressure of fifteen (15) pounds per square inch during maximum demand periods.

(b) Each water service main, branch main, riser and branch to a group of fixtures shall be valved. Stop valves shall be provided at each fixture.

(c) Hot, cold and chilled water piping and waste piping on which condensation may occur shall be insulated. Insulation of cold and chilled water lines shall include an exterior vapor barrier.

(d) Backflow preventers (vacuum breakers) shall be installed on hose bibbs and on all fixtures to which hoses or tubing can be attached such as janitor's sinks and bedpan flushing attachments.

(e) Hot water distribution systems shall be arranged to provide hot water at each fixture at all times.

(f) Piping over food preparation centers, food serving facilities, food storage areas, and other critical areas shall be kept to a minimum and shall not be exposed. Special precautions shall be taken to protect these areas from possible leakage of, or condensation from, necessary overhead piping systems.

(5) Hot water heaters and tanks:

(a) The hot water heating equipment shall have sufficient capacity to supply the water at the temperature and amounts indicated below:

	Use		
	Patient	Dishwasher	Laundry
Gal/hr/bed	6½	4	4½
Temp. F.	100-110	180*	140-180**

\* Temperature may be reduced to 140 if chloritizer is used.

\*\* If the temperature used is below 180, the facility shall utilize detergents and other additives to insure that the linens will be adequately cleaned.

(b) Storage tank(s) shall be provided and shall be fabricated of corrosion-resistant metal, or have non-corrosive lining.

(6) Plumbing approval. Prior to final approval of the plans and specifications by the licensure agency, the plumbing plans and specifications must be approved by the Division of Plumbing, Department of Housing, Buildings and Construction.

Section 15. Electrical Requirements. (1) General. Electrical requirements of the Kentucky Building Code shall apply where applicable.

(2) The wiring in each facility shall be inspected by a certified electrical inspector and a certificate of approval shall be issued to the facility, prior to occupancy; however, the wiring in existing buildings shall be approved by a certified electrical inspector only when the building has not previously so approved for health care occupancy or where the State Fire Marshal finds that a hazardous condition exists.

(3) Switchboard and power panels. All breakers and switches shall be indexed.

(4) Lighting:

(a) All spaces occupied by people, machinery, and equipment within buildings, and the approaches thereto, and parking lots shall have electric lighting.

(b) Patients' bedrooms shall have general lighting. A reading light shall be provided for each patient when appropriate. Patients' reading lights and other fixed lights not switched at the door shall have switch controls convenient for use at the luminaire. Fixed type night lights shall be provided in each patient's room.

(c) Lighting levels for the facility shall comply with the requirements of Table 2, Section 16.

(5) Receptacles (convenience outlets):

(a) Bedroom. Each patient bedroom shall have duplex receptacles as follows: one (1) each side of the head of each bed (for parallel adjacent beds, only one (1) receptacle is required between the beds), receptacles for luminaires, television and motorized beds, if used, and one (1) receptacle on another wall.

(b) Corridors. Duplex receptacles for general use shall be installed approximately fifty (50) feet apart in all corridors and within twenty-five (25) feet of ends of corridors.

(6) Nurses' calling system. A nurses' visible signal calling station shall be installed at each patient bed and in each patient toilet, bath, and shower-room. The nurses' call in toilet, bath, or shower-room, shall be an emergency call. All calls shall register at the nurses' station and shall actuate a visible signal in the corridor at the patient's door, in the clean workroom, and the soiled workroom of the nursing unit.

(7) Emergency electric service:

(a) General. To provide electricity during an interruption of the normal electric supply that could affect the nursing care, treatment, or safety of the occupants, an emergency source of electricity shall be provided and connected to certain circuits for lighting and power.

(b) Sources. The source of this emergency electric service shall be an emergency generating set, when normal service is supplied by one (1) or more central station transmission lines.

(c) Emergency generating set:

(1) The required emergency generating set, including the prime mover and generator, shall be located on the premises and shall be reserved exclusively for supplying the emergency electrical system. The emergency generator set shall be sufficient kilowatt capacity to supply all lighting and power load demands of the emergency system. The power factor rating of the generator shall be not less than eighty (80) percent.

2. When the facility is supplied by at least two (2) dedicated and separate utility service feeders, an emergency generating set is not required.

(d) Emergency electrical connections. Emergency electric service shall be provided to circuits as follows:

1. Lighting:

a. Exitways and all necessary ways of approach thereto, including exit signs and exit direction signs, exterior of exits, exit doorways, stairways, and corridors;

b. Dining and recreation rooms;

c. Nursing station and medication preparation area;

d. Generator set location, switch-gear location, and boiler room;

e. Elevator (if required for emergency).

2. Equipment. Essential to life safety and for protection of important or vital materials:

a. Nurses' calling system;

b. Sewage or sump lift pump, if installed;

c. At least one (1) duplex receptacle in each patient room;

d. Equipment such as burners and pumps necessary for operation of one (1) or more boilers and their necessary auxiliaries and controls, required for heating and sterilization;

e. Details. The emergency system shall be so controlled that after interruption of the normal electric power supply, the generator is brought to full voltage and frequency and connected within ten (10) seconds through one (1) or more primary automatic transfer switches to all emergency lighting, all alarms, nurses' call, and receptacles in patient corridors. All other lighting and equipment required to be connected to the emergency system shall either be connected through the above described primary automatic transfer switching or shall be subsequently connected through other automatic or manual transfer switching. Receptacles connected to the emergency system shall be distinctively marked for identification. Storage-battery-powered lights shall not be used as a substitute for the requirement of a generator. Where fuel is normally stored on the site, the storage capacity shall be sufficient for twenty-four (24) hour operation of required emergency electric services. Where fuel is normally piped underground to the site from a utility distribution system, storage facilities on the site will not be required.

f. Emergency heating. Where electricity is the only source of power normally used for space heating, an alternate emergency heating system for the heating of corridors will be required. Emergency heating of corridors will not be required in areas where the facility is supplied by at least two (2) utility service feeders, each supplied by separate generating sources or a network distribution system fed by two (2) or more generators, with the facility feeders so routed, connected, and protected so that a fault any place between the generators and the facility will not be likely to cause an interruption of more than one (1) of the intermediate care facility's service feeders. If there is written plan for the transfer of patients within a reasonable time to other facilities with which the intermediate care facility has written transfer agreements, the above alternate emergency heating system will not be required.

Section 16. Appendix: Table 1—Pressure Relationships and Ventilation of Certain Intermediate Care Areas. Table 2—Lighting Levels For Intermediate Care Facilities.



Table 1. Pressure Relationships and Ventilation of Certain Intermediate Care Areas

Area Designation	Pressure Relationship to Adjacent Areas	All Supply Air From Outdoors	Minimum Air Changes of Outdoor Air per Hour
Patient room	0	—	1
Patient area corridor	0	—	2
Treatment room	0	Yes	2
Physical therapy and hydrotherapy if applicable	N	—	2
Dining and recreation areas	0	—	2
Soiled workroom	N	—	2
Clean workroom	P	Yes	2
Toilet room	N	—	—
Bedpan room if applicable	N	—	—
Bathroom	N	—	—
Janitor's closet	N	—	—
Linen and trash chute rooms	N	—	—
Food preparation center	0	Yes	2
Dishwashing area	N	—	—
Dietary day storage	0	—	—
Laundry, general	0	Yes	2
Soiled linen sorting and storage	N	—	—
Clean linen storage	P	—	2

P = Positive    N = Negative    0 = Equal    — = Optional

Table 2. Lighting Levels for Intermediate Care Facilities

Area	Footcandles *
Administrative and lobby areas, day	50
Administrative and lobby areas, night	20
Barber and beautician areas, if applicable	50
Corridors and interior ramps	20
Corridor night lighting	3
Dining area and kitchen	30
Doorways	10
Exit stairways and landings	5
Janitor's closet	15
Nurses' station, general, day	50
Nurses' station, general, night	20
Nurses' desk, for charts and records	70
Nurses' medicine cabinet	100
Patient care unit (or room), general	10
Patient care room, reading	30
Recreation area (floor level)	50
Stairways other than exits	30
Toilet and bathing facilities	30
Utility room, general	20
Utility room, work counter	50

\* Minimum on task at anytime

Section 17. 902 KAR 20:055E, Intermediate care facilities; construction and alteration, is hereby repealed.

FRANK W. BURKE, SR., Chairman

ADOPTED: September 9, 1981

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: September 15, 1981 at 3:45 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Frank W. Burke, Sr., Chairman, Kentucky Health Facilities and Health Services, Certificate of Need and Licensure Board, 275 East Main Street, Frankfort, Kentucky 40621.

Table 1. Continued

Area	Minimum Total Air Changes Per Hour	All Air Exhausted Directly to Outdoors
Patient room	4	—
Patient area corridor	4	—
Treatment room	6	Yes
Physical therapy and hydrotherapy if applicable	6	—
Dining and recreation areas	4	—
Soiled workroom	4	Yes
Clean workroom	4	—
Toilet room	10	Yes
Bedpan room if applicable	10	Yes
Bathroom	10	Yes
Janitor's closet	10	Yes
Linen and trash chute rooms	10	Yes
Food preparation center	10	Yes
Dishwashing area	10	Yes
Dietary day storage	2	—
Laundry, general	10	Yes
Soiled linen sorting and storage	10	Yes
Clean linen storage	2	—

P = Positive    N = Negative    0 = Equal    — = Optional

# DEPARTMENT FOR HUMAN RESOURCES Bureau for Health Services Certificate of Need and Licensure Board

902 KAR 20:066. Operation and services; day health care programs.

RELATES TO: KRS 216B.010 to 216B.130, 216B.990(1),(2)

PURSUANT TO: KRS 13.082, 216B.040, 216B.105(3)  
NECESSITY AND FUNCTION: KRS 216B.040 and 216B.105(3) mandate that the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board regulate health facilities and health services. This regulation provides for the licensure requirements for the operation of day health care programs and the services to be provided by day health care programs.

Section 1. Scope of Operations and Services. Day health care programs provide, during specified daytime hours, continuous supervision of the patient to assure that health care needs are being met, supervision of self-administration of medications, personal care services, self-care training, and social and recreational activities. This program serves persons of all ages who may be frail,

moderately handicapped, slightly confused or have incapacitating chronic conditions, who need organized health care during the day.

Section 2. Definitions. (1) "Administrator" means a person who:

(a) Has a minimum of two (2) years college, or equivalent training with at least two (2) years of clinical experience, a degree, or a license in a health related profession; or

(b) Is licensed as a nursing home administrator pursuant to KRS 216A.080.

(2) "Physical therapist" means a person who is currently licensed by the Kentucky State Board of Physical Therapy.

(3) "Speech pathologist" means a person who:

(a) Meets the educational and experience requirements for a certificate of clinical competence in the appropriate area (speech pathology or audiology) granted by the American Speech and Hearing Association; or

(b) Meets the educational requirements for certification and is in the process of accumulating the supervised experience required for certification.

(4) "Personal care services" means services to help residents to achieve and maintain good personal hygiene including but not limited to: assistance with bathing, shaving, cleaning and trimming of fingernails and toenails, cleaning of the mouth and teeth, washing, grooming and cutting of hair.

(5) "Program" means a day health care program.

Section 3. Administration and Operation. (1) Licensee.

(a) The licensee shall be legally responsible for the operation of the program and for compliance with federal, state and local laws and regulations pertaining to the operation of the program.

(b) The licensee shall establish policies, consistent with state laws and regulations, for the administration and operation of the service, including:

1. A description of services included in the program.

2. A procedure for providing first aid and making arrangements for medical care with a physician or hospital in case of accidents or medical emergencies.

3. A procedure for transporting patients to a physician or hospital in case of an accident or a medical emergency.

4. Procedures for admission, evaluation of patient's needs, and discharge.

(2) Administrator. All programs shall have an administrator who shall be responsible for the operation of the facility and shall delegate such responsibility in his or her absence.

(3) All patients shall be evaluated upon admission to determine their program needs. A care plan shall be developed for each patient.

(4) Personnel.

(a) The program shall employ or have access to a sufficient number of qualified personnel as may be required to provide the services required by this regulation, and indicated by the need of the program's patients.

(b) Written job descriptions and standards of qualifications shall be developed for each category of personnel. Job descriptions shall include necessary qualifications, lines of authority and specific duty assignments. Job descriptions shall be reviewed annually and revised as necessary.

(c) Current employee records shall be maintained and shall include a resume of each employee's training and experience, evidence of current licensure or registration

where required by law, health records and evaluation of performance, along with employee's name, address, and social security number.

(d) Supportive personnel, assistants and volunteers shall be supervised and shall function within the policies and procedures of the program.

(e) All employees shall have a test for tuberculosis either prior to or within the first week of employment and annually thereafter. Any employee contracting an infectious disease shall not appear at work until the infectious disease can no longer be transmitted.

(f) The program shall conduct an orientation for all new employees.

(g) A planned in-service training program shall be provided to all employees covering all policies and procedures pertinent to their roles within the program.

(h) The administrator shall attend educational programs appropriate to the responsibilities of the position and arrange for other professional personnel to attend appropriate educational programs on supervision and subjects related to personal care, activities, nutrition, and other pertinent subjects.

(i) Staffing. The administrator shall designate the person who will be primarily responsible for the coordination and provision of dietary and activity service(s).

(5) Patient's records.

(a) The facility shall maintain an individual record for each patient and shall develop a system of identification and filing to insure prompt location of each patient's record. Records shall be treated with confidentiality, shall be in ink or typed and shall be legible. The record shall include: the patient's name, address, and social security number (if available); name, address and telephone number of referral agency; name and telephone number of personal physician; name, telephone number, address of next of kin or other responsible person; and date of admission and discharge.

(b) A progress record shall be maintained stating goals for each patient and shall indicate any changes in the patient's condition, behavior, responses, attitude, appetite, and other changes as noted by staff, and shall include a discharge summary. Each entry in the record shall be signed and dated.

(c) If the patient has been referred on orders of a physician, the record shall contain a dated and signed medical summary and care plan including orders for special diet, contra-indications for specific types of activities, and other special procedures required for the safety and well-being of the patient.

(d) If consultants are involved in the program, they shall make a written report of their findings and recommendations at the time of their visits to be included in the patient's record.

(e) If a medication must be administered to a patient during the period of time he is in the program, a medication sheet shall be maintained which contains the date, time given, name of medication, dosage, name of prescribing physician and by whom administered.

(f) A full written report of any incident or accident involving a patient or employee shall be made and signed by the administrator or his designee and shall include the names of any witnesses.

(g) Records shall be retained for a minimum of five (5) years or, in the case of a minor, three (3) years after the patient reaches the age of majority under state law, whichever is the longest.

(6) Registry. The program shall maintain a permanent chronological patient registry book showing date of admis-

sion, name of patient, and date of discharge.

(7) Equipment. The program shall have equipment of sufficient quality and quantity to meet patients' needs.

#### Section 4. Services. (1) Health services.

##### (a) Health care services shall include:

1. Supervision and monitoring of the patients to assure that health care needs are being met including supervision of self-administration of medications.

2. Providing first aid and making arrangements for medical care with a physician or hospital in case of accidents or medical emergencies.

3. Arranging for the transportation of patients in case of accidents or medical emergencies.

4. Storage of medicines. All medicines kept by the program shall be labeled with the resident's name, the name of the drug, strength, name of pharmacy, prescription number, date, physician name, caution statements and directions for use. Those medicines that require refrigeration must be kept in the refrigerator. All medicines kept by the program shall be kept under lock.

(b) Medical therapeutic services such as physical therapy or speech therapy shall be administered only upon written order of the physician and shall be provided by a physical therapist or a speech pathologist or under the supervision of a physical therapist or a speech pathologist.

(2) Self-care training. The program shall provide a training program for self-care to assist the patients to gain independent living status.

(3) Personal care. Personal care services shall be provided.

##### (4) Activity program.

(a) The day health care program shall include a balanced activity program for all ages served. Patients shall choose and plan, when feasible, a variety of activities that they desire, and the involvement of the staff shall be advisory. There shall be a written activity program with activities planned to fill patient needs with sufficient variety for choice including:

1. Recreation and physical exercise;
2. Diversion, games, music, and crafts;
3. Intellectual and educational stimulation, current events, and educational films; and
4. Participation in planning menus and preparation of food.

(b) Activities shall be group or individually oriented aimed at participation at all levels of capability.

(c) A specific period of the day shall be set aside for rest. There shall be appropriate accommodations for rest.

(5) Transportation. If transportation of the patient to and from the program is provided by the day health care program:

(a) Special provision shall be made for patients who use wheelchairs; and

(b) An escort or assistant to the driver shall be provided when necessary.

##### (6) Dietary services.

##### (a) Food service and preparation.

1. The program shall offer one (1) or more hot meals providing no less than one-third ( $\frac{1}{3}$ ) of the daily nutritional requirements per meal;

2. Foods shall be prepared by appropriate methods to conserve their nutritive value and enhance their flavor and appearance.

3. Nutritional needs shall be met in accordance with the current Recommended Dietary Allowance of the Food and Nutrition Board of the National Research Council, ad-

justed for age, sex and activity and in accordance with physician's orders.

4. Food shall be cut, chopped or ground to meet individual needs.

5. Effective equipment shall be provided and procedures established to maintain food at proper temperature during service.

6. Patients requiring help in eating shall be assisted.

7. Adaptive self-help devices shall be provided where required in such a manner as to contribute to the patient's independence in eating.

##### (b) Maintenance of sanitary condition.

1. The dietary department shall comply with all applicable provisions of KRS 219.011 to KRS 219.081 and 902 KAR 45:005 (Kentucky's Food Service Establishment Act and Food Service Code). The Division for Licensing and Regulation, Office of the Inspector General, Department for Human Resources shall carry out the provisions of this Act as they relate to inspections, follow-up and recommendations for issuance and revocation of food service permits. When the program contracts for food service, the catering service shall comply with the applicable requirements of the Food Service Code and the applicable requirements of this regulation.

2. All perishable foods shall be refrigerated at the appropriate temperature and in an orderly and sanitary manner. All leftover food items shall be covered and dated when refrigerated.

##### (7) Housekeeping and maintenance services.

(a) The facility shall be maintained in a safe and clean manner, free from offensive odors, safety hazards and accumulations of dirt, rubbish and dust.

(b) Deodorizers shall not be used to conceal odors caused by unsanitary conditions or poor housekeeping practices.

(c) The grounds shall be kept free from refuse and litter. Areas around buildings, sidewalks, gardens and patios shall be kept clear of dense undergrowth.

(d) The facility shall be maintained free from insects and rodents.

(e) Windows and doors shall be screened.

(f) Harborages and entrances for insects and rodents shall be eliminated.

Section 5. 902 KAR 20:065E, Day health care programs, is hereby repealed.

FRANK W. BURKE, SR., Chairman

ADOPTED: September 9, 1981

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: September 15, 1981 at 3:45 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Frank W. Burke, Sr., Chairman, Kentucky Health Facilities and Health Services, Certificate of Need and Licensure Board, 275 East Main Street, Frankfort, Kentucky 40621.

**DEPARTMENT FOR HUMAN RESOURCES**  
**Bureau for Health Services**  
**Certificate of Need and Licensure Board**

**902 KAR 20:081. Operations and services; home health agencies.**

RELATES TO: KRS 216B.010 to 216B.130, 216B.990(1),(2)

PURSUANT TO: KRS 13.082, 216B.040, 216B.105(3)  
 NECESSITY AND FUNCTION: KRS 216B.040 and 216B.105(3) mandate that the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board regulate health facilities and health services. This regulation provides for the licensure requirements for the operation of home health agencies and the services to be provided by home health agencies.

**Section 1. Scope.** A home health agency is a public agency or private organization, or a subdivision of such an agency or organization which provides intermittent health and health related services, to patients in their place of residence, either singly or in combination as required by a plan of treatment prescribed by a licensed physician.

**Section 2. Definitions.** (1) "Board" means the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board.

(2) "Coordination agreements" means agreements to coordinate health care services within the service area of the agency.

(3) "Home health aide" means a person who provides personal care and other related health services, as ordered by the attending physician.

(a) Selection of home health aides shall take into account the ability to:

1. Read and write.
2. Understand and carry out instructions.
3. Record messages.
4. Keep simple records.

(b) Other factors to consider:

1. Emotional and mental maturity; and
2. Interest in and sympathetic attitude toward caring for the sick at home.

(4) "Intermittent nursing service" means service up to a few hours a day, one (1) day or several days per week or month. On occasion, service may be provided more frequently for more time per day up to seven (7) days per week.

(5) "License" means an authorization issued by the Board for the purpose of operating a home health agency and offering home health service.

(6) "Medical social worker" means a person who has a baccalaureate degree in social work, psychology, sociology, or other field related to social work and has had at least one (1) year of social work experience in a health care setting. Such person shall be appropriately licensed, if required, by the State Board of Examiners of Social Work of Kentucky.

(7) "Occupational therapist" means a person who is registered by the American Occupational Therapy Association or a graduate of a program in occupational therapy approved by the Council on Medical Education of the American Medical Association in collaboration with the American Occupational Therapy Association and who is engaged in the required supervised clinical experience period prerequisite to registration by the American Occupational Therapy Association.

(8) "Physical therapist" means a person who is currently licensed by the Kentucky State Board of Physical Therapy.

(9) "Qualified medical social worker" means a person who has a master's degree from a school of social work accredited by the Council on Social Work Education and who has social work experience in a hospital, outpatient clinic, medical rehabilitation, medical care or mental health program. Such person shall be appropriately licensed, if required, by the State Board of Examiners of Social Work of Kentucky.

(10) "Speech pathologist" means a person who:

(a) Meets the education and experience requirements for a certificate of clinical competence in the appropriate area (speech pathology or audiology) granted by the American Speech and Hearing Association; or

(b) Meets the educational requirements for certification and is in the process of accumulating the supervised experience required for certification.

**Section 3. Administration and Operation.** (1) The licensee shall be legally responsible for the operation of the home health agency and for compliance with federal, state, and local laws and regulations pertaining to the operation of the service.

(2) The licensee shall establish policies for the administration and operation of the service. The policies shall include:

(a) Acceptance of patients. The policy shall assure that the acceptance of patients is based on medical, nursing and social information provided by the physicians responsible for the patient's care, by institutional personnel and by staff of the home health agency.

(b) Establishment and review of plan of treatment. The policy shall assure that services and items to be provided are specified under a plan of treatment established, signed and regularly reviewed by the physician who is responsible for the care of the patient.

(3) Home health services shall be available to the total population regardless of age, sex, and ethnic background.

(4) The total plan shall be reviewed by the attending physician, in consultation with agency professional personnel at such intervals as the severity of the patient's illness requires, but in any instance, at least once every two (2) months. Verbal authorization to change the plan of treatment shall be reviewed and signed by the physician within seven (7) days after order is issued.

(5) Clinical records. The home health agency shall maintain a clinical record for each patient which covers the services the agency provides directly and those provided through arrangements with another agency; and which contains pertinent past and current medical, nursing, and social information, including the plan of treatment. All records must be confidential.

(6) Physician's original drug orders and changes in orders. The following shall be signed by the physician and incorporated in the patient record maintained by the agency:

(a) Original orders for drugs; and

(b) Changes in orders for the administration of those drugs subject to federal and state controlled substances acts, and other legend drugs, i.e., requiring prescriptions. Verbal authorization by the physician to change drug orders shall be reviewed and signed by the same physician within seven (7) days after order is issued.

(7) Evaluation. The agency shall have procedures which provide for systematic evaluation of its program at least once every two (2) years. The agency staff shall conduct the evaluation. The program evaluation shall include:

(a) Measures to determine whether the policies established are followed in providing services. These shall include a review of patient records on a sample basis in order to determine that services are being used appropriately and the extent to which the needs of the patients the agency serves are being met both quantitatively and qualitatively;

(b) A mechanism for reviewing overall management aspects of its service to assure economy and efficiency of operations.

(8) Planning. Each agency shall develop and annually review a long range plan which includes:

(a) Assessment of needs for services in the service area of the agency.

(b) Identification of agency's role in meeting those needs.

(c) Staff expansion for a two (2) year period.

(d) Establishment of goals and objectives.

(e) Coordination of volunteer services, community education and community development activities if these services are provided by the agency.

(9) Subdivision operating as home health agency. When a subdivision of an agency (e.g., the home care department of a hospital or the nursing division of a health department) applies for license, the subdivision rather than the parent organization must be licensed as a home health agency and maintain records in such a way that subdivision activities and expenditures attributable to services provided are identifiable. The parent organization shall determine who signs the coordination agreements and other official documents, and receive and disburse funds.

Section 4. Personnel; Supervision and Training. (1) Personnel policies. The agency shall have written policies concerning qualifications, responsibilities, and conditions of employment for each type of personnel (including licensure where this is required by state law). The policies shall be written and available to staff and cover:

(a) Wage scales, hours of work, vacation and sick leave;

(b) A plan for pre-employment and periodic medical examination, tuberculin test and/or chest x-ray, and other appropriate tests;

(c) Plans for orientation and for on-the-job training, where necessary;

(d) Periodic evaluation of employee performance; and

(e) Job descriptions for each category of health personnel which are specific and include the type of activity each may carry out.

(2) Agency supervision. The home health agency shall designate a physician or registered nurse to supervise the agency's performance in providing home health services in accordance with the orders of the physician responsible for the care of the patient and under a plan of treatment established by such physician.

(3) Supervision of therapy services. When services of aides or other personnel providing supplementary services are utilized in providing home health services, they shall be trained and supervised by appropriate professional personnel. When such supervision is less than full-time, e.g., for a limited number of hours or days each week, the supervision shall be provided on a planned basis and shall be frequent enough to assure adequate review of individual treatment plans and progress.

(4) Supervision of home health aides. A registered nurse shall provide direct supervision as necessary and be readily available at other times by telephone. The supervisor shall be constantly evaluating the home health aide in terms of the aide's ability to carry out assigned duties, to relate well to the patient, and to work effectively as a member of a

team of health workers. The registered nurse, or appropriate professional staff member, if other services are provided, shall make a supervisory visit to the patient's residence at least every two (2) weeks either when the aide is present to observe and assist, or when the aide is absent to assess relationships and determine whether goals are being met.

(5) Training of home health aides. The home health agency shall determine that home health aides receive or have received a basic training program for home health aides. A home health aide shall be trained in:

(a) Methods of assisting patients to achieve maximum self-reliance;

(b) Principles of nutrition and meal preparation;

(c) The aging process and the emotional problems of illness;

(d) Procedures for maintaining clean, healthful and pleasant environment;

(e) Awareness of changes in patient's condition that should be reported;

(f) Work of the agency and the health team; and

(g) Ethics, confidentiality and recordkeeping.

Section 5. Provision of Services. (1) The home health agency shall provide intermittent skilled nursing services and other services for restoring, maintaining and promoting health and/or rehabilitation with minimum disruption of daily living.

(2) Services shall range from skilled nursing services to basic health related services to unskilled supportive services.

(3) Services shall be available five (5) days a week with back-up arrangements for weekends and emergency services.

(4) In addition to intermittent skilled nursing services, the agency shall provide home health aide services, medical supplies and equipment services. When a home health agency provides therapeutic and medical social services the following conditions shall be met:

(a) Physical, speech or occupational therapy. When an agency provides or arranges for physical, speech or occupational therapy, service shall be given in accordance with a physician's written orders by or under the supervision of a therapist meeting the respective qualifications as set forth in subsections (8), (9), and (12) of Section 2 of this regulation.

(b) Respiratory therapy. When an agency provides or arranges for respiratory therapy, services shall be given in accordance with a physician's written order, by or under the supervision of a licensed nurse with experience and/or training in the field of respiratory therapy.

(c) Medical social services. When an agency provides or arranges for medical social services, services shall be given in accordance with a physician's written order by a qualified medical social worker or a medical social worker meeting the qualifications set out in Section 2 of this regulation.

(5) Home health aide services. Visits of the home health aide for providing personal care and other related health services must be ordered by the physician and included in a plan of treatment approved by the physician.

(6) Services arranged for with another licensed provider. When a home health agency makes arrangements for the provision of home health services by another agency which is a licensed provider of services, there shall be a written agreement which:

(a) Designates the services which are being arranged for. Services provided are to be within the scope and limitations



set forth in the plan of treatment. Such services may be altered only upon the specific orders of the initiating home health agency issued as a result of a change made by the physician in the patient's plan of treatment;

(b) Describes how the contracted personnel, where applicable, are to be supervised; and

(c) Provides for the recording of the progress notes and observations of the contracted personnel in the home health agency records for purposes of planning and evaluating patient care.

(7) Services arranged for with a non-licensed provider. When a home health agency arranges for services with an agency that is not a licensed provider of services, a contract shall be written. The contract shall:

(a) Designate the services which are being arranged for;

(b) Specify the period of time the contract is to be in effect and how frequently it is to be reviewed;

(c) Describe how the contracted personnel are to be supervised;

(d) State that home health services provided to the patient are in accordance with a plan established by the patient's physician in conjunction with home health agency staff and, when appropriate, others involved in the patient's care. Services provided shall be within the scope and limitations set forth in the plan and shall not be altered in type, scope, or duration by the secondary agency; and

(e) Assure that personnel and services contracted for meet the same requirements as those specified for home health agency personnel and services, including personnel qualifications, functions, supervision, orientation and in-service training.

(8) Service agreements with other health care facilities. Coordination agreements as defined in Section 2 of this regulation shall be developed with the major health care providers in the service area including: hospitals, skilled, intermediate and personal care facilities and family care homes.

Section 6. 902 KAR 20:080E, Home health agencies, is hereby repealed.

FRANK W. BURKE, SR., Chairman

ADOPTED: September 9, 1981

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: September 15, 1981 at 3:45 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Frank W. Burke, Sr., Chairman, Kentucky Health Facilities and Health Services, Certificate of Need and Licensure Board, 275 East Main Street, Frankfort, Kentucky 40621.

#### DEPARTMENT FOR HUMAN RESOURCES Bureau for Health Services Certificate of Need and Licensure Board

902 KAR 20:101. Facility specifications; ambulatory surgical center.

RELATES TO: KRS 216B.010 to 216B.130, 216B.990(1),(2)

PURSUANT TO: KRS 13.082, 216B.040, 216B.105(3)  
NECESSITY AND FUNCTION: KRS 216B.040 and 216B.105(3) mandate that the Kentucky Health Facilities

and Health Services Certificate of Need and Licensure Board regulate health facilities and health services. This regulation provides for the licensure requirements for the facility specifications for the construction, alteration and maintenance of ambulatory surgical centers.

Section 1. Definitions. (1) "Board" means the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board.

(2) "Certificate of need" means an authorization by the Board to proceed with any acquisition, initiation, construction or expansion of a health care facility pursuant to KRS Chapter 216B.

(3) "License" means an authorization issued by the Board for the purpose of operating an ambulatory surgical center and offering ambulatory surgical services.

(4) "Licensure agency" means the Division for Licensing and Regulation in the Office of the Inspector General, Department for Human Resources.

Section 2. Preparation and Approval of Plans and Specifications. After receiving a certificate of need from the Board, the following procedures shall be followed:

(1) Before construction is begun for the erection of new buildings or alterations to existing buildings or any change in facilities, the licensee or applicant shall submit plans in the detail specified in Section 3 to the licensure agency for approval.

(2) All architectural, mechanical and electrical drawings shall bear either the seal of an architect registered in the Commonwealth of Kentucky or the seal of a professional engineer registered in the Commonwealth of Kentucky, or both.

(3) Drawings shall not exceed thirty-six (36) inches by forty-six (46) inches when trimmed.

(4) All such plans and specifications shall be approved by the licensure agency prior to commencement of construction of new buildings or alterations of existing buildings.

(5) Plans and specifications in specific detail as required by the Kentucky Building Code shall be submitted together with architectural and/or engineering stamps as required by KRS Chapters 322 and 323, to the Department of Housing, Buildings and Construction for determining compliance with the Kentucky Building Code. All such plans and specifications shall be approved by the Department of Housing, Buildings and Construction, and appropriate local building permits shall be obtained prior to commencement of construction.

Section 3. Submission of Plans and Specifications. (1) First stage; schematic plans. Single line drawings of each floor shall show the relationship of the various departments or services to each other and the room arrangement in each department. The name of each room shall be noted. Drawings shall include the typical patient room layouts (scaled one-fourth (1/4) inch equals one (1) foot) with dimensions noted. The proposed roads and walks, service and entrance courts, parking and orientation shall be shown in a plot plan.

(2) Second stage; preliminary plans:

(a) Architectural: plans of basement and floors.

(b) Outline specifications:

1. General description of the construction, including interior finishes, types and locations of acoustical material, and special floor covering;

2. Description of the air-conditioning, heating, and ventilation systems and their controls, duct and piping

systems; and dietary, laundry, sterilizing and other special equipment;

3. General description of electrical service including voltage, number of feeders, and whether feeders are overhead or underground.

(3) Third stage; contract documents:

(a) Working drawings. Working drawings shall be complete and adequate for bid, contract, and construction purposes. Drawings shall be prepared for each of the following branches of the work: architectural, structural, mechanical, and electrical. They shall include the following:

1. Architectural drawings:

a. Approach plan showing all new topography, newly established levels and grades, existing structures on the site (if any), new building structures, roadways, walks, and parking areas;

b. Plan of each basement, floor and roof;

c. Elevations of each facade;

d. Sections through building;

e. Required scale and full-size details;

f. Schedule of doors, windows, and room finishes;

g. Equipment; location of all fixed equipment. Layout of typical and special rooms indicating all fixed equipment and major items of movable equipment. Equipment not included in contract shall be so indicated;

h. Conveying systems; details of construction, machine and control spaces necessary, size and type of equipment, and utility requirements, for the following: dumbwaiters: electric, hand, hydraulic; elevators: freight, passenger, patient; loading dock devices; pneumatic tube systems.

2. Structural drawings:

a. Plans for foundations, floors, roofs, and all intermediate levels with sizes, sections, and the relative location of the various structural members;

b. Dimensions of special openings;

c. Details of all special connections, assemblies, and expansion joints.

3. Mechanical drawings:

a. Heating, steam piping, and air-conditioning systems; radiators and steam heated equipment, such as sterilizers, warmers, and steam tables; heating and steam mains and branches with pipe sizes; diagram of heating and steam risers with pipe sizes; sizes, types, and capacities of boilers, furnaces, hot water heaters with stokers, oil burners, or gas burners; pumps, tanks, boiler breeching, and piping and boiler room accessories; air-conditioning systems with required equipment, water and refrigerant piping, and ducts; supply and exhaust ventilation systems with heating/cooling connections and piping; air quantities for all room supply and exhaust ventilating duct openings.

b. Plumbing, drainage, and standpipe systems; size and elevation of: street sewer, house sewer, house drains, street water main, and water service into the building; location and size of soil, waste, and water service with connections to house drains, clean-outs, fixtures, and equipment; size and location of hot, cold and circulating branches, and risers from the service entrance, and tanks; riser diagram of all plumbing stacks with vents, water risers, and fixture connections; gas, oxygen, and vacuum systems; standpipe and sprinkler systems where required; all fixtures and equipment that require water and drain connections.

4. Electrical drawings:

a. Electric service entrance with switches and feeders to the public service feeders, characteristics of the light and power current, transformers and their connections if located in the building;

b. Location of main switchboard, power panels, light panels, and equipment. Diagram of feeder and conduits with schedule of feeder breakers or switches;

c. Light outlets, receptacles, switches, power outlets, and circuits;

d. Telephone layout showing service entrance, telephone switchboard, strip boxes, telephone outlets, and branch conduits;

e. Nurses' call systems with outlets for beds, duty stations, door signal light, annunciators, and wiring diagrams;

f. Fire alarm system with stations, signal devices, control board, and wiring diagrams;

g. Emergency electrical system with outlets, transfer switch, sources of supply, feeders, and circuits;

h. All other electrically operated systems and equipment.

(b) Specifications. Specifications shall supplement the drawings to fully describe types, sizes, capacities, workmanship, finishes and other characteristics of all materials and equipment and shall include:

1. Cover or title sheet;

2. Index;

3. Sections describing materials and workmanship in detail for each class of work.

(c) Access to the work. Representatives of the appropriate state agencies shall have access at all reasonable times to the work wherever it is in preparation or progress, and the contractor shall provide proper facilities for such access and inspection.

Section 4. Compliance with Building Codes, Ordinances and Regulations. (1) This section may be administered independently from other sections of this regulation.

(2) General. Nothing stated herein shall relieve the sponsor from compliance with building codes, ordinances, and regulations which are enforced by city, county, or state jurisdictions.

(3) The following requirements shall apply where applicable and as adopted by the respective agency authority:

(a) Requirements for safety pursuant to 815 KAR 10:020, as amended.

(b) Requirements for plumbing pursuant to 815 KAR 20:010-190, as amended.

(c) Requirements for air contaminants for incinerators pursuant to 401 KAR 59:020 and 401 KAR 61:010.

(d) Requirements for elevators pursuant to 803 KAR 4:010.

(e) Requirements for making buildings and facilities accessible to and usable by the physically handicapped, pursuant to KRS 198B.260 and regulations promulgated thereunder.

(f) Requirements for radiation protection in x-ray and gamma ray installations pursuant to 902 KAR Chapter 100.

(4) Prior to occupancy, facility must have final approval from appropriate agencies.

(5) All facilities shall be currently approved by the Fire Marshal's Office in accordance with the Life Safety Code, before relicensure is granted by the licensure agency.

Section 5. General Facility Requirements and Special Conditions. (1) All ambulatory surgical center facilities shall contain at least all the elements described herein, or the narrative program shall indicate the manner in which the needed services are to be provided and identify ap-

appropriate modifications or deletions in space and equipment requirements. Each element provided in the ambulatory surgical center facility must meet the construction requirements outlined herein as a minimum, with the understanding that in many instances the elements will need to be expanded to fulfill the program requirements.

(2) A narrative program for each project shall be provided by the sponsor which describes the functional space requirements, staffing patterns, departmental relationships, and other basic information relating to the fulfillment of the objectives of the facility.

(3) The extent (number and types of rooms) of the diagnostic, clinical, and administrative facilities to be provided shall be determined by the services contemplated and the estimated patient load as described in the narrative program.

(4) The planning of ambulatory surgical center facilities shall provide for the privacy and dignity of the patient during interview, examination, and treatment.

(5) Facilities shall be available and accessible to the public, staff, and patients who may be physically handicapped. Special attention shall be given to ramps, drinking fountain height, mirrors, and other items deemed necessary for the physically handicapped.

(6) The facility shall have adequate administrative, public, and staff facilities (e.g., offices, lobby, toilet facilities) to accommodate the needs of the public, patients, and staff without interfering with the provision of medical care services.

**Section 6. Clinical Facilities.** (1) General purpose examination room(s) to be used for medical examinations shall have a minimum clear floor area of eighty (80) square feet, excluding such other spaces as vestibule, toilet, closet, and work counter (whether fixed or movable). Arrangement shall permit at least thirty (30) inches of clear space at each side and at foot of examination table. Provide lavatory or sink with handwashing facility and counter or shelf space for writing.

(2) Facilities for charting and for clinical records (nurses' station(s)). Provide counter space, temporary storage, and communication device; these may be located in each examination room and each treatment room.

(3) Drug distribution station. If the facility is to maintain a medication preparation room for the proper storage of drugs and biologicals, it shall be so located as to be under the nursing staff's visual control. It shall contain a work counter, refrigerator, and locked storage for drugs and biologicals.

**Section 7. Medical Records Unit.** This unit shall include: (1) Active record storage area;

(2) Record review and dictating room;

(3) Work area for sorting, recording, or microfilming;

(4) Inactive record storage area. (May be omitted if microfilming is used.)

**Section 8. Diagnostic Facilities.** (1) Radiology suite. If the facility provides radiology directly it shall provide equipment for diagnostic purposes but may also include therapeutic equipment. The suite shall contain:

(a) Radiographic room(s);

(b) Film processing facilities;

(c) Viewing and administration area(s);

(d) Film storage facilities;

(e) Toilet room which is directly accessible from each fluoroscopy room without entering the general corridor area;

(f) Dressing area(s) with convenient access to public toilets.

(2) Laboratory facilities. Facilities shall be provided directly within the ambulatory surgical center or through a contract arrangement with a nearby hospital or laboratory service for hematology, clinical chemistry, urinalysis, cytology, and bacteriology. If these facilities are provided through such a contract, then at least the following shall be provided:

(a) Laboratory work counter(s) with sink, gas and electric service;

(b) Lavatory(ies) with handwashing facility;

(c) Storage cabinet(s) or closet(s);

(d) Specimen collection facilities. Urine collection rooms shall be equipped with a water closet and lavatory. Blood collection facilities shall have space for a chair and work counter.

**Section 9. Janitor's Closet(s).** This room shall contain a sink and storage for housekeeping supplies and equipment. Provide at least one (1) janitor's closet per floor.

**Section 10. Surgical Suite.** (1) General. The suite shall be located to prevent through-traffic.

(2) Operating rooms. Each room shall have a minimum clear floor area of 240 square feet, with a minimum dimension of fifteen (15) feet.

(3) Recovery facilities. A separate room with charting space, medication storage and preparation space, and clinical sink is required.

(4) Service areas in each surgical suite. The size of each service area will depend on the surgical workload and shall include:

(a) Surgical supervisor station;

(b) Sterilizing facilities; near operating room with high-speed autoclave;

(c) Facilities for storage and preparation of medication;

(d) Scrub-up facilities; adjacent to operating rooms;

(e) Soiled workroom. Shall contain counter, clinical sink, waste receptacles, and soiled linen receptacles;

(f) Storage for sterile and unsterile supplies (may be in clean workroom);

(g) Anesthesia workroom for cleaning and storage of equipment;

(h) Storage room for anesthetic agents;

(i) Nitrous oxide and oxygen facilities (provide storage room if these services are not piped in);

(j) Clean workroom for storage and assembly of supplies; shall contain counter and sink;

(k) Equipment storage room for surgical and monitoring equipment;

(l) Janitor's closet. Floor receptor or service sink and storage for housekeeping supplies and equipment;

(m) Clothing change areas, lockers, and toilet rooms for doctors, nurses, orderlies, and other personnel;

(n) Holding area (for patients) in facilities with two (2) or more operating rooms;

(o) Stretcher alcove.

**Section 11. Central Medical and Surgical Supply Department.** The following areas shall be separated from each other: (1) Receiving and cleanup room. Space for cleaning equipment and disposing or processing of unclean articles shall be provided.

(2) Clean workroom. This room shall be divided into work space, clean storage area, sterilizing facilities, and storage area for sterile supplies.

(3) Unsterile supply storage area. May be located in an area other than this department.

Section 12. Engineering Service and Equipment Areas. The following shall be provided: (1) Room(s) for boilers, mechanical equipment, and electrical equipment.

(2) Refuse storage room. This shall be located convenient to service entrance.

(3) Waste processing services:

(a) Provide space and facilities for the sanitary storage and disposal of waste by incineration, mechanical destruction, compaction, containerization, or removal, or by a combination of these techniques.

(b) If provided, the incinerator shall be in a separate room, in a designated area within the boiler room, or placed outdoors.

Section 13. Details and Finishes. All details and finishes shall meet the following requirements: (1) Details:

(a) Corridors inside surgical suite shall be eight (8) feet minimum width.

(b) All doors to toilets which may be used by patients shall be equipped with hardware which will permit access in any emergency.

(c) The minimum width of doors for patient access to examination rooms shall be three (3) feet. Minimum width of doors to all rooms needing access for beds or stretchers shall be three (3) feet and eight (8) inches.

(d) Thresholds and expansion joint covers shall be made flush with the floor surface to facilitate use of wheelchairs and carts.

(e) The location and arrangement of handwashing facilities shall permit their proper use and operation. Particular care shall be given to the clearances required for blade-type operating handles.

(f) Paper towel dispensers and waste receptacles shall be provided at all lavatories and sinks used for handwashing.

(g) Ceiling heights:

1. Boiler rooms: Not less than two (2) feet and six (6) inches above the main boiler header and connecting piping.

2. Radiographic and other rooms containing ceiling mounted equipment and including those having ceiling mounted surgical light fixtures shall have a height of not less than nine (9) feet.

3. All other rooms shall have ceilings not less than eight (8) feet high except that ceilings in corridors, storage rooms, toilet rooms, and other minor rooms may be not less than seven (7) feet and eight (8) inches. Tracks, rails, pipes, etc., located in the path of normal traffic, shall be not less than six (6) feet and eight (8) inches above the floor.

(h) Rooms containing heat producing equipment (such as boiler or heater rooms) shall be insulated and ventilated to prevent any floor surface above from exceeding a temperature ten (10) degrees Fahrenheit above the ambient room temperature.

(2) Finishes:

(a) Floor materials shall be easily cleanable and have wear resistance appropriate for the location involved. In all areas subject to frequent wet cleaning, floor materials shall not be physically affected by germicidal and cleaning solutions. Floors that are subject to traffic while wet, as shower and bath areas and certain work areas, shall have a non-slip surface.

(b) Wall finishes shall be washable and, in the immediate area of plumbing fixtures, shall be smooth, moisture resistant, and easily cleaned.

(c) Wall bases in areas used for surgical procedures, and other areas subject to frequent wet cleaning shall be made integral and coved with the floor, tightly sealed within the wall, and constructed without voids that can harbor insects.

(d) Floor and wall penetrations by pipes, ducts, conduits, etc., shall be tightly sealed to minimize entry of rodents and insects. Joints of structural elements shall be similarly sealed.

(e) Acoustical ceilings shall be provided in corridors, multipurpose rooms, and waiting areas.

(f) Ceilings in operating suites shall be washable.

Section 14. Construction. Foundations shall rest on natural solid bearing if a satisfactory soil is available at reasonable depths. Proper soil-bearing values shall be established in accordance with recognized standards. If solid bearing is not encountered at practical depths, the structure shall be supported on driven piles or drilled piers designed to support the intended load without detrimental settlement, except that one (1) story buildings may rest on a fill designed by a soils engineer. When engineered fill is used, site preparation and placement of fill shall be done under the direct full-time supervision of the soils engineer. The soils engineer shall issue a final report on the grading operation and a certification of compliance with the job specifications. All footings shall extend to a depth not less than one (1) foot below the estimated maximum frost line.

Section 15. Elevators. (1) General. Elevators shall be required where examination or treatment rooms or diagnostic services are located on other than the main entrance floor.

(2) Cars and platforms. Cars shall have a minimum inside floor dimension of not less than five (5) feet. The car door shall have a clear opening of not less than three (3) feet.

(3) Leveling. Elevators shall have automatic leveling of the two (2) way automatic maintaining type with accuracy within plus or minus one-half (½) inch.

Section 16. Mechanical Requirements. (1) General. Prior to completion of the contract and final acceptance of the facility, the architect and/or engineer shall obtain from the contractor certification that all mechanical systems have been tested and that the installation and performance of these systems conform to the requirements of the plans and specifications.

(2) Steam and hot water systems:

(a) Boiler accessories. Boiler feed pumps, condensate return pumps, fuel oil pumps, and circulating pumps shall be connected and installed to provide standby service when any pump breaks down.

(b) Valves. Supply and return mains and risers of space heating and process steam systems shall be valved to isolate the various sections of each system. Each piece of equipment shall be valved at the supply and return end.

(3) Air-conditioning, heating and ventilating systems:

(a) Temperatures and humidities:

1. The systems shall be designed to provide the temperatures and humidities shown below:

Area Designation	Temp. F.	RH
Operating	70-76*	30-60**
Recovery	75	30-60

\* Variable range required

\*\* If combustible anesthetics are used the range for humidity shall be 50-60.

2. For all other occupied areas, a minimum temperature of seventy-five (75) degrees Fahrenheit shall be provided at winter design conditions.

(b) Ventilation system details. All air-supply and air-exhaust systems shall be mechanically operated. All fans serving exhaust systems shall be located at the discharge end of the system. The ventilation rates shown in Table 1, Section 18, shall be considered as minimum acceptable rates and shall not be construed as precluding the use of higher ventilation rates if they are required to meet design conditions.

1. Outdoor ventilation air intakes, other than for individual room units, shall be located as far away as practicable but not less than twenty-five (25) feet from the exhaust from any ventilating system or combustion equipment. The bottom of outdoor intakes serving central air systems shall be located as high as possible but not less than eight (8) feet above the ground level or, if installed through the roof, three (3) feet above roof level.

2. The ventilation systems shall be designed and balanced to provide the general pressure relationship to adjacent areas as shown in Table 1, Section 18.

3. All air supplied to sensitive areas such as operating rooms shall be delivered at or near the ceiling of the area served, and all air exhausted from the area shall be removed near floor level. At least two (2) exhaust outlets shall be used in all operating rooms. Exhaust outlets shall be located not less than three (3) inches above the floor.

4. Room supply air inlets, recirculation, and exhaust air outlets installed in nonsensitive areas shall be located not less than three (3) inches above the floor.

5. Filters:

a. The ventilation systems serving sensitive areas such as operating rooms, recovery rooms, and laboratory sterile rooms, shall be equipped with a minimum of two (2) filter beds. Filter bed No. 1 shall be located upstream of the conditioning equipment and shall have a minimum efficiency of thirty (30) percent. Filter bed No. 2 shall be located downstream of the conditioning equipment and shall have a minimum efficiency of ninety (90) percent.

b. Central systems serving other than sensitive areas shall be provided with a filter or filters rated at a minimum of twenty-five (25) percent efficiency.

c. The above filter efficiencies shall be warranted by the manufacturer and shall be based on the National Bureau of Standards Dust Spot Test Method with Atmospheric Dust.

6. Acoustical lining materials shall not be used in the interior of duct systems serving sensitive areas such as operating rooms and recovery rooms.

7. Cold-air ducts shall be insulated wherever necessary to maintain the efficiency of the system or to minimize condensation problems.

8. The ventilation system for anesthesia storage rooms shall conform to the requirements of NFPA Standard No. 56A as adopted by the State Fire Marshal's Office for ambulatory surgical center facilities.

9. Boiler rooms shall be provided with sufficient outdoor air to maintain combustion rates of equipment and reasonable temperatures in the rooms and in adjoining areas.

(4) Plumbing fixtures:

(a) The material used for plumbing fixtures shall be of nonabsorptive acid-resistant material.

(b) Lavatories and sinks required in patient care areas shall have the water supply spout mounted so that its discharge point is a minimum distance of five (5) inches above the rim of the fixture. All fixtures used by medical

and nursing staff shall be trimmed with valves which can be operated without the use of hands. Where blade handles are used for this purpose they shall not exceed four and one-half (4½) inches in length, except that handles on scrub sinks and clinical sinks shall be not less than six (6) inches long.

(c) Hot, cold, and chilled water piping, and waste piping on which condensation may occur shall be insulated. Insulation of cold and chilled water lines shall include an exterior vapor barrier.

(d) Hot water distribution systems shall be arranged to provide hot water at each fixture at all times.

(5) Hot water heaters and tanks:

(a) The hot water heating equipment shall have a sufficient capacity to supply water at the temperature and amounts indicated below:

	Use
	Clinical
Gal/hr/bed	6½
Temp. F.	125

(b) Storage tank(s) shall be provided and shall be fabricated of non-corrosive metal or lined with non-corrosive material.

(6) Drainage systems:

(a) Drain lines from sinks in which acid wastes may be poured shall be fabricated from an acid-resistant material.

(b) Piping over operating and other critical areas shall be kept to a minimum and shall not be exposed. Special precautions shall be taken to protect these areas from possible leakage of necessary overhead piping systems.

(c) Floor drains shall not be installed in operating rooms.

(d) Building sewers shall discharge into a community sewage system. Where such a system is not available, a facility providing sewage treatment which conforms to applicable local and state regulations is required.

(7) Nonflammable medical gas systems. Nonflammable medical gas system installations shall be in accordance with the requirements of NFPA Standard No. 56F as adopted by the State Fire Marshal's Office for ambulatory surgical center facilities.

Section 17. Electrical Requirements. (1) General. All material including equipment, conductors, controls, and signaling devices shall be installed to provide a complete electrical system with the necessary characteristics and capacity to supply the electrical facilities shown in the specifications or indicated on the plans. All materials shall be listed as complying with applicable standards of Underwriters' Laboratories, Inc., or other similarly established standards.

(2) Switchboard and power panels. All breakers and switches shall be indexed.

(3) Lighting:

(a) All spaces occupied by people, machinery, and equipment within buildings, and the approaches thereto, and parking lots shall have electric lighting.

(b) Operating rooms shall have general lighting for the room in addition to local lighting provided by special lighting units at the surgical tables. Each special lighting unit for local lighting at tables shall be connected to an independent circuit.

(4) Receptacles (convenience outlets). Anesthetizing locations: Each operating room shall have at least three (3) receptacles of the interchangeable type as defined in NFPA



Standard No. 56A as adopted by the State Fire Marshal's Office for ambulatory surgical center facilities. In locations where mobile x-ray is used, an additional receptacle, distinctively marked for x-ray use, shall be fed by an independent ungrounded circuit.

(5) Equipment installation in special areas:

(a) Installation in hazardous areas. In areas where flammable anesthetic agents are used, such as operating and anesthesia induction rooms, and rooms for storage of flammable gases, all electrical equipment and devices including receptacles, wiring and conductive flooring installations shall comply with NFPA Standard No. 56A as adopted by the State Fire Marshal's Office for ambulatory surgical center facilities.

(b) X-ray film illuminator. Viewing panels shall be installed in each operating room and in the x-ray viewing room.

(6) Nurses' calling system. An emergency nurses' calling station shall be provided for nurses' use in each operating room and recovery room.

(7) Emergency electric service:

(a) General. To provide electricity during an interruption of the normal electric supply that could affect the medical care, treatment, or safety of the occupants, an emergency source of electricity shall be provided and connected to certain circuits for lighting and power.

(b) Sources. The source of this emergency electric service shall be as follows:

1. An emergency generating set, when the normal service is supplied by one (1) or more central station transmission lines.

2. An emergency generating set or a central station transmission line, when the normal electric supply is generated on the premises.

(c) Emergency generating set. The required emergency generating set, including the prime mover and generator, shall be located on the premises and shall be reserved exclusively for supplying the emergency electrical system. Exception: A system of prime movers which are ordinarily used to operate the emergency generator(s) will be permitted provided that the number and arrangement of the prime movers is such that when one (1) of them is out of service (due to breakdown or for routine maintenance), the remaining prime mover(s) can operate the required emergency generator(s) and provided that the connection time requirements described in paragraph (e) of this subsection are met. The emergency generator set shall be of sufficient kilowatt capacity to supply all lighting and power load demands of the emergency system. The power factor rating of the generator shall be not less than eighty (80) percent.

(d) Emergency electrical connections. Emergency electrical service shall be provided to circuits as follows:

1. Lighting:

a. Exitways and all necessary ways of approach thereto including exit signs and exit direction signs, exterior of exits, exit doorways, stairways, and corridors.

b. Surgical room operating lights.

c. Laboratory, recovery room, nursing station and medication preparation areas.

d. Generator set location, switch-gear location, and boiler room.

2. Equipment essential to life safety and for protection of important equipment or vital materials:

a. Nurses' calling system;

b. Alarm system including fire alarm actuated at manual stations, water flow alarm devices of sprinkler system if electrically operated, fire detection systems, paging or speaker systems if intended for issuing instructions

during emergency conditions, and alarms required for nonflammable medical gas systems, if installed;

c. Fire pump, if installed;

d. Pump for central suction system;

e. Sewage or sump lift pump, if installed;

f. Receptacles for blood bank refrigerator;

g. Receptacles in operating and recovery rooms except those for x-ray;

h. One (1) elevator, where elevators are used to transport patients to operating rooms;

i. Equipment such as burners and pumps necessary for operation of one (1) or more boilers and their necessary auxiliaries and controls, required for heating of operating rooms, recovery rooms and sterilization;

j. Ventilation of operating and recovery rooms;

k. Equipment necessary for maintaining telephone service.

3. Heating. Where electricity is the only source of power normally used for space heating, the emergency service shall provide for heating of operating and recovery room.

(e) Details. The emergency electrical system shall be so controlled that after interruption of the normal electric power supply, the generator is brought to full voltage and frequency and connected within ten (10) seconds through one (1) or more primary automatic transfer switches to all emergency lighting, all alarms, blood banks, nurses' call, equipment necessary for maintaining telephone service, pump for central suction system, and receptacles in operating and recovery rooms. All other lighting and equipment required to be connected to the emergency system shall either be connected through the above described primary automatic transfer switching or shall be subsequently connected through other automatic or manual transfer switching. Where fuel is normally stored on the site, the storage capacity shall be sufficient for twenty-four (24) hour operation. Where fuel is normally piped underground to the site from a utility distribution system, storage facilities on the site will not be required.

Section 18. Tables. Table 1—Pressure Relationships and Ventilation of Certain Areas. Table 2—Lighting Levels for Certain Areas.

Table 1. Pressure Relationships and Ventilation of Certain Areas

Area Designation	Pressure Relationship to Adjacent Areas	All Supply Air From Outdoors	Minimum Air Changes of Outdoor Air per Hour
Operating Room	P	—	5
Recovery	O	—	2
Treatment Room	O	—	2
X-ray, Fluoroscopy Room	N	—	2
X-ray, Treatment Room	O	—	2
Soiled Workroom	N	—	2
Clean workroom	P	—	2
Janitor's closet	N	—	—
Sterilizer Equipment Room	N	—	—
Laboratory, General	N	—	2
Anesthesia Storage	O	—	—
Central Medical and Surgical Supply:			
Soiled or Decontamination Room	N	—	2
Clean Workroom	P	—	2
Unsterile Supply Storage	O	—	2

P = Positive    N = Negative    O = Equal    — = Optional

Table 1. Continued

Area Designation	Minimum Total Air Changes Per Hour	All Air Exhausted Directly to Outdoors
Operating Room	12	—
Recovery	6	Yes
Treatment Room	6	—
X-ray, Fluoroscopy Room	6	Yes
X-ray, Treatment Room	6	—
Soiled Workroom	4	—
Clean Workroom	4	—
Janitor's Closet	10	Yes
Sterilizer Equipment Room	10	Yes
Laboratory, General	6	—
Anesthesia Storage	8	Yes
Central Medical and Surgical Supply:		
Soiled or Decontamination Room	4	—
Clean Workroom	4	—
Unsterile Supply Storage	2	—

— = Optional

Table 2. Lighting Levels for Certain Areas

Area	Footcandles*
Administration and lobby areas, day	50
Corridors and interior ramps	20
Doorways	10
Examination and treatment room	
General	50
Examining Table	100
Exit stairways and landings	5
Janitor's closet	15
Nurses' station, general	50
Nurses' desk, for charts and records	70
Nurses' medicine cabinet	100
Stairways other than exits	30
Utility room, general	20
Utility room, work counter	50

\* Minimum on task at anytime.

Section 19. 902 KAR 20:100E, Ambulatory surgical center facilities, is hereby repealed.

FRANK W. BURKE, SR., Chairman

ADOPTED: September 9, 1981

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: September 15, 1981 at 3:45 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Frank W. Burke, Sr., Chairman, Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board, 275 East Main Street, Frankfort, Kentucky 40621.

DEPARTMENT FOR HUMAN RESOURCES  
Bureau for Health Services  
Certificate of Need and Licensure Board

902 KAR 20:106. Operation and services; ambulatory surgical center.

RELATES TO: KRS 216B.010 to 216B.130, 216B.990(1),(2)

PURSUANT TO: KRS 13.082, 216B.040, 216B.105(3)  
NECESSITY AND FUNCTION: KRS 216B.040 and 216B.105(3) mandate that the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board regulate health facilities and health services. This regulation provides for the licensure requirements for the operation and services of ambulatory surgical centers.

Section 1. Scope of Operation and Services. Ambulatory surgical centers are public or private institutions that are hospital-based or freestanding, operated under the supervision of an organized medical staff and established, equipped, and operated primarily for the purpose of treatment of patients by surgery, whose recovery under normal circumstances will not require inpatient care.

Section 2. Definitions. (1) "Board" means the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board.

(2) "Center" means an ambulatory surgical center.

Section 3. Administration and Operation. (1) Licensee.

(a) The licensee shall be legally responsible for operation of the center and for compliance with federal, state, and local laws and regulations pertaining to operation of the center.

(b) The licensee shall develop written policies for the administration and operation of the center. All medical policies shall be approved by the medical staff. Policies shall include:

1. Personnel practices and procedures. These shall be available to all personnel.

2. Job descriptions for each level of personnel including the authority, responsibilities, and actual work to be performed in each classification.

3. Written infection control measures. There shall be written procedures which govern the use of aseptic techniques and procedures in all areas of the center.

4. Sterilization of supplies.

5. Disposal of patient waste and any other potentially infectious materials.

6. Examination by a pathologist of tissues removed by surgery. Policies shall identify those tissues which require examination and those which do not.

7. Instances in which consultations with other physicians, dentists, or podiatrists are required.

8. A list of surgical procedures which may be performed in the center.

9. Granting and withdrawal of medical staff surgical privileges and privileges for the administration of anesthetics.

(2) Personnel.

(a) Administrator. The center shall have an administrator responsible for the day to day operation of the center and for delegating that responsibility in his or her absence.

(b) Current employee records shall be maintained and shall include a resume of each employee's training and experience, evidence of current licensure or registration

where required, and reports of all accidents occurring on duty.

(c) Medical staff requirements. The center shall have an organized medical staff responsible for the quality of medical care provided in the center and for the ethical and professional practices of its members.

1. The medical staff shall develop the center's medical care policies.

2. Surgical procedures shall be performed only by physicians, dentists, and podiatrists who are legally authorized to perform such procedures and have been granted privileges to perform such procedures by the center through its medical staff or governing body.

(d) Pharmaceutical, radiology and laboratory services provided directly by the center or through an agreement with another entity shall be provided under the direction of a licensed pharmacist, a physician specializing as a radiologist, and a physician specializing as a pathologist, respectively, on a full-time, part-time or regular consultative basis.

(e) The center shall employ registered nurses on a full-time basis for patient care in the operating and post-anesthesia recovery room.

(f) The center shall employ other nursing personnel, aides and technicians as required to meet the needs of the patients served by the center including personnel to be responsible for supervision, indexing, and filing of medical records.

(3) The center shall not provide accommodations for overnight stays.

(4) The center shall not have provisions for obstetrical deliveries.

(5) Physician coverage. A physician shall be present in the center until all patients have been discharged and have left the center.

(6) The center shall have a physician on the medical staff with admitting privileges in a nearby hospital who is responsible for admitting patients in need of inpatient care.

(7) The center shall arrange for transportation of patients who require hospital care and arrange for their admission.

(8) Medical records.

(a) Content. Adequate and complete medical records shall be prepared for all patients admitted to the surgical center. All notes shall be legibly written or typed and signed. A minimum medical record shall include the following information:

1. Name and address of person or agency responsible for patient;

2. Identification data (name, address, age, sex, marital status);

3. Date of admission and discharge;

4. Referring and attending physicians', dentists' and podiatrists' names;

5. History and physical examination record prior to surgery;

6. Surgical consent form signed by patient or his legal representative;

7. Special examinations, such as consultations, clinical, laboratory, x-ray;

8. Doctor's orders, dated and signed by the physician, dentist or podiatrist;

9. Nurses' notes;

10. Complete medical record signed by the operating surgeon, including anesthesia record, preoperative diagnosis, operative procedures and findings, postoperative diagnosis and where required tissue

diagnosis by a pathologist on specimens surgically removed;

11. Charts including records of temperature, pulse, respiration, and blood pressure; and

12. A discharge summary completed at time of discharge which includes condition on discharge and postoperative instructions to patient.

(b) Indexing. Medical records shall be systematically filed for ready access to authorized personnel.

(c) Ownership. Records of patients shall not be removed from the center's custody except in accordance with a court order or subpoena. Medical records shall be made available when requested for inspection by duly authorized representatives of the board.

(d) The attending physician, dentist, or podiatrist shall complete and sign the medical record of each patient as soon as practicable after discharge, but not to exceed ten (10) days.

(e) Orders for medication and treatment shall be written in ink and signed by the prescribing physician, dentist or podiatrist and if given verbally, countersigned by him within forty-eight (48) hours except that all records for Schedule II drugs shall be signed immediately. A record of medication administered to the patient shall be included in the record and signed by the person administering the medication.

(f) Retention of records. All medical records shall be retained for a minimum of five (5) years or in the case of a minor, three (3) years after the patient reaches the age of majority under state law, whichever is the longest.

(9) Bedrails shall be available for all patients in the admitting and recovery rooms.

Section 4. Sanitary Environment. The surgical center shall provide a sanitary environment to avoid sources and transmission of infections.

(1) An infection committee composed of members of the medical and nursing staff shall be established and be responsible for controlling and preventing infections within the center.

(2) All non-disposable sterile supplies shall be reprocessed at least every thirty (30) days.

(3) The center shall have suitable equipment for rapid and routine sterilization of supplies, utensils and equipment and shall store them in a clean, convenient and orderly manner.

(4) There shall be continuing education provided to all surgical center personnel on the cause, effect, transmission, prevention and elimination of infections.

Section 5. Surgical Services. (1) The center shall provide treatment of patients by surgery, whose recovery under normal circumstances will not require inpatient care.

(2) Informed consent. The patient or the patient's legal representative shall sign a written informed consent prior to all surgical operations.

(3) The center shall have at least one (1) operating room.

(4) A medical history and physical evaluation shall be performed and entered into the medical record no more than thirty (30) days prior to surgery on all patients.

(5) Pertinent pre-operative diagnostic studies and laboratory tests shall be performed and made a part of the medical record prior to surgery. The pre-operative diagnosis shall be recorded in the medical record.

(6) All patients shall be examined by a physician immediately prior to surgery to evaluate the risk of anesthesia and of the procedure to be performed.

(7) A registered nurse shall be available to circulate at all times. The operating rooms shall be supervised by a registered nurse.

(8) The operating room supervisor shall have on file a list of all physicians, dentists and podiatrists with surgical privileges at the center and the privileges assigned to each by the medical staff.

(9) The center shall maintain a complete and up-to-date operating room register.

(10) The following equipment shall be available in the operating rooms: cardiac monitor, resuscitator, defibrillator, suction machine, thoracotomy, tracheotomy, and abdominal laparotomy sets.

(11) The center shall have arrangements for obtaining an adequate supply of blood in a timely manner to meet the center's needs.

(12) Rules and regulations governing the use of the operating rooms shall be posted.

(13) All physicians', dentists', or podiatrists' orders shall be in writing and signed by the physician, dentist, or podiatrist.

(14) In all cases other than those requiring only local infiltration anesthetics, a physician anesthesiologist or physician anesthetist or dentist anesthetist (or a registered nurse anesthetist acting under the direction of the operating surgeon) shall administer the anesthetics and remain present during the surgical procedures and until the patient is fully recovered from the anesthetics.

(15) The physician, dentist, or podiatrist in charge of the patient shall be responsible for seeing that tissue removed during surgery is delivered to the center's pathologist and that an examination and report is made on such tissue, where required by the center's written policies.

(16) Voluntary interruption of pregnancies.

(a) All ambulatory surgical centers shall comply with the applicable Kentucky statutes concerning the voluntary interruption of pregnancies, including KRS 311.710 to 311.810 and any regulations promulgated pursuant to those statutes.

(b) There shall be a twenty-four (24) hour waiting period between the signing of an informed consent and the performance of a voluntary interruption of first trimester pregnancy in an ambulatory surgical center, unless an emergency situation endangers the life of the woman.

(c) Second and third trimester voluntary interruption of pregnancies shall not be performed in an ambulatory surgical center.

Section 6. Recovery Room Services. (1) The center shall have at least one (1) post-anesthesia recovery room.

(2) There shall be adequate staff available in the recovery room so that no patient is left alone at any time.

(3) A registered nurse shall be available to the recovery rooms at all times.

(4) The person(s) staffing this area shall be adequately trained in all aspects of postoperative and post-anesthetic care.

(5) A nursing note on all patients shall be recorded by the recovery room nurse, noting postoperative abnormalities or complications, and stating the pulse, respiration, blood pressure, presence or absence of swallowing reflex and cyanosis and the general condition of the patient.

(6) Available equipment shall include suction machine, stethoscope, sphygmomanometer, emergency crash cart, necessary drugs, and oxygen.

(7) Patient accommodations.

(a) The surgical center shall provide suitable ac-

commodations for all its patients. There shall be adequate floor space, furnishings, bed linens, and such other utensils, equipment and supplies as are reasonably required for the proper care of the patients accommodated.

(b) A satisfactory bed and mattress and one (1) or more pillows shall be provided for each patient.

Section 7. Pharmaceutical Services. (1) The center shall have a licensed pharmacy or have arrangements for promptly obtaining prescribed drugs and biologicals from licensed community or institutional pharmacies.

(2) The center shall provide appropriate methods and procedures for storage, control and administering of drugs and biologicals, developed with the advice of a licensed pharmacist. Drugs shall be properly labeled by the pharmacist for individual patients.

(3) All medications shall be administered by licensed medical or nursing personnel in accordance with the Medical and Nurse Practice Acts. The medical record shall include a record of each dose administered including date and time of administration, type of medication, dosage, method of administration, name of prescribing physician, and name of person who administered the medication.

(4) Controlled substances. Controlled substances shall be kept under double lock (i.e., in a locked box in a locked cabinet). There shall be a controlled substances bound record book with numbered pages, in which is recorded the name of the patient; the date, time, kind, dosage, and method of administration of all controlled substances; the name of the physician who prescribed the medications; and the name of the nurse who administered it. In addition, there shall be a recorded and signed Schedule II controlled substances count daily conducted by a member of the nursing staff and Schedule III, IV and V controlled substances count once per week by a member of the nursing staff.

Section 8. Radiology Services. (1) The center shall provide radiology services directly through an agreement with a licensed hospital, or through an independent radiology service. The radiology service shall have a current license or registration pursuant to KRS 211.842 to 211.852 and any regulations promulgated thereunder. In either case:

(2) The radiology department shall be free of hazards for patients and personnel. Proper safety precautions shall be maintained against fire and explosion hazards, electrical hazards and radiation hazards;

(3) A physician specializing in radiology shall supervise the department and interpret films that require specialized knowledge for accurate reading;

(4) Signed reports shall be promptly entered into the medical record and duplicate copies kept in the department; and

(5) X-ray examinations shall be made only upon the request of a physician, dentist or podiatrist.

Section 9. Laboratory Services. (1) The center shall provide laboratory services directly through its own licensed laboratory, through an agreement with a laboratory in a licensed hospital, or through an agreement with a licensed laboratory nearby. The medical laboratory providing services to the center shall be licensed pursuant to KRS 333.030 and any regulations promulgated thereunder unless it is a part of a licensed hospital. In either case:

(2) Laboratory examinations shall be made only upon the request of a physician, dentist, or podiatrist;

(3) The laboratory shall provide tissue pathology and diagnostic cytology examinations. Tissues removed from patient at surgery shall be examined by a physician

specializing in pathology where required by the center's written policies; and

(4) All laboratory and tissue pathology reports shall be signed and entered into the medical record.

Section 10. Utilization Review. (1) The surgical center shall have in effect a plan for utilization review of their services on at least a quarterly basis by a committee of physicians and/or dentists and podiatrists who have no financial interest in the center.

(2) Reviews shall be made of admissions and professional services furnished including utilization of surgical services and tissue reports.

Section 11. 902 KAR 20:105E, Ambulatory surgical center services, is hereby repealed.

FRANK W. BURKE, SR., Chairman

ADOPTED: September 9, 1981

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: September 15, 1981 at 3:45 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Frank W. Burke, Sr., Chairman, Kentucky Health Facilities and Health Services, Certificate of Need and Licensure Board, 275 East Main Street, Frankfort, Kentucky 40621.

## DEPARTMENT FOR HUMAN RESOURCES

### Bureau for Health Services

#### Certificate of Need and Licensure Board

902 KAR 20:111. Operations and services; medical alcohol emergency detoxification centers.

RELATES TO: KRS 216B.010 to 216B.130, 216B.990(1),(2)

PURSUANT TO: KRS 13.082, 216B.040, 216B.105(3)

NECESSITY AND FUNCTION: KRS 216B.040 and 216B.105(3) mandate that the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board regulate health facilities and health services. This regulation provides for the licensure requirements for the operation and services of medical alcohol emergency detoxification centers.

Section 1. Definition. Medical alcohol emergency detoxification services means a service providing treatment for intoxicated persons, or for persons evaluated by physicians to be alcoholics in need of acute emergency care in hospitals or skilled nursing facilities which operate on a twenty-four (24) hour basis and are licensed for this purpose in accordance with KRS 222.230.

Section 2. Minimum Standards of Operation. (1) The medical alcohol emergency detoxification service shall be provided on the premises of a facility licensed as a hospital or skilled nursing facility under the applicable health service and health facility licensure regulations. The medical alcohol emergency detoxification service shall have staff and operating procedures appropriate to the licensure category of the facility housing the program.

(2) The hospital or skilled nursing facility shall have emergency medical treatment capability.

(3) The facility shall provide extended medical care of the patient within the primary facility or through cooperative arrangement with or referral to another licensed medical care facility if services required for the patient are not available in the primary facility.

(4) The service shall be operated by licensed staff specially trained in alcohol emergency treatment procedures as certified by the Department for Human Resources, except that the certification shall in no way be construed as interfering with the individual practice privileges granted medical, nursing, and other personnel through licensure in their respective professions.

(5) The service shall have twenty-four (24) hour capability, and shall provide examination and/or diagnosis, medical emergency outpatient treatment, and appropriate referral for all clients.

(6) Admission to inpatient treatment status shall be determined by an attending or examining staff physician.

(7) The facility shall designate the number of beds to be available for medical alcohol emergencies, and shall assure space is available for at least one (1) bed with reasonable privacy and appropriate stretcher or bed access for examination, detoxification, observation, evaluation and treatment of the medical alcohol emergency patient.

(8) The facility shall show evidence of written affiliation or efforts to affiliate for reciprocal services with as many of the other licensed alcohol services as possible and available in the community, including but not limited to: situation, identification, and disposition units, thirty (30) day residential units, halfway houses, outpatient services; and shall have written affiliation with at least two (2) such services if existing within the community.

(9) The facility shall have the following on hand and operational at all times:

(a) Complete parenteral treatment equipment and capability.

(b) Appropriate pharmaceutical supplies to include tranquilizers, anti-convulsants, oral and parenteral vitamins.

(c) Inhalation equipment including suction and positive pressure breathing equipment.

(10) The facility shall have twenty-four (24) hour immediate access to physician services.

Section 3. 902 KAR 20:110E, Medical alcohol detoxification centers, is hereby repealed.

FRANK W. BURKE, SR., Chairman

ADOPTED: September 9, 1981

APPROVED: W. GRADY STUMBO, Secretary

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SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Frank W. Burke, Sr., Chairman, Kentucky Health Facilities and Health Services, Certificate of Need and Licensure Board, 275 East Main Street, Frankfort, Kentucky 40621.

**DEPARTMENT FOR HUMAN RESOURCES**  
**Bureau for Health Services**  
**Certificate of Need and Licensure Board**

**902 KAR 20:135. Certificate of need application fee schedule.**

RELATES TO: KRS 216B.010 to 216B.130, 216B.990(1),(2)

PURSUANT TO: KRS 13.082, 216B.040

NECESSITY AND FUNCTION: KRS 216B.040 authorizes the Certificate of Need and Licensure Board to establish, by administrative regulation, and collect reasonable application fees for certificates of need and licenses. This regulation provides a fee schedule for certificate of need applications.

Section 1. (1) Certificate of need applications not proposing a capital expenditure or proposing a capital expenditure of \$150,000 or less shall be assessed an application fee of fifty dollars (\$50).

(2) Certificate of need applications which propose a capital expenditure greater than \$150,000 but not more than \$5,000,000 shall be assessed an application fee at a rate of five hundredths of one percent (.05%).

(3) Certificate of need applications which propose a capital expenditure greater than \$5,000,000 but not more than \$10,000,000 shall be assessed a base fee of \$2,500, plus an additional fee of four hundredths of one percent (.04%) of the amount in excess of \$5,000,000.

(4) Certificate of need applications which propose a capital expenditure greater than \$10,000,000 but not more than \$30,000,000 shall be assessed a base fee of \$4,500 plus an additional fee of three hundredths of one percent (.03%) of the amount in excess of \$10,000,000.

(5) Certificate of need application which proposes a capital expenditures greater than \$30,000,000 shall be assessed a base fee of \$10,500 plus an additional fee of one hundredth of one percent (.01%) of the amount in excess of \$30,000,000.

Section 2. All fees shall be computed to the nearest dollar. Application fees shall be submitted with the application. Applications shall not be deemed complete until the application fee has been paid. Application fees shall be refunded only if notice of withdrawal of the application is received by the executive director of the board within five (5) working days of the date the application is received by the executive director of the board and the health systems agency. Application fees shall be assessed to all applications not deemed complete by October 14, 1981.

FRANK W. BURKE, SR., Chairman

ADOPTED: September 9, 1981

APPROVED: W. GRADY STUMBO, Secretary

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**DEPARTMENT FOR HUMAN RESOURCES**  
**Bureau for Health Services**  
**Certificate of Need and Licensure Board**

**902 KAR 20:140. Operation and services; hospices.**

RELATES TO: KRS 216B.010 to 216B.130, 216B.990(1),(2)

PURSUANT TO: KRS 13.082, 216B.040, 216B.105(3)

NECESSITY AND FUNCTION: KRS 216B.040 and KRS 216B.105(3) mandate that the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board regulate health facilities and health services. This regulation provides for the licensure requirements for the operation of a hospice and the services to be provided by a hospice.

Section 1. Scope of Operation and Services. A hospice is a centrally administered program of palliative and supportive services, including skilled nursing services, to meet the physical, psychological, social, and spiritual needs of terminally ill persons and their families on a twenty-four (24) hour, seven (7) day a week, on-call basis. Services are provided in the home or in an inpatient setting by a medically supervised, interdisciplinary team of professional and lay personnel during the final stages of illness, at death, and through bereavement.

Section 2. Definitions. (1) "Administrator" means a person who has served as a hospice administrator under a state approved hospice program or has at least a Bachelor of Arts or Bachelor of Science degree in a health care, human services, or administrative area or has equivalent administrative work experience in a health care facility.

(2) "Bereavement" means the period of time during which a person (or group of people) experiences, responds emotionally to, and adjusts to the loss by death of another person.

(3) "Board" means the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board.

(4) "Palliative care" means care directed at reducing or abating pain and other troubling symptoms of the disease process in order to achieve relief of distress.

(5) "Terminally ill" means a person who is experiencing an illness for which therapeutic strategies directed toward care and control of disease are no longer effective.

(6) "Volunteer" means a lay or professional person who contributes time and talent to the hospice program without economic remuneration (e.g., physician, concerned citizens, clergy).

Section 3. Administration and Organization. (1) A hospice program shall seek licensure to operate as:

(a) A free-standing hospice not affiliated with another health care facility; or

(b) A hospice affiliated with a hospital, long term care facility, home health agency, or health maintenance organization, or other licensed health care facility or service.

(2) The licensee shall be legally responsible for the operation of the hospice and for compliance with federal, state, and local laws and regulations pertaining to the operation of the service.

(3) The licensee shall have permanent facilities for the administration of the program and storage of the patient records.

(4) The licensee shall establish policies for the ad-



ministration and operation of the service. The policies shall include:

- (a) Acceptance of patients;
- (b) Development of a plan of care through the interdisciplinary team;
- (c) Quality care audits for direct service;
- (d) Personnel policies and procedures which include position descriptions, a description of lines of authority, wage and salary ranges, benefits, evaluation and grievance procedures, and orientation and training programs; and
- (e) Use of volunteers, voluntary selection criteria, training and roles in the hospice program.
- (5) Contracted services. If a hospice contracts for services, such contracts shall be in writing and shall:
  - (a) Designate clearly the services to be provided;
  - (b) Describe how the personnel under contract will provide the service and how they will be supervised;
  - (c) Provide education about hospice care, for participating personnel, conducted by the hospice staff; and
  - (d) Describe the process of coordination for medical recordkeeping, patient evaluation and care planning.
- (6) Medical records.
  - (a) A medical record shall be maintained for every individual who is accepted as a hospice patient. The medical records shall include:
    1. Written referral from the attending physician of the patient to the hospice program.
    2. Medical history.
    3. Social and psychological information on the patient and family.
    4. All doctors orders and the approved care plan.
    5. Documentation of all medical services provided.
  - (b) All medical records shall be kept confidential and retained for a minimum of five (5) years, or in the case of a minor, three (3) years after the patient reaches the age of majority under state law, whichever is the longer.
- (7) Personnel. The hospice shall have:
  - (a) A medical director who is a licensed physician, available on at least a consultative basis who:
    1. Is responsible for directing medical aspects of the hospice care program; and
    2. Participates in the development of policies and procedures.
  - (b) An administrator who is responsible for the daily operation of the hospice and the implementation of policies and procedures for all activities and services whether provided directly by hospice personnel or by contract.
  - (c) A patient-care coordinator who is a registered nurse available on a full or part-time basis and knowledgeable of home-based skilled nursing services for the terminally ill.

Section 4. Services. (1) The hospice program shall provide palliative and supportive services including skilled nursing services to meet the physical, psychological, social, and spiritual needs of terminally ill persons and their families. Hospice services shall:

- (a) Be available on a twenty-four (24) hour, seven (7) day a week, on-call basis;
- (b) Be provided by an interdisciplinary team which shall include:
  1. The patient and the patient's family, if willing to participate.
  2. The medical director (the patient's attending physician, and other staff physicians may also be members of the team).
  3. A nurse.

4. A social worker.

5. A representative of the clergy if the patient so chooses.

6. Volunteers, if available.

(2) Patients may be admitted to a hospice program only upon referral from a physician and upon the request of the patient and family. The patient's attending physician shall be responsible for the direct medical care of the patient's illness.

(3) The hospice shall provide the following services directly:

(a) Coordination of the medical aspects of the hospice program;

(b) Patient/family assessment of physical, psychological, spiritual, social, and economic needs;

(c) Development and coordination of a care plan which includes the delineation of responsibilities of each team member and provides for regularly scheduled team meetings for planning and evaluation as well as for individual case management;

(d) Patient counseling and bereavement counseling of the family; and

(e) Education and training services for staff, volunteers, and family members.

(4) The following services shall be provided directly or through contract as indicated by the patient and family needs:

(a) Skilled nursing in the home and in an inpatient setting.

(b) Nutrition services.

(c) Homemaker, home health aide services.

(d) Physical therapy services.

(e) Respiratory therapy.

(f) Speech therapy.

(5) The patient's plan of care shall be reviewed by the attending physician in consultation with agency professional personnel at such intervals as the severity of the patient's illness requires, but in all cases, at least once every two (2) months. Verbal authorization to change the plan of care shall be reviewed and signed by the attending physician within seven (7) days after the order is issued.

(6) Original orders for drugs and changes in orders for drugs shall be signed by the physician and made a part of the patient's medical record. Verbal authorization by the physician to change drug orders shall be reviewed and signed by the physician within seven (7) days after the order is issued.

FRANK W. BURKE, SR., Chairman

ADOPTED: September 9, 1981

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: September 15, 1981 at 3:45 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Frank W. Burke, Sr., Chairman, Kentucky Health Facilities and Health Services, Certificate of Need and Licensure Board, 275 East Main Street, Frankfort, Kentucky 40621.

**DEPARTMENT FOR HUMAN RESOURCES**  
**Bureau for Social Insurance**

**904 KAR 1:080. Payments for provider based rural health clinic 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 provider based rural health clinic services.

Section 1. Definitions. (1) A "provider based rural health clinic" is one which is an integral part of a hospital that is participating in Medicare and is licensed, governed, and supervised with other departments of the hospital.

(2) "Visit" means a face-to-face encounter between a clinic patient and any clinic health professional whose services are reimbursed under the provider based rural health clinic payment method. Encounters with more than one (1) health professional, and multiple encounters with the same health professional, that take place on the same day and at a single location constitute a single visit, except when the patient, after the first encounter, suffers illness or injury requiring additional diagnosis or treatment.

Section 2. Method of Reimbursement. The department shall reimburse licensed participating provider based rural health clinics on the following basis:

(1) The department shall pay the reasonable cost for provider based rural health clinic services and other ambulatory services provided to eligible medical assistance recipients on the basis of Medicare methodology.

(2) Payments shall be made at interim rates which approximate costs on a per visit basis. For Medicare covered services, which are also covered by Medicaid, the interim rate shall be the rate set by the Medicare intermediary. For Medicaid only services, the interim rate shall be set by the department taking into account prior year data when possible. For new facilities, the department shall set the interim rate using a methodology which is expected to approximate costs and review the interim rate approximately six (6) months after such rate has been set to ensure the reasonableness of the rate.

(3) Interim payments shall be settled back to reasonable costs at the end of the facilities' fiscal year, applying the lesser of cost or usual and customary charges principle, on the basis of the Medicare methodology.

WILLIAM L. HUFFMAN, Commissioner

ADOPTED: September 15, 1981

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: September 15, 1981 at 3:45 p.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**

**904 KAR 1:082. Provider based rural health clinic 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 coverage of provider based rural health clinic services for which payment shall be made by the Medical Assistance Program on behalf of both categorically needy and medically needy.

Section 1. Conditions of Participation. Each rural health clinic wishing to participate as a provider based rural health clinic in the Medical Assistance Program must be certified as a rural health clinic provider pursuant to Title XVIII of the Social Security Act in accordance with conditions set forth at 42 CFR Part 481.

Section 2. Conditions of Coverage. Each participating rural health clinic may provide for eligible medical assistance recipients the same services it may provide to Medicare recipients, i.e., physicians' services, nurse practitioners' services, and, where permitted under state law, physicians' assistants' services. In addition, rural health clinics may provide any other ambulatory service covered under the Medical Assistance Program so long as the rural health clinic meets the conditions for participation for that service element and provides the services in accordance with the applicable state regulation covering that service; except, however, the rural health clinic need not be certified or licensed as the other type of provider (except to the extent provided for and/or required by law), nor have a separate participation agreement with the Medical Assistance Program for the provision of that type of service.

WILLIAM L. HUFFMAN, Commissioner

ADOPTED: September 15, 1981

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: September 15, 1981 at 3:45 p.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

**904 KAR 1:084.** Payment for medical assistance services furnished out of state.

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 conditions under which the Medical Assistance Program will pay for covered medical services furnished eligible recipients who are out of state.

Section 1. General. The state will furnish (pay for) covered Medicaid services to a recipient who is a resident of Kentucky while that resident is in another state only to the extent provided for in Section 2 of this regulation.

Section 2. Criteria for Coverage While Out of State. (1) Payment is made if covered medical services are needed because of a medical emergency.

(2) Payment is made if medical services are needed because the recipient's health would be endangered if he were required to travel to Kentucky for the medical service. With regard to long-term care patients, it shall be the policy of the department to pay for the medical services only until such time as the patient's medical condition has stabilized so as to permit the patient's safe return to Kentucky; it is expected that such period of time shall be sixty (60) days or less; continuation of payment shall be contingent upon presentation of medical evidence acceptable to the department which justifies an additional stay in a facility outside the state.

(3) Payment is made when the state determines, on the basis of medical advice, that the needed medical services, or necessary supplementary resources, are more readily available in the other state; provided, however, that this provision shall not be construed or interpreted in such a manner as to circumvent or negate the provisions and intent of this regulation.

(4) Payment is made when it is general practice for recipients in a particular locality to use medical resources in another state.

Section 3. Exception. For individuals in long-term care out of state prior to the effective date of this regulation, and for whom the department is at that time paying for the cost of care, the department may continue to pay for the cost of care for so long as the department deems such payments to be appropriate.

Section 4. Cooperation with Other States. The department shall facilitate the furnishing of medical services to individuals who are present in Kentucky and are eligible for Medicaid under another state's Medicaid plan.

WILLIAM L. HUFFMAN, Commissioner

ADOPTED: September 15, 1981

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: September 15, 1981 at 3:45 p.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

**904 KAR 3:080.** Contingency plan.

RELATES TO: KRS 194.050

PURSUANT TO: KRS 13.082, 194.050

**NECESSITY AND FUNCTION:** The Department for Human Resources has responsibility to administer a food stamp program as prescribed by the Food Stamp Act of 1977, as amended, and 7 CFR Part 270 through 280. KRS 194.050 provides that the secretary shall, by regulation, develop policies and operate programs concerned with the welfare of the citizens of the Commonwealth. This regulation sets forth the process used by the department in the administration of the contingency plan in the event a reduction, suspension, or cancellation of food stamp benefits is ordered by the Department of Agriculture, Food and Nutrition Service.

Section 1. Allotment Reduction. If a reduction, suspension, or cancellation of benefits is ordered by the Food and Nutrition Service (FNS), the following procedures will be applicable:

(1) If the action is a benefit reduction, the Thrifty Food Plan amounts, as defined in 904 KAR 3:010, for all household sizes shall be reduced by a percentage specified by FNS. FNS will specify whether minimum benefits are to be provided.

(2) If the action in effect is a suspension or cancellation, eligible households shall have their allotment levels calculated as usual. However, no allotments shall be issued for the month(s) the suspension or cancellation is in effect.

Section 2. Application and Certification Process. Applications will continue to be accepted and processed according to 904 KAR 3:030 and 3:035 except as provided below.

(1) Benefits will be reduced, suspended or cancelled as FNS orders for the affected month(s).

(2) During a cancellation, households eligible for expedited service shall be processed within two (2) days or the end of the month of application, whichever is later.

Section 3. Restoration of Benefits. (1) Allotments or portions of allotments representing restored or retroactive benefits for a prior unaffected month shall not be reduced, suspended or cancelled, even though they are issued during an affected month.

(2) Households whose allotments are reduced or cancelled shall not be entitled to the restoration of lost benefits at a future date. However, restoration of benefits to affected households will be provided if FNS determines that a surplus of funds exists as a result of the reduction or cancellation.

Section 4. Fair Hearings. In accordance with 7 CFR 271.7(f), any household which has its allotment reduced,

suspended, or cancelled as a result of an order issued by FNS may request a fair hearing if it disagrees with the action subject to the following conditions:

(1) Fair hearings will be held only when the request for a fair hearing is based on a household's belief that its benefit level was computed incorrectly under this regulation or that this regulation was misapplied or misinterpreted.

(2) Households who are merely disputing the fact that a reduction, suspension or cancellation was ordered shall be denied a fair hearing.

(3) Households shall not have the right to a continuation of benefits pending a fair hearing; however, retroactive

benefits may be granted if it is determined that the household's benefits were reduced by more than the percentage ordered by FNS.

WILLIAM L. HUFFMAN, Commissioner

ADOPTED: September 1, 1981

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: September 3, 1981 at 10:30 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Secretary for Human Resources, DHR Building, 275 East Main Street, Frankfort, Kentucky 40621.

## Reprint

### PUBLIC PROTECTION AND REGULATION CABINET Board of Claims As Amended

#### 108 KAR 1:010. Board operation and claim procedure.

RELATES TO: KRS 44.070, 44.080, 44.086, 44.090

PURSUANT TO: KRS 13.082, 44.080

EFFECTIVE: August 5, 1981

NECESSITY AND FUNCTION: KRS 44.080 requires the Board of Claims to establish rules for its government and for the regulation of the method of pleading and practice before it. The purpose of this regulation is to establish rules for procedures for claims and rules for operation of the board.

Section 1. Meetings. (1) Additional meetings of the board may be called by the chairman or a majority of the board at such times and places as the call directs.

(2) Three (3) members of the board shall constitute a quorum.

(3) The board shall be considered in continuous session to enter orders.

(4) The Executive Director of the Board of Claims shall serve as secretary to the board and shall have authority to order the submission of briefs, set hearings, and issue such other orders as the board may direct.

Section 2. Filing of Claims; Response to Claims. (1) Claims shall be legibly written, typed or printed and mailed or delivered to the Board of Claims office in Frankfort, Kentucky.

(2) Each claim shall contain the name and address of the claimant, the amount he is claiming and a statement of facts sufficiently clear to show that the claimant is entitled to relief under the provisions of KRS 44.070 and to enable the defendant to investigate the claim and prepare its defense.

(3) Claims may be filed by the claimant or by an attorney or legal representative acting in the claimant's behalf.

(4) The board's secretary shall promptly furnish a copy of each claim to the head of the affected agency and to the Attorney General. *At the request of the board*, within [fifteen (15)] thirty (30) days, the agency concerned shall investigate the matter and shall answer the charges in writing to the board and to the claimant.

(5) If the Attorney General wishes to enter the matter, he shall file such response as he desires with the board.

(6) If the response filed by the affected agency admits liability, the secretary shall submit the matter to the board at an early meeting.

(7) If the affected agency fails to respond to the board concerning its investigation within [fifteen (15)] thirty (30) days, the secretary shall submit the matter to the board at an early meeting.

(8) If the response filed by the affected agency denies liability, the secretary shall set a hearing before a hearing officer and shall notify the claimant and the head of the affected agency (or their attorney) of the time and place of the hearing.

Section 3. Hearings. (1) Hearings shall be open to the public. The proceedings of hearings shall be taken by a stenographer. The hearing officer shall cause the hearing to be conducted with decorum.

(2) The proof required to support a claim shall be that required to support a claim in any court of competent jurisdiction.

(3) All testimony and proof shall be presented at the hearing before the hearing officer, or within thirty (30) days thereafter by deposition, with the exception of medical or expert testimony.

(4) If either party desires to submit medical or expert testimony by deposition, that party shall be allowed thirty (30) days after the hearing for that purpose. The second party shall then be allowed thirty (30) days, after which the first party shall be allowed five (5) days for rebuttal, unless otherwise ordered by the hearing officer.

(5) If the claimant fails to appear at a scheduled hearing of which he has notice and fails to show good cause within five (5) days for failure to appear, the board may order the claim dismissed. If the affected state agency fails to appear at the hearing, the hearing officer in his discretion may take the testimony of any witnesses present.

(6) The hearing officer shall furnish a finding of fact to the board within thirty (30) days after the record is completed.

Section 4. Board Decision. (1) Each claim shall be submitted to the board at an early meeting following the hearing officer's report.

(2) The board, or a majority of its members, shall render a decision on each claim at a board meeting.

Section 5. Exchange of Facts by Parties to Contested Claims. All discovery procedures as outlined in the Kentucky Rules of Civil Procedure are applicable to pro-

ceedings before the board, except that a party shall not take a deposition for discovery without prior approval by the board. Further, any party may request admissions of fact. If a party fails to admit a requested fact which is later established, that party shall be responsible for all costs necessary to establishing the fact.

MELVIN H. WILSON, Chairman  
ADOPTED: May 20, 1981  
APPROVED: H. FOSTER PETTIT, Secretary  
RECEIVED BY LRC: June 8, 1981 at 1:45 p.m.

## ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

### Minutes of the September 2, 1981 Meeting

(Subject to subcommittee approval at its October 7, 1981 meeting.)

The Administrative Regulation Review Subcommittee held its scheduled meeting on Wednesday, September 2, 1981, at 10 a.m., in Room 103, Capitol Annex. Present were:

**Members:** Representative William T. Brinkley, Chairman; Senators James Bunning, Helen Garrett and William Quinlan; and Representatives James E. Bruce, Albert Robinson and Gregory D. Stumbo.

**Guests:** Paul Hunley and Bill Debord, Department of Transportation; L. Wayne Tune and Gerald Henry, Board of Examiners and Registration of Architects; John Leinenbach, Blue Grass Chapter, A.G.C.; Mary Breit, Center for Accessible Living; Bert Eyster, WEDCO Health Department; Charles Schroff, Department of Revenue; Robert Hurley, Council on Higher Education; John Hinkle and Mack Morgan, Kentucky Retail Federation; Ron Sheets and E. Buckhert, Kentucky Association of Electric Co-ops; Donna Smith, Sharon Rodriguez, Ked Fitzpatrick, Larry McCarthy, David Allen, and Terry Morrison, Department for Human Resources; Martha Hall, Department for Natural Resources; Diane Skaggs, Ellyn Crutcher, and Marlin Volz, Public Service Commission; Sidney Simandle, Gary Bale, and Conley Manning, Department of Education; Joseph Steier and Judith Walden, Department of Housing, Buildings and Construction; Judge Allen Farber, Elizabeth Atinay and Jack Farley, Architectural Barriers Advisory Committee.

**LRC Staff:** O. Joseph Hood, Susan Harding, Cindy De Reamer, Garnett Evins and Mike Greenwell.

**Press:** Brian Malloy, UPI; Jane Goodin, WLEX-TV; and Sy Ramsey, AP.

Chairman Brinkley announced that all members were present and called the meeting to order. On motion of Representative Bruce, seconded by Senator Quinlan, the minutes of the August meeting were approved.

The following regulation was deferred at the request of the issuing agency:

#### DEPARTMENT OF FINANCE

##### Property

200 KAR 6:035. Leased properties.

The following regulation was withdrawn at the request of the issuing agency:

**EDUCATION AND ARTS CABINET**  
**Kentucky School Building Authority**  
**School Building Construction**  
723 KAR 1:005. Funding procedures.

The following emergency regulation was considered by the subcommittee:

**CABINET FOR DEVELOPMENT**  
**Kentucky State Fair Board**  
**Fairgrounds and Exhibition Center**

303 KAR 1:100E. Exposition Center grounds; sale and dissemination of real property, fixtures and goods, solicitation of contributions or sales during annual State Fair; rental of space.

Representative Robinson moved that the subcommittee show strong objection to this emergency regulation because there was no clear emergency, it was unconstitutional and not statutory, and it was the opinion of the subcommittee that the Governor exceeded his power in approving the regulation. He also moved that the counsel for the subcommittee transmit a letter to the Governor requesting reconsideration of the emergency regulation, and send a copy of said letter to the State Fair Board. Representative Stumbo seconded, and the motion carried.

Testimony was presented from members of the Architectural Barriers Advisory Committee (proponents) and the Kentucky Retail Federation (opponents) on the following proposed regulation:

**DEPARTMENT FOR HOUSING,**  
**BUILDINGS AND CONSTRUCTION**  
**Kentucky Building Code**

815 KAR 7:050. Accessibility standards for the physically disabled.

Representative Stumbo moved that the proposed regulation be deferred to the October meeting in order to give the Department the opportunity to address the subcommittee's concern with the definition of "small business." Representative Robinson seconded and the motion carried.

Judy Walden from the Department of Housing requested the subcommittee to send her a letter setting forth the objection; subcommittee staff agreed.

Chairman Brinkley called the subcommittee's atten-

tion to a recent court decision by the Franklin Circuit Court upholding the Governor's Executive Order re-creating the Public Service Commission. He told the subcommittee because of that decision he would entertain a motion to reconsider proposed regulation 807 KAR 5:067 which was rejected by the subcommittee at the June meeting.

On motion of Representative Bruce, seconded by Representative Stumbo, proposed regulation 807 KAR 5:067, Purchased water adjustment clause, was brought before the subcommittee.

Chairman Brinkley stated although he did not agree with the court decision he felt the subcommittee had an obligation to reconsider the vote rejecting the regulation. He also commended Chairman Marlin Volz for demonstrating respect for the subcommittee by not submitting the regulation through as an emergency.

Chairman Volz told the subcommittee the regulation was designed to save small water companies money because when their supplier raises water rates, they pass the added cost on to their customers. He urged passage of the regulation.

On a roll call vote the regulation was accepted by a vote of 5 yea and 2 nay. Representative Robinson and Senator Bunning voted no. Senator Bunning said he still objected to the regulation for the same reason he stated at the June meeting and he also felt it was not the intent of the legislature because a bill was defeated during the 1980 session that would have re-created the Commission.

The following proposed regulations were accepted by the subcommittee and ordered filed:

#### **DEPARTMENT OF REVENUE**

##### **Ad Valorem Tax; State Assessment**

103 KAR 8:090. Classification of property; public service corporations.

#### **DEPARTMENT OF FINANCE**

##### **Division of Occupations and Professions**

##### **Board of Examiners and Registration of Architects**

201 KAR 19:025. Application for examinations.

201 KAR 19:035. Qualifications for examination. (Senators Garrett and Bunning voted "No.")

201 KAR 19:040. Types of examinations required.

201 KAR 19:085. Fees.

#### **DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION**

##### **Bureau of Environmental Protection**

##### **New Source Standards**

401 KAR 59:255. New ammonium sulfate manufacturing units.

#### **DEPARTMENT OF TRANSPORTATION**

##### **Bureau of Vehicle Regulation**

##### **Division of Motor Carriers**

601 KAR 1:090. Exempted commodities. (Chairman Brinkley abstained.)

#### **DEPARTMENT OF EDUCATION**

##### **Bureau of Instruction**

##### **Instructional Services**

704 KAR 3:025. Classroom units.

704 KAR 3:052. Head teacher.

704 KAR 3:301. Repeal of 704 KAR 3:300.

##### **Health and Physical Education Programs**

704 KAR 4:010. Physical education.

##### **Teacher Certification**

704 KAR 20:229. Hearing impaired; endorsement for teaching.

704 KAR 20:230. Hearing impaired; teacher's provisional certificate.

704 KAR 20:235. Learning and behavior disorders; teacher's provisional certificate.

704 KAR 20:245. Trainable mentally handicapped; teacher's provisional certificate.

704 KAR 20:255. Visually impaired; teaching endorsement.

#### **PUBLIC PROTECTION AND REGULATION CABINET**

##### **Department of Banking and Securities**

##### **Cemeteries**

808 KAR 2:030. Records maintained by cemetery companies.

##### **Funeral Homes**

808 KAR 8:010. Pre-need funeral contracts.

#### **DEPARTMENT FOR HUMAN RESOURCES**

##### **Bureau for Social Insurance**

##### **District Boards of Health**

902 KAR 8:010. Membership. (As amended.)

##### **Medical Assistance**

904 KAR 1:003. Technical eligibility.

904 KAR 1:008. Out-patient surgical clinics.

904 KAR 1:040. Payments for vision care services.

##### **Food Stamp Program**

904 KAR 3:010. Definitions.

904 KAR 3:020. Eligibility requirements.

904 KAR 3:035. Certification process. (As amended.)

On motion of Senator Bunning, seconded by Representative Robinson, the meeting was adjourned at 3:00 p.m. until October 7, 1981.





# *Administrative Register* <sup>of</sup> *kentucky*

## Cumulative Supplement

Locator Index—Effective Dates .....	D 2
KRS Index .....	D 4
Subject Index to Volume 8.....	D 6

# Locator Index—Effective Dates

NOTE: Emergency regulations expire upon being repealed, replaced or sine die adjournment of the next regular session of the General Assembly.

## Volume 7

Emergency Regulation	7 Ky.R. Page No.	Effective Date	Emergency Regulation	7 Ky.R. Page No.	Effective Date	Regulation	7 Ky.R. Page No.	Effective Date
103 KAR 35:020E	394	10-6-80	902 KAR 20:045E	127	7-24-80	201 KAR 19:040		
200 KAR 2:006E	288	9-4-80	902 KAR 20:047E	136	7-24-80	Amended	913	9-2-81
200 KAR 5:308E	395	9-19-80	902 KAR 20:050E	138	7-24-80	201 KAR 19:045		
401 KAR 51:016E	293	9-11-80	902 KAR 20:055E	147	7-24-80	Repealed	913	9-2-81
401 KAR 51:051E	293	9-11-80	902 KAR 20:057E	154	8-8-80	201 KAR 19:085		
807 KAR 5:001E	709	3-4-81	902 KAR 20:059E	157	8-8-80	Amended	914	9-2-81
807 KAR 5:006E	714	3-4-81	902 KAR 20:065E	161	8-8-80	401 KAR 59:250	937	
807 KAR 5:011E	721	3-4-81	902 KAR 20:070E	165	8-8-80	Withdrawn		8-18-81
807 KAR 5:016E	725	3-4-81	902 KAR 20:075E	172	8-8-80	401 KAR 59:255	939	8-2-81
807 KAR 5:021E	726	3-4-81	902 KAR 20:077E	172	8-8-80	723 KAR 1:005		
807 KAR 5:026E	735	3-4-81	902 KAR 20:080E	176	7-24-80	Amended	49	
807 KAR 5:031E	737	3-4-81	902 KAR 20:085E	179	8-8-80	Withdrawn		9-1-81
807 KAR 5:036E	738	3-4-81	902 KAR 20:090E	183	8-8-80	807 KAR 5:067	793	9-2-81
807 KAR 5:041E	739	3-4-81	902 KAR 20:095E	185	8-8-80	815 KAR 20:030		
807 KAR 5:046E	746	3-4-81	902 KAR 20:100E	193	8-8-80	Amended	684	
807 KAR 5:051E	746	3-4-81	902 KAR 20:105E	201	8-8-80	815 KAR 20:050		
807 KAR 5:056E	747	3-4-81	902 KAR 20:110E	205	8-8-80	Amended	220	10-1-80
807 KAR 5:061E	748	3-4-81	904 KAR 1:020E	587	1-7-81	Amended	845	
807 KAR 5:066E	753	3-4-81	904 KAR 1:022E	802	4-1-81	815 KAR 20:141		
807 KAR 5:071E	758	3-4-81	904 KAR 1:024E	804	4-1-81	Amended	213	8-6-80
815 KAR 20:030E	898	5-1-81	904 KAR 2:007E	897	4-27-81	Amended	851	
902 KAR 14:005E	396	10-14-80	904 KAR 2:088E	590	1-7-81	Withdrawn		8-3-81
902 KAR 14:015E	397	10-14-80	Replaced	941	7-1-81	815 KAR 25:020		
902 KAR 20:007E	79	7-24-80				Amended	684	
902 KAR 20:010E	80	8-8-80				904 KAR 1:022		
902 KAR 20:015E	93	8-8-80				Amended	857	
902 KAR 20:017E	95	8-8-80				904 KAR 1:024		
902 KAR 20:020E	98	7-24-80				Amended	357	11-6-80
902 KAR 20:025E	106	8-8-80				Amended	857	
902 KAR 20:030E	115	7-24-80				904 KAR 1:060		
902 KAR 20:035E	118	7-24-80				Amended	580	
902 KAR 20:040E	125	7-24-80				904 KAR 2:005		
						Amended	787	

## Volume 8

Emergency Regulation	8 Ky.R. Page No.	Effective Date	Regulation	8 Ky.R. Page No.	Effective Date	Regulation	8 Ky.R. Page No.	Effective Date
301 KAR 2:046E	141	7-31-81	201 KAR 2:050			401 KAR 63:030	86	
303 KAR 1:100E	143	8-5-81	Amended	154		405 KAR 30:010	87	
603 KAR 5:110E	41	6-30-81	201 KAR 18:040			405 KAR 30:020	91	
Replaced	13	8-5-81	Amended	194		405 KAR 30:030	92	
904 KAR 1:033E	43	6-30-81	201 KAR 20:057	33	8-5-81	405 KAR 30:040	93	
904 KAR 2:010E	44	7-1-81	201 KAR 23:030			405 KAR 30:060	94	
Replaced		8-5-81	Amended	154		405 KAR 30:070	95	
904 KAR 2:088E	144	8-4-81	201 KAR 23:050			405 KAR 30:080	96	
904 KAR 3:060E	146	7-16-81	Amended	154		405 KAR 30:090	96	
			201 KAR 23:070			405 KAR 30:100	97	
			Amended	155		405 KAR 30:110	98	
			301 KAR 1:145			405 KAR 30:120	98	
			Amended	195		405 KAR 30:130	100	
			301 KAR 2:047			405 KAR 30:140	105	
			Amended	4	6-3-81	405 KAR 30:150	106	
			301 KAR 2:086	209		405 KAR 30:160	106	
			302 KAR 1:040	212		405 KAR 30:170	108	
			302 KAR 1:050	213		405 KAR 30:180	109	
			302 KAR 20:010			405 KAR 30:190	110	
			Amended	157		405 KAR 30:200	111	
			401 KAR 2:050			405 KAR 30:210	112	
			Amended	158		405 KAR 30:220	113	
			401 KAR 2:055			405 KAR 30:230	114	
			Amended	163		405 KAR 30:240	114	
			401 KAR 2:090	175		405 KAR 30:250	115	
			401 KAR 2:095	176		405 KAR 30:260	117	
			401 KAR 2:101	179		405 KAR 30:270	118	
			401 KAR 2:105	181		405 KAR 30:280	119	
			401 KAR 2:111	181		405 KAR 30:290	122	
			401 KAR 61:132			405 KAR 30:300	123	
			Amended	7		405 KAR 30:310	124	
			401 KAR 61:165			405 KAR 30:320	125	
			Amended	164		405 KAR 30:330	127	



## ADMINISTRATIVE REGISTER

D3

Regulation	8 Ky.R. Page No.	Effective Date	Regulation	8 Ky.R. Page No.	Effective Date	Regulation	8 Ky.R. Page No.	Effective Date
405 KAR 30:340	128		808 KAR 1:060					
405 KAR 30:350	128		Amended	19	8-5-81			
405 KAR 30:360	130		808 KAR 1:080	34	8-5-81			
405 KAR 30:370	130		808 KAR 2:030	137	9-2-81			
405 KAR 30:380	132		808 KAR 3:030					
405 KAR 30:390	133		Amended	20	8-5-81			
405 KAR 30:400	134		Amended	202				
405 KAR 30:410	136		808 KAR 7:020	34				
601 KAR 1:010			Withdrawn		8-5-81			
Repealed	12	8-5-81	808 KAR 7:030	183				
601 KAR 1:090			808 KAR 8:010	138	9-2-81			
Amended	68	9-2-81	808 KAR 10:150	35				
601 KAR 20:070			Amended	149	8-5-81			
Amended	195		808 KAR 10:160	183				
602 KAR 20:020			808 KAR 10:170	184				
Amended	9	8-5-81	808 KAR 10:190	185				
603 KAR 3:010			810 KAR 1:013					
Amended	9		Amended	202				
Withdrawn		8-3-81	811 KAR 1:200					
603 KAR 5:070			Amended	204				
Amended	12	8-5-81	815 KAR 7:050					
603 KAR 5:110			Amended	46				
Amended	13	8-5-81	902 KAR 8:010					
704 KAR 3:005			Amended	21				
Amended	166		Rejected		8-5-81			
704 KAR 3:025			Amended	191	9-2-81			
Amended	69	9-2-81	902 KAR 13:030					
704 KAR 3:052			Amended	22	8-5-81			
Amended	71	9-2-81	902 KAR 20:006					
704 KAR 3:281	183		Amended	22	8-5-81			
704 KAR 3:300			902 KAR 20:008	218				
Repealed	137	9-2-81	902 KAR 20:012	36				
704 KAR 3:301	137	9-2-81	Amended	150	8-5-81			
704 KAR 3:304			902 KAR 20:018	219				
Amended	14-15	8-5-81	902 KAR 20:031	222				
704 KAR 4:010			902 KAR 20:036	227				
Amended	72-71	9-2-81	902 KAR 20:041	232				
704 KAR 4:020			902 KAR 20:056	234				
Amended	15		902 KAR 20:066	240				
704 KAR 5:050			902 KAR 20:081	243				
Amended	166		902 KAR 20:101	245				
704 KAR 10:022			902 KAR 20:106	251				
Amended	17	8-5-81	902 KAR 20:111	254				
704 KAR 20:005			902 KAR 20:115					
Amended	17		Amended	27				
Amended	167	8-5-81	902 KAR 20:120	36				
704 KAR 20:229			902 KAR 20:135	255				
Amended	72	9-2-81	902 KAR 20:140	255				
704 KAR 20:230			902 KAR 50:040					
Amended	72	9-2-81	Amended	172				
704 KAR 20:235			904 KAR 1:003					
Amended	73	9-2-81	Amended	75	9-2-81			
704 KAR 20:245			904 KAR 1:008	138	9-2-81			
Amended	74	9-2-81	904 KAR 1:033					
704 KAR 20:255			Amended	29				
Amended	75	9-2-81	904 KAR 1:040					
705 KAR 1:010			Amended	77	9-2-81			
Amended	18	8-5-81	904 KAR 1:044					
803 KAR 1:090			Amended	205				
Amended	196		904 KAR 1:054					
803 KAR 2:020			Amended	30	8-5-81			
Amended	167		904 KAR 1:080	257				
803 KAR 2:032			904 KAR 1:082	257				
Amended	170		904 KAR 1:084	258				
804 KAR 1:030			904 KAR 1:090	186				
Amended	198		904 KAR 2:005					
804 KAR 1:100	214		Amended	151				
804 KAR 1:101	215		Withdrawn		9-15-81			
804 KAR 2:015			904 KAR 2:010					
Amended	199		Amended	31	8-5-81			
804 KAR 4:220	215		904 KAR 3:010					
804 KAR 5:060			Amended	79	9-2-81			
Amended	199	Withdrawn	904 KAR 3:020					
804 KAR 6:010		10/5/81	Amended	80	9-2-81			
Amended	200		904 KAR 3:035					
804 KAR 9:010			Amended	82				
Amended	18		Amended	192	9-2-81			
805 KAR 4:010			904 KAR 3:060					
Amended	171		Amended	83				
807 KAR 5:054	216		904 KAR 3:080	258				



## KRS Index

KRS Section	Regulation	KRS Section	Regulation	KRS Section	Regulation
39.480	106 KAR 1:020	161.020	704 KAR 20:245	216B.010-216B.130	902 KAR 20:057E
Chapter 42	200 KAR 2:006E		704 KAR 20:255		902 KAR 20:059E
42.450	200 KAR 4:005	161.025	704 KAR 20:005		902 KAR 20:065E
42.495	200 KAR 4:005		704 KAR 20:229		902 KAR 20:066
43.070	45 KAR 1:020		704 KAR 20:230		902 KAR 20:070E
Chapter 44	200 KAR 2:006E		704 KAR 20:235		902 KAR 20:075E
44.070	108 KAR 1:010		704 KAR 20:245		902 KAR 20:077E
44.080	108 KAR 1:010		704 KAR 20:255		902 KAR 20:080E
44.086	108 KAR 1:010	161.030	704 KAR 20:005		902 KAR 20:081
44.090	108 KAR 1:010		704 KAR 20:229		902 KAR 20:085E
Chapter 45	200 KAR 2:006E		704 KAR 20:230		902 KAR 20:090E
Chapter 45A	200 KAR 5:308E		704 KAR 20:235		902 KAR 20:095E
Chapter 56	200 KAR 6:035		704 KAR 20:245		902 KAR 20:100E
	200 KAR 5:308		704 KAR 20:255		902 KAR 20:101
61.870 to 61.884	405 KAR 30:150	163.020	705 KAR 1:010		902 KAR 20:105E
64.810	45 KAR 1:020	163.030	705 KAR 1:010		902 KAR 20:106
116.045	31 KAR 1:020	177.830-177.890	603 KAR 3:010		902 KAR 20:110E
117.085	31 KAR 1:020	183.090	602 KAR 20:020		902 KAR 20:111
136.130	103 KAR 8:090	189.222	603 KAR 5:070		902 KAR 20:115
141.200	103 KAR 16:141	189.270	603 KAR 5:110E		902 KAR 20:120
141.205	103 KAR 16:141		603 KAR 5:110		902 KAR 20:135
141.330	103 KAR 18:030	190.030	601 KAR 20:070		902 KAR 20:140
Chapter 143A	103 KAR 35:020E	190.035	601 KAR 20:070	216B.400	902 KAR 20:012
150.010	301 KAR 1:145	194.050	904 KAR 2:088E	216B.990	902 KAR 20:006
150.025	301 KAR 1:145		904 KAR 3:010		902 KAR 20:007E
	301 KAR 2:047		904 KAR 3:020		902 KAR 20:008
150.120	301 KAR 2:086		904 KAR 3:035		902 KAR 20:010E
150.170	301 KAR 1:145		904 KAR 3:060		902 KAR 20:012
	301 KAR 1:145	Chapter 198B	904 KAR 3:080		902 KAR 20:015E
	301 KAR 2:047	205.010	815 KAR 7:050		902 KAR 20:017E
150.175	301 KAR 2:086	205.200	904 KAR 2:005		902 KAR 20:018
	301 KAR 1:145		904 KAR 2:005		902 KAR 20:020E
	301 KAR 2:047		904 KAR 2:010E		902 KAR 20:025E
	301 KAR 2:086		904 KAR 2:010		902 KAR 20:030E
150.176	301 KAR 2:047	205.210	904 KAR 2:010E		902 KAR 20:031
150.235	301 KAR 2:086	205.215	904 KAR 2:007E		902 KAR 20:035E
150.300	301 KAR 2:046E	205.520	904 KAR 1:003		902 KAR 20:036
150.305	301 KAR 2:046E		904 KAR 1:008		902 KAR 20:040E
	301 KAR 2:086		904 KAR 1:022E		902 KAR 20:041
150.320	301 KAR 2:046E		904 KAR 1:024E		902 KAR 20:045E
150.330	301 KAR 2:047		904 KAR 1:024		902 KAR 20:047E
	301 KAR 2:046E		904 KAR 1:033E		902 KAR 20:050E
	301 KAR 2:086		904 KAR 1:033		902 KAR 20:055E
150.340	301 KAR 2:047		904 KAR 1:040		902 KAR 20:056
	301 KAR 2:046E		904 KAR 1:044		902 KAR 20:057E
	301 KAR 2:086		904 KAR 1:054		902 KAR 20:059E
150.360	301 KAR 2:047		904 KAR 1:080		902 KAR 20:065E
	301 KAR 2:046E		904 KAR 1:082		902 KAR 20:066
	301 KAR 2:086		904 KAR 1:084		902 KAR 20:070E
150.370	301 KAR 2:047	205.550	904 KAR 1:020E		902 KAR 20:075E
150.445	301 KAR 1:145	205.560	904 KAR 1:020E		902 KAR 20:077E
150.450	301 KAR 1:145	211.950-211.958	902 KAR 14:005E		902 KAR 20:080E
151.100	405 KAR 30:350		902 KAR 14:015E		902 KAR 20:081
151.250	405 KAR 30:020	211.960-211.968	902 KAR 13:030		902 KAR 20:085E
	405 KAR 30:330	211.990	902 KAR 13:030		902 KAR 20:090E
156.095	704 KAR 3:281	Chapter 212	902 KAR 8:010		902 KAR 20:095E
156.112	705 KAR 1:010	216B.010-216B.130	902 KAR 20:006		902 KAR 20:100E
156.160	704 KAR 3:304		902 KAR 20:007E		902 KAR 20:101
	704 KAR 4:010		902 KAR 20:008		902 KAR 20:105E
	704 KAR 4:020		902 KAR 20:010E		902 KAR 20:106
	704 KAR 10:022		902 KAR 20:012		902 KAR 20:110E
157.312	704 KAR 5:050		902 KAR 20:015E		902 KAR 20:111
157.315	704 KAR 5:050		902 KAR 20:017E		902 KAR 20:115
157.320	704 KAR 3:052		902 KAR 20:018		902 KAR 20:120
157.360	704 KAR 3:025		902 KAR 20:020E		902 KAR 20:135
	704 KAR 3:052		902 KAR 20:025E		902 KAR 20:140
	704 KAR 3:301		902 KAR 20:030E	217.814 to 217.894	904 KAR 1:090
	704 KAR 5:050		902 KAR 20:031	217.990	904 KAR 1:090
158.030	704 KAR 5:050		902 KAR 20:035E	217C.010 to 217C.990	902 KAR 50:040
158.070	704 KAR 3:281		902 KAR 20:036	Chapter 224	401 KAR 51:016E
158.090	704 KAR 5:050		902 KAR 20:040E		401 KAR 51:051E
158.150	704 KAR 3:052		902 KAR 20:041		401 KAR 61:132
158.650 to 158.740	704 KAR 3:005		902 KAR 20:045E		401 KAR 61:165
161.020	704 KAR 20:005		902 KAR 20:047E		401 KAR 63:030
	704 KAR 20:229		902 KAR 20:050E	224.033	401 KAR 2:050
	704 KAR 20:230		902 KAR 20:055E		401 KAR 2:055
	704 KAR 20:235		902 KAR 20:056	224.091	405 KAR 30:170



## ADMINISTRATIVE REGISTER

D5

KRS Section	Regulation	KRS Section	Regulation	KRS Section	Regulation
224.250	401 KAR 2:055	Chapter 318	815 KAR 20:030E		
224.255	401 KAR 2:050	Chapter 322	201 KAR 18:040		
	401 KAR 2:055	335.010 to 335.150	201 KAR 23:030		
	401 KAR 2:090	335.010 to 335.160	201 KAR 23:050		
	401 KAR 2:095	335.080	201 KAR 23:070		
224.855	401 KAR 2:101	335.100	201 KAR 23:070		
	401 KAR 2:090	335.990	201 KAR 23:050		
	401 KAR 2:095		201 KAR 23:070		
	401 KAR 2:101	337.275	803 KAR 1:090		
	401 KAR 2:105	337.285	803 KAR 1:090		
224.855 to 224.884	401 KAR 2:050	Chapter 338	803 KAR 2:020		
224.855 to 224.889	401 KAR 2:055		803 KAR 2:032		
224.880	401 KAR 2:090	350.250	405 KAR 30:170		
	401 KAR 2:095	350.255	405 KAR 30:180		
	401 KAR 2:101	350.600	405 KAR 30:010		
	401 KAR 2:111		405 KAR 30:020		
224.882	401 KAR 2:111		405 KAR 30:030		
224.884	401 KAR 2:090		405 KAR 30:040		
	401 KAR 2:105		405 KAR 30:060		
230.210 to 230.360	810 KAR 1:013		405 KAR 30:070		
230.270	811 KAR 1:200		405 KAR 30:080		
241.060	804 KAR 6:010		405 KAR 30:090		
	804 KAR 9:010		405 KAR 30:100		
241.065	804 KAR 6:010		405 KAR 30:110		
	804 KAR 9:010		405 KAR 30:120		
241.075	804 KAR 9:010		405 KAR 30:130		
243.030	804 KAR 4:220		405 KAR 30:140		
	804 KAR 9:010		405 KAR 30:150		
243.040	804 KAR 4:220		405 KAR 30:160		
243.550	804 KAR 6:010		405 KAR 30:170		
244.120	804 KAR 5:060		405 KAR 30:180		
244.130	804 KAR 1:030		405 KAR 30:190		
	804 KAR 1:100		405 KAR 30:200		
	804 KAR 2:015		405 KAR 30:210		
Chapter 246	302 KAR 20:010		405 KAR 30:220		
247.145	303 KAR 1:100E		405 KAR 30:230		
247.450 to 247.505	302 KAR 1:040		405 KAR 30:240		
	302 KAR 1:050		405 KAR 30:250		
Chapter 257	302 KAR 20:010		405 KAR 30:260		
Chapter 278	807 KAR 5:001E		405 KAR 30:270		
	807 KAR 5:006E		405 KAR 30:280		
	807 KAR 5:011E		405 KAR 30:290		
	807 KAR 5:016E		405 KAR 30:300		
	807 KAR 5:026E		405 KAR 30:310		
	807 KAR 5:031E		405 KAR 30:320		
	807 KAR 5:036E		405 KAR 30:330		
	807 KAR 5:041E		405 KAR 30:340		
	807 KAR 5:046E		405 KAR 30:350		
	807 KAR 5:051E		405 KAR 30:360		
	807 KAR 5:054		405 KAR 30:370		
	807 KAR 5:056E		405 KAR 30:380		
	807 KAR 5:061E		405 KAR 30:390		
	807 KAR 5:066E		405 KAR 30:400		
	807 KAR 5:071E		405 KAR 30:410		
278.485	807 KAR 5:021E	350.990	405 KAR 30:090		
278.502	807 KAR 5:021E	351.315	805 KAR 4:010		
Chapter 281	601 KAR 1:090	351.325	805 KAR 4:010		
287.100	808 KAR 1:080	510.010-510.140	902 KAR 20:012		
287.103	808 KAR 1:080				
287.180	808 KAR 1:060				
289.061	808 KAR 1:060				
289.081	808 KAR 7:020				
	808 KAR 7:030				
289.291	808 KAR 7:020				
	808 KAR 7:030				
289.441	808 KAR 7:020				
	808 KAR 7:030				
289.451	808 KAR 7:020				
	808 KAR 7:030				
290.020	808 KAR 1:060				
290.100	808 KAR 3:030				
Chapter 292	808 KAR 10:160				
292.400	808 KAR 10:170				
292.410	808 KAR 10:150				
	808 KAR 10:190				
307.120	808 KAR 2:030				
307.130	808 KAR 2:030				
307.140	808 KAR 2:030				
314.011	201 KAR 20:057				
314.193	201 KAR 20:057				
316.360	808 KAR 8:010				
Chapter 315	201 KAR 2:050				



# Subject Index

## AD VALOREM TAX (See Taxation)

## AERONAUTICS, AIRPORT ZONING

Air Safety Standards  
Landing area designations; 602 KAR 20:020

## AGRICULTURE

Livestock sanitation; 302 KAR 20:010  
Referendums; 302 KAR 1:040; 302 KAR 1:050

## AIR POLLUTION

Existing Source Standards  
Aluminum reduction plants; 401 KAR 61:165  
Metal parts coating; 401 KAR 61:132  
Performance, General Standards  
Gasoline tank trucks, vapor collection systems; leaks; 401 KAR 63:030

## ALCOHOLIC BEVERAGE CONTROL

ABC Board  
Procedures; 804 KAR 6:010  
Advertising distilled spirits, wine  
General advertising practices; 804 KAR 1:100  
Prohibited statements; 804 KAR 1:030  
Repeal; 804 KAR 1:101  
Advertising malt beverages  
Prohibited statements; 804 KAR 2:015  
Business, employees, conduct of  
Entertainment requirements; 804 KAR 5:060  
Licensing  
Riverboats; 804 KAR 4:220  
Quotas  
Retail liquor license limit; 804 KAR 9:010

## AUDITOR OF PUBLIC ACCOUNTS

County budgets, county fee officials, audits for; 45 KAR 1:020

## BANKING AND SECURITIES

Administration  
Bank service corporations, investments in; 808 KAR 1:080  
Remote service units; 808 KAR 1:060  
Cemeteries  
Cemetery companies, records; 808 KAR 2:030  
Credit Unions  
Records, examination of; 808 KAR 3:030  
Funeral Homes  
Pre-need funeral contracts; 808 KAR 8:010  
Savings and Loans  
Operating parity; 808 KAR 7:030  
State-chartered; 808 KAR 7:020  
Securities  
Definitions; 808 KAR 10:160  
Registration exemptions; 808 KAR 10:150; 808 KAR 10:170; 808 KAR 10:190

## BUILDING CODE

Assessability standards for physically disabled; 815 KAR 7:050

## CERTIFICATE OF NEED, LICENSURE (See Health Services)

## CLAIMS, BOARD OF

Board operation, claims procedure; 108 KAR 1:010

## COMMERCE

(See Development)

## DEVELOPMENT

Agriculture  
Livestock sanitation; 302 KAR 20:010  
Fair, State  
Exposition Center, grounds; 303 KAR 1:100E  
Fish, Wildlife  
Fish; 301 KAR 1:145  
Game; 301 KAR 2:046E; 301 KAR 2:086

## EDUCATION

Instruction  
Elementary, secondary; 704 KAR 10:022  
Health; 704 KAR 4:010; 704 KAR 4:020  
Instructional programs; 704 KAR 3:005 to 704 KAR 3:304  
Kindergarten, nursery schools; 704 KAR 5:050  
Teacher certification; 704 KAR 20:005 to 704 KAR 20:255  
Vocational  
Administration; 705 KAR 1:010

## ENGINEERS, LAND SURVEYORS

Fees; 201 KAR 18:040

## ENVIRONMENTAL PROTECTION

Air Pollution  
Existing sources; 401 KAR 61:132; 401 KAR 61:165

## FAIRGROUNDS, EXPOSITION CENTER

Sales, fixtures and goods, solicitation; 303 KAR 1:100E

## FINANCE

Occupations, Professions  
Engineers, land surveyors; 201 KAR 18:040  
Nursing; 201 KAR 20:057  
Pharmacy; 201 KAR 2:050  
Social work; 201 KAR 23:030 to 201 KAR 23:070  
Property  
Leased; 200 KAR 6:035  
Purchasing  
Small purchase procedures; 200 KAR 5:308

## FISH, WILDLIFE

Fish  
Commercial, gear for; 301 KAR 1:145  
Game  
Limits, seasons for migratory wildlife; 301 KAR 2:086  
Migratory wildlife; 301 KAR 2:046E

## FOOD STAMPS

(See Social Insurance)

## HAZARDOUS MATERIAL

(See Waste Management)

## HEALTH SERVICES

Certificate of Need, Licensure  
Ambulance services; 902 KAR 20:115  
Ambulatory surgical centers; 902 KAR 20:101; 902 KAR 20:106  
Application fee schedule; 902 KAR 20:135  
Certificate process; 902 KAR 20:006  
Day health care; 902 KAR 20:066  
Family care homes; 902 KAR 20:041  
Home health agencies; 902 KAR 20:081  
Hospice; 902 KAR 20:140  
Hospital examination services; 902 KAR 20:012  
Intermediate care; 902 KAR 20:056  
License and fee schedule; 902 KAR 20:008  
Medical alcohol emergency detoxification centers; 902 KAR 20:111  
Non-emergency health transportation service; 902 KAR 20:120  
Personnel care homes; 902 KAR 20:031; 902 KAR 20:036  
Renal dialysis facilities; 902 KAR 20:018  
Emergency Medical Technician  
Fees; 902 KAR 13:030  
Health Boards, Districts  
Membership; 902 KAR 8:010  
Milk, Milk Products  
Hauler requirements; 902 KAR 50:040

## HIGHWAYS

Maintenance  
Advertising devices; 603 KAR 3:010  
Traffic  
Mobile homes, permits for moving; 603 KAR 5:110E; 603 KAR 5:110  
Trucks, dimension limits of; 603 KAR 5:070

## HOUSING, BUILDINGS, CONSTRUCTION

Building code; 815 KAR 7:050

## HUMAN RESOURCES

Health Services  
Boards of health, districts; 902 KAR 8:010  
Certificate of need, licensure; 902 KAR 20:006 to 902 KAR 20:120  
Emergency medical technicians; 902 KAR 13:030  
Milk, milk products; 902 KAR 50:040  
Social Insurance  
Food stamp program; 904 KAR 3:010 to 904 KAR 3:080  
Medical assistance; 904 KAR 1:003 to 904 KAR 1:090  
Public assistance; 904 KAR 2:005; 904 KAR 2:010E; 904 KAR 2:010

## INSTRUCTION, EDUCATION

Elementary, Secondary  
Standards; 704 KAR 10:022  
Health  
Comprehensive school health; 704 KAR 4:020  
Physical education; 704 KAR 4:010  
Instructional Services  
Classroom units; 704 KAR 3:025  
Head teacher; 704 KAR 3:052  
Implementation plan; 704 KAR 3:005  
Repeal; 704 KAR 3:281; 704 KAR 3:301  
Studies, required program of; 704 KAR 3:304  
Kindergarten, Nursery Schools  
Public programs; 704 KAR 5:050  
Teacher Certification  
Hearing impaired; 704 KAR 20:229; 704 KAR 20:235  
Learning, behavior disorders; 704 KAR 20:235  
Mentally handicapped; 704 KAR 20:245  
Preparation program plan, approval of; 704 KAR 20:005  
Visually impaired; 704 KAR 20:255

## LABOR

Occupational safety, health; 803 KAR 2:020; 803 KAR 2:032  
Standards, wages, hours; 803 KAR 1:090

## LABOR STANDARDS; WAGES; HOURS

Handicapped, sheltered workshop, student employees; 803 KAR 1:090

## LIVESTOCK SANITATION

Definitions; 302 KAR 20:010

## MEDICAL ASSISTANCE

(See Social Insurance)

## MINES, MINERALS

Explosives, Blasting  
Licensing; 805 KAR 4:010

## NATURAL RESOURCES

Environmental Protection  
Air pollution; 401 KAR 61:132; 401 KAR 61:165; 401 KAR 63:030  
Waste management; 401 KAR 2:050 to 401 KAR 2:111  
Reclamation  
Oil shale operations; 405 KAR 30:010 to 405 KAR 30:410



**NURSING**

Advanced registered nurse practitioner; 201 KAR 20:057

**OCCUPATIONAL SAFETY, HEALTH**

29 CFR Part 1910; 803 KAR 2:020  
29 CFR Part 1928; 803 KAR 2:032

**OCCUPATIONS, PROFESSIONS**

Engineers, land surveyors; 201 KAR 18:040  
Nursing; 201 KAR 20:057  
Pharmacy; 201 KAR 2:050  
Social work; 201 KAR 23:030 to 201 KAR 23:070

**OIL SHALE OPERATIONS**

(See Reclamation, Enforcement)

**PHARMACY**

Licenses, fee; 201 KAR 2:050

**PROPERTY**

Leased properties; 200 KAR 6:035

**PUBLIC ASSISTANCE**

(See Social Insurance)

**PUBLIC PROTECTION**

Alcoholic Beverage Control  
ABC Board; 804 KAR 6:010  
Advertising distilled spirits, wine; 804 KAR 1:030; 804 KAR 1:100; 804 KAR 1:101  
Advertising malt beverages; 804 KAR 2:015  
Business, employees, conduct of; 804 KAR 5:060  
Licensing; 804 KAR 4:220  
Quotas; 804 KAR 9:010  
Banking and Securities  
Administration; 808 KAR 1:060; 808 KAR 1:080  
Cemeteries; 808 KAR 2:030  
Credit unions; 808 KAR 3:030  
Funeral homes; 808 KAR 8:010  
Savings and loans; 808 KAR 7:020; 808 KAR 7:030  
Securities; 808 KAR 10:150 to 808 KAR 1:190  
Housing, Building, Construction  
Building code; 815 KAR 7:050  
Labor  
Occupational safety and health; 803 KAR 2:020; 803 KAR 2:032  
Standards, wages, hours; 803 KAR 1:090  
Mines, Minerals  
Explosives, blasting; 805 KAR 4:010  
Public Service Commission; 807 KAR 5:054  
Racing  
Harness; 811 KAR 1:200  
Thoroughbred; 810 KAR 1:013

**PUBLIC SERVICE COMMISSION**

Small power production, cogeneration; 807 KAR 5:054

**RACING**

Harness  
Purses, payments, administration of; 811 KAR 1:200  
Thoroughbred  
Entries, subscriptions, declarations; 810 KAR 1:013

**RECLAMATION, ENFORCEMENT**

Oil Shale Operations  
Air resources protection; 405 KAR 30:230  
Backfilling, grading; 405 KAR 30:390  
Bond forfeiture; 405 KAR 30:080  
Citizens demands for enforcement; 405 KAR 30:170  
Data requirements; 405 KAR 30:160  
Definitions; 405 KAR 30:010  
Diversion of flows; water withdrawal; 405 KAR 30:310  
Drilled holes; 405 KAR 30:270  
Enforcement; 405 KAR 30:100

**RECLAMATION, ENFORCEMENT (Cont'd)**

Excess spoil materials, disposal; 405 KAR 30:370  
Exploration permits; 405 KAR 30:120  
Explosives; 405 KAR 30:250  
General provisions; 405 KAR 30:020  
Hydrologic system, protection of; 405 KAR 30:300  
In situ operations; 405 KAR 30:410  
Inspection, enforcement; general provisions; 405 KAR 30:090  
Inspection, enforcement; public participation; 405 KAR 30:110  
Lands unsuitable, petition requirements; 405 KAR 30:200  
Lands unsuitable, process and criteria; 405 KAR 30:190  
Leachate control; 405 KAR 30:340  
Operation permits; 405 KAR 30:130  
Performance bond; amount, duration; 405 KAR 30:040  
Performance bond; forms, terms, conditions; 405 KAR 30:060  
Performance bond; liability; 405 KAR 30:030  
Performance bond; procedures, criteria, schedule for release; 405 KAR 30:070  
Permanent impoundments; 405 KAR 30:350  
Petitions for rulemaking; 405 KAR 30:180  
Postmining land use; 405 KAR 30:220  
Prime farmland; 405 KAR 30:280  
Protection of environment; 405 KAR 30:240  
Public inspection of records, confidential nature; 405 KAR 30:150  
Revegetation; 405 KAR 30:400  
Sediment control; 405 KAR 30:330  
Signs, markers; 405 KAR 30:210  
Spent shale disposal; 405 KAR 30:380  
Topsoil; 405 KAR 30:290  
Transfer of permit, successor in interest; 405 KAR 30:140  
Transport facilities; 405 KAR 30:260  
Waste disposal; 405 KAR 30:360  
Water quality standards; 405 KAR 30:320

**REFERENDUMS**

Agriculture  
Grade A milk; 302 KAR 1:050  
Manufacturing grade milk; 302 KAR 1:040

**REVENUE, DEPT. OF**

Ad Valorem Tax  
State assessment; 103 KAR 8:090  
Income Tax  
Corporations; 103 KAR 16:141  
Withholding; 103 KAR 18:030

**SOCIAL INSURANCE**

Food Stamps  
Administrative fraud hearings; 904 KAR 3:060; 904 KAR 3:060E  
Certification process; 904 KAR 3:035  
Contingency plan; 904 KAR 3:080  
Definitions; 904 KAR 3:010  
Eligibility requirements; 904 KAR 3:020  
Medical Assistance  
Drug formulary; 904 KAR 1:090  
Mental health center services; 904 KAR 1:044  
Out-patient surgical clinics; 904 KAR 1:008  
Payment for out-of-state services; 904 KAR 1:084  
Pediatric services; 904 KAR 1:033E; 904 KAR 1:033  
Primary care center services; 904 KAR 1:054  
Rural health clinic services; 904 KAR 1:080; 904 KAR 1:082  
Technical eligibility; 904 KAR 1:003  
Vision care services, payments; 904 KAR 1:040  
Public Assistance  
AFDC, standards for; 904 KAR 2:010E; 904 KAR 2:010  
AFDC, technical requirements; 904 KAR 2:005  
Home energy assistance program; 904 KAR 2:088E

**SOCIAL WORK**

License  
Reinstatement, termination; 201 KAR 23:050  
Renewal fee; 201 KAR 23:030  
Specialty certification; 201 KAR 23:070

**TAXATION**

Ad Valorem; State Assessment  
Property, classification of; 103 KAR 8:090  
Income, Corporations  
Repeal; 103 KAR 16:141  
Income, Withholding  
Reporting requirements; 103 KAR 18:030

**TRANSPORTATION**

Aeronautics, Airport Zoning  
Airport Safety; 602 KAR 20:020  
Highways  
Maintenance; 603 KAR 3:010  
Traffic; 603 KAR 5:070; 603 KAR 5:110E; 603 KAR 5:110  
Vehicle Regulation  
Motor carriers; 601 KAR 1:090  
Motor vehicle dealers; 601 KAR 20:070

**VEHICLE REGULATION**

Motor Carriers  
Exempted commodities; 601 KAR 1:090  
Motor vehicle dealers  
Suitable premises, signs, multibusinesses; 601 KAR 20:070

**VOCATIONAL EDUCATION**

Administration  
Program plans, annual; 705 KAR 1:010

**WASTE MANAGEMENT**

Certification for disposal facilities operators; 401 KAR 2:111  
Definitions; 401 KAR 2:050  
Disposal fees; 401 KAR 2:105  
Disposal permit process; 401 KAR 2:090  
Landfarming facilities; 401 KAR 2:101  
Provisions, general; 401 KAR 2:055  
Sanitary landfills; 401 KAR 2:095

**WILDLIFE**

(See Fish, Wildlife)

